

IMPACT AND IMPLEMENTATION OF JUVENILE JUSTICE ACT, 2000

SPONSORED BY:

UNIVERSITY GRANTS COMMISSION

PRINCIPAL INVESTIGATOR:

PROF. (DR.) G. S. BAJPAI

PROJECT TEAM:

MR. ANKIT KAUSHIK (RESEARCH CONSULTANT)

MR. VIRENDRA KUMAR (FIELD RESEARCHER)



NATIONAL LAW UNIVERSITY, DELHI

SECTOR 14, DWARKA, NEW DELHI – 110078

YEAR - 2018

TABLE OF CONTENTS

| | PAGE NO. |
|---|----------|
| CHAPTER I INTRODUCTION | 1 |
| CHAPTER II LITERATURE REVIEW | 11 |
| CHAPTER III ANALYSIS OF LEGISLATIVE FRAMEWORK | 23 |
| CHAPTER IV ANALYSIS OF JUDICIAL TRENDS | 61 |
| CHAPTER V JUVENILE: PRE INSTITUTIONALIZATION | 89 |
| CHAPTER VI JUVENILE: IN CONFLICT WITH THE LAW | 109 |
| CHAPTER VII JUVENILE: INSIDE THE HOME | 147 |
| CHAPTER VIII JUVENILE: POST RELEASE PROSPECTS | 181 |
| CHAPTER IX MAJOR FINDINGS | 211 |
| CHAPTER X ACT OF 2015: OPENING PANDORA'S BOX | 233 |
| CHAPTER XI CONCLUSION | 251 |
| REFERENCES | 271 |
| ANNEXURE I – SAMPLE OF INTERVIEW SCHEDULE | 277 |
| ANNEXURE II – LIST OF HEINOUS OFFENCES | 289 |

LIST OF ABBREVIATIONS

- Act of 1986 – Juvenile Justice (Care and Protection of Children) Act, 1986
- Act of 2000 – Juvenile Justice (Care and Protection of Children) Act, 2000
- Act of 2015 – Juvenile Justice (Care and Protection of Children) Act, 2015
- BE – Budgetary Estimate
- Beijing Rules - UN Standard Minimum Rules for Administration of Juvenile Justice, 1985
- Board – Juvenile Justice Board
- CJM – Chief Judicial Magistrate
- CMM – Chief Metropolitan Magistrate
- Code – Code of Criminal Procedure
- Committee – Child Welfare Committee
- CrPC – Code of Criminal Procedure
- CWPO – Child Welfare Police Officer
- DCPU – District Child Protection Unit
- DLSA – District Legal Services Authority
- FIR – First Information Report
- ICCPR – International Covenant on Civil and Political Rights
- ICDS – Integrated Child Development Scheme
- ICPS – Integrated Child Protection Scheme
- IPC – India Penal Code
- NCRB – National Crime Records Bureau
- Rules of 2007 – Juvenile Justice (Care and Protection of Children) Model Rules, 2007
- Rules of 2016 – Juvenile Justice (Care and Protection of Children) Model Rules, 2016

- SCPU – State Child Protection Unit
- SJPU – Special Juvenile Police Unit
- SLSA – State Legal Services Authority
- Standing Committee - Parliamentary Standing Committee on Human Resource Development
- UDHR – Universal Declaration of Human Rights
- UNCRC – United Nations Convention on Rights of the Child

CHAPTER I – INTRODUCTION

“There can be no keener revelation of a society’s soul than the way in which it treats its children.”

- Nelson Mandela.

HISTORICAL BACKGROUND

Every saint has a past and every sinner has a future. A corollary to this statement is Mahatma Gandhi’s remark that one should hate the crime and not the criminal. This is especially true in relation to Juvenile Justice where the principle of reformation as the dominant theory of punishment when dealing with children in conflict with the law has been accepted by the international community as a cornerstone.

The concept of juvenile justice has been derived from a belief that the problems of juvenile delinquency in abnormal situations are not amenable to resolution within the framework of traditional process of criminal law.¹ The main reason for this inference is the fact that a young person is believed to be less blameworthy than an adult, as he is prone to act in haste due to lack of judgment, easily influenced by others.

“From the inception, youth Justice system has preceded from the assumption that the children and young people, by dint of their relative immaturity, are less able to control their impulses, less able to understand the seriousness of the offences and less able to foresee the consequences of their actions.”²

Juveniles have to be treated differently as they are less culpable and less capable of looking after themselves.³ As far back as 1860, the Indian Penal Code, which works on the theory of deterrence and retribution, recognized that a child who is less than 7 years old cannot commit a crime. It also says that a child, who is over 7 but below 12 years of age, cannot commit a crime if they are immature and cannot understand the act they have done or, the consequences of their actions or, what they have done is wrong. The Reformatory School Act enacted in 1876 and later modified in 1897, was the next landmark legislation in the treatment of juvenile delinquents. It empowered local government to establish reformatory schools. Under the Act,

¹ Ved Kumari, *The Juvenile Justice in India: From Welfare to Rights*, New Delhi: OUP. p1

² John Pitts, *Youth Justice in England and Wales*, contained in, Roger Mathews, *The New Politics of Crime and Punishment*, Willian Publishing, (1st Edition, 2003) Pg.71

³ Ved Kumari, *Relevant Date for Applying the Juvenile Justice Act*, (2000) 6 SCC (Journ) 9

the sentencing court could detain boys in such institutions for a period of two to seven years. The Code of Criminal Procedure of 1898 provided specialized treatment for juvenile offenders. The Code also envisaged the commitment of juvenile offenders' up-to the age of fifteen years to Reformatory Schools and provided probation for good conduct to offender up-to the age of twenty one.⁴ Later on, as per the Report of Indian Jail committee 1919-20 reformatory schools were established and it advocated reformation and decriminalization of juvenile justice system.

As an impact of the above, by 1960 various States in India had passed their respective Children's Act⁵ which included provisions for Homes, certified schools and release on probation. Children were to be dealt by Juvenile Courts. The Children's Act, 1960 was the first piece of central legislation prohibiting the imprisonment of juvenile offenders in the Union territories and laid down separate mechanisms to deal with juvenile offenders and juveniles in need of care. The Supreme Court in *Sheela Barse v. Union of India*⁶ observed "we would suggest that instead of each State having its own Children's Act in other States it would be desirable if the Central Government initiates Parliamentary Legislation on the subject, so that there is complete uniformity in regard to the various provisions relating to children in the entire territory of the country. Though the Act of 1960 provided for the absolute restraint on the imprisonment still there were few State Acts which allowed imprisonment in the exceptional circumstances.

Since, the enactment of Children's Act, 1960, there has been a concentrated effort on the part of all involved to ensure that the sole concern of the society in dealing with the juveniles in conflict with the law should be the protection of their rights and liberties. This includes a multiple pronged approach suggesting measures ranging from inculcation of social values to 'prevent' a conflict with law to 'rehabilitation and reintegration' of those who do come in such conflict and everything in between.

In this context, two Acts, namely the Central Children Act, 1960 and the Act of 1986, deserve special mention; the former because it enunciates the basic philosophy of care, protection, maintenance, welfare, training, education and rehabilitation of the neglected and delinquent children and the latter for bringing about uniform Juvenile Justice System in the country by consolidating all related legislations in the country. The Juvenile Justice Act of 1986 could be

⁴ Sec. 29B, 399 and 562, Code of Criminal Procedure, 1898

⁵ Satadru Sen, *A Separate Punishment: Juvenile offenders in Colonial India*, Association of Asian studies, 63(1) (2004), 81-104

Namely: Madras Children Act, 1920, Bengal Children Act, 1922, Bombay Children Act, 1924

⁶ (1986) 3 SCC 632

proclaimed as the first all-India child welfare enactment seeking to promote 'the best interests of the juveniles' by incorporating into its fold not only some of the major provisions and clauses of the Indian Constitution and National Policy Resolution for the Children but also universally agreed principles and standards for the protection of the juveniles such as the United Nations Standard Minimum Rules for the Administration of the Juvenile Justice, 1985 (commonly known as 'Beijing Rules').

Among international frameworks and provisions which promote reformation, most prominently, Article 40 of the UN Convention on the Rights of the Child, which has been signed and ratified by India, declares that the state parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

ROLE OF THE STATE

The Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted with the aim 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 the enactment.*' While the provisions of the Act of 2000 have been analysed in detail in the subsequent chapters of the book, it is important to understand why there is a need for differential treatment of juveniles under a distinct justice system and the role to be played by the state in lieu of such a need.

As of 2001, India had approximately over 422 million children⁷ i.e. 41% of its population, the largest for any country in the world, placing an enormous responsibility on the state and the nation to rear them as responsible and law abiding citizens. The life experience of each child is unique and incomparable to the experiences of the children born before him or after him. The experiences of the under privileged are shaped largely by poverty, barriers to education, hunger, multiple and intersecting forms of discrimination, violence and limited opportunities

⁷ Officer of the Registrar General & Census Commissioner, India, Ministry of Home Affairs, *Age Structure and Marital Status*, http://censusindia.gov.in/Census_And_You/age_structure_and_marital_status.aspx (last accessed on 7/9/2017)

of growth and employment.⁸ On the other hand, the experiences of those born in privileged homes are honed, to a certain extent, not by economic considerations cross sectioned with lack of opportunity as much as by psychological, familial, legal and societal considerations. In this context, the state assumes the responsibility in all cases where the child is found to be ‘in need of care and protection’ or ‘in conflict with the law.’

In early 2000, through the landmark Juvenile Justice (Care and Protection) Act, India recognized its obligation to these children. The law governed the experience of children “in conflict with law”⁹ – a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence. These children are torn between a society that is in economic, sociological, political and legal contexts, backward for one segment of the population but forward for another; they desire to participate in the process of upward mobility witnessed in some part of the country but lack the opportunities so required; and above all, they strive to become a part of a society that continually fails to nourish them with enriching lives. Such aspirations and strife within a young and adolescent mind largely ill equipped to handle them, produces conflict. The role of the state is then to provide impetus towards their inclusion in the society, to give them the opportunities they require become contributory members of the society and to ensure a direct proportion between the growth of the country and the society and the growth of these children.

Insofar as their development is concerned, it has received minimal attention in budgetary allocations. As against the Demand for Grant of Rs. 20,755 Crores¹⁰ for the flagship ICDS scheme, the Ministry of Women and Child Development was allocated Rs. 22,095 Crores¹¹ for its entire gamut of operations including the ICPS. Another compelling query is with respect to the government’s perspective of ‘Inclusive Growth’ when one of the most marginalised and vulnerable sections do not get the requisite attention. Though the children received more share from the total allocation but there have been major reductions in some of the key programmes related to children belonging to minorities like ‘Pre-Matric Scholarship for Minorities’ (reduced by 10.48%), ‘Post Matric Scholarship for Minorities’ (reduced by 5.19%), ‘Scheme

⁸ United Nations Development Programme, *Youth Strategy 2014-17: Empowered Youth, Sustainable Future*, http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Youth/UNDP_Youth-Strategy-2014-17_Web.pdf (last accessed on 7/9/2017)

⁹ Section 2 (13) of the Juvenile Justice Act, 2015

¹⁰ Ministry of Finance, *Statement 3b, Demand for Grants, Budget 2017-18*, <http://indiabudget.nic.in/ub2017-18/eb/stat3a.pdf>, accessed on 12/09/2017

¹¹ Ministry of Finance, *Statement 3a, Annual Financial Statement, Budget 2017-18*, <http://indiabudget.nic.in/ub2017-18/eb/stat3b.pdf>, accessed on 12/09/2017

for Providing Education to Madrassas/Minorities’ (reduced by 68.04%), ‘Incentive to Children of Vulnerable Groups among Schedule Castes’ (reduced by 90%).

As per the economic survey 2015-16, there is a declining trend in the percentage of enrolment in government schools in rural areas from 72.9 percent in 2007 to 63.1 percent in 2014 and it emphasised upon the need to increase the percentage of enrolment substantially to achieve universalization of education. In the light of such suggestions however, the funds allotted to Sarva Shiksha Abhiyan were raised by mere 2%. There exists only one welfare scheme related to child labour ‘Scheme for the Welfare of Working Children in Need of Care and Protection’ and that too observed a decrease of 70% in funds.

Further, it is pertinent to note that the children in need of care and protection as well as children in conflict with the law barely find any place in budget. Not only does the child protection sector remain the most under-resourced, the 2016-17 budget clearly does not offer much solace with the allocation for Integrated Child Protection Scheme (ICPS) down by 1.3%. ICPS has been allocated Rs. 397 Crore in 2016-17. The allocation was Rs. 402 Crore in the 2015-16 Budget. An increase in both crimes against children and by children makes them even more vulnerable, and hence, the lack of attention to child protection is indeed disconcerting. Reduced funding in such schemes is bound to have a negative impact on the reformative and rehabilitative approach adopted by the Act of 2000 as well as the Act of 2015.

INSTITUTIONAL CONTACT WITH CHILDREN IN CONFLICT WITH THE LAW

The first point of contact of a child in conflict with the law is the police. It is well established that a considerable amount of police discretion is exercised in handling juveniles. Although the exercise of discretion is necessary and normal part of police work, the potential of abuse exists because there is no way to routinely review this practice. Since police are the first point of contact, their behaviour in this context is a critical force in shaping the child’s experience. Practices of physical abuse, arrests and detention by the police are a common feature of a child’s interaction with law enforcement. It is the nature of police work itself that in most cases allows individual police officers to decide how they will handle both the incident brought to their attention, as well as those discovered independently in the course of their work on the ground.

Institutional authorities such as Probation officer and Counsellors forms the second stage of interaction with juveniles and they are the lynchpins of a successful juvenile justice system.

They serve an integral role at every stage of the juvenile's contact with the system, from the intake into the system to the follow up after the juvenile had ended his formal contact with the system. An ideal juvenile justice system would serve the goals of accountability towards the people, rehabilitation of the juveniles and individualized case management. Such officers make the achievement of those goals possible, recognizing that these objectives cannot be achieved based only on brief presence in Court or Juvenile Justice Board.

One of the most prominent and revolutionary features of the Act of 2000 was the establishment of the Juvenile Justice Boards.¹² The board is required to determine the age, decide upon the question of bail, determine the question of commission of offence and to pass appropriate orders accordingly. The composition of the board includes one Principle Magistrate and two social workers thereby ensuring that the board does not only take into consideration the legal intricacies but the socio-economic, psycho-social and familial circumstances as well. However, inordinate delays in proceedings resulting in a backlog of cases as well as inadequate infrastructure to handle them often leads to a delay in justice.

Lastly, the correctional institutions under the enactment emphasize upon understanding human behaviour and psychology through personal contact to assist these young offenders to rejuvenate themselves and come out of their deviant behaviour with the cooperation of their family and support of the society.¹³ However, a review of the literature upon the same enlightens us with respect to the gap between the theoretical principles and the implementation of those principles.

It seems that the situation on the ground is such that the children entering the juvenile justice system frequently face grave threats to their individual rights, yet their plight is often ignored.¹⁴ Police abuse is commonplace in some jurisdictions. Children languish in the system for years, either as residents of our decrepit detention facilities, without access to meaningful education and employment opportunities or as the subject of endless proceedings that draw them away from education or employment and result into an economic crisis for the family of child.¹⁵

If that is indeed the case, not only do we as a society fail the children in the first instance mentioned in the preceding section titled 'role of the state', but we fail them again in the second

¹² Ved Kumari, *Juvenile Justice: Securing the Rights of Children During 1998-2008*, (2009) 2 NUJS L Rev 557

¹³ Rupam Jagota, *Juvenile Justice System in India: An Attempt at Reformation*, 2 RMLNLUJ (2010), p. 84

¹⁴ Ericka Rickard and Jason M. Szanyi, *Bringing Justice to India's Children: Three Reforms to Bridge Practises with Promises in India's Juvenile Justice System*, Vol 14: 1, UC Davis Journal of Juvenile Law and Policy, Winter 2010 p. 109

¹⁵ *Ibid*

instance when they come in conflict with the laws established by the society. This book is an attempt by the researchers to examine the provisions of the contemporary juvenile justice laws and the jurisprudence that guides them – within the context of the impact and implementation of such provisions. In the interest of preserving the momentum behind the recent changes in our juvenile justice system this book conducts a study of the reformative and rehabilitative services being provided in the Special Homes and Observation Homes in the State of Delhi, Haryana and Punjab and attempts to identify the issues relating to the implementation of the Juvenile Justice System.

RESEARCH METHODOLOGY

HYPOTHESIS, OBJECTIVES AND METHODOLOGY:

It has been hypothesized that the institutional set up required under the JJ Act has not been yet established fully and that the district level institutions are generally deficient of infrastructure and staff to effectively implement the JJ Act. Corollary to the above, lack of implementation of the provisions hinders the rehabilitative and reformative aspects of the juvenile justice system and the same has led to a failure of the stated aims of rehabilitation and reintegration. There has been little or no focus on structured rehabilitative schemes. Moreover, the performance level of the staff is sub-par given that the training requirements of the staff have not been taken care of properly. The attitude and the aptitude required to enforce the JJ Act is missing on the part of the concerned personnel and there is no proper coordination at various levels and between various functionaries.

The principle objectives of this book is to study the preparedness of State of New Delhi, Haryana and Punjab in terms of availability of resources and infrastructure to enforce the Act; the adequacy and availability of trained manpower at Observation and Special Homes; identification of the performance indicators of official and institutions; objective assessment of the performance of the State vis-à-vis budget allocations and infrastructure provisions. With the help of the above, issues and problems in the enforcement of the Act have been identified, examined and suitable suggestions are workable recommendations have been drawn up.

The book incorporates within its ambit both doctrinal and empirical forms of research. The doctrinal part of the book makes an in depth analysis of the existent laws on crimes juvenile justice and the march of law thereafter as seen in the application and interpretation of the laws by the higher judiciary.

Towards the fulfilment of empirical objectives, both primary and secondary data collection were carried out. To examine the application of various hypothesis, an interview schedule incorporating a set of structured questions was created to guide the researchers in the course of their research. Additionally, the conversations held by researchers with various interest and pressure groups such as advocates, employees and staff of homes, members of boards, counsellors and NGO's during the course of the book helped to a large extent in enlightening the researchers about the prevailing grass-root conditions.

The States of New Delhi, Haryana and Punjab have been considered for this study. Three observation homes in each State and Special homes in each State were selected for in-depth study of sample. The states of Delhi, Haryana and Punjab were selected for in-depth collection of data. A proforma of pre-structured schedule of questions was used to collect the data by conducting interviews of juvenile inmates and staff of observation and special homes. Permissions were obtained to visit juvenile detention centres for children in conflict with law from appropriate authorities and visits were made to observation Homes situated at Delhi Gate, Kingsway Camp and Special Home Majnu Ka Tila in Delhi. In state of Haryana observation home for boys situated at Faridabad, Hisar and Special Home at Ambala were visited. Juvenile detention facilities situated at Ludhiana, Faridkot and Special Home Hoshiarpur in Punjab were also visited collection of data. In total the staff and detainees of nine facilities in three different States were used as sample.

The proforma of questions covers socioeconomic variables and satisfaction levels with quality of service provided by the institution for the inmates and performance indicators for the officials. In this exercise data was collected from around 30 officers and 300 juveniles who are currently under trial kept in observation Homes as well as juveniles who are done with their trials and undergoing their detention periods in Special Homes. Personal interviews were conducted and all the data was compiled to gather information and identify the issues in the implementation of the Act. The schedule for officials and inmates uses a Likert based scaling procedure to calculate the index of performance.

The data collected in this study was processed with the help of *Statistical Package for Social Sciences (SPSS)*. Overall 55 variables for data analysis were identified during our interactions with the children. In all, 45 frequency tables and 89 cross tabulations were generated during the analysis.

BRIEF OVERVIEW OF THE BOOK:

The first chapter of the book is the introduction itself; the second chapter reviews, examines and summarizes the existing literature on the subject; the third chapter analyses the Act of 2000 and the rules thereunder as well as Act of 2015 and the rules thereunder; fourth chapter analyses the patterns and trends in application and interpretation of laws by the higher judiciary; the fifth chapter documents the frequencies and cross tabulations with respect to the child prior to institutionalization; the sixth chapter examines the frequencies and cross tabulations of variables when the child comes in conflict with the law and at the first point of contact; the seventh chapter analyses the frequencies and cross tabulations of variables when the child is lodged inside the home; the eighth chapter documents the frequencies and cross tabulations of post release prospects of the children; the ninth chapter lists the major empirical findings of the book and finally, the tenth chapter concludes the book and notes down observations after correlation of the empirical and doctrinal parts of the book while giving effective and practicable solutions and suggestions.

OPERATIONAL DEFINITIONS

The operational definitions of terms used in hypothesis were deduced by perusal of the existing normative framework of juvenile justice laws.

Reformation and rehabilitative Service means the service that fulfils the objective of ensuring the physical, emotional, intellectual, social and moral development of juvenile in conflict with law and ensure his successful reintegration and re-socialization post release.

The term *Proper infrastructure* means the physical infrastructure of the institution to ensure individualized treatment and holistic of the juvenile as envisaged under the normative framework of JJ Act.

The term *Resources* includes –

- Funds,
- Material resources such as books, vocational training equipment
- Adequate number of well qualified and well trained staff
- Linkage with governmental and non-governmental voluntary organizations to ensure the implementation of reformatory and rehabilitative initiative.

The term *structured rehabilitative scheme* includes –

- Targeted and goal oriented therapeutic treatment which ensure individualized attention and targets risk factors.
- Life skills and personality development sessions
- ‘Gainful’ vocational training
- Proper pre-release and post release plan
- Proper mental health assessment
- Periodic inspections to ensure implementation of institutional programmes

Proper Coordination at various level and between various functionaries includes timely response and effective communication by decision taking authority on any proposal by the institution. It also includes sharing of information related to juvenile such as Social investigation report, psychological assessment, behavioural reports etc. when he is transferred from one institution to another.

CHAPTER II – LITERATURE REVIEW

Literature review is one of the most vital parts of any research project and helps the researcher to focus on the grey areas that earlier studies have not touched. Thus, it is important at this juncture to make a review of the existing literature and available study material relating to the issue of impact and implementation of the Juvenile Justice in general and the Act of 2000 in particular.

THEORIES OF CAUSE AND EFFECT:

Children with strong social bond commit less crime than those who have weak social bond (Hirschi, 1969)¹. Hirschi states that what prevents individuals from acting upon internal motivations to commit crime is informal social control which results from the development of social bonds through the process of socialization. Karen (1995)², states that there should be a good relationship between the mother and the child so that the child will not develop mistrust and anger. If a child develops anger and mistrust, then the child loses conscience and exhibits anti-social behaviours.

Kupersmidt and Dodge (2004)³ maintain that there are two extreme hypotheses which specify the different roles of peers in developing the aggressive and antisocial behaviour of a delinquent child, and there are some individual characteristics which give rise to delinquency among children.

According to Strain theory⁴, (Agnew, 1992), people engage in crimes as they experience strain or stress, they become upset, and they sometimes engage in crime as a result. They may engage in crime to reduce or escape from the strain they are experiencing. For example, they may engage in violence to end harassment from others, they may steal to reduce financial problems, or they may run away from home to escape abusive parents. They may also engage in crime to seek revenge against those who have wronged them. They may also engage in the crime of illicit drug use to make themselves feel better. Two general categories of strain that contribute to crimes are described: (1) others prevent you from achieving your goals, and (2) others take

¹ Travis Hirschi, *Causes of Delinquency*, Transaction Publisher, New Jersey, 2002

² Karen A. Joe and Meda Chesney-lind: *An Analysis of Gender and Ethnic Variations in Youth Gang Membership*, Department of Sociology, University of Hawaii (1995)

³ Kupersmidt JB, DeRosier ME. *How peer problems lead to negative outcomes: An integrative mediational model*, Washington, DC: American Psychological Association; 2004. pp. 119–138.

⁴ Robert Agnew, *Foundation for a General Strain Theory for Crime and Delinquency*, Criminology, Volume 30, Issue 1, February 1992, Pages 47–88

things you value or present you with negative or noxious stimuli. While strain may result from the failure to achieve a variety of goals, the failure to achieve three related goals: money, status/respect, and—for adolescents—autonomy from adults, may lead to crime.

Social disorganization theory⁵ (Shaw and McKay, 1942; 1969) seeks to explain community differences in crime rates. The theory identifies the characteristics of communities with high crime rates and draws on social control theory to explain why these characteristics contribute to crime. Social disorganization undermines or hinders informal social controls within the community and neighbourhood, thus allowing high rates of crime to occur. Therefore, the absence or breakdown of social control is a key component behind the concept of social disorganization.

Weatherburn and Lind (1997) observed that the reasons for delinquency in urban and rural areas were same, such as – social and economic stress, child neglect, and child abuse. According to them, the social and economic disadvantages are the root causes which leads to an increasing rate in the offences such as theft, robbery.

While substantial evidence links children's social and academic functioning, most studies to date have been cross-sectional or correlational indicating that problems in one area tend to co-occur with problems in the other area. A great deal of research on children's peer relations has focused on social acceptance or the degree to which a child is liked by their same-grade peers at school as opposed to disliked or rejected by them (Parker 2006).⁶ Children with high social acceptance tend to experience positive academic, social, and behavioural adjustment both concurrently and in the future. Conversely, children with low social acceptance (e.g., peer rejected) tend to experience concurrent problems across these domains and are at substantial risk for a myriad of later negative outcomes, including suicide, drug abuse, educational underachievement, delinquency and antisocial behaviour and depression.

Tiwari et.al. (2015)⁷ attribute the rise of delinquency within the Indian context on socio-economic and psychological reasons. *Poverty, broken homes, family tensions, emotional abuse, rural-urban migration, break-down of social values and joint family system, atrocities and*

⁵ Shaw, Clifford R., and McKay, Henry D, *Juvenile Delinquency and Urban Areas*, Chicago: Univ. of Chicago Press, 1972

⁶ Parker JG, Rubin KH, Earth SA, Wojslawowics JC, Buskirk AA, *Peer Relationships, Child Development, and Adjustment: A Developmental Psychopathology Persepctive*. Vol 2: Risk, disorder, and adaptation. Oxford, England: John Wiley & Sons; 1995. pp. 96–161.

⁷ Dr. Mahendra Tiwari, Mohan Shakti, *Analytical View on the Concept of Juvenile Delinquency*, Vol. 5 No. 9, (Sept,2015), International Journal of Research in Economic and Social Sciences

abuses by parents or guardians, faulty educational system, the influence of media besides the unhealthy living conditions of slums and such other conditions explain the phenomena of juvenile delinquency. The neglect of children by their parents, family, society and the nation create detrimental effect on their physical, mental growth and over all development.

Different theoretical models have been posed to help us understand the link between academic and social difficulties. The incidental model suggests that problems in early childhood peer relations are an artefact of other underlying disorders or deviancies, such that peer problems are merely incidental to other causal processes (Parker & Asher, 1987)⁸. According to the incidental model, social and academic problems may occur together in a correlational fashion, but social problems do not independently predict academic problems. Conversely, the causal model suggests that academic problems are causally related to earlier disruption in socialization processes, such that peer problems contribute independently to the prediction of later academic difficulties.

According to Jean Piaget⁹ – ‘the ability to understand and interpret his or her world proceeds in a series of stages, beginning with sensimotor period, which lasts roughly from birth until two years of age and ends with the formal operations period, which lasts from roughly age 11 through adulthood During this period, the child is able to understand and interpret the world differently because of his or her ability to engage in more abstract thought. In addition, the development of the child’s cognitive abilities is, to some extent, influenced by the in child’s environment.

The above however doesn’t differentiate between the thought process of adults who take measured and informed decisions from the thought process of adolescents who are significantly more likely to indulge in thoughtless risk taking behaviours. Hansen (2010)¹⁰ mentions three experiments which differentiate between the minds of adolescents and adults. In the first experiment, the group (aged 10-30) is given a puzzle involving the rearrangement of a stack of coloured balls in placeholders in as few moves as possible. While the adolescents almost always started to move around the balls immediately, the adults took more time to consider their first move. In the second experiment, the group was asked to choose between smaller but immediate rewards or long term high paying rewards. While the adolescents took the smaller

⁸ Parker JG, Asher SR, *Peer relations and later personal adjustment: Are low accepted children at risk?* Psychological Bulletin. 1987;102(3):357–389.

⁹ Mayer, R.E, *Educational Psychology. A Cognitive Approach*, 1987, Boston, MA, Little, Brown & Co.

¹⁰ Mark Hansen, *What’s the Matter with Kids Today: A Revolution in Thinking About Kids Minds is Sparking Change in Juvenile Justice*, ABA Journal, Vol. 96 No. 7, July 2010 p. 50

reward for its shorter time period, the adults were more willing to wait for the higher reward. In the third experiment, the group were given a computer simulation of a situation wherein they were driving and had to choose between running a series of traffic lights which were about to turn red, both alone and in company of friends. Invariably, the younger subjects took greater risks when their friends were present while older subjects did not change their driving in either case.

A 2018 study published in *The Lancet Child and Adolescent Health*¹¹ found that while the age of onset of adolescence has decreased to 10 years, the understanding of the child with respect to continued growth has lifted the end point age well into the 20s. What these and other studies with respect to the age of adolescence mentioned in the literature review tells us is that the age of maturity is rather subjective. Unfortunately, policies and legislations rarely ever give priority to subjectivity over objectivity. Even so, how far the subjectivity of the age of maturity is factored into objective tests laid down by the law, requires an in depth analysis of both the provisions and the factors surrounding the implementation of the provisions.

Levitt (1998)¹² examines the rate of crimes from an economic point of view which is lacking in all of the above mentioned theories. Divergence of adult and juvenile crimes, he argues, may not be the result of teenagers who differ categorically from earlier generations, but rather a rational response to a change in the relative incentives for juveniles and adults to engage in criminal activities. If criminal activity involves learning by doing or investment in crime related human capital, then changes in the expected punishment of juveniles may affect not only their current crime involvement but also the amount of crime committed in the future. Punishment itself may affect the returns to crime versus legitimate activities, leading to long-run changes in criminal involvement. To exemplify, if juvenile detention centres facilitate the acquisition of criminal human capital or stigmatize those in custody, then harsh punishment of juveniles may reduce crime in the short run but increases it over a longer time horizon. Juvenile offenders are at least as responsive to criminal sanctions as adults. Sharp drops in crime at the age of majority suggest that deterrence (and not merely incapacitation) plays an important role. There does not, however, appear to be a strong relationship between the punitiveness of the juvenile

¹¹ Prof. S.M. Sawyer, P. S. Azzorapardi, D. Wickremarathne, Prof. G.C. Patton, *The Age of Adolescence*, 17th January 2018, [http://www.thelancet.com/journals/lanchi/article/PIIS2352-4642\(18\)30022-1/fulltext](http://www.thelancet.com/journals/lanchi/article/PIIS2352-4642(18)30022-1/fulltext) (accessed on 29/01/2018)

¹² Steven D. Levitt, *Juvenile Crime and Punishment*, *Journal of Political Economy*, Vol. 106 No. 6, 1998, p. 1156

justice system that a cohort faces and the extent of criminal involvement for that cohort later in life.

The 16th Annual Report of the Coalition for Juvenile Justice¹³ concludes that unchecked mental health problems play a large role in criminal behaviour amongst juvenile offenders. It states that youth with untreated mental health problems are filling up the courts, detention centres and correctional facilities. It implores the society to recognize, acknowledge and publicize the prevalence of mental health problems amongst the youth. For those juveniles who must be placed in detention, the time so spent must be humane and safe and every youth must be properly diagnosed, assessed and monitored for his or her mental health needs.

Narain A. (2002)¹⁴ criticizes the Act of 2000 for its non-application of the abovementioned theories of juvenile justice in the following words:

“what is shocking that in an age when our knowledge about wrongdoing has increased exponentially wherein the traditional criminological approaches of classical/positivist have long been contested by other explanatory frameworks, which locate the reason for wrongdoing in societal structures, the Act bears no trace of any new thinking..... the Act reflects no such theoretical shift in thinking. If social control theories were even considered then, the juvenile justice would have focused more strongly on ensuring that one concentrated on building the social bonding between the juvenile and society, rather than subjecting the juvenile to a prison regime of limited contact with the outside world which in effect alienates him/her even further from society.”

THEORIES AND PRACTICES OF PREVENTION, REHABILITATION AND REFORMATION:

Prof. Pande, B.B. (2013),¹⁵ eloquently sums up the vision behind the enactment of the Act of 2000 in the following words:

“The Juvenile Justice Act, 2000, amendment, 2006 and Juvenile Justice Model Rules 2007 envisage to usher in a child friendly justice delivery system that provides for dealing with ‘juveniles in conflict with law’ and ‘Children in Need of Care and

¹³ Coalition for Juvenile Justice, *16th Annual Report on Serving the Mental Health Needs of Young Offenders*, Washington D.C., 2000

¹⁴ Arvind Narain, *A Critique of Juvenile Justice Act, 2000*, <http://altlawforum.org/publications/a-critique-of-the-juvenile-justice-act-2002/>, accessed on 11/09/2017

¹⁵ Prof. B. B. Pandey, *Child Rights Law*, Vol. XLIX, 2013, Annual Survey of Indian Law p. 93

Protection” in terms of distinct and exclusive rules for apprehension, bail release, pre-adjudication custody, adjudication, disposition and post disposition custodial care. The Juvenile Justice Act, 2000 has been in operation for the past thirteen years, but still we need to go a long way before the Act is fully operational.”

There is however a debate with respect to the theory which should guide the juvenile justice system, whether the same should be reforming and rehabilitative or should it be deterrent and punitive. Clarke (1974)¹⁶ distinguishes the proponents of the two sides of the debate on penal provisions as ‘treaters’ and ‘punishers.’ He states that the treaters argue the prisons are cruel, expensive and non-rehabilitative while the punishers contend that while prisons may be non-rehabilitative, incarceration prevents those crimes which the offender may commit but for his imprisonment. He explores the question of whether and to what extent incarceration prevents criminal acts which may have occurred but for the imprisonment. He concludes after much data analysis in the context of the United States of America, that even if the number of juvenile offenders incarcerated was to be doubled, the overall decrease in the nationwide index of offences would only be 1-4 percent. In view of the author, considering the problems involved, the benefit was not worth the cost.

Lundman (2001)¹⁷ observed that the reasons for institutionalization of juvenile have changed and the State wants to send a message to the society that it intends to deal with juveniles strictly reinforcing thereby that doing time in juvenile correctional facilities is painful, rather than a treatment that all institutions provide. As per the author, the above makes the lasting impression.

Jeenger (2015)¹⁸ argues that the age of eighteen years set by the Act of 2000 is an abomination and provides a blanket cover to all juvenile delinquents blindly ignoring the increase in juvenile delinquency as well as a paradigm shift in child’s reaching the age of discretion, discernment and maturity. The author concludes that the oft cited Beijing Rules allow discretion to the state to decide the age of criminal responsibility, that to avoid the child from mingling with adult prisoners, he should be housed in a separate cell, that such punitive measures also allow for reformation of children in that they teach them a lesson at a tender age.

¹⁶ Stevens H. Clarke, *Getting Em’ Out of Circulation: Does Incarceration of Juvenile Offenders Reduce Crime?*, The Journal of Criminal Law and Criminology, Vol. 65, No. 4, 1974, p. 538

¹⁷ Richard Lundman, *Prevention and Control of Juvenile Delinquency*, Oxford university Press, 2001, 3rd Ed. Pg. 29

¹⁸ Kailash Jeenger, *Excessive Protection to Juveniles and Minors: A Plea for Legislative Amendments to Law*, (2015) 3 SCC (J)

Maharukh Adenwalla (2006)¹⁹ has reviewed the role of institutions and stated that whatever be the noble reasons for institutionalizing a child, a child perceives the loss of freedom as punishment in itself. This protection advanced by the juvenile justice act is not welcomed by the inmates and looked upon as an intrusion as most of them are already independent in nature.

Bishop (2000)²⁰ recognizes that there has been a spurt in the legislations which allow the prosecution of adolescents in the adult criminal justice system. The proponents of such prosecution assert that the juvenile court sanctions and services constitute neither just nor effective responses to juvenile and offenders and propose proportionate punishment under the criminal justice system provides better and effective deterrence as well as incapacitation. The author asserts, that empirical evidence, even though limited, proves the assertions of the proponents to be false. She argues that such prosecution will send many non-threatening juveniles to the adult system and move adolescents with special needs to correctional systems which are ill prepared to handle them.

Rakshit et al (2015)²¹ observes that the government's argument for harsher punishment seems to be a reaction of moral panic rather than one of well thought-out, empirically supported propositions. Research on the regulation of youth crime is quite settled in the view that systems of restorative justice should be adopted to address juvenile delinquency. This was also the case for more serious offences because such children are thought to be most in need of closure and assistance. Referring to the Act of 2015, the authors conclude that it was regrettable that the fate of youth offenders in India has been sealed by a public vote in favour of revenge; rather constitutionally and internationally sound principles of youth crime regulation. The need of the hour is to return to the view that juvenile delinquency is essentially a behavioural problem and not a criminal problem.

Kolivoski et al (2014)²² observed that the youth who experienced out of home placement in child welfare systems are more likely to have justice system involvement. They identified five groups on the basis of their age in conflict with the law, viz.: No/Low involvement; Early age

¹⁹ Maharukh Adenwalla, *Child Protection and Juvenile Justice System for Juvenile in Conflict with Law*, (2006) Childline India Foundation, Mumbai

²⁰ Donna M. Bishop, *Juvenile Offenders in the Adult Criminal Justice System*, Crime and Justice, Vol. 27, 2000 p. 81

²¹ Shiladitya Rakshit, Bani Brar, *Missing the 'Justice' in the Juvenile Justice (Care and Protection of Children) Bill 2014*, Law and Policy Brief, Vol. 1, No. 8, 2015

²² Karen M. Kolivoski, Jeffery J. Shook, Sara Goodkind and Kevin H. Kim, *Developmental Trajectories and Predictors of Juvenile Detention, Placement and Jail Among Youth with Out of Home Placement*, Journal of the Society for Social Work and Research, Vol. 5, No. 2, (2010) p. 137

involvement; Late/Adult Age involvement; Short-Term/Highly Involved and Chronically Involved. They found that placement factors affect each group differently. The study demonstrates the need to better understand the heterogeneity of child level characteristics within the child welfare population as a necessary step towards disentangling the complex relationship between the child welfare populations and the juvenile justice system.

Zabel et al (2007)²³ observes that juvenile offenders, particularly those with disabilities, were at a higher risk of school failure and diminished educational employment and social opportunities that continued social mal adjustment as adults. To understand the occupational preferences and aptitudes of the offenders, a sample was asked to complete an inventory of occupational interests and aptitude. On the basis of the results, the authors recommend multifaceted intervention programmes beginning in middle school itself that keep students in school, remediate academic and social problems, engage students in prevocational and vocational programs with transition specialists and teach self-determination skills.

Dr. T. H. Khan (1994)²⁴ speaks out fervently in favour of reformation. He states that *juvenile delinquency is the culmination of several maladjusting experiences that a child had to pass through that a child treated through community based correction is certainly at a much greater stake for social conformity than the one subjected to penal detention and labelled as a delinquent and that no formal system can undo the aberration of a larger social system.*

According to Kanth A. (2001)²⁵ the involvement of social workers and non-governmental organizations at different stages of apprehension, treatment and rehabilitation of the juveniles is an essential element of the correctional strategy under this law. The concept of 'place of safety' and 'fit person/institution' and the recognition of the voluntary institutions as Observation Homes, Juvenile Homes, Special Homes and After Care Home have yet to materialize in most of the States. Information from previous studies reveals that Bombay had taken the lead in establishing the juvenile aid police unit (JAPU) in 1952. Subsequently, juvenile aid police units/bureaus were established in Calcutta (1956), Hyderabad (1958), Chennai (1960), Patna and Ranchi (1961), Poona, Sholapur and Nagpur (1967), Calicut (1970), and Bhilai, Indore and Jabalpur (1974). Development on the subject, thereafter are not known

²³ Robert Zabel and Frank Nigro, *Occupational Interests and Aptitudes of Juvenile Offenders: Influence of Special Education Experience and Gender*, Journal of Correctional Education, Vol. 58, No. 4, 2007, p. 337

²⁴ Dr. T. H. Khan, *Juvenile Justice System in India: An Appraisal*, Vol.: VIII Issue: 1, 1994, Central India Law Quarterly p. 61

²⁵ Vijay Hansaria and P. I. Jose, *Juvenile Justice System*, New Delhi, Universal Law Publishing Pvt. Co. Ltd., 2010

at a national level, though there are sporadic reports on juvenile clubs and so on being run by the police in certain places, such as Prayas in Delhi.

Ved Kumari (1981) after conducting an empirical study concluded that vocational training provided in the institution setting under the JJ System is not helpful towards earning a stable livelihood and most of the juveniles spend their time sitting idle in the observation or special Home. And even if gainful vocational training is provided, reformation and rehabilitation remains a distant dream due to lack of opportunity after release and restoration back to the environment of deprivation. Another challenge in this regard is the variable length of stay of juvenile in a Home. Additionally, there is lack of information which reflect the records of reformation and rehabilitation by the institution. The study also noted that there is need of proper infrastructure to provide therapeutic environment and properly trained staff to deal with juveniles with required sensitivity. The behaviour of the police personnel and the environment in the police station, for howsoever brief period, are the first encounters of these children with state machinery and these determine to a large extent the attitude of the children towards the so called *parens patriae* regime of juvenile justice system. (Kumari, V., 2004)²⁶

Roopam Jagota, 2010,²⁷ attributes economic factors and deprivation, cut throat competition, technological changes, cultural variations, disintegration of joint family system and increased industrialization leading to mass migration as factors contributory to juvenile delinquency. While appreciating the provisions of the Act of 2000, the author concedes that there is a lack of proper implementation of the provisions due to structural imbalances. The author then suggests that there is a need for coordination between agencies at state and district level, educators should develop a new value system and that the value system should school the children in fostering work attitude, self-esteem and job skills. Finally, the author implores the community to step up as provide a sense of belongingness to the juveniles.

Rickard et al (2010)²⁸ hail the Act of 2000 as a commitment to the country's international obligations to its children and change in the philosophy guiding the treatment of India's most marginalized youth. They find evidence, however, that even after a decade of enactment, the reforms were yet to trickle down to the local level where they can actually have a positive

²⁶ Ved Kumari, *The Juvenile Justice System in India: From Welfare to Rights (Law in India)*, Oxford University Press, 2004

²⁷ Rupam Jagota, *Juvenile Justice System in India: An Attempt at Reformation*, 2 RMLNLUJ (2010), p. 84

²⁸ Ericka Rickard and Jason M. Szanyi, *Bringing Justice to India's Children: Three Reforms to Bridge Practises with Promises in India's Juvenile Justice System*, Vol 14: 1, UC Davis Journal of Juvenile Law and Policy, Winter 2010 p. 109

impact. They surmise that for many children, the promise of a just and equitable system remains elusive. They suggest that universal training should be mandated for all who come in contact with the children; generate issue based guidance; employment of alternative policing models; the diversion should be made an explicit goal of the juvenile justice system; limited use of secure detention; probation officer's position should be professionalized; the role of probation officer should be well defined and a system of accountability should be developed. Probation officers responsible for investigating facilities for juveniles are often over worked and lack adequate training.

Sterling (2015)²⁹ states that the Supreme Court of USA has recognized that 'children are different from adults,' concluding that these differences must inform how we treat children accused of serious offences. The author argues that if children are different in cases of homicide and sentenced with life without parole, then by extension, children should be treated differently when they're accused of sexual offences and face mandatory lifetime sexual offender registration in line with the principle of fresh start.

The Justice Verma Committee (2013) noted that children, who have been deprived of parental guidance and education, have very little chances of mainstreaming and rehabilitation, with the provisions of juvenile justice Act being reduced to mere words on paper. A report submitted by Centre for the Child and the Law (CCL) notes that there is no substantial data available on whether juveniles committing the serious offences are indeed receiving the treatment and reformatory services that are necessary for their rehabilitation and re-integration in the mainstream.

Ruzbeh N. Bharucha (2008)³⁰ after conducting a detailed research at observation homes in Delhi concluded that despite Act of 2000 providing for establishment of Special Juvenile Police Units, Child welfare officer from police in every police station to deal with children in conflict with law, the situation remains grim. In many States no such units have been established or lack the awareness within the department itself. The CWO's also handling the cases in addition to JJ Act resulting in heavy work load and running from one court to another. He also criticized the lack of political will to change and restrictive attitude and mind-set of the government with regard to the apathy shown through the continued usage of terms like detention and release.

²⁹ Robin Walker Sterling, *Juvenile Sex Offender Registration: An Impermissible Life Sentence*, The University of Chicago Law Review, Vol. 82 No. 1, 2015, p. 295

³⁰ RN Bharucha *My God is a Juvenile delinquent*, Sainathan Communication, New Delhi, 2008

Anjana Prakash J. (2010)³¹ observes the irony that it is not the juvenile offenders, the victims of social evils fostering at the behest of adults, that the society needs protection from; it is rather on account of the failure of civilized society and its various organs that juveniles turn into offenders. The author surmises that the need of the hour is not just the introduction of a new “well researched and more comprehensive” Act or Amendment, but rather an imperative for the legislature to take steps to ensure that the authorities act in an honest and diligent manner and further, the outlook of the masses needs to be changed.

Prof. B. B. Pande (2000)³² states that traditionally understood juvenile justice relates to an all-embracing concept that aims at providing, first, an alternative system of justicing, and, second, justice and fairness for the child not only at the trial stage, but also at the investigation, pre-trial custody, bail and remand proceeding stages. However, he reasons that conceiving juvenile justice too widely is the main reason for many implementation level flaws and crisis within the juvenile justice system today. He attributes three reasons for such a conflict, namely, that it leads to the merger of the two, almost opposed, welfare and justice jurisdictions; that it generates problems of coordination between the functions of diverse agencies like the police, the adjudicators and the welfare administration and, lastly, it inhibits specialized approach to the issue.

As far back as 1968, the Sinha Committee Report pointed out that there should be at least one juvenile court and juvenile welfare board in each district to deal with cases of neglected and delinquent juveniles, 'for this purpose it is necessary to have 244 more juvenile courts and 327 welfare boards in the country in the fourth plan. According to the statistical surveys published by the NISD the number of juveniles courts in 1976 stood at 95 (Statistical Survey- children courts and child welfare boards, Social Defence, 1981).' sixteen years later in 1984-85 the official figure of districts without a juvenile court stood at 230 and without a board at 419.

The Parliamentary Standing Committee in its 264th Report noted that while there has been notable research as far as condition of various juvenile homes are concerned, but none of these studies have addressed the need to trace the level of reform and rehabilitation of children in conflict with law after they are released. More importantly, there is no data or record available with regard to juveniles who committed crimes after attaining majority or leaving the home. Training and treatment of juvenile offenders is likely to go waste if their difficult transition

³¹ Justice Anjana Prakash, *Juvenile Justice Act, 1986: An Outline*, CNLU L J (1) [2010] 107

³² Prof. B.B. Pande, *Rethinking Juvenile Justice: Arnit Das Style*, (2000) 6 SCC (Journ) 1

from institution to outside world is not helped and guided by humane and efficient after care programmes.

Gauri Pillai et al (2017)³³ state that though the proposed policy under the Act of 2015 was contrary to the established principles of juvenile justice, the solution wasn't a reversion to the position under the Act of 2000 with focus on its implementation. They hold that the Act of 2000 didn't take into account that heinous offences should carry with them a higher punishment than just three years which falls short of guaranteeing effective rehabilitation. After an analysis of the Acts, they conclude that the Act of 2000 was more offender centric and didn't take into account the plight of victims. They conclude by suggesting that while retaining the emphasis on rehabilitation, principles of restorative justice ought to be annexed as the mandatory second limb, for the formulation of a comprehensive juvenile justice policy in India.

³³ Gauri Pillai and Shrikrishna Upadhyaya, *Juvenile Maturity and Heinous Crimes: A Relook at Juvenile Justice Policy in India*, 10 NUJS L. Rev. 49 (2017) NUJS Law Review

III – ANALYSIS OF LEGISLATIVE FRAMEWORK

As maybe deduced from the introduction and the literature review, we find that a distinct set of principles; focussed on reformation and rehabilitation, has dominated the academic and political discourse with respect to the drafting of laws relating to juvenile justice and children in conflict with the law. The Juvenile Justice Act of 1986 and its subsequent amendments can be considered in many ways, a landmark in signifying the change in thought process of the lawmakers.

At the turn of the 21st Century, a need was felt to update the laws bearing in mind the prescribed standards set by the UN Convention on the Rights of the Child, 1989; the UN Standard Minimum Rules for Administration of Juvenile Justice, 1985¹ as well as the UN Rules for Protection of Juveniles Deprived of their Liberty, 1990. The legislative exercise subsequently culminated into the Juvenile Justice (Care and Protection of Children) Act, 2000² along with the Juvenile Justice (Care and Protection of Children) Model Rules of 2000 as replaced by the Juvenile Justice (Care and Protection of Children) Model Rules of 2007.³

In the wake of the 2012 Delhi Gang-Rape and Murder case, one of the accused who happened to be a juvenile was sentenced to three years in a reformation home as per the provisions of the Juvenile Justice Act, 2000. In light of the Supreme Court⁴ judgment upholding the constitutional validity of the Act of 2000, in December 2015, the Delhi High Court,⁵ held itself to be bound by the provisions and refused to extend the sentence of the accused juvenile. This led to widespread feeling of a miscarriage of justice with the masses protesting in solidarity with the victim's family. Drawing much flak from various sections to correct the supposed lacunae in the previous act, the government introduced the Juvenile Justice (Care and Protection of Children) Bill, 2014 which was passed by the parliament in its present form on 22nd December 2015. The same received the assent of the President on 31st December 2015 and commenced on 15th January 2016 as the Juvenile Justice (Care and Protection of Children) Act, 2015.⁶

¹ Hereinafter referred to as the Beijing Rules

² Hereinafter referred to as the Act of 2000

³ Hereinafter referred to as the Model Rules of 2000

⁴ *Subramaniam Swamy & ors. v. Raju*, (2014) 8 SCC 390

⁵ *R. K. Tarun v. Union of India*, (2015) SCC Online Del 13461

⁶ Hereinafter referred to as the Act of 2015

The march of law and the circumstances surrounding it have had profound implications upon the principles governing juvenile justice in India. In this chapter, the researchers have attempted to mark such changes by analysing doctrinally the various acts and rules discussed above which were legislated in the 21st century.

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT OF 2000

The preamble to the Act of 2000 bares the intention of the law makers in that they sought 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 the act.

DEFINITIONS:

Section 2(k) of the Act of 2000 defines the term juvenile as any person who has not completed the eighteenth year of age while section 2(l) defines juvenile in conflict with the law as any juvenile who is alleged to have committed an offence. Section 2(p) defines offence as any offence punishable by any law in force at the time.

Procedure w.r.t Children in Conflict with the Law:

Section 4 of the Act of 2000 sets up a Juvenile Justice Board⁷ consisting of a Metropolitan Magistrate and two social workers. Section 6 then empowers the Board with exclusive jurisdiction to deal with all proceedings under the act with relations to children in conflict with the law. In order to avoid the prosecution of juveniles in other courts, section 7 of the Act of 2000 lays down the procedure for other magistrates not empowered by the act, wherein the magistrate is required to note down his opinion that a person brought before them is a juvenile and forward the juvenile to the Board.

It is important at this point to distinguish between a special home and an observation home as institutions created under the Act of 2000. Under section 8 of the Act of 2000, the state governments have been empowered to establish observation homes as may be required for a ‘temporary reception’ of juveniles in conflict with the law during the pendency of any

⁷ Hereinafter referred to as the Board

inquiry. In contrast, special homes are to be established under Section 9 of the Act of 2000 for the reception and rehabilitation of juveniles in conflict with the law. In this respect, special homes are established to receive those juveniles for whom the alleged charges have been confirmed by the Board in its final order.

Section 10 of the Act of 2000 details the procedure to be followed after the apprehension of the juvenile wherein as soon as the juvenile is apprehended by the police, he must be placed under the charge of the Special Juvenile Police Unit⁸ or the designated police officer who must report the matter to the board within a period of 24 hours.⁹ Irrespective of whether the offence alleged is bailable or non bailable, the juvenile must be released on bail, with or without surety, unless there are “reasonable grounds for believing that the release would bring him association with known criminals, or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.”¹⁰

In the event the juvenile is not released, he must be sent to an observation home until he can be brought before the board.¹¹ The board in its turn cannot commit the juvenile to prison, but order for him to be sent to an observation home or a ‘place of safety’ pending the duration of inquiry.¹² Under no condition can the juvenile in conflict with the law can the juvenile be placed in a police lock up/judicial custody.¹³

Section 13 makes it a duty of the officer in charge of the station or the SJPU to inform the parents/guardians of the child as soon as the arrest is made and direct them to be present before the board. Such officer is also duty bound to inform the probation officer of such arrest so as to enable him to collect the antecedents and family background of the juvenile in order to assist the board in making its inquiry.

Those officers who frequently or exclusively deal with juveniles are to be specially trained and instructed in order to enable them to perform their functions more effectively.¹⁴ Further,

⁸ Hereinafter referred to as the SJPU

⁹ As amended in 2006 via the Amendment Act of 2006

¹⁰ Section 12 (1), Act of 2000

¹¹ Section 12 (2), Act of 2000

¹² Section 12 (3), Act of 2000

¹³ Section 9, Amendment Act of 2006

¹⁴ Section 63 (1), Act of 2000

one officer in every police station is to be designated as a “Juvenile or Child Welfare Officer” to handle the juvenile in coordination with the police.¹⁵

After the conduct of the inquiry within a stipulated period of four months,¹⁶ the board, if satisfied that the juvenile has committed the alleged offence may pass any of the following orders:¹⁷

- a) Allow the juvenile to go home after admonition following the counselling to the parent.
- b) Direct the juvenile to participate in group counselling.
- c) Direct the juvenile to perform community service.
- d) Order the parents of the juvenile, or the juvenile himself (if above 14 years of age) to pay a fine.
- e) Direct the juvenile to be released on probation and placed under the care of any parent, guardian or fit person, for a period not exceeding three years.
- f) Direct the juvenile to be released on probation and placed under the care of any fit institution for a period not exceeding three years.
- g) Make an order directing the juvenile to be sent to a special home:
 - i. In case of a juvenile over seventeen but less than eighteen, for a period not less than two years.
 - ii. In case of any other juvenile, for a period till he ceases to be a juvenile.

Any of the above orders must keep in mind the social investigation report by the probation officer.¹⁸ In furtherance of orders passed under section 15(d), 15(e) and 15(f), the board may appoint a probation officer for a period not exceeding three years to supervise the conduct of the juvenile thereafter. In case of any misconduct by the juvenile during the period of probation, the court may send the juvenile to a special home.

Ordinarily, convictions under certain sections of the Indian Penal Code or other enactments carry with them certain disqualifications, such as that in government appointments or under the Representation of People Act 1951.¹⁹ However, section 19 of the Act of 2000 removes the disqualification in case of those juveniles who have committed an offence and the records of

¹⁵ Section 63 (2), Act of 2000

¹⁶ Section 14, Act of 2000

¹⁷ Section 15, Act of 2000

¹⁸ Section 15(2), Act of 2000

¹⁹ Sections 8, 8A, 9, 9A, 10 and 10A, Representation of People Act, 1951

such commission shall be removed after the passing of the period of appeal or any other reasonable period of time.

If the authority so finds that the presence of a parent or guardian of the child is sine qua non at the proceedings, it is empowered under Section 45 of the Act of 2000 to give such directions.²⁰ Under section 46 of the Act, the competent authority has been empowered to dispense with the presence of the juvenile during the proceedings if the same is found to be inessential to the conduct of such proceedings.

If it appears to the board that the person brought before it is a juvenile, the board is required to conduct an inquiry so as to determine the age of the person, take evidence as necessary and record the finding.²¹ Further, the report of the probation officer or the social worker has to be treated as confidential while providing access to its substance to only the juvenile, parent or guardian of the juvenile so as to provide them with an opportunity of producing such evidence as may be necessary to the matter.²²

An appeal against the order of the board can be made only to a Court of sessions, while no appeal can be made against an order of acquittal made by the board.²³ No second appeals may be made against the order of the Court of Sessions passed in appeal, however, the High Court may on its own motion or an application call for the record of any proceedings in the Court of Session or before the Board to satisfy itself with respect to the legality of such order.

The board may, if it deems fit, transfer any child addicted to narcotic or psychotropic substances to a treatment centre for drug addicts not exceeding a period for which he is required to be kept there or for such period as maybe certified by the medical officer necessary for the proper treatment of the juvenile.²⁴

PENAL PROVISIONS:

The publication of the names, address, school or any other particulars which may lead to the identification of the juvenile, in any newspaper, magazine, news-sheet or visual media is

²⁰ Section 45, Act of 2000

²¹ Section 49, Act of 2000

²² Section 51, Act of 2000

²³ Section 52, Act of 2000

²⁴ Section 58, Act of 2000

strictly prohibited under section 21 of the Act of 2000. Any contravention of such provisions carry with them a fine of Rs. 25000/-.²⁵

The act penalizes cruelty to a juvenile with a six-month sentence with or without fine. For the purpose, it defines cruelty as assault, abandonment, exposure or neglect in a manner likely to cause such juvenile or child unnecessary mental or physical suffering or procurement of the child for any of the above reasons.²⁶

The act sets out a sentence of three years imprisonment with or without fine for the employment or use of any juvenile or child for the purpose of begging.²⁷ Section 2(b) defines begging as:

- i. Soliciting or receiving alms in a public place or entering into private premises for the purpose of soliciting or receiving alms, whether under any pretence.
- ii. Exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, disability or deformity, whether of himself or any person or animal.

Section 25 of the Act of 2000 makes the giving of alcohol in a public place or any narcotic or psychotropic substance to a juvenile punishable with a three-year sentence with or without fine. Further, the procurement of a child for the purpose of employment in a hazardous industry, keeping him in bondage, withholding the child's earning and using the same for his own purposes has been made punishable with a sentence of three years with or without fine.²⁸

PROCEDURE W.R.T CHILDREN IN NEED OF CARE AND PROTECTION:

The Act of 2000 calls for the establishment of a Child Welfare Committee²⁹ consisting of one chairperson and four other members which shall function as a bench of magistrates and have the power conferred under the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or a Judicial Magistrate First Class.³⁰ The committee is empowered to dispose of cases for the protection, care, treatment, development and rehabilitation of children as well as

²⁵ Section 15, Amendment Act of 2006

²⁶ Section 23, Act of 2000

²⁷ Section 24, Act of 2000

²⁸ Section 26, Act of 2000

²⁹ Hereinafter referred to as the committee

³⁰ Section 29, Act of 2000

to provide for their basic needs and secure human rights.³¹ Any child in need of care or protection maybe produced before the committee by:³²

- a) Any police officer or SJPU or a designated police officer;
- b) Any public servant;
- c) Any social worker or public spirited citizen authorized by the state government;
- d) By the child himself;
- e) Childline, a registered voluntary organization or by any other voluntary organization as recognized by state governments

Upon the receipt of the report under section 32, an inquiry is initiated by the Committee and for the purpose may send the child to a children's home for a speedy inquiry by a social worker.³³ If after the completion of the inquiry, the committee is satisfied that the child has no parents or ostensible support, it may allow the child to continue staying in the children's home or the shelter home till he attains the age of eighteen years.³⁴

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) RULES, 2007

The Juvenile Justice (Care and Protection of Children) Rules, 2007³⁵ were notified by the Ministry of Women and Child Development on 26th October 2007 in pursuance of the power to make rules granted under the section 68(1) of the Act of 2000. The rules were made with a view to provide for better implementation of act of 2000 in it's true spirit and substance.

The rules define an individual care plan as comprehensive development plan for a juvenile based on age specific and gender specific considerations as well as the history of the juvenile.³⁶ The plan is to be made in consultation with the juvenile in order to restore the juvenile's self-esteem, sense of self-worth and to nurture him into a responsible citizen keeping in mind:

- a) Health needs;
- b) Emotional and psychological needs;
- c) Educational and training needs;

³¹ Section 31, Act of 2000

³² Section 32, Act of 2000

³³ Section 33(1), Act of 2000

³⁴ Section 33(3), Act of 2000

³⁵ Hereinafter referred to as the Rules of 2007

³⁶ Section 2(h), Rules of 2007

- d) Leisure, creativity and play;
- e) Attachments and relationships;
- f) Protection from abuse, neglect and maltreatment;
- g) Social mainstreaming; and
- h) Follow up post release and restoration

The rules also recognize and enumerate elaborately a total of fourteen principles to kept in mind by the state governments, boards, committees and other competent authorities in the implementation of the rules, thereby forming a set of guidelines for the interpretation of the provisions of the Act of 2000 as well as the Rules of 2007:

- i. Principle of Presumption of Innocence:** The Rules of 2007 cite the Beijing Rules and state clearly that around the world, persons in conflict with the law below the age of eighteen are considered intellectually and mentally immature. Keeping in mind, the principle states that all juveniles and children are to be presumed to be innocent of any mala fide or criminal intent up to the age of eighteen. Such presumption is then mandated to be respected throughout the process of justice and protection; from initial contact to alternative care, including aftercare. A corollary to this presumption is the provision of legal aid to the juvenile, the rule mandate upon the state to provide legal aid to the juvenile and other assistance through legal services at the expense of the state.
- ii. Principle of Dignity and Worth:** The Rules of 2007 imbibe article 1 of the Universal Declaration of Human Rights that all humans are born free and equal in dignity and rights. It defines dignity as not being humiliated, a respect for one's personal boundaries and space, not being stigmatized and discriminated, being offered choices and information and not being blamed for their acts. This principle imposes a duty that the dignity and worth of the child should be respected through the process.
- iii. Principle of Right to be Heard:** One of the foremost principles of natural justice – *Audi Alteram Partem* has been incorporated as the principle of Right to be Heard. It lays down the duty for the development of appropriate tools and processes of interacting with the child, promoting the child's role in decision making with respect to his own life and providing opportunities for discussions and debates.
- iv. Principle of Best Interest:** The primary consideration of all processes should be the best interest of the child. By ensuring the emotional, physical, intellectual and moral development of a child, it seeks to ensure that the child reaches his or her full

potential. It is further clarified in the rules that this principle means that the traditional objectives of criminal justice: retribution and repression must give way to rehabilitative and restorative principles of juvenile justice.

- v. **Principle of Family Responsibility:** With the primary responsibility of raising the children being with the biological parents (or with foster or adoptive parents in extraordinary circumstances), this principle seeks to ensure that all decision making for the child should involve the family or the parents of the child
- vi. **Principle of Safety:** This principle seeks to ensure that right from the point of his conflict with the law to restoration and rehabilitation, the child shall not be abused, neglected, mistreated, punished corporally or confined to jail. Extreme care and precautions are needed to protect the sensitivity of the child.
- vii. **Positive Measures:** It means that the state shall take all possible measures to promote the well-being of the juvenile through Individual Care Plans formulated after interactions with the child, family of the child, volunteers and other organizations including schools and communities. The rules list out certain positive measures which are illustrative, such as creating avenues for: health, education, relationships, livelihood, leisure, creativity and play.
- viii. **Principle of Non-Stigmatizing Semantics, Decisions and Actions:** This principle prohibits the use of stigmatizing semantics and adversarial as well as accusatory terms such as remand, warrant arrest, accused, trial, charge sheet, prosecution, summons, conviction, inmate, delinquent, custody or jail in the processes.
- ix. **Principle of Non-Waiver of Rights:** No waiver of rights, whether by the juvenile or by any acting or claiming to act on behalf of the child as well as the competent authority can waive the rights of the child.
- x. **Principle of Equality or Non Discrimination:** There can be no discrimination on the basis of sex, race, caste, age, place of birth, disability, health, status, ethnicity, religion, cultural practices, work, activity or behaviour of the juvenile or his parents or guardians.
- xi. **Principle of Right to Privacy and Confidentiality:** The right of privacy and confidentiality of the juvenile needs to be respected throughout the proceedings.
- xii. **Principle of Last Resort:** The institutionalization of a child should a measure of last resort, after due inquiry and for as short a period as necessary.
- xiii. **Principle of Repatriation and Restoration:** This principle confers a right upon the juvenile to be reunited with his family and restored back to the same socio economic

and cultural conditions that the juvenile enjoyed before coming within the purview of the act.

- xiv. Principle of Fresh Start:** This principle ensures that the juvenile gets a new beginning and all records with relation to his conflict with the law are erased. Further the state shall endeavour to promote ways for dealing with juveniles who break penal law without resorting to judicial proceedings.

Section 12 lays down the procedure with respect to the determination of age which the board or the court have to make on the basis of the physical appearance or documents such as matriculation certificates, date of birth certificate or certificate given by municipal authority or panchayat as the case may be. In case of absence of documents, the opinion of the medical board should be sought.

Upon the production of the juvenile before the board, the board shall review the report indicating the background of juvenile, circumstances of apprehension and offences alleged. Keeping in view the above, the board may dispose off the case if the charges appear to be unfounded or the offence complained off is trivial; release the juvenile in supervision of fit persons or institutions; detain the juvenile in an observation home or transfer to committee matters pertaining to children in need of care and protection.³⁷

In order to ensure a fair and speedy trial, the board is expected to satisfy itself that the juvenile has not been ill-treated by the police or any other person, keep a child friendly atmosphere in proceedings, give the juvenile the opportunity to be heard, dispose of petty cases while follow the due process of inquiry in detail in cases of heinous offences. A period of four months is prescribed for disposal of cases and in case of offences other than serious, the proceedings shall stand terminated in case of any delay beyond a period of four to six months.

Section 14 guarantees legal aid to the juvenile and the legal officer of the District Child Protection Unit and State Legal Aid Services are obliged to extend free legal aid to the juvenile. Section 16 lays down that the observation homes and special homes set up need to have segregation on the basis of age and gender. Every institution so set up is required to keep a copy of the act, the rules made thereunder and make available simple and child friendly versions of the Act and rules in regional languages.

³⁷ Section 13, Rules of 2007

In chapter VI of the Rules of 2007, standards of care for institutions have been meticulously set. Section 40 reiterates the requirement for segregation of the juveniles on the basis of age, gender and nature of offences. It further sets the minimum area requirement for the homes at 8495 sq. ft. with norms regarding the division of spaces between the various designated areas. It calls for a smoothening of flooring to prevent accidents; adequate lighting; heating and cooling arrangements; safe drinking water; clean toilets; first aid kits; fire extinguishers; regular review of electric installations; proper storage and inspection of food articles; stand by arrangement for water and lighting.

Section 41 calls for the provision of clothing and bedding as per the climactic conditions. The minimum standard for bedding and clothing are provided in schedule 1 and table the has been reproduced below:

TABLE 3.1 – QUANTITY OF BEDDING

| S.No. | Article | Quantity to be provided per child |
|--------------|-------------------------|--|
| 1. | Towels | 4 per Year |
| 2. | Cotton Bed Sheets | 2 per 2 Year |
| 3. | Pillow (Cotton stuffed) | 1 per 2 Year |
| 4. | Pillow Covers | 2 per 2 Year |
| 5. | Woolen blankets | 2 per 2 years |
| 6. | Cotton Durry | 2 per 2 years |
| 7. | Cotton filled quilt | 1 per 2 years (in cold regions) |
| 8. | Mattress | 1 per 2 years |
| 9. | Mosquito Net | 1 per 2 years |

TABLE 3.2 – QUANTITY OF CLOTHING (BOYS)

| S. No. | Clothing | Quantity to be provided per child |
|---------------|-----------------|--|
| 1. | Shirts | 5 sets per year |

| | | |
|----|----------------|----------------------------------|
| 2. | Shorts | 5 sets per year for younger boys |
| 3. | Pants | 5 sets per year for older boys |
| 4. | Vest | 4 sets per year |
| 5. | Underwear | 4 sets per year |
| 6. | Woolen Jerseys | 2 in 2 years (for cold regions) |
| 7. | Scarfs | 2 in 2 years (for cold regions) |

TABLE 3.3 – QUANTITY OF CLOTHING (GIRLS)

| S. No. | Clothing | Quantity to be provided per child |
|---------------|---|---|
| 1. | Skirts & Blouse or Salwar Kameez or Half Sari with blouses and petticoats | 5 sets per year for girls depending on age and regional preferences |
| 2. | Banyans (1 Metre each) | 6 per year for younger girls |
| 3. | Brassieres | 6 per year for older girls |
| 4. | Panties (1 Metre Cloth each) | 6 per year |
| 5. | Sanitary Towels | 12 packs per year for older girls |
| 6. | Woolen Sweaters | 2 in 2 years (in cold regions) |
| 7. | Woolen Shawls | 1 in 2 years (in cold regions) |

With respect to sanitation, section 42 necessitates the installation of water filters for provision of safe drinking water; sufficient water for bathing and washing clothes, maintenance and cleaning of premises; proper drainage system; arrangement for disposal of garbage; protection from mosquitos; annual pest control; airy and well lit toilets in proportion of one toilet to seven children; airy and well lit toilets in proportion of one bathrooms to seven children; sufficient space for washing; clean and fly proof kitchen and separate area for washing utensils; sunning of bedding and clothing and maintenance of cleanliness in the medical centre.

Section 43 sets a requirement of a daily routine to be set in consultation of the children's committee providing for a regulated a disciplined life, personal hygiene and cleanliness, physical exercise, yoga, educational classes, vocational training, organized recreation games, moral education, group activities, prayer and community singing and special activities for Sundays and holidays.

As per section 44, the children are required to be provided with a minimum of four meals per day including breakfast. The food must be provided as per the minimum nutritional standards prescribed in schedule II reproduced below:

TABLE 3.4 – NUTRITIONAL AND DIET SCALE

| Name of the articles of diet | Scale per head per day |
|-------------------------------------|---|
| (1) Rice/Wheat/Ragi/Jowar | 600 Gms, (700 Gms for 16-18 yrs age) of which atleast 100 gms to be either Wheat or Ragi or Jowar |
| (2) Dal/ Rajma/ Chana | 120 Gms |
| (3) Edible Oil | 25 Gms |
| (4) Onion | 25 Gms |
| (5) Salt | 25 Gms |
| (6) Turmeric | 05 Gms |
| (7) Coriander Seed Powder | 05 Gms |
| (8) Ginger | 05 Gms |
| (9) Garlic | 05 Gms |
| (10) Tamarind/ Mango powder | 05 Gms |
| (11) Milk (at breakfast) | 150 ml |
| (12) Dry Chillies | 05 Gms |
| (13) Vegetables – Leafy/ Non-leafy | 100 Gms 130 Gms |

| | |
|---|---|
| (14) Curd or Butter Milk | 100 Gms/MI |
| (15) Chicken once a week or Eggs 4 days | 115 Gms |
| (16) Jaggery & Ground Nut Seeds or Paneer (vegetarian only) | 60 Gms each (100 Gms for paneer) Once in a week |
| (17) Sugar | 40 Gms |
| Following items for 50 Children per day | |
| (18) Pepper | 25 Gms |
| (19) Jeera Seeds | 25 Gms |
| (20) Black Gramdall | 50 Gms |
| (21) Mustard Seeds | 50 Gms |
| (22) Ajwain Seeds | 50 Gms |
| On Chicken Day for 10 Kg. of Chicken | |
| (23) Garam Masala | 10 Gms |
| (24) Kopra | 150 Gms |
| (25) Khas Khas | 150 Gms |
| (26) Groundnut Oil | 500 Gms |
| For Sick Children | |
| (27) Bread | 500 Gms |
| (28) Milk | 500 MI |
| Other Items | |
| (29) LP Gas for Cooking only | |

Section 45 prescribes the minimum standards of medical care to be followed by the institutions. It calls for the maintenance of a medical record on the basis of monthly medical check-ups; arranging for medical facilities including a doctor on call; having sufficient

medical equipment to handle minor health problems; train all staff in handling first aid; providing immunization coverage; take preventive measures against outbreak of contagious diseases; not carry surgical treatments without the consent of parents of guardians or in cases of urgency the Officer-in-Charge; providing regular counselling for every juvenile; refer children who require drug abuse prevention and rehabilitation programme to specialized centre administered by qualified personnel.

Section 46 seeks to ensure the all-round health of the juveniles by laying equal stress on their mental health. It requires every institution to maintain a mental health record of every juvenile calling for environment based interventions and individual therapy for every child. It further imposes an obligation upon every institution to have the services of trained counsellors or collaboration with external agencies such as child care institutions, psychological and psychiatric departments or other governmental and non-governmental organizations.

In accordance with section 47, every juvenile is required to be provided education keeping in mind their age and ability both inside the institution as well as outside as per requirement. Institutions are required to provide a range of educational opportunities including mainstream inclusive schools, bridge schools, open schooling, non-formal education and inputs from special educators. Provision of vocational training has also been made mandatory as per section 48. In addition, section 49 calls for the provision of recreational activities such as indoor and outdoor games, music, television, picnics and outings, cultural programmes and library.

Section 55 establishes a management committee within every institution which shall include a member of the children's committee. The section requires every institution to maintain complaint and redress mechanisms and set up a children's suggestion box. The officers in charge of the institution are mandated to set up children's committees in every institution. The children's committee should be encouraged to participate in the improvement of condition of the institution; review the standards of care being followed; preparing daily routine and diet scale; developing educational, recreational and vocational plans; reporting abuse and exploitation by peers; creative expression of views; management of institution through management committee.

As per section 57, positive reinforcement by way of rewards and earnings should be granted by the officer in charge to encourage steady work and good behaviour. The family of the

juvenile is allowed to visit the juveniles once a month under the Rules of 2007 or more frequently at the discretion of the officer in charge.

DUTIES OF VARIOUS AGENCIES AND INSTITUTIONS:

Section 10 lays down the functions of the board to achieve the objectives of act i.e. to adjudicate and dispose of the cases pertaining to children in conflict with the law. Other functions include the cognizance of crimes under section 23 to 28 of the Act of 2000; monitoring the institutions for juveniles in conflict with the law; deal with noncompliance on part of government functionaries as well as voluntary organizations; pass necessary directions to district authorities or police to create infrastructure facilities; take suitable action for dealing with unforeseen circumstances w.r.t to implementation of the act etc.

Under section 80, the State Child Protection Unit is tasked with the implementation of the Act of 2000 and supervision of agencies and institutions under the Act; set up, support and monitoring of DCPU's; making necessary funds available to DCPU's; coordinate with all government departments to build inter-sectoral linkages on child protection issues, including Departments of Health, Education, Social Welfare, Urban Basic Services, Backward Classes & Minorities, Youth Services, Police, Judiciary, Labour, State AIDS Control Society; training of all personnel under the Act and establish Minimum Standards of Care for all institutions and supervise its implementation.

As per Section 81, the DCPU is required to coordinate and implement child rights at a district level. Specifically, the DCPU is required to ensure the effective implementation of the act at a district level; identify families at risk and children in need of care and protection; implement family based non institutional services such as the sponsorship, foster care, adoption and after care; ensure setting of district, block and village level child protection committees; develop tools for supervision of the institutions and agencies and train and build capacity of all personnel.

Duties of Officer-in-Charge of the institution are laid down in section 86 and broadly are to ensure compliance with the provision of the act of 2000 and rules made thereunder; compliance with the orders of the board and committee; providing a homely environment of love, affection, care, development and welfare for juveniles or children; maintenance of minimum standards of care and protection inside the institution; maintenance of buildings and premises; security measures and periodic inspection; supervision and monitoring of juvenile's discipline; prompt action to meet emergencies; ensuring accidents and fire

preventive measures; organization of the national and regional festivals inside the institution; organization of field excursions and picnics; preparation of budget and control over financial matters; coordination with legal officer in DCPU to ensure that every juvenile is provided with free legal aid.

Section 88 sets about the duties of the House Father/House Mother as to handling the juvenile with love and affection; taking proper care and welfare of the juvenile or child; maintaining discipline; maintenance of sanitation and hygiene; implementation of daily routine; looking after the safety and security within the premises and escorting the juvenile or child whenever they are sent out of the home.

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

Section 1 of the Act of 2015 makes the provisions of the act applicable to all matters pertaining to children in conflict with the law and the children in need of care and protection irrespective of the provisions of any other laws for the time being in force including apprehensions, detention, prosecution, penalty or imprisonment, rehabilitation and social reintegration. It does not go without saying that the inclusion of the term – ‘imprisonment’ in the very first section of Act, serves as a prelude to what follows.

DEFINITIONS AND PRINCIPLES:

Section 2(12) defines a child as a person not having completed eighteen years of age. Section 2(13) defines “child in conflict with the law” as a child alleged or found to have committed an offence and who has not completed the age of eighteen years on the date of the commission of such offence. Section 2(24) defines corporal punishment as subjecting of a child by any person to physical punishment that involves the deliberate infliction of pain as retribution for an offence, or for the purpose of disciplining or reforming the child.

Children’s Court has been defined under Section 2(20) as a Court established under the Commissions for Protection of Child Rights Act, 2005 or a Special Court instituted under the Protection of Children from Sexual Offences Act, 2012 and in case of absence of the abovementioned courts, a Court of Sessions having the jurisdiction to try the offences under the Act. Section 2(33) defines ‘heinous offences’ as offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more. Section 2(54) defines ‘serious offences’ as offences

for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment between three to seven years. Petty offences as defined under section 2 (45) as offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years.

Unlike the Act of 2000 wherein the principles with regards to juvenile justice were laid down through the Model Rules of 2007, the Act of 2015 provides a total of sixteen principles in section 3 of the Act itself. The principles are largely *in pari materia* with the principles laid down in Model Rules of 2007 as listed as follows:

- i. Principle of Presumption of Innocence;
- ii. Principle of Dignity and Worth;
- iii. Principle of Participation;
- iv. Principle of Best Interest;
- v. Principle of Family Responsibility
- vi. Principle of Safety;
- vii. Positive Measures;
- viii. Principle of Non Stigmatizing Semantics;
- ix. Principle of Non Waiver of Rights
- x. Principle of Equality and Non Discrimination;
- xi. Principle of Right to Privacy and Confidentiality;
- xii. Principle of Institutionalization as a Measure of Last Resort;
- xiii. Principle of Repatriation and Restoration;
- xiv. Principle of Fresh Start;
- xv. Principle of Diversion;
- xvi. Principles of Natural Justice;

Of these, the last two principles i.e., the principle of diversion and principle of natural justice are novel additions to the principles already illustrated in the Rules of 2007. Principle of Diversion states that the such measures which deal with the juvenile in conflict with the law without resorting to judicial provisions shall be promoted. However, in the same breath, the law makers have clarified that the principle is not set in stone and can be overlooked in the event of such judicial proceedings being in the ‘best interests’ of the ‘juvenile’ or the ‘society as a whole.’ Both the terms ‘best interests of the juvenile’ as well as ‘the best interest of the society’ are subject to a broad range of interpretations which have not been clarified in the

principle itself. The next principle is that of the applicability of the principles of natural justice to all bodies and persons acting in a judicial capacity under the Act. While expressly stating that the principle of right of fair hearing, rule against bias and right to review, the language of the provision ensures that the list is illustrative and not exhaustive.

PROCEDURE W.R.T. CHILDREN IN CONFLICT WITH THE LAW:

Section 4 of the Act of 2015 sets up a Juvenile Justice Board on the same lines as that of the Act of 2000. Section 8(1) empowers the board to deal with all cases of children in conflict with the law. However, the key procedural difference between the two acts is that whereby under section 6 of the Act of 2000 the Board had been granted the exclusive jurisdiction to try all cases of children in conflict with the law, the provision in such absolute terms is absent in the Act of 2015. Section 8(1), in this context, expressly excludes those provisions of the Act of 2015 which maybe in contravention of such jurisdiction.

Section 8(3) lays down the functions and responsibilities of the Board as to – ensure an informed participation of the child, parent or guardian; ensuring that child’s rights are protected throughout the process; ensuring the availability of legal aid; provision of interpreter or translator; directing the probation officer to undertake social investigation and submit his report; adjudication and disposal of cases; disposing of the matter and passing a final order including the Individual Care Plan for the child’s rehabilitation; conducting at least one inspection visit per month of residential facilities; order the registration of a FIR in case of offences committed against children in need of care and protection on a written request of the committee; conducting regular inspection of adult jails to check if children, if any, are lodged therein.

Section 5 clarifies that if the child turns eighteen during the pendency of the inquiry, the inquiry should proceed as if such person had continued to be a child. Under section 6, if a person above the age of eighteen is apprehended for committing an offence when he had not attained majority, such person shall be treated as child during the process of the inquiry.

Section 9 of the Act of 2015 is analogous to section 7 of the Act of 2000 and lays down the procedure for other magistrates not empowered by the act, wherein the magistrate is required to note down his opinion that a person brought before them is a juvenile and forward the juvenile to the Board. The difference between the two provisions however is that while the Act of 2000 called for the inquiry into the age of the child through a ‘competent authority’ defined as either the Board or the Committee, the Act of 2015 empowers the court before

which the claim for minority is made to conduct an inquiry and take evidence as may be necessary to determine the age of the juvenile. Such claim however can be raised at any stage of the trial, even after the final disposal.

Soon after the apprehension of the juvenile, he must be placed under the charge of the SJPU or the designated Child Welfare Police Officer who shall produce the child before the board without any loss of time but within a stipulated period of twenty-four hours.³⁸ A person who appears to be a child, whether apprehended for bailable or non bailable offences, must be released on bail by the Officer in Charge of the station or the Board unless there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.³⁹ In case the bail is not granted by the officer in charge of the station, the juvenile must be kept in an observation home until he can be brought before the board⁴⁰ and in case the bail is not granted by the Board, the board must make an order to lodge the juvenile in an observation home during the pendency of the inquiry.⁴¹

Observation homes have been established under section 47 of the act with the objective of temporary reception, care and rehabilitation of any child alleged to be in conflict with law, during the pendency of any inquiry under this Act. Special homes have been set up under section 48 of the Act for rehabilitation of those children in conflict with law who are found to have committed an offence and who are placed there by an order of the Juvenile Justice Board made under section 18. Both section 47 and 48 mandate that every child sent to the institution must be segregated on the basis of child's age and gender taking into consideration the mental and physical status of the child and the degree of the offence.

Where the child alleged to be in conflict with the law is apprehended, the SJPU or the Child Welfare Police Officer shall inform firstly, the parents or guardians of the child and secondly the probation officer or child welfare officer for preparation of a social investigation report of the child to be submitted to the board within two weeks of the apprehension.⁴² Where the

³⁸ Section 10, Act of 2015

³⁹ Section 12(1), Act of 2015

⁴⁰ Section 12(2), Act of 2015

⁴¹ Section 12(3), Act of 2015

⁴² Section 13, Act of 2015

child is brought before the board, the board shall hold inquiry and pass such orders in relation to the inquiry as it deems fit.⁴³ If the board is satisfied upon inquiry that the child has not committed an offence, it shall pass an order to such effect.⁴⁴ However, where the board finds that the child has in fact committed the offence alleged, it may pass any of the following orders:⁴⁵

- a) Allow the juvenile to go home after admonition following the counselling to the parent.
- b) Direct the juvenile to participate in group counselling.
- c) Direct the juvenile to perform community service.
- d) Order the parents of the juvenile, or the juvenile himself (if above 14 years of age) to pay a fine.
- e) Direct the juvenile to be released on probation and placed under the care of any parent, guardian or fit person, for a period not exceeding three years.
- f) Direct the juvenile to be released on probation and placed under the care of any fit institution for a period not exceeding three years.
- g) Direct the child to be sent to a special home for a period not exceeding three years for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home.

The Act of 2015 however differs from the act of 2000 in that it creates a separate mechanism for the disposal of cases pertaining to Heinous Offences. As per section 14(f), in case of heinous offences, the inquiry would be conducted by the board in case the juvenile is below the age of sixteen years on the date of commission of offence, however if it is found that the heinous offence was committed by the juvenile after attaining the age of sixteen, procedure as prescribed under section 15 needs to be followed.

Section 15 requires a preliminary assessment with regards to the mental and physical capacity of the child to commit the offence, ability to understand the consequences of the offence and circumstances in which he allegedly committed the offence. Such preliminary assessment

⁴³ Section 14, Act of 2015

⁴⁴ Section 17, Act of 2015

⁴⁵ Section 18, Act of 2015

must be completed within three months from the date of first production before the board.⁴⁶ For the purpose of such assessment, the board may take the assistance of a psychologist, a psycho-social worker or other experts. If the board is satisfied that the child must be tried as an adult, then the board may order a transfer of the trial of the case to the Children's Court having jurisdiction to try such offences.⁴⁷ If the board is, however, is satisfied upon assessment that the board itself should dispose of the matter, it shall follow the procedure for a trial in summons case under the Code of Criminal Procedure, 1973.⁴⁸ An appeal against the order of the Board under section 16 lies with the Court of Sessions which shall take into consideration the opinion of experienced psychologists and medical specialists other than those whose assistance was taken by the board.⁴⁹ The High Court which has the power of revision, may on its own motion or through an application call for the record of any proceeding in which a board or a children's court has passed an order and may pass such order in relation to it as it deems fit.⁵⁰

After receipt of the preliminary assessment from the Board, the Children's Court shall decide if there is a need to try the child as an adult and pass appropriate orders after trial subject to the provisions of the act, considering the special needs of the child, tenets of fair trial and maintaining a child friendly atmosphere.⁵¹ If the Children's Court decides that there no need to try the child as an adult, it may conduct an inquiry as a board and pass orders as per section 18 of the Act.⁵²

The final order of the Children's Court must include the Individual Care Plan for the rehabilitation of the child.⁵³ The child must be sent to a place of safety till he attains the age of twenty one years and thereafter be transferred to jail.⁵⁴ Preparation of periodic follow up reports by the probation officer of the DCPU should be ensured by the Children's Court to check on the progress made by the child and see to it that there is no ill-treatment of the child in any form.⁵⁵

⁴⁶ Section 14(3), Act of 2015

⁴⁷ Section 18(3), Act of 2015

⁴⁸ Section 15(2), Act of 2015

⁴⁹ Section 101(2), Act of 2015

⁵⁰ Section 102, Act of 2015

⁵¹ Section 19(1)(i), Act of 2015

⁵² Section 19(1)(ii), Act of 2015

⁵³ Section 19(2), Act of 2015

⁵⁴ Section 19(3), Act of 2015

⁵⁵ Section 19(4), Act of 2015

As per section 20, where the child has completed the age of twenty-one but is yet to complete the term of stay, the Children’s Court shall provide for a follow up to evaluate if the child has undergone reformation and if he can be a contributing member of the society.⁵⁶ On the basis of the report, the Children’s Court shall either release the child on conditions as it deems fit or decide that the child shall complete the remainder of his term in jail.⁵⁷ In no case, however, can the child in conflict with the law be sentenced to life imprisonment with no possibility of release or death.⁵⁸

The child shall suffer no disqualification attached to any conviction of an offence under the law.⁵⁹ However, the same does not apply to a child above the age of sixteen found to be in conflict with the law by the Children’s Court under section 19(1)(i), i.e., where the child is tried as an adult. Further, whereas section 24(2) calls for destruction of all records after the completion of the period of appeal or any other reasonable period, the same is not applicable to juveniles tried as adults under section 19(1)(i).

Where it appears to the board that the child housed in a special home or an observation home is of unsound mind or is addicted to any narcotic drug or psychotropic substance, the board may order the transfer of the child to a psychiatric hospital or a psychiatric nursing home in accordance with the provisions of the Mental Health Act, 1987.⁶⁰

PROCEDURE W.R.T. CHILD IN NEED OF CARE AND PROTECTION:

A child welfare committee comprised of one chairperson and four other members has been set up vide section 27 of the Act. Section 29 empowers the committee to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.

The functions and responsibilities of the Committee include⁶¹ – taking cognizance of and receiving children produced before it; conducting inquiry on all issues relating to the safety and well-being of children under the act; direction child welfare officers or probation officers to conduct social investigation and submit reports; conducting inquiry for declaring fit persons for care of children in need or care and protection; directing placement of child in

⁵⁶ Section 20(1), Act of 2015

⁵⁷ Section 20(2), Act of 2015

⁵⁸ Section 21, Act of 2015

⁵⁹ Section 24(1), Act of 2015

⁶⁰ Section 93, Act of 2015

⁶¹ Section 30, Act of 2015

foster care; ensuring care, protection and appropriate rehabilitation of children in need of care and protection on the basis of the individual care plan; selecting registered institution for placement of child in need of institutional care; inspecting the residential facilities of children in need of care and protection; certifying the execution of surrender deed by parents; ensuring that all efforts are made for restoration of abandoned or lost children to their respective families; declaration of orphan, abandoned and surrendered child as legally free for adoption; taking *suo motu* cognizance of cases and reaching to children in need of care and protection; accessing appropriate legal services for children.

Any child in need of care and protection can be produced before the committee by:⁶²

- i. Any police officer, SJPU, or a designated police officer;
- ii. Any public servant;
- iii. Childline, a registered voluntary organization;
- iv. Any social worker or public spirited person authorized by the state government;
- v. By the child himself
- vi. Any nurse, doctor or management of a nursing home, hospital or maternity home

Any of the abovementioned individuals who takes charge of the child in need of care and protection, must within twenty-four hours, give information to childline services or the nearest police station or Committee or DCPU or handover the child to a child care institution registered under the act.⁶³ Non information under section 32(1) is considered an offence⁶⁴ punishable by imprisonment of up to six months or a fine of Ten Thousand Rupees or both.⁶⁵

Upon the receipt of a report under section 31, the committee shall conduct an inquiry and may pass an order to send the child to a children's home for speedy inquiry by a social worker or child welfare officer.⁶⁶ Social investigation must be completed within fifteen days so as to enable the completion of the inquiry within four months from the receipt of the order.⁶⁷ If after the completion of the inquiry, the committee is of the opinion that the child has no family or ostensible support, it may send the child to a specialized adoption agency if under six years of age or it may allow the child to remain in the children's home or the

⁶² Section 31, Act of 2015

⁶³ Section 32, Act of 2015

⁶⁴ Section 33, Act of 2015

⁶⁵ Section 34, Act of 2015

⁶⁶ Section 36(1), Act of 2015

⁶⁷ Section 36(2), Act of 2015

special until suitable rehabilitation is found for him or till her attains the age of eighteen years.

After the completion of the inquiry, the committee is of the opinion that the child is need of care and protection, it shall take into consideration the social investigation report and the child's wishes (in case of maturity) and pass one or more of the following orders:⁶⁸

- i. A declaration that a child is in need of care and protection;
- ii. Restoration of the child to parents or guardians with or without the supervision of child welfare officer or designated social worker;
- iii. Placement of a child in children's home, shelter home or specialized adoption agency;
- iv. Placement of a child with fit person for long term or temporary care;
- v. Foster care orders under section 44;
- vi. Sponsorship orders under section 45;
- vii. Directions to persons or institutions or facilities in whose care the child is placed, regarding care, protection and rehabilitation of the child;
- viii. Declaration that the child is legally free for adoption under section 38.

Children's homes have been established under section 50 of the Act for the placement of children in need of care and protection for their care, treatment, education, training, development and rehabilitation.

REHABILITATION AND REINTEGRATION SERVICES IN INSTITUTIONS:

Section 53 of the Act expressly lays down the services that all institutions under the Act need to provide with respect to the rehabilitation and reintegration of children:

- i. Basic requirements such as food, shelter, clothing and medical attention;
- ii. Equipment such as wheel-chairs, prosthetic devices, hearing aids, braille kits, or any other suitable aids and appliances as required, for children with special needs;
- iii. Appropriate education, including supplementary education, special education and education of children with special needs;
- iv. Skill Development;
- v. Occupational therapy and life skills education;

⁶⁸ Section 37, Act of 2015

- vi. Mental health interventions, including counselling specific to the needs of the child;
- vii. Recreational activities including sports and cultural activities;
- viii. Legal aid where required;
- ix. Referral services for education, vocational training, de-addiction, treatment of diseases where required;
- x. Case management, including preparation and follow up of individual care plan;
- xi. Birth registration;
- xii. Assistance in obtaining the proof of identity;
- xiii. Any other service to ensure the well-being of the child.

PENAL PROVISIONS:

Section 74 of the act penalizes the disclosure of name, address, school or any particulars which may lead to the identification of a child in conflict with the law or a child in need of care and protection or a child victim or a child witness in any newspaper, magazine, news sheet or any audio visual media or other forms of communication with a sentence of six months or a fine of Rupees Two Lakhs or both.

Under section 75, whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be punishable with imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both.

Employment of any child to beg or causing any child to beg is punishable with imprisonment of up to five years and a fine of Rupees One Lakh.⁶⁹ The giving of intoxicating liquor or a narcotic drug or tobacco products or psychotropic substances except on the order of a duly qualified medical practitioner shall be punished with imprisonment up to a term of seven years or a fine of One Lakh Rupees.⁷⁰ Similar punishment has been provided for the use of children for peddling, vending, carrying, supplying or smuggling intoxicating liquor, narcotic drug or psychotropic substance.⁷¹

Whoever ostensibly engages a child and keeps him in bondage for the purpose of employment

⁶⁹ Section 76, Act of 2015

⁷⁰ Section 77, Act of 2015

⁷¹ Section 78, Act of 2015

or withholds his earnings or uses such earning for his own purposes shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees.⁷² Further, any person who sells or buys a child for any purpose shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees.⁷³

Section 82 prohibits the use of corporal punishment for the aim of disciplining a child by any person in charge or employed in a child care institution. A fine of Ten Thousand Rupees may be imposed on the first conviction and shall be liable upon every subsequent conviction with imprisonment of up to three months or fine or both. Section 83 makes the use or recruitment of any child for any purpose by a self-styled, non-State militant group shall be punishable with a sentence of up to seven years or a fine or Five Lakh Rupees or both.

PROCEDURE W.R.T. DETERMINATION OF AGE:

In cases where, based on the appearance of a person, the board or the committee is of the opinion that the person is below eighteen years of age, the committee or board shall record such observation stating the age of the child as nearly as maybe and proceed with the inquiry. However, if the committee or the board has reasonable doubts regarding the age of the person, it shall undertake the process of determination based on the following evidence:

- a) The date of birth certificate from the school, or matriculation or equivalent certificate from the concerned examination board;
- b) In the absence of (a), the birth certificate from the municipal authority or corporation or panchayat;
- c) In the absence of (a) and (b), an ossification test or any other latest medical age determination may be conducted.

**JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) MODEL RULES,
2016**

The Juvenile Justice (Care and Protection of Children) Model Rules, 2016 were notified by the Ministry of Women and Child Development on 21st September 2016 in pursuance of the Juvenile Justice (Care and Protection of Children) Act, 2015.

⁷² Section 79, Act of 2015

⁷³ Section 81, Act of 2015

Individual Care Plan has been defined in section 2(ix) of the Rules as comprehensive development plan for a child based on age and gender specific needs and case history of the child, prepared in consultation with the child, in order to restore the child's self-esteem, dignity and self-worth and nurture him into a responsible citizen and address the following needs:

- a) Health and nutrition needs;
- b) Emotional and psychological needs;
- c) Educational and training needs;
- d) Leisure, creativity and play;
- e) Protection from abuse, neglect and maltreatment;
- f) Restoration and follow up;
- g) Social mainstreaming;
- h) Life skill training.

Social background report refers to the report prepared by the Child welfare officer with respect to the background of the child in conflict with the law.⁷⁴ Social investigation report has been defined as report of a child containing detailed information pertaining to the circumstances of the child, the situation of the child on economic, social, psycho-social and other relevant factors, and the recommendations based on the above.⁷⁵

Section 7 of the Rules of 2016 assigns several functions to the Board in addition to those enumerated by the Act of 2015, namely – provision of translators and interpreters; issue rehabilitated cards to juveniles wherever required; pass orders for re-admission of the child to the school where he was studying prior to the institutionalization or during the inquiry; interactions with boards in other districts to facilitate speedy inquiry and disposal of cases; inspection of child care institutions; maintain suggestion box or grievance redressal box in the premises of the Board; ensure smooth functioning of children's committees; review children's suggestion book at least once a month; ensure the extension of free legal services by the legal cum probation officer of DCPU or State Legal Services Authority.

Section 8 details the pre-production actions of the police. It specifically states that no FIRs can be registered except in cases of heinous offences or where the offence is committed jointly with the adults. The child must be placed under the charge of the SJPU or the Child

⁷⁴ Section 2(xvi), Rules of 2016

⁷⁵ Section 2(xvii), Rules of 2016

Welfare Police Officer immediately upon apprehension. In cases of petty offences or serious offences, the SJPU or Child Welfare Police Officer shall record the particulars in the general daily diary followed by a social background report. The Child Welfare Police Officer should be in plain clothes and not in uniform. The SJPU or Child Welfare Officer shall immediately inform the parents or guardians of the child, Probation officer concerned and Child Welfare Officer. Under no circumstances can the child be sent to a police lock up. The police officer may send the child to an observation home only for such period till he is produced before the board, i.e. twenty-four hours. The police officer cannot handcuff, fetter or chain a child or otherwise use any form of coercion or force. The child must be informed of the charges levelled against him directly through his parents or guardian and a copy of the FIR or the copy of the police report must be provided to the parent or guardian. The child should not be compelled to confess his guilt and any interviews must be conducted at the SJPU or any child friendly premises. The child must not be asked to sign any documents and must be provided with free legal aid.

Upon production of the child before the board, the board must review the social background report, circumstances surrounding the apprehension and the nature of offence prior to passing orders as it deems fit.⁷⁶ In cases of heinous offences, where the child is above sixteen years of age, the Child Welfare Police Officer must submit the statement of witnesses and other documents prepared by him in the course of investigation within one month from the date of first production of child before the board.⁷⁷ In cases of petty and serious offences, the final report must be filed at the earliest and in no circumstances beyond a period of two months.⁷⁸ When witnesses are produced before the board, the inquiry must not be conducted in the strict adversarial sense and it shall use the powers under Section 165, Indian Evidence Act, 1872⁷⁹ so to interrogate the child and proceed with presumptions in favour of the child.⁸⁰ When

⁷⁶ Section 10, Rules of 2016

⁷⁷ Section 10(5), Rules of 2016

⁷⁸ Section 10(6), Rules of 2016

⁷⁹ Section 165 - Judge's power to put questions or order production.—The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question

⁸⁰ Section 10(7), Rules of 2016

recording a statement by the child, the board must address the child in a child friendly manner and encourage him to state the facts and circumstances without any fear.⁸¹

Section 10A establishes the procedure with respect to preliminary assessment in cases of heinous offences where the child is above the age of sixteen. After determining that the age of the child is above sixteen, the board shall take the assistance of psychologists, psycho-social workers or other experts for the purpose of preliminary assessment. While making the assumption, a presumption of innocence shall lie in favour of the child unless proved otherwise.

Upon receipt of the preliminary assessment by the Board, the Children’s Court may decide whether there is a need to try the child as an adult and record its reasons for trying the child as an adult. In case the child is tried as an adult, the trial must follow the procedure laid under the Criminal Procedure Code, 1973 while maintaining a child friendly atmosphere. If the child is found to be involved in the commission of the offence, he should be sent to a place of safety until he turns twenty-one.

Section 25 of the rules provides for the after care of children leaving institutional care. It mandates the states to prepare a programme for children who have to leave child care institutions on attaining the age of eighteen years by providing for their education, giving them employable skills and employment as well providing them with places for stay to facilitate their reintegration into the mainstream of society. Children who are placed in after care programmes shall be provided funds for their essential requirements. Services provided in the after care programme may include:

- a) Community group housing on a temporary basis;
- b) Provision of stipend during vocational training or scholarships for higher education;
- c) Arrangement for skill training and placement;
- d) Provision of counsellor to stay in regular touch with them;
- e) Provision of creative outlets to channelize their energy;
- f) Arrangement for loans and subsidies;
- g) Encouragement to sustain themselves without state intervention

As per section 26, all child care institutions with a capacity of a hundred children are suggested to maintain a minimum staff as follows:

⁸¹ Section 10(8), Rules of 2016

TABLE 3.5 – SUGGESTED STAFFING PATTERN

| S. No | Personnel/ Staff | Number |
|--------------|--|---------------|
| 1. | Person-in-charge (Superintendent) | 1 |
| 2. | Probation Officer/Child Welfare Officer/Case Workers (NGOs) A Child Welfare Officer may be designated as Rehabilitation-cum-Placement Officer | 3 |
| 3. | Counsellor/ Psychologists/mental health expert | 2 |
| 4. | House Mother/ House Father | 4 |
| 5. | Educator/ Tutor | 2(Part time) |
| 6. | Medical Officer (Physician) | 1 (on call) |
| 7. | Para-medical staff/ Staff Nurse/Nursing Orderly | 1 |
| 8. | Store Keeper cum Accountant | 1 |
| 9. | Art & Craft & activity teacher | 1(Part time) |
| 10. | PT Instructor-cum-Yoga trainer | 1(Part time) |
| 11. | Cook | 2 |
| 12. | Helper | 2 |
| 13. | House keeping | 2 |
| 14. | Driver | 1 |
| 15. | Gardener | 1(Part time) |

The requisite standards for physical infrastructure have been laid down in section 29 of the rules which calls for a segregation of the children as per their age group giving due consideration to their physical and mental status and the nature of offence committed. The segregation should be preferably 7-11, 12-16, 16-18 for observation homes and 11-15, 16-18 for special homes. All such institutions should be child friendly and should not look like a jail or a lock up. The section mandates that every institution should maintain copies of the Act

and Rules for use by the staff as well as the children. The section also suggests a total built up area of 8495 sq. ft. per institution with designated areas for – dormitories, class rooms, sick room, kitchen, dining hall, store, recreation room, library, 5 bathrooms, 8 toilets, office rooms, counselling and guidance room, workshop, residence for person in charge, 2 rooms for juvenile justice board and playground.

Section 30 states that the bedding and clothing should be provided as per the climactic conditions and sets about the minimum standards for bedding and clothing as under:

TABLE 3.6 – QUANTITY OF BEDDING

| S. No. | Article | Quantity to be provided per child |
|--------|-------------------------|---|
| 1. | Mattress | 1 at the time of admission and subsequently 1 after every 1 year. |
| 2. | Cotton Durry | 2 at the time of admission and subsequently 2 after every 2 years. |
| 3. | Cotton bed sheets | 2 at the time of admission and subsequently 1 after every 6 months. |
| 4. | Pillow (Cotton stuffed) | 1 at the time of admission and subsequently 1 after every 1 year. |
| 5. | Pillow covers | 1 at the time of admission and subsequently 1 after every 1 year. |
| 6. | Cotton blankets/ Khes | 2 at the time of admission and subsequently 1 after every 2 years. |
| 7. | Cotton filled quilt | 1 at the time of admission and subsequently 1 after every 2 years (in cold region in addition to the blankets). |
| 8. | Mosquito net | 1 at the time of admission and subsequently 1 after every 6 months. |
| 9. | Cotton towels | 2 at the time of admission and subsequently 1 after every 3 months |

TABLE 3.7 – QUANTITY OF CLOTHING (BOYS)

| S. No. | Article | Quantity per child |
|---------------|--------------------------------|--|
| 1. | Shirts | 2 at the time of admission and subsequently 1 after every 6 months. |
| 2. | Shorts | 2 at the time of admission and subsequently 1 after every 6 months for younger boys. |
| 3. | Pants | 2 at the time of admission and subsequently 1 after every 6 months for older boys. |
| 4. | Age appropriate undergarments | 3 sets every quarter. |
| 5. | Woollen jerseys (full sleeves) | 2 yearly. |
| 6. | Woollen jerseys (half sleeves) | 2 yearly. |
| 7. | Woollen Caps | 1 in 1 year. |
| 8. | Kurta Pyjama for night wear | 2 sets every 6 months |

TABLE 3.8 – QUANTITY OF CLOTHING (GIRLS)

| S. No. | Article | Quantity per child |
|---------------|---|--|
| 1. | Skirts and Blouse or Salwar Kameez or Half Sari with Blouse and Petticoat | 5 sets per year for girls depending on age and regional preferences. |
| 2. | Age appropriate undergarments | 3 sets every quarter. |
| 3. | Sanitary Towels | 12 packs per year for older girls. |

| | | |
|----|---------------------------------|-----------------------|
| 4. | Woollen Sweaters (full sleeves) | 2 sweaters yearly. |
| 5. | Woollen Sweaters (Half sleeves) | 2 sweaters yearly. |
| 6. | Woollen Shawls | 1 per year. |
| 7. | Nightwear | 2 sets every 6 months |

Section 31 sets about the standards for hygiene and sanitation on the lines of the Rules of 2007, namely – sufficient treated drinking water; sufficient water for bathing, washing clothes, maintenance and cleanliness of institution; proper drainage system; garbage disposal; protection from mosquitos; annual pest control; sufficient number of airy and well lit bathrooms with at least one bathroom for ten children; sufficient space for washing and drying of clothes; washing machine; clean and fly proof kitchen with separate area for washing of utensils; sunning of bedding twice every month; maintenance of cleanliness in medical centre; proper washing of vegetables and fruits; clean and pest proof store for maintenance of food articles.

Section 32 calls for the preparation of a daily routine in consultation with the children’s committee which shall provide for a disciplined and regimented life, personal hygiene and cleanliness, physical exercise, yoga, educational classes, vocational training, organized recreation and games, moral education, group activities, prayer and special programmes for Sundays and other holidays.

The rules provide for a meticulous diet scale to be followed by the institutions vide section 33. The scale has been reproduced below:

TABLE 3.9 – DIET AND NUTRITION SCALE

| S.No. | Name of the articles of diet | Scale per head per day |
|-------|------------------------------|---|
| 1. | Rice/Wheat/Ragi/Jowar | 600 gms, (700 gms for 16-18 yrs age) of which atleast 100 gms to be either Wheat or Ragi or |

| | | |
|-----|---|--|
| | | Jowar or Rice. |
| 2. | Dal/ Rajma/ Chana | 120 gms. |
| 3. | Edible Oil | 25 gms. |
| 4. | Onion | 25 gms. |
| 5. | Salt | 25 gms. |
| 6. | Turmeric | 05 gms. |
| 7. | Coriander Seed Powder | 05 gms. |
| 8. | Ginger | 05 gms. |
| 9. | Garlic | 05 gms. |
| 10. | Tamarind/ Mango powder | 05 gms. |
| 11. | Milk (at breakfast) | 150 ml. |
| 12. | Dry Chillies | 05 gms. |
| 13. | Vegetables Non – leafy | Leafy 100 gms. 130gms. |
| 14. | Curd or Butter Milk | 100 gms/ml. |
| 15. | Chicken once a week or Eggs 4 days | 115 gms. |
| 16. | Jaggery& Ground Nut Seeds or Paneer (vegetarian only) | 60 gms each (100 gms for paneer) Once in a week. |
| 17. | Sugar | 40 gms. |
| 18. | Tea/Coffee | 5gm. |
| 19. | Sooji/Poha | 150 gms. |
| 20. | Ragi | 150 gms. |
| | Following items for 50 Children per day | |

| | | |
|-----|---|----------|
| 21. | Pepper | 25 gms. |
| 22. | Jeera Seeds | 25 gms. |
| 23. | Black Gram dal | 50 gms. |
| 24. | Mustard Seeds | 50 gms. |
| 25. | Ajwain Seeds | 50 gms. |
| | On Chicken Day for 10 Kg. of Chicken | |
| 26. | Garam Masala | 10 gms. |
| 27. | Kopra | 150 gms. |
| 28. | KhasKhas | 150 gms. |
| 29. | Groundnut Oil | 500 gms. |
| | For Sick Children | |
| 30. | Bread | 500 gms. |
| 31. | Milk | 500 ml. |
| 32. | Khichadi | 300 gms. |
| | Other Items | |
| 33. | LP Gas for Cooking only | |

Section 34 provides for rules to be followed by the institution with respect to medical care; namely – medical examination of each child admitted to the institution within twenty-four hours; maintaining medical records of each child on the basis of monthly medical check-ups; every institution must have first aid kits and staff should be trained to provide first aid; immunization of children; preventive measures against outbreak of infectious diseases; sick children to be kept under constant medical supervision; counselling of every child and provision of specific mental health interventions wherever needed; reference of children in need to drug de-addiction and rehabilitation programmes.

Section 35 lays due stress on the state of mental health of children. It states that the environment in the institution should be free from abuse allowing for the children to cope

with their situation and regain their confidence. It calls for the provision of individual therapy and all institutions should have the services of trained counsellors or collaboration with external agencies for specialized and individual therapy for the child.

Section 36 makes it mandatory for all institutions to provide education to all children according to their age and ability. Such opportunities should include mainstream schooling, bridge schooling, open schooling non formal education and learning. Specialized trainers should be hired for children with special needs, either physical or mental. In addition to education, section 37 calls for the provision of vocational training in every institution. Vocational training should include occupational therapy, skill and interest based training which should be certified and suitable placement should be provided at the end of the course.

Section 39 calls for a management committee to manage the institution and the progress of every child. The committee shall meet once every month to review the state of affairs in the institutions with respect to the standard of care mentioned above. It is also required to set up a children's suggestion box at a place easily accessible by children which shall be checked every week by the chairperson of the committee.

Section 40 calls for the establishment of a children's committee for each age group which shall be encouraged to participate in the following areas:

- a) Improvement of the condition of the institution;
- b) Reviewing the standard of care being followed;
- c) Preparing daily routine and diet scale;
- d) Developing vocational, educational and recreational plans;
- e) Respecting each other and supporting each other in management of crisis;
- f) Reporting abuse and exploitation by peers and caregivers;
- g) Management of institution through management committee

DUTIES OF VARIOUS OFFICIALS AND AGENCIES UNDER THE RULES:

Section 61 enumerates the duties of the person in charge of the institution. The major duties have been elicited below:

- a) To ensure compliance with the provisions of the Act and the Rules;
- b) To ensure compliance with the orders of the Board, Committee or Children's Court;
- c) Provide an environment of love, care and affection;
- d) Strive for the development of children;

- e) Supervise and monitor the discipline of the children and staff;
- f) Plan, implement and coordinate all programmes, activities and operations;
- g) Organize local and national festivals within home;
- h) Organize excursions and picnics;
- i) Allocate duties to personnel;
- j) Maintain standard of care;
- k) Employ appropriate security measures;
- l) Ensure proper maintenance of case files;
- m) Organize meetings of the management committee;
- n) Prepare budget and maintain control over financial matters;
- o) Coordinate with State Child Protection Society and District Child Protection Unit;
- p) Ensure the production of child before the Board, Committee or Children's Court

Duties of the House Father/ House Mother are assigned to them via section 63 of the Rules as:

- a) Handling children with love and affection;
- b) Taking proper care of children and their welfare;
- c) Providing the children with necessary supplies upon reception;
- d) Replenishing the children with necessary supplies as per requirement and scales;
- e) Maintaining discipline among children;
- f) Ensuring that children maintain proper hygiene and sanitation;
- g) Look after maintenance, sanitation and hygienic surroundings;
- h) Implementing the daily routine effectively;
- i) Looking after the safety and security arrangements in the child care institutions;
- j) Escorting children whenever they go out of the institution;
- k) Maintain registers and relevant duties

CHAPTER IV – ANALYSIS OF JUDICIAL TRENDS

It has already been established in the preceding chapters of the book that doctrinally, reformation and rehabilitation form the corner stones of juvenile justice systems. In this context, all legislations ranging from Children’s Act of 1960 to the Act of 2015 intended reformation and rehabilitation as the object of the respective legislations, irrespective of the degree of progressiveness of the provisions therein. The Supreme Court of India, in the spirit of the legislations, has largely accepted and respected these principles as the basis of our juvenile justice system. Challenges however have been mounted time and again with respect to the manner of their application. This chapter seeks to examine as to how the higher judiciary in the country has dealt with these challenges.

REFORMATION AND REHABILITATION

In the case of *Ragbir v. State of Haryana*,¹ while holding that the provisions of the Haryana Children Act supersede the provisions of the Code of Criminal Procedure, 1973, the Supreme Court observed:

“Section 22 of this (Central) Act is in pari materia with section 21 of the Haryana Children Act. A perusal of the above and other provisions of the Act and those of the central Children Act shows that the procedure for trial, conviction and sentence under the Children Acts are simple, humane and by courts manned with persons with knowledge of child psychology and child welfare; but not so under the Criminal Procedure Codes of 1898 and 1973. The intention of the State Legislature of Haryana and of the Parliament in enacting the Children Acts was to make provisions for trial of delinquent children and dealing with them in accordance with such procedures, so that the delinquent children do not come in contact with accused persons who are not children and but are hardened criminals. The purpose undoubtedly was to reclaim delinquent children and rehabilitate them in such a way that they become useful citizens later in life.”

In *Sheela Barse v. Union of India*,² where the petitioner had filed a writ petition under Article 32 of the Constitution of India for the release of children under the age of sixteen who were lodged in various adult prisons, the Supreme Court of India took a serious note of the

¹ 1982 SCR (1) 686

² 1986 SCALE (2) 230

matter. It was stressed upon by the Supreme Court that special provisions had been enacted in various statutes, in relation to children for trial by Juvenile Courts to establish a special procedure intended to safeguard the interest and welfare of children. It was emphatically stated that even in case the juvenile was convicted, he should not be kept in prisons under any circumstances. It further observed:

“If a child is a national asset, it is the duty of the State to look after the child with a view to ensuring full development of its personality. That is why all the statutes dealing with children provide that child shall not be kept in jail. Even apart from this statutory prescription, it is elementary that a jail is hardly a place where a child should be kept. There can be no doubt that incarceration in jail would have the effect of dwarfing the development of the child, exposing him to baneful influences, coarsening his conscience and alienating him from the society.”

The first serious challenge to the principle of reformation and rehabilitation came in the case of *Salil Bali v. Union of India and anr.*³ It was observed by the Supreme Court that there could be no question as to fact that children were one of the most vulnerable sections of the society and unless they were provided with proper opportunities, the opportunity of making them grow into responsible citizens of tomorrow would slip out of the hands of the present generation. It examined the legislative intent and found that the essence of the Juvenile Justice (Care and Protection of Children) Act, 2000, and the Rules framed thereunder in 2007, was restorative and not retributive i.e. they provided for rehabilitation and re-integration of children in conflict with law into mainstream society. In light of the above, it held the provisions of the Act of 2000 to be valid and stated that:

“There are, of course, exceptions where a child in the age group of sixteen to eighteen may have developed criminal propensities, which would make it virtually impossible for him/her to be reintegrated into mainstream society, but such examples are not of such proportions as to warrant any change in thinking, since it is probably better to try and re-integrate children with criminal propensities into mainstream society, rather than to allow them to develop into hardened criminals, which does not augur well for the future.”

³ (2013) 7 SCC 705

In the case of *Hari Ram v. State of Rajasthan and anr.*,⁴ the Supreme Court observed that “*the scheme of the Act (of 2000) is to give children, who have, for some reason or the other, gone astray, to realise their mistakes, rehabilitate themselves and rebuild their lives and become useful citizens of society, instead of degenerating into hardened criminals.*”

In the matter of *Jitendra Singh v. State of U.P.*,⁵ the apex court observed that:

“It is quite clear from the above that the purpose of the Act is to rehabilitate a juvenile in conflict with law with a view to reintegrate him into society. This is by no means an easy task and it is worth researching how successful the implementation of the Act has been in its avowed purpose in this respect.”

The Delhi High Court, speaking in the matter of *Court on its own motion v. Department of Women and Child Development, Govt. of N.C.T. of Delhi*⁶ observed that a child is a part of a society in which he lives and on account his immaturity is easily motivated by what he sees around him. The court stated that it is on account of this immaturity that a child is not supposed to be treated as an adult offender. Taking its observations into stock, the court proceeds to state that the basis of the difference in justice systems is that the juveniles are different from adults, less responsible for their transgressions and more amenable to rehabilitation. It stated that:

“It cannot be overlooked that youth offenders often have psychological or social issues that need to be addressed as part of the rehabilitative process. Adult facilities/prison often lack the staff to address the needs of young incarcerated persons. In effect, what will happen is that if the youth is sent to an adult prison, then it is more likely for him to re-offend and escalate into violent behaviour than their peers who go to juvenile system, where rehabilitative services are far more extensive. Juveniles confined within an adult prison may not have social services they need but with constant access to criminal minds, there are more chances of them becoming a recidivist.”

Going a step further, the Delhi High Court in the abovementioned case, declared the lodging of juveniles in adult prisons to be violative of their fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India, 1950. It stated that *there can*

⁴ (2009) 13 SCC 211

⁵ (2013) 11 SCC 193

⁶ (2013) 2 RCR (Criminal) 362

be no cavil in saying that lodging juveniles in adult prisons amounts to deprivation of their personal liberty on multiple aspects. It reasoned that at the time of arrest of such persons, there is no proper age verification and had that been so, the juveniles would not have been subjected to hardship of Adult Criminal Justice System.

However, post the enactment of the Act of 2015, the constitutional validity of the act w.r.t the prosecution of children aged 16-18 years in the adult criminal system upon commission of heinous offences was challenged in the case of *Tehseen Poonawala v. Union of India*⁷ on the grounds that it violated Article 14 of the Constitution by creating a fictional classification between children aged 15 and below and those aged 16-18 as well as on the ground that the imprisonment of child was a violation of Article 21 of the Constitution in that it deprived the child of his liberty. The writ petition was however not admitted by the Supreme Court citing that the validity of the Act of 2015 couldn't become a subject matter of a public interest litigation and could only be admitted if an aggrieved came before the court.⁸

IMPLEMENTATION OF JUVENILE JUSTICE ACTS

The Supreme Court has time and again taken note of a lack of implementation of the provisions of the act by the lower judiciary, the state governments as well as the central government. In its own capacity, the court has tried to resolve the legal issues that resulted in a bar to the implementation of the provisions while at the same time it has given directives to the administration to implement the provisions wherever the government was found to be lacking.

To exemplify, in the case of *Gopinath Ghosh v. State of West Bengal*,⁹ the apex court took notice of the situation wherein the contention with respect to the age of the convict and the applicability of the benefits of the juvenile justice legislation were raised for the first time, in front of the Supreme Court instead of the lower courts. It observed that while, ordinarily, the Supreme Court would be reluctant to entertain the petition based on factual averments for the first time before it, the court was equally reluctant to nullify the beneficial provisions of a very socially progressive statute by taking shield behind the technicality of the contention being raised for the first time in this Court. It opined that:

⁷ W.P. No. 94 of 2016

⁸ Live Law News Network, *SC refuses to entertain plea against new Juvenile Justice Act*, 26/02/2016, <http://www.livelaw.in/sc-refuses-to-entertain-plea-against-new-juvenile-justice-act-2/>, accessed on 11/09/2017

⁹ 1984 (Supp.) SCC 228

“...whenever a case is brought before the Magistrate and the accused appears to be aged 21 years or below, before proceeding with the trial or undertaking an inquiry, an inquiry must be made about the age of the accused on the date of the occurrence. This ought to be more so where special acts dealing with juvenile delinquent are in force. If necessary, the Magistrate may refer the accused to the Medical Board or the Civil Surgeon, as the case may be, for obtaining credit worthy evidence about age. The Magistrate may as well call upon accused also to lead evidence about his age. Thereafter, the learned Magistrate may proceed in accordance with law. This procedure, if properly followed, would avoid a journey upto the Apex Court and the return journey to the grass-root court. If necessary and found expedient, the High Court may on its administrative side issue necessary instructions to cope with the situation herein indicated.”

While dealing with the writ petition in *Sheela Barse & ors. v. Union of India & ors.*,¹⁰ the Supreme Court stressed upon legislative and institutional bars to the implementation of the provisions of the Children Act, 1960. It suggested that instead of each state having its own Children Act, the central government should initiate a parliamentary legislation to ensure universality of and complete uniformity in the provisions of the law governing the children throughout the country. The law so enacted should contain mandatory provisions for *“ensuring social, economic and psychological rehabilitation of the children who are either accused of offences or are abandoned or destitute or lost.”* Further, it was clearly stated that:

“...it is not enough merely to have legislation on the subject, but it is equally, if not more, important to ensure that such legislation is implemented in all earnestness and mere lip sympathy is not paid such legislation and justification for non-implementation is not pleaded on ground of lack of finances on the part of the State. The greatest recompense which the State can get for expenditure on children is the building up of a powerful human resource ready to take its place in the forward march of the nation.”

Going further, the apex court directed the state governments to set up the requisite remand homes and observation homes where the children accused of committing offence could be lodged pending investigation and trial. It emphatically stressed that under no conditions should a child be sent to adult prisons and if the state governments do not have enough

¹⁰ 1986 SCALE (2) 230

infrastructure to lodge the children in observation homes or remand homes, the child should be released on bail. Calling into scrutiny the so called ‘juvenile courts,’ the Court observed that *“they are nothing but a replica of the ordinary criminal courts, only the label being changed.”* The Court directed the state governments to established one juvenile court in each district where the magistrates must have *“proper and adequate training for dealing with cases against Juveniles, because these cases require a different type of procedure and qualitatively a different kind of approach.”*

At this point, the researchers want to impress that while the judgment in *Sheela Barse* case was given in 1986 and was followed by two enactments in the form of the – Act of 1986 and the Act of 2000; the Supreme Court in 2011, acting on complaints about the non-compliance with the legislations with respect to the constitution of Juvenile Justice Boards and Child Welfare Committees had to direct the state governments once again to constitute such committees and boards in each and every district.¹¹ In the same matter, the court ordered that *“all the Juvenile Justice Boards should ensure that juveniles in conflict with law, who are brought before them, are provided immediate legal aid and if there is any difficulty to direct or instruct, the respective District Legal Services Authority to provide such legal aid.”*

It further directed the Home departments of each state government as well as the Director Generals of Police of each state to ensure that at least one police officer in every police station with aptitude is given appropriate training and orientation and designated as Juvenile or Child Welfare Officer, who will handle the juvenile or child in coordination with the police as provided under sub-section (2) of Section 63 of the Act of 2000. It directed the District Legal Services Authorities to conduct the required training and orientation of police officers so designated and that such training should be conducted under the guidance of the State Legal Services Authority.

In the matter of *Court on its own motion v. Department of Women and Child Development, Govt. of N.C.T. of Delhi*,¹² the issue of incarceration of juveniles in adult prisons came before the High Court of Delhi despite the directions given to the respective governments in the *Sheela Barse* case in which the Apex Court had dealt extensively with the same issue as far back as 1986. The High Court proceeded to issue meticulously drafted and extensive guidelines and directions to be kept in mind by each and every authority while dealing with juveniles. It is pertinent to note that a few selected directions and guidelines issued by the

¹¹ *Sampurna Behura v. Union of India*, (2011) 9 SCC 801

¹² 2013 (3) RCR (Criminal) 362

court have been reproduced for the purpose of illustrating the determination and pro-activeness of the judiciary in this regard:

1. For Commissioner of Police:
 - a. To issue a Standing Order clarifying the roles and responsibilities of police officers, Investigation Officers, Inquiry by DCPs in case of lapse, Juvenile or Child Welfare Officers, SHOs and DCPs in view of the provisions of JJ Act and Rules made there under.
 - b. On receipt of half yearly report suggested in from Nodal Head of SJPU, the commissioner shall pass necessary directions to give effect to the recommendations and to address the concerns as may be raised in such reports and forward the action taken report of the same to the Juvenile Justice Committee of the Delhi High Court.
2. For Deputy Commissioners of Police:
 - a. In case of a complaint that a Police Officer is not taking notice of juvenility of any offender and is refusing to take on record the documents being provided to suggest juvenility and instead treating a child as adult, it shall be the duty of DCP concerned to do an immediate inquiry into such complaint. Such inquiry shall be completed within 24 hours of having received such complaint and if the complaint turns out to have merit and truth, DCP concerned shall make orders to the concerned police officers to immediately take corrective steps and shall also initiate disciplinary action against erring police official.
 - b. In cases where any action is taken against an erring police officer, a quarterly report of the same containing the nature and reasons of such lapse and details of action taken shall be furnished by the DCP concerned to the concerned JJB.
 - c. DCPs shall, during the regular monthly meeting with all the SHOs & Inspector-Investigations, shall brief them about their responsibilities, any new judgment or order from JJBs and Courts, any practice direction etc.
 - d. On being intimated by the JJBs about any lapse having been committed on age investigation, DCP concerned shall institute an inquiry and take such action as may be required or appropriate. An action taken report shall be submitted to the JJB by the DCP.
3. For Nodal Head in-charge of SJPU:

- a. Nodal Head of Special Juvenile Police Unit shall cause quarterly (once in three months) inspection of all the police stations through an official not below the rank of ACP in order to check that all the police stations have put in place the required setup and all the obligations required.
 - b. Nodal Head of SJPU shall make a report on half yearly basis and shall submit it to the Commissioner of Police with recommendations. A copy shall also be submitted to Juvenile Justice Committee of Hon'ble Delhi High Court.
4. For Officer in charge of the Police Station:
- a. To ensure that police officers of his or her police station have taken all measures to ensure that proper inquiry or investigation on the point of age has been carried out and that all the required formalities, procedure have been carried out and required documents have been prepared in this regard.
 - b. Ensure that a notice board, prominently visible, in Hindi, Urdu and English language informing that persons below the age of 18 years are governed under the provisions of JJ act and cannot be kept in police lock up and jails and are not to be taken to the Adult Criminal Courts.
5. For Investigating Officer:
- a. Every Police officer at the time of arresting/apprehending young offenders shall be under obligation to inform the alleged offender about his right to be dealt with under the provisions of Juvenile Justice Act if he is below 18 years of age and a proper counselling shall be done on the point of age.
 - b. IO or any other police officer affecting the arrest/ apprehension shall also prepare the Age Memo. A copy of such Age Memo shall also be delivered to the alleged offender and his parents/ guardians/ or relative who have been intimated about his arrest.
 - c. On completion of age inquiry, which shall be done, preferably within one week of arrest/apprehension, the completed age memo be filed before the court concerned.
 - d. At the time of first production of an offender who is between 18 to 21 years of age as per the initial inquiry of the IO as above, before the Court, IO or the Police officer responsible for producing the offender before the Court, shall produce alleged offender, along with a copy of the FIR and age memo before the Secretary of respective District Legal Services Authority, irrespective of whether the alleged offender is being represented by a legal aid lawyer or not.

- e. If the alleged offender claims to be a juvenile and age documents to support such claim are not readily available and it is not possible for IO to obtain such documents within 24 hours of arrest, accused shall be produced before Juvenile Justice Board.
6. For Juvenile Welfare Officer/Child Welfare Officer:
 - a. To obtain the copy of age declaration done by JJB or CWC and to forward such copy to the Special Juvenile Police Unit for entry into the record and to obtain a certificate that such entry has been done with SJPU and a copy of such certificate shall be deposited to the JJB or CWC concerned.
 - b. To ensure that any offender at the Police station who might be a juvenile is not treated as adult and if he notices any such incident, he shall immediately report to the Officer in Charge of the Police Station concerned with an intimation to District SJPU.
 7. For Juvenile Justice Boards:
 - a. JJB shall conduct the proper age inquiry of each child brought before it as per the procedure laid down in Rule 12 of the Delhi Juvenile Justice (Care & Protection of Children) Rules 2009.
 - b. On every occasion, when the case of a juvenile is transferred from the adult court to the JJB and the juvenile is transferred from jail to the concerned Observation Home, the JJB shall interact with the juvenile and record his/her version on how he came to be treated as an adult. If from the statement of the juvenile and after appropriate inquiry from IO, it appears that the juvenile was wrongly shown as an adult by the IO, then the JJB shall intimate the concerned DCP. This intimation shall be done in all those cases which are received from the JJB by way of transfer from the adult court, and shall be done even in all those cases in which the declaration of juvenility has been done by the Adult Court.
 - c. JJBs shall determine the age of a person by way recording the evidence brought forth by the Juvenile and the prosecution/ complainant and the parties shall be given an opportunity to examine, cross examine or re-examine witnesses of their choice.
 - d. In case of medical age examination, the parties shall be given copies of the medical age examination report immediately by the JJBs. The parties shall

have the right to file objection thereto, including the right to cross-examine before final age determination is done.

- e. While declaring the age, the order of age declaration shall also state the age as nearly as possible as on the date of commission of the offence.
- f. Before commencing the age inquiry, a notice thereof shall be served upon the complainant by the JJB or the Court Concerned, which shall also accord opportunity to the complainant of being heard on the issue including producing evidence; however, the age inquiry will be concluded within the stipulated time limit of one month.
- g. It shall be the duty of Board to ensure that every juvenile in whose respect age inquiry is being conducted is being represented by a Counsel and in those cases, where there is no lawyer present before the Board at the time of hearing of case; Board shall provide a Legal Aid Lawyer.

In another case of *Chandrajeet Kumar v. State*,¹³ where the Delhi High Court found that the accused had spent nine years in jail for an offence even after the offence was found have been committed while he was a child, the court directed the Delhi Judicial Academy to come up with a refresher course on law pertaining to juvenile justice which would be organized and implemented in every district court for the benefit of the judges and held that:

“A Sessions Court has dealt with the case, completely oblivious of the valuable rights of a juvenile under the Juvenile Justice (Care & Protection) Act, ignorant of judicial precedents on the subject and the orders of the learned Single Judge of this court in this very case. This situation suggests a re-visit to training in law relating to juveniles, procedural and substantive.”

In May 2017, the matter of *In Re: Exploitation of Children in Orphanages in the State of Tamil Nadu*,¹⁴ the Supreme Court of India issued directions to the Union Governments and State Governments that pursuant to the provisions of the Act of 2015, the registration of all child care institutions should be positively completed by 31st December 2015; the registration process should also include a data base of all children in need of care and protection which should be updated every month; the Union Government and the governments of the States and Union Territories must concentrate on rehabilitation and social re-integration of children in need of care and protection and several schemes of the Government of India including skill

¹³ CrI. A. 371/2015

¹⁴ W.P. N. 102 of 2007

development, vocational training etc. must be taken advantage of keeping in mind the need to rehabilitate such children; the process of preparing individual child care plans is a continuing process and must be initiated immediately and an individual child care plan must be prepared for each child in each child care institutions on or before 31st December, 2017; enforcement of the minimum standards of care as required by and in terms of the JJ Act and the Model Rules positively on or before 31st December, 2017.

MINIMUM AGE OF CRIMINAL RESPONSIBILITY

In the case of *Rohtas v. State of Haryana*,¹⁵ the appellant accused had been charged with an offence under Section 302 I.P.C. After the recording of evidence was concluded, it was pointed out that the Sessions Judge had no jurisdiction to try the appellant as the appellant happened to fall under the provisions of the Haryana Children Act, 1974. On remand, the Magistrate found that the appellant was a child and proceeded to try him under the Haryana Act. In a revision petition filed by the brother of the deceased, the High Court held that the provisions of the Criminal Procedure Code 1973 prevailed over the provisions of the Haryana Act.

The Apex Court held that Section 5 of the CrPC, 1973, carves out a clear exception to the provisions of the trial of an offence under any special or local law for the time being in force or any special jurisdiction or power conferred or any special form of procedure prescribed by any other law for the time being in force. The Haryana Act was in force when the CrPC was passed and therefore the Haryana Act far from being inconsistent with s. 5 of the CrPC appeared to be fully protected by the provisions of s. 5 of the CrPC.

Ever since the enactment of the Children Act, 1960, the Supreme Court has in most cases, upheld the will of the legislature in construing the provisions of the act which seek to create a separate justice system for juvenile. Supporting the legislative intent, the court itself, on several occasions, has reasoned that the mind of a juvenile is not on par with the mind of an adult. While answering a similar question in the context of Rajasthan Children Act, the supreme court in *Umesh Chandra v. State of Rajasthan*¹⁶ held that courts should rely upon a liberal construction of the provisions of that act to advance the object of the act since the act was piece of a social legislation meant for the protection of infants who commit criminal offences. It further observed that:

¹⁵ 1980 SCR (1) 151

¹⁶ (1982) 2 SCC 802

“The Children Act was enacted to protect young children from the consequences of their criminal acts on the footing that their mind at that age could not be said to be mature for imputing mens rea as in the case of an adult.”

The same question arose in the case of *Raghubir v. State of Haryana*,¹⁷ as to whether a child who was sixteen years of age and charged with an offence under section 302 of the IPC was entitled to the benefit of Haryana Children Act, 1974. In answering the same, the Supreme Court, relied upon a purposive construction and detailed the intent of the legislators to come to the conclusion that the child should be tried in accordance with the Haryana Children Act:

“The purpose of the Haryana Legislature as well as of the Parliament in enacting the Haryana Children Act and the Central Children Act respectively was to give separate treatment to delinquent children in trial, conviction and punishment for offences including offences punishable with death or imprisonment for life.”

It would be correct to point out that in stating the above, the Supreme Court wasn't paying a mere lip service to the issue. In its application of the above stated principle, the Supreme Court has on several occasions, gone beyond the provisions of the acts themselves to ensure that no person is tried as an adult for an offence committed by him when he has a juvenile. In the case of *Gopinath Ghosh v. State of West Bengal*,¹⁸ where the accused had been tried and convicted by lower courts for an offence made out under Section 302 of the IPC, the accused raised the argument of his juvenility at the time of the occurrence of the offence for the first time. After satisfying itself that the accused was indeed a juvenile at the time the offence was committed, the Supreme Court observed that:

“In view of the underlying intendment and beneficial provisions of the Act read with clause (f) of Article 39 of the Constitution which provides that the State shall direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment, we consider it proper not to allow a technical contention that this contention is being raised in this Court for the first time to thwart the benefit of the provisions being extended to the appellant, if he was otherwise entitled to it.”

¹⁷ 1982 SCR (1) 686

¹⁸ (1984) SUPP SCC 228

The Supreme Court however has also been fastidious in its application of facts to the law. Where the Supreme Court found that the school certificate produced by the accused before the Sessions Court had been dismissed in light of the medical report on the ground that it was not unusual for parents to understate the age of the children in school certificates for future purposes, the Supreme Court itself considered the matter and found that the school certificate could not have been brushed aside on the basis of surmises and in favour of medical reports which themselves were estimates. The court upheld the conviction of the accused but quashed the sentence of life imprisonment in line with the judgment of the Apex Court in the case of *Jayendra and anr. v. State of U.P.*¹⁹

In the case of *Pradeep Kumar v. State of U.P.*,²⁰ where the accused had been convicted of an offence under section 302 of the IPC, the Supreme Court considered the school leaving certificate of the accused as well as the medical report and concluded that the accused had not completed the age of sixteen years at the time of the occurrence of the offence, he should have been tried under the UP Children Act instead of being sentenced to imprisonment on conviction under section 302 of the IPC.

In *Bhola Bhagat v. State of Bihar*,²¹ the high court rejected the contention of the accused that they were ‘children’ as defined in the Bihar Children Act, 1970 on the date of occurrence and their trial along with adult accused by the criminal court was not in accordance with law. The same was rejected on the ground that except for the age given by the appellants and the estimate of the court at the time of their examination under Section 313 of the Code, there was no other material in support of the appellants’ claim that they were below 18 years of age. The Apex court overruled the judgement of the high court and held:

“To us it appears that the approach of the High Court in dealing with the question of age of the appellants and the denial of benefit to them of the provisions of both the Acts was not proper. Technicalities were allowed to defeat the benefits of a socially-oriented legislation like the Bihar Children Act, 1982 and the Juvenile Justice Act, 1986. If the High Court had doubts about the correctness of their age as given by the appellants and also as estimated by the trial court, it ought to have ordered an enquiry to determine their ages. It should not have brushed aside their plea without such an enquiry.”

¹⁹ (1981) 4 SCC 149

²⁰ 1995 Supp (4) SCC 499

²¹ (1997) 8 SCC 720

In the case of *Akbar Shaikh v. State of West Bengal*,²² however, the Supreme Court considered the matter on facts and found that the claim of juvenility of the accused was unsustainable. While dealing with the said argument, this Court observed that no such question had ever been raised. Even where a similar question was raised by five other accused, no such plea was raised even before the High Court on behalf of the accused. In support of the juvenility, two documents were relied upon, namely, (i) statement recorded under Section 313 of the Code and (ii) voters' list. The court observed that the statement recorded under section 313 of the Code of Criminal Procedure was not a decisive document and the voters list had been drawn up much after the incident had occurred. Consequently, the court found no merit in the argument of the accused and did not order any inquiry as to the determination of age.

Consequent to the increase of the age of juvenility from sixteen years to eighteen years under the Act of 2000, a question arose before the Supreme Court whether the accused should be tried under the Act of 1986 (which provided for 16 years as the age of juvenility) or the Act of 2000 (which provided for 18 years as the age of juvenility) in the case of *Hari Ram v. State of Rajasthan and anr.*²³ In the matter, the High Court had considered testimony from Mr Ram's father as well as medical reports, and concluded that at the time of the offence Mr Ram was over 16, thereby excluding him from the juvenile justice system. The accused appealed on the reasoning that by adopting such a technical approach to determining his age, the Court had defeated the purpose of the juvenile justice laws. Considering the amendments brought in by way of Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, the Supreme Court held that:

“The law as now crystallised on a conjoint reading of Sections 2(k), 2(l), 7-A, 20 and 49 read with Rules 12 and 98, places beyond all doubt that all persons who were below the age of 18 years on the date of commission of the offence even prior to 1-4-2001, would be treated as juveniles, even if the claim of juvenility was raised after they had attained the age of 18 years on or before the date of commencement of the Act and were undergoing sentence upon being convicted.”

In the case of *Dayanand v. State of Haryana*,²⁴ the Apex Court found that the accused was aged sixteen at the time of the occurrence of the offence and hence could not be kept in the

²² (2009) 7 SCC 419

²³ (2009) 13 SCC 211

²⁴ (2011) 2 SCC 224

prison in lieu of the order of the sessions court as affirmed by the High Court. The court set aside the sentence and ordered for the accused to be released from prison. Similarly, where the accused had completed sixteen years of age and were not juvenile under the Act of 1986 but were under 18 years and still juveniles under the Act of 2000, the Supreme Court gave the benefit of the Act of 2000 to the accused and ordered for them to be released forthwith.²⁵

In the matter of *Shah Nawaz v. State of U.P. and anr.*,²⁶ where the accused presented the school leaving certificate as proof of juvenility at the time of the commission of offence, the Supreme Court made inquiries with respect to the same. Upon satisfaction, the Supreme Court referred to Rule 12 of the Rules of 2007 and observed that the same gave preference to school leaving certificate over the medical report. It set aside the order of the High Court.

In the case of *Abuzar Hussain v. State of West Bengal*,²⁷ the Supreme Court summarized its position in a point wise format:

- (i) *A claim of juvenility may be raised at any stage even after final disposal of the case. It may be raised for the first time before this Court as well after final disposal of the case. The delay in raising the claim of juvenility cannot be a ground for rejection of such claim. The claim of juvenility can be raised in appeal even if not pressed before the trial court and can be raised for the first time before this Court though not pressed before the trial court and in appeal court.*
- (ii) *For making a claim with regard to juvenility after conviction, the claimant must produce some material which may prima facie satisfy the court that an inquiry into the claim of juvenility is necessary. Initial burden has to be discharged by the person who claims juvenility.*
- (iii) *As to what materials would prima facie satisfy the court and/or are sufficient for discharging the initial burden cannot be catalogued nor can it be laid down as to what weight should be given to a specific piece of evidence which may be sufficient to raise presumption of juvenility but the documents referred to in Rule 12(3)(a)(i) to (iii) shall definitely be sufficient for prima facie satisfaction of the court about the age of the delinquent necessitating further enquiry under Rule 12. The statement recorded under Section 313 of the Code is too tentative and may*

²⁵ *Lakhan Lal v. State of Bihar*, (2011) 2 SCC 251

²⁶ (2011) 13 SCC 751

²⁷ (2012) 10 SCC 489

not by itself be sufficient ordinarily to justify or reject the claim of juvenility. The credibility and/or acceptability of the documents like the school leaving certificate or the voters' list, etc. obtained after conviction would depend on the facts and circumstances of each case and no hard and fast rule can be prescribed that they must be prima facie accepted or rejected. If such documents prima facie inspire confidence of the court, the court may act upon such documents for the purposes of Section 7A and order an enquiry for determination of the age of the delinquent.

- (iv) *An affidavit of the claimant or any of the parents or a sibling or a relative in support of the claim of juvenility raised for the first time in appeal or revision or before this Court during the pendency of the matter or after disposal of the case shall not be sufficient justifying an enquiry to determine the age of such person unless the circumstances of the case are so glaring that satisfy the judicial conscience of the court to order an enquiry into determination of age of the delinquent.*
- (v) *The court where the plea of juvenility is raised for the first time should always be guided by the objectives of the 2000 Act and be alive to the position that the beneficent and salutary provisions contained in 2000 Act are not defeated by hyper-technical approach and the persons who are entitled to get benefits of 2000 Act get such benefits. The courts should not be unnecessarily influenced by any general impression that in schools the parents/guardians understate the age of their wards by one or two years for future benefits or that age determination by medical examination is not very precise. The matter should be considered prima facie on the touchstone of preponderance of probability.*
- (vi) *Claim of juvenility lacking in credibility or frivolous claim of juvenility or patently absurd or inherently improbable claim of juvenility must be rejected by the court at threshold whenever raised.*

In light of the 2012 Delhi Gang Rape Case where one of the accused was a juvenile, several writ petitions questioning the validity of the blanket exemption granted to all juveniles from prosecution in the adult criminal justice system were filed before the Supreme Court of India which were clubbed together for hearing in the matter of *Salil Bali v. Union of India and anr.*²⁸ The Supreme Court took the view that the age of eighteen had been fixed on account of the understanding of experts in child psychology and behavioural patterns that till such an age

²⁸ (2013) 7 SCC 705

the children in conflict with law could still be redeemed and restored to mainstream society, instead of becoming hardened criminals in future. While holding the provisions of the Act as valid, the Supreme Court observed that:

“...in the absence of any proper data, it would not be wise on our part to deviate from the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, which represent the collective wisdom of Parliament. It may not be out of place to mention that in the Juvenile Justice Act, 1986, male children above the age of sixteen years were considered to be adults, whereas girl children were treated as adults on attaining the age of eighteen years. In the Juvenile Justice (Care and Protection of Children) Act, 2000, a conscious decision was taken by Parliament to raise the age of male juveniles/children to eighteen years. 46. In recent years, there has been a spurt in criminal activities by adults, but not so by juveniles, as the materials produced before us show. The age limit which was raised from sixteen to eighteen years in the Juvenile Justice (Care and Protection of Children) Act, 2000, is a decision which was taken by the Government, which is strongly in favour of retaining Sections 2(k) and 2(l) in the manner in which it exists in the Statute Book.”

The question came up for consideration again in the case of *Dr. Subramanian Swamy and ors. v. Raju and ors.*,²⁹ wherein it was contended that the act had to be read down since the Act results in over-classification of all juveniles, irrespective of the level of mental maturity, when they are grouped in one class and on the further ground that the Act replaces the criminal justice system in the country and therefore derogates a basic feature of the Constitution. It was urged by Dr. Swamy that the relevant provisions of the Act i.e. Sections 1(4), 2(k), 2(l) and 7 must be read to mean that juveniles (children below the age of 18) who are intellectually, emotionally and mentally mature enough to understand the implications of their acts and who have committed serious crimes do not come under the purview of the Act. Such juveniles should be liable to be dealt with under the penal law of the country and by the regular hierarchy of courts under the criminal justice system administered in India.

The Supreme Court observed that in line with its earlier judgements,³⁰ while reading down a provision *“courts must read the legislation literally in the first instance. If on such reading and understanding the vice of unconstitutionality is attracted, the courts must explore whether there has been an unintended legislative omission. If such an intendment can be*

²⁹ (2014) 8 SCC 390

³⁰ *D.T.C. v. D.T.C. Mazdoor Congress and ors.*, 1991 SCC Suppl. (1) 600

reasonably implied without undertaking what, unmistakably, would be a legislative exercise, the Act may be read down to save it from unconstitutionality.”

The court applied the above stated principle of reading down to the provisions of the act and concluded that *“there is no ambiguity, much less any uncertainty, in the language used to convey what the legislature had intended. All persons below the age of 18 are put in one class/group by the Act to provide a separate scheme of investigation, trial and punishment for offences committed by them. A class of persons is sought to be created who are treated differently. This is being done to further/effectuate the views of the international community which India has shared by being a signatory to the several conventions and treaties already referred to.”*

The Supreme Court reiterated that the object of the act is ensure the rehabilitation of the young offenders in the society and to enable them become contributing members of the society in their adult years. It was added that the legislative wisdom that led to the enactment of the Act of 2000 in its present form was the acceptance of this above stated principle.

Post the judgment of the SC in the above cases, on 20th December, 2015, in an attempt by the Delhi Commission of Women to ensure that juvenile offender in the 2012 Delhi Gang Rape case wasn't released upon the completion of his term of stay, DCW Chairperson Swati Maliwal³¹ filed a Special Leave Petition with the Supreme Court. The same however was dismissed by the Supreme Court on 21st December 2015 on the ground that there was no legislative sanction to retain the juvenile in the system.³²

Following the enactment of the Act of 2015, the minimum age of criminal responsibility has now been lowered to 16 years in cases of heinous offences. In an application of the provisions of the act, in a much publicized case where the juvenile aged 17 had ran over a pedestrian while driving his father's luxury car, the Board decided that there was need for the child to be tried as an adult since *he was in no manner lacking in mental and physical*

³¹ Live Laws News Network, *DCW moves SC at 1 AM to stall Nirbhaya case juvenile's release; SC agrees to hear on Monday*, <http://www.livelaw.in/dcw-moves-sc-at-1-am-to-stall-nirbhaya-case-juveniles-release-sc-agrees-to-hear-on-monday/>, accessed on 11/09/2017

³² *Swati Maliwal Jaihind, Chairperson, Delhi Commission of Women v. Raju through Juvenile Justice Board & Ors.* CRLMP No. 22044-22045 of 2015

*capacity to commit the offence. On the date of the offence, he had the ability to understand the consequence of the offence.*³³

RETROSPECTIVE APPLICATION OF THE ACT

In the above stated segment pertaining to determination of age, the Supreme Court resorted to purposive construction to construe the provisions in the light of legislative intent when technicalities arose are bars to juvenile justice in the course of the implementation of the legislations. However, in one instance – retrospective application of the age of juvenility provided as eighteen in Act of 2000 when the juvenile had crossed the age of sixteen as provided for under the Act of 1986; it was legislature which had to bring in an amendment to clarify its position in light of the Supreme Court judgment in the case of *Pratap Singh v. State of Jharkhand and anr.*³⁴

Section 20 of the Act of 2000, as it stood un-amended, read:

"20. Special provision in respect of pending cases.- 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."

This section, on account of ambiguity in language, raised the question of – whether the Act of 2000 would be applicable in the case a proceeding initiated under 1986 Act and pending when the Act of 2000 was enforced with effect from 1.4.2001. The Supreme Court proceeded to interpret the section literally. It took into consideration the language of the expression - "Notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any Court in any area on date of which this Act came into force" and observed:

³³ Ashok KM, *Hit and Run Case: Minor to be tried as adult by applying new Juvenile Justice Act*, livelaw.in June 2016, <http://www.livelaw.in/hit-run-case-minor-tried-adult-applying-new-juvenile-justice-act/>, accessed on 11/09/2015

³⁴ (2005) 3 SCC 251

“The proceedings in respect of a juvenile pending in any court referred to in Section 20 of the Act is relatable to proceedings initiated before the 2000 Act came into force and which are pending when the 2000 Act came into force. The term "any court" would include even ordinary criminal courts. If the person was a "juvenile" under the 1986 Act the proceedings would not be pending in criminal courts. They would be pending in criminal courts only if the boy had crossed 16 years or girl had crossed 18 years. This shows that Section 20 refers to cases where a person had ceased to be a juvenile under the 1986 Act but had not yet crossed the age of 18 years then the pending case shall continue in that Court as if the 2000 Act has 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, shall forward the juvenile to the Board which shall pass orders in respect of that juvenile.”

In light of the above, the Supreme Court went on to hold that the provisions of 2000 Act would be applicable only to those cases which were initiated and pending trial/inquiry for the offences committed under the 1986 Act provided that the person had not completed 18 years of age as on 1.4.2001. In effect, the supreme court extended the benefits of the Act of 2000 only to those who weren't eighteen as on the date of the passing of the act as opposed to the application of the act to those who were eighteen at the date of the commission of the offence.

At this juncture, it is pertinent to note that the question of the relevant date for application of the act is a separate aspect and has been dealt with in the subsequent segment of this chapter. While in the context of the aspect of the date of application, the Supreme Court (in the same case) took the correct view in holding that relevant date for the application of the act would be the date of the commission of offence, in the answering of the present question of law, the Supreme Court faltered in not extending the benefits of the act retrospectively to those who were eighteen at the time of the commission of the offence and were being tried or had been sentenced under the provisions of the Act of 1986.

To cure the infirmity which led to the interpretation of the section 20 in such a manner, in 2006, the parliament added an explanation to the section vide the Amendment Act of 2006. The explanation stated in clear terms that in respect of all pending cases, the determination of age shall be in terms of the provision of the Act, i.e. the person should be aged eighteen at the time of the commission of offence. The explanation has been reproduced below:

“In all pending cases including trial, revision, appeal or any other criminal proceedings 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 (l) 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.”

However, even after the explanation had been added which cleared the issue in favour of the age of juvenility at eighteen even in cases of retrospective application of the law, the Supreme Court did not immediately take notice of the amended section and stuck to its interpretation of the section in the *Pratap Singh* case. In the matter of *Jameel v. State of Maharashtra*,³⁵ citing the judgement in *Pratap Singh* case, the Apex Court rejected the argument of the accused and held:

“So far as the submission of the learned counsel in regard to the applicability of the 2000 Act, is concerned, it is not in dispute that the appellant on the date of occurrence had completed sixteen years of age. The offence having been committed on 16.12.1989, the 2000 Act has no application. In terms of the Juvenile Justice Act, 1986, 'juvenile' was defined to mean 'a boy who had not attained the age of sixteen years or a girl who had attained the age of eighteen years'.”

In the matter of *Ranjeet Singh v. State of Haryana*,³⁶ the Supreme Court relied on the judgement in the *Jameel* case and observed:

“Section 20 of the Act does not in any way help the appellant. It deals with cases where proceedings related to a period when 1986 Act was in force. What Section 20 provides is that the proceedings shall continue as if the Act (i.e. Act of 2000) is not in existence. To put it differently, even if under the definition of "juvenile" has undergone a change by fixing the age to be 18 years the proceedings shall continue on the footing that accused was a juvenile under the 1986 Act. What appellant contends is to reverse the situation i.e. take the applicable age to be 18 years. That is not legally permissible.”

³⁵ (2007) 11 SCC 420

³⁶ (2008) 9 SCC 453

In another case in 2008 – *Vimal Chadha v. Vikas Choudhary and anr.*,³⁷ after the amendments had been brought to notice of the court, the court accepted that there was scope of consideration of the amendments and model rules in any other case. However, it gave its verdict in light of its judgment in *Jameel* case and in light of the facts of the matter opined that the matter may be considered afresh in the light of the provisions of Section 472 of the Code of Criminal Procedure by the learned trial court.

Finally, in the case of *Hari Ram v. State of Rajasthan and Anr.*,³⁸ the Supreme Court reviewed its earlier position in light of the amendments and held that it was beyond all doubt that all persons who were below the age of 18 years on the date of commission of the offence even prior to 1st April, 2001, would be treated as juveniles, even if the claim of juvenility was raised after they had attained the age of 18 years on or before the date of commencement of the Act and were undergoing sentence upon being convicted. It observed:

“The effect of the proviso to Section 7-A introduced by the Amending Act makes it clear that the claim of juvenility may be raised before any Court which shall be recognized at any stage, even after final disposal of the case, and such claim shall be determined in terms of the provisions contained in the Act and the Rules made thereunder which includes the definition of “Juvenile” in Section 2(k) and 2(l) of the Act even if the Juvenile had ceased to be so on or before (emphasis supplied) the date of commencement of the Act. The said intention of the legislature was reinforced by the amendment effected by the said Amending Act to Section 20 by introduction of the Proviso and the Explanation thereto, wherein also it has been clearly indicated that in any pending case in any Court the determination of juvenility of such a juvenile has to be in terms of clause 2(l) even if the juvenile ceases to be so “on or before the date of commencement of this Act” (emphasis supplied) and it was also indicated that the provisions of the Act would apply as if the said provisions had been in force for all purposes and at all material times when the alleged offence was committed.”

The consequence of the above decision can be observed in the case of *Amit Singh v. State of Maharashtra and anr.*,³⁹ wherein it was contended that the accused was a juvenile at the time of the commission of offence and hence should be tried by the board in pursuance of the provisions of the Act of 2000. The Supreme Court applied the ratio from the *Hari Ram* case

³⁷ (2008) 8 SCALE 608

³⁸ (2009) 13 SCC 211

³⁹ (2011) 13 SCC 744

and held that the section 20 as amended provided that the benefits of juvenility extended even to juvenile who had completed 18 years of age on 01.04.2001.

In *Kalu v. State of Haryana*,⁴⁰ the Supreme Court observed that:

“The Explanation to Section 20 makes it clear that in all pending cases, which would include not only trials but even subsequent proceedings by way of revision or appeal, the determination of juvenility of a juvenile would be in terms of Clause (1) of Section 2, even if the juvenile ceased to be a juvenile on or before 1/4/2001, when the Juvenile Act came into force, and the provisions of the Juvenile Act would apply as if the said provision had been in force for all purposes and for all material times when the alleged offence was committed...”

RELEVANT DATE FOR APPLICATION OF THE ACT

Apart from the technical challenge in the above instances of determination of age and retrospective application of the laws, another technicality brought before the Supreme Court was with regards to the date of the application of act i.e. whether the relevant date for applying the act should be the date of the commission of offence or the date of production of the offender before the Magistrate. Once again, the Supreme Court relied upon the intent of the legislators to resolve the question.

In the case of *Umesh Chandra v. State of Rajasthan*,⁴¹ the Supreme Court took the view that the date of application of the act should be the date of the commission of the offence. After examination of section 3⁴² and 26⁴³ of the Children Act, it concluded that both sections clearly pointed towards the date of occurrence of the offence to be the relevant date. Further, it reasoned that the Children Act was enacted with the intendment *“to protect young children from the consequences of their criminal acts on the footing that their mind at that age could*

⁴⁰ (2012) 8 SCC 34

⁴¹ (1982) 2 SCC 802

⁴² Section 3, Children Act, 1960: **Continuation of inquiry in respect of child who has ceased to be child.** Where an inquiry has been initiated against a child and during the course of such inquiry the child ceases to be such, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued and orders may be made in respect of such person as if such person had continued to be a child.

⁴³ Section 26, Children Act, 1960: **Special provision in respect of pending cases.** Notwithstanding anything contained in this Act, all proceedings in respect of a child 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 child has committed an offence, it shall record such finding and, instead of passing any sentence in respect of the child, forward the child to the children's court which shall pass orders in respect of that child in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that the child has committed the offence.

not be said to be mature for imputing mens rea as in the case of an adult. This being the intendment of the Act, a clear finding has to be recorded that the relevant date for applicability of the Act is the date on which the offence takes place. It is quite possible that by the time the case comes up for trial, growing in age being an involuntary factor, the child may have ceased to be a child.”

However, in the case of *Arnit Das v. State of Bihar*,⁴⁴ when a similar question of law came before the court, the two judge bench of the Supreme Court took a curious approach towards a solution. In the course of the proceedings, it asked Mr. U. R. Lalit, the senior counsel of behalf of the appellant “*What happens if a boy or a girl of just less than 16 or 18 years of age commits an offence and then leaves the country or for any reasons neither appears nor is brought before the competent authority until he or she attains the age of say 50 years? If the interpretation suggested by the learned senior counsel for the appellant were to be accepted, he shall have to be sent to a juvenile home, special home or an observation home or entrusted to an after care organisation where there would all be boys and girls of less than 16 or 18 years of age. Would he be required to be dealt by a Juvenile Welfare Board or a Juvenile Court?*”

While the logic of the court viewed from this perspective can hardly be faulted; the decision of the court to choose the date of production of the accused before a magistrate as the relevant date for application of the act certainly can be. In the case, the Supreme Court using intrinsic aids to interpretation went on to analyse the language of the Act of 1986 to the come to the above conclusion.

While analysing section 3 of the Act of 1986,⁴⁵ the court used the section to infer the legislative intent and stated that:

“It provides for an enquiry initiated against the juvenile being continued and orders made thereon even if such person had ceased to be a juvenile during the course of such enquiry. There would have been no need of enacting Section 3 if only the age of the juvenile would have been determinable by reference to the date of the offence.”

⁴⁴ (2000) 5 SCC 488

⁴⁵ Section 3, Juvenile Justice Act, 1986 – **Continuation of inquiry in respect of juvenile who has ceased to be a juvenile** – Where an inquiry has been initiated against a juvenile and during the course of such inquiry the juvenile ceases to be such, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued and orders may be made in respect of such person as if such person had continued to be a juvenile.

Through an examination of section 32,⁴⁶ the court concluded that the use of the expression ‘brought before it’ and ‘juvenile’ indicates that the court gains a jurisdiction to inquire into the age of the juvenile only when he is brought before it. Further, it reasoned that section 8,⁴⁷ comes into play only when the person appears or is ‘brought before’ a magistrate not empowered to exercise the power of the board or the juvenile court. Moreover, while inspecting section 20,⁴⁸ the court again took into consideration the use of the expression - ‘is produced before a Juvenile Court,’ if the section is to spring into action. On the basis of the above the court held that the crucial date for determining the question whether a person is juvenile is the date when he is brought before the competent authority.

The issue was once again brought before the court in the case of *Pratap Singh v. State of Jharkhand and anr.*,⁴⁹ wherein one of the questions before it pertained to whether the date of occurrence will be the reckoning date for determining the age of the alleged offender as Juvenile offender or the date when he is produced in the Court/competent authority. In considering the question, the Supreme Court finally settled the issue in favour of the judgment of the court in the *Umesh Chandra* case. It held that section 3 and section 26 of the Act of 1986 were *in pari materia* with section 3 and section 26 of the Rajasthan Children Act of 1970. Referring to the legislative intendment of the act after consideration of the preamble, aims, objectives and provisions of the act it held that *the legislature intended to provide protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication thereof.*

⁴⁶ Section 32, Juvenile Justice Act, 1986 – **Presumption and determination of age** – (1) Where it appears to a competent authority that a person brought before it under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a juvenile, the competent authority shall make due inquiry as to the age of that person and for that purpose shall take such evidence as may be necessary and shall record a finding whether the person is a juvenile or not, stating his age as nearly as may be. (2) No order of a competent authority shall be deemed to have become invalid merely by any subsequent proof that the person in respect of whom the order has been made is not a juvenile, and the age recorded by the competent authority to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person.

⁴⁷ Section 8, Juvenile Justice Act, 1986 – **Procedure to be followed by a Magistrate not empowered under the Act** – (1) When any Magistrate not empowered to exercise the powers of a Board or a Juvenile Court under this Act is of opinion that a person brought before him under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a juvenile, he shall record such opinion and forward the juvenile and the record of the proceeding to the competent authority having jurisdiction over the proceeding. (2) The competent authority to which the proceeding is forwarded under sub-section (1) shall hold the inquiry as if the juvenile had originally been brought before it

⁴⁸ Section 20, Juvenile Justice Act, 1986 – **Inquiry by Juvenile Court regarding delinquent juveniles** – Where a juvenile having been charged with an offence appears or is produced before a Juvenile Court shall hold the inquiry in accordance with the provisions of section 39 and may, subject to the provisions of this Act, make such order in relation to the juvenile as it deems fit.

⁴⁹ (2005) 3 SCC 251

It observed that the decision of the three judge bench of the Supreme Court in the *Umesh Chandra* case held that the Act being a piece of social legislation is meant for the protection of infants who commit criminal offences and, therefore, such provisions should be liberally and meaningfully construed so as to advance the object of the Act. It further observed that the decision in *Umesh Chandra* case had been rendered by a three judge bench and the decision in the *Arnit Das* case had been rendered by a two judge bench which had not considered the earlier judgment. In light of the above, the Supreme Court stated that the judgement in *Arnit Das* case could not be said to be a good law and upheld the decision of the court in the case of *Umesh Chandra* case.

SENTENCING AND QUANTUM OF PUNISHMENT

The point raised by the Supreme Court in the *Arnit Das* case as elaborated above can also be examined from the point of view of earlier Supreme Court judgments where the court was faced with such a situation and how the situation was handled in terms for sentencing and quantum of punishment.

In the case of *Jayendra v. State of Uttar Pradesh*,⁵⁰ the conviction of the accused was upheld though he was held to be a child under the Uttar Pradesh Children Act, 1951. However, the age of the accused being 23 years, he was not sent to an ‘approved school.’ Instead the court quashed his sentence and directed for him to be released. Similarly, in *Bhoop Ram v. State of U.P.*,⁵¹ while the court upheld the conviction of the appellant who was aged 28 years at the time, the sentence awarded to him was quashed. Similar policy of upholding the conviction, but quashing the sentences was followed in a plethora of cases.⁵²

The second method used by the courts to deal with the issue pertains to upholding the conviction but modifying the sentence to the period of detention already undergone. In the case of *Dharambir v. State of N.C.T. of Delhi*,⁵³ the Supreme Court upheld the conviction, but in the event of the appellant already having undergone two years and four months in detention quashed the sentence. Similarly, in *Satish Dhanna v. State of Madhya Pradesh*,⁵⁴ the court upheld the conviction of the appellant but modified the sentence to the period of detention already undergone by him.

⁵⁰ (1981) 4 SCC 149

⁵¹ (1989) 3 SCC 1

⁵² *Pradeep Kumar v. State of U.P.*, 1995 Supp 4 SCC 419, *Upendra Kumar v. State of Bihar*, (2005) 3 SCC 592, *Gurpreet Singh v. State of Punjab*, (2005) 12 SCC 615, *Vijay Singh v. State of Delhi*, (2012) 9 SCC 768

⁵³ (2010) 5 SCC 344

⁵⁴ (2009) 14 SCC 187

The third way of dealing with such cases has been to allow the appeal and remit the case to the juvenile justice board for disposal. This method was followed in *Hari Ram v. State of Rajasthan*⁵⁵ and *Dayanand v. State of U.P.*⁵⁶ wherein directions were issued for the appellant to be produced before the Juvenile Justice Board for passing appropriate orders in accordance with the provisions of the Act of 2000.

However, the court now seems to be in favour of exercising a fourth method while dealing with the issue. In *Ashwani Kumar Saxena v. State of Madhya Pradesh*,⁵⁷ the conviction of the appellant was upheld, however the sentence awarded by the lower court was set aside and all records were remitted to the Juvenile Justice Board for awarding suitable punishment to the appellant. The above rule was followed in the case of *Jitendra Singh v. State of U.P.*,⁵⁸ where it was observed:

“It is clear that the case of the juvenile has to be examined on merits. If it found that the juvenile is guilty of the offence alleged to have been committed, he simply cannot go unpunished. However, as the law stands, the punishment to be awarded to him or her must be left to the Juvenile Justice Board constituted under the Juvenile Justice (Care and Protection of Children) Act, 2000. This is the plain requirement of Section 20 of the Juvenile Justice (Care and Protection of Children) Act, 2000.”

The same however, is still not a rule of thumb. In the case of *Bharat Bhushan v. State of Himachal Pradesh*,⁵⁹ where the appellant was not a juvenile under the Act of 1986 since he had crossed the age of sixteen, the court observed:

“The case, however, was pending before the High Court in appeal on the date the 2000 Act came into force and had, therefore, to be dealt with under Section 20 of the Act which required the High Court to record a finding about the guilt of the accused but stop short of passing an order of sentence against him. Inasmuch as the High Court convicted the appellant, it did not commit any mistake for the power to do so was clearly available to the High Court under the provisions of Section 20. What was not permissible was passing of a sentence for which purpose the High Court was required to forward the juvenile to the Juvenile Board constituted under the Act.

⁵⁵ (2009) 13 SCC 211

⁵⁶ (2011) 2 SCC 224

⁵⁷ (2012) 9 SCC 750

⁵⁸ (2013) 11 SCC 193, See also: *Kamlendra Singh v. State of Madhya Pradesh*, AIR 2013 SC 1783, *Ketankumar Gopalbhai Tandel v. State of Gujrat*, (2013) 9 SCALE 487,

⁵⁹ (2013) 11 SCC 274

Irrespective of the above observations, the court held that a reference to the board at this point was irrelevant and unnecessary at this point of time because the appellant was already 36 years old and a father of three children. Given that he had already undergone three years of his sentence of imprisonment, a reference to the juvenile justice board at this stage in his life would serve no purpose.

In the case of *Mumtaz v. State of Uttar Pradesh*,⁶⁰ the Supreme Court interpreted section 25 of the Act of 2015 in light of the judgment of the court in the *Jitendra Singh case* and sent the matter back to the board for determination of quantum of fine to imposed on the accused and compensation to be paid to the deceased after setting aside the sentence of life imprisonment

⁶⁰ 2016 SCC OnLine SC 653

CHAPTER V – JUVENILE: PRE INSTITUTIONALIZATION

It is imperative to ascertain the geographical, economic, social, political, familial and legal factors which conditioned the interviewees prior to their institutionalization. In the course of data collection for the purpose of the book, the researchers made enquiries with regards to the background of the inmates. This information shall be reverted back to in subsequent chapters by way of cross tabulation in order to gain a clarity of the *status quo* and hence a rigorous analysis of the same is sine qua non for the purpose of the book. Basic information pertaining to such enquiries has been reproduced below:

TABLE 5.1 – STATE

| State | Frequency | Percent |
|------------------|------------------|----------------|
| New Delhi | 66 | 21.9 |
| Haryana | 112 | 37.1 |
| Punjab | 124 | 41.1 |
| Total | 302 | 100.0 |

Table 5.1 illustrates the frequency of sample in the three identified states. It can be observed that 21.9 percent of the interviewees were from homes in New Delhi, 37.1 percent were confined to homes within the state of Haryana and the majority of the inmates (41.4 percent) were from Punjab.

TABLE 5.2 – CITY

| City | Frequency | Percent |
|-------------------|------------------|----------------|
| Delhi | 66 | 21.9 |
| Ambala | 31 | 10.3 |
| Faridabad | 31 | 10.3 |
| Hisar | 50 | 16.6 |
| Faridkot | 18 | 6.0 |
| Hoshiarpur | 57 | 18.9 |
| Ludhiana | 49 | 16.2 |
| Total | 302 | 100.0 |

Table 5.2 depicts the various cities within which the institutions where the interviews were conducted and the related frequencies of the sample collected therefrom. Nearly 21.9 percent

of the interviews were conducted in Delhi, while only 6 percent were conducted in Faridkot. 10.3 percent of the interviewees were from Faridabad and Ambala each while 18.9 percent and 16.2 percent of the interviews were conducted in Hoshiarpur and Ludhiana respectively.

TABLE 5.3 – AGE OF THE INMATES

| Age | Frequency | Percent |
|----------------|------------|--------------|
| 11-13 | 10 | 3.3 |
| 14-15 | 60 | 19.9 |
| 16-17 | 143 | 47.4 |
| 18 > | 89 | 29.5 |
| Total | 302 | 100.0 |

Table 5.3 illustrates the age of the inmates who were interviewed. 3.3 percent of the inmates fell within the age bracket of 11-13, while 19.9 percent of the inmates were aged between 14-15. The majority of the inmates (47.4 percent) were aged between 16-17 and 29.5 percent of the inmates were 18 and above. A total of 76.8 percent of the inmates were aged 16 and above.

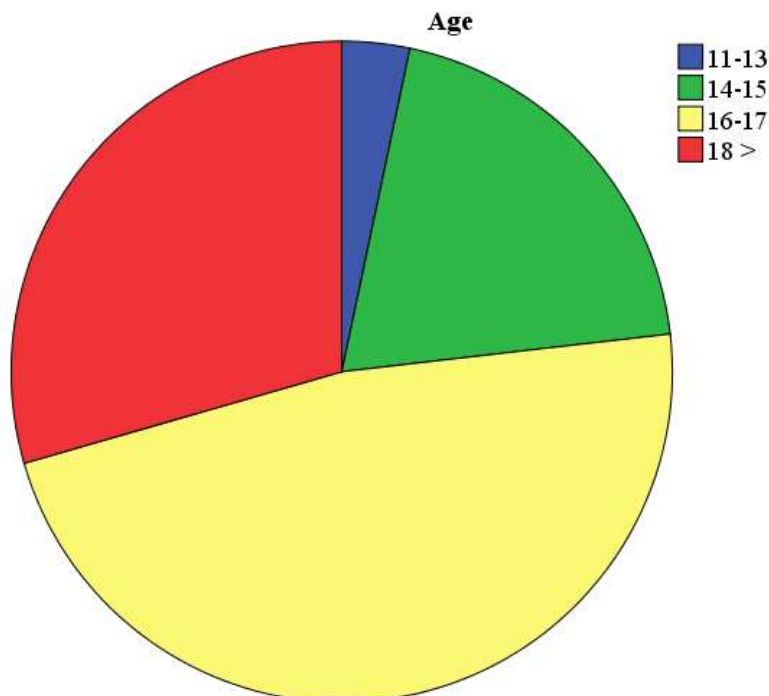
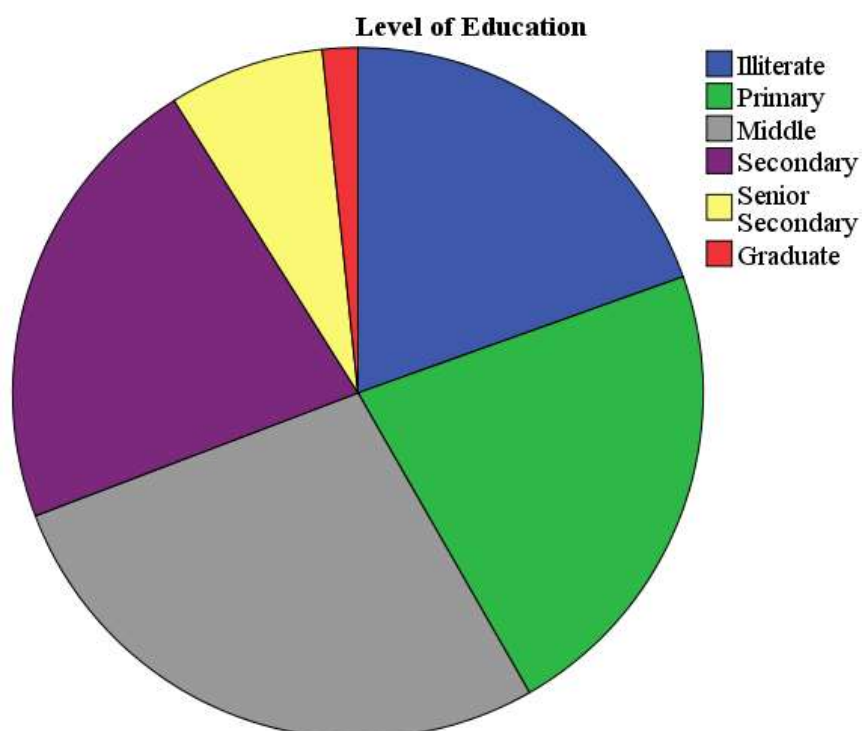


FIGURE A.1. – AGE OF THE INMATES

TABLE 5.4 – LEVEL OF EDUCATION

| Education | Frequency | Percent |
|-------------------------|------------------|----------------|
| Illiterate | 59 | 19.5 |
| Primary | 67 | 22.2 |
| Middle | 83 | 27.5 |
| Secondary | 66 | 21.9 |
| Senior Secondary | 22 | 7.3 |
| Graduate | 5 | 1.7 |
| Total | 302 | 100.0 |

Table 5.4 illustrates the level of education of the inmates. It was observed that a simple majority of the inmates (27.5 percent) were educated till middle school i.e. 6th-9th standard while only 1.7 percent of the inmates had graduated college. 22.2 percent of the inmates were educated only till 5th standard, 21.9 percent had completed their matriculation while only 7.3 percent had completed their schooling till senior secondary.

**FIGUREA.2. – LEVEL OF EDUCATION****TABLE 5.5 – PROVIDER FOR INMATE**

| Provider | Frequency | Percent |
|-----------------|------------------|----------------|
|-----------------|------------------|----------------|

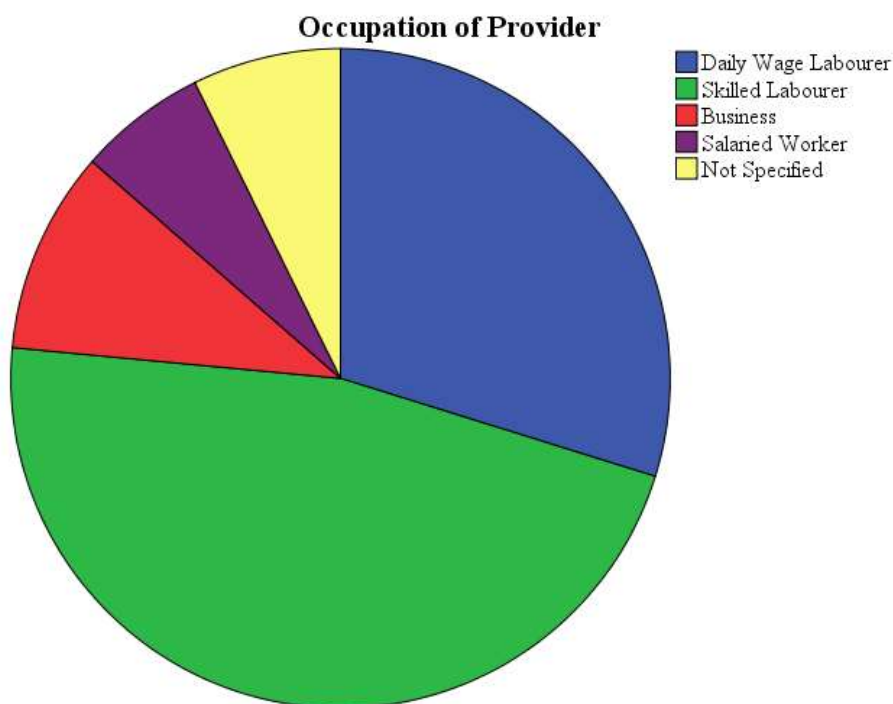
| | | |
|----------------|------------|--------------|
| Self | 27 | 8.9 |
| Mother | 24 | 7.9 |
| Father | 229 | 75.8 |
| Brother | 16 | 5.3 |
| Others | 6 | 2.0 |
| Total | 302 | 100.0 |

Table 5.5 tabulates the frequency of providers i.e. the primary breadwinners in the family of the inmates. It can be observed that in a vast majority of the cases (75.8 percent) the father of the juvenile was the primary income earner while in 8.9 percent of the cases the juvenile fended for himself. 7.9 percent and 5.3 percent of the inmates answered that their mothers and brothers were responsible for the family income respectively while in 2.0 percent (lowest) of the cases, other members of the family such as uncles or grandparents provided for the juvenile.

TABLE 5.6 – OCCUPATION OF THE PROVIDER

| Occupation | Frequency | Percent |
|------------------------------|------------------|----------------|
| Daily Wage Labourer | 90 | 29.8 |
| Skilled Labourer | 141 | 46.7 |
| Commercial Activities | 30 | 9.9 |
| Salaried Worker | 19 | 6.3 |
| Not Specified | 22 | 7.3 |
| Total | 302 | 100.0 |

Table 5.6 represents the frequency of the occupation of the provider in the juveniles' family. In a majority of the cases (46.7 percent) the provider for the juvenile was engaged in skill labour as a factory worker, carpenter, car mechanic, farmer, plumber etc. In 29.8 percent of the cases the provider was working as a daily wage labourer. 9.9 percent of the providers were engaged in commercial activities such as mom and pop shops, vegetable and fruit vending etc., while 7.3 percent of the inmates didn't specify the occupation of the primary bread winners. The above data sheds light upon socio economic demographic to which the majority of the inmates belong given that the providers of only 6.3 percent of the inmates (depicted in purple below) were employed as salaried workers forming part of the supposedly upward mobile middle class.

FIGURE A.3 – OCCUPATION OF THE PROVIDER**TABLE 5.7 – PRE-OCCUPATION OF INMATE PRIOR TO INSTITUTIONALIZATION**

| Pre-Occupation | Frequency | Percent |
|----------------|------------|--------------|
| Studying | 131 | 43.4 |
| Employed | 78 | 25.8 |
| Neither | 93 | 30.8 |
| Total | 302 | 100.0 |

Table 5.7 illustrates the primary activity that delinquents were pre occupied with prior to their institutionalization. It can be observed that 43.4 percent (highest) of the juveniles were studying/schooling while 25.8 percent were employed for the purpose of remuneration. 30.8 percent of the inmates were neither employed nor pursuing studies.

TABLE 5.8 – ABILITY TO SOCIALIZE

| Sociability | Frequency | Percent |
|--------------|------------|--------------|
| Yes | 165 | 54.6 |
| No | 137 | 45.4 |
| Total | 302 | 100.0 |

Table 5.8 depicts the ability of the inmates to socialize. Such ability was judged on two parameters which took into account whether they had any friends inside the home and outside it. It was observed that a majority of the juveniles (54.6 percent) were social while 45.4 percent had difficulty in making friends easily.

TABLE 5.9 – ADDICTION TO INTOXICANTS

| Addiction | Frequency | Percent |
|---------------------|------------------|----------------|
| Tobacco | 22 | 7.3 |
| Alcohol | 24 | 7.9 |
| Cannabinoids | 7 | 2.3 |
| Narcotics | 23 | 7.6 |
| None | 226 | 74.8 |
| Total | 302 | 100.0 |

Table 5.9 depicts the frequency of the inmates addicted to intoxicating substances identified as tobacco (cigarettes, bidis or chewing tobacco), alcohol, cannabinoids (charas, hash and ganja), narcotics (smack, heroin etc.). It was found that more than quarter of the juveniles had developed an addiction to intoxicants. Almost 7.3 percent of the juveniles were addicted to tobacco, 7.9 percent to alcohol, 2.3 percent to cannabinoids, 7.6 percent to narcotics. A majority (74.8 percent) of the inmates did not have any such addiction.

FIGURE A.4 – ADDICTION TO INTOXICANTS

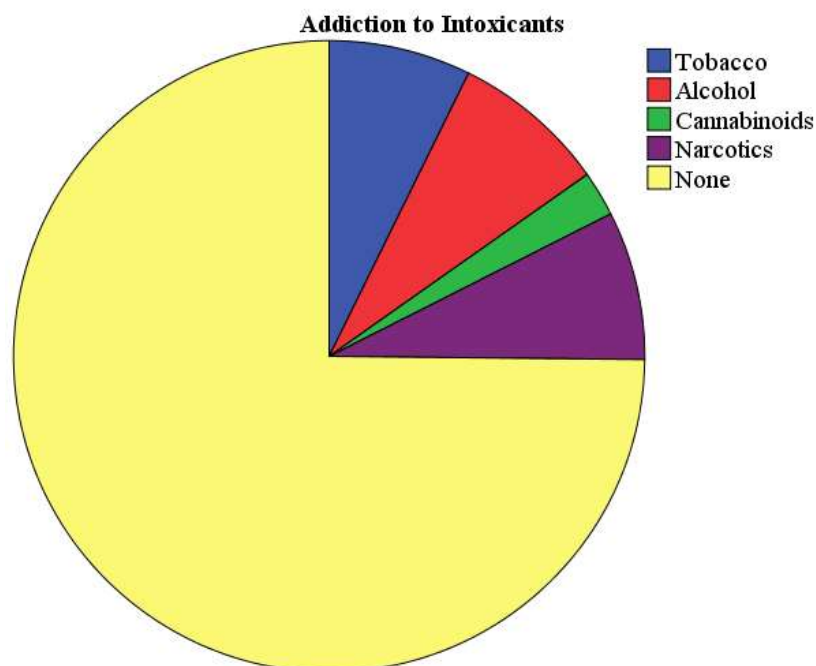


TABLE 5.10 – CROSS TABULATION OF “AGE” AND “LEVEL OF EDUCATION”

| Cross Tabulation | | Level of Education | | | | | | Total | |
|------------------|------------|-----------------------------------|--------------|--------------|--------------|---------------------|-------------|---------------|---------------|
| | | Illiterate | Primary | Middle | Secondary | Senior Secondary | Graduate | | |
| Age | 11-13 | Count | 4 | 1 | 5 | 0 | 0 | 0 | 10 |
| | | % within Age | 40.0% | 10.0% | 50.0% | 0.0% | 0.0% | 0.0% | 100.0% |
| | | % within Level of Education | 6.8% | 1.5% | 6.0% | 0.0% | 0.0% | 0.0% | 3.3% |
| | 14-15 | Count | 19 | 10 | 24 | 7 | 0 | 0 | 60 |
| | | % within Age | 31.7% | 16.7% | 40.0% | 11.7% | 0.0% | 0.0% | 100.0% |
| | | % within Level of Education | 32.2% | 14.9% | 28.9% | 10.6% | 0.0% | 0.0% | 19.9% |
| | 16-17 | Count | 26 | 36 | 35 | 39 | 7 | 0 | 143 |
| | | % within Age | 18.2% | 25.2% | 24.5% | 27.3% | 4.9% | 0.0% | 100.0% |
| | | % within Level of Education | 44.1% | 53.7% | 42.2% | 59.1% | 31.8% | 0.0% | 47.4% |
| | 18 > | Count | 10 | 20 | 19 | 20 | 15 | 5 | 89 |
| | | % within Age | 11.2% | 22.5% | 21.3% | 22.5% | 16.9% | 5.6% | 100.0% |
| | | % within Level of Education | 16.9% | 29.9% | 22.9% | 30.3% | 68.2% | 100.0% | 29.5% |
| Total | Count | 59 | 67 | 83 | 66 | 22 | 5 | 302 | |
| | % of Total | 19.5% | 22.2% | 27.5% | 21.9% | 7.3% | 1.7% | 100.0% | |

Table 5.10 cross the tabulates the age of the inmates along with their level of education. It can be observed that a majority (44.1 percent) of those who were illiterate fell within the age group of 16-17 while all of graduates and majority (68.2 percent) of those who can completed their schooling were above the age of 18. 40 percent of all the inmates within the age bracket of 11-

13 were illiterate, while the figures for the same within the age group of 14-15 stands at 31.3 percent.

TABLE 5.11 – CROSS TABULATION OF “AGE OF THE INMATE” AND “PRE-OCCUPATION PRIOR TO INSTITUTIONALIZATION”

| Cross Tabulation | | | Pre-occupation Prior to Institutionalization | | | Total |
|------------------|------------|---|--|----------|---------|--------|
| | | | Studying | Employed | Neither | |
| Age | 11-13 | Count | 5 | 4 | 1 | 10 |
| | | % within Age | 50.0% | 40.0% | 10.0% | 100.0% |
| | | % within Pre-occupation Prior to Institutionalization | 3.8% | 5.1% | 1.1% | 3.3% |
| | 14-15 | Count | 28 | 12 | 20 | 60 |
| | | % within Age | 46.7% | 20.0% | 33.3% | 100.0% |
| | | % within Pre-occupation Prior to Institutionalization | 21.4% | 15.4% | 21.5% | 19.9% |
| | 16-17 | Count | 62 | 34 | 47 | 143 |
| | | % within Age | 43.4% | 23.8% | 32.9% | 100.0% |
| | | % within Pre-occupation Prior to Institutionalization | 47.3% | 43.6% | 50.5% | 47.4% |
| | 18 > | Count | 36 | 28 | 25 | 89 |
| | | % within Age | 40.4% | 31.5% | 28.1% | 100.0% |
| | | % within Pre-occupation Prior to Institutionalization | 27.5% | 35.9% | 26.9% | 29.5% |
| Total | Count | 131 | 78 | 93 | 302 | |
| | % of Total | 43.4% | 25.8% | 30.8% | 100.0% | |

Table 5.11 shows the cross tabulation between the age of the inmates and their pre occupation prior to institutionalization. It was found that nearly 40 percent of those within the age group of 11-13 were employed for the purpose of remuneration. While 43.4 percent of those within

the age group of 16-17 were studying a staggering 32.9 percent were neither studying nor employed. 40.4 percent of those aged 18 and above were studying, 31.5 percent were employed while 28.1 percent were neither employed nor studying.

TABLE 5.12 – CROSS TABULATION OF “AGE OF INMATE” AND “ADDICTION TO INTOXICANTS”

| Cross Tabulation | | | Addiction to Intoxicants | | | | | Total |
|------------------|------------|--------------------|--------------------------|---------|--------------|-----------|--------|--------|
| | | | Tobacco | Alcohol | Cannabinoids | Narcotics | None | |
| Age | 11-13 | Count | 0 | 0 | 0 | 2 | 8 | 10 |
| | | % within Age | 0.0% | 0.0% | 0.0% | 20.0% | 80.0% | 100.0% |
| | | % within Addiction | 0.0% | 0.0% | 0.0% | 8.7% | 3.5% | 3.3% |
| | 14-15 | Count | 1 | 0 | 2 | 6 | 51 | 60 |
| | | % within Age | 1.7% | 0.0% | 3.3% | 10.0% | 85.0% | 100.0% |
| | | % within Addiction | 4.5% | 0.0% | 28.6% | 26.1% | 22.6% | 19.9% |
| | 16-17 | Count | 14 | 10 | 3 | 7 | 109 | 143 |
| | | % within Age | 9.8% | 7.0% | 2.1% | 4.9% | 76.2% | 100.0% |
| | | % within Addiction | 63.6% | 41.7% | 42.9% | 30.4% | 48.2% | 47.4% |
| | 18 > | Count | 7 | 14 | 2 | 8 | 58 | 89 |
| | | % within Age | 7.9% | 15.7% | 2.2% | 9.0% | 65.2% | 100.0% |
| | | % within Addiction | 31.8% | 58.3% | 28.6% | 34.8% | 25.7% | 29.5% |
| Total | Count | 22 | 24 | 7 | 23 | 226 | 302 | |
| | % of Total | 7.3% | 7.9% | 2.3% | 7.6% | 74.8% | 100.0% | |

Table 5.12 depicts the cross tabulation between the age of the inmate their addictions to intoxicating substances. It can be observed that nearly 8.7 percent of the inmates who were addicted to narcotics were aged between 11-13. 42.9 percent of those who regularly used cannabinoids fell in age group of 16-17 while the figures for the same age group for alcohol is 41.7 percent. 58.3 percent of those were reportedly addicted to alcohol were aged 18 and above. Vast majority (63.6 percent) of those addicted to nicotine and tobacco were aged between 16-17.

TABLE 5.13 – CROSS TABULATION OF “AGE OF THE INMATE” AND “PROVIDER FOR INMATE”

| Cross Tabulation | Provider | Total |
|------------------|----------|-------|
|------------------|----------|-------|

| | | | Self | Mother | Father | Brother | Others | |
|--------------|----------------|--------------------------|-------------|---------------|---------------|----------------|---------------|---------------|
| Age | 11-13 | Count | 0 | 1 | 9 | 0 | 0 | 10 |
| | | % within Age | 0.0% | 10.0% | 90.0% | 0.0% | 0.0% | 100.0% |
| | | % within Provider | 0.0% | 4.2% | 3.9% | 0.0% | 0.0% | 3.3% |
| | 14-15 | Count | 4 | 6 | 47 | 1 | 2 | 60 |
| | | % within Age | 6.7% | 10.0% | 78.3% | 1.7% | 3.3% | 100.0% |
| | | % within Provider | 14.8% | 25.0% | 20.5% | 6.3% | 33.3% | 19.9% |
| | 16-17 | Count | 13 | 13 | 99 | 14 | 4 | 143 |
| | | % within Age | 9.1% | 9.1% | 69.2% | 9.8% | 2.8% | 100.0% |
| | | % within Provider | 48.1% | 54.2% | 43.2% | 87.5% | 66.7% | 47.4% |
| | 18 > | Count | 10 | 4 | 74 | 1 | 0 | 89 |
| | | % within Age | 11.2% | 4.5% | 83.1% | 1.1% | 0.0% | 100.0% |
| | | % within Provider | 37.0% | 16.7% | 32.3% | 6.3% | 0.0% | 29.5% |
| Total | | Count | 27 | 24 | 229 | 16 | 6 | 302 |
| | | % of Total | 8.9% | 7.9% | 75.8% | 5.3% | 2.0% | 100.0% |

Table 5.13 illustrates the cross tabulation between the age of the inmates and their providers. It can be observed that nearly 14.4 percent of the inmates who had to provide for themselves belonged to the age group of 14-15, 48.1 percent fell within the age bracket of 16-17 while 37 percent were 18 and above.

TABLE 5.14 – CROSS TABULATION BETWEEN “PROVIDER FOR INMATE” AND “OCCUPATION OF PROVIDER”

| Cross Tabulation | | Occupation of Provider | | | | | Total | |
|-------------------------|-------------|-------------------------------|-------------------------|-----------------|------------------------|----------------------|--------------|---------------|
| | | Daily Wage Labourer | Skilled Labourer | Business | Salaried Worker | Not Specified | | |
| Provider | Self | Count | 14 | 10 | 0 | 0 | 3 | 27 |
| | | % within Provider | 51.9% | 37.0% | 0.0% | 0.0% | 11.1% | 100.0% |

| | | | | | | | | |
|--------------|----------------|--|--------------|--------------|-------------|-------------|-------------|---------------|
| | | % within Occupation of Provider | 15.6% | 7.1% | 0.0% | 0.0% | 13.6% | 8.9% |
| | Mother | Count | 9 | 3 | 1 | 5 | 6 | 24 |
| | | % within Provider | 37.5% | 12.5% | 4.2% | 20.8% | 25.0% | 100.0% |
| | | % within Occupation of Provider | 10.0% | 2.1% | 3.3% | 26.3% | 27.3% | 7.9% |
| | Father | Count | 64 | 120 | 26 | 14 | 5 | 229 |
| | | % within Provider | 27.9% | 52.4% | 11.4% | 6.1% | 2.2% | 100.0% |
| | | % within Occupation of Provider | 71.1% | 85.1% | 86.7% | 73.7% | 22.7% | 75.8% |
| | Brother | Count | 2 | 8 | 3 | 0 | 3 | 16 |
| | | % within Provider | 12.5% | 50.0% | 18.8% | 0.0% | 18.8% | 100.0% |
| | | % within Occupation of Provider | 2.2% | 5.7% | 10.0% | 0.0% | 13.6% | 5.3% |
| | Others | Count | 1 | 0 | 0 | 0 | 5 | 6 |
| | | % within Provider | 16.7% | 0.0% | 0.0% | 0.0% | 83.3% | 100.0% |
| | | % within Occupation of Provider | 1.1% | 0.0% | 0.0% | 0.0% | 22.7% | 2.0% |
| Total | | Count | 90 | 141 | 30 | 19 | 22 | 302 |
| | | % of Total | 29.8% | 46.7% | 9.9% | 6.3% | 7.3% | 100.0% |

Table 5.14 illustrates the cross tabulation between the provider for the juvenile's family and the occupation of such provider. In a majority of the cases (54.1 percent) where the juvenile was providing form himself, the juvenile was engaged as a daily wage labourer while in 37

percent of the cases the juvenile was employed as a skilled labourer. In a majority (37.5 percent) of the cases where the mother of the juvenile the primary breadwinner, the mother was employed as a daily wage labourer. In a majority of the cases where the father or brother was the primary provider, the provider was engaged as a skilled labourer (52.4 percent and 50 percent respectively).

TABLE 5.15 – CROSS TABULATION OF “STATE” AND “LEVEL OF EDUCATION”

| Cross Tabulation | | | Level of Education | | | | | | Total | |
|------------------|--------------|-----------------------------------|--------------------|--------------|--------------|--------------|---------------------|-------------|---------------|---------------|
| | | | Illiterate | Primary | Middle | Secondary | Senior Secondary | Graduate | | |
| State | New Delhi | Count | 17 | 19 | 22 | 5 | 0 | 3 | 66 | |
| | | % within State | 25.8% | 28.8% | 33.3% | 7.6% | 0.0% | 4.5% | 100.0% | |
| | | % within Level of Education | 28.8% | 28.4% | 26.5% | 7.6% | 0.0% | 60.0% | 21.9% | |
| | Haryana | Count | 9 | 19 | 30 | 38 | 14 | 2 | 112 | |
| | | % within State | 8.0% | 17.0% | 26.8% | 33.9% | 12.5% | 1.8% | 100.0% | |
| | | % within Level of Education | 15.3% | 28.4% | 36.1% | 57.6% | 63.6% | 40.0% | 37.1% | |
| | Punjab | Count | 33 | 29 | 31 | 23 | 8 | 0 | 124 | |
| | | % within State | 26.6% | 23.4% | 25.0% | 18.5% | 6.5% | 0.0% | 100.0% | |
| | | % within Level of Education | 55.9% | 43.3% | 37.3% | 34.8% | 36.4% | 0.0% | 41.1% | |
| | Total | | Count | 59 | 67 | 83 | 66 | 22 | 5 | 302 |
| | | | % of Total | 19.5% | 22.2% | 27.5% | 21.9% | 7.3% | 1.7% | 100.0% |

Table 5.15 cross tabulates the state where the inmates were interviewed from and the level of education they attained. It was observed that 57.6 percent (highest) and 63.6 percent (highest)

of the inmates who had completed their matriculation and their schooling respectively were from Haryana. A majority of illiterates (55.9 percent) and a majority 43.3 percent of those educated only till primary level were from Punjab. 60 percent of those who had completed their graduation were from Delhi while 40 percent were from Haryana.

TABLE 5.16 – CROSS TABULATION OF “STATE” AND “PRE-OCCUPATION PRIOR TO INSTITUTIONALIZATION”

| Cross Tabulation | | | Pre-occupation Prior to Institutionalization | | | Total |
|------------------|-----------|---|--|--------------|--------------|---------------|
| | | | Studying | Employed | Neither | |
| State | New Delhi | Count | 23 | 16 | 27 | 66 |
| | | % within State | 34.8% | 24.2% | 40.9% | 100.0% |
| | | % within Pre-occupation Prior to Institutionalization | 17.6% | 20.5% | 29.0% | 21.9% |
| | Haryana | Count | 60 | 24 | 28 | 112 |
| | | % within State | 53.6% | 21.4% | 25.0% | 100.0% |
| | | % within Pre-occupation Prior to Institutionalization | 45.8% | 30.8% | 30.1% | 37.1% |
| | Punjab | Count | 48 | 38 | 38 | 124 |
| | | % within State | 38.7% | 30.6% | 30.6% | 100.0% |
| | | % within Pre-occupation Prior to Institutionalization | 36.6% | 48.7% | 40.9% | 41.1% |
| Total | | Count | 131 | 78 | 93 | 302 |
| | | % of Total | 43.4% | 25.8% | 30.8% | 100.0% |

Table 5.16 illustrates the cross tabulation between the state and the pre-occupation of the juvenile prior to their institutionalization. It can be seen that 34.8 percent of the inmates interviewed from Delhi were pursuing studies prior to their institutionalization while 40.8 percent were neither studying nor employed. 45.8 percent (highest) of all inmates who were pursuing their schooling and 30.8 percent of all inmates who were employed were from

Haryana. In Punjab, a majority (48.7 percent) of the inmates were employed while 36.6 percent were pursuing their education.

TABLE 5.17 – CROSS TABULATION OF “STATE” AND ‘ADDICTION TO INTOXICANTS’

| Cross Tabulation | | Addiction to Intoxicants | | | | | Total | |
|------------------|-----------|-----------------------------------|---------|--------------|-----------|-------|-------|--------|
| | | Tobacco | Alcohol | Cannabinoids | Narcotics | None | | |
| State | New Delhi | Count | 1 | 2 | 3 | 3 | 57 | 66 |
| | | % within State | 1.5% | 3.0% | 4.5% | 4.5% | 86.4% | 100.0% |
| | | % within Addiction to Intoxicants | 4.5% | 8.3% | 42.9% | 13.0% | 25.2% | 21.9% |
| | Haryana | Count | 8 | 8 | 1 | 4 | 91 | 112 |
| | | % within State | 7.1% | 7.1% | 0.9% | 3.6% | 81.3% | 100.0% |
| | | % within Addiction to Intoxicants | 36.4% | 33.3% | 14.3% | 17.4% | 40.3% | 37.1% |
| | Punjab | Count | 13 | 14 | 3 | 16 | 78 | 124 |
| | | % within State | 10.5% | 11.3% | 2.4% | 12.9% | 62.9% | 100.0% |
| | | % within Addiction to Intoxicants | 59.1% | 58.3% | 42.9% | 69.6% | 34.5% | 41.1% |
| Total | | Count | 22 | 24 | 7 | 23 | 226 | 302 |
| | | % of Total | 7.3% | 7.9% | 2.3% | 7.6% | 74.8% | 100.0% |

Table 5.17 illustrates the cross tabulation between the state of the inmates and the status of their addiction to intoxicating substances. It was found that nearly 69.6 percent of the inmates addicted to narcotics such as heroin and smack as well as 42.9 percent addicted to cannabinoids, 58.3 percent addicted to alcohol and 59.1 percent addicted to tobacco were from Punjab. Another 42.9 percent of those who reported cannabinoid use were from Delhi. Overall, while 86.4 percent of inmates from Delhi and 81.3 percent of inmates from Haryana reported not being addicted to any substance, the figure for the same in Punjab stands at 62.9 percent indicating a more rooted drug abuse problem and associated crimes.

TABLE 5.18 – CROSS TABULATION OF “LEVEL OF EDUCATION” AND “ABILITY TO SOCIALIZE”

| Cross Tabulation | | | Ability to Socialize | | Total |
|--------------------|----------------------|----------------------|----------------------|---------------|---------------|
| | | | Yes | No | |
| Level of Education | Illiterate | Count | 35 | 24 | 59 |
| | | % within Education | 59.3% | 40.7% | 100.0% |
| | | % within Sociability | 21.2% | 17.5% | 19.5% |
| | Primary | Count | 37 | 30 | 67 |
| | | % within Education | 55.2% | 44.8% | 100.0% |
| | | % within Sociability | 22.4% | 21.9% | 22.2% |
| | Middle | Count | 47 | 36 | 83 |
| | | % within Education | 56.6% | 43.4% | 100.0% |
| | | % within Sociability | 28.5% | 26.3% | 27.5% |
| | Secondary | Count | 34 | 32 | 66 |
| | | % within Education | 51.5% | 48.5% | 100.0% |
| | | % within Sociability | 20.6% | 23.4% | 21.9% |
| | Senior Secondary | Count | 9 | 13 | 22 |
| | | % within Education | 40.9% | 59.1% | 100.0% |
| | | % within Sociability | 5.5% | 9.5% | 7.3% |
| Graduate | Count | 3 | 2 | 5 | |
| | % within Education | 60.0% | 40.0% | 100.0% | |
| | % within Sociability | 1.8% | 1.5% | 1.7% | |
| Total | | Count | 165 | 137 | 302 |
| | | % of Total | 54.6% | 45.4% | 100.0% |

Table 5.18 illustrates the cross tabulation between the level of education of the juveniles and their ability of socialize. It was observed that among those who were illiterates 40.7 percent did not have friends outside or inside the home while 59.3 percent were found to be sociable. Among those who had completed their schooling, 59.1 percent were asocial while only 40.9 percent had friends inside and outside the home. 48.5 percent and 43.3 percent of those who had completed their matriculation or middle school respectively were found to be asocial while 60 percent of the graduates had friends inside and outside the home.

TABLE 5.19 – CROSS TABULATION OF “LEVEL OF EDUCATION” AND “ADDICTION”

| Cross Tabulation | | | Addiction to Intoxicants | | | | | Total |
|--------------------|------------------|----------------------|--------------------------|---------|--------------|-----------|-------|---------------|
| | | | Tobacco | Alcohol | Cannabinoids | Narcotics | None | |
| Level of Education | Illiterate | Count | 9 | 5 | 2 | 13 | 30 | 59 |
| | | % within Education | 15.3% | 8.5% | 3.4% | 22.0% | 50.8% | 100.0% |
| | | % within Intoxicants | 40.9% | 20.8% | 28.6% | 56.5% | 13.3% | 19.5% |
| | Primary | Count | 9 | 7 | 2 | 3 | 46 | 67 |
| | | % within Education | 13.4% | 10.4% | 3.0% | 4.5% | 68.7% | 100.0% |
| | | % within Intoxicants | 40.9% | 29.2% | 28.6% | 13.0% | 20.4% | 22.2% |
| | Middle | Count | 4 | 4 | 1 | 6 | 68 | 83 |
| | | % within Education | 4.8% | 4.8% | 1.2% | 7.2% | 81.9% | 100.0% |
| | | % within Intoxicants | 18.2% | 16.7% | 14.3% | 26.1% | 30.1% | 27.5% |
| | Secondary | Count | 0 | 3 | 1 | 1 | 61 | 66 |
| | | % within Education | 0.0% | 4.5% | 1.5% | 1.5% | 92.4% | 100.0% |
| | | % within Intoxicants | 0.0% | 12.5% | 14.3% | 4.3% | 27.0% | 21.9% |
| | Senior Secondary | Count | 0 | 4 | 1 | 0 | 17 | 22 |
| | | % within Education | 0.0% | 18.2% | 4.5% | 0.0% | 77.3% | 100.0% |
| | | % within Intoxicants | 0.0% | 16.7% | 14.3% | 0.0% | 7.5% | 7.3% |
| | Graduate | Count | 0 | 1 | 0 | 0 | 4 | 5 |
| | | % within Education | 0.0% | 20.0% | 0.0% | 0.0% | 80.0% | 100.0% |
| | | % within Intoxicants | 0.0% | 4.2% | 0.0% | 0.0% | 1.8% | 1.7% |

| | | | | | | | |
|--------------|-------------------|-------------|-------------|-------------|-------------|--------------|---------------|
| Total | Count | 22 | 24 | 7 | 23 | 226 | 302 |
| | % of Total | 7.3% | 7.9% | 2.3% | 7.6% | 74.8% | 100.0% |

Table 5.19 cross tabulates the level of education of the juveniles with the addiction to intoxicants. It was observed that those who were illiterate or educated up to primary formed 40.9 percent each (highest) of those addicted to tobacco. Of those who were addicted to narcotics, 56.5 percent were illiterate while 26.1 percent had been educated up to middle school. Of those who consumed cannabinoids, 28.6 percent (each) were either illiterate or educated till primary. Those educated till primary along with illiterates formed 50 percent of those who consumed alcohol. Overall, it was found that the incidence of addiction was higher amongst those less educated or illiterate.

TABLE 5.20 – CROSS TABULATION OF “LEVEL OF EDUCATION” AND “PRE-OCCUPATION PRIOR TO INSTITUTIONALIZATION”

| Cross Tabulation | | | Pre-occupation Prior to Institutionalization | | | Total |
|---------------------------|-------------------|--------------------------------|---|-----------------|----------------|---------------|
| | | | Studying | Employed | Neither | |
| Level of Education | Illiterate | Count | 0 | 34 | 25 | 59 |
| | | % within Education | 0.0% | 57.6% | 42.4% | 100.0% |
| | | % within Pre-occupation | 0.0% | 43.6% | 26.9% | 19.5% |
| | Primary | Count | 4 | 30 | 33 | 67 |
| | | % within Education | 6.0% | 44.8% | 49.3% | 100.0% |
| | | % within Pre-occupation | 3.1% | 38.5% | 35.5% | 22.2% |
| | Middle | Count | 43 | 11 | 29 | 83 |
| | | % within Education | 51.8% | 13.3% | 34.9% | 100.0% |
| | | % within Pre-occupation | 32.8% | 14.1% | 31.2% | 27.5% |
| | Secondary | Count | 63 | 1 | 2 | 66 |

| | | | | | | |
|-------------------|-------------------------|--------------------------------|--------------|--------------|---------------|---------------|
| | | % within Education | 95.5% | 1.5% | 3.0% | 100.0% |
| | | % within Pre-occupation | 48.1% | 1.3% | 2.2% | 21.9% |
| | Senior Secondary | Count | 16 | 2 | 4 | 22 |
| | | % within Education | 72.7% | 9.1% | 18.2% | 100.0% |
| | | % within Pre-occupation | 12.2% | 2.6% | 4.3% | 7.3% |
| | Graduate | Count | 5 | 0 | 0 | 5 |
| | | % within Education | 100.0% | 0.0% | 0.0% | 100.0% |
| | | % within Pre-occupation | 3.8% | 0.0% | 0.0% | 1.7% |
| | Total | Count | 131 | 78 | 93 | 302 |
| % of Total | | 43.4% | 25.8% | 30.8% | 100.0% | |

Table 5.20 cross tabulates the level of education of the children with their preoccupation prior to their institutionalization. It was observed that of those who were illiterate, 57.6 percent were employed gainfully while 42.4 percent were neither employed nor studying. Of those educated till primary, 6 percent were still pursuing their education, 44.8 percent were employed in the service of others while 49.3 percent were neither studying nor employed. Of those who were educated up till middle school, 51.8 percent were still studying, 13.3 percent were employed while 34.9 percent were neither studying nor employed. 95.5 percent of those who had completed their matriculation were still studying while the figure stands at 72.2 percent for those educated till senior secondary and at 100 percent for graduates.

TABLE 5.21 – CROSS TABULATION OF “ADDICTION TO INTOXICANTS” AND “ABILITY TO SOCIALIZE”

| Cross Tabulation | | Ability to Socialize | | Total | |
|---------------------------------|----------------|-----------------------------|-----------|--------------|---------------|
| | | Yes | No | | |
| Addiction to Intoxicants | Tobacco | Count | 14 | 8 | 22 |
| | | % within Addiction | 63.6% | 36.4% | 100.0% |
| | | % within Sociability | 8.5% | 5.8% | 7.3% |

| | | | | | |
|--------------|---------------------|-----------------------------|--------------|---------------|---------------|
| | Alcohol | Count | 12 | 12 | 24 |
| | | % within Addiction | 50.0% | 50.0% | 100.0% |
| | | % within Sociability | 7.3% | 8.8% | 7.9% |
| | Cannabinoids | Count | 3 | 4 | 7 |
| | | % within Addiction | 42.9% | 57.1% | 100.0% |
| | | % within Sociability | 1.8% | 2.9% | 2.3% |
| | Narcotics | Count | 10 | 13 | 23 |
| | | % within Addiction | 43.5% | 56.5% | 100.0% |
| | | % within Sociability | 6.1% | 9.5% | 7.6% |
| | None | Count | 126 | 100 | 226 |
| | | % within Addiction | 55.8% | 44.2% | 100.0% |
| | | % within Sociability | 76.4% | 73.0% | 74.8% |
| Total | Count | 165 | 137 | 302 | |
| | % of Total | 54.6% | 45.4% | 100.0% | |

Table 5.21 shows the cross tabulation between the incidence of addiction to intoxicants amongst juveniles and their ability to socialize. It was observed that 63.6 percent of those addicted to tobacco, 50 percent of those addicted to alcohol, 42.9 percent of those dependent on cannabinoids and 43.5 percent of those addicted to narcotics were sociable. Overall of those not addicted to any kind of intoxicants, 55.8 percent were sociable while 44.2 percent were asocial.

TABLE 5.22 – CROSS TABULATION OF “ADDICTION TO INTOXICANTS” AND “PRE-OCCUPATION PRIOR TO INSTITUTIONALIZATION”

| Cross Tabulation | | | Pre-occupation Prior to Institutionalization | | | Total |
|---------------------------------|----------------|--------------------------------|---|-----------------|----------------|---------------|
| | | | Studying | Employed | Neither | |
| Addiction to Intoxicants | Tobacco | Count | 0 | 13 | 9 | 22 |
| | | % within Addiction | 0.0% | 59.1% | 40.9% | 100.0% |
| | | % within Pre-occupation | 0.0% | 16.7% | 9.7% | 7.3% |
| | Alcohol | Count | 11 | 6 | 7 | 24 |

| | | | | | | |
|-------------------|---------------------|--------------------------------|--------------|--------------|---------------|---------------|
| | | % within Addiction | 45.8% | 25.0% | 29.2% | 100.0% |
| | | % within Pre-occupation | 8.4% | 7.7% | 7.5% | 7.9% |
| | Cannabinoids | Count | 2 | 4 | 1 | 7 |
| | | % within Addiction | 28.6% | 57.1% | 14.3% | 100.0% |
| | | % within Pre-occupation | 1.5% | 5.1% | 1.1% | 2.3% |
| | Narcotics | Count | 2 | 8 | 13 | 23 |
| | | % within Addiction | 8.7% | 34.8% | 56.5% | 100.0% |
| | | % within Pre-occupation | 1.5% | 10.3% | 14.0% | 7.6% |
| | None | Count | 116 | 47 | 63 | 226 |
| | | % within Addiction | 51.3% | 20.8% | 27.9% | 100.0% |
| | | % within Pre-occupation | 88.5% | 60.3% | 67.7% | 74.8% |
| | Total | Count | 131 | 78 | 93 | 302 |
| % of Total | | 43.4% | 25.8% | 30.8% | 100.0% | |

Table 5.22 depicts the cross tabulation of the incidence of addiction to intoxicants amongst juveniles and their pre-occupation prior to institutionalization. It was found that 59.1 percent of the juveniles addicted to tobacco were employed, 40.9 percent were neither employed nor studying while none of those addicted to tobacco were pursuing their education. 45.8 percent of those addicted to alcohol were studying, 25 percent were employed while 29.2 percent were neither studying nor employed. 57.1 percent of those dependent upon cannabinoids were employed while 28.6 percent were studying, 14.3 percent were neither studying nor employed. 56.5 percent of those addicted to narcotics were neither studying nor employed, 34.8 percent were employed gainfully while only 8.7 percent were pursuing their education.

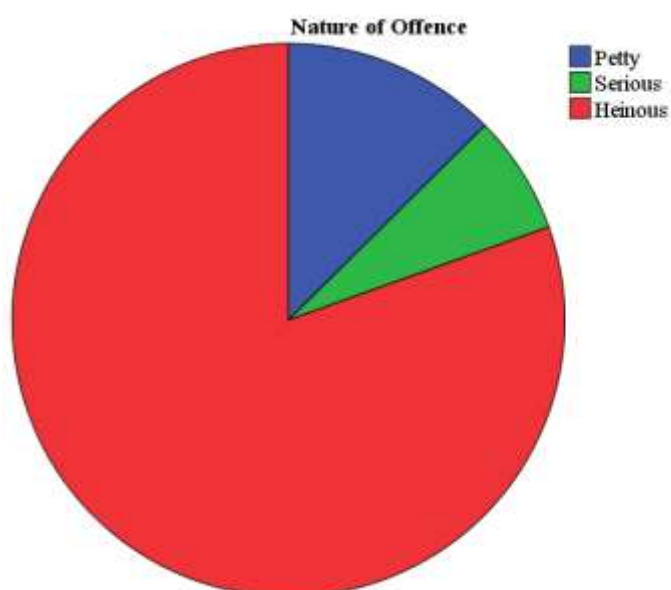
CHAPTER VI – JUVENILE: IN CONFLICT WITH THE LAW

In this chapter the researchers seek to examine the experiences of the juveniles when they first come in conflict with the law. As mentioned in the introduction, the first point of contact of juveniles is the police. The minds of juveniles still being impressionable, the experiences have the capability to shape and mold the thought process of the juveniles in ways which may either be supportive of or inimical to the stated aims of the Juvenile Justice (Care and Protection) Act of 2000 as well as the Juvenile Justice (Care and Protection of Children) Act of 2015. The findings of the researchers have been tabulated hereunder:

TABLE 6.1 – NATURE OF OFFENCE

| Offence | Frequency | Percent |
|--------------|------------|--------------|
| Petty | 38 | 12.6 |
| Serious | 21 | 7.0 |
| Heinous | 243 | 80.5 |
| Total | 302 | 100.0 |

Table 6.1 depicts the nature of offence committed by the inmates. It was observed that 12.6 percent of the juveniles had been charged with petty offences, 7.0 percent had been charged with serious offences while an overwhelming majority (80.5 percent) of the inmates had been



charged under sections which constituted heinous offences under the Juvenile Justice (Care and Protection of Children) Act of 2015.

FIGURE B.1 NATURE OF OFFENCE

TABLE 6.2 – COMPANY AT THE TIME OF OFFENCE

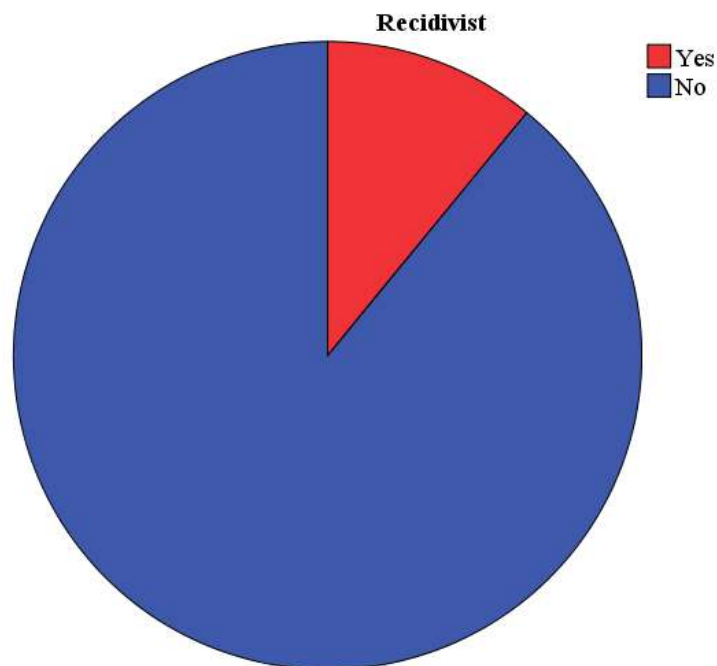
| Company | Frequency | Percent |
|--|------------------|----------------|
| None | 121 | 40.1 |
| Other Juveniles | 59 | 19.5 |
| Adults | 100 | 33.1 |
| Juveniles at the Behest of Adults | 22 | 7.3 |
| Total | 302 | 100.0 |

Table 6.2 shows the company of the interviewee at the time of the commission of offence. It was found that that 40.1 percent of the juveniles did not have any company while 19.5 percent of the inmates were in the company of the other juveniles at the time of the offence. In 33.1 percent of the cases, the juveniles were in the company of adults whereas in 7.3 percent of the cases the inmate was in the company of other juveniles who committed the offence at the behest of adults.

TABLE 6.3 – RECIDIVISM

| Recidivists | Frequency | Percent |
|--------------------|------------------|----------------|
| Yes | 33 | 10.9 |
| No | 269 | 89.1 |
| Total | 302 | 100.0 |

Table 6.3 analyses the frequency of recidivists from among the sample. It was found that 10.9 percent of the inmates were recidivists i.e. they had been charged and convicted for other offences earlier while 89.1 percent (majority) of the inmates were first time offenders.

**FIGURE B.2 – RECIDIVISM****TABLE 6.4 – CONFINEMENT TO JUDICIAL/POLICE CUSTODY**

| Confinement | Frequency | Percent |
|--------------------|------------------|----------------|
| Yes | 200 | 66.2 |
| No | 102 | 33.8 |
| Total | 302 | 100.0 |

Table 6.4 illustrates the frequency of the inmates who were sent to or kept in judicial and police custody respectively. A vast majority (66.2 percent) of the juveniles responded that they had been confined in police or judicial custody before being sent to the home. In only 33.8 percent of the cases, the inmates stated that they were sent directly to the home without being confined to police or judicial custody.

TABLE 6.5 - AUTHORITY BEFORE WHICH CLAIM FOR MINORITY WAS MADE

| Authority | Frequency | Percent |
|------------------|------------------|----------------|
| Police | 228 | 75.5 |

| | | |
|--------------|------------|--------------|
| Judge | 74 | 24.5 |
| Total | 302 | 100.0 |

Table 6.5 depicts the frequency of the claims being made before the identified authorities. It was observed that in an overwhelming majority (75.5 percent) of the cases the claim for juvenility was made before the police while only in 24.5 percent of the cases was the claim made before the court/board.

TABLE 6.6 – BEHAVIOUR OF POLICE OFFICIALS

| Behaviour | Frequency | Percent |
|--------------------|------------------|----------------|
| Supportive | 59 | 19.5 |
| Hostile | 160 | 53.0 |
| Indifferent | 83 | 27.5 |
| Total | 302 | 100.0 |

Table 6.6 depicts the behaviour of the police officials towards the juveniles. It was observed that in 53 percent of the cases, the behaviour and attitude of the police towards the juveniles was hostile and the majority of them reported being subjected to torture. In 27.5 percent of the cases, the police officials were indifferent to the plight of the juvenile while only in 19.5 percent

of the cases were the police officials supportive and kind to the juvenile.

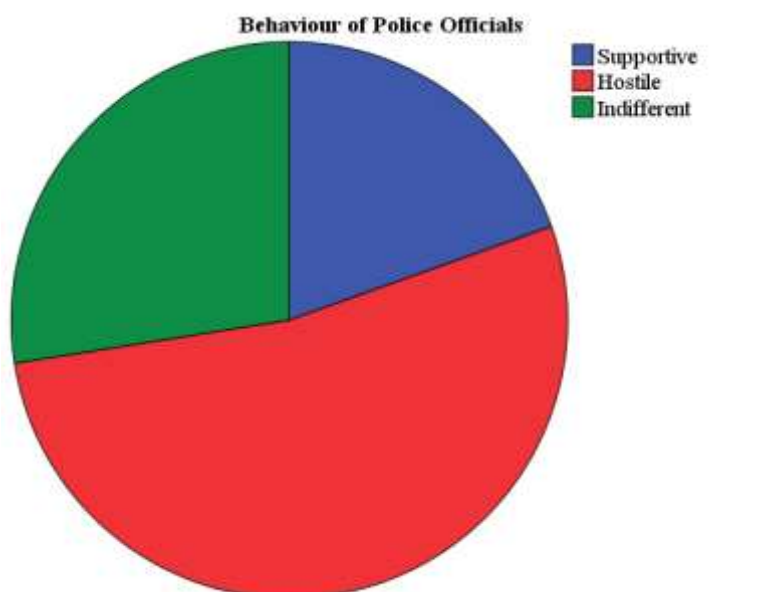
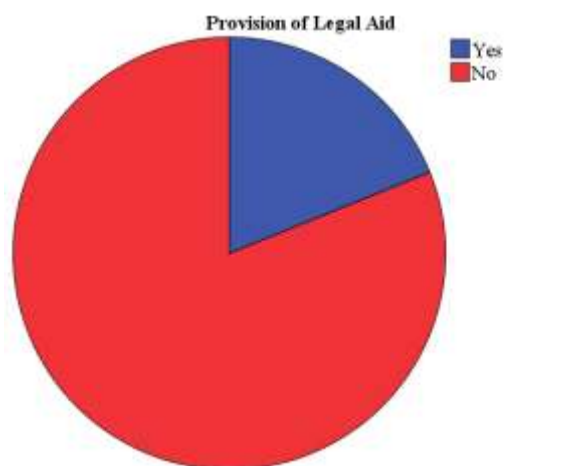


FIGURE B.3 – BEHAVIOUR OF POLICE OFFICIALS

TABLE 6.7 – PROVISION OF LEGAL AID

| Legal Aid | Frequency | Percent |
|------------------|------------------|----------------|
| Yes | 57 | 18.9 |
| No | 245 | 81.1 |
| Total | 302 | 100.0 |

Table 6.7 illustrates the number of cases where the inmates were provided with legal aid. It can be seen that the inmates received legal aid from the state in only 18.9 percent of the cases while in a vast majority of the cases (81.1 percent), no such aid was provided.

**FIGURE B.4 – PROVISION OF LEGAL AID****TABLE 6.8 – PRESENCE OF FAMILY MEMBERS DURING PROCEEDINGS**

| Family | Frequency | Percent |
|---------------|------------------|----------------|
| Yes | 282 | 93.4 |
| No | 20 | 6.6 |
| Total | 302 | 100.0 |

Table 6.8 tabulates the presence of family members in support of the juvenile during proceedings. It was found that in 93.4 percent of the cases the family of the juvenile was present during the proceedings while in 6.6 percent, the juvenile received no such support.

TABLE 6.9 – USE OF STIGMATIZING SEMANTICS DURING PROCEEDINGS

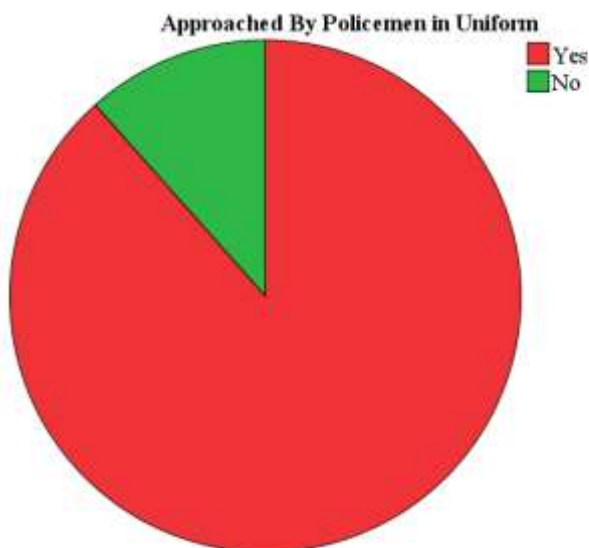
| Stigmatizing Semantics | Frequency | Percent |
|-------------------------------|------------------|----------------|
| Yes | 302 | 100.0 |

Table 6.9 illustrates the frequency of use of accusatory terms such as accused, charge-sheet, remand, warrant, trial and prosecution etc. It was found that all respondents (100 percent) replied in affirmative when asked if any accusatory and stigmatizing terms were used for or around them during the proceedings.

TABLE 6.10 – APPROACH BY POLICE OFFICIALS IN UNIFORM

| Uniform | Frequency | Percent |
|----------------|------------------|----------------|
| Yes | 267 | 88.4 |
| No | 35 | 11.6 |
| Total | 302 | 100.0 |

Table 6.10 depicts the number of cases where the juveniles were approached by police officials in uniform at any point of time whether at the time of arrest, during court proceedings, proceedings of the juvenile justice board and so on. An overwhelming majority (88.4 percent)



of the juveniles responded that they had been approached by police officials in uniform while only 11.6 percent stated that they weren't approached by police officials in uniform.

FIGURE B.5 – APPROACH BY POLICE OFFICIALS IN UNIFORM

TABLE 6.11 – CROSS TABULATION OF “AGE OF THE INMATE” AND “NATURE OF OFFENCE”

| Cross Tabulation | | | Nature of Offence | | | Total |
|------------------|------------|----------------------------|-------------------|--------------|---------------|---------------|
| | | | Petty | Serious | Heinous | |
| Age | 11-13 | Count | 3 | 0 | 7 | 10 |
| | | % within Age | 30.0% | 0.0% | 70.0% | 100.0% |
| | | % within Nature of Offence | 7.9% | 0.0% | 2.9% | 3.3% |
| | 14-15 | Count | 14 | 8 | 38 | 60 |
| | | % within Age | 23.3% | 13.3% | 63.3% | 100.0% |
| | | % within Nature of Offence | 36.8% | 38.1% | 15.6% | 19.9% |
| | 16-17 | Count | 18 | 6 | 119 | 143 |
| | | % within Age | 12.6% | 4.2% | 83.2% | 100.0% |
| | | % within Nature of Offence | 47.4% | 28.6% | 49.0% | 47.4% |
| | 18 > | Count | 3 | 7 | 79 | 89 |
| | | % within Age | 3.4% | 7.9% | 88.8% | 100.0% |
| | | % within Nature of Offence | 7.9% | 33.3% | 32.5% | 29.5% |
| Total | Count | 38 | 21 | 243 | 302 | |
| | % of Total | 12.6% | 7.0% | 80.5% | 100.0% | |

Table 6.11 illustrates the cross tabulation between the age of the inmates and the nature of offences allegedly committed by them. It can be observed that nearly 70 percent and 63.3 percent of inmates aged 11-13 and 14-15 respectively had been charged with commission of offences which are deemed heinous by the Juvenile Justice (Care and Protection of Children)

Act, 2015. Similarly, an overwhelming majority (83.2 percent and 88.8 percent respectively) of the inmates aged 16-17 and 18 + were charged with heinous offences. Overall, 81.5 percent of all inmates charged with committing heinous offences were liable to be tried as adults under the provisions of the new act. Of those charged with petty offences, 7.9 percent were aged 18 and above, 47.4 percent fell in the age bracket of 16-17, 36.8 percent within the age group of 14-15 and another 7.9 percent within the age group of 11-13.

TABLE 6.12 – CROSS TABULATION OF “AGE OF INMATES” AND “COMPANY AT THE TIME OF OFFENCE”

| Cross Tabulation | | | Company at the Time of Offence | | | | Total |
|------------------|------------|------------------|--------------------------------|-----------------|--------|-----------------------------------|--------|
| | | | None | Other Juveniles | Adults | Juveniles at the Behest of Adults | |
| Age | 11-13 | Count | 5 | 4 | 1 | 0 | 10 |
| | | % within Age | 50.0% | 40.0% | 10.0% | 0.0% | 100.0% |
| | | % within Company | 4.1% | 6.8% | 1.0% | 0.0% | 3.3% |
| | 14-15 | Count | 25 | 11 | 21 | 3 | 60 |
| | | % within Age | 41.7% | 18.3% | 35.0% | 5.0% | 100.0% |
| | | % within Company | 20.7% | 18.6% | 21.0% | 13.6% | 19.9% |
| | 16-17 | Count | 57 | 25 | 50 | 11 | 143 |
| | | % within Age | 39.9% | 17.5% | 35.0% | 7.7% | 100.0% |
| | | % within Company | 47.1% | 42.4% | 50.0% | 50.0% | 47.4% |
| | 18 > | Count | 34 | 19 | 28 | 8 | 89 |
| | | % within Age | 38.2% | 21.3% | 31.5% | 9.0% | 100.0% |
| | | % within Company | 28.1% | 32.2% | 28.0% | 36.4% | 29.5% |
| Total | Count | 121 | 59 | 100 | 22 | 302 | |
| | % of Total | 40.1% | 19.5% | 33.1% | 7.3% | 100.0% | |

Table 6.12 cross tabulates the age of inmates with the company of the inmates at the time of the commission of offence. While 40.1 percent of the inmates reported being alone at the time of the commission of the offence, 50 percent and 36.4 percent of those who committed the offence at the behest of adults were aged 16-17 and 18 + respectively. 42.4 percent of those who committed the offence in the company of other juveniles and 50 percent of those who were in the company of adults were aged 16-17. Overall only 7.3 percent juveniles reported to have committed the offence at the behest of adults.

TABLE 6.13 – CROSS TABULATION BETWEEN “AGE OF THE INMATE” AND “RECIDIVISM”

| Cross Tabulation | | | Recidivist | | Total |
|------------------|------------|---------------------|------------|--------|--------|
| | | | Yes | No | |
| Age | 11-13 | Count | 1 | 9 | 10 |
| | | % within Age | 10.0% | 90.0% | 100.0% |
| | | % within Recidivist | 3.0% | 3.3% | 3.3% |
| | 14-15 | Count | 4 | 56 | 60 |
| | | % within Age | 6.7% | 93.3% | 100.0% |
| | | % within Recidivist | 12.1% | 20.8% | 19.9% |
| | 16-17 | Count | 14 | 129 | 143 |
| | | % within Age | 9.8% | 90.2% | 100.0% |
| | | % within Recidivist | 42.4% | 48.0% | 47.4% |
| | 18 > | Count | 14 | 75 | 89 |
| | | % within Age | 15.7% | 84.3% | 100.0% |
| | | % within Recidivist | 42.4% | 27.9% | 29.5% |
| Total | Count | 33 | 269 | 302 | |
| | % of Total | 10.9% | 89.1% | 100.0% | |

Table 6.13 illustrates the cross tabulation between the age of the inmates and recidivism. It was found that nearly 84.8 percent of all recidivists were aged between 16 and above. While the number of all non-recidivists was above 90 percent for age groups 11-13, 14-15 and 16-17, the number fell to 84.3 percent for those aged 18 and above.

TABLE 6.14 – CROSS TABULATION OF “AGE OF THE INMATE” AND “CONFINEMENT TO POLICE/JUDICIAL CUSTODY”

| Cross Tabulation | | Confinement in Judicial/Police Custody | | Total | |
|------------------|------------|---|-------|--------|--------|
| | | Yes | No | | |
| Age | 11-13 | Count | 5 | 5 | 10 |
| | | % within Age | 50.0% | 50.0% | 100.0% |
| | | % within Confinement | 2.5% | 4.9% | 3.3% |
| | 14-15 | Count | 35 | 25 | 60 |
| | | % within Age | 58.3% | 41.7% | 100.0% |
| | | % within Confinement | 17.5% | 24.5% | 19.9% |
| | 16-17 | Count | 91 | 52 | 143 |
| | | % within Age | 63.6% | 36.4% | 100.0% |
| | | % within Confinement | 45.5% | 51.0% | 47.4% |
| | 18 > | Count | 69 | 20 | 89 |
| | | % within Age | 77.5% | 22.5% | 100.0% |
| | | % within Confinement | 34.5% | 19.6% | 29.5% |
| Total | Count | 200 | 102 | 302 | |
| | % of Total | 66.2% | 33.8% | 100.0% | |

Table 6.14 cross tabulates the age of the inmates with their confinement to judicial/police custody. The researchers observe a direct relationship between the two variables i.e. an

increased trend of confinement to custody with an increase in age. 50 percent of juveniles (lowest) aged 11-13 reported being sent to judicial/police custody while 58.3 percent of juvenile aged 14-15 were sent to custody. The figures stand at 63.6 percent for those aged 16-17 and 77.5 percent (highest) for those aged 18 and above.

TABLE 6.15 – CROSS TABULATION OF “AGE OF THE INMATE” AND “BEHAVIOUR OF POLICE OFFICIALS”

| Cross Tabulation | | | Behaviour of Police Officials | | | Total |
|------------------|------------|--------------------|-------------------------------|---------|-------------|--------|
| | | | Supportive | Hostile | Indifferent | |
| Age | 11-13 | Count | 5 | 5 | 0 | 10 |
| | | % within Age | 50.0% | 50.0% | 0.0% | 100.0% |
| | | % within Behaviour | 8.5% | 3.1% | 0.0% | 3.3% |
| | 14-15 | Count | 12 | 33 | 15 | 60 |
| | | % within Age | 20.0% | 55.0% | 25.0% | 100.0% |
| | | % of Total | 4.0% | 10.9% | 5.0% | 19.9% |
| | 16-17 | Count | 28 | 69 | 46 | 143 |
| | | % within Age | 19.6% | 48.3% | 32.2% | 100.0% |
| | | % within Behaviour | 47.5% | 43.1% | 55.4% | 47.4% |
| | 18 > | Count | 14 | 53 | 22 | 89 |
| | | % within Age | 15.7% | 59.6% | 24.7% | 100.0% |
| | | % within Behaviour | 23.7% | 33.1% | 26.5% | 29.5% |
| Total | Count | 59 | 160 | 83 | 302 | |
| | % of Total | 19.5% | 53.0% | 27.5% | 100.0% | |

Table 6.15 depicts the cross tabulation between the age of the respondents and the behaviour of the police officials towards them. The researchers found an inverse relationship between the age of the inmates and a supportive attitude of police officials towards them. While 50 percent

of the juveniles aged 11-13 reported that the police were supportive of them throughout their experience only 20 percent of those aged 14-15 reported the same. 19.6 percent of those aged 16-17 and 15.7 percent of those aged 18 and above reported that the police were supportive in their attitude and behaviour. Nearly 59.6 percent of those aged 18 and above, 43.1 percent of those aged 16-17, 55.0 percent of those aged 14-15 and 50 percent of those aged 11-13 reported being abused by the police or facing torture at their hands with the overall attitude and behaviour of the police being hostile to them.

TABLE 6.16 – CROSS TABULATION OF “AGE OF INMATE” AND “PROVISION OF LEGAL AID”

| Cross Tabulation | | | Provision of Legal Aid | | Total |
|------------------|-------|--------------------|------------------------|--------|--------|
| | | | Yes | No | |
| Age | 11-13 | Count | 0 | 10 | 10 |
| | | % within Age | 0.0% | 100.0% | 100.0% |
| | | % within Legal Aid | 0.0% | 4.1% | 3.3% |
| | 14-15 | Count | 22 | 38 | 60 |
| | | % within Age | 36.7% | 63.3% | 100.0% |
| | | % within Legal Aid | 38.6% | 15.5% | 19.9% |
| | 16-17 | Count | 23 | 120 | 143 |
| | | % within Age | 16.1% | 83.9% | 100.0% |
| | | % within Legal Aid | 40.4% | 49.0% | 47.4% |
| | 18 > | Count | 12 | 77 | 89 |
| | | % within Age | 13.5% | 86.5% | 100.0% |
| | | % within Legal Aid | 21.1% | 31.4% | 29.5% |
| Total | | Count | 57 | 245 | 302 |
| | | % of Total | 18.9% | 81.1% | 100.0% |

Table 6.16 shows the cross tabulation between the age of the inmates and legal aid provided to them. It was found that no juvenile between the age of 11-13 received legal aid. 40.4 percent of those who received legal aid were in the age group of 16-17 while 38.6 percent of received such aid were aged 14-15. Only 13.5 percent of those aged 18 and above received any kind of legal aid.

TABLE 6.17 CROSS TABULATION OF “AGE OF THE INMATE” AND “APPROACH BY POLICE OFFICIALS IN UNIFORM”

| Cross Tabulation | | | Approached By Policemen in Uniform | | Total |
|------------------|-------|------------------|---------------------------------------|-------|--------|
| | | | Yes | No | |
| Age | 11-13 | Count | 9 | 1 | 10 |
| | | % within Age | 90.0% | 10.0% | 100.0% |
| | | % within Uniform | 3.4% | 2.9% | 3.3% |
| | 14-15 | Count | 55 | 5 | 60 |
| | | % within Age | 91.7% | 8.3% | 100.0% |
| | | % within Uniform | 20.6% | 14.3% | 19.9% |
| | 16-17 | Count | 125 | 18 | 143 |
| | | % within Age | 87.4% | 12.6% | 100.0% |
| | | % within Uniform | 46.8% | 51.4% | 47.4% |
| | 18 > | Count | 78 | 11 | 89 |
| | | % within Age | 87.6% | 12.4% | 100.0% |
| | | % within Uniform | 29.2% | 31.4% | 29.5% |
| Total | | Count | 267 | 35 | 302 |
| | | % of Total | 88.4% | 11.6% | 100.0% |

Table 6.17 cross tabulates the age of the inmates with the frequency of them being approached by police officials in uniform. It was found that 90 percent of those aged 11-13, 91.7 percent of those aged 14-15, 87.4 percent of those aged 16-17 and 87.6 percent of those aged 18 and above were approached by police officials in uniform. In all only 11.6 percent of all inmates were not approached by policemen in uniforms at all.

TABLE 6.18 – CROSS TABULATION OF “STATE” AND “RECIDIVISM”

| Cross Tabulation | | | Recidivist | | Total |
|------------------|-----------|---------------------|------------|-------|--------|
| | | | Yes | No | |
| State | New Delhi | Count | 11 | 55 | 66 |
| | | % within State | 16.7% | 83.3% | 100.0% |
| | | % within Recidivist | 33.3% | 20.4% | 21.9% |
| | Haryana | Count | 10 | 102 | 112 |
| | | % within State | 8.9% | 91.1% | 100.0% |
| | | % within Recidivist | 30.3% | 37.9% | 37.1% |
| | Punjab | Count | 12 | 112 | 124 |
| | | % within State | 9.7% | 90.3% | 100.0% |
| | | % within Recidivist | 36.4% | 41.6% | 41.1% |
| Total | | Count | 33 | 269 | 302 |
| | | % of Total | 10.9% | 89.1% | 100.0% |

Table 6.18 shows the cross tabulation between the state from where the juveniles were interviewed and the rate of recidivism from amongst them. It was observed that 33.3 percent of all recidivists were from Delhi, 30.3 percent from Haryana and 36.4 percent from Punjab.

Overall, 83.3 percent (lowest) of inmates from Delhi were not recidivists while the figure stands are 91.1 percent (highest) in Haryana and 90.3 percent in Punjab.

TABLE 6.19 – CROSS TABULATION OF “STATE” AND “AUTHORITY BEFORE WHICH CLAIM OF MINORITY WAS MADE”

| Cross Tabulation | | | Authority Before Which Claim For Minority Was Made | | Total |
|------------------|-----------|--------------------|--|-------|--------|
| | | | Police | Judge | |
| State | New Delhi | Count | 50 | 16 | 66 |
| | | % within State | 75.8% | 24.2% | 100.0% |
| | | % within Authority | 21.9% | 21.6% | 21.9% |
| | Haryana | Count | 90 | 22 | 112 |
| | | % within State | 80.4% | 19.6% | 100.0% |
| | | % within Authority | 39.5% | 29.7% | 37.1% |
| | Punjab | Count | 88 | 36 | 124 |
| | | % within State | 71.0% | 29.0% | 100.0% |
| | | % within Authority | 38.6% | 48.6% | 41.1% |
| Total | | Count | 228 | 74 | 302 |
| | | % of Total | 75.5% | 24.5% | 100.0% |

Table 6.19 depicts the cross tabulation between the state where the interviews were conducted and the authority before which the juveniles made their claims for minority. It was found that 24.2 percent of respondents from Delhi, 19.6 percent from Haryana and 29 percent of respondents from Punjab made their claims for minority in courts. Overall 75.5 percent of all respondents made their claims for juvenility before the police.

TABLE 6.20 – CROSS TABULATION OF “CONFINEMENT TO JUDICIAL/POLICE CUSTODY” AND “AUTHORITY BEFORE WHICH CLAIMS OF MINORITY WERE MADE”

| Cross Tabulation | | | Authority Before Which Claim For Minority Was Made | | Total |
|--|-----|----------------------|--|-------|--------|
| | | | Police | Judge | |
| Confinement in Judicial/Police Custody | Yes | Count | 141 | 59 | 200 |
| | | % within Confinement | 70.5% | 29.5% | 100.0% |
| | | % within Authority | 61.8% | 79.7% | 66.2% |
| | No | Count | 87 | 15 | 102 |
| | | % within Confinement | 85.3% | 14.7% | 100.0% |
| | | % within Authority | 38.2% | 20.3% | 33.8% |
| Total | | Count | 228 | 74 | 302 |
| | | % of Total | 75.5% | 24.5% | 100.0% |

Table 6.20 cross tabulates the frequency of confinement of juveniles to police/judicial custody and the authority before which the juveniles made their claim for minority. It was observed that where the inmates had been confined to police/judicial custody, they had made their claims before the police in 70.5 percent of the cases and before the courts in 29.5 percent of the cases. The juveniles were sent to judicial/police custody; in 79.7 percent of the cases where the claims were made before a judge as compared to only 61.8 percent of the cases where the claims were made before the police.

TABLE 6.21 – CROSS TABULATION OF “STATE” AND ‘BEHAVIOUR OF POLICE OFFICIALS’

| Cross Tabulation | | | Behaviour of Police Officials | | | Total |
|------------------|-----------|----------------|-------------------------------|---------|-------------|--------|
| | | | Supportive | Hostile | Indifferent | |
| State | New Delhi | Count | 12 | 40 | 14 | 66 |
| | | % within State | 18.2% | 60.6% | 21.2% | 100.0% |

| | | | | | | |
|--------------|----------------|---------------------------|--------------|--------------|--------------|---------------|
| | | % within Behaviour | 20.3% | 25.0% | 16.9% | 21.9% |
| | Haryana | Count | 31 | 47 | 34 | 112 |
| | | % within State | 27.7% | 42.0% | 30.4% | 100.0% |
| | | % within Behaviour | 52.5% | 29.4% | 41.0% | 37.1% |
| | Punjab | Count | 16 | 73 | 35 | 124 |
| | | % within State | 12.9% | 58.9% | 28.2% | 100.0% |
| | | % within Behaviour | 27.1% | 45.6% | 42.2% | 41.1% |
| Total | | Count | 59 | 160 | 83 | 302 |
| | | % of Total | 19.5% | 53.0% | 27.5% | 100.0% |

Table 6.21 illustrates the cross tabulation between the state where the inmates were interviewed and the behaviour of the police towards the juveniles. It can be observed that nearly 60.6 percent of the inmates from Delhi reported hostile treatment from the police while the figures from Haryana and Punjab stand at 42% percent and 58.9 percent respectively. Overall, of those who reported hostile treatment, 45.6 percent were from Punjab, 29.4 percent were from Harayna and 25 percent were from Delhi. Of those who reported that the police were supportive towards their plight, 52.5 percent were from Haryana (highest), 27.1 percent were from Punjab and 20.3 percent were from Delhi.

TABLE 6.22 – CROSS TABULATION OF “STATE” AND “PROVISION OF LEGAL AID”

| Cross Tabulation | | | Provision of Legal Aid | | Total |
|-------------------------|------------------|---------------------------|-------------------------------|-----------|---------------|
| | | | Yes | No | |
| State | New Delhi | Count | 31 | 35 | 66 |
| | | % within State | 47.0% | 53.0% | 100.0% |
| | | % within Provision | 54.4% | 14.3% | 21.9% |
| | Haryana | Count | 10 | 102 | 112 |

| | | | | | |
|--------------|---------------|---------------------------|--------------|--------------|---------------|
| | | % within State | 8.9% | 91.1% | 100.0% |
| | | % within Provision | 17.5% | 41.6% | 37.1% |
| | Punjab | Count | 16 | 108 | 124 |
| | | % within State | 12.9% | 87.1% | 100.0% |
| | | % within Provision | 28.1% | 44.1% | 41.1% |
| Total | | Count | 57 | 245 | 302 |
| | | % of Total | 18.9% | 81.1% | 100.0% |

Table 6.22 depicts the cross tabulation between the state of the inmate and the frequency of provision of legal aid to the juvenile. It was found that a majority (54.4 percent) of the inmates who received legal aid were from Delhi, while 17.5 percent and 28.1 percent were from Haryana and Punjab respectively. Of those who did not received such legal aid, 44.1 percent (highest) were from Punjab, 41.6 percent were from Haryana while only 14.3 percent were from Delhi.

TABLE 6.23 – CROSS TABULATION OF “LEVEL OF EDUCATION” AND “NATURE OF OFFENCE”

| Cross Tabulation | | | Nature of Offence | | | Total |
|--------------------|------------|---------------------------|-------------------|---------|---------|---------------|
| | | | Petty | Serious | Heinous | |
| Level of Education | Illiterate | Count | 17 | 10 | 32 | 59 |
| | | % within Education | 28.8% | 16.9% | 54.2% | 100.0% |
| | | % within Offence | 44.7% | 47.6% | 13.2% | 19.5% |
| | Primary | Count | 15 | 2 | 50 | 67 |
| | | % within Education | 22.4% | 3.0% | 74.6% | 100.0% |
| | | % within Offence | 39.5% | 9.5% | 20.6% | 22.2% |
| | Middle | Count | 6 | 1 | 76 | 83 |

| | | | | | | |
|-------------------|-------------------------|---------------------------|-------------|--------------|---------------|---------------|
| | | % within Education | 7.2% | 1.2% | 91.6% | 100.0% |
| | | % within Offence | 15.8% | 4.8% | 31.3% | 27.5% |
| | Secondary | Count | 0 | 5 | 61 | 66 |
| | | % within Education | 0.0% | 7.6% | 92.4% | 100.0% |
| | | % within Offence | 0.0% | 23.8% | 25.1% | 21.9% |
| | Senior Secondary | Count | 0 | 3 | 19 | 22 |
| | | % within Education | 0.0% | 13.6% | 86.4% | 100.0% |
| | | % within Offence | 0.0% | 14.3% | 7.8% | 7.3% |
| | Graduate | Count | 0 | 0 | 5 | 5 |
| | | % within Education | 0.0% | 0.0% | 100.0% | 100.0% |
| | | % within Offence | 0.0% | 0.0% | 2.1% | 1.7% |
| | Total | Count | 38 | 21 | 243 | 302 |
| % of Total | | 12.6% | 7.0% | 80.5% | 100.0% | |

Table 6.23 cross tabulates the level of education of the juveniles and the nature of offence committed by them. It was observed that 91.6 percent of those educated till middle school, 92.4 of those who had completed their matriculation, 86.4 percent of those who had completed their schooling and all graduates had been charged under sections covered by the definition of heinous offences. Of those who had been charged with serious and petty offences, 47.6 percent and 44.7 percent respectively were illiterate.

TABLE 6.24 – CROSS TABULATION OF “LEVEL OF EDUCATION” AND “RECIDIVISM”

| Cross Tabulation | | Count | Recidivist | | Total |
|---------------------------|-------------------|---------------------------|-------------------|-----------|---------------|
| | | | Yes | No | |
| Level of Education | Illiterate | Count | 7 | 52 | 59 |
| | | % within Education | 11.9% | 88.1% | 100.0% |

| | | | | | |
|--------------|-----------------------------|----------------------------|--------------|--------------|---------------|
| | | % within Recidivist | 21.2% | 19.3% | 19.5% |
| | Primary | Count | 8 | 59 | 67 |
| | | % within Education | 11.9% | 88.1% | 100.0% |
| | | % within Recidivist | 24.2% | 21.9% | 22.2% |
| | Middle | Count | 11 | 72 | 83 |
| | | % within Education | 13.3% | 86.7% | 100.0% |
| | | % within Recidivist | 33.3% | 26.8% | 27.5% |
| | Secondary | Count | 4 | 62 | 66 |
| | | % within Education | 6.1% | 93.9% | 100.0% |
| | | % within Recidivist | 12.1% | 23.0% | 21.9% |
| | Senior Secondary | Count | 3 | 19 | 22 |
| | | % within Education | 13.6% | 86.4% | 100.0% |
| | | % within Recidivist | 9.1% | 7.1% | 7.3% |
| | Graduate | Count | 0 | 5 | 5 |
| | | % within Education | 0.0% | 100.0% | 100.0% |
| | | % within Recidivist | 0.0% | 1.9% | 1.7% |
| Total | | Count | 33 | 269 | 302 |
| | | % of Total | 10.9% | 89.1% | 100.0% |

Table 6.24 represents the cross tabulation between the level of education and recidivists amongst the juveniles. It was observed that 33.3 percent (highest) of all recidivists had been educated only up to middle school while none of the graduates were recidivists. 21.2 percent of all recidivists were illiterate and 24.2 percent had been educated only till primary level.

TABLE 6.25 – CROSS TABULATION OF “LEVEL OF EDUCATION” AND “AUTHORITY BEFORE WHICH CLAIM OF MINORITY WAS MADE”

| Cross Tabulation | | | Authority Before Which | | Total |
|--------------------|------------------|--------------------|-----------------------------|-------|--------|
| | | | Claim For Minority Was Made | | |
| | | | Police | Judge | |
| Level of Education | Illiterate | Count | 48 | 11 | 59 |
| | | % within Education | 81.4% | 18.6% | 100.0% |
| | | % within Authority | 21.1% | 14.9% | 19.5% |
| | Primary | Count | 53 | 14 | 67 |
| | | % within Education | 79.1% | 20.9% | 100.0% |
| | | % within Authority | 23.2% | 18.9% | 22.2% |
| | Middle | Count | 63 | 20 | 83 |
| | | % within Education | 75.9% | 24.1% | 100.0% |
| | | % within Authority | 27.6% | 27.0% | 27.5% |
| | Secondary | Count | 50 | 16 | 66 |
| | | % within Education | 75.8% | 24.2% | 100.0% |
| | | % within Authority | 21.9% | 21.6% | 21.9% |
| | Senior Secondary | Count | 13 | 9 | 22 |
| | | % within Education | 59.1% | 40.9% | 100.0% |
| | | % within Authority | 5.7% | 12.2% | 7.3% |
| | Graduate | Count | 1 | 4 | 5 |
| | | % within Education | 20.0% | 80.0% | 100.0% |
| | | % within Authority | 0.4% | 5.4% | 1.7% |
| Total | | Count | 228 | 74 | 302 |
| | | % of Total | 75.5% | 24.5% | 100.0% |

Table 6.25 cross tabulates the level of education of the juveniles with the authority before which they made their claim for juvenility. It was found that 81.1 percent of illiterates made their claims before the police while 80 percent of all graduates made their claims before a judge. There is an observable direct relationship between the level of education and the claims made before a judge i.e. the higher the level of education, the higher the percentage of claims made before the judge within the level of education. 20.9 percent of all educated till primary, 24.1 percent of those educated till middle school, 24.2 percent of those educated till 10th standard and 40.9 percent of those educated till senior secondary chose to make their claims of minority before the court instead of the police.

TABLE 6.26 – CROSS TABULATION OF “LEVEL OF EDUCATION” AND “CONFINEMENT TO POLICE/JUDICIAL CUSTODY”

| Cross Tabulation | | | Confinement in Judicial/Police Custody | | Total |
|-----------------------|------------|-------------------------|---|-------|--------|
| | | | Yes | No | |
| Level of Education | Illiterate | Count | 41 | 18 | 59 |
| | | % within Education | 69.5% | 30.5% | 100.0% |
| | | % within Confinement | 20.5% | 17.6% | 19.5% |
| | Primary | Count | 46 | 21 | 67 |
| | | % within Education | 68.7% | 31.3% | 100.0% |
| | | % within Confinement | 23.0% | 20.6% | 22.2% |
| | Middle | Count | 55 | 28 | 83 |
| | | % within Education | 66.3% | 33.7% | 100.0% |
| | | % within Confinement | 27.5% | 27.5% | 27.5% |

| | | | | | |
|--------------|-------------------------|-----------------------------|--------------|---------------|---------------|
| | Secondary | Count | 34 | 32 | 66 |
| | | % within Education | 51.5% | 48.5% | 100.0% |
| | | % within Confinement | 17.0% | 31.4% | 21.9% |
| | Senior Secondary | Count | 19 | 3 | 22 |
| | | % within Education | 86.4% | 13.6% | 100.0% |
| | | % within Confinement | 9.5% | 2.9% | 7.3% |
| | Graduate | Count | 5 | 0 | 5 |
| | | % within Education | 100.0% | 0.0% | 100.0% |
| | | % within Confinement | 2.5% | 0.0% | 1.7% |
| Total | Count | 200 | 102 | 302 | |
| | % of Total | 66.2% | 33.8% | 100.0% | |

Table 6.26 cross tabulates the level of education of the juveniles with the frequency of their confinement to police/judicial custody. It was found that of those who were confined to judicial custody; 20.5 percent were illiterate, 23 percent were educate till primary, 27.5 percent were educated till middle school, 17.5 percent had completed their matriculation, 9.5 percent had completed their schooling and 2.5 percent were graduates. Of those who were not sent to police/judicial custody, 31.4 percent had been educated till secondary level, 27.5 percent till middle school and only 20.6 percent were illiterate.

TABLE 6.27 – CROSS TABULATION OF “LEVEL OF EDUCATION” AND ‘BEHAVIOUR OF POLICE OFFICIALS”

| Cross Tabulation | Behaviour of Police Officials | | | Total |
|-------------------------|--------------------------------------|----------------|--------------------|--------------|
| | Supportive | Hostile | Indifferent | |
| | | | | |

| | | | | | | |
|---------------------------|-------------------------|---------------------------|-----------|------------|-----------|---------------|
| Level of Education | Illiterate | Count | 9 | 32 | 18 | 59 |
| | | % within Education | 15.3% | 54.2% | 30.5% | 100.0% |
| | | % within Behaviour | 15.3% | 20.0% | 21.7% | 19.5% |
| | Primary | Count | 10 | 43 | 14 | 67 |
| | | % within Education | 14.9% | 64.2% | 20.9% | 100.0% |
| | | % within Behaviour | 16.9% | 26.9% | 16.9% | 22.2% |
| | Middle | Count | 19 | 44 | 20 | 83 |
| | | % within Education | 22.9% | 53.0% | 24.1% | 100.0% |
| | | % within Behaviour | 32.2% | 27.5% | 24.1% | 27.5% |
| | Secondary | Count | 16 | 29 | 21 | 66 |
| | | % within Education | 24.2% | 43.9% | 31.8% | 100.0% |
| | | % within Behaviour | 27.1% | 18.1% | 25.3% | 21.9% |
| | Senior Secondary | Count | 5 | 8 | 9 | 22 |
| | | % within Education | 22.7% | 36.4% | 40.9% | 100.0% |
| | | % within Behaviour | 8.5% | 5.0% | 10.8% | 7.3% |
| | Graduate | Count | 0 | 4 | 1 | 5 |
| | | % within Education | 0.0% | 80.0% | 20.0% | 100.0% |
| | | % within Behaviour | 0.0% | 2.5% | 1.2% | 1.7% |
| Total | | Count | 59 | 160 | 83 | 302 |

| | | | | | |
|--|-------------------|--------------|--------------|--------------|---------------|
| | % of Total | 19.5% | 53.0% | 27.5% | 100.0% |
|--|-------------------|--------------|--------------|--------------|---------------|

Table 6.27 shows the cross tabulation of the level of education of the juveniles and the behaviour of the police towards them. Of those who faced hostile behaviour i.e. torture and abuse at the hands of the police, 20 percent were illiterate, 26.9 percent were educated till primary and 27.5 percent had been educated till middle school. Of those to whom the police had been supportive, 27.1 percent had been educated till secondary, 32.2 percent had been educated till middle school while 15.3 percent were illiterate. 54.2 percent of all illiterates, 64.2 percent of all educated till primary, 53 percent of those educated till middle school and 47.3 percent of those educated till secondary reported to have faced hostile treatment at the hands of the police.

TABLE 6.28 – CROSS TABULATION OF “ABILITY TO SOCIALIZE” AND “NATURE OF OFFENCE”

| Cross Tabulation | | | Nature of Offence | | | Total |
|-----------------------------|------------|-----------------------------|--------------------------|----------------|----------------|---------------|
| | | | Petty | Serious | Heinous | |
| Ability to Socialize | Yes | Count | 23 | 8 | 134 | 165 |
| | | % within Sociability | 13.9% | 4.8% | 81.2% | 100.0% |
| | | % within Offence | 60.5% | 38.1% | 55.1% | 54.6% |
| | No | Count | 15 | 13 | 109 | 137 |
| | | % within Sociability | 10.9% | 9.5% | 79.6% | 100.0% |
| | | % within Offence | 39.5% | 61.9% | 44.9% | 45.4% |
| Total | | Count | 38 | 21 | 243 | 302 |
| | | % of Total | 12.6% | 7.0% | 80.5% | 100.0% |

Table 6.28 illustrates the ability of the juveniles to socialize and the nature of offence committed by them. It was found that 60.5 percent of all those charged with commission of petty offences were sociable while heinous offences formed 81.2 percent of the offences the

sociable juveniles were charged with. 61.5 percent of all serious offences and 44.9 percent of all heinous offences were committed by juveniles who weren't sociable.

TABLE 6.29 – CROSS TABULATION OF “ABILITY TO SOCIALIZER” AND “RECIDIVISM”

| Cross Tabulation | | | Recidivist | | Total |
|----------------------|-----|----------------------|------------|-------|--------|
| | | | Yes | No | |
| Ability to Socialize | Yes | Count | 17 | 148 | 165 |
| | | % within Sociability | 10.3% | 89.7% | 100.0% |
| | | % within Recidivist | 51.5% | 55.0% | 54.6% |
| | No | Count | 16 | 121 | 137 |
| | | % within Sociability | 11.7% | 88.3% | 100.0% |
| | | % within Recidivist | 48.5% | 45.0% | 45.4% |
| Total | | Count | 33 | 269 | 302 |
| | | % of Total | 10.9% | 89.1% | 100.0% |

Table 6.29 cross tabulates the ability of the juveniles to socialize and the recidivism amongst them. It was found that 51.5 percent (slight majority) of all recidivists answered that they did not have any difficulty in making friends while 48.5 percent answered that they weren't as sociable. 55 percent of all non-recidivists were found to be sociable while 45 percent were not.

TABLE 6.30 – CROSS TABULATION OF “OCCUPATION OF PROVIDER” AND “BEHAVIOUR OF POLICE OFFICIALS”

| Cross Tabulation | | | Behaviour of Police Officials | | | Total |
|------------------------|---------------------|---------------------|-------------------------------|---------|-------------|--------|
| | | | Supportive | Hostile | Indifferent | |
| Occupation of Provider | Daily Wage Labourer | Count | 17 | 46 | 27 | 90 |
| | | % within Occupation | 18.9% | 51.1% | 30.0% | 100.0% |

| | | | | | | |
|--|-------------------------|----------------------------|--------------|--------------|--------------|---------------|
| | | % within Behaviour | 28.8% | 28.8% | 32.5% | 29.8% |
| | Skilled Labourer | Count | 26 | 77 | 38 | 141 |
| | | % within Occupation | 18.4% | 54.6% | 27.0% | 100.0% |
| | | % within Behaviour | 44.1% | 48.1% | 45.8% | 46.7% |
| | Business | Count | 8 | 13 | 9 | 30 |
| | | % within Occupation | 26.7% | 43.3% | 30.0% | 100.0% |
| | | % within Behaviour | 13.6% | 8.1% | 10.8% | 9.9% |
| | Salaried Worker | Count | 1 | 11 | 7 | 19 |
| | | % within Occupation | 5.3% | 57.9% | 36.8% | 100.0% |
| | | % within Behaviour | 1.7% | 6.9% | 8.4% | 6.3% |
| | Not Specified | Count | 7 | 13 | 2 | 22 |
| | | % within Occupation | 31.8% | 59.1% | 9.1% | 100.0% |
| | | % within Behaviour | 11.9% | 8.1% | 2.4% | 7.3% |
| | Total | Count | 59 | 160 | 83 | 302 |
| | | % of Total | 19.5% | 53.0% | 27.5% | 100.0% |

Table 6.30 illustrates the cross tabulation between the occupation of the provider for the juvenile and the behaviour of the police officials towards the juvenile. Within those who

reported hostile treatment at the hands of the police the providers of 28.8 percent were working as daily wage labourers and 48.1 percent were skilled labourers (majority). Amongst all occupations of the providers, a hostile treatment at the hands of the police was the dominant behaviour ranging from 43.3 percent to 59.1 percent.

TABLE 6.31 – CROSS TABULATION OF “OCCUPATION OF PROVIDER” AND “PROVISION OF LEGAL AID”

| Cross Tabulation | | | Provision of Legal Aid | | Total |
|------------------------|---------------------|---------------------|------------------------|------------|------------|
| | | | Yes | No | |
| Occupation of Provider | Daily Wage Labourer | Count | 23 | 67 | 90 |
| | | % within Occupation | 25.6% | 74.4% | 100.0% |
| | | % within Legal Aid | 40.4% | 27.3% | 29.8% |
| | Skilled Labourer | Count | 17 | 124 | 141 |
| | | % within Occupation | 12.1% | 87.9% | 100.0% |
| | | % within Legal Aid | 29.8% | 50.6% | 46.7% |
| | Business | Count | 4 | 26 | 30 |
| | | % within Occupation | 13.3% | 86.7% | 100.0% |
| | | % within Legal Aid | 7.0% | 10.6% | 9.9% |
| | Salaried Worker | Count | 2 | 17 | 19 |
| | | % within Occupation | 10.5% | 89.5% | 100.0% |
| | | % within Legal Aid | 3.5% | 6.9% | 6.3% |
| | Not Specified | Count | 11 | 11 | 22 |
| | | % within Occupation | 50.0% | 50.0% | 100.0% |
| | | % within Legal Aid | 19.3% | 4.5% | 7.3% |
| Total | | Count | 57 | 245 | 302 |

| | | | | |
|--|-------------------|--------------|--------------|---------------|
| | % of Total | 18.9% | 81.1% | 100.0% |
|--|-------------------|--------------|--------------|---------------|

Table 6.31 cross tabulates the occupation of the provision and the provision of legal aid to the juveniles. It was observed that in 74.4 percent of the cases where the provider for the juvenile was a daily wage labourer, no legal aid was provided to the juvenile while 40.4 percent of all those who received such legal aid were dependent upon members who were daily wage labourers. 29.8 percent of all who received legal aid were dependent upon providers whose primary occupation was a skilled labourer while such juveniles formed the majority (50.6 percent) of those who didn't receive legal aid.

TABLE 6.32 – CROSS TABULATION OF ‘PRE-OCCUPATION PRIOR TO INSTITUTIONALIZATION’ AND ‘PROVISION OF LEGAL AID’

| Cross Tabulation | | | Provision of Legal Aid | | Total |
|---|-----------------|--------------------------------|-------------------------------|------------|---------------|
| | | | Yes | No | |
| Pre-occupation Prior to Institutionalization | Studying | Count | 20 | 111 | 131 |
| | | % within Pre-occupation | 15.3% | 84.7% | 100.0% |
| | | % within Legal Aid | 35.1% | 45.3% | 43.4% |
| | Employed | Count | 15 | 63 | 78 |
| | | % within Pre-occupation | 19.2% | 80.8% | 100.0% |
| | | % within Legal Aid | 26.3% | 25.7% | 25.8% |
| | Neither | Count | 22 | 71 | 93 |
| | | % within Pre-occupation | 23.7% | 76.3% | 100.0% |
| | | % within Legal Aid | 38.6% | 29.0% | 30.8% |
| Total | | Count | 57 | 245 | 302 |

| | | | | |
|--|-------------------|--------------|--------------|---------------|
| | % of Total | 18.9% | 81.1% | 100.0% |
|--|-------------------|--------------|--------------|---------------|

Table 6.32 illustrates the cross tabulation of the pre occupation of the juvenile prior to institutionalization and the provision of legal aid. It was found that 84.7 percent of all juveniles who were studying, 80.8 percent of those employed and 76.3 percent of those who were neither studying nor employed received no legal aid. Of those who received such legal aid, 38.6 percent were neither employed nor studying, 26.3 percent were employed for the purpose of remuneration and 35.1 percent of the juveniles were studying.

TABLE 6.33 – CROSS TABULATION OF “NATURE OF OFFENCE” AND “ADDICTION TO INTOXICANTS”

| Cross Tabulation | | | Addiction to Intoxicants | | | | | Total |
|--------------------------|----------------|-----------------------------|---------------------------------|----------------|---------------------|------------------|-------------|---------------|
| | | | Tobacco | Alcohol | Cannabinoids | Narcotics | None | |
| Nature of Offence | Petty | Count | 3 | 2 | 1 | 6 | 26 | 38 |
| | | % within Offence | 7.9% | 5.3% | 2.6% | 15.8% | 68.4% | 100.0% |
| | | % within Intoxicants | 13.6% | 8.3% | 14.3% | 26.1% | 11.5% | 12.6% |
| | Serious | Count | 3 | 1 | 2 | 3 | 12 | 21 |
| | | % within Offence | 14.3% | 4.8% | 9.5% | 14.3% | 57.1% | 100.0% |
| | | % within Intoxicants | 13.6% | 4.2% | 28.6% | 13.0% | 5.3% | 7.0% |
| | Heinous | Count | 16 | 21 | 4 | 14 | 188 | 243 |
| | | % within Offence | 6.6% | 8.6% | 1.6% | 5.8% | 77.4% | 100.0% |

| | | | | | | | | |
|--------------|--|-----------------------------|-------------|-------------|-------------|-------------|--------------|---------------|
| | | % within Intoxicants | 72.7% | 87.5% | 57.1% | 60.9% | 83.2% | 80.5% |
| Total | | Count | 22 | 24 | 7 | 23 | 226 | 302 |
| | | % of Total | 7.3% | 7.9% | 2.3% | 7.6% | 74.8% | 100.0% |

Table 6.33 depicts the cross tabulation between the nature of offences committed by the juveniles and their addiction to intoxicating substances. It was observed that 72.7 percent of those addicted to tobacco had been charged with heinous offences, while 87.5 percent of those addicted to alcohol, 57.1 percent of those addicted to cannabinoids and 60.9 percent of those addicted to narcotics had been charged for the same category of offences. Of those addicted to narcotics, 26.1 percent had been charged with petty offence and 28.6 percent of those addicted to cannabinoids had been charged with serious offences.

TABLE 6.34 – CROSS TABULATION OF “PRESENCE OF FAMILY MEMBERS DURING PROCEEDINGS” AND “AGE OF THE INMATE”

| Cross Tabulation | | | Age | | | | Total |
|--|------------|--------------------------|--------------|--------------|--------------|----------------|---------------|
| | | | 11-13 | 14-15 | 16-17 | 18 > | |
| Presence of Family Members During Proceedings | Yes | Count | 10 | 56 | 134 | 82 | 282 |
| | | % within Presence | 3.5% | 19.9% | 47.5% | 29.1% | 100.0% |
| | | % within Age | 100.0% | 93.3% | 93.7% | 92.1% | 93.4% |
| | No | Count | 0 | 4 | 9 | 7 | 20 |
| | | % within Presence | 0.0% | 20.0% | 45.0% | 35.0% | 100.0% |
| | | % within Age | 0.0% | 6.7% | 6.3% | 7.9% | 6.6% |
| Total | | Count | 10 | 60 | 143 | 89 | 302 |
| | | % of Total | 3.3% | 19.9% | 47.4% | 29.5% | 100.0% |

Table 6.34 cross tabulates the incidence of presence of family members during proceedings and the age of the inmates. It was found that in all cases where the juvenile was between 11-

13, parents of the juvenile were present at the proceedings. In cases where the parents of the juvenile were not present, 20 percent were aged 14-15, 45 percent were aged 16-17 while 35 percent were aged 18 and above.

TABLE 6.35- CROSS TABULATION OF “PRESENCE OF FAMILY MEMBERS DURING PROCEEDINGS” AND “STATE”

| Cross Tabulation | | | State | | | Total |
|---|-----|-------------------|--------------|--------------|--------------|---------------|
| | | | New Delhi | Haryana | Punjab | |
| Presence of Family Members During Proceedings | Yes | Count | 63 | 104 | 115 | 282 |
| | | % within Presence | 22.3% | 36.9% | 40.8% | 100.0% |
| | | % within State | 95.5% | 92.9% | 92.7% | 93.4% |
| | No | Count | 3 | 8 | 9 | 20 |
| | | % within Presence | 15.0% | 40.0% | 45.0% | 100.0% |
| | | % within State | 4.5% | 7.1% | 7.3% | 6.6% |
| Total | | Count | 66 | 112 | 124 | 302 |
| | | % of Total | 21.9% | 37.1% | 41.1% | 100.0% |

Table 6.35 cross tabulates the incidence of the presence of family members during proceedings with the state. It was found that that 15 percent of the cases where the family members were not present were in the state of Delhi while 40 percent were from Haryana and 45 percent were from Punjab. The family members of the juvenile were not present for the proceedings in only 4.5 percent of the cases in Delhi while the figure from Haryana and Punjab stands at 7.1 percent and 7.3 percent respectively.

TABLE 6.36 – CROSS TABULATION OF THE “PRESENCE OF FAMILY MEMBERS DURING PROCEEDINGS” AND “PRE-OCCUPATION PRIOR TO INSTITUTIONALIZATION”

| Cross Tabulation | | | Pre-occupation Prior to Institutionalization | | | Total |
|---|-----|-------------------------|--|----------|---------|--------|
| | | | Studying | Employed | Neither | |
| Presence of Family Members During Proceedings | Yes | Count | 125 | 68 | 89 | 282 |
| | | % within Presence | 44.3% | 24.1% | 31.6% | 100.0% |
| | | % within Pre-occupation | 95.4% | 87.2% | 95.7% | 93.4% |
| | No | Count | 6 | 10 | 4 | 20 |
| | | % within Presence | 30.0% | 50.0% | 20.0% | 100.0% |
| | | % within Pre-occupation | 4.6% | 12.8% | 4.3% | 6.6% |
| Total | | Count | 131 | 78 | 93 | 302 |
| | | % of Total | 43.4% | 25.8% | 30.8% | 100.0% |

Table 6.36 illustrates the cross tabulation between the incidence of presence of family members during the proceedings and the pre occupation of the juveniles prior to their institutionalization. It was observed that in 30 percent of the cases where the family of the juvenile was not present, the juvenile was studying, in 50 percent of the cases the juvenile was employed while in 20 percent of the cases the juvenile was neither studying nor employed. In 12.8 percent of all cases where the juvenile was employed, the family of the accused was not present for the proceedings.

TABLE 6.37 – CROSS TABULATION OF “PRESENCE OF FAMILY MEMBERS” AND “CONFINEMENT TO POLICE/JUDICIAL CUSTODY”

| Cross Tabulation | | Confinement in Judicial/Police Custody | | Total |
|------------------|--|--|----|-------|
| | | Yes | No | |

| | | | | | |
|--|-------------------|-----------------------------|--------------|---------------|---------------|
| Presence of Family Members During Proceedings | Yes | Count | 185 | 97 | 282 |
| | | % within Presence | 65.6% | 34.4% | 100.0% |
| | | % within Confinement | 92.5% | 95.1% | 93.4% |
| | No | Count | 15 | 5 | 20 |
| | | % within Presence of | 75.0% | 25.0% | 100.0% |
| | | % within Confinement | 7.5% | 4.9% | 6.6% |
| Total | Count | 200 | 102 | 302 | |
| | % of Total | 66.2% | 33.8% | 100.0% | |

Table 6.37 illustrates the cross tabulation between the presence of family members of the juvenile during proceedings and the incidences of the confinement of the juveniles to judicial/police custody. It was found that the juveniles were sent to police/judicial custody 65.6 percent of the times where the family was present during the proceedings whereas the juveniles were sent to custody 75 percent of the times when the family members were not present.

TABLE 6.38 – CROSS TABULATION OF “PRESENCE OF FAMILY MEMBERS DURING PROCEEDINGS” AND “NATURE OF OFFENCE”

| Cross Tabulation | | Nature of Offence | | | Total | |
|--|------------|--------------------------|----------------|----------------|--------------|---------------|
| | | Petty | Serious | Heinous | | |
| Presence of Family Members During Proceedings | Yes | Count | 32 | 18 | 232 | 282 |
| | | % within Presence | 11.3% | 6.4% | 82.3% | 100.0% |
| | | % within Offence | 84.2% | 85.7% | 95.5% | 93.4% |
| | No | Count | 6 | 3 | 11 | 20 |
| | | % within Presence | 30.0% | 15.0% | 55.0% | 100.0% |

| | | | | | | |
|--------------|--|-------------------------|--------------|-------------|--------------|---------------|
| | | % within Offence | 15.8% | 14.3% | 4.5% | 6.6% |
| Total | | Count | 38 | 21 | 243 | 302 |
| | | % of Total | 12.6% | 7.0% | 80.5% | 100.0% |

Table 6.38 depict the cross tabulation of the presence of family members during proceedings and the nature of offence the juveniles were charged with. It was observed that in 95.5 percent of the cases where the juvenile was charged with heinous offences, the family of the juvenile was present whereas in all cases where the family of the juvenile was not present, 55 percent had been charged with heinous offences.

TABLE 6.39 – CROSS TABULATION OF “STATE” AND “APPROACH BY POLICE OFFICIALS IN UNIFORM”

| Cross Tabulation | | | Approached By Policemen in Uniform | | Total |
|-------------------------|-------------------|-------------------------|---|---------------|---------------|
| | | | Yes | No | |
| State | New Delhi | Count | 58 | 8 | 66 |
| | | % within State | 87.9% | 12.1% | 100.0% |
| | | % within Uniform | 21.7% | 22.9% | 21.9% |
| | Haryana | Count | 96 | 16 | 112 |
| | | % within State | 85.7% | 14.3% | 100.0% |
| | | % within Uniform | 36.0% | 45.7% | 37.1% |
| | Punjab | Count | 113 | 11 | 124 |
| | | % within State | 91.1% | 8.9% | 100.0% |
| | | % within Uniform | 42.3% | 31.4% | 41.1% |
| Total | Count | 267 | 35 | 302 | |
| | % of Total | 88.4% | 11.6% | 100.0% | |

Table 6.39 illustrates the cross tabulation of the state of the juveniles and whether they were approached by policemen in uniform. It was found that 87.9 percent of juveniles from Delhi, 85.7 percent juveniles from Haryana and 91.1 percent juveniles from Punjab had been approached by policemen in their uniforms. Of those juveniles who weren't approached by policemen in uniforms, 22.9 percent were from Delhi, 45.7 percent from Haryana and 31.4 percent from Punjab.

TABLE 6.40 – CROSS TABULATION OF “STATE” AND “USE OF STIGMATIZING TERMS”

| Cross Tabulation | | | Use of Stigmatizing Terms | Total |
|------------------|-----------|-----------------------------|---------------------------|---------------|
| | | | During Proceedings | |
| | | | Yes | |
| State | New Delhi | Count | 66 | 66 |
| | | % within State | 100.0% | 100.0% |
| | | % within Stigmatizing Terms | 21.9% | 21.9% |
| | Haryana | Count | 112 | 112 |
| | | % within State | 100.0% | 100.0% |
| | | % within Stigmatizing Terms | 37.1% | 37.1% |
| | Punjab | Count | 124 | 124 |
| | | % within State | 100.0% | 100.0% |
| | | % within Stigmatizing Terms | 41.1% | 41.1% |
| Total | | Count | 302 | 302 |
| | | % of Total | 100.0% | 100.0% |

Table 6.40 cross tabulates the states of the juveniles with the incidences of use of accusatory terms or stigmatizing semantics during the proceedings. It was observed that in all instances

from Delhi, Haryana and Punjab, accusatory/ stigmatizing terms such as arrest, warrant, accused, charge-sheet, remand, trial and prosecution etc. were used in the course of the proceedings.

TABLE 6.41 – CROSS TABULATION OF “NATURE OF OFFENCE” AND “USE OF STIGMATIZING TERMS”

| Cross Tabulation | | | Use of Stigmatizing Terms During Proceedings | Total | |
|--------------------------|----------------|--|---|---------------|---------------|
| | | | Yes | | |
| Nature of Offence | Petty | Count | 38 | 38 | |
| | | % within Nature of Offence | 100.0% | 100.0% | |
| | | % within Use of Stigmatizing Terms During Proceedings | 12.6% | 12.6% | |
| | | % of Total | 12.6% | 12.6% | |
| | Serious | Count | 21 | 21 | |
| | | % within Offence | 100.0% | 100.0% | |
| | | % within Use of Stigmatizing Terms | 7.0% | 7.0% | |
| | Heinous | Count | 243 | 243 | |
| | | % within Offence | 100.0% | 100.0% | |
| | | % within Stigmatizing Terms | 80.5% | 80.5% | |
| | Total | | Count | 302 | 302 |
| | | | % of Total | 100.0% | 100.0% |

Table 6.41 illustrates the cross tabulation between the nature of offence the juvenile was charged with and the use of Accusatory/stigmatizing terms during proceedings. It was found that in all instances, irrespective of the whether the offence committed by the juvenile was petty, serious or heinous, accusatory terms/stigmatizing terms such as arrest, warrant, accused, charge-sheet, remand, trial and prosecution etc. were used in the course of the proceedings.

CHAPTER VII – JUVENILE: INSIDE THE HOME

Rehabilitation being one of the stated aims along with the proper care, protection and treatment of juveniles by catering to their development needs, it becomes imperative to examine whether the establishments created under the act and for such purpose have been successful in achieving the same. In this chapter, the researchers based their queries upon the model rules which lay down the standards for care and protection to be accorded to the juveniles and judge the observation homes and special homes by this yardstick. The findings of the researchers have been tabulated below:

TABLE 7.1 – TYPE OF HOME

| Type of Home | Frequency | Percent |
|------------------|------------|--------------|
| Special Home | 73 | 24.2 |
| Observation Home | 229 | 75.8 |
| Total | 302 | 100.0 |

Table 7.1 illustrates the type of homes in which the interviews were conducted. It was found that 75.8 percent of the interviewees were lodged in Observation Homes while 24.2 percent of the juveniles interviewed were from Special Homes. In all 229 interviews were conducted in Observation Homes and 73 interviews were conducted in Special Homes.

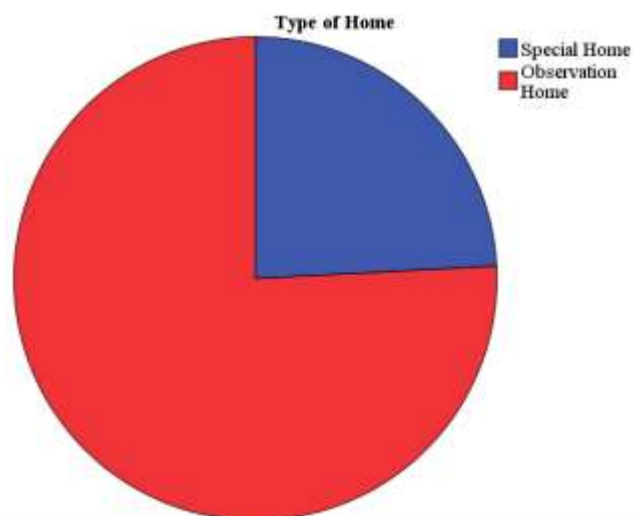


FIGURE C.1 – TYPE OF HOME

TABLE 7.2 – LIKABILITY OF ENVIRONMENT IN HOME

| Environment | Frequency | Percent |
|--------------------|------------------|----------------|
| Like | 206 | 68.2 |
| Dislike | 96 | 31.8 |
| Total | 302 | 100.0 |

Table 7.2 depicts the prima facie likability of the environment in the home where the children were lodged. 31.8 percent of the children answered straightaway that they disliked the overall environment of the home, while 68.2 percent of the juveniles replied that they liked, prima facie, the environment inside the home.

TABLE 7.3 – SEGREGATION OF RESIDENTIAL FACILITIES ON THE BASIS OF AGE

| Segregation | Frequency | Percent |
|-----------------------|------------------|----------------|
| No Segregation | 302 | 100.0 |

Table 7.3 depicts the frequency of segregation of residential facilities of the children on the basis of age. It was observed that in no observation home or special home was there any segregation of children on the basis of the age i.e. all children aged 11-18 and above were housed together without any consideration of the age differences.

TABLE 7.4 – REQUIREMENT OF BETTER INFRASTRUCTURE

| Requirement | Frequency | Percent |
|--------------------|------------------|----------------|
| Yes | 290 | 96.0 |
| No | 12 | 4.0 |
| Total | 302 | 100.0 |

Table 7.4 illustrates the requirement of better infrastructure inside the home. It was observed that 96.0 percent of the inmates answered that there was a need for better infrastructure. Only 4 percent of the inmates replied in a straightforward manner that there was no such need.

TABLE 7.5 – QUALITY OF PEST/INSECT CONTROL

| Quality | Frequency | Percent |
|---------------|------------|--------------|
| Poor | 13 | 4.3 |
| Below Average | 177 | 58.6 |
| Average | 106 | 35.1 |
| Good | 6 | 2.0 |
| Total | 302 | 100.0 |

Table 7.5 shows the quality of pest/insect control inside the home and has represented in figure C.2. It was found that 4.3 percent of the inmates replied that the quality was poor while a majority of the inmates (58.6 percent) answered that the quality was at best – below average. 35.1 percent of the inmates felt that the quality of pest control was average while 2.0 percent answered that the quality was good.

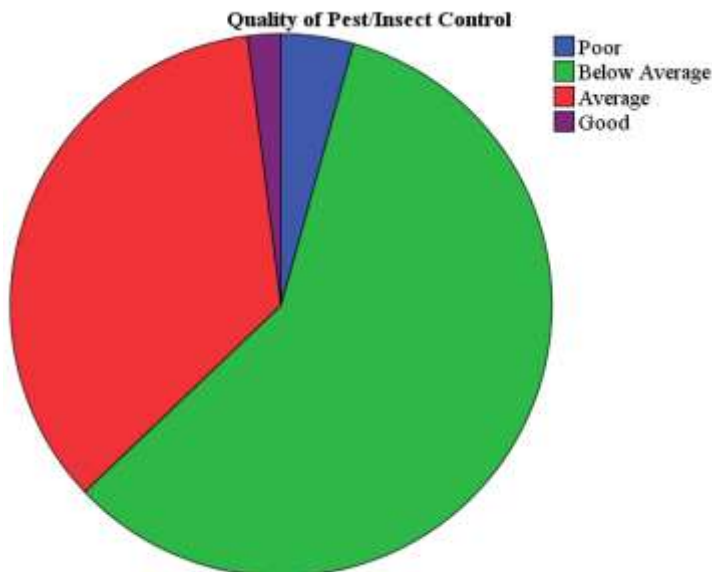


FIGURE C.2 – QUALITY OF PEST/INSECT CONTROL

TABLE 7.6 – QUALITY OF CLOTHING/BEDDING

| Quality | Frequency | Percent |
|---------------|------------|--------------|
| Poor | 4 | 1.3 |
| Below Average | 53 | 17.5 |
| Average | 242 | 80.1 |
| Good | 3 | 1.0 |
| Total | 302 | 100.0 |

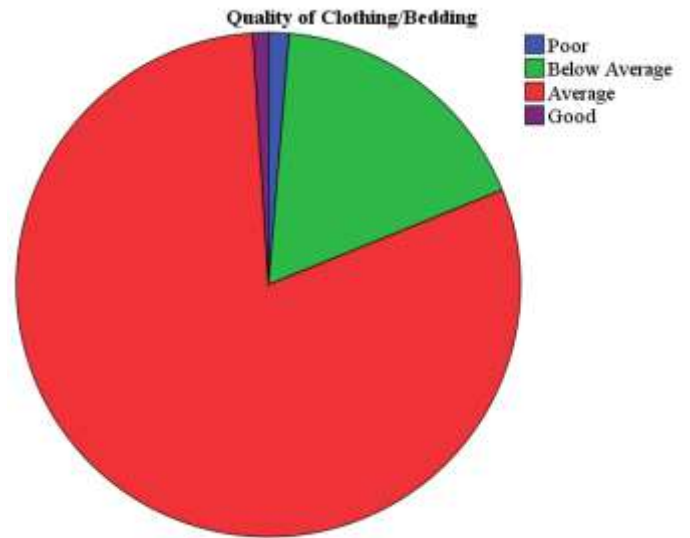


FIGURE C.3 – QUALITY OF CLOTHING/BEDDING

Table 7.6 illustrates the quality of the clothing/bedding provided the juveniles. A large majority (80.1 percent) of the juveniles answered that the quality of the clothing and bedding so provided was average. 17.5 percent of the juveniles replied that the quality was below average, 1.3 percent reported the quality to be poor and only 1 percent stated that the quality was good. Represented in Figure C.3.

TABLE 7.7 – QUALITY OF WATER

| Quality | Frequency | Percent |
|---------------|------------|--------------|
| Poor | 2 | .7 |
| Below Average | 52 | 17.2 |
| Average | 239 | 79.1 |
| Good | 9 | 3.0 |
| Total | 302 | 100.0 |

Table 7.7 illustrates the quality of the water provided to the juveniles for drinking and sanitary purposes. It was observed that the majority of the inmates (79.1 percent) responded that the quality of water was average. 17.2 percent of the respondents stated that the quality of water was below average. 0.7 percent stated that such quality was poor while 3 percent stated that the quality of water provided to them was good. The graph has also been represented in Figure C.4.

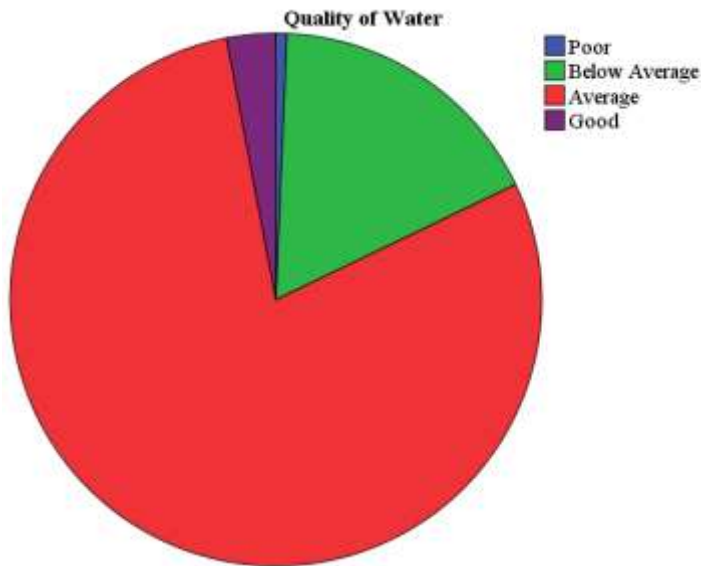


FIGURE C.4 – QUALITY OF WATER

TABLE 7.8 – QUALITY AND SUFFICIENCY OF BATHROOMS

| Quality | Frequency | Percent |
|---------------|------------|--------------|
| Average | 113 | 37.4 |
| Below Average | 154 | 51.0 |
| Poor | 29 | 9.6 |
| Good | 6 | 2.0 |
| Total | 302 | 100.0 |

Table 7.8 illustrates the quality of bathrooms and their sufficiency in proportion to the number of inmates. It was observed that the 51 percent (highest) of the interviewees stated that the quality of bathroom and their sufficiency was below average. 37.4 percent felt that the quality of bathroom was average, 9.6 percent felt that the quality was poor while 2.0 percent responded that the quality was good.

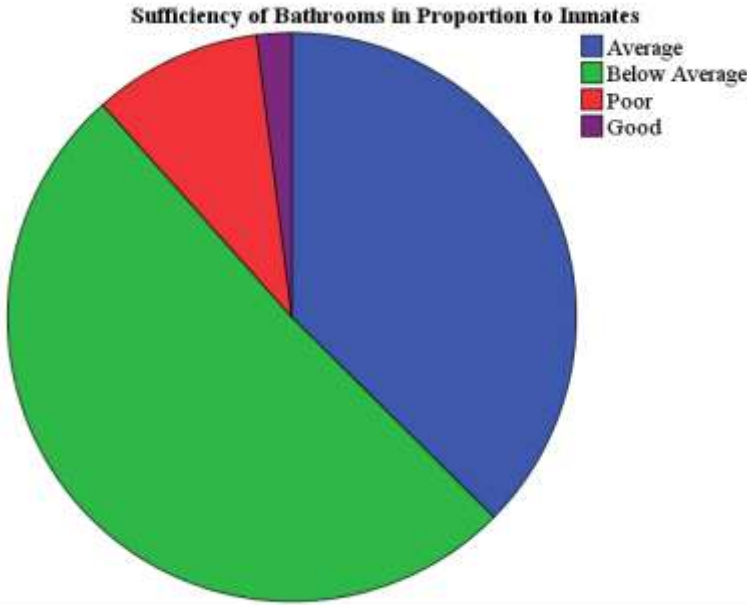


FIGURE C.5 – QUALITY AND SUFFICIENCY OF BATHROOMS

TABLE 7.9 – QUALITY OF KITCHEN (HYGIENE)

| Quality | Frequency | Percent |
|---------------|------------|--------------|
| Below Average | 7 | 2.3 |
| Average | 206 | 68.2 |
| Good | 89 | 29.5 |
| Total | 302 | 100.0 |

Table 7.9 illustrates the quality of kitchen in terms of hygiene. It was observed that 68.2 percent (highest) of the juveniles answered that the quality of the kitchen cleanliness was average while 29.5 percent stated that the quality was good. 2.3 percent responded that the quality was below average, while none of the respondents said that hygiene in the kitchens was poor.



FIGURE C.6 – QUALITY OF KITCHEN (HYGIENE)

TABLE 7.10 – QUALITY OF KITCHEN (MEALS)

| Quality | Frequency | Percent |
|---------------|------------|--------------|
| Poor | 32 | 10.6 |
| Below Average | 115 | 38.1 |
| Average | 142 | 47.0 |
| Good | 13 | 4.3 |
| Total | 302 | 100.0 |

Table 7.10 illustrates the quality of kitchen in terms of meals. When asked to rate the quality of meals, 47.0 percent (highest) responded that the quality of food was average. A sizable segment (38.1 percent) stated that the quality was below average while 10.7 percent replied that the quality of the food was poor and deplorable. Only 4.3 percent (lowest) stated that the quality of food was good.

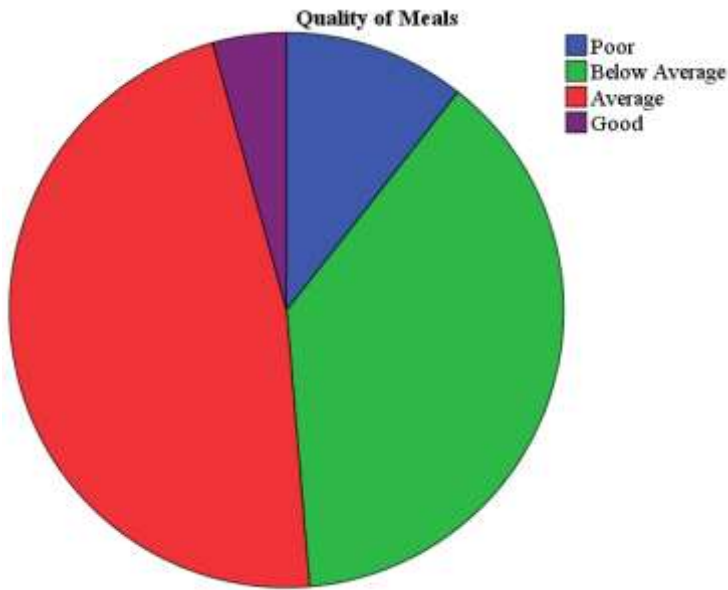


FIGURE C.7 – QUALITY OF KITCHEN (MEALS)

TABLE 7.11 – NUMBER OF MEALS

| Number of Meals | Frequency | Percent |
|-----------------|-----------|---------|
| | | |

| | | |
|----------|-----|-------|
| 3 | 302 | 100.0 |
|----------|-----|-------|

Table 7.11 depicts the number of meals that the inmates were provided with. It was found that in all observation homes and special homes, three meals per day per inmate were provided.

TABLE 7.12 – ROUTINE

| Routine | Frequency | Percent |
|----------------|------------------|----------------|
| Yes | 302 | 100.0 |

Table 7.12 illustrates the requirement for the inmates to follow a routine. It was found that all inmates had to follow a routine, however where the inmates did not attend vocational training or formal education, the routine tended to revolve around the timing of the meals.

TABLE 7.13 – EXISTENCE OF AND/OR AWARENESS ABOUT CHILDREN’S COMMITTEE

| Children’s Committee | Frequency | Percent |
|-----------------------------|------------------|----------------|
| Yes | 74 | 24.5 |
| No | 98 | 32.5 |
| No Committee Present | 130 | 43.0 |
| Total | 302 | 100.0 |

Table 7.13 depicts the awareness of the juvenile’s with regards to a children’s committee. It was found that only 24.5 percent of the respondents were aware about a children’s committee their home while 32.5 percent were unaware of any such committee. In a majority of the cases (43 percent) there was no children’s committee in the home (depicted in red - figure C.8)

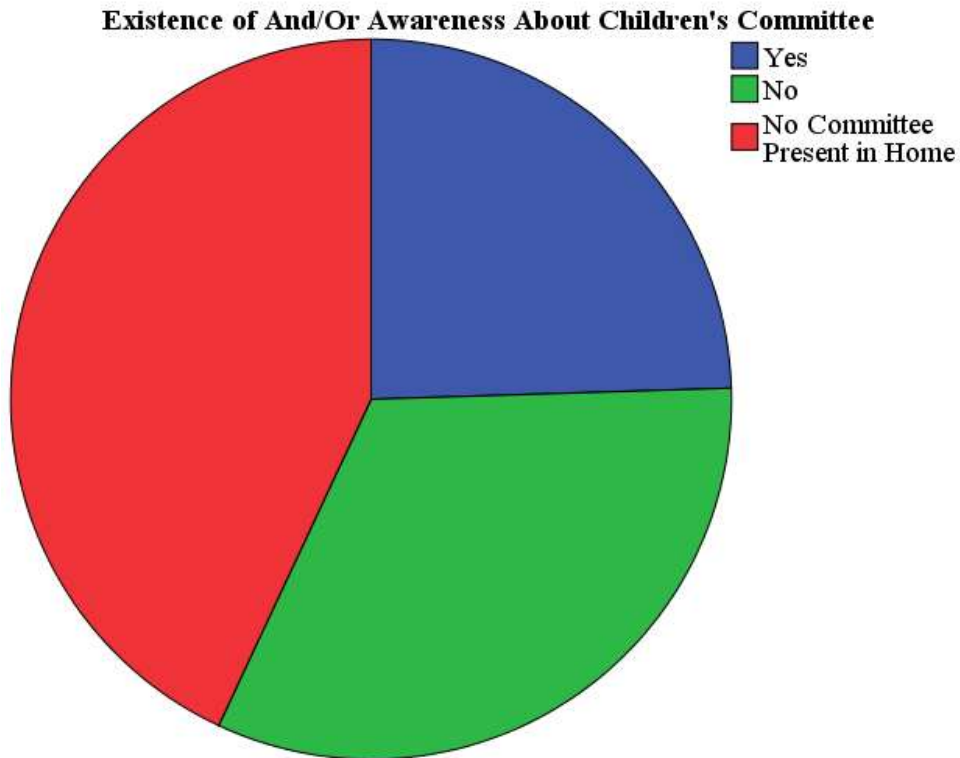


FIGURE C.8 – EXISTENCE OF AND/OR AWARENESS OF CHILDREN’S COMMITTEE

TABLE 7.14 – EXTENSION OF COOPERATION FROM STAFF TO CHILDREN’S COMMITTEE

| Cooperation | | Frequency | Percent | Valid Percentage |
|-----------------------------------|--------------|-----------|---------|------------------|
| Aware | Yes | 26 | 8.6 | 35.1 |
| | No | 48 | 15.9 | 64.9 |
| | Total | 74 | 24.5 | 100.0 |
| Not Aware/Committee Absent | Total | 228 | 75.5 | |
| Total | | 302 | 100.0 | |

Table 7.14 takes into account only those respondents who were aware of a Children’s Committee and illustrates whether the committee receives any cooperation from the staff of the

home. It was observed that 64.9 percent of such respondents replied that the children's committee received no cooperation from the staff while only 35.1 percent stated that the committee received cooperation of the staff.

TABLE 7.15 – MONTHLY MEDICAL CHECK-UP

| Medical Check-up | Frequency | Percent |
|-------------------------|------------------|----------------|
| Yes | 26 | 8.6 |
| No | 276 | 91.4 |
| Total | 302 | 100.0 |

Table 7.15 depicts the frequency of medical check-ups of the inmates on monthly basis. 91.4 percent of the juveniles stated that no medical check-ups of the inmates were conducted on a monthly basis. Only 8.6 percent put on record that such monthly check-ups were conducted.

TABLE 7.16 – AVAILABILITY OF FIRST AID KITS

| First Aid Kits | Frequency | Percent |
|-----------------------|------------------|----------------|
| Yes | 302 | 100.0 |

Table 7.16 illustrates the frequency of availability of first aid kits within the home. All respondents stated that first aid kits were available in the home for immediate treatment of minor wounds and ailments.

TABLE 7.17 – AVAILABILITY OF RECREATIONAL FACILITIES

| Recreation | Frequency | Percent |
|-------------------|------------------|----------------|
| Yes | 302 | 100.0 |

Table 7.17 depicts the frequency of the availability of recreational facilities such as sports grounds, television or books. It was found that recreational facilities in one form or the other were present in every observation and special home.

TABLE 7.18 – GRANT OF LEAVE/PAROLE

| Leave/Parole | Frequency | Percent |
|---------------------|------------------|----------------|
| Yes | 5 | 1.7 |
| No | 297 | 98.3 |
| Total | 302 | 100.0 |

Table 7.18 depicts the frequency of grant of leave/parole to the juveniles. It was found that in a majority of the cases (98.3 percent), irrespective of their nature of offence, no leave/parole was granted to the juveniles. In only 1.7 percent of the cases had the juveniles been let out on leave/parole.

TABLE 7.19 – AVAILABILITY OF SUGGESTION BOX

| Suggestion Box | Frequency | Percent |
|-----------------------|------------------|----------------|
| Unaware | 302 | 100.0 |

Table 7.19 depicts the availability of a suggestion box within the home whereby the children could give infrastructure, recreation, vocation or education related suggestions to the authorities. It was observed that none of the respondents were aware of the existence of any such box within the premises of the homes.

TABLE 7.20 – PERMISSION TO MEET FAMILY/PARENTS

| Permission | Frequency | Percent |
|-------------------|------------------|----------------|
| Yes | 302 | 100 |

Table 7.20 illustrates the frequency of permission to the family or parents to meet the juveniles. It was found that all interviewees were allowed to meet their family/parents of designated days as per the rules of the juvenile homes.

TABLE 7.21 – QUALITY AND QUANTITY OF STAFF

| Quality and Quantity | Frequency | Percent |
|-----------------------------|------------------|----------------|
| Poor | 39 | 12.9 |
| Below Average | 101 | 33.4 |
| Average | 133 | 44.0 |
| Good | 29 | 9.6 |
| Total | 302 | 100.0 |

Table 7.21 analyses the quality and quantity of the staff as per the responses of the interviewees. It was found that 44.0 percent (highest) of the juveniles found that the quality and quantity of the staff within the home to average. 33.4 percent stated that the quality and quantity of the staff was below average while 12.9 percent replied that it was poor. 9.6 percent (lowest) of the respondents stated that the quality was good.

TABLE 7.22 – PRESENCE OF HOUSE FATHER/ HOUSE MOTHER

| House Father/House Mother | Frequency | Percent |
|----------------------------------|------------------|----------------|
| Yes | 172 | 57.0 |
| No | 130 | 43.0 |
| Total | 302 | 100.0 |

Table 7.22 tabulates the presence of house father/house mother within the home where the juveniles were lodged. It was found that in 57 percent of the cases a house mother or house father were present while in 43 percent of the cases the position of house father and house mother was vacant.

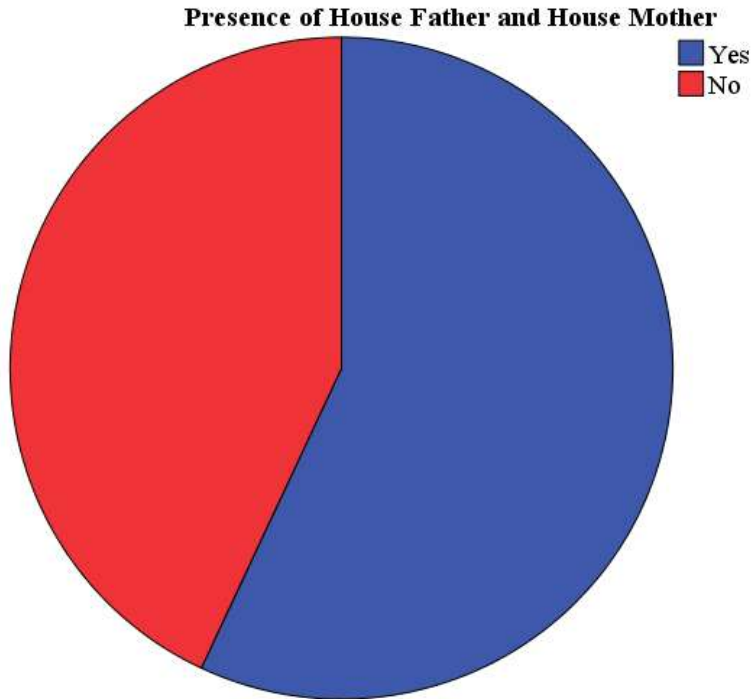


FIGURE C. 9 – PRESENCE OF HOUSE MOTHER/HOUSE FATHER

TABLE 7.23 – CROSS TABULATION OF “AGE OF INMATE” AND “TYPE OF HOME”

| Cross Tabulation | | | Type of Home | | Total |
|------------------|-------|-----------------------|--------------|------------------|---------------|
| | | | Special Home | Observation Home | |
| Age | 11-13 | Count | 0 | 10 | 10 |
| | | % within Age | 0.0% | 100.0% | 100.0% |
| | | % within Type of Home | 0.0% | 4.4% | 3.3% |
| | 14-15 | Count | 1 | 59 | 60 |
| | | % within Age | 1.7% | 98.3% | 100.0% |
| | | % within Type of Home | 1.4% | 25.8% | 19.9% |
| | 16-17 | Count | 22 | 121 | 143 |

| | | | | | |
|--------------|----------------|------------------------------|--------------|--------------|---------------|
| | | % within Age | 15.4% | 84.6% | 100.0% |
| | | % within Type of Home | 30.1% | 52.8% | 47.4% |
| | 18 > | Count | 50 | 39 | 89 |
| | | % within Age | 56.2% | 43.8% | 100.0% |
| | | % within Type of Home | 68.5% | 17.0% | 29.5% |
| Total | | Count | 73 | 229 | 302 |
| | | % of Total | 24.2% | 75.8% | 100.0% |

Table 7.23 cross tabulates the age of the inmates with the type of home they were lodged in. It was observed that all children between the age of 11-13 were housed in observation homes irrespective of the nature of offence. 52.8 percent of those housed in observation homes were between 16-17 years in age. 56.2 percent of all those 18 and above were housed in special homes. Those aged 18 and above formed only 17.0 percent of those housed in observation home.

TABLE 7.24 - CROSS TABULATION OF “NATURE OF OFFENCE” AND “TYPE OF HOME”

| Cross Tabulation | | Type of Home | | Total | |
|--------------------------|----------------|-------------------------|-------------------------|--------------|---------------|
| | | Special Home | Observation Home | | |
| Nature of Offence | Petty | Count | 1 | 37 | 38 |
| | | % within Offence | 2.6% | 97.4% | 100.0% |
| | | % within Home | 1.4% | 16.2% | 12.6% |
| | Serious | Count | 5 | 16 | 21 |
| | | % within Offence | 23.8% | 76.2% | 100.0% |
| | | % within Home | 6.8% | 7.0% | 7.0% |

| | | | | | |
|--------------|----------------|-------------------------|--------------|--------------|---------------|
| | Heinous | Count | 67 | 176 | 243 |
| | | % within Offence | 27.6% | 72.4% | 100.0% |
| | | % within Home | 91.8% | 76.9% | 80.5% |
| Total | | Count | 73 | 229 | 302 |
| | | % of Total | 24.2% | 75.8% | 100.0% |

Table 7.24 illustrates the cross tabulation between the nature of offence committed by the juveniles and the type of home they were housed in. It was observed that 72.4 percent of those charged with heinous offences were lodged in observation homes. While 91.8 percent of those housed within the special home had been charged with heinous offences. Of those housed within observation homes, 76.9 percent had been charged with heinous offences.

TABLE 7.25 – CROSS TABULATION OF “STATE” AND “TYPE OF HOME”

| Cross Tabulation | | | Type of Home | | Total |
|-------------------------|------------------|------------------------------|---------------------|-------------------------|---------------|
| | | | Special Home | Observation Home | |
| State | New Delhi | Count | 16 | 50 | 66 |
| | | % within State | 24.2% | 75.8% | 100.0% |
| | | % within Type of Home | 21.9% | 21.8% | 21.9% |
| | Haryana | Count | 31 | 81 | 112 |
| | | % within State | 27.7% | 72.3% | 100.0% |
| | | % within Type of Home | 42.5% | 35.4% | 37.1% |
| | Punjab | Count | 26 | 98 | 124 |
| | | % within State | 21.0% | 79.0% | 100.0% |

| | | | | | |
|--------------|--|------------------------------|--------------|--------------|---------------|
| | | % within Type of Home | 35.6% | 42.8% | 41.1% |
| Total | | Count | 73 | 229 | 302 |
| | | % of Total | 24.2% | 75.8% | 100.0% |

Table 7.25 illustrates the cross tabulation between the state and the type of home the juvenile was sent to. It was observed that of those juveniles interviewed from Delhi 24.2 percent were kept in Special Homes while 75.8 percent were from observation homes. Of all juveniles from Haryana, 27.7 percent were from Special Homes while 72.3 percent were from Observation Homes. From Punjab, 21 percent were from Special Homes while 79 percent were from Observation Homes.

TABLE 7.26 – CROSS TABULATION OF “STATE” AND “LIKABILITY OF ENVIRONMENT INSIDE HOME”

| Cross Tabulation | | | Likability | | Total |
|-------------------------|-------------------|----------------------------|-------------------|----------------|---------------|
| | | | Like | Dislike | |
| State | New Delhi | Count | 48 | 18 | 66 |
| | | % within State | 72.7% | 27.3% | 100.0% |
| | | % within Likability | 23.3% | 18.8% | 21.9% |
| | Haryana | Count | 69 | 43 | 112 |
| | | % within State | 61.6% | 38.4% | 100.0% |
| | | % within Likability | 33.5% | 44.8% | 37.1% |
| | Punjab | Count | 89 | 35 | 124 |
| | | % within State | 71.8% | 28.2% | 100.0% |
| | | % within Likability | 43.2% | 36.5% | 41.1% |
| Total | Count | 206 | 96 | 302 | |
| | % of Total | 68.2% | 31.8% | 100.0% | |

Table 7.26 cross tabulates the state of the juveniles and the prima facie likability of the environment inside the home. It was observed that 72.7 percent of the juveniles from Delhi, 61.6 percent of juveniles from Haryana and 71.8 percent of the juveniles from Punjab liked the prima facie environment of the home. Of those who disliked the environment of the juvenile home, 44.8 percent were from Haryana, 36.5 percent from Punjab and 18.8 percent from Delhi.

TABLE 7.27 – CROSS TABULATION OF “STATE” AND “SEGREGATION OF RESIDENTIAL FACILITIES OF THE BASIS OF AGE”

| Cross Tabulation | | | Segregation of Residential Facilities on the Basis of Age | Total |
|-------------------------|------------------|-----------------------------|--|---------------|
| | | | No Segregation | |
| State | New Delhi | Count | 66 | 66 |
| | | % within State | 100.0% | 100.0% |
| | | % within Segregation | 21.9% | 21.9% |
| | Haryana | Count | 112 | 112 |
| | | % within State | 100.0% | 100.0% |
| | | % within Segregation | 37.1% | 37.1% |
| | Punjab | Count | 124 | 124 |
| | | % within State | 100.0% | 100.0% |
| | | % within Segregation | 41.1% | 41.1% |
| Total | | Count | 302 | 302 |
| | | % of Total | 100.0% | 100.0% |

Table 7.27 illustrates the cross tabulation of the state and the segregation of residential facilities on the basis of age inside the home. It was found that neither in Delhi nor in Punjab or Haryana was any segregation made in residential facilities on the basis of the age of the juveniles.

TABLE 7.28 – CROSS TABULATION OF “STATE” AND “REQUIREMENT OF BETTER INFRASTRUCTURE”

| Cross Tabulation | | | Requirement of Better Infrastructure | | Total |
|------------------|-----------|----------------------|--------------------------------------|-------|--------|
| | | | Yes | No | |
| State | New Delhi | Count | 57 | 9 | 66 |
| | | % within State | 86.4% | 13.6% | 100.0% |
| | | % within Requirement | 19.7% | 75.0% | 21.9% |
| | Haryana | Count | 110 | 2 | 112 |
| | | % within State | 98.2% | 1.8% | 100.0% |
| | | % within Requirement | 37.9% | 16.7% | 37.1% |
| | Punjab | Count | 123 | 1 | 124 |
| | | % within State | 99.2% | 0.8% | 100.0% |
| | | % within Requirement | 42.4% | 8.3% | 41.1% |
| Total | | Count | 290 | 12 | 302 |
| | | % of Total | 96.0% | 4.0% | 100.0% |

Table 7.28 cross tabulates the states where the juveniles were interviewed with the requirement of better infrastructure inside the home as perceived by the juveniles. It was observed that 86.2 percent of the juveniles from Delhi, 98.2 percent of the juveniles from Haryana and 99.2 percent of the juveniles from Punjab felt that there was a requirement of better infrastructure within their respective homes.

TABLE 7.29 – CROSS TABULATION OF “STATE” AND “QUALITY OF PEST/INSECT CONTROL WITHIN HOME”

| Cross Tabulation | Pest/Insect Control within home | Total |
|------------------|---------------------------------|-------|
|------------------|---------------------------------|-------|

| | | | Poor | Below Average | Average | Good | | |
|-------|-----------|------------------------------|------------|---------------|---------|-------|--------|--------|
| State | New Delhi | Count | 7 | 47 | 11 | 1 | 66 | |
| | | % within State | 10.6% | 71.2% | 16.7% | 1.5% | 100.0% | |
| | | % within Pest/Insect Control | 53.8% | 26.6% | 10.4% | 16.7% | 21.9% | |
| | Haryana | Count | 3 | 61 | 48 | 0 | 112 | |
| | | % within State | 2.7% | 54.5% | 42.9% | 0.0% | 100.0% | |
| | | % within Pest/Insect Control | 23.1% | 34.5% | 45.3% | 0.0% | 37.1% | |
| | Punjab | Count | 3 | 69 | 47 | 5 | 124 | |
| | | % within State | 2.4% | 55.6% | 37.9% | 4.0% | 100.0% | |
| | | % within Pest/Insect Control | 23.1% | 39.0% | 44.3% | 83.3% | 41.1% | |
| | Total | | Count | 13 | 177 | 106 | 6 | 302 |
| | | | % of Total | 4.3% | 58.6% | 35.1% | 2.0% | 100.0% |

Table 7.29 illustrates the cross tabulation of the state of the inmate's home and the quality of pest/insect control inside the home. It was found that 53.8 percent of the juveniles from Delhi reported that the state of pest/insect control inside the home was poor. 45.3 percent and 44.3 percent of the juveniles in Haryana and Punjab reported the quality of pest/insect control inside home to be average respectively. 34.5 percent and 39 percent of juveniles from Haryana and Punjab respectively stated that the quality of pest/insect control inside the home was below average.

TABLE 7.30 – CROSS TABULATION OF “STATE” AND “QUALITY OF BEDDING/CLOTHING”

| Cross Tabulation | Quality of Clothing/Bedding | Total |
|------------------|-----------------------------|-------|
|------------------|-----------------------------|-------|

| | | | Poor | Below Average | Average | Good | |
|-------|-----------|------------------|-------|---------------|---------|--------|--------|
| State | New Delhi | Count | 2 | 23 | 41 | 0 | 66 |
| | | % within State | 3.0% | 34.8% | 62.1% | 0.0% | 100.0% |
| | | % within Quality | 50.0% | 43.4% | 16.9% | 0.0% | 21.9% |
| | Haryana | Count | 2 | 14 | 96 | 0 | 112 |
| | | % within State | 1.8% | 12.5% | 85.7% | 0.0% | 100.0% |
| | | % within Quality | 50.0% | 26.4% | 39.7% | 0.0% | 37.1% |
| | Punjab | Count | 0 | 16 | 105 | 3 | 124 |
| | | % within State | 0.0% | 12.9% | 84.7% | 2.4% | 100.0% |
| | | % within Quality | 0.0% | 30.2% | 43.4% | 100.0% | 41.1% |
| Total | | Count | 4 | 53 | 242 | 3 | 302 |
| | | % of Total | 1.3% | 17.5% | 80.1% | 1.0% | 100.0% |

Table 7.30 illustrates the cross tabulation of state and quality of clothing/bedding provided in the home. It was observed that 62.1 percent juveniles from Delhi, 85.7 percent juveniles from Haryana and 84.7 percent juveniles from Punjab reported the quality of clothing/bedding provided them to be average. 43.4 percent of Juveniles from Delhi, 26.4 percent of juveniles from Haryana and 30.2 percent juveniles from Punjab stated that the clothing/bedding provided to them by the authorities was below average in quality.

TABLE 7.31 – CROSS TABULATION OF “STATE” AND “QUALITY OF WATER FOR DRINKING AND SANITATION”

| Cross Tabulation | Quality of Water for Drinking and Sanitation | | | | Total |
|------------------|--|---------------|---------|------|-------|
| | Poor | Below Average | Average | Good | |
| | | | | | |

| | | | | | | | |
|-------|------------|------------------|--------------|--------------|-------------|---------------|---------------|
| State | New Delhi | Count | 0 | 26 | 37 | 3 | 66 |
| | | % within State | 0.0% | 39.4% | 56.1% | 4.5% | 100.0% |
| | | % within Quality | 0.0% | 50.0% | 15.5% | 33.3% | 21.9% |
| | Haryana | Count | 2 | 22 | 88 | 0 | 112 |
| | | % within State | 1.8% | 19.6% | 78.6% | 0.0% | 100.0% |
| | | % within Quality | 100.0% | 42.3% | 36.8% | 0.0% | 37.1% |
| | Punjab | Count | 0 | 4 | 114 | 6 | 124 |
| | | % within State | 0.0% | 3.2% | 91.9% | 4.8% | 100.0% |
| | | % within Quality | 0.0% | 7.7% | 47.7% | 66.7% | 41.1% |
| Total | Count | 2 | 52 | 239 | 9 | 302 | |
| | % of Total | 0.7% | 17.2% | 79.1% | 3.0% | 100.0% | |

Table 7.31 shows the cross tabulation of the state and the quality of water for the purpose of drinking and sanitation inside the home. It was observed that 56.1 percent of juvenile from Delhi, 78.6 percent juveniles from Haryana and 91.9 percent juveniles from Punjab reported that the quality of water inside the home was average. Of those who reported that the quality of water was below average, 50 percent were from Delhi while 42.3 percent were from Haryana.

TABLE 7.32 – CROSS TABULATION OF “STATE” AND “QUALITY AND QUANTITY OF BATHROOMS”

| Cross Tabulation | | Quality and Quantity of Bathrooms | | | | Total | |
|------------------|-----------|-----------------------------------|---------------|-------|------|-------|---------------|
| | | Average | Below Average | Poor | Good | | |
| State | New Delhi | Count | 22 | 40 | 4 | 0 | 66 |
| | | % within State | 33.3% | 60.6% | 6.1% | 0.0% | 100.0% |

| | | | | | | | |
|--------------|----------------|-------------------------|--------------|--------------|-------------|-------------|---------------|
| | | % within Quality | 19.5% | 26.0% | 13.8% | 0.0% | 21.9% |
| | Haryana | Count | 32 | 55 | 25 | 0 | 112 |
| | | % within State | 28.6% | 49.1% | 22.3% | 0.0% | 100.0% |
| | | % within Quality | 28.3% | 35.7% | 86.2% | 0.0% | 37.1% |
| | Punjab | Count | 59 | 59 | 0 | 6 | 124 |
| | | % within State | 47.6% | 47.6% | 0.0% | 4.8% | 100.0% |
| | | % Quality | 52.2% | 38.3% | 0.0% | 100.0% | 41.1% |
| Total | | Count | 113 | 154 | 29 | 6 | 302 |
| | | % of Total | 37.4% | 51.0% | 9.6% | 2.0% | 100.0% |

Table 7.32 cross tabulates the state with the quality and the quantity of the bathrooms provided within the home. It was observed that 60.6 percent of the juveniles from Delhi, 49.1 percent of the juveniles from Haryana and 47.6 percent of the juveniles from Punjab reported that the quality and quantity of bathrooms was below average. 22.3 percent of the juveniles from Haryana stated that the quality and quantity of bathroom was poor while 47.6 percent of juveniles from Punjab reported the quality to be average. Only 4.8 percent of the juveniles reported that the quality and quantity of bathrooms was good while none from Delhi or Haryana reported so.

TABLE 7.33 – CROSS TABULATION OF “STATE” AND “QUALITY OF KITCHENS (HYGIENE)”

| Cross Tabulation | | Quality of Kitchen - Cleanliness | | | Total | |
|-------------------------|------------------|---|----------------|-------------|--------------|---------------|
| | | Below Average | Average | Good | | |
| State | New Delhi | Count | 2 | 45 | 19 | 66 |
| | | % within State | 3.0% | 68.2% | 28.8% | 100.0% |
| | | % within Quality | 28.6% | 21.8% | 21.3% | 21.9% |
| | Haryana | Count | 5 | 85 | 22 | 112 |

| | | | | | | |
|--------------|---------------|-------------------------|-------------|--------------|--------------|---------------|
| | | % within State | 4.5% | 75.9% | 19.6% | 100.0% |
| | | % within Quality | 71.4% | 41.3% | 24.7% | 37.1% |
| | Punjab | Count | 0 | 76 | 48 | 124 |
| | | % within State | 0.0% | 61.3% | 38.7% | 100.0% |
| | | % within Quality | 0.0% | 36.9% | 53.9% | 41.1% |
| Total | | Count | 7 | 206 | 89 | 302 |
| | | % of Total | 2.3% | 68.2% | 29.5% | 100.0% |

Table 7.33 illustrates the cross tabulation of the state and the quality of kitchens in terms of hygiene. It was found that 68.2 percent of juveniles from Delhi, 75.9 percent juveniles from Haryana and 61.3 percent of the juveniles reported that quality of cleanliness inside the kitchens was average. 28.8 percent of juveniles from Delhi, 19.6 percent of juveniles from Haryana and 38.7 percent of juvenile from Punjab stated that the quality of hygiene inside the kitchens was good.

TABLE 7.34 – CROSS TABULATION OF “STATE” AND “QUALITY OF KITCHEN (MEALS)”

| Cross Tabulation | | Quality of Kitchen (Meals) | | | | Total | |
|-------------------------|------------------|-----------------------------------|----------------------|----------------|-------------|--------------|---------------|
| | | Poor | Below Average | Average | Good | | |
| State | New Delhi | Count | 5 | 35 | 24 | 2 | 66 |
| | | % within State | 7.6% | 53.0% | 36.4% | 3.0% | 100.0% |
| | | % within Quality | 15.6% | 30.4% | 16.9% | 15.4% | 21.9% |
| | Haryana | Count | 24 | 55 | 33 | 0 | 112 |
| | | % within State | 21.4% | 49.1% | 29.5% | 0.0% | 100.0% |
| | | % within Quality | 75.0% | 47.8% | 23.2% | 0.0% | 37.1% |
| | Punjab | Count | 3 | 25 | 85 | 11 | 124 |

| | | | | | | | |
|--------------|--|-------------------------|--------------|--------------|--------------|-------------|---------------|
| | | % within State | 2.4% | 20.2% | 68.5% | 8.9% | 100.0% |
| | | % within Quality | 9.4% | 21.7% | 59.9% | 84.6% | 41.1% |
| Total | | Count | 32 | 115 | 142 | 13 | 302 |
| | | % of Total | 10.6% | 38.1% | 47.0% | 4.3% | 100.0% |

Table 7.34 cross tabulates the state and the quality of kitchen in terms of meals. It was observed that 53 percent of juveniles from Delhi and 49.1 percent of juveniles from Haryana found the quality of meals to be below average. 68.5 percent of the juveniles from Punjab reported the food to be average while 21.5 percent of the juveniles from Haryana stated that the quality of meals provided to them was poor.

TABLE 7.35 – CROSS TABULATION OF “STATE” AND “EXISTENCE OF AND/OR AWARENESS ABOUT CHILDREN’S COMMITTEE”

| Cross Tabulation | | | Awareness About Children's Committee | | | Total |
|-------------------------|------------------|---------------------------|---|-----------|-----------------------------|---------------|
| | | | Yes | No | No Committee Present | |
| State | New Delhi | Count | 29 | 37 | 0 | 66 |
| | | % within State | 43.9% | 56.1% | 0.0% | 100.0% |
| | | % within Awareness | 39.2% | 37.8% | 0.0% | 21.9% |
| | Haryana | Count | 0 | 0 | 112 | 112 |
| | | % within State | 0.0% | 0.0% | 100.0% | 100.0% |
| | | % within Awareness | 0.0% | 0.0% | 86.2% | 37.1% |
| | Punjab | Count | 45 | 61 | 18 | 124 |
| | | % within State | 36.3% | 49.2% | 14.5% | 100.0% |
| | | % within Awareness | 60.8% | 62.2% | 13.8% | 41.1% |

| | | | | | |
|--------------|-------------------|--------------|--------------|--------------|---------------|
| Total | Count | 74 | 98 | 130 | 302 |
| | % of Total | 24.5% | 32.5% | 43.0% | 100.0% |

Table 7.35 illustrates the cross tabulation between the state and the existence of and/or awareness about children’s committee. It was found that only 43.9 percent of the juveniles in Delhi and 36.3 percent of juveniles from Punjab were aware of the existence of the children’s committee. 56.1 percent of the juveniles from Delhi and 49.2 percent of juveniles from Punjab weren’t aware of any children’s committee within their homes. No Observation Home or Special Home in Haryana had any children’s committee.

TABLE 7.36 – CROSS TABULATION OF “STATE” AND “EXTENSION OF COOPERATION FROM STAFF TO CHILDREN’S COMMITTEE”

| Cross Tabulation | | | Extension of Cooperation | | Total |
|-------------------------|------------------|-----------------------------|---------------------------------|--------------|---------------|
| | | | Yes | No | |
| State | New Delhi | Count | 12 | 17 | 29 |
| | | % within State | 41.4% | 58.6% | 100.0% |
| | | % within Cooperation | 46.2% | 35.4% | 39.2% |
| | Punjab | Count | 14 | 31 | 45 |
| | | % within State | 31.1% | 68.9% | 100.0% |
| | | % within Cooperation | 53.8% | 64.6% | 60.8% |
| Total | | Count | 26 | 48 | 74 |
| | | % of Total | 35.1% | 64.9% | 100.0% |

Table 7.36 shows the cross tabulation between the state and the extension of cooperation from the staff to the children’s committee. It was observed that 41.4 percent from of juveniles Delhi who were aware of the existence of the committee reported that the staff extended such cooperation while 58.6 percent stated that the committee received no cooperation. 31.1 percent

of juvenile from Punjab stated that the committee received cooperation of the staff while 68.9 percent believed that the staff extended no cooperation to the committee whatsoever.

TABLE 7.37 – CROSS TABULATION OF “STATE” AND “REQUIREMENT TO FOLLOW ROUTINE”

| Cross Tabulation | | | Requirement to Follow Routine | Total |
|------------------|-----------|----------------------|-------------------------------|---------------|
| | | | Yes | |
| State | New Delhi | Count | 66 | 66 |
| | | % within State | 100.0% | 100.0% |
| | | % within Requirement | 21.9% | 21.9% |
| | Haryana | Count | 112 | 112 |
| | | % within State | 100.0% | 100.0% |
| | | % within Requirement | 37.1% | 37.1% |
| | Punjab | Count | 124 | 124 |
| | | % within State | 100.0% | 100.0% |
| | | % within Requirement | 41.1% | 41.1% |
| Total | | Count | 302 | 302 |
| | | % of Total | 100.0% | 100.0% |

Table 7.37 illustrates the cross tabulation of the state and the requirement to follow a routine within the home. It was observed that in all observation and special homes across Delhi, Haryana and Punjab the children were required to follow a routine. However as reported earlier, for most of the inmates not undergoing vocational training or formal education, the schedule revolved around the daily meals.

TABLE 7.38 – CROSS TABULATION OF “STATE” AND “NUMBER OF MEALS”

| Cross Tabulation | | | Number of Meals Provided | | Total |
|------------------|-----------|----------------|--------------------------|--------|-------|
| | | | 3 | | |
| State | New Delhi | Count | 66 | 66 | |
| | | % within State | 100.0% | 100.0% | |
| | | % within Meals | 21.9% | 21.9% | |
| | Haryana | Count | 112 | 112 | |
| | | % within State | 100.0% | 100.0% | |
| | | % within Meals | 37.1% | 37.1% | |
| | Punjab | Count | 124 | 124 | |
| | | % within State | 100.0% | 100.0% | |
| | | % within Meals | 41.1% | 41.1% | |
| Total | | Count | 302 | 302 | |
| | | % of Total | 100.0% | 100.0% | |

Table 7.38 illustrates the cross tabulation between the state from where the juveniles were interviewed and the number of meals provided to them per day. It was found that in all observation and special homes across the three states, the children were provided with three meals per day and designated times.

TABLE 7.39 – CROSS TABULATION OF “STATE” AND “MONTHLY MEDICAL CHECK-UPS”

| Cross Tabulation | | | Monthly Medical Check Up | | Total |
|------------------|-----------|----------------|--------------------------|-------|--------|
| | | | Yes | No | |
| State | New Delhi | Count | 25 | 41 | 66 |
| | | % within State | 37.9% | 62.1% | 100.0% |

| | | | | | |
|--------------|----------------|-------------------------|-------------|--------------|---------------|
| | | % within Medical | 96.2% | 14.9% | 21.9% |
| | Haryana | Count | 1 | 111 | 112 |
| | | % within State | 0.9% | 99.1% | 100.0% |
| | | % within Medical | 3.8% | 40.2% | 37.1% |
| | Punjab | Count | 0 | 124 | 124 |
| | | % within State | 0.0% | 100.0% | 100.0% |
| | | % within Medical | 0.0% | 44.9% | 41.1% |
| Total | | Count | 26 | 276 | 302 |
| | | % of Total | 8.6% | 91.4% | 100.0% |

Table 7.39 cross tabulates the states with the frequency of monthly medical check-ups as reported by the juveniles. It was found that the rate of monthly medical check-ups was the highest in Delhi with 37.9 percent juveniles reporting that they got monthly medical check-ups, while only 0.9 percent juveniles from Haryana stated the same. No juvenile from Punjab reported getting monthly medical check-ups. In all 91.4 percent juveniles reported that they got no medical check-ups on a monthly basis.

TABLE 7.40 – CROSS TABULATION OF “STATE” AND “AVAILABILITY OF FIRST – AID KITS”

| Cross Tabulation | | | Availability of First Aid Kits | Total |
|-------------------------|------------------|--------------------------------|---|---------------|
| | | | Yes | |
| State | New Delhi | Count | 66 | 66 |
| | | % within State | 100.0% | 100.0% |
| | | % within First Aid Kits | 21.9% | 21.9% |
| | Haryana | Count | 112 | 112 |
| | | % within State | 100.0% | 100.0% |

| | | | | |
|--------------|---------------|-------------------------|---------------|---------------|
| | | % within First Aid Kits | 37.1% | 37.1% |
| | Punjab | Count | 124 | 124 |
| | | % within State | 100.0% | 100.0% |
| | | % within First Aid Kits | 41.1% | 41.1% |
| Total | | Count | 302 | 302 |
| | | % of Total | 100.0% | 100.0% |

Table 7.40 depicts the cross tabulation between the states where the interviews were held and the availability of first aid kits within the home. It was found that in all homes; observation and special, across Delhi, Haryana and Punjab, first aid kits were present inside the homes to tackle any medical emergencies as well as catering to any minor medical needs of the juveniles within the homes.

TABLE 7.41 – CROSS TABULATION OF “STATE” AND “AVAILABILITY OF RECREATIONAL FACILITIES”

| Cross Tabulation | | | Availability of Recreational Facilities | Total |
|-------------------------|------------------|----------------------------------|--|---------------|
| | | | Yes | |
| State | New Delhi | Count | 66 | 66 |
| | | % within State | 100.0% | 100.0% |
| | | % within Recreational Facilities | 21.9% | 21.9% |
| | Haryana | Count | 112 | 112 |
| | | % within State | 100.0% | 100.0% |
| | | % within Recreational Facilities | 37.1% | 37.1% |
| | Punjab | Count | 124 | 124 |

| | | | | |
|--------------|--|---|---------------|---------------|
| | | % within State | 100.0% | 100.0% |
| | | % within Recreational Facilities | 41.1% | 41.1% |
| Total | | Count | 302 | 302 |
| | | % of Total | 100.0% | 100.0% |

Table 7.41 cross tabulates the state with the availability of recreational facilities inside the home. It was observed that all juveniles reported that recreational facilities in one form or the other was present throughout the observation homes and special homes across the three states.

TABLE 7.42 – CROSS TABULATION OF “STATE” AND “GRANT OF LEAVE/PAROLE”

| Cross Tabulation | | | Grant of Leave/Parole | | Total |
|-------------------------|-------------------|------------------------------|------------------------------|---------------|---------------|
| | | | Yes | No | |
| State | New Delhi | Count | 4 | 62 | 66 |
| | | % within State | 6.1% | 93.9% | 100.0% |
| | | % within Leave/Parole | 80.0% | 20.9% | 21.9% |
| | Haryana | Count | 0 | 112 | 112 |
| | | % within State | 0.0% | 100.0% | 100.0% |
| | | % within Leave/Parole | 0.0% | 37.7% | 37.1% |
| | Punjab | Count | 1 | 123 | 124 |
| | | % within State | 0.8% | 99.2% | 100.0% |
| | | % within Leave/Parole | 20.0% | 41.4% | 41.1% |
| Total | Count | 5 | 297 | 302 | |
| | % of Total | 1.7% | 98.3% | 100.0% | |

Table 7.42 shows the cross tabulation between the state and the grant of leave/parole to the juveniles. It was observed that 6.1 percent of the juveniles had been granted leave/parole in Delhi, 0.8 percent in Punjab were granted leave/parole while none of the juveniles from Haryana had been granted any leave or parole. Overall only 1.7 percent of the inmates had been granted leave or parole.

TABLE 7.43 – CROSS TABULATION OF “STATE” AND “AVAILABILITY OF SUGGESTION BOX”

| Cross Tabulation | | | Availability of Suggestion Box | Total | |
|-------------------------|------------------|--------------------------------|---------------------------------------|---------------|---------------|
| | | | Unaware | | |
| State | New Delhi | Count | 66 | 66 | |
| | | % within State | 100.0% | 100.0% | |
| | | % within Suggestion Box | 21.9% | 21.9% | |
| | Haryana | Count | 112 | 112 | |
| | | % within State | 100.0% | 100.0% | |
| | | % within Suggestion Box | 37.1% | 37.1% | |
| | Punjab | Count | 124 | 124 | |
| | | % within State | 100.0% | 100.0% | |
| | | % within Suggestion Box | 41.1% | 41.1% | |
| | Total | | Count | 302 | 302 |
| | | | % of Total | 100.0% | 100.0% |

Table 7.43 cross tabulates the state where the interviews were conducted and the availability of suggestion box within the homes. It was found that in all homes and across all states, the

juveniles were unaware about the existence of any suggestion box within the premises of the home.

TABLE 7.44 – CROSS TABULATION OF “STATE” AND “PERMISSION TO MEET FAMILY”

| Cross Tabulation | | | Permission to Meet Family/Parents | Total |
|------------------|-----------|---------------------|-----------------------------------|---------------|
| | | | Yes | |
| State | New Delhi | Count | 66 | 66 |
| | | % within State | 100.0% | 100.0% |
| | | % within Permission | 21.9% | 21.9% |
| | Haryana | Count | 112 | 112 |
| | | % within State | 100.0% | 100.0% |
| | | % within Permission | 37.1% | 37.1% |
| | Punjab | Count | 124 | 124 |
| | | % within State | 100.0% | 100.0% |
| | | % within Permission | 41.1% | 41.1% |
| | | % of Total | 41.1% | 41.1% |
| | Total | Count | 302 | 302 |
| | | % of Total | 100.0% | 100.0% |

Table 7.44 illustrates the cross tabulation between the state and the permission to meet family/parents. It was observed that juveniles, across all states, reported that they were allowed to meet their family/parents on designated days.

TABLE 7.45 – CROSS TABULATION OF “STATE” AND “QUALITY AND QUANTITY OF STAFF”

| Cross Tabulation | Quality & Quantity of Staff | Total |
|------------------|-----------------------------|-------|
|------------------|-----------------------------|-------|

| | | | Poor | Below Average | Average | Good | |
|-------|-----------|------------------|-------|---------------|---------|-------|--------|
| State | New Delhi | Count | 9 | 34 | 20 | 3 | 66 |
| | | % within State | 13.6% | 51.5% | 30.3% | 4.5% | 100.0% |
| | | % within Quality | 23.1% | 33.7% | 15.0% | 10.3% | 21.9% |
| | Haryana | Count | 23 | 46 | 42 | 1 | 112 |
| | | % within State | 20.5% | 41.1% | 37.5% | 0.9% | 100.0% |
| | | % within Quality | 59.0% | 45.5% | 31.6% | 3.4% | 37.1% |
| | Punjab | Count | 7 | 21 | 71 | 25 | 124 |
| | | % within State | 5.6% | 16.9% | 57.3% | 20.2% | 100.0% |
| | | % within Quality | 17.9% | 20.8% | 53.4% | 86.2% | 41.1% |
| Total | | Count | 39 | 101 | 133 | 29 | 302 |
| | | % of Total | 12.9% | 33.4% | 44.0% | 9.6% | 100.0% |

Table 7.45 illustrates the cross tabulation of state and quality/quantity of staff inside the homes where the interviews were conducted. It was found that 51.5 percent of inmates from Delhi found that quality of staff to be below average while 13.3 percent deemed it poor. 41.1 percent of juvenile from Haryana found the quality of staff to be below average while 20.5 percent reported the quality and quantity to be poor. 57.3 percent of juveniles from Punjab stated that the quality of staff was average at best while 20.2 percent found the quality and quantity to be good.

TABLE 7.46 – CROSS TABULATION OF “STATE” AND “PRESENCE OF HOUSE FATHER/ HOUSE MOTHER”

| Cross Tabulation | Presence of House Father and House Mother | | Total |
|------------------|---|----|-------|
| | Yes | No | |
| | | | |

| | | | | | |
|--------------|-------------------|--------------------------|--------------|---------------|---------------|
| State | New Delhi | Count | 66 | 0 | 66 |
| | | % within State | 100.0% | 0.0% | 100.0% |
| | | % within Presence | 38.4% | 0.0% | 21.9% |
| | Haryana | Count | 0 | 112 | 112 |
| | | % within State | 0.0% | 100.0% | 100.0% |
| | | % within Presence | 0.0% | 86.2% | 37.1% |
| | Punjab | Count | 106 | 18 | 124 |
| | | % within State | 85.5% | 14.5% | 100.0% |
| | | % within Presence | 61.6% | 13.8% | 41.1% |
| Total | Count | 172 | 130 | 302 | |
| | % of Total | 57.0% | 43.0% | 100.0% | |

Table 7.46 cross tabulates the states where the interviews were conducted and the presence of house father/ house mother within home. It was found that in all homes in Delhi, house father and house mothers were present to take care of the children. There were no house fathers/ house mothers present in any observation or special homes in Haryana while 85.5 percent of juveniles from Punjab reported that house fathers/ house mothers were present in their respective homes.

CHAPTER VIII – JUVENILE: POST RELEASE PROSPECTS

A successful re-entry of the juvenile into the mainstream society after his stay at the juvenile home depends largely upon the success of the reformation techniques and programmes inside the home. In this chapter the researchers have sought to examine and analyse the impact and implementation of such programmes. The findings of the researchers have been tabulated below:

TABLE 8.1 – INMATE’S PLAN POST RELEASE

| Inmate’s Plan | Frequency | Percent |
|-----------------------|------------|--------------|
| Continue Schooling | 142 | 47.0 |
| Continue Previous Job | 56 | 18.5 |
| Find New Job | 63 | 20.9 |
| Don't Know | 41 | 13.6 |
| Total | 302 | 100.0 |

Table 8.1 illustrates the inmate’s personal plans post their release. It was observed that 47 percent of the inmates (highest) intended to pursue and complete their education post their release while 18.5 percent sought to continue the previous jobs they held. 20.9 percent of the inmates wanted to look for other employment opportunities while 13.6 percent were undecided on their future course of action.

**FIGURE D.1 – INMATE’S PLAN
POST RELEASE**

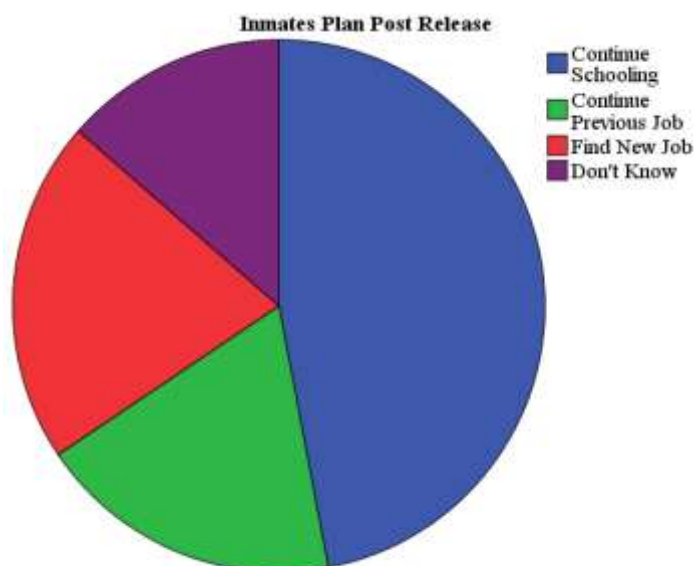


TABLE 8.2 – AWARENESS ABOUT INSTITUTE’S POST RELEASE PLAN/INDIVIDUAL CARE PLAN

| Awareness | Frequency | Percent |
|------------------|------------------|----------------|
| No | 302 | 100.0 |

Table 8.2 represents the juvenile’s awareness about the institution’s post release plan/individual care plan for the juvenile. All respondents unanimously answered that they were unaware about any such plans being drawn up for them.

TABLE 8.3 – AWARENESS ABOUT DATE OF RELEASE/APPEARANCE

| Awareness | Frequency | Percent |
|------------------|------------------|----------------|
| Yes | 273 | 90.4 |
| No | 29 | 9.6 |
| Total | 302 | 100.0 |

Table 8.3 tabulates the awareness of the juveniles w.r.t their date of release and/or their next appearance before the juvenile justice board. It was found that in 90.4 percent of the cases, the juveniles were aware of their date of release/next appearance but in 9.6 percent of the cases they weren’t. However, in quite a few cases even when the juveniles were aware of such a date for next appearance, a lack of manpower in the police force/ staff to accompany them to the hearing rendered the knowledge futile.

TABLE 8.4 – PROVISION OF VOCATIONAL TRAINING

| Provision | Frequency | Percent |
|---------------------|------------------|----------------|
| Yes | 50 | 16.6 |
| No | 42 | 13.9 |
| No Provision | 210 | 69.5 |
| Total | 302 | 100.0 |

Table 8.4 illustrates the frequency of provision and attendance of vocational training within the home. It was found that in a large majority of the cases (69.5 percent), there was no provision

of any kind of vocational training for the inmates. Of the 30.5 percent of the cases where such training was available, only 16.6 percent of the inmates attended it while 13.9 percent did not attend any vocational training.



FIGURE D.2 – PROVISION OF VOCATIONAL TRAINING

TABLE 8.5 – NEED FOR OTHER OPTIONS IN VOCATIONAL TRAINING

| Other Options | | Frequency | Percent | Valid Percent |
|--------------------|--------------|------------|--------------|---------------|
| Valid | Agree | 24 | 7.9 | 47.1 |
| | Indifferent | 19 | 6.3 | 37.3 |
| | Disagree | 8 | 2.6 | 15.7 |
| | Total | 51 | 16.9 | 100.0 |
| Missing | Total | 251 | 83.1 | |
| Grand Total | | 302 | 100.0 | |

Table 8.5 illustrates the responses of the interviewees of the need for other vocations in addition to the ongoing vocational training. A total of 47.1 percent (highest) respondents who were attended the vocational training being provided felt that there was need to introduce new

vocations in addition to the ongoing vocations. 37.3 percent were indifferent to such a need while 15.7 percent (lowest) disagreed that there was such a need.

TABLE 8.6 – VOCATIONAL TRAINING AS A POST RELEASE AID

| Vocational Training as an Aid | | Frequency | Percent | Valid Percent |
|-------------------------------|-------------------|------------|--------------|---------------|
| Valid | Agree | 17 | 5.6 | 33.3 |
| | Neutral | 12 | 4.0 | 23.5 |
| | Disagree | 21 | 7.0 | 41.2 |
| | Strongly Disagree | 1 | .3 | 2.0 |
| | Total | 51 | 16.9 | 100.0 |
| Missing | Total | 251 | 83.1 | |
| Grand Total | | 302 | 100.0 | |

Table 8.6 illustrates the efficacy of the vocational training being provided as a post release aid to the juvenile. 41.2 percent (highest) of the juveniles who -



FIGURE D.3 – VOCATIONAL TRAINING AS POST RELEASE AID

attended vocational training disagreed that such training would help them in their life post release while 33.3 percent agreed to the same. 23.5 percent were neutral or undecided on the effectiveness of the vocational training while 2 percent (lowest) strongly disagreed.

TABLE 8.7 – ATTITUDE AND PERFORMANCE OF TRAINERS/EDUCATORS/TEACHERS

| Attitude/Performance | | Frequency | Percent | Valid Percent |
|----------------------|--------------|------------|--------------|---------------|
| Valid | Caring | 1 | .3 | .3 |
| | Helpful | 119 | 39.4 | 39.8 |
| | Indifferent | 142 | 47.0 | 47.5 |
| | Incompetent | 37 | 12.3 | 12.4 |
| | Total | 299 | 99.0 | 100.0 |
| Missing | Total | 3 | 1.0 | |
| Grand Total | | 302 | 100.0 | |

Table 8.7 shows the attitude and performance of the trainers/trainers/educators as rated by the juveniles. 47.0 percent of the children found that the attitude of the trainers towards them was indifferent, while 39.4 percent found the trainers to be helpful. 12.3 percent stated that the trainers were incompetent while 0.3 percent found them to be caring. 1 percent of the sample did not respond to the query.

FIGURE D.4 – ATTITUDE AND PERFORMANCE OF TRAINERS

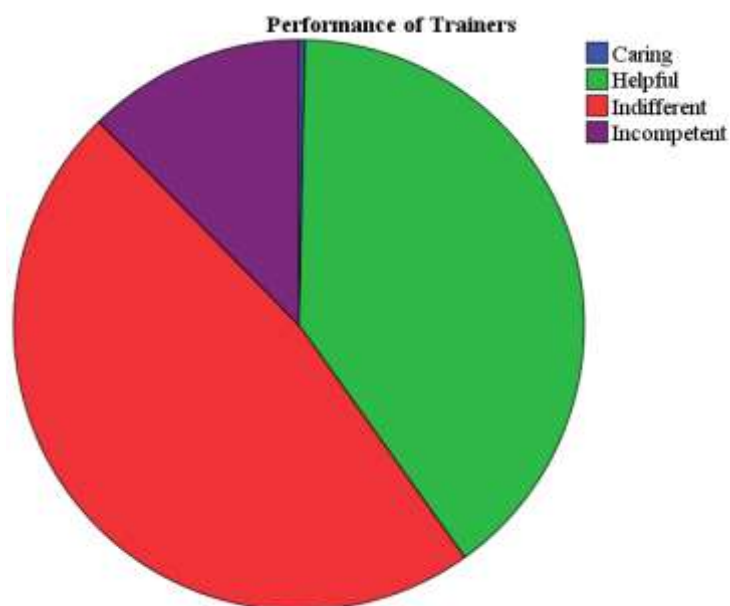


TABLE 8.8 – PROVISION OF FORMAL EDUCATION

| Formal Education | Frequency | Percent |
|-------------------------|------------------|----------------|
| Yes | 162 | 53.6 |
| No | 140 | 46.4 |
| Total | 302 | 100.0 |

Table 8.8 refers the provision of formal education to inmates. It was found that 53.6 percent were continuing their formal education while inside the institute whereas 46.4 percent were not following any formal education courses.

TABLE 8.9 – ENCOURAGEMENT FOR ENGAGING IN VOLUNTARY SERVICE OR OPEN SCHOOL

| Encouragement | Frequency | Percent |
|----------------------|------------------|----------------|
| Yes | 3 | 1.0 |
| No | 299 | 99.0 |
| Total | 302 | 100.0 |

Table 8.9 illustrates the encouragement from authorities to juveniles for engaging in voluntary services or open schooling. It was observed that only 1 percent of the children received any such encouragement while 99 percent received no encouragement.

TABLE 8.10 – PROVISION OF THERAPY SESSIONS

| Therapy Sessions | Frequency | Percent |
|-------------------------|------------------|----------------|
| Yes | 34 | 11.3 |
| No | 215 | 71.2 |
| Once | 53 | 17.5 |

| | | |
|--------------|------------|--------------|
| Total | 302 | 100.0 |
|--------------|------------|--------------|

Table 8.10 illustrates the attendance of and regularity in therapy sessions for the juveniles. It was observed that therapy sessions on a regular basis were provided to only 11.3 percent of the juveniles while a majority (71.2 percent) received no such therapy at all. 17.5 percent of the juveniles had only attended one therapy session in their duration of stay in the home.

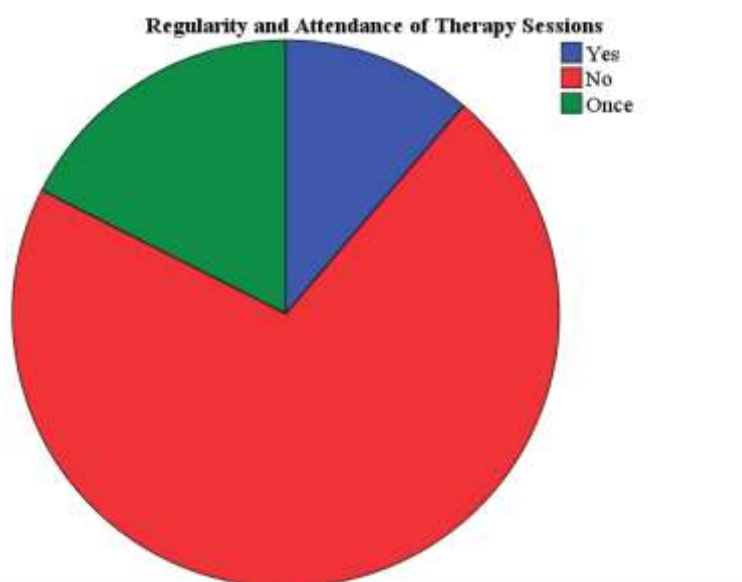


FIGURE D.5 – ATTENDANCE IN AND REGULARITY OF THERAPY SESSIONS

TABLE 8.11 – TYPE OF THERAPY SESSIONS

| Type | | Frequency | Percent | Valid Percent |
|--------------------|-------------------|------------|--------------|---------------|
| Valid | Individual | 51 | 16.9 | 58.6 |
| | Group | 34 | 11.3 | 39.1 |
| | Both | 2 | .7 | 2.3 |
| | Total | 87 | 28.8 | 100.0 |
| Missing | Total | 215 | 71.2 | |
| Grand Total | | 302 | 100.0 | |

Table 8.11 shows the type of therapy sessions held when the juveniles attended them. It was observed that 58.6 percent of the juveniles attended individual sessions, while 39.1 percent

attended group sessions. Only in 2.3 percent of the cases were the juveniles called for both types of sessions. It is necessary to reiterate here that 71.2 percent of the juveniles did not attend any therapy sessions.

TABLE 8.12 – UTILITY OF THERAPY SESSIONS

| Utility | | Frequency | Percent | Valid Percent |
|--------------------|----------------|------------|--------------|---------------|
| Valid | Yes | 16 | 5.3 | 18.4 |
| | To Some Extent | 26 | 8.6 | 29.9 |
| | No | 45 | 14.9 | 51.7 |
| | Total | 87 | 28.8 | 100.0 |
| Missing | Total | 215 | 71.2 | |
| Grand Total | | 302 | 100.0 | |

Table 8.12 illustrates the utility of the therapy sessions i.e. whether the juveniles found the therapy sessions helpful or not. It was found that only 18.4 percent (lowest) of the juveniles felt that the sessions were helpful while 29.9 percent felt that the sessions were helpful to some extent. A majority of the juveniles (51.7 percent) found that the sessions did not benefit them in any way whatsoever.

FIGURE D.6 – UTILITY OF THERAPY SESSIONS

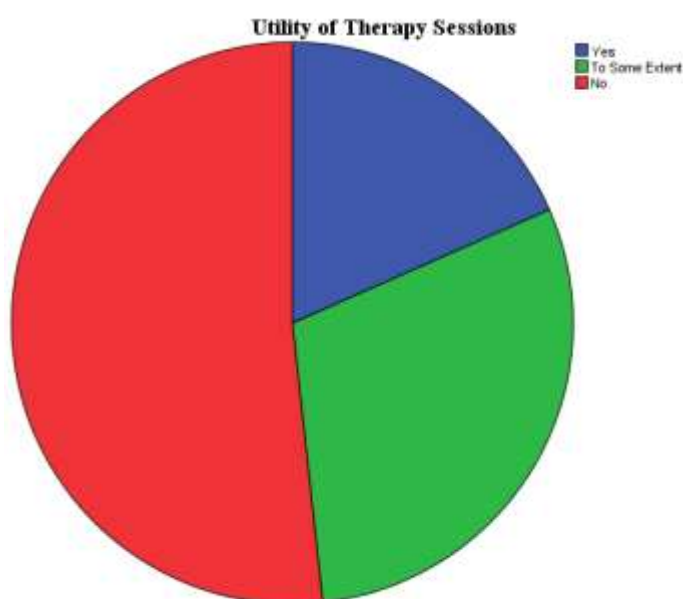
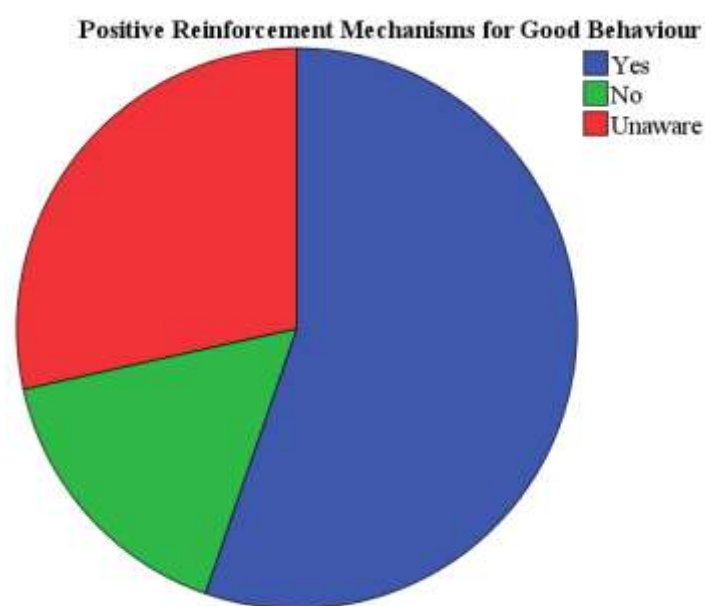


TABLE 8.13 – USE OF POSITIVE REINFORCEMENTS

| Positive Reinforcement | Frequency | Percent |
|-------------------------------|------------------|----------------|
| Yes | 167 | 55.3 |
| No | 49 | 16.2 |
| Unaware | 86 | 28.5 |
| Total | 302 | 100.0 |

Table 8.13 illustrates the use of positive reinforcement to inculcate and encourage good behaviour amongst the juveniles. 55.3 percent (highest) of the children stated that positive reinforcement mechanisms were indeed used by the staff, trainers and counsellors in the form rewards for good behaviour. 16.2 percent replied that no such positive reinforcement was used which 28.5 percent were unaware of any such measures.

**FIGURE D.7 – USE OF POSITIVE REINFORCEMENTS****TABLE 8.14 – ATTITUDE AND PERFORMANCE OF THE COUNSELLOR**

| Performance | | Frequency | Percent | Valid Percent |
|--------------------|-------------|------------------|----------------|----------------------|
| Valid | Poor | 1 | .3 | 1.1 |

| | | | | |
|--------------------|----------------------|------------|--------------|--------------|
| | Below Average | 23 | 7.6 | 26.4 |
| | Average | 49 | 16.2 | 56.3 |
| | Good | 14 | 4.6 | 16.1 |
| | Total | 87 | 28.8 | 100.0 |
| Missing | Total | 215 | 71.2 | |
| Grand Total | | 302 | 100.0 | |

Table 8.14 illustrates the attitude and performance of the counsellors in the discharge of their duties. A majority of the juveniles (56.3 percent) found the performance of the counsellor to be average at best. 16.1 percent found the attitude towards the children and the performance of the counsellor to be good. 26.4 percent stated that the performance of the therapist/counsellor was below average while 1.1 percent found it to be poor.

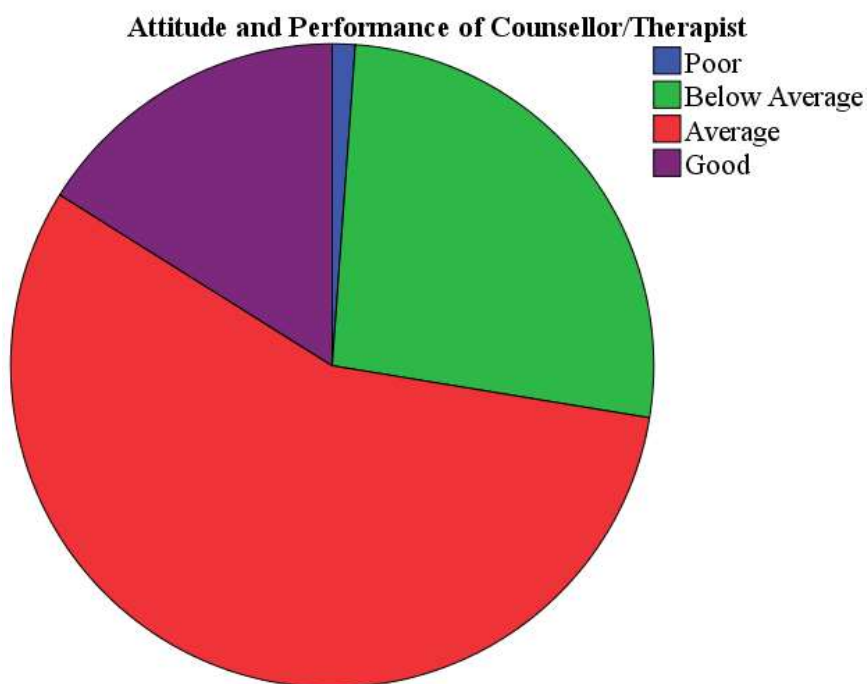


FIGURE D.8 – ATTITUDE AND PERFORMANCE OF THE COUNSELLOR

TABLE 8.15 – CROSS TABULATION OF “PRE-OCCUPATION PRIOR TO INSTITUTIONALIZATION” AND “PROVISION OF FORMAL EDUCATION”

| Cross Tabulation | | | Provision of Formal Education | | Total |
|--|----------|---------------------------|-------------------------------|-------|--------|
| | | | Yes | No | |
| Pre-occupation Prior to Institutionalization | Studying | Count | 84 | 47 | 131 |
| | | % within Pre-occupation | 64.1% | 35.9% | 100.0% |
| | | % within Formal Education | 51.9% | 33.6% | 43.4% |
| | Employed | Count | 34 | 44 | 78 |
| | | % within Pre-occupation | 43.6% | 56.4% | 100.0% |
| | | % within Formal Education | 21.0% | 31.4% | 25.8% |
| | Neither | Count | 44 | 49 | 93 |
| | | % within Pre-occupation | 47.3% | 52.7% | 100.0% |
| | | % within Formal Education | 27.2% | 35.0% | 30.8% |
| Total | | Count | 162 | 140 | 302 |
| | | % of Total | 53.6% | 46.4% | 100.0% |

Table 8.15 cross tabulates the pre-occupation of the juveniles prior to their institutionalization and the provision of formal education within the home. It was observed that 64.1 percent of the children who were studying prior to their confinement were pursuing formal education from within the home while 35.9 percent were not. 43.6 percent who were employed prior to their

confinement had started formal education after coming to the home. 47.3 percent of those who were neither studying nor employed prior to their confinement had started formal education from within the home. Overall while 131 children were studying prior to their confinement, a total of 162 children were availing formal education from inside the home, an increase of 23.67 percent over pre institutionalization levels.

TABLE 8.16 – CROSS TABULATION OF “NATURE OF OFFENCE” AND “PROVISION OF THERAPY SESSIONS”

| Cross Tabulation | | | Provision of Therapy Sessions | | | Total |
|-------------------|---------|---------------------------|-------------------------------|-------|-------|--------|
| | | | Yes | No | Once | |
| Nature of Offence | Petty | Count | 8 | 25 | 5 | 38 |
| | | % within Offence | 21.1% | 65.8% | 13.2% | 100.0% |
| | | % within Therapy Sessions | 23.5% | 11.6% | 9.4% | 12.6% |
| | Serious | Count | 2 | 15 | 4 | 21 |
| | | % within Offence | 9.5% | 71.4% | 19.0% | 100.0% |
| | | % within Therapy Sessions | 5.9% | 7.0% | 7.5% | 7.0% |
| | Heinous | Count | 24 | 175 | 44 | 243 |
| | | % within Offence | 9.9% | 72.0% | 18.1% | 100.0% |
| | | % within Therapy Sessions | 70.6% | 81.4% | 83.0% | 80.5% |
| Total | | Count | 34 | 215 | 53 | 302 |
| | | % of Total | 11.3% | 71.2% | 17.5% | 100.0% |

Table 8.16 illustrates the cross tabulation of the nature of offence committed by the juvenile and the provision of therapy sessions. It was observed that 65.8 percent of those charged with petty offences, 71.4 percent of those charged with serious offences and 72 percent of those

charged with heinous offences received no therapy sessions of counselling. Those receiving regular therapy sessions only formed 9.9 percent of all who were charged with commission of heinous offences while 18.2 percent of such juveniles had only attended a therapy session once since their confinement.

TABLE 8.17 – CROSS TABULATION OF “STATE” AND “INMATES PLAN POST RELEASE”

| Cross Tabulation | | | Inmates Plan Post Release | | | | Total |
|------------------|--------------|----------------|---------------------------|-----------------------------|-----------------|---------------|---------------|
| | | | Continue Schooling | Continue Previous Job | Find New Job | Don't Know | |
| State | New Delhi | Count | 25 | 10 | 15 | 16 | 66 |
| | | % within State | 37.9% | 15.2% | 22.7% | 24.2% | 100.0% |
| | | % within Plan | 17.6% | 17.9% | 23.8% | 39.0% | 21.9% |
| | Haryana | Count | 68 | 17 | 13 | 14 | 112 |
| | | % within State | 60.7% | 15.2% | 11.6% | 12.5% | 100.0% |
| | | % within Plan | 47.9% | 30.4% | 20.6% | 34.1% | 37.1% |
| | Punjab | Count | 49 | 29 | 35 | 11 | 124 |
| | | % within State | 39.5% | 23.4% | 28.2% | 8.9% | 100.0% |
| | | % within Plan | 34.5% | 51.8% | 55.6% | 26.8% | 41.1% |
| Total | | Count | 142 | 56 | 63 | 41 | 302 |
| | | % of Total | 47.0% | 18.5% | 20.9% | 13.6% | 100.0% |

Table 8.17 illustrates the cross tabulation between the state and the inmates own plan post release. It was observed that 22.7 percent of the juveniles from Delhi planned on finding a new job post release, 37.9 percent wanted to continue studying while 24.2 percent were unsure of what to do. In Haryana, 60.7 percent of the juveniles wanted to continue studying. In Punjab, 39.5 percent wanted to continue studying while 28.2 percent wanted to find a new job.

TABLE 8.18 – CROSS TABULATION OF “STATE” AND “AWARENESS OF INSTITUTE’S ICP/POST RELEASE PLAN”

| Cross Tabulation | | | Awareness about Post Release Plan/ Individual Care Plan | Total |
|------------------|-----------|--------------------|---|---------------|
| | | | No | |
| State | New Delhi | Count | 66 | 66 |
| | | % within State | 100.0% | 100.0% |
| | | % within Awareness | 21.9% | 21.9% |
| | Haryana | Count | 112 | 112 |
| | | % within State | 100.0% | 100.0% |
| | | % within Awareness | 37.1% | 37.1% |
| | Punjab | Count | 124 | 124 |
| | | % within State | 100.0% | 100.0% |
| | | % within Awareness | 41.1% | 41.1% |
| Total | | Count | 302 | 302 |
| | | % of Total | 100.0% | 100.0% |

Table 8.18 illustrates the cross tabulation between the states where the interviews were conducted and the awareness of the institutes’ Individual Care Plan/Post Release Plan. It was observed that none of the inmates were aware of the Individual Care Plan/Post Release Plan drawn up by the administration on their behalf and for them.

TABLE 8.19 – CROSS TABULATION OF “STATE” AND “AWARENESS ABOUT DATE OF RELEASE/NEXT HEARING”

| Cross Tabulation | Awareness about Date of Release/ Next Appearance | Total |
|------------------|--|-------|
| | | |

| | | | Yes | No | |
|-------|-----------|--------------------|--------------|-------------|---------------|
| State | New Delhi | Count | 65 | 1 | 66 |
| | | % within State | 98.5% | 1.5% | 100.0% |
| | | % within Awareness | 23.8% | 3.4% | 21.9% |
| | Haryana | Count | 111 | 1 | 112 |
| | | % within State | 99.1% | 0.9% | 100.0% |
| | | % within Awareness | 40.7% | 3.4% | 37.1% |
| | Punjab | Count | 97 | 27 | 124 |
| | | % within State | 78.2% | 21.8% | 100.0% |
| | | % within Awareness | 35.5% | 93.1% | 41.1% |
| Total | | Count | 273 | 29 | 302 |
| | | % of Total | 90.4% | 9.6% | 100.0% |

Table 8.19 illustrates the cross tabulation between the states and the juvenile's awareness about his date of release and/or next hearing. It was observed that in 93.1 percent of the incidences where the juvenile was unaware about the date of release or next hearing were from Punjab, while only 0.9 percent were from Haryana and 3.4 percent from Delhi. 21.8 percent of all inmates interviewed from Punjab were unaware about their date of release/next hearing.

TABLE 8.20 – CROSS TABULATION OF “STATE” AND “PROVISION OF VOCATIONAL TRAINING”

| Cross Tabulation | | | Provision of Vocational Training | | | Total |
|------------------|-----------|----------------|----------------------------------|-------|--------------|---------------|
| | | | Yes | No | No Provision | |
| State | New Delhi | Count | 40 | 26 | 0 | 66 |
| | | % within State | 60.6% | 39.4% | 0.0% | 100.0% |

| | | | | | | |
|--------------|----------------|-------------------------------------|--------------|--------------|--------------|---------------|
| | | % within Vocational Training | 80.0% | 61.9% | 0.0% | 21.9% |
| | Haryana | Count | 0 | 0 | 112 | 112 |
| | | % within State | 0.0% | 0.0% | 100.0% | 100.0% |
| | | % within Vocational Training | 0.0% | 0.0% | 53.3% | 37.1% |
| | Punjab | Count | 10 | 16 | 98 | 124 |
| | | % within State | 8.1% | 12.9% | 79.0% | 100.0% |
| | | % within Vocational Training | 20.0% | 38.1% | 46.7% | 41.1% |
| Total | | Count | 50 | 42 | 210 | 302 |
| | | % of Total | 16.6% | 13.9% | 69.5% | 100.0% |

Table 8.20 shows the cross tabulation between the states and the provision of vocational trainings in the homes where the juveniles were lodged. It was found that 80 percent of all children who answered the query in affirmative were from Delhi while 20 percent were from Punjab. No vocational training was being provided in any observation or special home in Haryana while 79 percent of the juveniles from Punjab reported that there was no provision of vocational training. 60.6 percent of juveniles from Delhi attended such vocational training provided, while 39.6 percent did not attend vocational training even though it was being provided.

TABLE 8.21 – CROSS TABULATION OF “STATE” AND “NEED FOR OTHER OPTIONS IN VOCATIONAL TRAINING”

| Cross Tabulation | | Need for Other Options in Vocational Training | Total | | | |
|-------------------------|------------------|--|--------------|--------------------|-----------------|-----------|
| | | | Agree | Indifferent | Disagree | |
| State | New Delhi | Count | 17 | 16 | 8 | 41 |

| | | | | | | |
|--------------|---------------|-----------------------|--------------|--------------|--------------|---------------|
| | | % within State | 41.5% | 39.0% | 19.5% | 100.0% |
| | | % within Need | 70.8% | 84.2% | 100.0% | 80.4% |
| | Punjab | Count | 7 | 3 | 0 | 10 |
| | | % within State | 70.0% | 30.0% | 0.0% | 100.0% |
| | | % within Need | 29.2% | 15.8% | 0.0% | 19.6% |
| Total | | Count | 24 | 19 | 8 | 51 |
| | | % of Total | 47.1% | 37.3% | 15.7% | 100.0% |

Table 8.21 illustrates the cross tabulation between the state and the need for training in other vocations as felt by those who attended the vocational training being provided in the homes. It was observed that 41.5 percent of the juveniles from Delhi and 70 percent juveniles from Punjab who attended the vocational training agreed that there was a need to introduce other vocations for training in the home. 39 percent of children from Delhi and 30 percent of juveniles from Punjab were indifferent to any such need while 19.5 percent of juveniles from Delhi disagreed that there was any such need.

TABLE 8.22 – CROSS TABULATION OF “STATE” AND “VOCATIONAL TRAINING AS A POST RELEASE AID”

| Cross Tabulation | | Vocational Training as a Post Release Aid | | | | Total | |
|-------------------------|------------------|--|----------------|-----------------|--------------------------|--------------|---------------|
| | | Agree | Neutral | Disagree | Strongly Disagree | | |
| State | New Delhi | Count | 13 | 10 | 17 | 1 | 41 |
| | | % within State | 31.7% | 24.4% | 41.5% | 2.4% | 100.0% |
| | | % within Post Release Aid | 76.5% | 83.3% | 81.0% | 100.0% | 80.4% |
| | Punjab | Count | 4 | 2 | 4 | 0 | 10 |

| | | | | | | | |
|--------------|--|--|--------------|--------------|--------------|-------------|---------------|
| | | % within State | 40.0% | 20.0% | 40.0% | 0.0% | 100.0% |
| | | % within a Post Release Aid | 23.5% | 16.7% | 19.0% | 0.0% | 19.6% |
| Total | | Count | 17 | 12 | 21 | 1 | 51 |
| | | % of Total | 33.3% | 23.5% | 41.2% | 2.0% | 100.0% |

Table 8.22 cross tabulates the states with the perception of inmates about vocational training as a post release aid. It was observed that 41.5 percent of inmates from Delhi and 40 percent of inmates from Punjab who attended vocational training disagreed that the vocational training they received was an effective post release aid. Only 31.5 percent of juveniles from Delhi and 40 percent juveniles from Punjab agreed that the vocational training they received would aid them post their release.

TABLE 8.23 – CROSS TABULATION OF “STATE” AND “ATTITUDE AND PERFORMANCE OF TRAINERS”

| Cross Tabulation | | | Attitude and Performance of Trainers | | | | Total |
|-------------------------|----------------------|--------------------------|---|----------------|--------------------|--------------------|---------------|
| | | | Caring | Helpful | Indifferent | Incompetent | |
| State | New Delhi | Count | 0 | 43 | 18 | 2 | 63 |
| | | % within State | 0.0% | 68.3% | 28.6% | 3.2% | 100.0% |
| | | % within Attitude | 0.0% | 36.1% | 12.7% | 5.4% | 21.1% |
| | Haryana | Count | 0 | 30 | 56 | 26 | 112 |
| | | % within State | 0.0% | 26.8% | 50.0% | 23.2% | 100.0% |
| | | % within Attitude | 0.0% | 25.2% | 39.4% | 70.3% | 37.5% |
| | Punjab | Count | 1 | 46 | 68 | 9 | 124 |
| | | % within State | 0.8% | 37.1% | 54.8% | 7.3% | 100.0% |
| | | % within Attitude | 100.0% | 38.7% | 47.9% | 24.3% | 41.5% |

| | | | | | | |
|--------------|-------------------|-------------|--------------|--------------|--------------|---------------|
| Total | Count | 1 | 119 | 142 | 37 | 299 |
| | % of Total | 0.3% | 39.8% | 47.5% | 12.4% | 100.0% |

Table 8.23 cross tabulates the states with the performance and attitude of trainers/teachers. It was found that 68.3 percent of juveniles from Delhi reported their trainers to be helpful while 28.6 percent stated that the attitude of trainers towards them was indifferent. 50 percent of juveniles from Haryana reported that their teachers were indifferent towards them and 23.2 percent stated that their teachers were incompetent. In Punjab, 54.8 percent found their teachers/trainers to be indifferent towards them while 37.1 percent found their trainers to be helpful.

TABLE 8.24 – CROSS TABULATION OF “STATE” AND “PROVISION OF FORMAL EDUCATION”

| Cross Tabulation | | | Provision of Formal Education | | Total |
|-------------------------|------------------|---------------------------|--------------------------------------|--------------|---------------|
| | | | Yes | No | |
| State | New Delhi | Count | 43 | 23 | 66 |
| | | % within State | 65.2% | 34.8% | 100.0% |
| | | % within Provision | 26.5% | 16.4% | 21.9% |
| | Haryana | Count | 61 | 51 | 112 |
| | | % within State | 54.5% | 45.5% | 100.0% |
| | | % within Provision | 37.7% | 36.4% | 37.1% |
| | Punjab | Count | 58 | 66 | 124 |
| | | % within State | 46.8% | 53.2% | 100.0% |
| | | % within Provision | 35.8% | 47.1% | 41.1% |
| Total | | Count | 162 | 140 | 302 |
| | | % of Total | 53.6% | 46.4% | 100.0% |

Table 8.24 illustrates the cross tabulation between states and the provision of formal education within the home. It was observed that 65.2 percent of juveniles in Delhi received formal education while 34.8 percent did not. 54.5 percent of children from Haryana received formal education while 45.2 percent did not. In Punjab, 46.8 percent were receiving formal education while 53.2 percent were not.

TABLE 8.25 – CROSS TABULATION OF “STATE” AND “ENCOURAGEMENT FOR ENGAGING IN VOLUNTARY SERVICE OR OPEN SCHOOL”

| Cross Tabulation | | | Encouragement To Engage in Voluntary Services Or Open Schooling | | Total |
|------------------|-----------|------------------------|---|--------|--------|
| | | | Yes | No | |
| State | New Delhi | Count | 3 | 63 | 66 |
| | | % within State | 4.5% | 95.5% | 100.0% |
| | | % within Encouragement | 100.0% | 21.1% | 21.9% |
| | Haryana | Count | 0 | 112 | 112 |
| | | % within State | 0.0% | 100.0% | 100.0% |
| | | % within Encouragement | 0.0% | 37.5% | 37.1% |
| | Punjab | Count | 0 | 124 | 124 |
| | | % within State | 0.0% | 100.0% | 100.0% |
| | | % within Encouragement | 0.0% | 41.5% | 41.1% |
| Total | | Count | 3 | 299 | 302 |
| | | % of Total | 1.0% | 99.0% | 100.0% |

Table 8.25 illustrates the cross tabulation between the states and the encouragement to children for engaging in voluntary services and open schooling by staff. It was found that only 4.5 percent juvenile from Delhi received any such encouragement while no child from Punjab or Haryana received any such encouragement.

TABLE 8.26 - CROSS TABULATION OF “STATE” AND “REGULARITY IN AND ATTENDANCE OF THERAPY SESSIONS”

| Cross Tabulation | | Regularity and Attendance of Therapy Sessions | | | Total | | |
|------------------|-----------|---|------------|--------------|--------------|---------------|---------------|
| | | Yes | No | Once | | | |
| State | New Delhi | Count | 31 | 19 | 16 | 66 | |
| | | % within State | 47.0% | 28.8% | 24.2% | 100.0% | |
| | | % within Therapy Sessions | 91.2% | 8.8% | 30.2% | 21.9% | |
| | Haryana | Count | 1 | 99 | 12 | 112 | |
| | | % within State | 0.9% | 88.4% | 10.7% | 100.0% | |
| | | % within Therapy Sessions | 2.9% | 46.0% | 22.6% | 37.1% | |
| | | % of Total | 0.3% | 32.8% | 4.0% | 37.1% | |
| | Punjab | Count | 2 | 97 | 25 | 124 | |
| | | % within State | 1.6% | 78.2% | 20.2% | 100.0% | |
| | | % within Therapy Sessions | 5.9% | 45.1% | 47.2% | 41.1% | |
| | Total | | Count | 34 | 215 | 53 | 302 |
| | | | % of Total | 11.3% | 71.2% | 17.5% | 100.0% |

Table 8.26 illustrates the cross tabulation of the states and regularity in and attendance of therapy sessions. It was observed that 47 percent of inmates from Delhi attended regular therapy sessions while the figure stands that 0.9 percent from Haryana and 1.6 percent from Punjab. 88.4 percent of juveniles from Haryana and 78.2 percent inmates from Punjab had never attended therapy sessions. 24.2 percent of children from Delhi, 10.7 percent juveniles

from Haryana and 20.2 percent children from Punjab had attended the therapy sessions only once.

TABLE 8.27 – CROSS TABULATION OF “STATE” AND “TYPE OF THERAPY SESSIONS”

| Cross Tabulation | | | Type of Therapy Sessions | | | Total |
|------------------|-----------|----------------|--------------------------|-------|--------|--------|
| | | | Individual | Group | Both | |
| State | New Delhi | Count | 17 | 28 | 2 | 47 |
| | | % within State | 36.2% | 59.6% | 4.3% | 100.0% |
| | | % within Type | 33.3% | 82.4% | 100.0% | 54.0% |
| | Haryana | Count | 11 | 2 | 0 | 13 |
| | | % within State | 84.6% | 15.4% | 0.0% | 100.0% |
| | | % within Type | 21.6% | 5.9% | 0.0% | 14.9% |
| | Punjab | Count | 23 | 4 | 0 | 27 |
| | | % within State | 85.2% | 14.8% | 0.0% | 100.0% |
| | | % within Type | 45.1% | 11.8% | 0.0% | 31.0% |
| Total | | Count | 51 | 34 | 2 | 87 |
| | | % of Total | 58.6% | 39.1% | 2.3% | 100.0% |

Table 8.27 cross tabulates the states with the type of therapy sessions held. It was found that 36.2 percent of juveniles who attended therapy sessions even once in Delhi were given individual therapy sessions while 59.2 percent were given group sessions. In Haryana, 84.6 percent were given individual sessions while 15.4 percent stated that they were given group sessions. In Punjab, 85.2 percent of juveniles reported being given individual sessions while 14.8 percent stated that they were given group sessions.

TABLE 8.28 – CROSS TABULATION OF “STATE” AND “UTILITY OF THERAPY SESSIONS”

| Cross Tabulation | Utility of Therapy Sessions | Total |
|------------------|-----------------------------|-------|
|------------------|-----------------------------|-------|

| | | | Yes | To Some Extent | No | |
|-------|-----------|------------------|-------|----------------|-------|--------|
| State | New Delhi | Count | 12 | 14 | 21 | 47 |
| | | % within State | 25.5% | 29.8% | 44.7% | 100.0% |
| | | % within Utility | 75.0% | 53.8% | 46.7% | 54.0% |
| | Haryana | Count | 0 | 5 | 8 | 13 |
| | | % within State | 0.0% | 38.5% | 61.5% | 100.0% |
| | | % within Utility | 0.0% | 19.2% | 17.8% | 14.9% |
| | Punjab | Count | 4 | 7 | 16 | 27 |
| | | % within State | 14.8% | 25.9% | 59.3% | 100.0% |
| | | % within Utility | 25.0% | 26.9% | 35.6% | 31.0% |
| Total | | Count | 16 | 26 | 45 | 87 |
| | | % of Total | 18.4% | 29.9% | 51.7% | 100.0% |

Table 8.28 cross tabulates the states with the utility and efficacy of therapy sessions as perceived by the juveniles. It was found that 44.7 percent of juveniles from Delhi, 61.5 percent juveniles from Haryana and 59.3 percent of juveniles from Punjab reported that they did not find the therapy sessions to be helpful. Only 25 percent of juveniles from Delhi, 14.8 percent of Juveniles from Punjab and none of the juveniles from Haryana found the therapy sessions to be helpful and utile.

TABLE 8.29 – CROSS TABULATION OF “STATE” AND “ATTITUDE AND PERFORMANCE OF COUNSELLOR”

| Cross Tabulation | | | Attitude and Performance of Counsellor | | | | Total |
|------------------|--|-------|--|---------------|---------|------|-------|
| | | | Poor | Below Average | Average | Good | |
| State | | Count | 1 | 15 | 25 | 6 | 47 |

| | | | | | | | |
|-------------------|------------------|--------------------------|--------------|--------------|--------------|---------------|---------------|
| | New Delhi | % within State | 2.1% | 31.9% | 53.2% | 12.8% | 100.0% |
| | | % within Attitude | 100.0% | 65.2% | 51.0% | 42.9% | 50% |
| | Haryana | Count | 0 | 3 | 10 | 0 | 13 |
| | | % within State | 0.0% | 23.1% | 76.9% | 0.0% | 100.0% |
| | | % within Attitude | 0.0% | 13.0% | 20.4% | 0.0% | 14.9% |
| | Punjab | Count | 0 | 5 | 14 | 8 | 27 |
| | | % within State | 0.0% | 18.5% | 51.9% | 29.6% | 100.0% |
| | | % within Attitude | 0.0% | 21.7% | 28.6% | 57.1% | 31.0% |
| | Total | Count | 1 | 23 | 49 | 14 | 87 |
| % of Total | | 1.1% | 26.4% | 56.3% | 16.1% | 100.0% | |

Table 8.29 cross tabulates the states with the attitude and performance of counsellor/therapist in the various homes as perceived by the juveniles. 51 percent of juveniles from Delhi, 76.9 percent of juveniles from Haryana and 51.9 percent of juveniles from Punjab who received regular therapy sessions found the attitude and performance of the therapist to be average. 31.9 percent of juveniles from Delhi, 23.1 percent from Haryana and 18.5 percent of juveniles from Punjab found the attitude and performance of counsellor to be below average.

TABLE 8.30 – CROSS TABULATION OF “AGE OF INMATE” AND “REGULARITY IN AND ATTENDANCE OF THERAPY SESSIONS”

| Cross Tabulation | | | Regularity and Attendance of Therapy Sessions | | | Total |
|---------------------------------|----------------|---------------------------|--|-----------|-------------|---------------|
| | | | Yes | No | Once | |
| Addiction to Intoxicants | Tobacco | Count | 0 | 20 | 2 | 22 |
| | | % within Addiction | 0.0% | 90.9% | 9.1% | 100.0% |

| | | | | | | |
|--|---------------------|--------------------------------------|--------------|--------------|--------------|---------------|
| | | % within Therapy Sessions | 0.0% | 9.3% | 3.8% | 7.3% |
| | Alcohol | Count | 0 | 21 | 3 | 24 |
| | | % within Addiction | 0.0% | 87.5% | 12.5% | 100.0% |
| | | % within Therapy Sessions | 0.0% | 9.8% | 5.7% | 7.9% |
| | Cannabinoids | Count | 1 | 2 | 4 | 7 |
| | | % within Addiction | 14.3% | 28.6% | 57.1% | 100.0% |
| | | % within Therapy Sessions | 2.9% | 0.9% | 7.5% | 2.3% |
| | Narcotics | Count | 4 | 12 | 7 | 23 |
| | | % within Addiction | 17.4% | 52.2% | 30.4% | 100.0% |
| | | % within Therapy Sessions | 11.8% | 5.6% | 13.2% | 7.6% |
| | None | Count | 29 | 160 | 37 | 226 |
| | | % within Addiction | 12.8% | 70.8% | 16.4% | 100.0% |
| | | % within Therapy Sessions | 85.3% | 74.4% | 69.8% | 74.8% |
| | Total | Count | 34 | 215 | 53 | 302 |
| | | % of Total | 11.3% | 71.2% | 17.5% | 100.0% |

Table 8.30 shows the cross tabulation between the addiction of juveniles to intoxicants and their attendance of therapy sessions. It was found that 90.9 percent of those addicted to tobacco,

87.5 percent of those addicted to alcohol, 28.6 percent of those addicted to cannabinoids and 52.1 percent of the those addicted to narcotics had not attended a therapy session even once. 57.1 percent of those dependent upon cannabinoids had attended a therapy session only once. Only 17.4 percent of those addicted to narcotics and 14.3 percent of those addicted to cannabinoids regularly attended therapy sessions.

TABLE 8.31 – CROSS TABULATION OF “ABILITY TO SOCIALIZE” AND “REGULARITY IN AND ATTENDANCE OF THERAPY SESSIONS”

| Cross Tabulation | | | Regularity and Attendance of Therapy Sessions | | | Total |
|----------------------|-----|-------------------------------|---|-------|-------|--------|
| | | | Yes | No | Once | |
| Ability to Socialize | Yes | Count | 24 | 106 | 35 | 165 |
| | | % within Ability to Socialize | 14.5% | 64.2% | 21.2% | 100.0% |
| | | % within Therapy Sessions | 70.6% | 49.3% | 66.0% | 54.6% |
| | No | Count | 10 | 109 | 18 | 137 |
| | | % within Ability to Socialize | 7.3% | 79.6% | 13.1% | 100.0% |
| | | % within Therapy Sessions | 29.4% | 50.7% | 34.0% | 45.4% |
| Total | | Count | 34 | 215 | 53 | 302 |
| | | % of Total | 11.3% | 71.2% | 17.5% | 100.0% |

Table 8.31 illustrates the cross tabulation between the sociability of the juveniles and the regularity in and attendance of therapy sessions by them. It was observed that 79.6 percent of those who were found to be asocial did not receive any therapy while only 7.3 percent did. Of those found to be social, 64.2 percent did not receive any therapy sessions. Of those who received regular therapy sessions, 70.6 percent were social while 29.4 percent were asocial.

Similarly, of those who received therapy sessions only once, 66 percent were sociable while 34 percent were not.

TABLE 8.32 – CROSS TABULATION OF “TYPE OF HOME” AND “REGULARITY IN AND ATTENDANCE OF THERAPY SESSIONS”

| Cross Tabulation | | | Regularity and Attendance of Therapy Sessions | | | Total |
|------------------|------------------|---------------------------|---|-------|-------|--------|
| | | | Yes | No | Once | |
| Type of Home | Special Home | Count | 6 | 44 | 23 | 73 |
| | | % within Type of Home | 8.2% | 60.3% | 31.5% | 100.0% |
| | | % within Therapy Sessions | 17.6% | 20.5% | 43.4% | 24.2% |
| | Observation Home | Count | 28 | 171 | 30 | 229 |
| | | % within Type of Home | 12.2% | 74.7% | 13.1% | 100.0% |
| | | % within Therapy Sessions | 82.4% | 79.5% | 56.6% | 75.8% |
| Total | | Count | 34 | 215 | 53 | 302 |
| | | % of Total | 11.3% | 71.2% | 17.5% | 100.0% |

Table 8.32 shows the cross tabulation between the type of home and the regularity in and attendance of therapy sessions by the juveniles lodged therein. It was observed that only 8.2 percent of those lodged in special homes and 12.2 percent of those lodged in observations home received regular therapy sessions. 60.3 percent of those lodged in special homes and 74.7 percent of those lodged in observation homes never received any therapy sessions at all. 31.5 percent of those juveniles lodged in special home and 13.1 percent of those lodged in observation homes received therapy sessions only once.

TABLE 8.33 – CROSS TABULATION OF “AGE OF INMATE” AND “REGULARITY IN AND ATTENDANCE OF THERAPY SESSIONS”

| Cross Tabulation | | Regularity and Attendance of Therapy Sessions | | | Total | |
|------------------|------------|---|-------|-------|--------|--------|
| | | Yes | No | Once | | |
| Age | 11-13 | Count | 1 | 9 | 0 | 10 |
| | | % within Age | 10.0% | 90.0% | 0.0% | 100.0% |
| | | % within Therapy Sessions | 2.9% | 4.2% | 0.0% | 3.3% |
| | 14-15 | Count | 15 | 32 | 13 | 60 |
| | | % within Age | 25.0% | 53.3% | 21.7% | 100.0% |
| | | % within Therapy Sessions | 44.1% | 14.9% | 24.5% | 19.9% |
| | 16-17 | Count | 15 | 106 | 22 | 143 |
| | | % within Age | 10.5% | 74.1% | 15.4% | 100.0% |
| | | % within Therapy Sessions | 44.1% | 49.3% | 41.5% | 47.4% |
| | 18 > | Count | 3 | 68 | 18 | 89 |
| | | % within Age | 3.4% | 76.4% | 20.2% | 100.0% |
| | | % within Therapy Sessions | 8.8% | 31.6% | 34.0% | 29.5% |
| Total | Count | 34 | 215 | 53 | 302 | |
| | % of Total | 11.3% | 71.2% | 17.5% | 100.0% | |

Table 8.33 cross tabulates the age of the inmates with their attendance of therapy sessions. It was observed that 10.1 percent of those aged 11-13 received regular therapy sessions, while

the figures for the those aged 14-15 stands at 25 percent. 10.5 percent of those aged 16-17 and 3.4 percent of those aged 18 and above received regular therapy sessions. 90 percent of those aged between 11-13, 53.3 percent of those aged 14-15, 74.1 percent of those aged between 16-17 and, 76.4 percent of those aged 18 and above received no therapy sessions during their entire period of stay.

TABLE 8.34 – CROSS TABULATION OF “TYPE OF HOME” AND “PROVISION OF VOCATIONAL TRAINING”

| Cross Tabulation | | | Provision of Vocational Training | | | Total |
|------------------|------------------|-----------------------|----------------------------------|-------|--------------|--------|
| | | | Yes | No | No Provision | |
| Type of Home | Special Home | Count | 20 | 22 | 31 | 73 |
| | | % within Type of Home | 27.4% | 30.1% | 42.5% | 100.0% |
| | | % within Provision | 40.0% | 52.4% | 14.8% | 24.2% |
| | Observation Home | Count | 30 | 20 | 179 | 229 |
| | | % within Type of Home | 13.1% | 8.7% | 78.2% | 100.0% |
| | | % within Provision | 60.0% | 47.6% | 85.2% | 75.8% |
| Total | | Count | 50 | 42 | 210 | 302 |
| | | % of Total | 16.6% | 13.9% | 69.5% | 100.0% |

Table 8.34 illustrates the cross tabulation between the type of home and the provision of vocational training within the home. It was observed that only 27.4 percent of those lodged in special homes and 13.1 percent of those lodged in observation homes received vocational training and attended it. 30.1 percent of those lodged in observation homes and 8.7 percent of those lodged in special were provided with vocational training but did not attend it. A total of 42.5 percent of juveniles were lodged in special homes with no provision of vocational training while the figure stands at 78.2 percent for those lodged in observation homes.

TABLE 8.35 – CROSS TABULATION OF “AGE OF INMATE” AND “PROVISION OF VOCATIONAL TRAINING”

| Cross Tabulation | | | Provision of Vocational Training | | | Total |
|------------------|------------|--------------------|----------------------------------|-------|--------------|--------|
| | | | Yes | No | No Provision | |
| Age | 11-13 | Count | 3 | 0 | 7 | 10 |
| | | % within Age | 30.0% | 0.0% | 70.0% | 100.0% |
| | | % within Provision | 6.0% | 0.0% | 3.3% | 3.3% |
| | 14-15 | Count | 13 | 18 | 29 | 60 |
| | | % within Age | 21.7% | 30.0% | 48.3% | 100.0% |
| | | % within Provision | 26.0% | 42.9% | 13.8% | 19.9% |
| | 16-17 | Count | 25 | 6 | 112 | 143 |
| | | % within Age | 17.5% | 4.2% | 78.3% | 100.0% |
| | | % within Provision | 50.0% | 14.3% | 53.3% | 47.4% |
| | 18 > | Count | 9 | 18 | 62 | 89 |
| | | % within Age | 10.1% | 20.2% | 69.7% | 100.0% |
| | | % within Provision | 18.0% | 42.9% | 29.5% | 29.5% |
| Total | Count | 50 | 42 | 210 | 302 | |
| | % of Total | 16.6% | 13.9% | 69.5% | 100.0% | |

Table 8.35 cross tabulates age of juveniles with the provision of vocational training. It was observed that 70 percent of those aged between 11-13, 48.3 percent of those aged between 14-15, 78.3 percent of those aged 16-17 and 69.7 percent of those aged 18 and above were housed in homes where there was no provision of vocational training. 30 percent of those aged 14-15, 4.2 percent of those aged 16-17 and 20.2 percent of those aged 18 and above were lodged in homes where vocational training was provided but not attended to by them. Only 30 percent of those aged 11-13, 21.7 percent of those aged 14-15, 17.5 percent of those aged between 16-17 and 10.1 percent of those aged 18 and above were housed in homes where vocational training was provided and attended it regularly as well.

CHAPTER IX – MAJOR FINDINGS

I. JUVENILE: PRE INSTITUTIONALIZATION

This section represents the major findings of the researchers with respect to the demographics and other details of the inmates prior to their institutionalization. The findings have been arranged in accordance with the variables identified for ease of understanding.

A. AGE OF THE JUVENILES:

- A large majority of the inmates were aged 16 and above. 3.3 percent of the inmates fell within the age bracket of 11-13, while 19.9 percent of the inmates were aged between 14-15. The majority of the inmates (47.4 percent) were aged between 16-17 and 29.5 percent of the inmates were 18 and above. A total of 76.8 percent of the inmates were aged 16 and above.

B. STATE OF THE JUVENILES:

- A majority of the inmates interviewed were from Punjab. 21.9 percent of the interviewees were from homes in New Delhi, 37.1 percent were confined to homes within the state of Haryana and the majority of the inmates (41.4 percent) were from Punjab.

C. LEVEL OF EDUCATION:

- A simple majority of the inmates (27.5 percent) were educated till middle school i.e. 6th-9th standard while only 1.7 percent of the inmates had graduated college. 22.2 percent of the inmates were educated only till 5th standard, 21.9 percent had completed their matriculation while only 7.3 percent had completed their schooling till senior secondary.
- A majority (44.1 percent) of those who were illiterate fell within the age group of 16-17 while all of graduates and majority (68.2 percent) of those who can completed their schooling were above the age of 18. 40 percent of all the inmates within the age bracket of 11-13 were illiterate, while the figures for the same within the age group of 14-15 stands at 31.3 percent.
- 57.6 percent (highest) and 63.6 percent (highest) of the inmates who had completed their matriculation and their schooling respectively were from Haryana. A majority of illiterates (55.9 percent) and a majority 43.3 percent of those educated only till

primary level were from Punjab. 60 percent of those who had completed their graduation were from Delhi while 40 percent were from Haryana.

D. PROVIDER FOR INMATE:

- In a vast majority of the cases (75.8 percent) the father of the juvenile was the primary income earner while in 8.9 percent of the cases the juvenile fended for himself. 7.9 percent and 5.3 percent of the inmates answered that their mothers and brothers were responsible for the family income respectively while in 2.0 percent (lowest) of the cases, other members of the family such as uncles or grandparents provided for the juvenile.
- In a majority of the cases (46.7 percent) the provider for the juvenile was engaged in skill labour as a factory worker, carpenter, car mechanic, farmer, plumber etc. In 29.8 percent of the cases the provider was working as a daily wage labourer. 9.9 percent of the providers were engaged in commercial activities such as mom and pop shops, vegetable and fruit vending etc., while 7.3 percent of the inmates didn't specify the occupation of the primary bread winners. The above data sheds light upon socio economic demographic to which the majority of the inmates belong given that the providers of only 6.3 percent of the inmates were employed as salaried workers forming part of the supposedly upward mobile middle class.
- Nearly 14.4 percent of the inmates who had to provide for themselves belonged to the age group of 14-15, 48.1 percent fell within the age bracket of 16-17 while 37 percent were 18 and above.
- In a majority of the cases (54.1 percent) where the juvenile was providing for himself, the juvenile was engaged as a daily wage labourer while in 37 percent of the cases the juvenile was employed as a skilled labourer. In a majority (37.5 percent) of the cases where the mother of the juvenile the primary breadwinner, the mother was employed as a daily wage labourer. In a majority of the cases where the father or brother was the primary provider, the father was engaged as a skilled labourer (52.4 percent and 50 percent respectively).

E. PRE-OCCUPATION OF THE INMATE:

- 43.4 percent (highest) of the juveniles were studying/schooling while 25.8 percent were employed for the purpose of remuneration. 30.8 percent of the inmates were neither employed nor pursuing studies.

- Nearly 40 percent of those within the age group of 11-13 were employed for the purpose of remuneration. While 43.4 percent of those within the age group of 16-17 were studying, a staggering 32.9 percent were neither studying nor employed. 40.4 percent of those aged 18 and above were studying, 31.5 percent were employed while 28.1 percent were neither employed nor studying.
- 34.8 percent of the inmates interviewed from Delhi were pursuing studies prior to their institutionalization while 40.8 percent were neither studying nor employed. 45.8 percent (highest) of all inmates who were pursuing their schooling and 30.8 percent of all inmates who were employed were from Haryana. In Punjab, a majority (48.7 percent) of the inmates were employed while 36.6 percent were pursuing their education.
- Of those who were illiterate, 57.6 percent were employed gainfully while 42.4 percent were neither employed nor studying. Of those educated till primary, 6 percent were still pursuing their education, 44.8 percent were employed in the service of others while 49.3 percent were neither studying nor employed. Of those who were educated up till middle school, 51.8 percent were still studying, 13.3 percent were employed while 34.9 percent were neither studying nor employed. 95.5 percent of those who had completed their matriculation were still studying while the figure stands at 72.2 percent for those educated till senior secondary and at 100 percent for graduates.

F. ABILITY TO SOCIALIZE:

- A majority of the juveniles (54.6 percent) were social while 45.4 percent had difficulty in making friends easily.
- Among those who were illiterates 40.7 percent did not have friends outside or inside the home while 59.3 percent were found to be sociable. Among those who had completed their schooling, 59.1 percent were asocial while only 40.9 percent had friends inside and outside the home. 48.5 percent and 43.3 percent of those who had completed their matriculation or middle school respectively were found to be asocial while 60 percent of the graduates had friends inside and outside the home.

G. ADDICTION TO INTOXICANTS:

- It was found that more than quarter of the juveniles had developed an addiction to intoxicants. Almost 7.3 percent of the juveniles were addicted to tobacco, 7.9

percent to alcohol, 2.3 percent to cannabinoids, 7.6 percent to narcotics. A majority (74.8 percent) of the inmates did not have any such addiction.

- Nearly 69.6 percent of the inmates addicted to narcotics such as heroin and smack as well as 42.9 percent addicted to cannabinoids, 58.3 percent addicted to alcohol and 59.1 percent addicted to tobacco were from Punjab. Another 42.9 percent of those who reported cannabinoid use were from Delhi. Overall, while 86.4 percent of inmates from Delhi and 81.3 percent of inmates from Haryana reported not being addicted to any substance, the figure for the same in Punjab stands at 62.9 percent indicating a more rooted drug abuse problem and associated crimes.
- Nearly 8.7 percent of the inmates who were addicted to narcotics were aged between 11-13. 42.9 percent of those who regularly used cannabinoids fell in age group of 16-17 while the figures for the same age group for alcohol is 41.7 percent. 58.3 percent of those were reportedly addicted to alcohol were aged 18 and above. Vast majority (63.6 percent) of those addicted to nicotine and tobacco were aged between 16-17.
- Those who were illiterate or educated up to primary formed 40.9 percent each (highest) of those addicted to tobacco. Of those who were addicted to narcotics, 56.5 percent were illiterate while 26.1 percent had been educated up to middle school. Of those who consumed cannabinoids, 28.6 percent (each) were either illiterate or educated till primary. Those educated till primary along with illiterates formed 50 percent of those who consumed alcohol. Overall, it was found that the incidence of addiction was higher amongst those less educated or illiterate.
- 63.6 percent of those addicted to tobacco, 50 percent of those addicted to alcohol, 42.9 percent of those dependent on cannabinoids and 43.5 percent of those addicted to narcotics were sociable. Overall of those not addicted to any kind of intoxicants, 55.8 percent were sociable while 44.2 percent were asocial.
- 59.1 percent of the juveniles addicted to tobacco were employed, 40.9 percent were neither employed nor studying while none of those addicted to tobacco were pursuing their education. 45.8 percent of those addicted to alcohol were studying, 25 percent were employed while 29.2 percent were neither studying nor employed. 57.1 percent of those dependent upon cannabinoids were employed while 28.6 percent were studying, 14.3 percent were neither studying nor employed. 56.5 percent of those addicted to narcotics were neither studying nor employed, 34.8

percent were employed gainfully while only 8.7 percent were pursuing their education.

II. JUVENILE: IN CONFLICT WITH THE LAW

A. NATURE OF OFFENCE:

- 12.6 percent of the juveniles had been charged with petty offences, 7.0 percent had been charged with serious offences while an overwhelming majority (80.5 percent) of the inmates had been charged under sections which constituted heinous offences (per the definition under Act of 2015).
- It can be observed that nearly 70 percent and 63.3 percent of inmates aged 11-13 and 14-15 respectively had been charged with commission of offences which are deemed heinous by the Juvenile Justice (Care and Protection of Children) Act, 2015. Similarly, an overwhelming majority (83.2 percent and 88.8 percent respectively) of the inmates aged 16-17 and 18 + were charged with heinous offences.
- Overall, 81.5 percent of all inmates charged with committing heinous offences were liable to be tried as adults under the provisions of the new act.
- Of those charged with petty offences, 7.9 percent were aged 18 and above, 47.4 percent fell in the age bracket of 16-17, 36.8 percent within the age group of 14-15 and another 7.9 percent within the age group of 11-13.
- 91.6 percent of those educated till middle school, 92.4 of those who had completed their matriculation, 86.4 percent of those who had completed their schooling and all graduates had been charged under sections covered by the definition of heinous offences. Of those who had been charged with serious and petty offences, 47.6 percent and 44.7 percent respectively were illiterate.
- 60.5 percent of all those charged with commission of petty offences were sociable while heinous offences formed 81.2 percent of the offences the sociable juveniles were charged with. 61.5 percent of all serious offences and 44.9 percent of all heinous offences were committed by juveniles who weren't sociable.
- 72.7 percent of those addicted to tobacco had been charged with heinous offences, while 87.5 percent of those addicted to alcohol, 57.1 percent of those addicted to cannabinoids and 60.9 percent of those addicted to narcotics had been charged for the same category of offences. Of those addicted to narcotics, 26.1 percent had been

charged with petty offence and 28.6 percent of those addicted to cannabinoids had been charged with serious offences.

B. COMPANY AT THE TIME OF THE COMMISSION OF OFFENCE:

- 40.1 percent of the juveniles did not have any company while 19.5 percent of the inmates were in the company of the other juveniles at the time of the offence. In 33.1 percent of the cases, the juveniles were in the company of adults whereas in 7.3 percent of the cases the inmate was in the company of other juveniles who committed the offence at the behest of adults.
- While 40.1 percent of the inmates reported being alone at the time of the commission of the offence, 50 percent and 36.4 percent of those who committed the offence at the behest of adults were aged 16-17 and 18 + respectively. 42.4 percent of those who committed the offence in the company of other juveniles and 50 percent of those who were in the company of adults were aged 16-17. Overall only 7.3 percent juveniles reported to have committed the offence at the behest of adults.

C. RECIDIVISM:

- 10.9 percent of the inmates were recidivists i.e. they had been charged and convicted for other offences earlier while 89.1 percent (majority) of the inmates were first time offenders.
- Nearly 84.8 percent of all recidivists were aged between 16 and above. While the number of all non-recidivists was above 90 percent for age groups 11-13, 14-15 and 16-17, the number fell only marginally to 84.3 percent for those aged 18 and above.
- 33.3 percent of all recidivists were from Delhi, 30.3 percent from Haryana and 36.4 percent from Punjab. Overall, 83.3 percent (lowest) of inmates from Delhi were not recidivists while the figure stands are 91.1 percent (highest) in Haryana and 90.3 percent in Punjab.
- 33.3 percent (highest) of all recidivists had been educated only up to middle school while none of the graduates were recidivists. 21.2 percent of all recidivists were illiterate and 24.2 percent had been educated only till primary level.
- 51.5 percent (slight majority) of all recidivists answered that they did not have any difficulty in making friends while 48.5 percent answered that they weren't as

sociable. 55 percent of all non-recidivists were found to be sociable while 45 percent were not.

D. CONFINEMENT IN POLICE/JUDICIAL CUSTODY:

- A vast majority (66.2 percent) of the juveniles responded that they had been confined in police or judicial custody before being sent to the home. In only 33.8 percent of the cases, the inmates stated that they were sent directly to the home without being confined to police or judicial custody.
- The researchers observe a direct relationship between the two variables i.e. an increased trend of confinement to custody with an increase in age. 50 percent of juveniles (lowest) aged 11-13 reported being sent to judicial/police custody while 58.3 percent of juvenile aged 14-15 were sent to custody. The figures stand at 63.6 percent for those aged 16-17 and 77.5 percent (highest) for those aged 18 and above.
- Where the inmates had been confined to police/judicial custody, they had made their claims before the police in 70.5 percent of the cases and before the courts in 29.5 percent of the cases. The juveniles were sent to judicial/police custody; in 79.7 percent of the cases where the claims were made before a judge as compared to only 61.8 percent of the cases where the claims were made before the police.
- Of those who were confined to judicial custody; 20.5 percent were illiterate, 23 percent were educate till primary, 27.5 percent were educated till middle school, 9.5 percent had completed their matriculation and 2.5 percent were graduates. Of those who were not sent to police/judicial custody, 31.4 percent had been educated till secondary level, 27.5 percent till middle school and only 20.6 percent were illiterate.
- Juveniles were sent to police/judicial custody 65.6 percent of the times where the family was present during the proceedings whereas the juveniles were sent to custody 75 percent of the times when the family members were not present.

E. AUTHORITY BEFORE WHICH CLAIM OF JUVENILITY WAS MADE:

- In an overwhelming majority (75.5 percent) of the cases the claim for juvenility was made before the police while only in 24.5 percent of the cases was the claim made before the court.

- 24.2 percent of respondents from Delhi, 19.6 percent from Haryana and 29 percent of respondents from Punjab made their claims for minority in courts. Overall 75.5 percent of all respondents made their claims for juvenility before the police.
- It was found that 81.1 percent of illiterates made their claims before the police while 80 percent of all graduates made their claims before a judge. There is an observable direct relationship between the level of education and the claims made before a judge i.e. the higher the level of education, the higher the percentage of claims made before the judge within the level of education. 20.9 percent of all educated till primary, 24.1 percent of those educated till middle school, 24.2 percent of those educated till 10th standard and 40.9 percent of those educated till senior secondary chose to make their claims of minority before the court instead of the police.

F. BEHAVIOUR OF POLICE OFFICIALS:

- In 53 percent of the cases, the behaviour and attitude of the police towards the juveniles was hostile and the majority of them reported being subjected to torture. In 27.5 percent of the cases, the police officials were indifferent to the plight of the juvenile while only in 19.5 percent of the cases were the police officials supportive and kind to the juvenile.
- The researchers found an inverse relationship between the age of the inmates and a supportive attitude of police officials towards them. While 50 percent of the juveniles aged 11-13 reported that the police were supportive of them throughout their experience only 20 percent of those aged 14-15 reported the same. 19.6 percent of those aged 16-17 and 15.7 percent of those aged 18 and above reported that the police were supportive in their attitude and behaviour. Nearly 59.6 percent of those aged 18 and above, 43.1 percent of those aged 16-17, 55.0 percent of those aged 14-15 and 50 percent of those aged 11-13 reported being abused by the police or facing torture at their hands with the overall attitude and behaviour of the police being hostile to them.
- Nearly 60.6 percent of the inmates from Delhi reported hostile treatment from the police while the figures from Haryana and Punjab stand at 42% percent and 58.9 percent respectively. Overall, of those who reported hostile treatment, 45.6 percent were from Punjab, 29.4 percent were from Harayna and 25 percent were from Delhi. Of those who reported that the police were supportive towards their plight, 52.5

percent were from Haryana (highest), 27.1 percent were from Punjab and 20.3 percent were from Delhi.

- Of those who faced hostile behaviour i.e. torture and abuse at the hands of the police, 20 percent were illiterate, 26.9 percent were educated till primary and 27.5 percent had been educated till middle school. Of those to whom the police had been supportive, 27.1 percent had been educated till secondary, 32.2 percent had been educated till middle school while 15.3 percent were illiterate. 54.2 percent of all illiterates, 64.2 percent of all educated till primary, 53 percent of those educated till middle school and 47.3 percent of those educated till secondary reported to have faced hostile treatment at the hands of the police.
- Within those who reported hostile treatment at the hands of the police the providers of 28.8 percent were working as daily wage labourers and 48.1 percent were skilled labourers (majority). Amongst all occupations of the providers, a hostile treatment at the hands of the police was the dominant behaviour ranging from 43.3 percent to 59.1 percent.

G. APPROACH BY POLICE OFFICIALS IN UNIFORM:

- An overwhelming majority (88.4 percent) of the juveniles responded that they had been approached by police officials in uniform while only 11.6 percent stated that they weren't approached by police officials in uniform.
- It was found that 90 percent of those aged 11-13, 91.7 percent of those aged 14-15, 87.4 percent of those aged 16-17 and 87.6 percent of those aged 18 and above were approached by police officials in uniform. In all only 11.6 percent of all inmates were not approached by policemen in uniforms at all.
- It was found that 87.9 percent of juveniles from Delhi, 85.7 percent juveniles from Haryana and 91.1 percent juveniles from Punjab had been approached by policemen in their uniforms. Of those juveniles who weren't approached by policemen in uniforms, 22.9 percent were from Delhi, 45.7 percent from Haryana and 31.4 percent from Punjab.

H. PROVISION OF LEGAL AID:

- It can be seen that the inmates received legal aid from the state in only 18.9 percent of the cases while in a vast majority of the cases (81.1 percent), no such aid was provided.

- It was found that no juvenile between the age of 11-13 received legal aid. 40.4 percent of those who received legal aid were in the age group of 16-17 while 38.6 percent of received such aid were aged 14-15. Only 13.5 percent of those aged 18 and above received any kind of legal aid.
- It was found that a majority (54.4 percent) of the inmates who received legal aid were from Delhi, while 17.5 percent and 28.1 percent were from Haryana and Punjab respectively. Of those who did not received such legal aid, 44.1 percent (highest) were from Punjab, 41.6 percent were from Haryana while only 14.3 percent were from Delhi.
- In 74.4 percent of the cases where the provider for the juvenile was a daily wage labourer, no legal aid was provided to the juvenile while 40.4 percent of all those who received such legal aid were dependent upon members who were daily wage labourers. 29.8 percent of all who received legal aid were dependent upon providers whose primary occupation was a skilled labourer while such juveniles formed the majority (50.6 percent) of those who didn't receive legal aid.
- It was found that 84.7 percent of all juveniles who were studying, 80.8 percent of those employed and 76.3 percent of those who were neither studying nor employed received no legal aid. Of those who received such legal aid, 38.6 percent were neither employed nor studying, 26.3 percent were employed for the purpose of remuneration and 35.1 percent of the juveniles were studying.

I. PRESENCE OF FAMILY MEMBERS DURING PROCEEDINGS:

- It was found that in 93.4 percent of the cases the family of the juvenile was present during the proceedings while in 6.6 percent, the juvenile received no such support.
- It was found that in all cases where the juvenile was between 11-13, parents of the juvenile were present at the proceedings. In cases where the parents of the juvenile were not present, 20 percent were aged 14-15, 45 percent were aged 16-17 while 35 percent were aged 18 and above.
- 15 percent of the cases where the family members were not present were in the state of Delhi while 40 percent were from Haryana and 45 percent were from Punjab. The family members of the juvenile were not present for the proceedings in only 4.5 percent of the cases in Delhi while the figure from Haryana and Punjab stands at 7.1 percent and 7.3 percent respectively.

- In 30 percent of the cases where the family of the juvenile was not present, the juvenile was studying, in 50 percent of the cases the juvenile was employed while in 20 percent of the cases the juvenile was neither studying nor employed. In 12.8 percent of all cases where the juvenile was employed, the family of the accused was not present for the proceedings.
- In 95.5 percent of the cases where the juvenile was charged with heinous offences, the family of the juvenile was present whereas in all cases where the family of the juvenile was not present, 55 percent had been charged with heinous offences.

J. USE OF STIGMATIZING SEMANTICS:

- It was found that all respondents (100 percent) replied in affirmative when asked if any accusatory and stigmatizing terms were used for or around them during the proceedings.
- In all instances from Delhi, Haryana and Punjab, accusatory/ stigmatizing terms such as arrest, warrant, accused, charge-sheet, remand, trial and prosecution etc. were used in the course of the proceedings.
- In all instances, irrespective of the whether the offence committed by the juvenile was petty, serious or heinous, accusatory terms/stigmatizing terms such as arrest, warrant, accused, charge-sheet, remand, trial and prosecution etc. were used in the course of the proceedings.

III. JUVENILE: INSIDE THE HOME

A. TYPE OF HOME:

- 75.8 percent of the interviewees were lodged in Observation Homes while 24.2 percent of the juveniles interviewed were from Special Homes.
- All children between the age of 11-13 were housed in observation homes irrespective of the nature of offence. 52.8 percent of those housed in observation homes were between 16-17 years in age. 56.2 percent of all those 18 and above were housed in special homes. Those aged 18 and above formed only 17.0 percent of those housed in observation home.
- 72.4 percent of those charged with heinous offences were lodged in observation homes. While 91.8 percent of those housed within the special home had been

charged with heinous offences. Of those housed within observation homes, 76.9 percent had been charged with heinous offences.

- Of those juveniles interviewed from Delhi 24.2 percent were kept in Special Homes while 75.8 percent were from observation homes. Of all juveniles from Haryana, 27.7 percent were from Special Homes while 72.3 percent were from Observation Homes. From Punjab, 21 percent were from Special Homes while 79 percent were from Observation Homes.

B. LIKABILITY OF ENVIRONMENT INSIDE THE HOME:

- 31.8 percent of the children answered straightaway that they disliked the overall environment of the home, while 68.2 percent of the juveniles replied that they liked, prima facie, the environment inside the home.
- It was observed that 72.7 percent of the juveniles from Delhi, 61.6 percent of juveniles from Haryana and 71.8 percent of the juveniles from Punjab liked the prima facie environment of the home. Of those who disliked the environment of the juvenile home, 44.8 percent were from Haryana, 36.5 percent from Punjab and 18.8 percent from Delhi

C. SEGREGATION:

- It was observed that in no observation home or special home was there any segregation of children on the basis of the age i.e. all children aged 11-18 and above were housed together without any consideration of the age differences.
- It was found that neither in Delhi nor in Punjab or Haryana was any segregation made in residential facilities on the basis of the age of the juveniles.

D. REQUIREMENT OF BETTER INFRASTRUCTURE:

- 96.0 percent of the inmates answered that there was a need for better infrastructure. Only 4 percent of the inmates replied in a straightforward manner that there was no such need.
- 86.2 percent of the juveniles from Delhi, 98.2 percent of the juveniles from Haryana and 99.2 percent of the juveniles from Punjab felt that there was a requirement of better infrastructure within their respective homes.

E. QUALITY INSIDE THE HOME:

1) OF PEST/INSECT CONTROL:

- 4.3 percent of the inmates replied that the quality was poor while a majority of the inmates (58.6 percent) answered that the quality was at best – below average. 35.1 percent of the inmates felt that the quality of pest control was average while 2.0 percent answered that the quality was good.
- 53.8 percent of the juveniles from Delhi reported that the state of pest/insect control inside the home was poor. 45.3 percent and 44.3 percent of the juveniles in Haryana and Punjab reported the quality of pest/insect control inside home to be average respectively. 34.5 percent and 39 percent of juveniles from Haryana and Punjab respectively stated that the quality of pest/insect control inside the home was below average.

2) OF BEDDING/CLOTHING:

- A large majority (80.1 percent) of the juveniles answered that the quality of the clothing and bedding so provided was average. 17.5 percent of the juveniles replied that the quality was below average, 1.3 percent reported the quality to be poor and only 1 percent stated that the quality was good.
- 62.1 percent juveniles from Delhi, 85.7 percent juveniles from Haryana and 84.7 percent juveniles from Punjab reported the quality of clothing/bedding provided them to be average. 43.4 percent of Juveniles from Delhi, 26.4 percent of juveniles from Haryana and 30.2 percent juveniles from Punjab stated that the clothing/bedding provided to them by the authorities was below average in quality.

3) OF WATER FOR DRINKING AND SANITATION:

- A majority of the inmates (79.1 percent) responded that the quality of water was average. 17.2 percent of the respondents stated that the quality of water was below average. 0.7 percent stated that such quality was poor while 3 percent stated that the quality of water provided to them was good.
- 56.1 percent of juvenile from Delhi, 78.6 percent juveniles from Haryana and 91.9 percent juveniles from Punjab reported that the quality of water inside the home was average. Of those who reported that the quality of water was below average, 50 percent were from Delhi while 42.3 percent were from Haryana.

4) OF BATHROOMS (INCLUDING SUFFICIENCY):

- 51 percent (highest) of the interviewees stated that the quality of bathroom and their sufficiency was below average. 37.4 percent felt that the quality of bathroom was average, 9.6 percent felt that the quality was poor while 2.0 percent responded that the quality was good.
- 60.6 percent of the juveniles from Delhi, 49.1 percent of the juveniles from Haryana and 47.6 percent of the juveniles from Punjab reported that the quality and quantity of bathrooms was below average. 22.3 percent of the juveniles from Haryana stated that the quality and quantity of bathroom was poor while 47.6 percent of juveniles from Punjab reported the quality to be average. Only 4.8 percent of the juveniles reported that the quality and quantity of bathrooms was good while none from Delhi or Haryana reported so.

5) OF KITCHEN HYGIENE:

- 68.2 percent (highest) of the juveniles answered that the quality of the kitchen cleanliness was average while 29.5 percent stated that the quality was good. 2.3 percent responded that the quality was below average, while none of the respondents said that hygiene in the kitchens was poor.
- 68.2 percent of juveniles from Delhi, 75.9 percent juveniles from Haryana and 61.3 percent of the juveniles reported that quality of cleanliness inside the kitchens was average. 28.8 percent of juveniles from Delhi, 19.6 percent of juveniles from Haryana and 38.7 percent of juvenile from Punjab stated that the quality of hygiene inside the kitchens was good.

6) OF MEALS:

- 47.0 percent (highest) responded that the quality of food was average. A sizable segment (38.1 percent) stated that the quality was below average while 10.7 percent replied that the quality of the food was poor and deplorable. Only 4.3 percent (lowest) stated that the quality of food was good.
- 53 percent of juveniles from Delhi and 49.1 percent of juveniles from Haryana found the quality of meals to be below average. 68.5 percent of the juveniles from Punjab reported the food to be average while 21.5 percent of the juveniles from Haryana stated that the quality of meals provided to them was poor.

F. ROUTINE:

- All inmates had to follow a routine, however where the inmates did not attend vocational training or formal education, the routine tended to revolve around the timing of the meals.

G. EXISTENCE OF AND/OR AWARENESS ABOUT CHILDREN'S COMMITTEE:

- Only 24.5 percent of the respondents were aware about a children's committee their home while 32.5 percent were unaware of any such committee. In a majority of the cases (43 percent) there was no children's committee in the home.
- Only 43.9 percent of the juveniles in Delhi and 36.3 percent of juveniles from Punjab were aware of the existence of the children's committee. 56.1 percent of the juveniles from Delhi and 49.2 percent of juveniles from Punjab weren't aware of any children's committee within their homes. No Observation Home or Special Home in Haryana had any children's committee.

H. EXTENSION OF COOPERATION FROM STAFF TO CHILDREN'S COMMITTEE:

- 64.9 percent of respondents who were aware of the existence of children's committee replied that the children's committee received no cooperation from the staff while only 35.1 percent stated that the committee received cooperation of the staff.
- 41.4 percent from of juveniles Delhi who were aware of the existence of the committee reported that the staff extended such cooperation while 58.6 percent stated that the committee received no cooperation. 31.1 percent of juvenile from Punjab stated that the committee received cooperation of the staff while 68.9 percent believed that the staff extended no cooperation to the committee whatsoever.

I. MONTHLY MEDICAL CHECK UPS:

- 91.4 percent of the juveniles stated that no medical check-ups of the inmates were conducted on a monthly basis. Only 8.6 percent put on record that such monthly check-ups were conducted.
- The rate of monthly medical check-ups was the highest in Delhi with 37.9 percent juveniles reporting that they got monthly medical check-ups, while only 0.9 percent

juveniles from Haryana stated the same. No juvenile from Punjab reported getting monthly medical check-ups.

J. AVAILABILITY OF FIRST AID KITS:

- All respondents stated that first aid kits were available in the home for immediate treatment of minor wounds and general ailments.

K. AVAILABILITY OF RECREATIONAL FACILITIES:

- It was found that recreational facilities in one form or the other were present in every observation and special home.

L. GRANT OF LEAVE/PAROLE:

- In a majority of the cases (98.3 percent), irrespective of their nature of offence, no leave/parole was granted to the juveniles. In only 1.7 percent of the cases had the juveniles been let out on leave/parole.
- 6.1 percent of the juveniles had been granted leave/parole in Delhi, 0.8 percent in Punjab were granted leave/parole while none of the juveniles from Haryana had been granted any leave or parole.

M. AVAILABILITY OF SUGGESTION BOX:

- None of the respondents were aware of the existence of any such box within the premises of the homes.

N. PERMISSION TO MEET FAMILY/PARENTS:

- It was found that all interviewees were allowed to meet their family/parents of designated days as per the rules of the juvenile homes.

O. QUALITY AND QUANTITY OF STAFF:

- 44.0 percent (highest) of the juveniles found that the quality and quantity of the staff within the home to average. 33.4 percent stated that the quality and quantity of the staff was below average while 12.9 percent replied that it was poor. 9.6 percent (lowest) of the respondents stated that the quality was good.
- 51.5 percent of inmates from Delhi found that quality of staff to be below average while 13.3 percent deemed it poor. 41.1 percent of juvenile from Haryana found the quality of staff to be below average while 20.5 percent reported the quality and

quantity to be poor. 57.3 percent of juveniles from Punjab stated that the quality of staff was average at best while 20.2 percent found the quality and quantity to be good.

P. PRESENCE OF HOUSE FATHER/HOUSE MOTHER:

- In 57 percent of the cases a house mother or house father were present while in 43 percent of the cases the position of house father and house mother was vacant.
- In all homes in Delhi, house father and house mothers were present to take care of the children. There were no house fathers/ house mothers present in any observation or special homes in Haryana while 85.5 percent of juveniles from Punjab reported that house fathers/ house mothers were present in their respective homes.

IV. JUVENILE: POST RELEASE PROSPECTS

A. INDIVIDUAL’S PLAN POST RELEASE AND INDIVIDUAL CARE PLANS

- 47 percent of the inmates (highest) intended to pursue and complete their education post their release while 18.5 percent sought to continue the previous jobs they held. 20.9 percent of the inmates wanted to look for other employment opportunities while 13.6 percent were undecided on their future course of action.
- All respondents unanimously answered that they were unaware about any post release/individual care plans being drawn up for them.
- 22.7 percent of the juveniles from Delhi planned on finding a new job post release, 37.9 percent wanted to continue studying while 24.2 percent were unsure of what to do. In Haryana, 60.7 percent of the juveniles wanted to continue studying. In Punjab, 39.5 percent wanted to continue studying while 28.2 percent wanted to find a new job.

B. AWARENESS ABOUT DATE OF RELEASE AND/OR APPEARANCE

- It was found that in 90.4 percent of the cases, the juveniles were aware of their date of release/next appearance but in 9.6 percent of the cases they weren’t. However, in quite a few cases even when the juveniles were aware of such a date for next appearance, a lack of manpower in the police force/ staff to accompany them to the hearing rendered the knowledge futile.
- In 93.1 percent of the incidences where the juvenile was unaware about the date of release or next hearing were from Punjab, while only 0.9 percent were from

Haryana and 3.4 percent from Delhi. 21.8 percent of all inmates interviewed from Punjab were unaware about their date of release/next hearing.

C. VOCATIONAL TRAINING:

- It was found that in a large majority of the cases (69.5 percent), there was no provision of any kind of vocational training for the inmates. Of the 30.5 percent of the cases where such training was available, only 16.6 percent of the inmates attended it while 13.9 percent did not attend any vocational training.
- It was found that 80 percent of all children who answered the query in affirmative were from Delhi while 20 percent were from Punjab. No vocational training was being provided in any observation or special home in Haryana while 79 percent of the juveniles from Punjab reported that there was no provision of vocational training. 60.6 percent of juveniles from Delhi attended such vocational training provided, while 39.6 percent did not attend vocational training even though it was being provided.
- 70 percent of those aged between 11-13, 48.3 percent of those aged between 14-15, 78.3 percent of those aged 16-17 and 69.7 percent of those aged 18 and above were housed in homes where there was no provision of vocational training. 30 percent of those aged 14-15, 4.2 percent of those aged 16-17 and 20.2 percent of those aged 18 and above were lodged in homes where vocational training was provided but not attended to by them. Only 30 percent of those aged 11-13, 21.7 percent of those aged 14-15, 17.5 percent of those aged between 16-17 and 10.1 percent of those aged 18 and above were housed in homes where vocational training was provided and attended it regularly as well.
- Only 27.4 percent of those lodged in special homes and 13.1 percent of those lodged in observation homes received vocational training and attended it. 30.1 percent of those lodged in observation homes and 8.7 percent of those lodged in special were provided with vocational training but did not attend it. A total of 42.5 percent of juveniles were lodged in special homes with no provision of vocational training while the figure stands at 78.2 percent for those lodged in observation homes.
- A total of 47.1 percent (highest) respondents who were attended the vocational training being provided felt that there was need to introduce new vocations in addition to the ongoing vocations. 37.3 percent were indifferent to such a need while 15.7 percent (lowest) disagreed that there was such a need.

- 41.5 percent of the juveniles from Delhi and 70 percent juveniles from Punjab who attended the vocational training agreed that there was a need to introduce other vocations for training in the home. 39 percent of children from Delhi and 30 percent of juveniles from Punjab were indifferent to any such need while 19.5 percent of juveniles from Delhi disagreed that there was any such need.
- 41.2 percent (highest) of the juveniles who attended vocational training disagreed that such training would help them in their life post release while 33.3 percent agreed to the same. 23.5 percent were neutral or undecided on the effectiveness of the vocational training while 2 percent (lowest) strongly disagreed.
- 41.5 percent of inmates from Delhi and 40 percent of inmates from Punjab who attended vocational training disagreed that the vocational training they received was an effective post release aid. Only 31.5 percent of juveniles from Delhi and 40 percent juveniles from Punjab agreed that the vocational training they received would aid them post their release.
- 47.0 percent of the children found that the attitude of the trainers towards them was indifferent, while 39.4 percent found the trainers to be helpful. 12.3 percent stated that the trainers were incompetent while 0.3 percent found them to be caring. 1 percent of the sample did not respond to the query.
- 68.3 percent of juveniles from Delhi reported their trainers to be helpful while 28.6 percent stated that the attitude of trainers towards them was indifferent. 50 percent of juveniles from Haryana reported that their teachers were indifferent towards them and 23.2 percent stated that their teachers were incompetent. In Punjab, 54.8 percent found their teachers/trainers to be indifferent towards them while 37.1 percent found their trainers to be helpful.

D. FORMAL EDUCATION:

- 53.6 percent were continuing their formal education while inside the institute whereas 46.4 percent were not following any formal education courses.
- 65.2 percent of juveniles in Delhi received formal education while 34.8 percent did not. 54.5 percent of children from Haryana received formal education while 45.2 percent did not. In Punjab, 46.8 percent were receiving formal education while 53.2 percent were not.
- That 64.1 percent of the children who were studying prior to their confinement were pursuing formal education from within the home while 35.9 percent were not. 43.6

percent who were employed prior to their confinement had started formal education after coming to the home. 47.3 percent of those who were neither studying nor employed prior to their confinement had started formal education from within the home. Overall while 131 children were studying prior to their confinement, a total of 162 children were availing formal education from inside the home, an increase of 23.67 percent over pre institutionalization levels.

- It was observed that only 1 percent of the children received any encouragement to engage in voluntary services or open schooling while 99 percent received no encouragement.
- It was found that only 4.5 percent juveniles from Delhi received any encouragement to engage in voluntary services or open school while no child from Punjab or Haryana received any such encouragement.

E. THERAPY SESSIONS/ COUNSELLING:

- Therapy sessions on a regular basis were provided to only 11.3 percent of the juveniles while a majority (71.2 percent) received no such therapy at all. 17.5 percent of the juveniles had only attended one therapy session in their duration of stay in the home.
- 58.6 percent of the juveniles attended individual sessions, while 39.1 percent attended group sessions. Only in 2.3 percent of the cases were the juveniles called for both types of sessions. It is necessary to reiterate here that 71.2 percent of the juveniles did not attend any therapy sessions.
- Of those who had attended therapy sessions, only 18.4 percent (lowest) of the juveniles felt that the sessions were helpful while 29.9 percent felt that the sessions were helpful to some extent. A majority of the juveniles (51.7 percent) found that the sessions did not benefit them in any way whatsoever.
- 55.3 percent (highest) of the children stated that positive reinforcement mechanisms were indeed used by the staff, trainers and counsellors in the form rewards for good behaviour. 16.2 percent replied that no such positive reinforcement was used which 28.5 percent were unaware of any such measures.
- A majority of the juveniles (56.3 percent) found the performance of the counsellor to be average at best. 16.1 percent found the attitude towards the children and the performance of the counsellor to be good. 26.4 percent stated that the performance of the therapist/counsellor was below average while 1.1 percent found it to be poor.

- 65.8 percent of those charged with petty offences, 71.4 percent of those charged with serious offences and 72 percent of those charged with heinous offences received no therapy sessions or counselling. Those receiving regular therapy sessions only formed 9.9 percent of all who were charged with commission of heinous offences while 18.2 percent of such juveniles had only attended a therapy session once since their confinement.
- 47 percent of inmates from Delhi attended regular therapy sessions while the figure stands that 0.9 percent from Haryana and 1.6 percent from Punjab. 88.4 percent of juveniles from Haryana and 78.2 percent inmates from Punjab had never attended therapy sessions. 24.2 percent of children from Delhi, 10.7 percent juveniles from Haryana and 20.2 percent children from Punjab had attended the therapy sessions only once.
- 36.2 percent of juveniles who attended therapy sessions even once in Delhi were given individual therapy sessions while 59.2 percent were given group sessions. In Haryana, 84.6 percent were given individual sessions while 15.4 percent stated that they were given group sessions. In Punjab, 85.2 percent of juveniles reported being given individual sessions while 14.8 percent stated that they were given group sessions.
- 44.7 percent of juveniles from Delhi, 61.5 percent juveniles from Haryana and 59.3 percent of juveniles from Punjab reported that they did not find the therapy sessions to be helpful. Only 25 percent of juveniles from Delhi, 14.8 percent of Juveniles from Punjab and none of the juveniles from Haryana found the therapy sessions to be helpful and utile.
- 51 percent of juveniles from Delhi, 76.9 percent of juveniles from Haryana and 51.9 percent of juveniles from Punjab who received regular therapy sessions found the attitude and performance of the therapist to be average. 31.9 percent of juveniles from Delhi, 23.1 percent from Haryana and 18.5 percent of juveniles from Punjab found the attitude and performance of counsellor to be below average.
- It was found that 90.9 percent of those addicted to tobacco, 87.5 percent of those addicted to alcohol, 28.6 percent of those addicted to cannabinoids and 52.1 percent of the those addicted to narcotics had not attended a therapy session even once. 57.1 percent of those dependent upon cannabinoids had attended a therapy session only once. Only 17.4 percent of those addicted to narcotics and 14.3 percent of those addicted to cannabinoids regularly attended therapy sessions.

- 79.6 percent of those who were found to be asocial did not receive any therapy while only 7.3 percent did. Of those found to be social, 64.2 percent did not receive any therapy sessions. Of those who received regular therapy sessions, 70.6 percent were social while 29.4 percent were asocial. Similarly, of those who received therapy sessions only once, 66 percent were sociable while 34 percent were not.
- 8.2 percent of those lodged in special homes and 12.2 percent of those lodged in observations home received regular therapy sessions. 60.3 percent of those lodged in special homes and 74.7 percent of those lodged in observation homes never received any therapy sessions at all. 31.5 percent of those juveniles lodged in special home and 13.1 percent of those lodged in observation homes received therapy sessions only once.

CHAPTER X - JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015: OPENING PANDORA’S BOX

Even though the Act of 2000 made no distinction between the nature of offences, the Rules of 2007 defined heinous offences as those entailing punishment of more than seven years of imprisonment, while petty and serious offences were left undefined. However, neither the Act of 2000 nor the Rules of 2007 made serious distinctions in the procedure for the prosecution and trial of juveniles charged on the basis of nature of offence. In the Act of 2015, petty offences have been defined as those entailing a punishment of less than three years of imprisonment, serious offences as those punishable with three to seven years of imprisonment and heinous offences are those that are punishable with more than seven years of imprisonment. The Act of 2015 allows for the possibility of the trial of a child aged 16-18 years as an adult along with several other disqualifications. It is pertinent to examine the findings of the researchers in the light of the above.

While the circumstances surrounding the enactment of the Act of 2015 have been mentioned in the earlier chapters, it is important to weigh the criticism against the substance of the provisions detailed in the chapter to verify if the controversy surrounding the enactment was merely brouhaha or based on a sound logic. For such examination, the intention of the legislators should be given primacy. As informed by Secretary, Ministry of Women and Child Development, in a deposition before the Standing Committee on Human Resource Development,¹ the following concerns with respect to the working of the Act of 2000 necessitated the enactment of the Act of 2015:

- i. Delays in various processes under the Act of 2000 w.r.t. pendency of cases due to delayed decisions by committees and boards;
- ii. Delay in inquiry of cases leading to children languishing in homes for years even for petty offences;
- iii. Increase in reported incidents of abuse of children in institutions;
- iv. Inadequate facilities, quality of care and rehabilitation measures in homes;
- v. Disruption of adoption, delays in adoption due to faulty and incomplete process;
- vi. Lack of clarity regarding roles, functions and responsibilities of boards and committees;

¹ Parliamentary Standing Committee on Human Resource Development, *264th Report on Juvenile Justice (Care and Protection of Children) Bill, 2014*, presented on 25th February, 2015

- vii. Limited participation of the child in the trial process, delays in rehabilitation plans and social investigation report of every child;
- viii. Lack of any substantive provisions for orders to be passed in case the child is found to be innocent;
- ix. No specific provisions for reporting of abandoned or lost children to appropriate authority;
- x. Non registration of institutions and inability of states to enforce registration due to lack of any penal provisions for non-compliance;
- xi. Inadequate provisions to counter offences against children such as corporal punishment, ragging or sale of children for adoption purposes;
- xii. Increase in heinous offences committed by children and lack of any specific provisions to deal with such children.

As per the findings of the researchers, only 12.6 percent of the juveniles had been charged with petty offences, 7.0 percent had been charged with serious offences while an overwhelming majority (80.5 percent) of the inmates had been charged under sections which constituted heinous offences. Of these 80.5 percent who had been charged with heinous offences, 81.5 percent (of all inmates charged with committing heinous offences) were liable to be tried as adults under the provisions of the Act of 2015. A large majority (83.2 percent and 88.8 percent respectively) of the inmates aged 16-17 and 18 + had been charged with heinous offences. It should be mentioned, however, that the findings are based on interviews conducted within observation homes and special homes and do not reflect upon the number of juveniles who are not institutionalized owing to the nature of offence.

For the sake of argument, let us **momentarily** assume to be true, the contention of those in favour of the provisions – that adolescents within the age group of the 16-18 could be treated as adults given that they have the maturity to differentiate between right and wrong and that there has been a significant increase in the number of heinous offences committed by those aged 16 and above. This argument largely coloured the perceptions of the law makers in the drafting of the Act of 2015. On this point, however, it is important to note that even the legislators didn’t feel that all juveniles aged 16-18 should be painted with the same brush, meaning that not all juveniles at that age have the mental and physical capacity to commit the offence. The same can be deduced from the fact that the Act of 2015 sets up a procedure through which the board may decide in a preliminary assessment, the mental and physical capacity of the juvenile to commit the offence. As an added safeguard, even after the juvenile

is forwarded to the children’s court to be tried as an adult, the Act of 2015 requires for the children’s court to conduct another assessment with regards to the same mental and physical capacity before proceeding with the trial or inquiry, as the case may be.

In light of such a comparatively large number of juveniles liable to be tried as adults, the established procedure under the Act of 2015 would not only need to be simple so as to ensure speedy justice but also need to be water tight, so as to ensure that no adolescent who didn’t have the capacity to commit the offence is tried as an adult. On both these accounts, the success would lie with the efficacy of the implementation of the provisions, the prospects of which, going by the findings of the researchers, are bleak.

That the higher judiciary had to resort to directing the administration to ‘set up’ boards, committees and other organs of the juvenile justice system in the cases of *Sheela Barse v. Union of India*² in 1986 and two and a half decades later reiterate the same in *Sampurna Behura v. Union of India*³, speaks volumes about the status of implementation of the Act of 1986 and the Act of 2000. The judgment for the *Sampurna Behura Case*⁴ was rendered on 9th February 2018. Seven years after the 2011 order, the court was still bemoaning the ‘virtual non implementation and tardy implementation’ of the provisions of the Act of 2000 and 2015. The court went on to mandate the steps required to be taken by the respective state governments and ordered the High Courts to initiate *suo motu* proceedings for the implementation of the Act.

Moreover, that the budget allocated to the establishment of these institutions is measly, doesn’t give much hope about any improvement of the situation in the near future either. Total estimated budgetary allocation to the Ministry of Women and Child Development which spearheads the ICPS was Rs. 18584 Crores in 2012-13,⁵ Rs.20440 Crores in 2013-14,⁶ Rs. 19818.10 Crores in 2014-15 and Rs. 17167 Crores in 2015-16. In these years, as per the Ministry’s own data,⁷ the ICPS was allocated a budgetary estimate⁸ of Rs. 400 Crores in 2012-

² 1986 SCALE (2) 230

³ (2011) 9 SCC 801

⁴ W.P. (Civil) No. 473 of 2005

⁵ indiabudget.gov.in, *Expenditure Budget, Vol. 1, 2013-14*, <http://indiabudget.gov.in/budget2013-2014/ub2013-14/eb/stat02.pdf>, accessed on 11/09/2017

⁶ indiabudget.gov.in, *Expenditure Budget, Vol. 1, 2014-15*, <http://indiabudget.gov.in/budget2014-2015/ub2014-15/eb/stat02.pdf>, accessed on 11/09/2017

⁷ Ministry of Women and Child Development, *Annual Report: 2015-16*, <http://wcd.nic.in/sites/default/files/annual-report-2015-16.pdf>, accessed on 7/9/2017

⁸ Hereinafter referred to as BE

13 while only Rs. 253.84 Crores were sanctioned. In 2013-14, Rs 300 Crore was allocated as BE while only Rs. 265.78 crores were sanctioned. In 2014-15, Rs. 400 crores were sanctioned as BE, which was revised to Rs. 450 Crores and of which Rs, 448.43 Crores were sanctioned. In 2015-16, Rs. 402.23 Crores were allocated as BE of which Rs. 362.12 Crores were sanctioned. On an average, the Ministry of Women and Child Development allocated only 2.04 percent of its BE to the ICPS scheme and the percentage of amount sanctioned for the purpose by the ministry is bound to be even lesser.

In the period of 2016 under the ICPS, Delhi was sanctioned Rs. 9,78,64,000/-⁹ while Punjab govt. was sanctioned Rs. 10 Crores.¹⁰ During the same period, Haryana was not sanctioned any amount under the ICPS.¹¹ Even states do not fare any better in such allocation of budgets expenditures, to exemplify, in 2013-14, the Department of Women and Child Development, Govt. of N.C.T. of Delhi allocated a mere Rs.3.5 crores towards the implementation of the Act of 2000.¹²

Given that the delay in proceedings of the Board and Committees as well as the lack of adequate infrastructure in the child care institutions were one of the major concerns highlighted by the ministry in bringing about the Act of 2015, it’s budgetary allocations are a pittance, completely disproportionate to the magnitude of the problem. It can thus be observed that the reasons which provided impetus to the enactment of the Act of 2015 are at odds with the priority accorded to those reasons by the government.

As pointed out by the Secretary in his deposition, the problem of delay in proceedings is indeed an issue with respect to implementation of the act leading to delayed justice. As per NCRB’s statistics for 2015,¹³ 56501 cases of juvenile apprehension, including 15116 cases from the previous year were pending disposal by the boards. At the end of 2015, the number of pending cases had increased to 21562 cases. However, whether the process under the Act of 2015 is simpler and ergo faster than the process under Act of 2000 or if it provides for safeguards which

⁹ Ministry of Women and Child Development, *Central Share of Grant in Aid under ICPS*, <http://icds-wcd.nic.in/icpsmon/pdf/sanctions/dtd04082016/Delhi%20sanction%20201617.pdf>, accessed on 12/09/2017

¹⁰ Ministry of Women and Child Development, *Central Share of Grant in Aid to States under ICPS*, <http://icds-wcd.nic.in/icpsmon/pdf/sanctions/dtd04082016/ATOZ04082016.pdf>, accessed on 12/09/2017

¹¹ *Ibid*

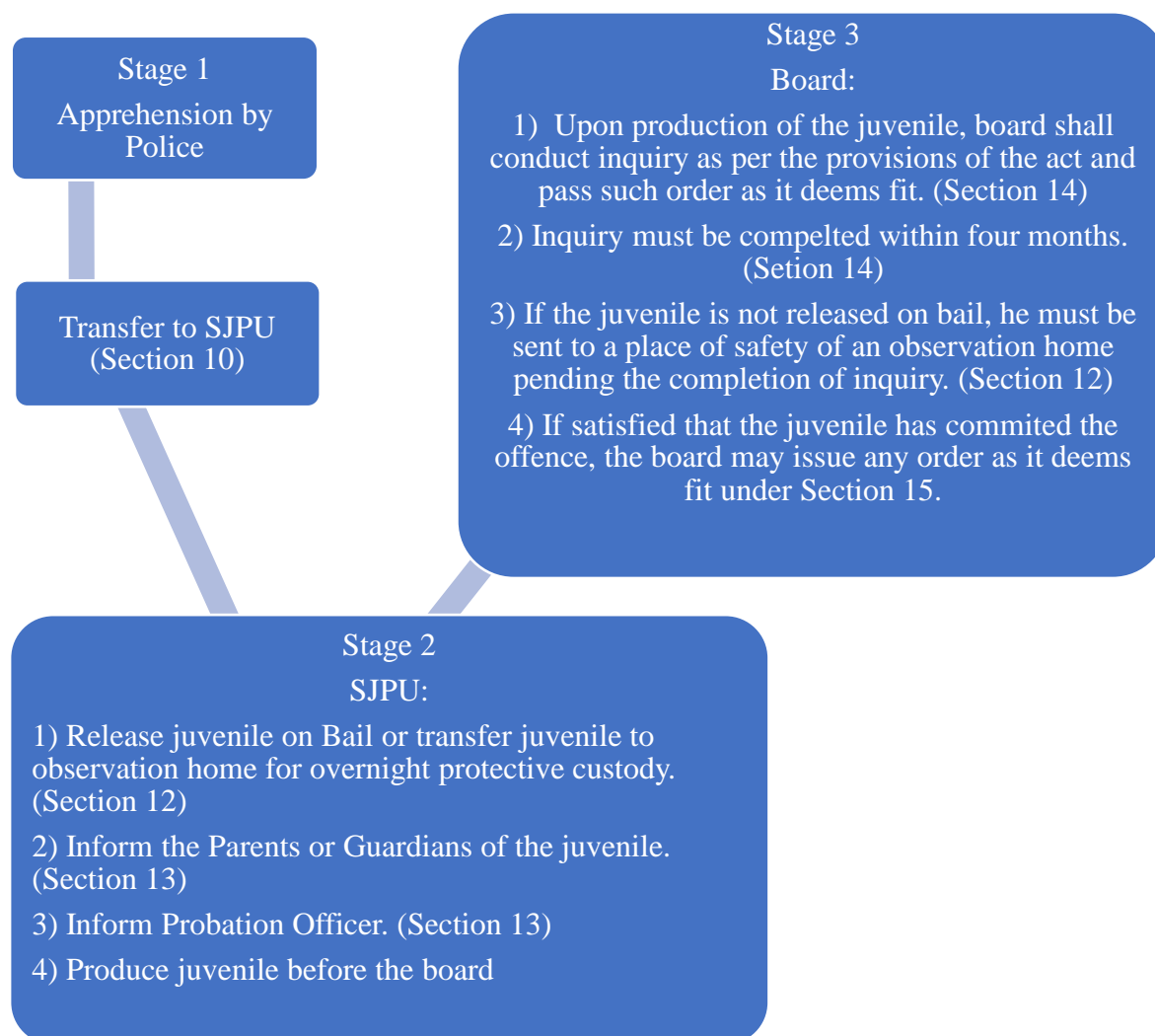
¹² Dept. of Social Welfare, Govt. of N.C.T. of Delhi, *Allotment of Budget Estimates with Respect to Plan Schemes*, http://www.wcddel.in/pdf/WCDBudget_2013_14.pdf, accessed on 7/9/2017

¹³ National Crime Records Bureau, *Final Order in the Matter of Juveniles Apprehended under Various Crime Heads of IPC and SLL Crimes During 2015*, <http://ncrb.nic.in/StatPublications/CII/CII2015/FILES/Table%2010.5.pdf>, accessed on 7/9/2017

ensure speedy trials, remains to be seen. Provided in Figure 10.1 and 10.2 are the procedures under the two acts.

In the instance where without proper implementation, the cases kept piling up under the Act of 2000 leading to a delay in decisions and children languishing in homes for years, it is only reasonable to conclude that without an even better implementation than what was theoretically envisioned under the Act of 2000, the situation under the Act of 2015 will likely be worse.

FIGURE 10.1 – PROCEDURE UNDER ACT OF 2000

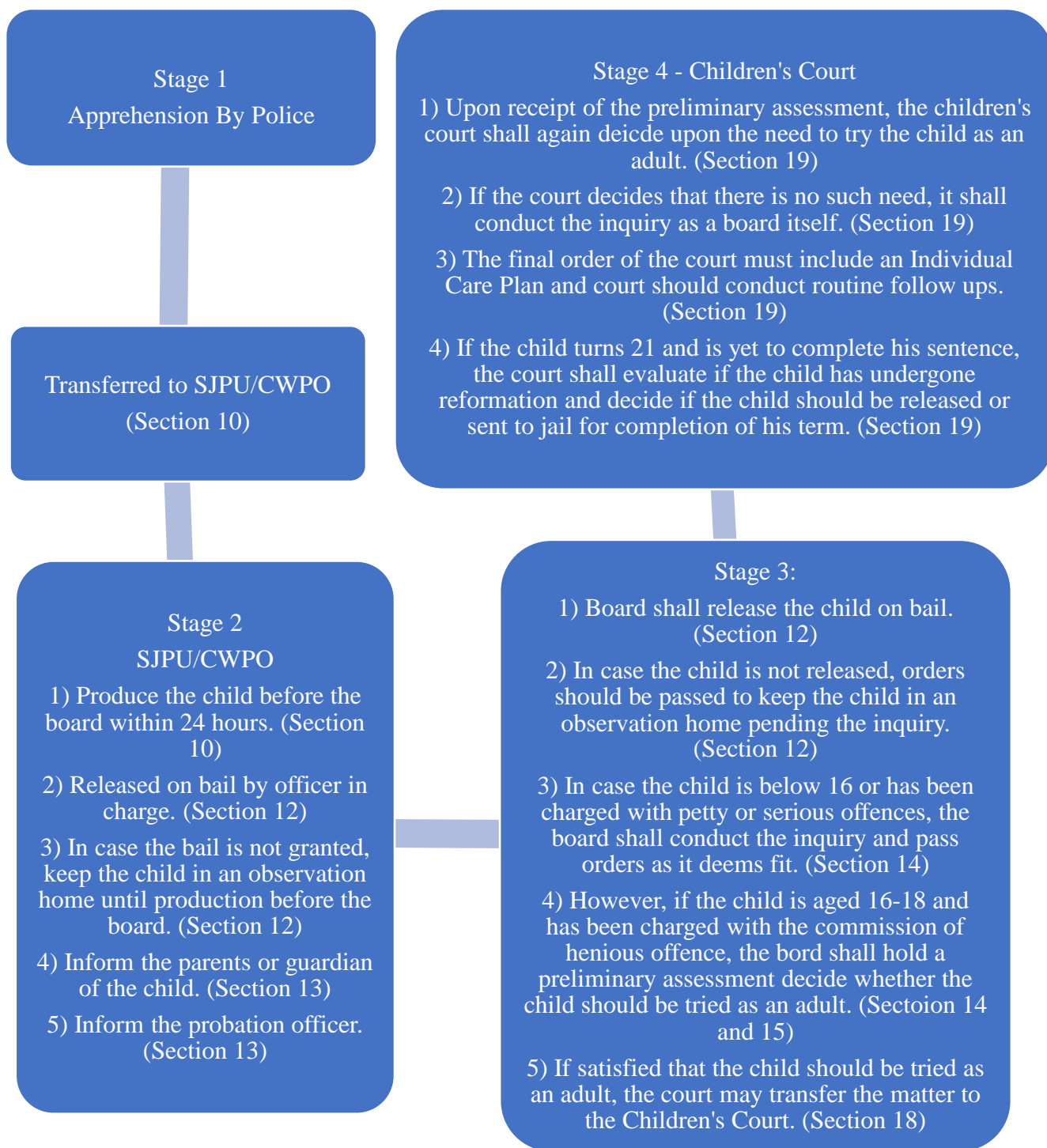


As can be observed from Figures 10.1 and 10.2 which have been simplified for the purpose of illustration, that the procedure under the Act of 2015 is lengthier than the procedure under the Act of 2000 in cases where the child is aged 16-18. The mechanism created under the Act of 2015 to prevent a pile up of cases and ensure speedy trials entails the setting of a time limit of

four months + two months for disposal of cases.¹⁴ At the end of the six months, in case that the offence the juvenile has been charged with is petty, the proceedings shall stand terminated. However, if the juvenile has been charged with the commission of a serious or heinous offence, permission can be obtained from the Chief Judicial Magistrate or the Chief Metropolitan Magistrate for extension of the time limit. No time limit is provided for in the Act in case such extension is given and as such the CJM or CMM can give indefinite extensions.

FIGURE 10.2 – PROCEDURE UNDER ACT OF 2015

¹⁴ Section 14(2), Act of 2015



Section 14 of the Act of 2000, however, already provided for the completion of the inquiry by the board within four months. The period could be extended at the discretion of the board itself which was bound to record the reasons for the same having regards to the circumstance of the case and in special cases. No guidelines such as ‘having regards to the circumstances of the case’ and ‘in special cases’ have been provided in the Act of 2015 for the CJM or CMM to keep in mind while giving the extension.

Moreover, it is pertinent to note that Children’s Courts in point under the Act of 2015 were established under the Commissions for Protection of Child Rights Act, 2005¹⁵ for speedy trial of offences against children and were designated vide section 28 of the Protection of Children from Sexual Offences Act, 2012 as special courts for the purpose of the latter enactment. In the event the Children’s Court after the preliminary assessment decides not to try the juvenile as an adult, the court shall, instead of remitting the case back to the board, hold an inquiry as if it were a board under this act. This would indeed defeat the purpose that the legislators of the Act of 2000 as well as the Act of 2015 had in mind while putting two social workers on the board. The purpose was to ensure that the proceedings of the board are not a mere mechanical application of the law.

Further, even in the cases where the board decides to conduct an inquiry itself, it is bound by Section 15(2) to follow the procedure of a trial by summons under the Code of Criminal Procedure, 1973. While the chairperson of the board is a Metropolitan Magistrate, the two other members of the board are social workers who may or may not have the necessary legal knowledge and acumen to conduct such proceedings under the Code of 1973. This would thereby increase the delay which the Act of 2015 seeks to do away with. Either ways, the legislative intent to do away with the delays caused in the implementation of the Act of 2000 have not been addressed or remedied by the Act of 2015.

If the process cannot be simplified, another way of reducing such delays would require the government to strengthen the infrastructure which deals with the procedure. Strengthening of such infrastructure requires financial backing. As per the annual report¹⁶ of the Ministry of Women and Child Development, the Integrated Child Protection Scheme¹⁷ was launched to provide financial support to State Governments and UT Administrations for effective implementation of the Juvenile Justice Act. The budgetary allocation for the development of infrastructure called for under the act is covered under the heading of ICPS and the outcome budget¹⁸ states its quantifiable deliverables as – the setting up of Juvenile Justice Boards/Child Welfare Committees and SCPU/DCPU throughout the country. The declared outcome of the same is the development of a healthy and protective environment for the Children in Need of

¹⁵ Section 25

¹⁶ Ministry of Women and Child Development, Annual Report: 2015-16, <http://wcd.nic.in/sites/default/files/annual-report-2015-16.pdf>, accessed on 7/9/2017)

¹⁷ Hereinafter referred to as ICPS

¹⁸ Ministry of Women and Child Development, *Executive Summary*, <http://wcd.nic.in/sites/default/files/OUTCOME%20BUDGET%202015-16Eng.pdf>, accessed on 11/09/2017

Care and Protection as well as Children in Conflict with the Law.¹⁹ However, as has been observed above, the financial backing to the Act of 2000 and the Act of 2015 through the amount of budget allocated to ICPS is an abomination and is in no way commensurate to the amount required for a smooth functioning of the institutions created by the act.

The above however was not the focal contention of the legislators which was mired in controversy. At the time of its enactment, a major debate raged with respect to the contention of the legislators calling for the provisions providing differential treatment of children who were aged 16-18 and charged with the commission of heinous offences. The same was based on the logic that there was an increase in the incidence of crimes committed by children aged 16-18 and that the provisions and system under the Act of 2000 were ill equipped to handle such a surge. Specifically, the government relied on the data collected by the NCRB which showed an increase in the number of crimes committed by children aged 16-18, especially heinous offences.

The provisions have since been heavily criticized by various stakeholders who have been involved in the field of juvenile justice, chiefly on the ground that the Act of 2000 was a progressive piece of legislation which was completely in sync with India’s international obligations. The former Act applied the principles of Reformation and Rehabilitation which form the cornerstones of the Juvenile Justice System as differentiated from the principles of Retribution and Deterrence upon which the traditional Criminal Justice System operates. However, in their zeal to comply with populist demands largely cultured by the media in the wake of the 2012 Delhi Gangrape Case, Shakti Mills Rape Case and Guwahati Rape Case, the legislators tampered with the foundations of the justice system governing the law applicable to juveniles. The Act of 2015, in its turn, dilutes the principles of reformation and rehabilitation which take the back seat thereby allowing the principles of deterrence and retribution to take the steering wheel.

Viewed in the light of the above, the impugned provisions of the Act of 2015 are in violation of several principles that the act expressly seeks to adhere to, namely – of Presumption of Innocence; of Best Interest; of Non Stigmatizing Semantics, Actions and Decisions; Of Equality or Non Discrimination; of Privacy and Confidentiality; of Fresh Start. The impugned provisions also violate several key provisions of various international treaties and instruments

¹⁹ *Ibid*

to which India was a signatory such as the UNCRC, ICCPR, UDHR, Beijing Rules etc. in that it resorts to the principles of deterrence and retribution rather than the reformation and rehabilitation. The provisions are also ignorant of several landmark judgments of the Supreme Court which accept reformation and rehabilitation as *sine qua non* in a juvenile justice system and have been elaborated upon in the next chapter.

Moreover, the contention of the government that there has been a significant increase in the number of offences in the age group of 16-18 can also be refuted on the basis of the NCRB data upon which the government had itself relied. The standing committee noted in its report²⁰ that the NCRB data was based upon the registration of FIR’s and not upon the final acquittal or conviction of the ‘offenders.’ Even so, the proportion of cases of juveniles in conflict with the law to the total cognizable offences recorded by the NCRB has remained constant as can be observed through Table 10.1. It can be seen that between 2011 and 2015, the percentage of cases against juveniles in conflict with the law has been between 1.1 percent to 1.2 percent of the total cases registered under cognizable crimes. The number of offenders charged with heinous offences is bound to be even lesser and as such could have been handled under the juvenile justice system created under the Act of 2000. The figures enumerated below themselves assume miniscule proportions when it is factored in that the total number of juveniles in India was 422 Million as per the census of 2000-01.

TABLE 10.1 – CASES REGISTERED AGAINST JUVENILES IN CONFLICT WITH THE LAW AND CRIME RATE IN 2015

| Year | Cases against Juveniles in Conflict | Cases under Total Cognizable Crimes | Percentage of Cases Against Juveniles in Conflict |
|-------------|--|--|--|
| 2011 | 25125 | 2325575 | 1.1 |
| 2012 | 27936 | 2387188 | 1.2 |
| 2013 | 31725 | 2647722 | 1.2 |
| 2014 | 33526 | 2851563 | 1.2 |
| 2015 | 31396 | 2949400 | 1.1 |

²⁰ Parliamentary Standing Committee on Human Resource Development, 264th Report on Juvenile Justice (Care and Protection of Children) Bill, 2014, presented on 25th February, 2015

Further, the procedure for determination of the mental and physical capacity of the child has two steps. Firstly, the Board shall conduct a preliminary assessment into the mental and physical capacity of the child to commit the offence. For the purpose it can rely upon the assistance of psychologists, psycho-social worker or other experts. Secondly, if the board decides that the child should be tried as an adult, it shall forward the case to a children’s court. The children’s court in its turn will decide if there is a need to try the child as an adult and pass appropriate orders after trial subject to the provisions of the act. For this purpose, the children’s court may rely upon the assistance of psychologists, psycho-social workers or other experts different from those relied upon by the Board.

The quality and quantity of counsellors and psychologists working in the field is not nearly enough to pay individual attention to every child as called for the legislation let alone shouldering the additional duties of assisting the board with determination of the mental and physical capacity of the child to commit the offence. The findings of the researchers points clearly towards an absence of infrastructure and manpower when it comes to counsellors, psychologists and other experts who are duly qualified to provide the minimum requirement of individual therapy to each child, let alone judge their mental and physical capacity which is an infinitesimally complex task than the former requiring much individual attention and observation.

Therapy sessions on a regular basis were provided to only 11.3 percent of the juveniles while a majority (71.2 percent) received no such therapy at all. 17.5 percent of the juveniles had only attended one therapy session in their duration of stay in the home. 65.8 percent of those charged with petty offences, 71.4 percent of those charged with serious offences and 72 percent of those charged with heinous offences received no therapy sessions or counselling. Those receiving regular therapy sessions only formed 9.9 percent of all who were charged with commission of heinous offences while 18.2 percent of such juveniles had only attended a therapy session once since their confinement.

That the counsellors, therapists and psychologists are unable to pay individual attention to all children inside the institution can be *ipso facto* deduced from the above. In such a case, it would be an absurdity to divert whatever little resources and manpower the establishments have in the form of counsellors and psychologists from their primary duty of rehabilitating and reintegrating the juveniles towards court work.

The above stated findings of the researchers can be further corroborated from an official reply to a question raised in the Parliament regarding shortage of mental healthcare professionals in the country. The Parliament was informed in 2017 by the Ministry of Health and Family Welfare that as against the requirement of 13500 psychiatrists, only 3827 were available; of the 20250 clinical psychologists required, only 898 were available; of the required 37000 psychiatric social workers required, only 850 were available.²¹ In the light of the official figures pointing towards such an abysmal state of affairs, a fair implementation of the provisions is impossible.

Lastly, the principle of Fresh Start has been largely undermined by Section 24 (1) of the Act of 2015. The principle states²² that the juvenile should get a new beginning and all records with relation to his conflict with the law should be erased. Further, the state shall endeavour to promote ways for dealing with juveniles who break penal law without resorting to judicial proceedings. In furtherance of this principle, Section 24(2) calls for the destruction of all records pertaining to the proceedings within a reasonable period of time. However, it goes on to dilute the principle in cases of juveniles aged 16-18 who were charged with the commission of a heinous offence as the records shall be saved by the children’s court in case of conviction. In addition to the above, while the principle also seeks to ensure that the child is not subjected to any disqualification emerging from a conviction, the same is not applicable to those aged 16-18 and convicted of heinous offences.

CONSTITUTIONALITY OF THE IMPUGNED PROVISIONS

On the touchstone of constitutionality of the impugned provisions, the Act of 2015 fares no better either. Article 14 of the Constitution states that all persons are entitled to equality before law and equal protection of the law. However, consequent to several Supreme Court decisions, the fundamental right to equality is not wholly unqualified. It is subject to test of reasonable classification as well as the test of arbitrariness.

The test of reasonable classification entails that the classification must be based on an intelligible differentia and secondly, there must be a nexus between the intelligible differentia

²¹ Government of India, Ministry of Health and Family Welfare, *Unstarred Question No. 2709 to be answered on 17th March, 2017*, retrieved from <http://164.100.47.190/loksabhaquestions/annex/11/AU2709.pdf>, accessed on 11/02/2018

²² As per the Rules of 2007

and the object sought to be achieved by the act.²³ In the application of the test, the presumption stands in favour of the constitutionality of the statute rather than against it.²⁴

Bearing the above settled law in mind, it becomes necessary to examine the impugned provisions for its constitutionality. Section 2(12) of the Act of 2015 defines children as persons who have not completed the age of eighteen years. Under the Children Act of 1960 and the Act of 1986, the age classification lay between the those below sixteen years or age and those above sixteen years of age but below eighteen years of age. The decision to raise the age of juvenility to eighteen years was taken consciously while enacting the Act of 2000 and as such the classification was removed. The Act of 2015, however, creates two classes of people; firstly, those below sixteen years of age as well as those above the age of sixteen years but below eighteen years and charged with petty and serious offences and secondly, those above the age of sixteen but below eighteen and charged with heinous offences. On the basis of this classification, a different procedure for their trial in the adult criminal justice system is then called for through sections 15, 18(3) and 19.

The consideration of the legislators which precipitate such a differential treatment have two prongs which are, on a deeper examination, different sides of the same coin. Firstly, that the children aged sixteen to eighteen have the mental capacity to gauge the consequences of their actions and recognize their actions as an offence against the society and secondly, that there has been a significant increase in the number of children aged sixteen to eighteen committing heinous offences and they therefore should be subject to principles of deterrence and retribution.

However, the classification only seeks to try those charged with the commission of the heinous offences in an adult criminal justice system. If, for the sake of argument, the reasoning of the legislators that the children are in fact mentally capable to commit the offence, was assumed to be valid for those charged with the commission of heinous offences, the reasoning remains just as valid for those aged sixteen to eighteen and are charged with the commission of petty and serious offences. There seems to be no intelligible differentia in the classification wherein only those charged the commission of heinous offences, being mentally capable, are subject to

²³ *State of West Bengal v. Anwar Ali Sarkar*, 1952 SCR 284

²⁴ *Chiranjit Lal Sahu v. Union of India*, 1950 SCR 869

the principles of retribution and deterrence as opposed to those who are charged with the commission of petty and serious offences.

Primarily, therefore, the consideration of the legislators for the differential treatment seems to be founded on the belief that there has been a rise in the number of heinous offences committed by those above 16 years of age. Given that most petty and serious offences by juveniles are offences committed out of necessity and socio economic considerations, any such increase in heinous offences would reflect in the total number of crimes committed by the juveniles which would jump significantly.

However, a closer look at the NCRB data as shown in Figure 10.1 suggests that there has been no such significant increase in the total number of offences registered against juveniles. The increase in number of crimes by juveniles has been in line with the increase in the total number of crimes i.e. the rate of the such an increase remained constant in the years preceding the enactment. The increase in the number of crimes being proportional to the number of total crimes, a situation where the number of heinous offences was increasing but the number of petty and serious offences being committed was declining as an explanation for such proportionality is unimaginable. Further, even this increase is doubtful given that the data is based on a filing of FIR’s and not on the outcome of the cases. In the light of the same, the differentia becomes imposed or artificial rather than apparent or *ipso facto*.

The final orders of the board in the cases of juvenile apprehension can better help us understand the prevailing situation on the ground with respect to such an increase. It is obvious that the punishment awarded by the board will be commensurate to the nature of offence. Of the 56501 cases of juvenile apprehension,²⁵ pending and fresh, in 2015, 21,562 were still pending at the end of the year. Of the 34, 939 cases which were disposed of in 2015, 4582 (13.12 percent) had been acquitted, 9665 (27.62 percent) had been sent to special homes, 7.38 percent had been fined, 5.49 percent had been sent to fit institutions, 25.3 percent had been released on probation of good conduct, 21.05 percent had been sent back home after advice or admonishment.

Overall, in the opinion of the boards, in 72.34 percent of the cases, the apprehended child could be sent back into the society without the need for detention in the system for the purposes of reformation and rehabilitation. In such a case, where there has been no major increase in the

²⁵ National Crime Records Bureau, *Final Order in the Matter of Juveniles Apprehended under Various Crime Heads of IPC and SLL Crimes During 2015*, <http://ncrb.nic.in/StatPublications/CII/CII2015/FILES/Table%2010.5.pdf>, accessed on 7/9/2017

incidence of offences committed by the juveniles and where a majority of the juveniles have been deemed by the boards to not be in such dire need of reformation or rehabilitation so as to require detention or institutionalization, the intelligibility of the differentia is certainly suspect.

The next step is to examine if there is a nexus between the object sought to be achieved by the act and the ‘intelligible’ differentia. The object of the act, which is being reiterated, is as follows:

“An Act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, herein under and for matters connected therewith or incidental thereto.”

A plain reading of the object suggests that the act has to look out for the best interest of the child, be he ‘in need of care and protection’ or ‘in conflict with the law.’ It seeks to cater to their basic needs through care, protection, development, treatment and social reintegration. It further seeks to adopt child friendly approach in the adjudication and disposal of the matter in the best interest of children. Its last objective is to rehabilitate the children through processes and institutions provided for in the act.

In catering to their basic needs through care, protection, development, treatment and social reintegration, the act works well in favour of those in need or care and protection as well as those children in conflict with the law under the age of sixteen as well as those who have not been charged with heinous offences. However, the act is silent as to how the procedure of those above the age of sixteen and charged with heinous offences which would subsequently lead to incarceration of the child in adult prisons upon attaining the age of twenty-one years cater to the needs of these children in case of a failure of rehabilitation or reformation processes of the state during their term of stay in special and observation homes.

As the major findings of the researchers go on to show 72 percent of those charged with heinous offences received no therapy sessions or counselling and those receiving regular therapy sessions only formed 9.9 percent of all who were charged with commission of heinous offences. In a large majority of the cases (69.5 percent), there was no provision of any kind of vocational training for the inmates. Only 27.4 percent of those lodged in special homes and

13.1 percent of those lodged in observation homes received vocational training and attended it. All respondents unanimously answered that they were unaware about any post release/individual care plans being drawn up for them even though such plans have to be drawn up in consultation with the individual.

Given the sad state of affairs where the correctional facilities are decrepit and lack completely the required infrastructure to reform, rehabilitate and reintegrate the child in the society it is atrocious to incarcerate in adult prisons those children whom we, in the first place, fail to reform, rehabilitate and reintegrate. The trial of children as adults is certainly not in the ‘best interest of child’ and it is incomprehensible that a system which tries a child as an adult can be ever be deemed as ‘child friendly adjudication.’ It can be concluded that the procedure in its classification, supposedly based on an ‘intelligible’ differentia has no nexus with the object sought to be achieved by the impugned Act of 2015.

That the procedure is also arbitrary in nature is prima facie determinable from a plain reading of the impugned provisions. There is a lack of scientific consensus with respect to the mental capacity of the adolescents to commit crimes. Adolescence is a fascinating period of human development: the struggle for identity, choice of friends and first sexual partners, academic routes and vocations are but a few examples of complex behaviours that the brain must implement at the brink of adulthood.²⁶ The study of the development of executive function and social cognition beyond childhood is a new but rapidly evolving field with applications for medical diagnosis, education and social policy.²⁷ The finding that changes in brain structure continue into adolescence and early adulthood challenged accepted views and has given rise to a recent spate of investigations into the way cognition might change as a consequence.²⁸

The Act of 2015 expects the board which comprises of a Principle Magistrate and two social workers to answer questions which are as yet indeterminable because they are unsettled and themselves under scrutiny of a vigorous debate in the scientific community. The process raises several concerns primarily with regards to the capacity of the board to judge the capacity of a child to commit the offence when, in reality, such a subjective judgement of mental capacity is non quantifiable and as such nearly impossible. A reliance is placed upon the assistance of

²⁶ Tomas Paus, *Mapping Brain Maturation and Cognitive Development During Adolescence*, Vol. 9 No. 2, 2005, Trends in Cognitive Sciences, p. 60

²⁷ Sarah Jayne Blakemore and Suparna Choudhary, *Development of the Adolescent Brain: Implications for Executive Function and Social Cognition*, 47:3/4 (2006), Journal of Child Psychology and Psychiatry p. 296

²⁸ *Ibid*

psychologists, psycho-social workers and other experts in this regard is supposed to act as an inbuilt safeguard against any arbitrariness flowing into the system. Even so, as the findings of the researchers go on to show, infrastructure for collaboration with psychologists, psycho-social workers and other experts such as counsellors is non-existent in some places and in a deplorable state in others. Moreover, as stated above, the psychologists and psycho social workers cannot even provide individual attention for the purpose of rehabilitation and reintegration of those juveniles already in observation homes and special homes. As such, a diversion of these resources towards court work requiring them to answer indeterminable questions is ludicrous. It can easily be deduced, that under the present scenario, any determination of the child’s mental capacity being on par with an adult’s would be arbitrary from the start and as such by the enactment of these provisions, the odds have been stacked heavily against such juveniles who are aged 16 or above and have been charged with the commission of the heinous offences.

The Act of 2015 recognizes that the provisions of the Constitution confer powers and impose duties, under clause (3) of article 15, clauses (e) and (f) of article 39, article 45 and article 47, on the State to ensure that all the needs of children are met and that their basic human rights are fully protected. However, the impugned provisions infringe upon the spirit with which Article 15(3) was inserted in the Constitution.

In the case of *Bai Tahira v. A.H.F. Chothia*,²⁹ the Supreme Court stated that “*welfare laws must be so read as to be effective delivery systems of the salutary objects sought to be served by the Legislature and when the beneficiaries are the weaker sections, like destitute women, this spirit of Art. 15(3) of the Constitution must belight the meaning of the Section. The Constitution is a pervasive omnipresence brooding over the meaning and transforming the values of every measure.*” In the sense of Article 15(3), special provision for women means that no less favourable treatment is to be given to women on gender based criterion which would favour the opposite sex and that women will not deliberately be selected for less favourable treatment because of their sex.³⁰

As the Apex Court in *Salil Bali v. Union of India*³¹ recognized: “*it cannot be questioned that children are amongst the most vulnerable sections in any society. They represent almost one-*

²⁹ (1979) 2 SCC 316

³⁰ *Air India Cabin Crew Assn. v. Yashaswinee Merchant*, (2003) 6 SCC 277

³¹ (2013) 7 SCC 705

third of the world’s population, and unless they are provided with proper opportunities, the opportunity of making them grow into responsible citizens of tomorrow will slip out of the hands of the present generation.” While the Act of 2015 recognizes its obligation to ensure that the needs of children are met and their basic human rights are protected, the impugned provisions run contrary to its recognized obligations. In same manner that by virtue of Article 15(3) women cannot be treated in a less favourable manner than the opposite sex, by the same virtue, children (as defined by the Act of 2015: anyone under the age of 18) cannot be treated in a manner less favourable to them on the whole. It should be respected that every child should be given a fair chance, with all rights accruing to him from the Act of 2015, including that of the implementation of the Act to his benefit and for his reformation and rehabilitation. It should also be respected that in light of Article 15(3) he should not be discriminated against on the basis of his age and his consequent trial in an adult criminal justice system.

The impugned provisions of law are also violative of Article 21 of the Constitution. Article 21 states that no person shall be deprived of his life and personal liberty except according to a procedure established by law. This right to life has been given a very wide interpretation through a plethora of judgements by the Supreme Court.³² Though the right to life can be deprived through a procedure established by law, the same is subject to the test of arbitrariness and reasonableness.³³ As such the argument that the impugned procedure is arbitrary and unreasonable is also valid when such argument is tested on the touchstone of Article 21 as much as it is on the touchstone of Article 14.

In the case of *Court on its own motion v. Department of Women and Child Development, Govt. of N.C.T. of Delhi*,³⁴ the Delhi High Court proclaimed the lodging of juveniles in adult prisons to be in violation of their Right to Life guaranteed under Article 21. It stated that *there can be no cavil in saying that lodging juveniles in adult prisons amounts to deprivation of their personal liberty on multiple aspects.* The reasons for the above were that at the time of arrest of such persons, there is no proper age verification and had that been so, the juveniles would not have been subjected to hardship of Adult Criminal Justice System. In other words, due to a lack of implementation of the provisions of the Act of 2000, the consequent lodging of

³² See - *Maneka Gandhi v. Union of India*, 1978 SCR (2) 621, *Rajendra Prasad v. State of U.P.*, (1979) 3 SCC 646, *Rudal Shah v. State of Bihar*, (1983) 4 SCC 141, *Olga Tellis v. Bombay Municipal Corporation*, 1985 SCC (3) 545, *People’s Union for Democratic Rights v. Union of India*, 1983 SCR (1) 456

³³ *Maneka Gandhi v. Union of India*, 1978 SCR (2) 621

³⁴ (2013) 2 RCR (Criminal) 362

juveniles in the adult criminal justice system amounted to a violation of their Right to Life and Personal Liberty.

It can be safe to say that the same logic can be extended to the impugned provisions of the Act of 2015. Through the non-implementation of the measures with respect to rehabilitation and reintegration provided for within the Act of 2015, if any child is sent to jail on account of his non reformation upon the attainment of the age of 21, such incarceration would be against his fundamental Right to Life and Personal Liberty and in violation of Article 21.

As a parting remark it should be mentioned here that the Supreme Court through its dismissal of the challenge to the constitutionality of the Act vide *Tehseen Poonawala v. Union of India*,³⁵ has not closed the door on any future challenges. In that case, the *locus standi* of the petitioner was questioned and the writ petition was dismissed on that ground. Future challenges to the validity can certainly be mounted on all of the abovementioned grounds by an aggrieved person.

The Act of 2015 is in itself a social piece of legislation that to some extent remedies certain faults in the previous enactments. The faults being referred to here are in respect to the streamlining of the procedure for adoption, lack of clarification with respect to inter country adoption, lack of penal provisions on corporal punishment, addition of the principles to the Act of 2015 itself as opposed to their earlier presence in the Rules of 2007 and similarly, the clarification of the functions of the various authorities and institutions created therein. To such extent, the constitutionality of the entire act shouldn't be called into question. Merely those provisions which are unconstitutional should be challenged and the severability, or as measure of last resort, reading down of those provisions should be prayed for while mounting such a challenge.

³⁵ W.P. 94 of 2016

CHAPTER XI – CONCLUSION

In the conclusion of this book, the major findings of the researchers have been correlated with the provisions of the Act of 2000 as well as the Act of 2015 so as to identify the lacunae and problems in the implementation of the act and thereby figure out the impact of the legislations. The conclusion is structured in a manner which analyses, issue wise, the experiences of the children who enter the juvenile justice system established by the acts at all stages: - pre institutionalization, in conflict with the law, inside the home as well as the post release prospects of the juveniles.

The analysis of their pre institutionalized life is necessary to create a socio-economic profile of the juveniles most likely to enter the system. This knowledge empowers us in the examination of how best to deal with such juveniles so as to rehabilitate and reintegrate them as contributing members of the society. The second segment on the ‘impact and implementation’ takes in to account the findings of the researchers with regards to Chapter VI, VII and VIII. The findings from Chapter VI ‘Juvenile: in conflict with law’ allow us to inspect their experiences when they first come in conflict with the law and the treatment meted out to them by the various institutions established, in light of the provisions of the act. The data analysed from Chapter VII ‘Juvenile: inside the home’ examines the prevailing conditions inside the home and whether the environment which is most conducive to their rehabilitation and reintegration has been provided. Stress has been laid on the quality of the services provided rather than the quantity as determined by the Rules of 2007 and 2016. Lastly, the data analyses from Chapter VIII allows us to examine how well the system rehabilitates them and prepares them for reintegration after their term of stay is over. The same has been correlated with the findings of the book in Chapter II, III and IV in order to grant us a comprehensive outlook in the examination of the successes and failures of the legislation.

Throughout the conclusion, the hypotheses which were set out at the beginning of the book have been referred to and tested for their strength on the basis of the findings of the researchers. The hypothesis being: the institutional set up required under the JJ Act has not been yet established fully at many places; the district level institutions created are generally deficient of infrastructure and staff to effectively implement the JJ Act; the performance level of the staff is far from being effective; the attitude and the aptitude required to enforce the JJ Act is missing on the part of the concerned personnel; the lack of implementation of the provisions hinders the rehabilitative and reformative aspects of the juvenile justice system; the lack of monitoring

and supervision is also a factor in the dismal state of implementation of JJ Act; the abysmal state of implementation of the Act of 2000 has led to a failure in the stated aims of rehabilitation and reintegration. In the process, efforts have also been made to analyse if the provisions of the Act of 2015 provide for any drastic changes that may lead to the realization of the goals of the Act of 2000 and cure the defects therein or if the Act of 2015 is indeed a step backward as many sections quoted earlier in the book seem to portray.

I. PROFILE OF JUVENILES

The statistics noted down in chapter V of the book and the first segment of Chapter IX are *res ipsa loquitur* and such don't need elaboration except while creating a criminological profile on the basis of socio economic, psychological and familial factors. As iterated in chapter V, an understanding of this profile is crucial, if we are to put into context the findings of the subsequent three chapters by way of cross tabulations. All observations made, analyses conducted and conclusions drawn have to be made keeping in mind the profile of juveniles. The following points elaborate the most significant findings in order to further our understanding of the particular demographics that the juvenile justice system deals with in practicality:

1. A total of 76.8 percent of the inmates were aged 16 and above while a majority (47.4 percent) of the inmates were aged 16-17. A vast majority of children in conflict with the law were adolescents.
2. A simple majority of the inmates (27.5 percent) were educated till middle school i.e. 6th-9th standard while only 1.7 percent of the inmates had graduated college. 22.2 percent of the inmates were educated only till 5th standard, 21.9 percent had completed their matriculation while only 7.3 percent had completed their schooling till senior secondary. Even though approximately three quarters of the children in conflict with the law were above the age of sixteen, most were only educated up to primary level.
3. A majority (44.1 percent) of those who were illiterate fell within the age group of 16-17.
4. 40 percent of all the inmates within the age bracket of 11-13 were illiterate, while the figures for the same within the age group of 14-15 stands at 31.3 percent.
5. A majority of illiterates (55.9 percent) and a majority (43.3 percent) of those educated only till primary level were from Punjab.

6. 57.6 percent (highest) and 63.6 percent (highest) of the inmates who had completed their matriculation and their schooling respectively were from Haryana.
7. In a vast majority of the cases (75.8 percent) the father of the juvenile was the primary income earner while in 8.9 percent of the cases the juvenile fended for himself.
8. In a majority of the cases (46.7 percent) the provider for the juvenile was engaged in skill labour as a factory worker, carpenter, car mechanic, farmer, plumber etc. In 29.8 percent (second highest) of the cases the provider was working as a daily wage labourer. These statistics shed light upon socio economic demographic to which the majority of the inmates belong given that the providers of only 6.3 percent of the inmates were employed as salaried workers forming part of the supposedly upward mobile middle class.
9. In a majority of the cases (54.1 percent) where the juvenile was providing form himself, the juvenile was engaged as a daily wage labourer while in 37 percent of the cases the juvenile was employed as a skilled labourer
10. In a majority (37.5 percent) of the cases where the mother of the juvenile the primary breadwinner, the mother was employed as a daily wage labourer.
11. In a majority of the cases where the father or brother was the primary provider, the father was engaged as a skilled labourer (52.4 percent and 50 percent respectively).
12. 43.4 percent (highest) of the juveniles were studying/schooling while 25.8 percent were employed for the purpose of remuneration. 30.8 percent of the inmates were neither employed nor pursuing studies.
13. 40 percent of those within the age group of 11-13 were employed for the purpose of remuneration.
14. 43.4 percent of those within the age group of 16-17 were studying.
15. A staggering 32.9 percent were neither studying nor employed.
16. 34.8 percent of the inmates interviewed from Delhi were pursuing studies prior to their institutionalization while 40.8 percent were neither studying nor employed.
17. 45.8 percent (highest) of all inmates who were pursuing their schooling and 30.8 percent of all inmates who were employed were from Haryana.
18. In Punjab, a majority (48.7 percent) of the inmates were employed while 36.6 percent were pursuing their education.
19. Of those who were illiterate, 57.6 percent were employed gainfully while 42.4 percent were neither employed nor studying.

20. Of those educated till primary, 6 percent were still pursuing their education, 44.8 percent were employed in the service of others while 49.3 percent were neither studying nor employed.
21. Of those who were educated up till middle school, 51.8 percent were still studying, 13.3 percent were employed while 34.9 percent were neither studying nor employed.
22. 95.5 percent of those who had completed their matriculation were still studying while the figure stands at 72.2 percent for those educated till senior secondary.
23. A majority of the juveniles (54.6 percent) were social while 45.4 percent had difficulty in making friends easily.
24. It was found that more than quarter of the juveniles had developed an addiction to intoxicants.
25. Almost 7.3 percent of the juveniles were addicted to tobacco, 7.9 percent to alcohol, 2.3 percent to cannabinoids, 7.6 percent to narcotics.
26. Nearly 69.6 percent of the inmates addicted to narcotics such as heroin and smack as well as 42.9 percent addicted to cannabinoids, 58.3 percent addicted to alcohol and 59.1 percent addicted to tobacco were from Punjab.
27. While 86.4 percent of inmates from Delhi and 81.3 percent of inmates from Haryana reported not being addicted to any substance, the figure for the same in Punjab stands at 62.9 percent indicating a more rooted drug abuse problem and associated crimes.
28. Nearly 8.7 percent of the inmates who were addicted to narcotics were aged between 11-13.
29. 58.3 percent of those were reportedly addicted to alcohol were aged 18 and above.
30. Those who were illiterate or educated up to primary formed 40.9 percent each (highest) of those addicted to tobacco.
31. Of those who were addicted to narcotics, 56.5 percent were illiterate while 26.1 percent had been educated up to middle school.
32. Those educated till primary along with illiterates formed 50 percent of those who consumed alcohol. Overall, it was found that the incidence of addiction was higher amongst those less educated or illiterate.
33. 56.5 percent of those addicted to narcotics were neither studying nor employed, 34.8 percent were employed gainfully while only 8.7 percent were pursuing their education.

II. IMPACT AND IMPLEMENTATION

1. NATURE OF OFFENCE AND TRIAL IN CASE OF HEINOUS OFFENCE:

The following correlations have been drawn in addition to the findings of the analyses of the impugned provisions of the Act of 2015 in Chapter III and Chapter X, and have been listed in a point wise format hereunder:

- That the time limit of 4 + 2 months for the disposal of inquiries under the Act of 2015 was already present under the Act of 2000.
- That the procedure under the Act of 2015 for the grant of extension of time for disposal of inquiries by the CJM or CMM only elongates and complicates the procedure. The Act of 2015 doesn't specify any time limit of such extension or number of times such extension can be granted. Further, in the absence of guidelines to be kept in mind while allowing the extension, the procedure itself becomes superfluous as compared to the Act of 2000 wherein the board itself could extend the inquiry provided that it recorded its reasons in special cases in regards to the circumstances of the case.
- That the provisions allowing for the possibility of the children's court decision not to try the child as an adult require for the court not to remit the matter back to the board, but for the court to hold an inquiry as if it were the board. Given that the children's court will not have two social workers on its bench while conducting the inquiry as a board, the provision defeats the purpose that the legislators of the Act of 2000 as well as the Act of 2015 had in mind while putting two social workers on the board namely, that the inquiry shouldn't be a mere mechanical application of the law.
- That even if the board decides to conduct an inquiry itself, it is bound to follow the procedure of a trial by summons as per the Code of Criminal Procedure, 1973. The same would vitiate the environment of the proceedings which are not supposed to look like trials but inquiries requiring a special way of procedure and approach. Further, in such a case, only the principle magistrate has the required legal acumen to regulate the proceedings and not the other two members who are laymen in the field of law. The same wasn't recognized as a cause of the inordinate delay by the drafters of the Act of 2015 who would have done well to remove the requirements of a trial by summons and instead create a new procedure under the juvenile justice system which equips it to handle such cases efficiently.

- That the budgetary allocations to the ICPS are a pittance, completely disproportionate to the magnitude of the problem. In light of which, the reasons which provided impetus to the enactment of the Act of 2015 are at odds with the priority accorded to those reasons by the government.
- That while the Act of 2000 applied the principles of Reformation and Rehabilitation which form the cornerstones of the Juvenile Justice System as differentiated from the principles of Retribution and Deterrence upon which the traditional Criminal Justice System operates, the Act of 2015 dilutes the principles of reformation and rehabilitation which take the back seat thereby allowing the principles of deterrence and retribution to take the steering wheels.
- That the impugned provisions of the Act of 2015 are in violation of several principles that the act expressly seeks to adhere to, namely – of Presumption of Innocence; of Best Interest; of Non Stigmatizing Semantics, Actions and Decisions; Of Equality or Non Discrimination; of Privacy and Confidentiality; of Fresh Start.
- That the provisions are also ignorant of several landmark judgments of the Supreme Court which accept reformation and rehabilitation as sine qua non in a juvenile justice system.
- That the contention of the legislators that there has been a significant increase in the number of offences in the age group of 16-18 is also misguided and the proportion of cases of juveniles in conflict with the law to the total cognizable offences recorded by the NCRB has remained constantly between 1.1 percent and 1.2 percent between 2011 and 2015.
- That the impugned provisions dilute the principle of fresh start in cases of juveniles aged 16-18 who were charged with the commission of a heinous offence as the records shall be saved by the children’s court in case of conviction. In addition to the above, while the principle also seeks to ensure that the child is not subjected to any disqualification emerging from a conviction, the same is not applicable to those aged 16-18 and convicted of heinous offences.
- That the impugned provisions are in violation of Article 14, Article 15(3) and Article 21 of the Constitution.

2. CONFINEMENT IN JUDICIAL/POLICE CUSTODY

The Act of 2000 provides for several safeguards to ensure that a child is not sent to judicial or police custody for any duration of time. Section 9 of the Act as amended in 2006 requires that

under no condition should the juvenile be kept in police lock up or be sent to prison. Section 12 requires for the bail to be granted by the police as well as the board in case of the juvenility of the offender irrespective of whether the offence charged with is bailable or non bailable. Section states that any magistrate not empowered by the act should forward the juvenile to a competent authority after recording his findings in case he is of the opinion that the child brought before him is a juvenile.

However, the state of affairs in this regard have been found to be appalling. A vast majority (66.2 percent) of the juveniles responded that they had been confined in police or judicial custody before being sent to the home. In only 33.8 percent of the cases, the inmates stated that they were sent directly to the home without being confined to police or judicial custody. That 66.2 percent of the juveniles had at some point of time spent time in prison or lock up makes it clear that the provisions stated above have not been followed.

Further analysing the trend, the researchers observed that the where inmates had been confined to police/judicial custody, they had made their claims before the police in 70.5 percent of the cases and before the courts in 29.5 percent of the cases. Moreover, the juveniles were sent to judicial/police custody; in 79.7 percent of the cases where the claims were made before a judge as compared to only 61.8 percent of the cases where the claims were made before the police.

The researchers observed a direct relationship between the two variables of confinement and age i.e. an increased trend of confinement to custody with an increase in age. 50 percent of juveniles (lowest) aged 11-13 reported being sent to judicial/police custody while 58.3 percent of juvenile aged 14-15 were sent to custody. The figures stand at 63.6 percent for those aged 16-17 and 77.5 percent (highest) for those aged 18 and above. Those aged 16-17 and 18 and above were more likely to be sent to jail or police lock up primarily on the basis of their facial features and physical stature.

At this stage, it is important to reiterate the observations of the Supreme Court in the *Sheela Barse* case that, “*there can be no doubt that incarceration in jail would have the effect of dwarfing the development of the child, exposing him to baneful influences, coarsening his conscience and alienating him from the society.*” It is pertinent to note that even if one child was sent to judicial or police custody it would be in violation of the principle of presumption of innocence, the principle of dignity and worth and most importantly, the principle of safety. The same should require disciplining and admonishment of errant officials. However, the incidence of violation of the principles and provisions of the Act of 2000 as well as the Act of

2015 on such a large scale incarceration in prisons and lock ups as noted above requires urgent action after deep introspection on part of the law and policy makers to ensure that the implementation of the provisions and principles is strict.

3. BEHAVIOUR OF POLICE OFFICIALS

The Act of 2000 as well as the Act of 2015 provide for the transfer of the child to the SJPU or the CWPO soon after the apprehension. Those officers who frequently or exclusively deal with juveniles are required to be specially trained and instructed in order to enable them to perform their functions more effectively. In light of the above, the findings of the researchers with respect to the behaviour of the police officials have been reproduced below.

In 53 percent of the cases, the behaviour and attitude of the police towards the juveniles was hostile and the majority of them reported being subjected to torture. In 27.5 percent of the cases, the police officials were indifferent to the plight of the juvenile while only in 19.5 percent of the cases were the police officials supportive and kind to the juvenile. The researchers found an inverse relationship between the age of the inmates and a supportive attitude of police officials towards them. While 50 percent of the juveniles aged 11-13 reported that the police were supportive of them throughout their experience only 20 percent of those aged 14-15 reported the same. 19.6 percent of those aged 16-17 and 15.7 percent of those aged 18 and above reported that the police were supportive in their attitude and behaviour.

In line with trends, the researchers found a direct relationship between the age of the juveniles and the hostile attitude of the police officials towards them. Nearly 59.6 percent of those aged 18 and above, 43.1 percent of those aged 16-17, 55.0 percent of those aged 14-15 and 50 percent of those aged 11-13 reported being abused by the police or facing torture at their hands with the overall attitude and behaviour of the police being hostile to them.

Within those who reported hostile treatment at the hands of the police the providers of 28.8 percent were working as daily wage labourers and 48.1 percent were skilled labourers (majority). Amongst all occupations of the providers, a hostile treatment at the hands of the police was the dominant behaviour ranging from 43.3 percent to 59.1 percent. 54.2 percent of all illiterates, 64.2 percent of all educated till primary, 53 percent of those educated till middle school and 47.3 percent of those educated till secondary reported to have faced hostile treatment at the hands of the police.

It thus becomes quite clear from a plain reading of the above that with the police being the first point of contact with the system, a majority of the juveniles face an adverse and hostile environment from the word go. The same is not only in violation of their human rights, but also violates the principles of dignity and self-worth, of best interest, of safety and of presumption of innocence as affirmed by the acts.

Moreover, section 75 of the Rules of 2007 require for the police officials to be in plain clothes and not in uniform while dealing with juveniles. In contravention of the rules, our research indicates that an overwhelming majority (88.4 percent) of the juveniles responded that they had been approached by police officials in uniform while only 11.6 percent stated that they weren't approached by police officials in uniform.

4. PROVISION OF LEGAL AID

The Principle of Presumption of Innocence under the Rules of 2007 called for the provision of legal aid, guardian ad litem and other such assistance to the juveniles at the expense of the state. Section 8 and section 30 of the Act of 2015 casts a responsibility upon the Board and the committee respectively, to ensure that the juveniles are provided with legal aid through legal services institutions. However, it was observed by the researchers that in practise, the provisions have failed to secure such legal aid for the juveniles as can be observed from a reading of the findings elaborated below.

Inmates received legal aid from the state in only 18.9 percent of the cases while in a vast majority of the cases (81.1 percent), no such aid was provided. No juvenile between the age of 11-13 received legal aid. 40.4 percent of those who received legal aid were in the age group of 16-17 while 38.6 percent of received such aid were aged 14-15. Only 13.5 percent of those aged 18 and above received any kind of legal aid. Of those who did not received such legal aid, 44.1 percent (highest) were from Punjab, 41.6 percent were from Haryana while only 14.3 percent were from Delhi. A majority (54.4 percent) of the inmates who received legal aid were from Delhi, while 17.5 percent and 28.1 percent were from Haryana and Punjab respectively. In 74.4 percent of the cases where the provider for the juvenile was a daily wage labourer, no legal aid was provided.

5. USE OF STIGMATIZING SEMANTICS

The language of the Act of 2000, Rules of 2007, Act of 2015 as well as the Rules of 2016 avoid largely avoid the usage stigmatizing semantics and terms. The Rules of 2007 give us an

explanation for avoidance of such usage in the form of the Principle of non-stigmatizing semantics, decisions and action. It states that the use of adversarial or accusatory words, such as, arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody or jail is prohibited in the processes pertaining to the child or juvenile in conflict with law under the Act. The principle is enshrined in the Act of 2015 as well, though the language of the provision has been largely diluted to state that adversarial or accusatory words are not be used in the processes pertaining to a child.

However, the findings show that all respondents (100 percent), irrespective of the state, age or nature of offence replied in affirmative when asked if any accusatory and stigmatizing terms were used for or around them during the proceedings.

6. LIKABILITY OF THE ENVIRONMENT

The Rules of 2007 cast a responsibility upon the institutions under the act to create an environment inside the home which is conducive to the growth and development of the child. It states that the homes should be child friendly and in no way look like a jail or lock up. 31.8 percent of the children answered straightaway that they disliked the overall environment of the home, while 68.2 percent of the juveniles replied that they liked, *prima facie*, the environment inside the home. Further, it was observed that 72.7 percent of the juveniles from Delhi, 61.6 percent of juveniles from Haryana and 71.8 percent of the juveniles from Punjab liked the *prima facie* environment of the home.

It is important at this juncture to refer to the profile of the juveniles who were lodged in the homes. A large majority of the juveniles came from under privileged backgrounds where the provider for their family was either working as a skilled labourer or a daily wage labourer, both vocations rarely afford a wage more than the minimum basic wages. Only 6.3 percent of the juveniles belonged to homes where the provider of the family was a salaried worker forming a part of the upwardly mobile class. It is not surprising therefore that a majority of the juveniles would *prima facie* like the environment inside the home as compared to the harsh realities they have had to face on the outside. As the points made out below go on to show, the state of infrastructure and the quality of life inside the institution is well below the expected standards.

7. SEGREGATION

Section 40 of the Rules of 2007, Section 47 of the Act of 2015 and Section 29 of the Rules of 2016 stress upon the need to segregate the children lodged in observation and special homes

on the basis of age, sex, mental capacity and nature of offence. While different homes for boys and girls have been established in all state, there has been no effort at segregation of the children on the basis of age, mental capacity and degree of offence i.e. all of them have been housed together in dormitories in violation of the above provisions. The situation was the same in all homes in Delhi, Punjab and Haryana.

8. REQUIREMENT OF BETTER INFRASTRUCTURE

Section 40 of the Rules of 2007 and the Section 29 of the Rules of 2016 lay down a meticulous set of minimum requirements that must be adhered to by the homes. It requires that dormitories, classrooms, sickrooms, kitchen, dining hall, store, recreation room, library, bathrooms, toilets, office rooms, counselling and guidance room, workshop, residence for person in charge and rooms for the board and committee be set up inside the homes and the minimum area requirements for the same. While the researchers were unable to measure if the minimum area requirement rules were being followed, the researchers did find critical infrastructure to be either be missing or if not missing then dilapidated in condition.

Overall, 96.0 percent of the inmates answered that there was a need for better infrastructure. Only 4 percent of the inmates replied in a straightforward manner that there was no such need. 86.2 percent of the juveniles from Delhi, 98.2 percent of the juveniles from Haryana and 99.2 percent of the juveniles from Punjab felt that there was a requirement of better infrastructure within their respective homes. The same goes on to show, and is in sync with the observations of the researchers that the homes in Delhi performed only marginally better than the homes in Haryana and Punjab in terms of infrastructure.

9. QUALITY OF PEST CONTROL

Under section 42 of the Rules of 2007 and section 31 of the Rules of 2016, annual pest control is listed under the head of sanitation and hygiene. Firstly, for an institution of the size and number of residents such as that in a home, the requirement of just one annual pest control is largely understated. Secondly, findings show that the status of pest and insect control inside the homes is well below even these required standards. 4.3 percent of the inmates replied that the quality was poor while a majority of the inmates (58.6 percent) answered that the quality was at best – below average. 35.1 percent of the inmates felt that the quality of pest control was average while only 2.0 percent answered that the quality was good. 53.8 percent of the juveniles from Delhi reported that the state of pest/insect control inside the home was poor. 34.5 percent

and 39 percent of juveniles from Haryana and Punjab respectively stated that the quality of pest/insect control inside the home was below average.

10. QUALITY OF BEDDING/CLOTHING

Section 41 of the Rules of 2007 and Section 31 of the Rules of 2016, require for the provision of clothing and bedding of the juvenile as per the scale mentioned in the rules and the climactic conditions of the state where the home is located. However, while the rules quantify the requirements, they don't stress upon the quality of the clothing/bedding so provided. A large majority (80.1 percent) of the juveniles answered that the quality of the clothing and bedding so provided was average. 17.5 percent of the juveniles replied that the quality was below average, 1.3 percent reported the quality to be poor and only 1 percent stated that the quality was good. 62.1 percent juveniles from Delhi, 85.7 percent juveniles from Haryana and 84.7 percent juveniles from Punjab reported the quality of clothing/bedding provided them to be average.

11. QUALITY OF WATER FOR DRINKING AND SANITATION

A majority of the inmates (79.1 percent) responded that the quality of water was average. 17.2 percent of the respondents stated that the quality of water was below average. 0.7 percent stated that such quality was poor while 3 percent stated that the quality of water provided to them was good. 56.1 percent of juvenile from Delhi, 78.6 percent juveniles from Haryana and 91.9 percent juveniles from Punjab reported that the quality of water inside the home was average. Of those who reported that the quality of water was below average, 50 percent were from Delhi while 42.3 percent were from Haryana.

12. QUALITY AND SUFFICIENCY OF BATHROOMS

The Rules of 2007 as well as the Rules of 2016 require the homes to have at least one toilet for every seven children and one bathroom for every ten children. The bathrooms and toilets should be well lit and airy. However, 51 percent (highest) of the interviewees stated that the quality of bathroom and their sufficiency was below average. 37.4 percent felt that the quality of bathroom was average, 9.6 percent felt that the quality was poor while 2.0 percent responded that the quality was good. 60.6 percent of the juveniles from Delhi, 49.1 percent of the juveniles from Haryana and 47.6 percent of the juveniles from Punjab reported that the quality and quantity of bathrooms was below average. 22.3 percent of the juveniles from Haryana stated that the quality and quantity of bathroom was poor while 47.6 percent of juveniles from Punjab

reported the quality to be average. Only 4.8 percent of the juveniles reported that the quality and quantity of bathrooms was good while none from Delhi or Haryana reported so.

13. QUALITY OF KITCHEN HYGIENE

The Rules of 2000 requires for the kitchen to be clean and fly proof with a segregated area for washing of utensils. The Rules of 2015 go further and specify that the vegetables should be washed food should be prepared in a hygienic manner and that the slabs, floor and gas (burner) should be cleaned after every meal. 68.2 percent (highest) of the juveniles answered that the quality of the kitchen cleanliness was average while 29.5 percent stated that the quality was good. 2.3 percent responded that the quality was below average, while none of the respondents said that hygiene in the kitchens was poor. 68.2 percent of juveniles from Delhi, 75.9 percent juveniles from Haryana and 61.3 percent of the juveniles reported that quality of cleanliness inside the kitchens was average. 28.8 percent of juveniles from Delhi, 19.6 percent of juveniles from Haryana and 38.7 percent of juvenile from Punjab stated that the quality of hygiene inside the kitchens was good.

14. QUALITY AND QUANTITY OF MEALS

Both the Rules of 2000 as well as the Rules of 2016 provide for an elaborate diet chart which should be followed by the institution. However, the diet charts so prepared focus on the quantity rather than the quality. 47.0 percent (highest) responded that the quality of food was average. A sizable segment (38.1 percent) stated that the quality was below average while 10.7 percent replied that the quality of the food was poor and deplorable. Only 4.3 percent (lowest) stated that the quality of food was good. 53 percent of juveniles from Delhi and 49.1 percent of juveniles from Haryana found the quality of meals to be below average. 68.5 percent of the juveniles from Punjab reported the food to be average while 21.5 percent of the juveniles from Haryana stated that the quality of meals provided to them was poor.

The rules also provide that the minimum number of meals to be given to the children per day should be four. It was observed however that all respondents, irrespective of the state or type of home stated that they were provided only three meals a day.

15. CHILDREN'S COMMITTEE

The first mention of a children's committee comes in Section 43 of the Rules of 2007 which states that a routine shall be developed in consultation with the children's committee. The rules provide for a membership of representative of the children's committee to the management

committee of the institution. The committees have to be set up by the officer in charge of the institution with three different age groups 6-10, 11-15 and 16-18 having their own committees. The children's committee should be encouraged to participate in the improvement of condition of the institution; review the standards of care being followed; preparing daily routine and diet scale; developing educational, recreational and vocational plans; reporting abuse and exploitation by peers; creative expression of views; management of institution through management committee. Therefore, the role of the children's committees is essential to the process of the implementation of the provisions of the act and to forward the best interest of the children.

However, the situation as it stands is that only 24.5 percent of the respondents were aware about a children's committee their home while 32.5 percent were unaware of any such committee. In a majority of the cases (43 percent) there was no children's committee in the home.

Only 43.9 percent of the juveniles in Delhi and 36.3 percent of juveniles from Punjab were aware of the existence of the children's committee. 56.1 percent of the juveniles from Delhi and 49.2 percent of juveniles from Punjab weren't aware of any children's committee within their homes. No Observation Home or Special Home in Haryana had any children's committee.

Further, 64.9 percent of respondents who were aware of the existence of children's committee replied that the children's committee received no cooperation from the staff while only 35.1 percent stated that the committee received cooperation of the staff. 41.4 percent from of juveniles Delhi who were aware of the existence of the committee reported that the staff extended such cooperation while 58.6 percent stated that the committee received no cooperation. 31.1 percent of juvenile from Punjab stated that the committee received cooperation of the staff while 68.9 percent believed that the staff extended no cooperation to the committee whatsoever.

16. MONTHLY MEDICAL CHECK-UPS AND FIRST AID

Both the Rules of 2007 and the Rules of 2015 call maintenance of first aid kits and more importantly, for a monthly medical check-up of the children vide sections 45 and 34 respectively. All respondents stated that first aid kits were available in the home for immediate treatment of minor wounds and general ailments.

However, 91.4 percent of the juveniles stated that no medical check-ups of the inmates were conducted on a monthly basis. Only 8.6 percent put on record that such monthly check-ups were conducted. The rate of monthly medical check-ups was the highest in Delhi with 37.9 percent juveniles reporting that they got monthly medical check-ups, while only 0.9 percent juveniles from Haryana stated the same. No juvenile from Punjab reported getting monthly medical check-ups.

17. SUGGESTION BOXES

Section 55(7) of the Rules of 2007 and Section 39(5) of the Rules of 2016 cast a responsibility upon the management committee to install suggestion boxes at places accessible to children and such suggestions should be reviewed at a meeting by the management committee and once a month by the board or a committee. The requirement of the installation of suggestion boxes is for the purpose of helping the children report their problems, give suggestions w.r.t the improvement of the conditions inside the home and report any kind of abuse within the institution; anonymously or otherwise. However, the researchers found that none of the children were aware about the existence of such suggestion boxes.

18. QUALITY AND QUANTITY OF STAFF

It was found that most juveniles found the quality of the staff to be average or below average. 44.0 percent (highest) of the juveniles found that the quality and quantity of the staff within the home to average. 33.4 percent stated that the quality and quantity of the staff was below average while 12.9 percent replied that it was poor. 9.6 percent (lowest) of the respondents stated that the quality was good. State wise, 51.5 percent of inmates from Delhi found that quality of staff to be below average while 13.3 percent deemed it poor. 41.1 percent of juvenile from Haryana found the quality of staff to be below average while 20.5 percent reported the quality and quantity to be poor. 57.3 percent of juveniles from Punjab stated that the quality of staff was average at best while 20.2 percent found the quality and quantity to be good.

The importance of the role of the housefather/housemother has been emphasized upon in chapter III. However, it was found that only in 57 percent of the cases a house mother or house father were present while in 43 percent of the cases the position of house father and house mother was vacant. In all homes in Delhi, house father and house mothers were present to take care of the children. There were no house fathers/ house mothers present in any observation or special homes in Haryana while 85.5 percent of juveniles from Punjab reported that house fathers/ house mothers were present in their respective homes.

19. INDIVIDUAL CARE PLAN AND THE JUVENILE’S PLAN POST RELEASE

The Individual Care Plan is the crux upon which rides the efficacy of the aims of the rehabilitation and reintegration as envisaged in the Acts of 2000 and 2015. The plan has to be made in consultation with the juvenile in order to restore the juvenile’s self-esteem, sense of self-worth and to nurture him into a responsible citizen while keeping in mind the emotional needs, health needs, psychological needs, leisurely activities, attachments from relationships, protection from abuse and social mainstreaming.

The researchers found that 47 percent of the inmates (highest) intended to pursue and complete their education post their release while 18.5 percent sought to continue the previous jobs they held. 20.9 percent of the inmates wanted to look for other employment opportunities while 13.6 percent were undecided on their future course of action. However, all respondents unanimously answered that they were unaware about any post release/individual care plans being drawn up for them. If that is indeed the case, then either of the following conclusions can be drawn. Firstly, that the individual care plans weren’t made in consultation with the children or that secondly, individual care plans weren’t made at all. Both conclusion, whichever may be the case, would result in a failure of the Acts in successfully achieving rehabilitation and reintegration of the children.

20. VOCATIONAL TRAINING

Vocational training was made mandatory by various provisions of the Act of 2000 and the Act of 2015 to ensure that the children have the requisite skills to sustain themselves upon their release. The same is an integral part of the reformation, rehabilitation and reintegration objectives of the legislators. The status of implementation of these provisions pertaining to vocational training was found to be abysmal.

In a large majority of the cases (69.5 percent), there was no provision of any kind of vocational training for the inmates. Of the 30.5 percent of the cases where such training was available, only 16.6 percent of the inmates attended it while 13.9 percent did not attend any vocational training. It was found that 80 percent of all children who answered the query in affirmative were from Delhi while 20 percent were from Punjab. No vocational training was being provided in any observation or special home in Haryana while 79 percent of the juveniles from Punjab reported that there was no provision of vocational training.

The situation becomes even more appalling when it is observed that, irrespective of the interests of the children which are bound to be varied, in most of the homes which provided vocational training, the same was rarely for more than one or two vocations. A total of 47.1 percent (highest) respondents who were attended the vocational training being provided felt that there was need to introduce new vocations in addition to the ongoing vocations. 37.3 percent were indifferent to such a need while 15.7 percent (lowest) disagreed that there was such a need.

As a result, 41.2 percent (highest) of the juveniles who attended vocational training disagreed that such training would help them in their life post release while 33.3 percent agreed to the same. 23.5 percent were neutral or undecided on the effectiveness of the vocational training while 2 percent (lowest) strongly disagreed. 41.5 percent of inmates from Delhi and 40 percent of inmates from Punjab who attended vocational training disagreed that the vocational training they received was an effective post release aid.

To make matters worse, the attitude of the trainers was also found to be lax. 47.0 percent of the children found that the attitude of the trainers towards them was indifferent, while 39.4 percent found the trainers to be helpful. 12.3 percent stated that the trainers were incompetent while 0.3 percent found them to be caring. 1 percent of the sample did not respond to the query. In total, 59.3 percent of the respondents found the attitude of the trainers to be indifferent or found the trainers to be incompetent.

21. FORMAL EDUCATION

The provision of formal education is a sure shot way to empower the children and instil some form of confidence in them in facing the life on the outside after their release. On this account, while we see that institutions have performed better than they have on other parameters, they are still nowhere close to the envisioned target and objective.

64.1 percent of the children who were studying prior to their confinement were pursuing formal education from within the home while 35.9 percent were not. 43.6 percent who were employed prior to their confinement had started formal education after coming to the home. 47.3 percent of those who were neither studying nor employed prior to their confinement had started formal education from within the home. Overall while 131 children were studying prior to their confinement, a total of 162 children were availing formal education from inside the home, an increase of 23.67 percent over pre institutionalization levels.

However, only 53.6 percent were continuing their formal education while inside the institute whereas 46.4 percent were not following any formal education courses. State wise, 65.2 percent of juveniles in Delhi received formal education while 34.8 percent did not. 54.5 percent of children from Haryana received formal education while 45.2 percent did not. In Punjab, 46.8 percent were receiving formal education while 53.2 percent were not.

Moreover, it was observed that only 1 percent of the children received any kind of encouragement to engage in voluntary services or open schooling while 99 percent received no encouragement. State wise, it was found that only 4.5 percent juveniles from Delhi received any encouragement to engage in voluntary services or open school while no child from Punjab or Haryana received any such encouragement.

22. THERAPY/COUNSELLING

Provision of therapy and counselling to the children with each child getting individual attention, not only for the purpose of assessing the mental health of the juvenile but also for the purpose of his reformation, rehabilitation and reintegration is one of the pillars upon which the success of the act is based. As iterated above in the conclusion in context of trial in cases of heinous offences, the collaboration of the institutions and counsellors, therapists and psychologists is virtually non-existent in many places and wherever available, is nearly not enough to handle all children entering the system. The findings have been reiterated here, to be looked at from the point of view of reformation, reintegration and rehabilitation.

Therapy sessions on a regular basis were provided to only 11.3 percent of the juveniles while a majority (71.2 percent) received no such therapy at all. 17.5 percent of the juveniles had only attended one therapy session in their duration of stay in the home. Of those who had attended such sessions, 58.6 percent of the juveniles attended individual sessions, while 39.1 percent attended group sessions. Only in 2.3 percent of the cases were the juveniles called for both types of sessions. It is necessary to reiterate here that 71.2 percent of the juveniles did not attend any therapy sessions.

44.7 percent of juveniles from Delhi, 61.5 percent juveniles from Haryana and 59.3 percent of juveniles from Punjab reported that they did not find the therapy sessions to be helpful. Only 25 percent of juveniles from Delhi, 14.8 percent of Juveniles from Punjab and none of the juveniles from Haryana found the therapy sessions to be helpful and utile.

State wise, the situation seems to be better in Delhi with 47 percent of inmates from Delhi attended regular therapy sessions while the figure stands that 0.9 percent from Haryana and 1.6 percent from Punjab. 88.4 percent of juveniles from Haryana and 78.2 percent inmates from Punjab had never attended therapy sessions. 24.2 percent of children from Delhi, 10.7 percent juveniles from Haryana and 20.2 percent children from Punjab had attended the therapy sessions only once.

However, 36.2 percent of juveniles who attended therapy sessions even once in Delhi were given individual therapy sessions while 59.2 percent were given group sessions. In Haryana, 84.6 percent were given individual sessions while 15.4 percent stated that they were given group sessions. In Punjab, 85.2 percent of juveniles reported being given individual sessions while 14.8 percent stated that they were given group sessions.

65.8 percent of those charged with petty offences, 71.4 percent of those charged with serious offences and 72 percent of those charged with heinous offences received no therapy sessions of counselling. Those receiving regular therapy sessions only formed 9.9 percent of all who were charged with commission of heinous offences while 18.2 percent of such juveniles had only attended a therapy session once since their confinement.

Even out of those who had attended therapy sessions, only a miniscule portion (18.4 percent (lowest)) of the juveniles felt that the sessions were helpful while 29.9 percent felt that the sessions were helpful to some extent. A majority of the juveniles (51.7 percent) found that the sessions did not benefit them in any way whatsoever.

With regards to the performance of the counsellor, a majority of the juveniles (56.3 percent) found such performance to be average at best. 16.1 percent found the attitude towards the children and the performance of the counsellor to be good. 26.4 percent stated that the performance of the therapist/counsellor was below average while 1.1 percent found it to be poor.

It was found that 90.9 percent of those addicted to tobacco, 87.5 percent of those addicted to alcohol, 28.6 percent of those addicted to cannabinoids and 52.1 percent of the those addicted to narcotics had not attended a therapy session even once. 57.1 percent of those dependent upon cannabinoids had attended a therapy session only once. Only 17.4 percent of those addicted to narcotics and 14.3 percent of those addicted to cannabinoids regularly attended therapy sessions.

79.6 percent of those who were found to be asocial did not receive any therapy while only 7.3 percent did. Of those found to be social, 64.2 percent did not receive any therapy sessions. Of those who received regular therapy sessions, 70.6 percent were social while 29.4 percent were asocial. Similarly, of those who received therapy sessions only once, 66 percent were sociable while 34 percent were not.

8.2 percent of those lodged in special homes and 12.2 percent of those lodged in observations home received regular therapy sessions. 60.3 percent of those lodged in special homes and 74.7 percent of those lodged in observation homes never received any therapy sessions at all. 31.5 percent of those juveniles lodged in special home and 13.1 percent of those lodged in observation homes received therapy sessions only once.

However, on the count of reward or earning for good behaviour and work, the institutes fared slightly better. 55.3 percent (highest) of the children stated that positive reinforcement mechanisms were indeed used by the staff, trainers and counsellors in the form rewards for good behaviour. 16.2 percent replied that no such positive reinforcement was used which 28.5 percent were unaware of any such measures.

REFERENCES

I. BOOKS AND ARTICLES:

- Ved Kumari, *Juvenile Justice: Securing the Rights of Children During 1998-2008*, (2009) 2 NUJS L Rev 557
- Rupam Jagota, *Juvenile Justice System in India: An Attempt at Reformation*, 2 RMLNLUJ (2010), p. 84
- Ved kumari, *The Juvenile Justice in India: From Welfare to Rights*, New Delhi: OUP.
- John Pitts, *Youth Justice in England and Wales*, contained in, Roger Mathews, *The New Politics of Crime and Punishment*, Willian Publishing, (1st Edition, 2003) Pg.71
- Dr. Ved Kumar, *Relevant Date for Applying the Juvenile Justice Act*, (2000) 6 SCC (Journ) 9
- Satadru Sen, *A Separate Punishment: Juvenile offenders in Colonial India*, Association of Asian studies, 63(1) (2004), 81-104
- Travis Hirschi, *Causes of Delinquency*, Transaction Publisher, New Jersey, 2002
- Karen A. Joe and Meda Chesney-lind, *An Analysis of Gender and Ethnic Variations in Youth Gang Membership*, Department of Sociology, University of Hawaii (1995)
- Kupersmidt JB, DeRosier ME, *How Peer Problems Lead to Negative Outcomes: An Integrative Mediation Model*, Washington, DC: American Psychological Association; 2004. pp. 119–138.
- Robert Agnew, *Foundation for a General Strain Theory for Crime and Delinquency*, Criminology, Volume 30, Issue 1, February 1992, Pages 47–88
- Shaw, Clifford R., and McKay, Henry D, *Juvenile Delinquency and Urban Areas*, Chicago: Univ. of Chicago Press, 1972
- Parker JG, Rubin KH, Earth SA, Wojslawowics JC, Buskirk AA, *Peer Relationships, Child Development, and Adjustment: A Developmental Psychopathology Persepctive*. Vol 2: Risk, disorder, and adaptation. Oxford, England: John Wiley & Sons; 1995. pp. 96–161.
- Dr. Mahendra Tiwari, Mohan Shakti, *Analytical View on the Concept of Juvenile Delinquency*, Vol. 5 No. 9, (Sept,2015), International Journal of Research in Economic and Social Sciences
- Parker JG, Asher SR, *Peer Relations and Later Personal Adjustment: Are Low Accepted Children at Risk?*, Psychological Bulletin. 1987;102(3):357–389.

- Mayer, R.E, *Educational Psychology. A Cognitive Approach*, 1987, Boston, MA, Little, Brown & Co.
- Mark Hansen, *What's the Matter with Kids Today: A Revolution in Thinking About Kids Minds is Sparking Change in Juvenile Justice*, ABA Journal, Vol. 96 No. 7, July 2010 p. 50
- Steven D. Levitt, *Juvenile Crime and Punishment*, Journal of Political Economy, Vol. 106 No. 6, 1998, p. 1156
- Coalition for Juvenile Justice, *16th Annual Report on Serving the Mental Health Needs of Young Offenders*, Washington D.C., 2000
- Prof. B. B. Pandey, *Child Rights Law*, Vol. XLIX, 2013, Annual Survey of Indian Law p. 93
- Stevens H. Clarke, *Getting Em' Out of Circulation: Does Incarceration of Juvenile Offenders Reduce Crime?*, The Journal of Criminal Law and Criminology, Vol. 65, No. 4, 1974, p. 538
- Richard Lundman, *Prevention and Control of Juvenile Delinquency*, Oxford university Press, 2001, 3rd Ed. Pg. 29
- Kailash Jeenger, *Excessive Protection to Juveniles and Minors: A Plea for Legislative Amendments to Law*, (2015) 3 SCC (J)
- Donna M. Bishop, *Juvenile Offenders in the Adult Criminal Justice System*, Crime and Justice, Vol. 27, 2000 p. 81
- Shiladitya Rakshit, Bani Brar, *Missing the 'Justice' in the Juvenile Justice (Care and Protection of Children) Bill 2014*, Law and Policy Brief, Vol. 1, No. 8, 2015
- Karen M. Kolivoski, Jeffery J. Shook, Sara Goodkind and Kevin H. Kim, *Developmental Trajectories and Predictors of Juvenile Detention, Placement and Jail Among Youth with Out of Home Placement*, Journal of the Society for Social Work and Research, Vol. 5, No. 2, (2010) p. 137
- Robert Zabel and Frank Nigro, *Occupational Interests and Aptitudes of Juvenile Offenders: Influence of Special Education Experience and Gender*, Journal of Correctional Education, Vol. 58, No. 4, 2007, p. 337
- Dr. T. H. Khan, *Juvenile Justice System in India: An Appraisal*, Vol.: VIII Issue: 1, 1994, Central India Law Quarterly p. 61
- Vijay Hansaria and P. I. Jose, *Juvenile Justice System*, New Delhi, Universal Law Publishing Pvt. Co. Ltd., 2010

- Maharukh Adenwalla, *Child Protection and Juvenile Justice System for Juvenile in Conflict with Law*, Childline India Foundation, Mumbai (2006)
- Ericka Rickard and Jason M. Szanyi, *Bringing Justice to India's Children: Three Reforms to Bridge Practises with Promises in India's Juvenile Justice System*, Vol 14: 1, UC Davis Journal of Juvenile Law and Policy, Winter 2010 p. 109
- Robin Walker Sterling, *Juvenile Sex Offender Registration: An Impermissible Life Sentence*, The University of Chicago Law Review, Vol. 82 No. 1, 2015, p. 295
- Arvind Narain, *A Critique of Juvenile Justice Act, 2000*, <http://altlawforum.org/publications/a-critique-of-the-juvenile-justice-act-2002/>, accessed on 11/09/2017
- RN Bharucha *My God is a Juvenile delinquent*, Sainathan Communication, New Delhi, 2008
- Justice Anjana Prakash, *Juvenile Justice Act, 1986: An Outline*, CNLU L J (1) [2010] 107
- Prof. B.B. Pande, *Rethinking Juvenile Justice: Arnit Das Style*, (2000) 6 SCC (Journ) 1
- Gauri Pillai and Shrikrishna Upadhyaya, *Juvenile Maturity and Heinous Crimes: A Relook at Juvenile Justice Policy in India*, 10 NUJS L. Rev. 49 (2017) NUJS Law Review
- Tomas Paus, *Mapping Brain Maturation and Cognitive Development During Adolescence*, Vol. 9 No. 2, 2005, Trends in Cognitive Sciences, p. 60
- Sarah Jayne Blakemore and Suparna Choudhary, *Development of the Adolescent Brain: Implications for Executive Function and Social Cognition*, 47:3/4 (2006), Journal of Child Psychology and Psychiatry p. 296
- Prof. S.M. Sawyer, P. S. Azzorapardi, D. Wickremarathne, Prof. G.C. Patton, *The Age of Adolescence*, The Lancet Child and Adolescent Health, 17th January 2018

II. STATUTES, POLICIES AND INTERNATIONAL TREATIES:

STATUTES:

- Constitution of India, 1950
- Indian Penal Code, 1860
- Code of Criminal Procedure, 1898
- Code of Criminal Procedure, 1973
- Representation of People Act, 1951

- Reformatory Schools Act, 1897
- Bombay Borstal Act, 1920
- Madras Borstal Schools Act, 1924
- Bengal Children Act, 1922
- Children Act, 1960
- Rajasthan Children Act, 1970
- Madras Children Act, 1920
- Bombay Children Act, 1920
- Haryana Children Act, 1974
- Bihar Children Act, 1970
- Juvenile Justice (Care and Protection of Children) Act, 1986
- Juvenile Justice (Care and Protection of Children) Act, 2000
- Juvenile Justice (Care and Protection of Children) Amendment Act, 2006
- Juvenile Justice (Care and Protection of Children) Model Rules, 2007
- Juvenile Justice (Care and Protection of Children) Amendment Act, 2011
- Juvenile Justice (Care and Protection of Children) Act, 2015
- Juvenile Justice (Care and Protection of Children) Model Rules, 2016
- Mental Health Act, 1987

POLICIES:

- Integrated Child Development Scheme, Ministry of Women and Child Development
- Integrated Child Protection Scheme, Ministry of Women and Child Development

INTERNATIONAL TREATIES:

- United Nations Declaration on Rights of the Child, 1959
- Minimum Age Convention, 1973
- United Nations Convention on the Right of the Child, 1989
- United Nations Standard Minimum Rules for Administration of Juvenile Justice, 1985
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990
- Hague Convention on Protection of Children and Cooperation in Respect of Inter Country Adoption, 1993
- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights, 1966
- International Covenant on Economic, Social and Cultural Rights, 1966

III. REPORTS:

- Report of Indian Jail committee 1919-20
- Coalition for Juvenile Justice (2000), 16th Annual Report on Serving the Mental Health Needs of Young Offenders, Washington D.C.
- Justice J.S. Verma (2013), “Report of the Committee on Amendments to Criminal Law”
- Sinha Committee Report, 1968
- Ministry of Women and Child Development, “Annual Report 2015-16”
- Parliamentary Standing Committee on Human Resource Development, *264th Report on Juvenile Justice (Care and Protection of Children) Bill, 2014*

IV. WEBSITES:

- <http://www.manupatra.co.in/>
- <https://www.jstor.org/>
- home.heinonline.org
- <https://www.kluwerlawonline.com>
- <http://www.legalservicesindia.com>
- <http://lawcommissionofindia.nic.in>
- <http://censusindia.gov.in>
- <http://www.undp.org/>
- <http://ncrb.nic.in/>
- <http://www.sconline.com/>
- <http://judis.nic.in/>
- <https://scholar.google.co.in/>
- <http://www.wcd.nic.in/>
- <http://mha.nic.in/>
- <http://indiabudget.gov.in/>
- <http://www.wcddel.in/>
- <http://ncpcr.gov.in/>
- <http://www.hrln.org/>
- <http://www.crin.org/>
- <http://www.childlineindia.org.in/>
- <http://mospi.nic.in/>
- <http://finmin.nic.in/>

- <http://indiabudget.gov.in/>
- <http://haqcrc.org/>
- <http://pib.nic.in/>
- <http://www.nls.ac.in/>
- <http://altlawforum.org>
- <http://legalsutra.com>
- <http://www.livelaw.in/>

ANNEXURE – I

SAMPLE OF INTERVIEW SCHEDULE

NATIONAL LAW UNIVERSITY, DELHI

Project on

“IMPACT AND IMPLEMENTATION OF JUVENILE JUSTICE ACT, 2000”

Survey and Questionnaire form for Inmates

General

1. Name
2. Age:
3. Place of residence:
4. Family members:
5. Education level
 - a) None
 - b) Primary
 - c) Middle
 - d) Secondary
 - e) Senior Secondary
 - f) Drop out
 - g) Graduate
6. Education Level Parents:
 - a) Primary
 - b) Middle
 - c) Secondary

d) Higher

e) None

7. Source of income (occupation):

a) Self-dependent

b) Mother

c) Father

d) Brother

e) others

8. Life prior to institutionalization

a) Studying

b) Working

c) Neither

Hobbies & Interest:

9. Days spent in the institution:

10. Nature of offence

a) Petty

b) Serious

c) Heinous (Rape)

11. How was the offence committed:

a) Alone

b) With other juveniles

c) With other adults

12. Is it your first offence:

13. Who do you think is responsible for the crime?

- a) Parent/ Guardian
- b) Relatives
- c) Friends
- d) Self
- e) Other reason

14. Do you have friends?

- a) Yes
- b) No

15. Have you made friends here?

- a) Yes
- b) No
- c) uncertain

16. Intoxicating addiction status:

- a) Tobacco
- b) Alcohol
- c) Narcotics
- d) Cannabis

17. What do you want to do after being released?

- a) Study
- b) Continue previous job
- c) Moving to a new Job
- d) Vacation

18. During the proceedings were you ever sent to jail or a police station lock up?

a) Yes (3 days)

b) No

19. To who did you made your claim for minority?

a) Police

b) Court

c) Others

20. Behavior and treatment of officials during your interaction with police?

a) Supportive

b) Hostile (torture)

c) Indifferent

21. Any legal aid provided:

a) Yes

b) No

22. Was there any involvement from your family in the decision making? Were your parents or family members were present during the proceedings?

a) Yes

b) No

23. Were any stigmatizing or accusatory words used by the officials? Such as remand, arrest, warrant, charge sheet, trial, prosecution etc.

a) Yes

b) No

24. Did you feel any kind of discrimination based on your gender, age, religion, caste or socioeconomic status?

a) Yes

b) No

25. Do you like the environment of your observation/special home?

a) Yes

b) No

26. Are there separate residential facilities based on age group in your juvenile home?

a) Yes

b) No

27. Do you attend the Vocational training being provided here?

a) Yes

b) No

28. Do you think that this training will help you with your life outside the institution?

a) Agree

b) Neutral

c) Disagree

d) Strongly disagree

What are the reasons of not attending?

a) Not interested

b) Does not find it beneficial

c) Any other reason

29. Do you feel the need of having other options in vocational training?

- a) Agree
 - b) Indifferent
 - c) Disagree
 - d) Strongly disagree
30. How would you describe your trainers?
- a) Caring
 - b) Helpful
 - c) Indifferent
 - d) Incompetent
31. Do you think that this institution requires better infrastructure?
- a) Yes
 - b) No
 - c) Indifferent
32. Are you aware of post release plan/ Individual Care Plan?
- a) Yes
 - b) No
33. Are you aware of date of release from this institution or next appearance in JJB?
- a) Yes
 - b) No

FACILITIES, HYGIENE AND SANITATION

34. Clothing and Bedding
- a) Poor
 - b) Below average

- c) Average
 - d) Good
35. Drinking water and cleaning water & Sanitation: availability and quality
- a) Poor
 - b) Below average
 - c) Average
 - d) Good
36. Pest control and protection from mosquitos
- a) Poor
 - b) Below average
 - c) Average
 - d) Good
37. Availability of bathrooms and toilets in proportion to the number of inmates¹ and cleanliness.
- a) Poor
 - b) Below average
 - c) Average
 - d) Good
38. Have you been to the kitchen? If yes, then describe the state
- a) Poor
 - b) Below average
 - c) Average
 - d) Good

¹ Ideal number 1 Bathroom for 10 children and 1 Toilet for 7 Children

39. Are you aware of any **children's committee** in your institution? Have you ever been consulted or asked to give your opinion on a matter related to institution?

- a) Yes
- b) No

If yes, do you think that such committee has encouraged the participation of children and increased their confidence?

- a) Yes
- b) No
- c) Indifferent

Does such committee get full cooperation from the staff?

- a) Yes
- b) No
- c) Indifferent

40. Do you follow any particular routine or any routine has been prescribed by the institution?

- a) Yes
- b) No

Not many activities planned for the day for inmates who do not attend any of the vocational or formal educational class, the daily routine usually revolves around the timings of Breakfast lunch and dinner.

41. How many meals are provided in a day:

42. How do you feel about the quality of the meals?

- a) Poor

- b) Below average
- c) Average
- d) Good

Are you provided with special diet as per their needs in sickness?

- a) Yes
- b) No

43. Do you get medical checkup every month?

- a) Yes
- b) No

44. Is there a first aid kit available in your institution?

- a) Yes
- b) No

45. Are there any recreational facilities available such as indoor games, music television etc.?

- a) Yes
- b) No

46. Do you attend any kind of school or teachings or formal education?

- a) Yes
- b) No

47. Have you been encouraged to take up voluntary service or open schooling?

- a) Yes
- b) No

48. Do you attend regular therapy session?

- a) Yes

- b) No
- c) once

What kinds of session are taken?

- a) Group
- b) Individual
- c) Both

Do you find such session helpful?

- a) Yes
- b) To some extent
- c) No

49. Is there a practice of rewarding children for their steady work and good behavior?

- a) Yes
- b) No
- c) Don't know

50. How do you find the attitude and performance of counsellor/ therapist towards children?

- a) Poor
- b) Below average
- c) Average
- d) Good

51. Have you ever gone out on leave or parole?

- a) Yes
- b) No

52. Is there any children's suggestion box in your institution?

- a) Yes
- b) No
- c) Not aware

53. Are you allowed to meet your family and parents?

- a) Yes
- b) No

54. What is level of satisfaction with the available staff quality and quantity of staff?

- a) Poor
- b) Below average
- c) Average
- d) Good

55. Is there a house mother or house father in your institution?

- a) Yes
- b) No

If any other program _____

56. Have you ever been approach by the police in their official uniform?

- a) Yes
- b) No

ANNEXURE – II

LIST OF HEINOUS OFFENCES

i. INDIAN PENAL CODE, 1860

- Section 121 – Waging or attempting or abetting to wage war against the Govt. of India
- Section 195 – Giving or fabricating false evidence with intent to procure conviction of offense with imprisonment for life or imprisonment
- Section 195A – Threatening any person to give false evidence – If any innocent person is convicted and sentenced in consequence of such false evidence with death or imprisonment for more than seven years
- Section 302 – Punishment for Murder
- Section 304B – Dowry Death
- Section 311 – Punishment for Thugs
- Section 326A – Acid Attack causing permanent or partial damage/deformity
- Section 370(2) – Trafficking
- Section 370(3) – Trafficking of more than one person
- Section 370(4) – Trafficking of minor
- Section 370(5) – Trafficking of more than one minor
- Section 370(6) – Trafficking of minor on more than one occasion
- Section 370(7) – Trafficking by public servant or police officer
- Section 376(1) – Punishment for Rape
- Section 376(2) – Custodial Rape, rape on minor or pregnant women, etc.
- Section 376 A – Rape resulting in death or permanent vegetative state of women
- Section 376 D – Gang Rape
- Section 376 E – Repeat of s.376, 376A or 376D
- Section 397 – Robbery, or dacoity, with attempt to cause death or grievous hurt
- Section 398 – Attempt to commit robbery or dacoity when armed with deadly weapon

ii. COMMISSION OF SATI (PREVENTION) ACT, 1987

- Section 4(i) – Abetment of Sati when sati committed
- Section 4(ii) – Abetment of sati – when sati attempted

iii. NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

- Section 15(c) – Punishment for contravention in relation to poppy straw involving commercial quantity
- Section 17(c) – Punishment for contravention in relation to prepared opium involving commercial quantity
- Section 18(b) – Punishment for contravention in relation to opium poppy and opium involving commercial quantity
- Section 19 – Punishment for embezzlement of opium by cultivator
- Section 20C – Punishment for contravention in relation to cannabis plant and cannabis involving commercial quantity
- Section 21C – Punishment for contravention in relation to manufactured drugs and preparations involving commercial quantity
- Section 22C - Punishment for contravention in relation to psychotropic substances involving commercial quantity
- Section 23C - Punishment for illegal import in to India, export from India or transshipment of narcotic drugs and psychotropic substances involving commercial quantity
- Section 24 – Punishment for external dealings in narcotic drugs and psychotropic substances
- Section 25 – Punishment for allowing premises, etc., to be used for commission of an offence
- Section 27A – Punishment for financing illicit traffic and harbouring offenders
- Section 29 – Punishment for abetment and criminal conspiracy
- Section 31A – Repetition by persons convicted of commission, attempt, abetment, conspiracy of offenses under s.19, 24, 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance who are subsequently convicted of the commission, attempt, abetment, criminal conspiracy of an offence in relation to certain ND&PS above a specified quantity

iv. ARMS ACT, 1959

- Section 27(2) – Use of any prohibited arms or prohibited ammunition in contravention of section 7 (relating to ‘Prohibition of acquisition or possession, or of manufacture or sale, of prohibited arms or prohibited ammunition’)
- Section 27(3) – Use of any prohibited arms or prohibited ammunition or does any act in contravention of section 7 that results in death

v. UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

- Section 10(b)(i) – Penalty for being member of an unlawful association, etc. who does any act that results in death of any person
- Section 16(1)(a) – Punishment for terrorist act if such act has resulted in the death of any person

vi. THE FOOD SAFETY AND STANDARDS ACT, 2006

- Section 59(iv) – Punishment for unsafe food where a contravention or failure results in death of a person

vii. THE SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989

- Section 3(2)(i) – Giving or fabricates false evidence intending to lead to a conviction of any member of a Scheduled Caste or a Scheduled Tribe to be convicted of a capital offence
- Section 3(2)(iv) – Commission of Mischief by fire or explosive substance intending to cause destruction of a building used by a member of SC/ST
- Section 3(2)(v) – Commission of any IPC offense with imprisonment of more than 10 years against the person or property of a member of SC/ST

viii. MAHARASHTRA CONTROL OF ORGANIZED CRIME ACT, 1999

- Section 3(1)(i) – Punishment for organised crime which has resulted in death of a person

ix. PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

- Section 4 – Punishment for penetrative sexual assault
- Section 6 – Punishment for aggravated penetrative sexual assault