



## The State of Juvenile Justice in Himachal Pradesh

### 1. Executive summary

Himachal Pradesh faces substantial problems with juvenile delinquency but the implementation of the Juvenile Justice (Care and Protection of Children Act), 2000 [hereinafter referred to as JJ(C&PC)] remains very poor.

According to the data of the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, Himachal Pradesh registered 159 cases of juvenile delinquency under the Indian Penal Code in 2010, 127 cases in 2009, 122 cases in 2008, 118 cases in 2007, 102 cases in 2006, and 136 cases in 2005. In addition, under the Special and Local Laws, nine cases were registered against juveniles in 2010, eight cases in 2009, one case in 2008, nil in 2007, five case in 2006 and nine cases in 2005.<sup>1</sup>

The NCRB further states that a total of 170 juveniles were arrested and produced before the Juvenile Justice Boards (JJBs) during 2009, of which 48 were sent home after advice or admonition, 33 were released on probation and placed under the care of parents/guardians, five juveniles were sent to the Special Home while the cases of 84 juveniles were pending disposal.<sup>2</sup> Similarly, during 2010, a total of 218 juveniles were arrested and produced before the JJBs. Of them, 43 were sent home after advice or admonition, 74 were released on probation and placed under the care of parents/guardians, and 13 juveniles were sent to the Special Home while the cases of 88 juveniles were pending disposal by the end of 2010.<sup>3</sup>

The administration of juvenile justice remains deplorable in the State.

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### *Denial of access to juvenile justice*

Though Rule 9 of the Juvenile Justice (Care and Protection of Children) Rules provides that the Juvenile Justice Boards should hold sittings “in the premises” of, or “at a place in proximity to”, the Observation Home/Special Home, Himachal Pradesh has only one Observation Cum Special Home for Boys and Girls at Samoor Kalan under Una district. The juveniles detained from across the State are kept at this Home. At the time of ACHR's visit to the Observation cum Special Home on 19 April 2012, there were 10 juveniles hailing from Chamba, Solan, Kangra, Shimla, Kullu and Una districts.

The State Government justified the existence of only one juvenile home by stating that: “Keeping in view the number of delinquent

juveniles, only one Observation Home cum Special Home has been established at Una”.<sup>4</sup> However, the existence of only one Observation cum Special Home has been causing serious hardship and juveniles being detained are effectively being denied access to justice.

The juveniles detained at the Observation Cum Special Home for Boys and Girls at Samoor Kalan under Una district are required to be regularly produced before the JJBs in various districts of the State. At times, a particular juvenile needs to be produced three to four times in a month. The situation worsens when the Chairperson of the JJB (a Metropolitan Magistrate or a Judicial Magistrate of the first class) is absent and the hearing is postponed.<sup>5</sup>

Further, the officials of the Observation cum Special Home are required to arrange funds from their own pockets for the appearance of the juveniles before the JJBs though the state government later on reimburses the expenses. The officials nonetheless face acute financial crisis.<sup>6</sup> Further, travel funds allocated for the Observation Home have been reduced from Rs44,000 during 2010-11 to Rs20,600 during 2011-12.

Recognising the problems with only one Observation cum Special Home, a “Court Room” has been constructed at the first floor of the Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una but no sitting has been held there as of 19 April 2012.<sup>7</sup>

The pendency before the Juvenile Justice Board (JJBs) remains significant. There were 162 cases pending before the Juvenile Justice Board (JJB) in Kangra district as of 23 January 2012,<sup>8</sup> 110 cases before the JJB in Una district as of December 2011,<sup>9</sup> 89 cases before JJB in Shimla district as of November 2011,<sup>10</sup> 83 cases before JJB in Bilaspur district as of November 2011<sup>11</sup>; 54 cases before JJB in Hamirpur district as of December 2011,<sup>12</sup> 30 cases before JJB in Kullu district as of November 2011,<sup>13</sup> four cases before JJB in Sirmaur district as of December 2011,<sup>14</sup> one case in JJB in Lahual-Spiti district in 2011,<sup>15</sup> and 63 cases before JJB in Chamba district.<sup>16</sup>

The number of sittings in a number of JJBs is inadequate. The JJB at Chamba had lowest 48 cases and highest 65 cases pending between June 2010 and June 2011 but the JJBs had maximum of three sittings per month during this period.

#### *Lack of segregation of the juveniles and children*

There is no segregation of the children in conflict with law (CCL) at the lone Observation Home-cum-Special Home at Una as well as of the children in need of care and protection (CNCP) at various Children Homes across the state as required under Section 9(4) of the JJ(C&PC) Act.

Replying to an RTI application filed by ACHR, District Programme Officer of Una stated that “juveniles are being kept separately based on their age and nature of sickness”.<sup>17</sup> However, at the time of ACHR's visit on 19 April 2012 there were 10 juveniles (whose cases are being heard by JJBs) who were kept in a single dormitory irrespective of their age and nature of offence.<sup>18</sup>

Similarly, separation of children is not maintained at some Children Homes such as Balika Ashram-cum-Children Home at Mashobra, Shimla district,<sup>19</sup> Bal Ashram-cum-Children Home at Masli, Shimla district<sup>20</sup> and Children Home at Sunder Nagar, Mandi district.<sup>21</sup> There is lack of proper understanding about the need for separation of children provided in the JJ(C&PC) Act. While responding to an RTI application, the District Programme Officer, Shimla replied that separation of children was not being maintained at Balika Ashram-cum-Children Home, Mashobra, Shimla district on the ground that there was no child in conflict with law sheltered in the Ashram!<sup>22</sup> This is despite the fact that Rule 29(1) of the JJ(C&PC) Act states that “(e) every children's home shall include separate facilities for children in the age group of 0-5 years with appropriate facilities for the infants” and “(g) children in the age group of 10 to 18 shall be further segregated into two groups of 10 to 15 years and 15 to 18 years.”

#### *Lack of educational facilities*

Rule 47(1) of the JJ(C&PC) Rules of 2007

provides that “Every institution shall provide education to all juveniles or children according to the age and ability, both inside the institution or outside, as per the requirement.” The educational facilities could include mainstream inclusive schools, bridge school, open school, non formal education etc, and extra coaching shall be made available wherever necessary. While the children in the Children Homes are being provided formal education in neighbourhood schools, no educational facilities, including extra coaching classes, are provided inside the Children's Homes.

For the juveniles at the Observation Home-cum-Special Home for Boys and Girls at Samoor Kalan, Una, there is no provision to attend formal schools. Inside the Home they are provided “education” by a teacher but they are not issued any certificate.<sup>23</sup>

Six out of seven Government Children Homes namely (1) Bal Ashram-cum-Children Home, Sujanpur, Hamirpur district<sup>24</sup>, (2) Balika Asharam-cum-Children Home, Garli, Paragpur, Kangra district<sup>25</sup>, (3) Children Home, Sunder Nagar, Mandi district<sup>26</sup>, (4) Balika Ashram-cum-Children Home, Mashobra, Shimla district,<sup>27</sup> (5) Bal Ashram-cum-Children Home, Masli, Shimla district,<sup>28</sup> and (6) Bal Ashram-cum-Children Home, Tutikandi, Shimla<sup>29</sup> did not have any teacher posted to teach the children.

#### *Lack of vocational training facilities*

No vocational trainer was appointed in five out of seven Children Homes namely (1) Bal Ashram-cum-Children Home, Sujanpur, Hamirpur district,<sup>30</sup> (2) Balika Asharam-cum-Children Home, Garli, Paragpur, Kangra district,<sup>31</sup> (3) Children Home, Sunder Nagar, Mandi district,<sup>32</sup> (4) Balika Ashram-cum-Children Home, Mashobra, Shimla district,<sup>33</sup> and (5) Bal Ashram-cum-Children Home, Tutikandi, Shimla.<sup>34</sup>

Similarly no educator or vocational trainer has been posted at several Shelter Homes including (1) Balika Asharam, Sunni, Shimla district, (2) Balika Asharam, Kalpa, Kinnaur district, (3) Bal Asharam, Bharmour, Chamba district, (4)

Balika Asharam, Tissa, Chamba district, (5) Bal Asharam, Kullu, Kullu district, (6) Bal Asharam, Saharan, Shimla district,<sup>35</sup> (7) Bal Asharam, Kangra, Kangra district,<sup>36</sup> and (8) Bal Asharam, Kalpa, Kinnaur district.<sup>37</sup> In Balika Asharam, Chamba, Chamba district, two part-time teachers have been posted but there is no vocational trainer.<sup>38</sup>

#### *Shortage of staff*

Some of the Children Homes have been found to be under-staffed which impacts care and protection of the inmates. A number of crucial staff positions have not been appointed/filled up such as (1) the post of Superintendent and the post of Warden at Bal Ashram-cum-Children Home, Sujanpur, Hamirpur district,<sup>39</sup> (2) the Superintendent or Assistant Superintendent at the Balika Ashram-cum-Children Home, Garli, Kangra district,<sup>40</sup> and (3) the post of Assistant Superintendent (no post of Superintendent has been sanctioned) at Bal Ashram –cum-Children Home, Masli, Shimla district.<sup>41</sup>

#### *No social auditing of the Homes*

No social auditing to “monitor and evaluate the functioning of the children's homes” as provided for under Section 36 of the JJ(C&PC) Act has been done. The social auditing may be undertaken by the Central Government (i.e. Ministry of Women and Child Development) or the State Government at such period and through such persons and institutions as may be specified by that Government.<sup>42</sup>

## **2. Methodology**

This report was prepared based on field visits and official data obtained through the RTI Act, 2005.

ACHR filed applications under the RTI Act and obtained necessary information/ data to understand the problems of the juvenile justice institutions in the State. Based on the information received from the authorities, ACHR prepared a background report on the status of juvenile justice in the state of Himachal Pradesh.

Thereafter, ACHR conducted a field study on 19 and 20 April 2012.

For the field study, the lone Observation Home-cum-Special Home at Una and one Children Home at Shimla were chosen.

The Una home was chosen as it was the only such Observation/Special Home established by the state government of Himachal Pradesh so far. ACHR researchers interviewed (1) Acting Superintendent Ms Laxmi Kant who is also the District Programme Officer of Una district, Women and Child Development Department, and (2) Mr Shiv Dev Singh, a teacher posted at the Home. ACHR conducted the interviews based on written queries. The interview was followed by inspection of the facilities at the Home. However, ACHR researchers were not allowed to interview any juvenile on the ground that ACHR did not have written permission from the District Magistrate.

The Bal Ashram-cum-Children Home at Tutikandi, Shimla was selected as the authorities of this Home failed to respond to ACHR's RTI applications by the time of the visit (19-20 April 2012). ACHR interviewed its Superintendent, Ms Leela Thakur. ACHR conducted the interview based on written queries. The interview was followed by inspection of the facilities of the Home. Although ACHR team was given unhindered access to the office building, it was not allowed to inspect another building where the children stay on the ground that ACHR did not have written permission from the higher authority (Director, Women and Child Welfare Department, Shimla).

### 3. Status of the Juvenile Justice Homes

The JJ(C&PC) Act among others provide for (a) Observation Home for reception of any juvenile in conflict with law (JCL) during the pendency of any inquiry regarding them under the JJ Act; (b) Special Homes for reception and rehabilitation of JCL; and (c) Children Home for reception and rehabilitation of child in need of care and protection.

#### I. Functioning of the Observation cum Special Home at Una

The JJ(C&PC) Act provides for establishment

of separate Observation Homes under Section 8 of the Act and Special Homes under Section 9 of the Act. Further, under Rule 16 of the JJ(C&PC) Rules, 2007, "separate" observation homes and special homes should be set up for boys and girls.

However, for the entire state having 12 districts, the state government of Himachal Pradesh has set up only one Observation Home-cum-Special Home, that too for both boys and girls, at Samoor Kalan, about five kilometers from the town of Una, headquarters of Una district. Responding to an RTI application vide letter dated 21 March 2012, Deputy Director, Women and Child Development Department, Himachal Pradesh justified the establishment of only Observation Home by stating that "*Keeping in view the number of delinquent juveniles, only one Observation Home cum Special Home has been established at Una.*"<sup>43</sup>

But the establishment of only one Observation Home/Special Home at Una has undermined juvenile justice in Himachal Pradesh as found out by a field visit by a team of ACHR from 19 to 21 April 2012.

#### Field visit to the Observation Home cum Special Home, Una

ACHR conducted a field study of the condition of the juveniles in the Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una on 19 April 2012. The Home was established on 19 December 1979.<sup>44</sup>

The findings of the field visit are as follows:

##### A. The accommodation arrangement

The Observation Home cum Special Home at Samoor Kalan, Una, houses juveniles of both the sexes - girls at first floor and boys at ground floor.

The sanctioned number of inmates is 25 persons, including 15 boys (at ground floor) and 10 girls (at the first floor). There was no overcrowding. The month-wise number of inmates lodged in the Home during the period of November 2010 to December 2011 is as follows:<sup>45</sup>

Months	Number of inmates	Release on bail
November 2010	08	4
December 2010	06	1
January 2011	07	0
February 2011	12	2
March 2011	11	2
April 2011	10	0
May 2011	13	2
June 2011	13	2
July 2011	13	4
August 2011	15	2
September 2011	13	1
October 2011	13	3
November 2011	12	1
December 2011	11	2

At the time of visit of ACHR team on 19 April 2012, there were only 10 juveniles, all boys, and no juvenile in the first floor (meant for girls) of the Home.

The ground floor has one room office of the Superintendent, two dormitories, one kitchen, one drawing room, one warden room, three bathrooms, three toilets, three bathrooms with attached toilets and one store room. The first floor has two dormitories, two bathrooms, two toilets, one bathroom with attached toilet, one library room, one store room, one class room, one court room, and court record room.<sup>46</sup>

#### **B. Post of the Superintendent vacant since 2008**

The post of the Superintendent of the Home has been lying vacant since 1 July 2008.<sup>47</sup> Ms Laxmi Kant, District Programme Officer (Integrated Child Development Services), Una district under Women and Child Development Department has been appointed Acting Superintendent of the Home.

The staff strength is as follows<sup>48</sup>:

Sl No.	Name of post	Sanctioned	Filled	Vacant	Remarks
1.	Superintendent	1	-	1	Vacant w.e.f. 1.7.08
2.	Junior Basic Training (JBT) Teacher 1	1	-		
3.	Craft Teacher	1	1	-	
4.	Junior Asstt/Clerk	1	1	-	
5.	Peon (on contract)	1	1	-	
6.	Cook	1	1	-	
7.	Warder	4	4	-	
8.	Sweeper (Regular)	1	1	-	
9.	Daily paid Safaikarta (sweeper)	1	1	-	
<b>Total</b>		<b>12</b>	<b>11</b>	<b>1</b>	

Ms Laxmi Kant stated that the regular sweeper has been deputed to the Child Development Project Officer (CDPO) at Kaza, Sub Divisional Headquarter of Spiti Valley in the Lahaul and Spiti district of Himachal Pradesh. Therefore, only the sweeper appointed on daily wages basis has been working at the Home at Una.<sup>49</sup>

#### **C. Juveniles are required to be produced before JJBs in other districts**

The Observation Home cum Special Home at Una is the lone Observation Home or Special Home established in the entire state, although 12 JJBs have been established in 12 districts as per the JJ(C&PC) Act. This has created major hurdle for the administrators of the Home at Una as juveniles are required to be regularly taken to other districts to appear before the JJBs where their cases are pending.

Rule 9 of the Central JJ Rules 2007 provides that “(1) The Board shall hold its sittings in the premises of an Observation Home or, at a place in proximity to the observation home or, at a suitable premise in any institution run under the Act, and in no circumstances shall the Board operate from within any court premises.”

The juveniles lodged at the Observation cum Special Home, Una, have cases pending in Juvenile Justice Boards (JJBs) in different districts of the state. As per information provided by the Acting Superintendent, Ms Laxmi Kant, the 10 juveniles at the Observation Cum Special Home are required to appear before various JJBs as follows:<sup>50</sup>

Name of district where JJB is situated	No. of inmates who require to appear
Chamba	1
Solan	1
Dharmasala, Kangra	1
Shimla	3
Kullu	2
Una	2
Total	10

A Juvenile Justice Board consists of a Metropolitan Magistrate or a Judicial Magistrate of the first class and two social workers of whom at least one shall be a woman, forming a bench. The juveniles are required to be produced before the JJB in Una district or other districts regularly. Sometimes a particular juvenile needs to be produced three to four times a month before the JJB. In cases when the magistrate is absent, the other members (social workers) usually give a date after 14 days for the next hearing.<sup>51</sup>

The necessity to produce the juveniles in JJBs situated in other districts of Himachal Pradesh means that the authorities of the Observation Home-cum-Special Home would require adequate manpower and funds which they do not have. Even the juveniles suffer from fatigue due to frequent travels.<sup>52</sup>

The state government of Himachal Pradesh has failed to provide adequate funding to meet the travelling expenses required for appearance of the juveniles before the JJBs in different districts. The year-wise funds received by the Observation Home-cum-Special Home at Una during 2009-2012 were follows<sup>53</sup>:

Name of items	Year (Rs in lakhs)			
	2008-09	2009-10	2010-11	2011-12
Salaries	18	21	30	30
Wages	1.99	4.80	5.50	6.50
Travelling Expenses	0.30	0.30	0.40	0.17
Office expenses	1.00	1.11	1.16	2.77
Medical Reimbursement	0.40	0.50	1.30	0.45
Material & Supply	0.4	0.4	0.5	2.51
Transfer & Travelling expenses	-	0.05	0.04	0.036
<b>Total</b>	<b>25.69</b>	<b>31.76</b>	<b>43.40</b>	<b>42.436</b>

The Home received meagre funding under “Transfer & Travelling expenses” which was Rs 30,000 during 2008-09, Rs 35,000 during 2009-10, Rs 44,000 during 2010-11, and Rs 20,600 during 2011-12. It is clear that the travelling expenses have been substantially reduced during 2011-12. As a result, funds fall short as the juveniles are frequently required to be produced before various JJBs in different districts of Himachal Pradesh.

Ms Laxmi Kant, the Acting Superintendent of the Home and DPO of Una district told the ACHR researchers that the Home officials are required to arrange the funds required for the appearance of the juveniles in JJBs situated across the state. Although the state government later on reimburses, the officials of the Home face acute financial crisis.<sup>54</sup>

In order to facilitate sittings of the JJB, there is a “Court Room” at the first floor of the Observation cum Special Home at Una; but it was never used as of 19 April 2012.<sup>55</sup>

#### E. Educational facilities

**Rule 47 of the JJ(C&PC) Rules, 2007 provides that**

*“47. Education.-(1) Every institution shall*

*provide education to all juveniles or children according to the age and ability, both inside the institution or outside, as per the requirement.*

*(2) There shall be a range of educational opportunities including, mainstream inclusive schools, bridge school, open schooling, non formal education and learning and input from special educators where needed.*

*(3) Wherever necessary, extra coaching shall be made available to school going children in the institutions by encouraging volunteer services or tying up with coaching centers."*

At the Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una, the juveniles are not allowed to attend any formal school outside the institution due to fear that they might try to escape. The Home has one Junior Basic Training (JBT) Teacher appointed on secondment basis under the Education Department. The juveniles are taught inside the premises of the Home.<sup>56</sup> But, as ACHR has found out, the juveniles are provided education which can be at best termed as "informal education."

Mr Shiv Dev Singh, the teacher posted at the Home, informed the ACHR researchers that the current inmates are from Class III to Class X but this is based on the verbal claims of the respective inmate about his educational status. As per Mr Singh, at least one juvenile was a student of Class X.<sup>57</sup>

At the time of visit by ACHR's researchers on 19 April 2012, a class was ongoing, taken by a lady teacher, at the ground floor. There is also a bigger classroom which was found to be well-decorated and well-furnished with proper benches and study desks at the first floor which is meant for girls. On being asked as to how a particular inmate gets yearly promotion to higher class, Mr Shiv Dev Singh, the teacher, stated that this question did not arise so far as the inmates got bail within less than one year of their stay in the Home.

The fact remains that the inmates are not issued any academic certificate. This effectively means that they won't be able to secure admission in schools in the right standard after their release on bail or completion of their stay in the Home.

## **E. Vocational training**

**Rule 48 of the JJ(C&PC) Rules, 2007 provides that**

*"48. Vocational Training.-(a) Every institution shall provide gainful vocational training to juveniles or children.*

*(b) The institutions shall develop networking with Institute of Technical Instruction, Jan Shikshan Sansthan, Government and Private Organization or Enterprises, Agencies or nongovernmental organisations with expertise or placement agencies."*

The juveniles are reportedly being provided training in carpentry. The ACHR researchers were shown the carpentry training facility at the first floor. A craft teacher has been posted at the Home for this purpose. But the carpentry training facility was located at the first floor which is meant to house girl inmates.

## **G. Recreation facilities:**

As per Rule 49 of the JJ(C&PC) Rules, 2007

*"49. Recreation facilities.-(1) A provision of guided recreation shall be made available to all juveniles or children in the institutions.*

*(2) It shall include indoor and outdoor games, music, television, picnics and outings, cultural programmes and library."*

The authorities claimed that the juveniles are being provided recreational facilities such as television, ludo game, carom, yoga etc regularly.<sup>58</sup> There is also a small library at the first floor but there were a few books. ACHR researchers have not seen any provision for outdoor games.

## **H. Hygiene and sanitation**

The ACHR researchers found the condition of hygiene and sanitation in the Home to be satisfactory. The beds (10 beds for ten inmates) in Dormitory No. 10 were found to be laid in a disciplined manner with clean bed sheets.

The Home officials claimed that the inmates have been provided clothing and bedding as per the requirements of each juvenile and the

minimum standards for clothing and bedding as laid down in the JJ(C&PC) Rules, 2007.

The ACHR researchers also found the toilets/urinals at the ground floor to be clean and well maintained. The researchers also inspected the kitchen at ground floor, classroom at ground floor, classroom at first floor and the library at first floor. All these were found to be well maintained and hygienic.

### I. Escape/death of juveniles

During 2007-2012, four juveniles escaped from the Home on 12 March 2009. An FIR No. 97 dated 12.3.2009 was filed at Police Station Sadar, Una. All of them have been traced later.<sup>59</sup> These children belonged to Jammu, Mandi, Nepal and Bihar.<sup>60</sup>

ACHR's researchers have been informed that no juvenile went missing from the Home. No death/suicide of any juvenile took place in the Home or at any hospital during 2007-12.<sup>61</sup>

### J. Inspections

Ms Laxmi Kant, the Acting Superintendent of the Home and DPO of Una district informed the ACHR researchers that the Observation Home cum Special Home, Samoor Kalan, Una is regularly inspected by the district administration officials and Hon'ble District & Session Judge, Una.

The Home has been visited as many as 19 times in 2009, 12 times in 2010 and 11 times in 2011 by various officials, particularly by District & Sessions Judge Una and District Welfare Officer Una. The details of the visits are as follows:<sup>62</sup>

<i>Date of inspection</i>	<i>Name of the Authority</i>	<i>Designation of Authority</i>
7.1.2009	Sh. Virender Singh	District & Session Judge Una
4.2.2009	Sh. LC Chauhan	District Welfare Officer Una
9.3.2009	Sh. Virender Singh	District & Session Judge Una
17.5.2009	Sh. LC Chauhan	District Welfare Officer Una
2.7.2009	Sh Shamsher Singh	District & Session Judge Una

7.9.2009	Sh Shamsher Singh	District & Session Judge Una
18.9.2009	Sh. LC Chauhan	District Welfare Officer Una
24.9.2009	Superiya Raj	LLB 4 <sup>th</sup> Semester, H.P.U Shimla
22.10.09	Sh. LC Chauhan	District Welfare Officer Una
6.11.09	Sh Shamsher Singh	District & Session Judge Una
18.11.09	Sh Pardeep Kumar	Thakur Sub Divisional Magistrate Una
30.11.09	Sh. LC Chauhan	District Welfare Officer Una
17.1.2010	Sh Shamsher Singh	District & Session Judge Una
13.1.2010	Sh. LC Chauhan	District Welfare Officer Una
18.3.2010	Sh Shamsher Singh	District & Session Judge Una
7.4.2010	Sh. LC Chauhan	District Welfare Officer Una
29.4.2010	Sh. LC Chauhan	District Welfare Officer Una
4.5.2010	Sh Shamsher Singh	District & Session Judge Una
12.5.2010	Sh. LC Chauhan	District Welfare Officer Una
22.6.2010	Sh K R Bharti	Deputy Commissioner Una
9.7.2010	Sh Shamsher Singh	District & Session Judge Una
23.8.2010	Sh. LC Chauhan	District Welfare Officer Una
4.9.2010	Sh Shamsher Singh	District & Session Judge Una
3.11.2010	Sh Shamsher Singh	District & Session Judge Una
6.1.2011	Sh Arvind Malhotra	District & Session Judge Una
3.2.2011	Sh S C Sharma	Inspector PCR Delhi
5.3.2011	Sh Arvind Malhotra	District & Session Judge Una
30.4.2011	Sh G C Sharma	District Welfare Officer Una (Additional Charge)
3.5.2011	Sh Arvind Malhotra	District & Session Judge Una



7.5.2011	Sh. LC Chauhan	District Welfare Officer Una
9.5.2011	Sh Ashok Daroch	Medical Officer Zonal Hospital Una
25.7.2011	Sh Arvind Malhotra	District & Session Judge Una
3.9.2011	Sh Arvind Malhotra	District & Session Judge Una
22.10.2011	Sh Onkar Chander	District Welfare Officer Una
23.11.2011	Sh Arvind Malhotra	District & Session Judge Una

## II. Functioning of other Children Homes

Section 34 (1) of the JJ(C&PC) Act states that *“The State Government may establish and maintain either by itself or in association with voluntary organisations, children's homes, in every district or group of districts, as the case may be, for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.”*

There are seven Children Homes in Himachal Pradesh. These are (1) Bal Ashram-cum-Children Home, Tutikandi, Shimla district, (2) Balika Ashram-cum-Children Home, Mashobra, Shimla district, (3) Bal Ashram-cum-Children Home, Masli, Shimla district, (4) Bal Ashram-cum-Children Home, Sujampur, Hamirpur district, (5) Balika Ashram-cum-Children Home, Paragpur, Kangra district, (6) Bal/Balika Ashram-cum-Children Home, Killar, Chamba district, and (7) **Children Home, Sundar Nagar**, Mandi district.<sup>63</sup>

In addition, there are at least 13 Shelter Homes recognized by the state government. These are (1) Balika Ashram Sunni, Shimla district, (2) Balika Ashram, Kalpa, Kinnaur district, (3) Bal Ashram, Bharmour, Chamba district, (4) Bal/Balika Ashram, Tissa, Chamba district, (5) Bal Ashram, Kalheli Kullu district, (6) Bal Ashram, Saharan, Shimla district, (7) Bal Ashram, Rockwood, Shimla district, (8) Balika Ashram, Chamba, Chamba district, (9) Bal Ashram, Shilli, Solan district, (10) Anathalaya, Dehar, Mandi district, (11) Bal Ashram,

Bharnal, Mandi district, (12) Bal Ashram, Kalpa, Kinnaur district, and (13) Balika Ashram, Durgapur, Shimla district.<sup>64</sup>

None of the Children Homes has educator or vocational training facility at the Homes but the state government has claimed that children were being provided education in government schools.<sup>65</sup>

No social auditing to “monitor and evaluate the functioning of the children's homes” as provided for under Section 36 of the JJ(C&PC) Act has been done. The social auditing may be undertaken by the Central Government (i.e. Ministry of Women and Child Development) or the State Government at such period and through such persons and institutions as may be specified by that Government.<sup>66</sup>

### A. Field visit to Children Home, Tutikandi, Shimla

ACHR researchers visited Bal Ashram-cum-Children Home situated at Tutikandi, Shimla on 20 April 2012 and interviewed its Superintendent, Ms Leela Thakur. The findings of the visit are as follows

#### A. Number of children at the Home

The total sanctioned strength of the Bal Ashram/Children at Tutikandi is 100 and as per the Superintendent of the Home, Ms Leela Thakur, there were 100 children sheltered in this Home at the time of ACHR's visit.

#### B. Staff posted at the Home

There are 12 sanctioned posts, all of which have been filled up except one cook. The staff strength is as follows<sup>67</sup>:

Name of post	Sanctioned	Appointed	Vacancy
Superintendent	1	1	NIL
Senior Assistant	1	1	NIL
Warden	1	1 (at fixed salary of Rs 5,000 pm)	NIL

Cooks	3	2 (one regular & other at fixed salary of Rs 3,500pm)	1
Aiya	3	3 (two regular, one part time)	NIL
Peon	2	2	NIL
Sweeper	1	1	NIL

### C. Educational facilities

**Rule 47 of the JJ(C&PC) Rules, 2007 provides that**

*“47. Education.-(1) Every institution shall provide education to all juveniles or children according to the age and ability, both inside the institution or outside, as per the requirement.*

*(2) There shall be a range of educational opportunities including, mainstream inclusive schools, bridge school, open schooling, non formal education and learning and input from special educators where needed.*

*(3) Wherever necessary, extra coaching shall be made available to school going children in the institutions by encouraging volunteer services or tying up with coaching centers.”*

The children currently staying at the Bal Ashram cum Children Home at Tutikandi, Shimla, study from Class IX to Class XII.

Ms Leela Thakur informed the ACHR researchers that students of Class IX and X attend a government school which is one kilometer away from the Children Home while the students of Class XI and XII go to Senior Secondary School, Lalpani which is five kilometers away from the Home and they go to school by bus.

As per Ms Thakur, only senior children (from Class IX onwards) are admitted to the Bal Ashram cum Children Home at Tutikandi who are transferred from other Children Homes/Bal Ashrams. The transfer / admission of the children at the Tutikandi Bal Ashram/Children Home is done by the Director, Women and

Child Development, Shimla.

All the children of the Home are provided formal education in educational institutions outside the Home premises, but there is no teacher posted at the Home to teach the children inside the Home.

### D. Vocational training

**Rule 48 of the JJ(C&PC) Rules, 2007 provides that**

*“48. Vocational Training.-(a) Every institution shall provide gainful vocational training to juveniles or children.*

*(b) The institutions shall develop networking with Institute of Technical Instruction, Jan Shikshan Sansthan, Government and Private Organization or Enterprises, Agencies or nongovernmental organisations with expertise or placement agencies.”*

The Children Home has a computer room where ACHR researchers saw three computers. But Ms Thakur informed the ACHR researchers that there was no computer teacher/instructor and the children tried to learn the computer/play at the computer themselves.

According to Ms Leela Thakur senior secondary students are sent to various professional and technical institutions for short-term course training. They are sent to, among others, industries/companies in Baadi, an industrial town in Solan district of Himachal Pradesh, Industrial Training Institute (ITI), Shimla. Some of the children have been employed by the companies where they have received training.

Ms Thakur further stated that the children were also reportedly provided career guidance. Pointing to some books on SSC (Staff Selection Commission) guide books and books on University Grants Commission in the library book shelves, Ms Thakur told the ACHR researchers that the children consulted them for job preparations.

### E. Recreation facilities:

As per Rule 49 of the JJ(C&PC) Rules, 2007

*“49. Recreation facilities.-(1) A provision of guided recreation shall be made available to all*

*juveniles or children in the institutions.*

*(2) It shall include indoor and outdoor games, music, television, picnics and outings, cultural programmes and library.”*

The children are provided with several recreational facilities, claimed Ms Thakur, the Superintendent of the Children Home. There were provisions for watching television (there is a big room which is meant for watching television and cultural programmes) and play carrom. The children also learn to draw/painting and play at the computers.

The Bal Ashram cum Children's Home at Tutikandi hosts big events on the occasion of Children's Day every year (14<sup>th</sup> November). There is a big play ground inside the premises of the Home where games and sports events are held every year on the Children's Day. It is a kind of inter-Children's Homes competition and about 500 boys from different Children Homes/Bal Ashrams in the district participate. The events include painting competition, Quiz competition and games and sports. Prizes are given to the winners and participants.

#### **F. Hygiene and sanitation**

The ACHR researchers were not provided access to the dormitories of the children on the grounds that ACHR researchers did not take prior written permission from higher authorities and that none of the children were, at the time of visit, present at the Home (all of them went to schools).

#### **G. Escape/death of juveniles**

Ms Leela Thakur stated that no child has escaped from the Home till date and no child went missing. However, one child who was an epileptic patient died on 31 December 2011 at hospital. He was a student of Class X and admitted to the Home two months prior to his death.

### **B. State of the other Children Homes**

#### **I. Balika Ashram-cum-Children Home, Mashobra, Shimla district**

The total sanctioned capacity of this Children Home for Girls is 100. The month-wise number of inmates lodged was as follows: 96 in January 2010, 96 in February 2010, 101 in March 2010,

97 in April 2010, 77 in May 2010, 77 in June 2010, 86 in July 2010, 87 in August 2010, 88 in September 2010, 88 in October 2010, 88 in November 2010, 88 in December 2010, 88 in January 2011, 88 in February 2011, 92 in March 2011, 117 in April 2011, 98 in May 2011, 81 in June 2011, 75 in July 2011, 75 in August 2011, 76 in September 2011, 76 in October 2011, 76 in November 2011, 76 in December 2011, 76 in January 2012, 76 in February 2012, 76 in March 2012, 95 in April 2012 and 71 in May 2012.<sup>68</sup>

There are 11 staff posts sanctioned at the Balika Ashram-cum-Children Home at Mashobra, including one Superintendent, one Senior Assistant, one Craft Teacher, one Warden, two Ayas, one peon, two cooks, one helper and one sweeper. Of these, the posts of the Craft Teacher and the Helper are lying vacant as of May 2012. No post of teacher has been sanctioned nor appointed.<sup>69</sup> However, the District Programme Officer, Shimla has claimed that vocational training is given through Himachal Pradesh Scheduled Castes and Scheduled Tribes Corporation Ltd. Vocational training like fashion designing, beautician and computers etc are reportedly being provided to the inmates in addition to “six months on the job training at Baddi”. Further, the District Programme Officer, Shimla has also stated that children of this Home receive education at Government Senior Secondary School, Mashobra.<sup>70</sup>

Separation of inmates is not maintained on the ground that there are no children in conflict with law sheltered in the Ashram. When asked about the separation of inmates, the District Programme Officer, Shimla has replied, “*No such case i.e. on committing offence is this Ashram*”.<sup>71</sup> This is clear violation of Rule 29(1) of the Juvenile Justice (Care and Protection of Children) Rules, 2007 which states that “(e) every children's home shall include separate facilities for children in the age group of 0-5 years with appropriate facilities for the infants” and “(g) children in the age group of 10 to 18 shall be further segregated into two groups of 10 to 15 years and 15 to 18 years.” Clearly the authorities are not aware of the Rules.

The Home has one building consisting of 8 bathrooms, 9 toilets, indoor and outdoor facilities like hall for indoor games and various grounds for outdoor games.<sup>72</sup>

## **II. Bal Ashram –cum-Children Home, Masli, Shimla district**

There were 37 children in January 2010, 39 in February 2010, 40 in March 2010, 36 in April 2010, 38 in May 2010, 42 in June 2010, 42 in July 2010, 41 in August 2010, 41 in September 2010, 41 in October 2010, 41 in November 2010, 41 in December 2010, 42 in January 2011, 42 in February 2011, 49 in March 2011, 39 in April 2011, 39 in May 2011, 39 in June 2011, 39 in July 2011, 39 in August 2011, 40 in September 2011, 40 in October 2011, 40 in November 2011, 41 in December 2011, 41 in January 2012, 41 in February 2012 and 41 in March 2012.<sup>73</sup>

Nine posts have been sanctioned at the Bal Ashram-cum-Children Home at Masli, including one Assistant Superintendent, one Craft Teacher, two Warders, two cooks, two Chowkidar and one sweeper. Of these, the most important post, i.e. the post of Assistant Superintendent has been lying vacant as of 7 May 2012. No post of teacher has been sanctioned nor appointed.<sup>74</sup> However, the District Programme Officer, Shimla has claimed that children of this Home receive formal education at Government School, Masli. But there is no provision for vocational training.<sup>75</sup>

There is no separation of inmates<sup>76</sup> which is clear violation of Rule 29(1) of the JJ(C&PC) Rules 2007.

The Home has infrastructure which include one big building, 14 bathrooms, 21 toilets, one dining hall, one kitchen and two meeting halls.<sup>77</sup>

## **III. Bal Asharam-cum-Children Home, Sujanpur, Hamirpur district**

The total sanctioned capacity of this Children Home for Boys is 50. The month-wise number of inmates lodged was as follows: 18 in October 2010, 18 in November 2010, 18 in December 2010, 18 in January 2011, 19 in February 2011, 19 in March 2011, 19 in April 2011, 14 in May 2011, 14 in June 2011, 14 in July 2011, 14 in

August 2011 and 14 in September 2011.<sup>78</sup>

There were eight staffs sanctioned for this Children Home for Boys; but only six staffs have been appointed as of 14 October 2011. Worst, the most important posts namely the Superintendent and the Warden were lying vacant. There was also no educator or vocational trainer posted at the Home. There were five bathrooms and five toilets, among others.<sup>79</sup>

## **IV. Balika Asharam-cum-Children Home, Garli, Paragpur, Kangra district**

The Balika Ashram-cum-Children Home at Garli in Kangra district was established in 1984.<sup>80</sup> The total sanctioned capacity of this Children Home for Girls is 50. The month-wise number of inmates lodged since October 2010 was as follows: 14 in October 2010, 14 in November 2010, 14 in December 2010, 14 in January 2011, 14 in February 2011, 14 in March 2011, 15 in April 2011, 8 in May 2011, 8 in June 2011, 8 in July 2011, 8 in August 2011 and 9 in September 2011.<sup>81</sup>

The Children Home has been functioning without Superintendent or Assistant Superintendent as of 11 April 2012. There were one warder, one clerk, one cook, and three part time employees.<sup>82</sup> No post of teacher or of vocational trainer has been sanctioned nor appointed.<sup>83</sup>

## **V. Children Home, Sunder Nagar, Mandi district**

This Children Home was established in 1978. There were only two children as on 21 July 2010, three children as on 9 July 2011, and three children as of 23 April 2012.<sup>84</sup> No separation of inmates is maintained<sup>85</sup> which is a clear violation of Rule 29(1) of the JJ(C&PC) Rules, 2007.

As of 18 April 2012, there were one Superintendent, one Senior Assistant, one Peon, one warder, one cook, one chowkidar and one sweeper.<sup>86</sup> No teacher has been appointed to teach the children at the Home. There were also no vocational trainers posted at the Home as of 8 June 2012. However, the District Programme Officer, Mandi, has claimed that children were receiving education at nearby government school. But no vocational facility was being provided to the children.<sup>87</sup>

This Children Home has 10 rooms, 5 bathrooms, 5 toilets, one kitchen, one warder room, and one chowkidar room.<sup>88</sup>

### C. State of the Shelter Homes

#### I. Balika Asharam, Sunni, Shimla district

The total sanctioned capacity of the Home is 50. The month-wise number of inmates lodged was as follows: 29 in October 2010, 29 in November 2010, 32 in December 2010, 33 in January 2011, 33 in February 2011, 33 in March 2011, 32 in April 2011, 32 in May 2011, 32 in June 2011, 33 in July 2011, 33 in August 2011 and 36 in September 2011.<sup>89</sup>

There are 8 sanctioned staff and all of them have been filled. But there is no educator or vocational trainer posted at the Home. The state government has claimed that children are getting education in government schools. There are 2 bathrooms and 2 toilets, which are totally insufficient.<sup>90</sup>

#### II. Balika Asharam, Kalpa, Kinnaur district

The total sanctioned capacity of the Home is 50. The month-wise number of inmates lodged was as follows: 27 in October 2010, 27 in November 2010, 27 in December 2010, 27 in January 2011, 27 in February 2011, 26 in March 2011, 19 in April 2011, 19 in May 2011, 19 in June 2011, 19 in July 2011, 19 in August 2011 and 19 in September 2011.<sup>91</sup>

There are 6 sanctioned staff and all of them have been filled. But there is no educator or vocational trainer posted at the Home. The state government has claimed that children are getting education in government schools. There are 7 bathrooms and 4 toilets.<sup>92</sup>

#### III. Balika Asharam, Tissa, Chamba district

The total sanctioned capacity of the Home is 50. The month-wise number of inmates lodged was as follows: 32 in October 2010, 32 in November 2010, 31 in December 2010, 31 in January 2011, 31 in February 2011, 31 in March 2011, 32 in April 2011, 22 in May 2011, 22 in June 2011, 27 in July 2011, 28 in August 2011 and 28 in September 2011.<sup>93</sup>

There are 8 sanctioned staff and all of them have been filled. But there is no educator or vocational trainer posted at the Home. The state government has claimed that children are getting education in government schools. There are 2 bathrooms and 4 toilets which are not sufficient.<sup>95</sup>

#### IV. Balika Asharam, Chamba, Chamba district

The total sanctioned capacity of the Home is 50. The month-wise number of inmates lodged was as follows: 21 in October 2010, 21 in November 2010, 22 in December 2010, 22 in January 2011, 22 in February 2011, 22 in March 2011, 19 in April 2011, 19 in May 2011, 19 in June 2011, 24 in July 2011, 24 in August 2011 and 24 in September 2011.<sup>95</sup>

The sanctioned staffs are: one Superintendent, one Senior Assistant/Clerk, one Warden, two Attendants, one Cook, one Helper, one *Ayan*, and one Sweeper. The posts of two Attendants and the helper were vacant as of 19 October 2011. Two part time teachers are posted at the Balika Asharam, Chamba but there are no facilities for vocational training. Infrastructure included one kitchen-cum-dinning hall, one bathroom, two toilets, 3 rooms, one store room and one playground.<sup>96</sup>

#### V. Bal Asharam, Bharmour, Chamba district

The total sanctioned capacity of the Home is 50. The month-wise number of inmates lodged was as follows: 24 in October 2010, 24 in November 2010, 24 in December 2010, 24 in January 2011, 24 in February 2011, 25 in March 2011, 23 in April 2011, 14 in May 2011, 14 in June 2011, 22 in July 2011, 24 in August 2011 and 24 in September 2011.<sup>97</sup>

There are 8 sanctioned staff and all of them have been filled. But there is no educator or vocational trainer posted at the Home. The Home has been shifted to Gaddi Hostel Mehla on 21 September 2011 wherein there is one building having 5 bathrooms and 6 toilets.<sup>98</sup>

#### VI. Bal Asharam, Kullu, Kullu district

The total sanctioned capacity of the Home is 50. The month-wise number of inmates lodged was as follows: 28 in October 2010, 31 in November

2010, 32 in December 2010, 30 in January 2011, 30 in February 2011, 30 in March 2011, 30 in April 2011, 23 in May 2011, 23 in June 2011, 23 in July 2011, 23 in August 2011 and 24 in September 2011.<sup>99</sup>

There are 8 sanctioned staff and all of them have been filled. But there is no educator or vocational trainer posted at the Home. The state government has claimed that children are getting education in government schools. There are 4 bathrooms and 6 toilets.<sup>100</sup>

#### **VII. Bal Asharam, Saharan, Shimla district**

The total sanctioned capacity of the Home is 100. The month-wise number of inmates lodged was as follows: 38 in October 2010, 38 in November 2010, 38 in December 2010, 38 in January 2011, 38 in February 2011, 36 in March 2011, 46 in April 2011, 45 in May 2011, 37 in June 2011, 37 in July 2011, 37 in August 2011 and 37 in September 2011.<sup>101</sup>

There are 9 sanctioned staff and all of them have been filled. But there is no educator or vocational trainer posted at the Home. The state government has claimed that children are getting education in government schools. The Home has are 3 bathrooms and 7 toilets.<sup>102</sup>

#### **VIII. Bal Asharam, Kalpa, Kinnaur district**

The total sanctioned capacity of the Home is 20. As of 10 January 2012, only nine children were housed in the Home.<sup>103</sup>

Only four staff has been sanctioned at the home and two out of four staff has been appointed. No educator and vocational trainer have posted at the Bal Ashram. There are four bathrooms, four toilets, and one recreation centre. The Bal Ashram has no learning and training centre.<sup>104</sup>

#### **IX. Divya Manav Jyoti Anathalaya (Orphanage), Sunder Nagar, Mandi district**

This orphanage was established in 1983. As of 18 April 2012, there were one Superintendent, one Senior Assistant, one In-charge of fund collection, one warder, one cook, one attendant and one sweeper.<sup>105</sup>

#### **X. Deenabandhu Seva Mandal, Bharnal, Mandi district**

This Home was established in 1987. As of 18 April 2012, there were one In-charge, one clerk, two attendants, two Aya, one sweeper, one cook and one helper.<sup>106</sup>

#### **4. Status of the Juvenile Justice Boards**

Section 4, sub section (1) of the JJ(C&PC) Act states that “Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the State Government may, within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such Boards in relation to juveniles in conflict with law under this act.”

Himachal Pradesh has established Juvenile Justice Boards in all 12 districts.<sup>107</sup> Nine of them were established vide notification No. SJE-E(2)-23/2007 dated 3 March 2010 respectively in Kullu district, Kinnaur district, Mandi district, Kangra district, Solan district, Bilaspur district, Sirmour district, Hamirpur district, and Chamba district.<sup>108</sup> However, as of 24 May 2010, only two JJBs respectively at Una and Shimla were functional as per the admission of the Under Secretary (Social Justice & Empowerment), Government of Himachal Pradesh.<sup>109</sup>

#### ***Review of the pending cases by the JJBs***

As per Section 14(2) of the JJ(C&PC) Act “The Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall review the pendency of cases of the Board at every six months, and shall direct the Board to increase the frequency of its sittings or may cause the constitution of additional Boards”.

There are 162 cases pending before the Juvenile Justice Board (JJB) in Kangra district as of 23 January 2012,<sup>110</sup> 110 cases before the JJB in Una district as of December 2011,<sup>111</sup> 89 cases before JJB in Shimla district as of November 2011,<sup>112</sup>

83 cases before JJB in Bilaspur district as of November 2011,<sup>113</sup> 54 cases before JJB in Hamirpur district as of December 2011,<sup>114</sup> 30 cases before JJB in Kullu district as of November 2011,<sup>115</sup> four cases before JJB in Sirmaur district as of December 2011,<sup>116</sup> one case in JJB in Lahual-Spiti district in 2011,<sup>117</sup> and 63 cases before JJB in Chamba district.<sup>118</sup>

It is reported that there was no pending case before the JJB in Kinnaur district as of 30 December 2011,<sup>119</sup> as well as before the JJB in Solan district.<sup>120</sup>

However, in the districts which have large number of cases pending, the number of sittings are inadequate as shown by month-wise number of hearings conducted by the JJBs of different districts:

#### JJB in Chamba district:<sup>121</sup>

<i>Month</i>	<i>Pending cases</i>	<i>No. of hearing</i>
June 2010	48	1
July 2010	48	2
August 2010	48	2
September 2010	49	2
October 2010	53	3
November 2010	56	2
December 2010	59	2
January 2011	60	1
February 2011	62	2
March 2011	63	2
April 2011	65	3
May 2011	65	3
June 2011	65	3
July 2011	65	2
August 2011	63	2
September 2011	63	3
October 2011	63	3
November 2011	63	3
December 2011	63	3

#### JJB in Bilaspur<sup>122</sup>

The JJB in Bilaspur district started working w.e.f. August 2010.

<i>Month</i>	<i>Pending cases</i>	<i>No. of hearing</i>
August 2010	12	2
September 2010	57	1
October 2010	76	2
November 2010	79	2
December 2010	79	2
January 2011	75	2
February 2011	75	2
March 2011	73	2
April 2011	72	3
May 2011	75	3
June 2011	76	3
July 2011	75	3
August 2011	76	4
September 2011	78	6
October 2011	81	5
November 2011	83	3

#### JJB in Kullu district<sup>123</sup>

<i>Month</i>	<i>Pending cases</i>	<i>No. of hearing</i>
June 2010	67	-
July 2010	41	6
August 2010	38	7
September 2010	38	10
October 2010	37	6
November 2010	37	4
December 2010	32	5
January 2011	30	4
February 2011	24	5
March 2011	24	3
April 2011	25	3
May 2011	25	3
June 2011	26	3

July 2011	27	3
August 2011	27	3
September 2011	26	3
October 2011	27	3
November 2011	30	3

### JJB in Shimla district

The sitting of the JJB at Shimla district has been fixed for first five working days in each month.<sup>124</sup>

### JJB in Kangra district

The District Welfare Officer, Kangra stated that hearing is conducted by the JJB from 1<sup>st</sup> to 7<sup>th</sup> of every month.<sup>125</sup>

### JJB in Lahual-Spiti district

During 2009 to 2011, only one hearing was conducted by the JJB, Lahual-Spiti district on 6 September 2011<sup>126</sup>

## 5. Child Welfare Committees

Section 29 (1) of the JJ(C&PC) Act states that *“The State Government may, within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district, one or more Child Welfare Committees for exercising the powers and discharge the duties conferred on such Committees in relation to child in need of care and protection under this Act.”*

The Under Secretary (Social Justice & Empowerment), Government of Himachal Pradesh vide letter No. SJE-F(10)-5/2006-II dated 24 May 2010 informed the National Commission for Protection of Child Rights that the Child Welfare Committees (CWCs) have been constituted in all the 12 districts.<sup>127</sup>

Sub Section 3 of Section 33 of the Juvenile Justice (Care and Protection of Children) Amendment Act of 2006 states *“The State Government shall review the pendency of cases of the Committee at every six months, and shall direct the Committee to increase the frequency of its sittings or may cause the constitution of additional Committees”.*

Three cases were pending before the CWC, Una as of March 2009.<sup>128</sup>

There was no pending case before the CWCs of Hamirpur district as of 24 December 2011,<sup>129</sup> Shimla district as of 28 December 2011,<sup>130</sup> Kinnaur district as of 30 December 2011,<sup>131</sup> Kullu district as of 31 December 2011,<sup>132</sup> Lahual-Spiti district at the end of year 2011;<sup>133</sup> Chamba district during 2009-2011;<sup>134</sup> and Bilaspur as of December 2011.<sup>135</sup>

The Child Welfare Committee in Kangra has not conducted any hearing up to 2011 as there was no case pending before the CWC as of 23 January 2012.<sup>136</sup> The CWC, Lahual-Spiti district did not hold any hearing and there was no pending case during 2009-2011.<sup>137</sup> Similarly, CWC Chamba district did not hold any hearing as there was no pending cases during 2009-2011.<sup>138</sup>

The CWC Bilaspur held only one hearing on 23 August 2011 during 2009-2011 as there were no pending cases.<sup>139</sup>

During 2009-2011, the CWC, Kullu district held four meetings/hearings on 8 December 2010, 19 May 2011, 16 June 2011 and 24 November 2011.<sup>140</sup>

## 6. Inspection Committees

Section 35 of JJ(C&PC) Act states that:

*“(1) The State Government may appoint inspection committees for the children's homes (hereinafter referred to as the inspection committees) for the State, a district and city, as the case may be, for such period and for such purposes as may be prescribed.*

*(2) The inspection committee of a State, district or of a city shall consist of such number of representatives from the State Government, Local Authority, Committee, voluntary organisations and such other medical experts and social workers as may be prescribed.”*

Vide notification dated 15-9-2007, the state government of Himachal Pradesh appointed State/District Level Inspection Committees for the period of three years.<sup>141</sup>



## 7. Special Juvenile Police Units

Under section 63(2) of the JJ Act 2000, in every police station at least one officer is to be designated as the “Juvenile or Child Welfare Officer” who will handle the juvenile or child in co-ordination with the police. Similarly, under section 63(3) of the said Act, “Special Juvenile Police Unit” of which all Juvenile or Child Welfare Officers shall be members, shall be set up in every district “to co-ordinate and to upgrade the police treatment of the juveniles and the children”.

On 2/9/2009, the Director General of Police, Himachal Pradesh issued notification for creation of Juvenile or Child Welfare Officer in each police station and Special Juvenile Police Units at the district level headed by the Deputy Superintendent of Police (Headquarters).<sup>142</sup>

## 8. Recommendations

The State Government of Himachal Pradesh

For improving access to juvenile justice and establish Observation and Special Homes in every district and in the meantime, issue necessary directions to conduct the hearing in the “Court Room” constructed at the first floor of the Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una;

Increase the number of sittings of the Juvenile Justice Board at Chamba district;

Conduct social auditing to “monitor and evaluate the functioning of the children's homes” as required under Section 36 of the JJ(C&PC) Act;

Ensure segregation of the juveniles and children in need of care and protection as per the JJ(C&PC) Act;

Provide proper educational facilities including issuance of certificates on completion of the academic year;

Recruit teachers in six Children Homes namely (1) Bal Ashram-cum-Children Home, Sujampur, Hamirpur district, (2) Balika Ashram-cum-Children Home, Garli, Paragpur, Kangra district, (3)

Children Home, Sunder Nagar, Mandi district, (4) Balika Ashram-cum-Children Home, Mashobra, Shimla district, (5) Bal Ashram-cum-Children Home, Masli, Shimla district, and (6) Bal Ashram-cum-Children Home, Tutikandi, Shimla;

Recruit vocational trainers for the following homes: (1) Bal Ashram-cum-Children Home, Sujampur, Hamirpur district, (2) Balika Ashram-cum-Children Home, Garli, Paragpur, Kangra district, (3) Children Home, Sunder Nagar, Mandi district, (4) Balika Ashram-cum-Children Home, Mashobra, Shimla district, and (5) Bal Ashram-cum-Children Home, Tutikandi, Shimla; and

Fill up the following vacancies with immediate effect (1) the posts of Superintendent and the Warden at Bal Ashram-cum-Children Home, Sujampur, Hamirpur district, (2) the Superintendent or Assistant Superintendent at the Balika Ashram-cum-Children Home, Garli, Kangra district; and (3) the post of Assistant Superintendent (no post of Superintendent has been sanctioned) at Bal Ashram –cum-Children Home, Masli, Shimla district.

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21. RTI reply from PIO cum District Programme Officer, Mandi, Himachal Pradesh, vide letter No. ICDS.MMO-RTI-706 dated 8 June 2012
22. RTI reply from District Programme Officer, Shimla, dated 7-5-2012
23. Interview with Mr Shiv Dev Singh, teacher, Observation Home cum Special Home, Una, 19<sup>th</sup> April 2012
24. RTI reply from District Welfare Officer, Hamirpur, dated 14.10.2011
25. RTI reply from District Welfare Officer, Kangra at Dharmashala, dated 29.9.2011
26. RTI reply from Public Information Officer cum District Programme Officer, Mandi district, dated 18 April 2012
27. RTI reply from District Programme Officer, Shimla, dated 7-5-2012
28. RTI reply from District Programme Officer, Shimla, dated 7-5-2012
29. Interview with Superintendent of Bal Ashram-cum-Children Home, Tutikandi, Ms Leela Thakur, on 20 April 2012
30. RTI reply from District Welfare Officer, Hamirpur, dated 14.10.2011
31. RTI reply from District Welfare Officer, Kangra at Dharmashala, dated 29.9.2011.
32. RTI reply from Public Information Officer cum District Programme Officer, Mandi district, dated 18 April 2012
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34. Interview with Superintendent of Bal Ashram-cum-Children Home, Tutikandi, Ms Leela Thakur, on 20 April 2012
35. RTI reply from Public Information Officer, HP State Council for Child Welfare, Shimla, dated 01.10.2011
36. RTI reply from District Welfare Officer, Kangra at Dharmashala, dated 29.9.2011
37. RTI reply from District Welfare Officer, Kinnaur at Reckong Peo, dated 10 January 2012
38. RTI reply from District Welfare Officer, Chamba district, Himachal Pradesh, Letter No. 12-14/98-99-Chamba-Welfare-111-7900 dated 19.10.2011
39. RTI reply from District Welfare Officer, Hamirpur, dated 14.10.2011
40. RTI reply from District Programme Officer, Kangra at Dharmashala, vide letter No. 1-90/2006-BAL Udhar-6804 dated 11 April 2012
41. RTI reply from District Programme Officer, Shimla, dated 7-5-2012
42. Information provided by the Under Secretary (Social Justice & Empowerment), Government of Himachal Pradesh to the NCPCR vide letter No. SJE-F(10)-5/2006-II dated 24 May 2010
43. RTI reply from Public Information Officer cum Deputy Director, Women and Child Development Department, Himachal Pradesh vide letter NO. 12-6/2005-RTI-WCD Sh.Suhas Chakma dated 21/3/2012
44. RTI reply from Public Information Officer cum District Programme Officer, Una, vide letter No. 4-64/2005-RTI-390 dated 11/4/2012
45. RTI reply from District Programme Officer, Una district, Una, dated 5 January 2012
46. RTI reply from Public Information Officer cum District Welfare Officer, Una district, dated 30 September 2011
47. RTI reply from Public Information Officer cum District Welfare Officer, Una district, Una, dated 30 September 2011
48. RTI reply from Public Information Officer cum District Welfare Officer, Una district, Una, dated 30 September 2011
49. Interview with ACHR researchers, 19<sup>th</sup> April 2012
50. Interview with Ms Laxmi Kant, Acting Superintendent of Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una and District Programme Officer, Una, 19 April 2012
51. Interview with Ms Laxmi Kant, Acting Superintendent of Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una and District Programme Officer, Una, 19 April 2012
52. Interview with Ms Laxmi Kant, Acting Superintendent of Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una and District Programme Officer, Una, 19 April 2012
53. RTI reply from Public Information Officer cum District Programme Officer, Una, vide letter No. 4-64/2005-RTI-390 dated 11/4/2012
54. Interview with Ms Laxmi Kant, Acting Superintendent of Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una and District Programme Officer, Una, 19 April 2012
55. Interview with Ms Laxmi Kant, Acting Superintendent of Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una and District Programme Officer, Una, 19 April 2012
56. RTI reply from District Programme Officer, Una district, Una, dated 05 January 2012
57. Interview with Mr Shiv Dev Singh, teacher, Observation Home cum Special Home, Una, 19<sup>th</sup> April 2012
58. Interview with Ms Laxmi Kant, Acting Superintendent of Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una and District Programme Officer, Una, 19 April 2012

59. RTI reply from Public Information Officer cum District Programme Officer, Una, vide letter No. 4-64/2005-RTI-390 dated 11/4/2012
60. 4 inmates escape, The Tribune, 13 March 2009
61. RTI reply from Public Information Officer cum District Programme Officer, Una, vide letter No. 4-64/2005-RTI-390 dated 11/4/2012
62. RTI reply from District Programme Officer, Una, dated 5 January 2012
63. RTI reply from Public Information Officer-cum-Deputy Director, Women and Child Development Department, Himachal Pradesh, Shimla, vide letter No. 12-6/2005-RTI-WCD Sh.Amal Kanti Chakma, dated 3/5/2012
64. RTI reply from Public Information Officer-cum-Deputy Director, Women and Child Development Department, Himachal Pradesh, Shimla, vide letter No. 12-6/2005-RTI-WCD Sh.Suhas Chakma, dated 21 March 2012
65. RTI reply from Public Information Officer, HP State Council for Child Welfare, Shimla, dated 01.10.2011
66. Information provided by the Under Secretary (Social Justice & Empowerment), Government of Himachal Pradesh to the NCPDR vide letter No. SJE-F(10)-5/2006-II dated 24 May 2010
67. RTI reply from District Programme Officer, Shimla, dated 7-5-2012
68. RTI reply from District Programme Officer, Shimla district, Shimla, Reference No. WCD-Shimla/1-6/2005-RTI-3175 dated 1 August 2012
69. RTI reply from District Programme Officer, Shimla, dated 7-5-2012
70. RTI reply from District Programme Officer, Shimla, dated 7-5-2012
71. RTI reply from District Programme Officer, Shimla, dated 7-5-2012
72. RTI reply from District Programme Officer, Shimla, dated 7-5-2012
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100. RTI reply from Public Information Officer, HP State Council for Child Welfare, Shimla, dated 01.10.2011
101. RTI reply from Public Information Officer, HP State Council for Child Welfare, Shimla, dated 01.10.2011
102. RTI reply from Public Information Officer, HP State Council for Child Welfare, Shimla, dated 01.10.2011
103. RTI reply from District Welfare Officer, Kinnaur at Reckong Peo, dated 10 January 2012
104. RTI reply from District Welfare Officer, Kinnaur at Reckong Peo, dated 10 January 2012
105. RTI reply from Public Information Officer cum District Programme Officer, Mandi district, dated 18 April 2012
106. RTI reply from Public Information Officer cum District Programme Officer, Mandi district, dated 18 April 2012
107. The twelve districts are Chamba, Kangra, Una, Lahaul & Spiti, Kullu, Mandi, Hamirpur, Bilaspur, Solan, Kinnaur, Shimla and Sirmour
108. Letter of the Under Secretary (Social Justice & Empowerment), Government of Himachal Pradesh to the National Commission for Protection of the Rights of the Child, letter No. SJE-F(10)-5/2006-II dated 24 May 2010
109. Letter of the Under Secretary (Social Justice & Empowerment), Government of Himachal Pradesh to the National Commission for Protection of the Rights of the Child, letter No. SJE-F(10)-5/2006-II dated 24 May 2010

110. RTI reply from District Welfare Officer, Kangra at Dharmashala, vide letter No. Wel-Ka-RTI-4473 dated 23 January 2012
111. RTI reply from District Programme Officer, Una, vide letter dated 5/1/2012
112. RTI reply from District Programme Officer, Shimla District, vide letter No. Wel.Sim-6-7/2000J.Act-III-4041 dated 28-12-2011
113. RTI reply from District Programme Officer, Bilaspur vide letter No. 1-59(B)DPO-ICDS/2005-43 dated 7-1-2012
114. RTI reply from PIO-cum-District Welfare Officer, Hamirpur district vide letter No. 2-9/99-Wel-J.J. Board-5058-59 dated 24 December 2011
115. RTI reply from District Welfare Officer, Kullu vide letter No. 8-14/2007-Kullu-Wel- RTI-48 dated 19 January 2012
116. RTI reply from District Welfare Officer, Sirmaur, vide letter No. 1-19/2006-SMR-Kalyan-RTI-2005-II-3062 dated 10 January 2012
117. RTI reply from District Programme Officer, Lahual-Spiti district, Vide Letter No. L.S.-DPO-RTI-84 dated 16 January 2012
118. RTI reply from District Welfare Officer, Chamba, dated 13 January 2012
119. RTI reply from District Welfare Officer, Kinnaur at Reckong Peo, dated 30 December 2011
120. RTI reply from District Programme Officer, Solan District, vide letter No. Kalyan-Soaln-1-3/2011-JJ. Act-251 dated 21 January 2012
121. RTI reply from District Welfare Officer, Chamba, dated 13 January 2012
122. RTI reply from District Programme Officer, Bilaspur vide letter No. 1-59(B)DPO-ICDS/2005-43 dated 7-1-2012
123. RTI reply from Public Information Officer cum District Programme Officer, Kullu, District Kullu, dated 31 December 2011
124. RTI reply from District Programme Officer, Shimla, District Shimla, vide letter No. Wel.Sim-6-7/2000 JJ Act-III-4041 dated 28-12-2011
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141. Information provided by the Under Secretary (Social Justice & Empowerment), Government of Himachal Pradesh to the National Commission for Protection of Child Rights vide letter No. SJE-F(10)-5/2006-II dated 24 May 2010
142. Information provided by the Under Secretary (Social Justice & Empowerment), Government of Himachal Pradesh to the NCPCR vide letter No. SJE-F(10)-5/2006-II dated 24 May 2010



**Acknowledgement:** This report is being published as a part of the ACHR's "National Campaign for Prevention of Violence Against Children in Conflict with the Law in India" - a project funded by the European Commission under the European Instrument for Human Rights and Democracy – the European Union's programme that aims to promote and support human rights and democracy worldwide. The views expressed are of the Asian Centre for Human Rights, and not of the European Commission.

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