



The State of Juvenile Justice in Karnataka

1. Executive summary

The situation of juveniles in conflict with law and children in need of care and protection across India is precarious. Nothing underlines this more than the situation in Karnataka. While the State Human Rights Commission and State Commission for Protection of Child Rights in Karnataka have been more vigilant than their counterparts in other States, the State government of Karnataka has failed to comply with national and international standards.

Though the Juvenile Justice (Care & Protection of Children) Act was enacted more than a decade ago in 2000, children in Karnataka are still detained in police stations and prisons. They are subject to high risk of abuse from other inmates and further subjected to torture and other human rights violations by representatives of the State. As recently as 20 December 2011, the Karnataka State Commission for Protection of Child Rights (KSCPCR) rescued a 16-year-old boy who was illegally detained, at the Sampigehalli police station in Bangalore following his arrest on 17 December 2011. The minor alleged that he was beaten by policemen at the station, handcuffed and chained and inadequately fed during his detention. No complaint was lodged against the minor nor did the police make any diary entry.¹

Though Karnataka has established 28 Juvenile Justice Boards (JJB) out of 30 districts, the cases pending before the JJBs are not regularly heard in clear violation of Section 14(2) of the JJ Act (amended in 2006).² As of 10 February 2012, there were about 2,500 cases pending under the Juvenile Justice (Care and Protection of

INSIDE

1. Executive summary
2. State of juvenile justice in Karnataka
 - 2.1. Illegal detention of children in police station and jails
 - A. Illegal detention and torture in police stations
 - B. Illegal detention in prisons
 - 2.2. Atrocities in juvenile homes
3. Official records on the implementation of the JJA
 - 3.1. Juvenile Justice Boards
 - 3.2. Juvenile Justice Homes
 - A. Observation Homes
 - i. Conditions of the Observation Homes
 - B. Special Homes
 - C. Children Homes
 - i. Conditions of the Children Homes
 - 3.3. Lack of review of cases pending before the JJBs
 - 3.4. Child Welfare Committees
 - 3.5. Review of pending cases of the CWCs
 - 3.6. Inspection Committees
 - 3.7. Special Juvenile Police Units
 - 3.8. Lack of segregation of inmates
4. Conclusions and recommendations

Children) Act in Karnataka.³ Pending cases not only result in denial of justice but places juveniles at risk when incarcerated in the congested and appalling living conditions of Observation Homes.⁴

The Homes (Observation Homes, Special Homes and Children's Homes) established under the Juvenile Justice (Care and Protection of Children) Act have become centres of abuse across the country. Karnataka currently has 81 registered Child Care Institutions.⁵ In

November 2011, a 14-year-old rescued child labourer was allegedly tortured by the warden of state-run Children's Home for Boys at Bangalore. The assault by the warden of the Children's Home resulted in temporary damage in the victim's his right hand. The minor was denied appropriate medical care.⁶

Such deplorable conditions have led to children taking the extreme step of committing suicide. On 31 January 2012, three undertrial juveniles lodged in the Government Remand Home for Boys and Girls at Madivala attempted suicide inside the Home by consuming pesticide. They were subsequently hospitalised.⁷

Instead of increasing supervision of the homes, the State government of Karnataka while appointing the CWC members in October 2010 put the conditions that "members cannot visit child care institutions, when they are not holding a sitting, without prior permission of the heads of these institutions".⁸ Shockingly, even members of CWCs have been found to abuse children. On 8 September 2010, the State Government issued an order restraining Balakrishna Masali, a member of the Child Welfare Committee-II of the Bangalore Urban district, from attending sittings of the Child Welfare Committee, after he was reportedly found guilty by the KSCPCR of molesting girls who were brought before him for enquiry.⁹

The conditions of the homes established under the Act are deplorable as per government's admission under the Right to Information Act as given below:

No educational and vocational training facilities

- No teacher or vocational trainer has been appointed in 19 government run homes: (1) Government Observation Home, Chitradurga,¹⁰ (2) Observation Home, Belgaum,¹¹ (3) Observation Home in Bellary,¹² (4) Observation Home, Dharwad,¹³ (5) Observation Home, Takke Bijapur,¹⁴ (6) Observation Home, Belgaum,¹⁵ (7) Observation Home, Udupi,¹⁶

(8) Govt - Observation Home, Davangere,¹⁷ (9) Children's Home for Boys, Mangalore,¹⁸ (11) Govt Children Home for Boys, Chitradurga,¹⁹ (12) Balamandir for Boys, Belgaum,²⁰ (13) Govt Balamandir for Boys, Hubli,²¹ (14) Children's Home for Boys, Koppal,²² (15) Children Home for Boys, Ranebennur,²³ (16) Balakara Balamandira, Mandya,²⁴ (17) Balakiyara Balamandira, Mandya,²⁵ and (18) Children Home for Boys, Chikmagalur,²⁶ and (19) Shishu Mandira, Bangalore.²⁷ At Children Home for Boys, Takke Bijapur, which housed 94 children as in September 2011²⁸ only two out of 10 sanctioned teachers had been appointed.²⁹

It is clear that the State Government of Karnataka has failed to ensure the right to education in the homes established under the Juvenile Justice (Care and Protection of Children) Act.

No cook for the children

The physical well-being of the juveniles depends on the access to food including nutritious food. However, in a large number of homes in Karnataka, no cook has been appointed:

- At the Juvenile Home for Boys, Mysore two cooks have been sanctioned but both posts were vacant as on 7 October 2011.³⁰
- At Balakara Balamandira, Mandya, the post of chief cook has been vacant since 1 September 1998 and that of assistant cook since 10 February 2011.³¹
- At Balakiyara Balamandira, Mandya, no cook has been appointed since 12 December 1996.³²
- At the Observation Home, Bellary no cook has been appointed as on 13 October 2011.³³
- At the Observation Home, Udupi, no cook has been appointed as on 29 October 2011.³⁴

Shortage of staff

Juvenile Homes were found to be under-staffed which impacts care and protection of the inmates.

- At the Children's Home for Boys, Koppal, out of eight sanctioned staff only two have been appointed.³⁵
- At Balakara Balamandira, Mandya all the top posts namely Probation Officer Grade 1, Superintendent and Deputy Superintendent have not been filled. The post of Probation Officer Grade 1 has been vacant since 10 February 2011, the post of Probation Officer Grade 2/Office Superintendent has been vacant since 3 February 2011 and that of Deputy Superintendent since 3 February 2011. Interestingly, the post of Guard has been also vacant since 25 June 2010, that of the Cook since 1 September 1998, the Assistant Cook since 10 February 2011, and Physiotherapist since 25 May 1984. There is no teacher posted at the Home.³⁶
- At Govt Observation Home, Chitradurga, only two staff out of 11 sanctioned posts were filled as of 23 September 2011.³⁷
- At Juvenile Home for Boys, Mysore, out of 22 sanctioned staff, only 14 staff have been appointed as on 7 October 2011.³⁸
- At Govt Children Home for Girls, Bangalore, only 19 staff have been appointed against 29 sanctioned staff as on 28 September 2011.³⁹
- At Govt Children Home for Boys, Chitradurga only 5 staff out of seven sanctioned staff have been appointed as on 23 September 2011.⁴⁰
- At Govt Children's Home for Boys, Bangalore which had 119 children as in September 2011⁴¹ only 49 staff out of 69 sanctioned staff have been appointed as of 18 October 2011.⁴²

No Inspection

In a number of juvenile justice homes, no inspection has taken place during 2009-2011 according to information obtained under the Right to Information Act. No inspection took place during 2009 to 2011 in the Balakara Bal Mandir, Gulbarga,⁴³ Children Home for Boys, Chikmagalur,⁴⁴ Government Observation Home (Boys), Gulbarga,⁴⁵ Government

Observation Home, Dharward,⁴⁶ Government Juvenile Home for Boys at Bagalkot and Government Juvenile Home for Girls at Bagalkot⁴⁷ and Balamandir for Boys, Belgaum.⁴⁸

No segregation of children

In clear violations of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") and the Juvenile Justice (Care and Protection of Children) Karnataka Rules, 2010 which provides for segregation of the inmates on the basis of their gender, degree of offence and age (preferably up to 12 years, 12-16 years and 16 years and above) have not been completed. The lack of separation of the inmates on the basis of their age undermines the danger to juveniles of "criminal contamination".

No accountability

The administration of juvenile justice has been reduced to trying the juveniles in conflict with law or ensuring well-being of the children in need of care and protection. The approach remains "welfare".

Section 23 of the Juvenile Justice (Care and Protection of Children) Act is clear. It states that "Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or willfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both".

Those who illegally detain, handcuff, and chain children or those who abandon, expose or neglect in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering can be tried for violating the Act.

The fact that administration of juvenile justice also is about trying those violating the rights of the juveniles as provided under Sections 23, 24, 25 and 26 of the Juvenile Justice (Care and Protection of Children) Act has been completely ignored.

The role of the State Commission for Protection of Child Rights, Karnataka State Human Rights Commission and the National Commission for Protection of Child Rights has been limited to ordering the release of those illegally detained or recommending departmental action against the guilty.

Not surprisingly, the abuses continue unabated.

2. State of the Juvenile Justice in Karnataka

The Government of India enacted the Juvenile Justice (Care & Protection of Children) Act, 2000 (Central Act 56 of 2000). It took seven years for the Central government to frame the rules in 2007. The State Government of Karnataka took another three years to frame the Rules and notify the Juvenile Justice (Care and Protection of Children) Karnataka Rules, 2010 on 26 November 2010. Children in Juveniles in conflict with law are still detained in police stations and prisons in Karnataka. They are subject to high risk of abuse from other inmates and further subjected to torture and other human rights violations by representatives of the State.

The situation of the juveniles remains deplorable as shown below.

2.1. Illegal detention of children in police station and jails

The detention of juveniles in judicial custody or police custody is a clear violation of the Section 10 (1) and Section 7A of the Juvenile Justice Act amended in 2006.

Section 10 (1) states, “As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty-four hours of his apprehension excluding the time necessary for the journey, from the place where the juvenile was apprehended, to the Board:

Provided that in no case, a juvenile in conflict with law shall be placed in a police lockup or lodged in a jail”.

Section 7A provides that:

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

Provided that a claim of juvenility may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such claim shall be determined in terms of the provisions contained in this Act and the rules made thereunder, even if the juvenile has ceased to be so on or before the date of commencement of this Act.

(2) If the court finds a person to be a juvenile on the date of commission of the offence under sub-section (1), it shall forward the juvenile to the Board for passing appropriate order, and the sentence if any, passed by a court shall be deemed to have no effect.”

But the juveniles are continued to be detailed illegally in the jails and police stations.

A. Illegal detention and torture in police stations

As recently as 20 December 2011, the Karnataka State Commission for Protection of Child Rights (KSCPCR) rescued a 16-year-old boy who was illegally detained at the Sampigehalli police station in Bangalore following his arrest on 17 December 2011. The minor alleged that he was beaten by policemen at the station, handcuffed and chained and inadequately fed during his detention. The KSCPCR raided the police station after receiving information about the detention. The minor claimed that he was picked up by the police on 17 December 2011 at around 9.30 pm near his home at Sadiq Layout, Thaneersandra, while he was going to a pharmacy to purchase medicines. The minor boy also alleged that he was beaten by several

policemen at the station and given little food and was chained since he was detained. The KSCPCR team stated that the boy appeared to be in pain and showed several fresh bruises on his torso, arms and legs. The police claimed that the boy had stolen money and mobile phones. KSCPCR stated that neither any complaint was lodged against the minor nor the police made any diary entry.⁴⁹

On 25 July 2011, a juvenile, Brijesh (name changed) was arrested by police and illegally detained at the Mahalakshmi Layout Police Station in Bangalore. He was subjected to torture and ill treatment. During the abuse his leg was broken. He was hospitalised. On 26 July 2011, the police took the minor to K C General Hospital in Malleswaram. After the victim's father Mallikarjun filed a complaint with the KSHRC, KSHRC Chairman S R Nayak visited the victim at the hospital.⁵⁰

On 3 May 2010, the KSHRC raided Jayanagar police station premises in Bangalore and found nine people, including five minors, being illegally detained. Acting upon a complaint filed by an NGO, SICHREM alleging that three people were under illegal detention for the past two months, the KSHRC team made a surprise visit to the police station and found five minors namely Amir Hussain, 17 years, Anil, 14 years, Ashish, 16 years, Krian, 17 years, and Murthi, 17 years (all names have been changed) were being illegally detained at the Jayanagar police station. While Amir was detained for six days, Anil was held for five days, Ashish for four days, Krian for three days and Murthi for two days. They were picked up for petty charges.⁵¹

On 21 November 2009, a 16-year-old boy, a resident of Begur Road, Bangalore, was picked up from his house on charges of robbery and illegally detained at Madiwala Police Station in Bangalore for 10 days. The boy was allegedly subjected to torture. In her complaint to the KSHRC, the victim's sister stated that even after producing the age proof of the victim, the police refused to consider it and produced him before the normal court instead of the JJB on 1 December 2009, ten days after his arrest.⁵²

On 14 July 2009, officials of the KSHRC and KSCPCR in a joint raid rescued five women and their 10 children who were illegally detained at Varthur police station in Bangalore. The women aged between 20 and 28, and their children between 10 months and eight years of age, all residents of a labour shed in Thubarahalli on Whitefield Road, were reportedly picked up by the police around 8 pm on 13 July 2009 after their husbands were charged with burglary. They were detained for almost 17 hours in the police station. According to one of the detained women, the police picked them up without giving any reason. The police did not even provide a blanket for the children in the night.⁵³ The KSHRC and the KSCPCR ordered the police to immediately release the detainees.

B. Illegal detention in prisons

On 13 January 2012, members of the KSCPCR made a surprise visit to the Central Prison at Parappana Agrahara, Bangalore and found that 22 minors have been lodged there for several months. A team of the KSCPCR visited the jail premises after receiving complaints from nine juveniles who had spent a few weeks to more than one year in judicial custody at the Central Jail without proper hearings despite of repeated efforts made by their families to establish their minor status before being shifted to the Observation Home in Madiwala. Separately, the SICHREM, a human rights organisation, also filed a complaint with the KSCPCR alleging that two inmates released on bail from the central prison had spent several months in judicial custody despite being minor.⁵⁴

Earlier in April 2008, a team of KSHRC found 20 juveniles aged below 18 years in the Bangalore Central Prison. The KSHRC went to the prison following a complaint filed by an NGO. The KSHRC found that the investigation officers had failed to document the cases involving the juveniles properly and conduct age verification tests. The KSHRC directed the Home Department to take action against the officials responsible for sending the juveniles to prison in contravention of the Juvenile Justice

(Care and Protection of Children) Act 2000.⁵⁵

2.2. Atrocities in Juvenile Homes

Across India, various homes established under the Juvenile Justice (Care & Protection of Children) Act, 2000 have become centres of abuse of children. Karnataka which has 81 registered homes is no exception.

In November 2011, a 14-year-old rescued child labourer who was placed under the care of protection of the State was allegedly tortured by the warden of state-run Children's Home for Boys, Bangalore. The assault by the warden of the Children's Home resulted in the victim temporarily losing consciousness in his right hand. After the assault, the boy was not provided any medical care except a pain killer tablet.⁵⁶

An inspection of a privately-run home for children in Dodda Gubbi near Bangalore by a team of various child rights authorities on 28 January 2012 exposed several violations of the Juvenile Justice (Care and Protection of Children) Act and atrocities on the inmates including allegations of molestation of the children. The team comprised of officials from the Child Welfare Committee, the Karnataka State Child Rights Protection Commission and the officials from Government Children's Homes. The team found that even though the management of the "Home for Hope", run by the New Ark Mission of India, was previously alerted of molestation of the children at the Home, they failed to take any action. Further, the Home housed 43 children, more than the prescribed limit of 30 children. The team also found lack of medical facilities for the children and lack of hygiene, among others, in the home.⁵⁷

Shockingly, the persons appointed to protect the rights of children are themselves turning out to be perpetrators.

On 8 September 2010, the State Government issued an order restraining Balakrishna Masali, a member of the Child Welfare Committee II of the Bangalore Urban district, from attending sittings of the Child Welfare Committee, after he

was found guilty of molesting girls by the KSCPCR who were brought before him for enquiry. In its report the KSCPCR stated that the accused took the advantage of his position and used the opportunity to sexually molest the minor girls in the privacy of the cubicle and recommended his suspension and inquiry under the Juvenile Justice (Care and Protection of Children) Act, 2000 and relevant sections of Indian Penal Code. The KSCPCR held an inquiry following a complaint by the Association for Promotion of Social Action, an NGO, alleging that the accused molested a 14 year-old girl during a 30-minute counseling session. The KSCPCR recorded the statements of four girls including the complainant lodged in the government-run girl's home and the statement of the care-takers of the home. All the four girls alleged sexual harassment at the hand of the accused.⁵⁸ Email communication to the KSCPCR by the Asian Centre for Human Rights as to the action taken in this particular case remained unanswered.

On 29 February 2012, Child Welfare Committee (CWC) members raided a home run by NGO, Church of Christ in Bangalore, following a complaint lodged with them through Childline, a children's helpline by anonymous persons and rescued 42 children - 19 girls and 23 boys all between the age of 8 and 18 years. The girls in the Home were allegedly physically and sexually abused. CWC members reportedly stated that there were visible injury marks on the children's bodies. On 1 March 2012, two officials of Church of Christ were detained by the police for allegedly sexually harassing and torturing children at the Home.⁵⁹

The situations in the homes are so atrocious that many of the children in conflict with the law and those in need of care and protection committed suicide and or made attempts to commit suicide.

On 14 October 2010, Karthik, an inmate of Bala Mandira (an orphanage), Kolar district allegedly committed suicide by hanging himself from the ceiling in the bathroom. The Bala Mandira was earlier referred to as Remand Home and Centre for Juvenile Offenders. Although the

circumstances leading to his death are unknown, it was stated that there was no facility for educating the children at the Bala Mandir (the children were sent to a nearby government school). There were also complaints that inmates were forced to work including cleaning of the overflowing toilet.⁶⁰

On 31 January 2012, three juveniles lodged in the Government Remand Home for Boys and Girls at Madivala attempted suicide inside the Home by consuming pesticide. They were immediately rushed to the Victoria Hospital.⁶¹

There have also been many cases of children missing from juvenile Homes. This reflects criminal negligence on the part of the authorities. According to an NGO, Odanadi Seva Samste, as many as 1,089 children below 14 years have gone missing from 34 Bala Mandirs (Children's Homes) in Karnataka during February 2005 to February 2011, and four girls committed suicide at Bala Mandirs in Bangalore during the same period. The missing children included 226 boys from the Government Bala Mandir for Boys in Bangalore, 135 from Gulbarga, 116 from Hassan, 111 from Davangere, 83 from Bellary, and 32 from Mysore. Among girls, 34 went missing from the Government Bala Mandir in Mysore, 18 from Bangalore, 11 from Bijapur, and nine each from Tumkur and Hubli. Pursuant to a petition filed by Odanadi Seva Samste on the matter of missing children, the Karnataka State Commission for Protection of Child Rights, in an interim order passed on 17 July 2011, directed the Chief Secretary of Karnataka to order an inquiry by a three-member committee involving retired judges and submit a report in six months. The Commission also directed the custodians of Bala Mandirs to inform the State Child Welfare Committee and the Juvenile Justice Board about any future disappearance within 24 hours and register First Information Reports.⁶² The inmates were forced to stay in poor living conditions. Counsellors remained absent at many Bala Mandirs. In some cases, children were allegedly used by Bala Mandir

officials as domestic helps.⁶³

3. Official records on the implementation of the JJA

3.1 Juvenile Justice Boards

Section 4, sub section (1) of the Juvenile Justice (Care and Protection of Children) Act 2000 (as amended in 2006) 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."

Karnataka has 30 districts⁶⁴ and 30 Juvenile Justice Boards (JJBs) should ideally be established as per the Juvenile Justice Act. However, only 28 JJBs have been established, while no JJB has been established in two districts.⁶⁵ Only 8 JJBs were functional as of 5 May 2010.⁶⁶ This means that the existence of a JJB appointment on paper does not necessarily convert to implementation.

3.2 Juvenile Justice Homes

The Juvenile Justice (Care and Protection of Children) Act provides for three types of homes: (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 (CNCP).

Karnataka has 81 registered Child Care Institutions.⁶⁷ There were repeated allegations of abuse of children in a number of privately-run institutions certified by the state.

The Juvenile Justice (Care and Protection of Children) Karnataka Rules, 2010 provide for detailed standards of care institutions recognized under the Juvenile Justice Act, 2000

including education, vocational training, recreational facilities, healthcare, nutritional diet, clothing and hygiene to be provided to the juveniles/children in the Homes.

Under Rule 49 of the Juvenile Justice Karnataka Rules 2010, every institution shall “provide education to all children according to age and ability, within the institution and/or outside, as required”. The educational opportunities shall include mainstream inclusive schooling, bridge school, open schooling, non-formal education and special education. Wherever necessary, supplementary coaching shall be made available to school going children in the institutions by encouraging volunteer services or by tying up with NGO/private services like coaching Institutions. All children shall also be provided with life skills orientation to cover areas like personality development, value education, general and reproductive health care, stress management etc.

Under Rule 50 every institution shall provide vocational training to enable children have better career prospects. Rule 51 provides for recreation facilities which shall include indoor and outdoor games, sports, yoga, meditation, music, television, picnics, excursions and cultural programmes.

Rule 47 states that every institution shall maintain a medical record of each juvenile or child on the basis of monthly medical check-up and provide necessary medical facilities; have arrangement for the medical facilities, including a doctor on call available on all working days for regular medical check-ups and treatment of juveniles or children; have sufficient medical equipments, including first-aid kit with stock of emergency medicines and consumables; immunization coverage; take preventive measures in the event of outbreak of contagious or infectious diseases; set up a system for referral of cases with deteriorating health or serious cases to the nearest civil hospital or recognised treatment centres; tie-up with local Primary Health Centres, government hospitals, medical colleges, other hospitals, mental health institutes for regular visits by their doctors and students

clinical psychologists and psychiatrists for holding periodic health camps within the institutions. Sick children should be under constant medical supervision and juvenile or child suffering from infectious diseases shall be provided specialised services.

Under Rule 46, the children shall be provided nutritional diet as recommended by a nutritional expert /dietician or doctor to ensure balanced diet and variety in taste. Infants and sick juveniles or children shall be provided special diet according to the advise, of the doctor on their dietary requirement.

A. Observation Homes

Sub sections of (1) and (2) of Section 8 of the JJ Act, 2000 provide for establishment of “Observation Homes”/ Certification of Fit Institutions in every district or a group of district “for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under this Act”.

i. Conditions of the Observation Homes

Section 14(2)(a) of the Juvenile Justice (Care and Protection of Children) Karnataka Rules, 2010 states that the juveniles will be provided education and “vocational training for livelihood opportunities”. Further Section 14(2)(c) provides that children shall be given opportunities for yoga, meditation, physical exercise, recreational facilities, cultural programmes etc., during the period of stay in the Home.

These provisions have been violated by the Karnataka government. Information accessed by ACHR through the RTI Act establishes the fact that most of the Observation Homes do not have provisions of vocational training and teachers have not been appointed in many homes.

The Government Observation Home, Bangalore

As per the RTI information dated 10 October 2011 obtained by ACHR, the Government Observation Home at Bangalore in Bangalore Rural District is running from a government quarter i.e. an apartment meant for a

government staff.

It was set up in September 2011 with a capacity for 25 children. In September 2011, there were 12 inmates. The Probation Officer of the Observation Home stated that no financial allocation had been received as of 10 October 2011. There were no proper facilities required to be provided under the JJ Act, for example, recreation and training centres, as the Observation Home is running from a government quarter.⁶⁸

The number of staff in the Observation Home is supposed to be 7 but it is not known whether any staff has been appointed. The information provided by the Probation Officer of the Government Observation Home left the question on actual number of staff blank. No educator has been appointed as of 10 October 2011.⁶⁹

Government Observation Home, Chitradurga

The total sanctioned strength of the Home is 25.⁷⁰ There was no overcrowding. The month-wise number of inmates lodged was as follows: one in August 2011, one in September 2011, seven in October 2011, six in November 2011, five in December 2011 and five in January 2012.⁷¹

Only two staff out of 11 sanctioned were appointed as of 23 September 2011.⁷² No teacher was appointed⁷³ nor any of the inmates was admitted to any school.⁷⁴ There is no vocational training facility either although the Home has one recreation centre and one learning and training centre.⁷⁵

There is presently no segregation of the inmates on the basis of age and nature of offence.⁷⁶ This is a violation of Rule 32 (4) of the Juvenile Justice (Care and Protection of Children) Karnataka Rules, 2010.

As per the information provided by the authorities, eight inspections in 2010 and ten inspections in 2011 took place in this Observation Home as of 9 February 2012.⁷⁷

Observation Home, Belgaum

The total sanctioned strength of the Home is 25. There is no overcrowding. The month-wise number of inmates lodged were as follows: Nil

in April 2011, 2 in May 2011, 1 in June 2011, 7 in July 2011, 3 in August 2011 and 5 in September 2011.⁷⁸

The staff included one Superintendent, one Matron, one Cook and one Peon. However, there is no educator and vocational trainer posted at the Observation Home, Belgaum. The Home is functioning from the building of After Care Home for Men, Belgaum. There are 4 bathrooms, 4 toilets but no recreation centre, learning and training centres.⁷⁹

Observation Home, Bellary

The total sanctioned strength of the Home is 50. There was no overcrowding. The month-wise number of inmates lodged was as follows: 4 in April 2011, 2 in May 2011, Nil in June 2011, 9 in July 2011, 2 in August 2011 and nil in September 2011.⁸⁰

The total sanctioned staff is 8 including one probation officer grade II, one House-Mother, one Second Division Assistant, 2 Guards, one cook, one sweeper and one peon. But only one House Mother, one Second Division Assistant, one Guard, one peon, and one sweeper have been appointed. Since the cook's position is vacant, one wonders who cook for the 5 staff and the children every day. No educator and vocational trainer have been posted in the Home. There is only one bathroom with attached toilet which is inadequate. There is no learning or training centre.⁸¹

Observation Home, Dharwad

The total sanctioned strength of the Home is 50. There was no overcrowding. The month-wise number of inmates lodged was as follows: 8 in October 2010, 13 in November 2010, 12 in December 2010, 10 in January 2011, 12 in February 2011, 14 in March 2011, 10 in April 2011, 06 in May 2011, 12 in June 2011, 05 in July 2011, 06 in August 2011, 03 in September 2011 and 08 in October 2011.⁸²

The total sanctioned staff is 9 and all of them have been appointed. However, no educator and vocational trainer have been sanctioned/posted in the Home.⁸³ Further, the juveniles are not

even provided schooling in any educational institution outside the Home.⁸⁴

Observation Home, Takke Bijapur

The total sanctioned strength of the Home is 25. There was no overcrowding. The month-wise number of inmates lodged was as follows: 5 in October 2010, 2 in November 2010, 1 in December 2010, 5 in January 2011, 7 in February 2011, 6 in March 2011, Nil in April 2011, 2 in May 2011, 3 in June 2011, 1 in July 2011, Nil in August 2011, and 3 in September 2011.⁸⁵

The total sanctioned staff are 6 including 3 regular and 3 outsourced staffs. As of 1 October 2011, there were only 2 regular staffs and 3 outsource staffs. There were no educators or vocational trainers posted at the Home. The details of the number of bathrooms, toilets, recreation centres, learning centres etc have not been provided in response to RTI application filed by ACHR.⁸⁶

Observation Home, Belgaum

The total sanctioned strength of the Home is 25. There was no overcrowding. The month-wise number of inmates lodged was as follows: Nil April 2011, 02 in May 2011, 01 in June 2011, 07 in July 2011, 03 in August 2011 and 12 in September 2011.⁸⁷

The total sanctioned staff are one Superintendent, one matron, one cook, and one peon. All these posts have been filled and posted. However, there is no educator and vocational trainer posted at the Home.⁸⁸

The Observation Home, Belgaum is running from the premises of the Children Home, Belgaum⁸⁹ in clear violation of the Rule 40 (1) of the Juvenile Justice (Care and Protection of Children) Rules 2007 which states that “The homes for juveniles in conflict with law and children in need of care and protection shall function from separate premises.”

Observation Home, Udupi

This Observation Home started functioning since April 2010. The total sanctioned strength of the Home is not specified. There were 6 inmates in April 2011, 7 in May 2011, 7 in June

2011, 5 in July 2011, 2 in August 2011, 3 in September 2011 and 2 in October 2011.⁹⁰

The total sanctioned staff are one Superintendent, one SDA, one house father, one cook, 3 guards, one Ayaha, and one Visiting Medical Officer (VMO). The posts of the cook, three Guards, one Ayaha and one VMO are vacant as of 29 October 2011. Further, there was no educator or vocational training facility at the Home. Indoor and outdoor sports facilities and television facility is provided for recreation. The Home has 2 toilets and 2 bathrooms.⁹¹

Govt Observation Home, Davangere

The total sanctioned capacity of the Home is 25. In October 2011, there were only three inmates.⁹²

The Home runs from a rented building and has only one bathroom and one toilet. Out of four sanctioned staff, only two have been appointed leaving two posts vacant. No post of educator or of vocational trainer has been sanctioned.⁹³

B. Special Homes

Sub section (1) of Section 9 of the JJ Act, 2000 provides that “Any State Government may establish and maintain either by itself or under an agreement with voluntary organisations, special homes in every district or a group of districts, as may be required for reception and rehabilitation of juvenile in conflict with law under this Act”.

Sub-section (2) states that the state government may certify any other institutions as Special Home if it finds them “fit” for the reception of juvenile in conflict with law.

So far, the State government of Karnataka has established only one Special Home in the state.⁹⁴

In the absence of Special Homes, it is clear that juveniles who are found to have committed an offence by the JJB are being kept in the Observation Homes which are meant for “temporary reception” of juveniles in conflict with law during the pendency of any inquiry (Section 8 of the Juvenile Justice (Care and Protection of Children) Act) and even in the Children's Homes which are meant 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” (Section 34 of the Juvenile Justice (Care and Protection of Children) Act).

ACHR has been informed that there were 4 juveniles (including two boys and two girls) at Children Home for Boys, Chikmagalur. It is not known how girls are being kept at Boys' Home! Further, no inspection took place in the Home during 2009-2011.⁹⁵ This is a blatant violation of the Juvenile Justice (Care and Protection of Children) Act.

C. Children Homes

Section 34(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000 states that “The State Government may establish and maintain either by itself or in association with voluntary organization, 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.”

The Government of Karnataka vide letter No. WCD 28 SBB 2006 dated 05.05.2010 informed the NCPDR that Children Homes have been established in 25 districts. There are currently 81 homes.

The State Government has failed to notify Rules required under Section 24(2) of the Juvenile Justice (Care and Protection of Children) Act, 2000 for the management of Children's Homes including the standards and the nature of services to be provided by them, and the circumstances under which, and the manner in which, the certification of a children's home or recognition to a voluntary organization may be granted or withdrawn. On 5 May 2011, the Government of Karnataka informed that the “Rules are formed and sent for approval By the Government.”⁹⁶

No social auditing to “monitor and evaluate the functioning of the children's homes” as provided

for under Section 36 of the JJ Act has been done till date. 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.

I. Conditions of the Children Homes

The children's home are marked by absence of necessary staff and facilities for care and protection.

Govt Children Home for Girls, Bangalore

The total sanctioned strength is 100. There is no overcrowding. The month-wise number of inmates during October 2010 to August 2011 is as follows: 22 in October 2010, 22 in November 2010, 16 in December 2010, 35 in January 2011, 25 in February 2011, 22 in March 2011, 27 in April 2011, 30 in May 2011, 26 in June 2011, 37 in July 2011, and 38 in August 2011.⁹⁷

There is shortage of staff. Against 29 sanctioned staff, only 19 staff were appointed while 4 staff positions were abolished. There were 6 vacancies. There were 4 educators posted in the Home. Two staffs for vocational training were sanctioned but were later abolished. Instead of regular vocational training, skill development training is conducted twice in a year. There were 11 bathrooms, 8 toilets, 1 recreation centre and 5 learning and 1 training centre.⁹⁸

Govt Children Home for Boys, Chitradurga

The total sanctioned strength is 50. There was no overcrowding. The month-wise number of inmates during April 2011 to September 2011 is as follows: 28 in April 2011, 27 in May 2011, 48 in June 2011, 50 in July 2011, 51 in August 2011 and 50 in September 2011 (upto 22 September).⁹⁹

The authorities of Govt Children Home for Boys, Chitradurga informed ACHR that there is no segregation of the inmates on the basis of age and nature of offence.¹⁰⁰ This is in direct violation of Rule 32 (4) of the Juvenile Justice (Care and Protection of Children) Karnataka

Rules, 2010.

There is shortage of staff. Against seven sanctioned staff, only five staff have been appointed as of 23 September 2011. No teacher or vocational training is available at the Home.¹⁰¹

There were 6 bathrooms, 10 toilets, one recreation centre and one learning and training centre.¹⁰²

As per the information provided by the authorities, nine inspections in 2009, 17 inspections in 2010, 19 in 2011 and two inspections in 2012 took place in the Home as of 9 February 2012.¹⁰³

Balamandir for Boys, Belgaum

The total sanctioned strength is 50. There was no overcrowding. The month-wise number of inmates during April 2010 to March 2011 is as follows: nil in April 2010, nil in May 2010, nil in June 2010, 01 in July 2010, nil in August 2010, nil in September 2010, nil in October 2010, nil in November 2010, 03 in December 2010, 01 in January 2011, 01 in February 2011, and 01 in March 2011.¹⁰⁴

There is shortage of staff. Against nine sanctioned staff, only four staff were appointed. But no educator or vocational trainer was posted at the Children Home. There were 4 bathrooms, 6 toilets, 1 reception centre and 1 learning centre.¹⁰⁵

Shishu Mandira, Bangalore

The total sanctioned capacity of the Home is 50. The month-wise number of inmates lodged in the Home is as follows: 39 in October 2010, 36 in November 2010, 48 in December 2010, 18 in January 2011, 13 in February 2011, 20 in March 2011, 33 in April 2011, 32 in May 2011, 25 in June 2011, 15 in July 2011, 35 in August 2011 and 46 in September 2011.¹⁰⁶

The sanctioned staffs are 15 and one visiting doctor, but only 12 staff have been appointed. There are no educators and vocational trainers appointed in the Home. The infrastructure includes one building, 7 bathrooms, 10 toilets and one recreation centre and one non-formal

education centre.¹⁰⁷

Children Home for Boys, Takke Bijapur

The total sanctioned strength is 100. The month-wise number of inmates in the Home is as follows: 62 in October 2010, 63 in November 2010, 63 in December 2010, 63 in January 2011, 63 in February 2011, 63 in March 2011, 93 in April 2011, 90 in May 2011, 89 in June 2011, 93 in July 2011, 94 in August 2011 and 94 in September 2011.¹⁰⁸

The sanctioned staffs are - 14 regular, 4 outsourced, but only 10 regular staff have been appointed in addition to 4 outsourced staff. A total of 10 educators have been sanctioned but only 02 have been appointed. There is no vocational trainer. There are 4 bathrooms, 8 toilets, 1 recreation centre and 2 learning centres which are inadequate.¹⁰⁹

Children Home for Mentally Retarded, Bangalore

The total sanctioned strength is 140. There was no overcrowding. The month-wise number of inmates during April 2010 to March 2011 is as follows: 87 in April 2010, 83 in May 2010, 84 in June 2010, 85 in July 2010, 83 in August 2010, 83 in September 2010, 71 in October 2010, 69 in November 2010, 68 in December 2010, 66 in January 2011, 69 in February 2011, and 73 in March 2011.¹¹⁰

There is shortage of staff. Against 23 sanctioned staff, only 18 staff were appointed. There was one educator and one vocational trainer posted at the Children Home which is totally inadequate. Shockingly, there was only one bathroom and one toilet for mentally retarded children whose number was not less than 66 at any time during April 2010 to March 2011. In April 2010 the number was as high as 87 and in March 2011 there were 73 children.¹¹¹

Govt Children Home for Girls, Hubli

The total sanctioned strength is 200. The month-wise number of inmates in the Home is as follows: 129 in April 2011, 129 in May 2011, 121 in June 2011, 117 in July 2011, 115 in

August 2011 and 115 in September 2011.¹¹²

The sanctioned staff are 31 but only 23 staff have been appointed which means that there are eight staff vacancies. There are 4 educators and one vocational trainer posted at the Home. The Children Home has 9 buildings having 14 toilets, 10 bathrooms, one training centre, 10 rooms of learning centre, one health section and one recreation centre.¹¹³

Govt Balamandir for Boys, Hubli

The total sanctioned strength is 100. As of September 2011, there were 18 inmates.¹¹⁴

The sanctioned staff are 11 but only 6 staff have been appointed. There are no educators and vocational trainer posted at the Home. There are 8 bathrooms and 6 toilets.¹¹⁵

Children Home for Girls, Mysore

The total sanctioned strength is 200. The month-wise number of inmates in the Home is as follows: 88 in October 2010, 83 in November 2010, 83 in December 2010, 78 in January 2011, 79 in February 2011, 68 in March 2011, 78 in April 2011, 80 in May 2011, 83 in June 2011, 84 in July 2011, and 42 in August 2011.¹¹⁶

The number of staff is not known. There are 4 educators posted in the Home and no vocational trainer. There are 11 bathrooms, 15 toilets and 1 recreation centre.¹¹⁷

Juvenile Home for Boys, Mysore

The total sanctioned strength is 100. The month-wise number of inmates in the Home is as follows: 52 in October 2010, 52 in November 2010, 54 in December 2010, 50 in January 2011, 49 in February 2011, 47 in March 2011, 47 in April 2011, 48 in May 2011, 48 in June 2011, 45 in July 2011, 43 in August 2011 and 43 in September 2011.¹¹⁸

The sanctioned staff are 22 but only 14 staff have been appointed which means that there are 8 staff vacancies. While only 2 out of sanctioned 4 posts of Assistant Teacher have been filled up, no peon, sweeper, cook, cane instructor, craft instructor have been appointed. Although two cooks have been sanctioned, no one has been

appointed. One wonders as to who does the cooking for the inmates and the 14 staff of the Home.¹¹⁹

Govt Children Home for Boys, Bangalore

The total sanctioned strength is 300. The month-wise number of inmates in the Home is as follows: 71 in October 2010, 59 in November 2010, 47 in December 2010, 46 in January 2011, 49 in February 2011, 48 in March 2011, 58 in April 2011, 54 in May 2011, 61 in June 2011, 85 in July 2011, 66 in August 2011 and 119 in September 2011.¹²⁰

The total sanctioned number of staff is 69 but only 49 staff including 36 actual and 13 under deputation have been posted at the Home. There were 5 educators posted in the Home and no vocational trainer.¹²¹

Children Home for Girls, Bijapur

The total sanctioned capacity is 100 inmates. The month-wise number of inmates in the Home is as follows: 59 in October 2010, 59 in November 2010, 59 in December 2010, 59 in January 2011, 59 in February 2011, 59 in March 2011, 59 in April 2011, 61 in May 2011, 60 in June 2011, 57 in July 2011, 59 in August 2011 and 62 in September 2011.¹²²

The total sanctioned number of staff is 10 which have been filled up. There are 2 educators appointed on casual basis, but there is no vocational training facility. A vocational training centre is proposed to be established in the new premises. The Home is functioning from a private rented building.¹²³

Children Home for Boys, Ranebennur

The total sanctioned capacity is 50 inmates. The month-wise number of inmates in the Home is as follows: 41 in October 2010, 38 in November 2010, 40 in December 2010, 40 in January 2011, 39 in February 2011, 39 in March 2011, 39 in April 2011, 29 in May 2011, 39 in June 2011, 27 in July 2011, 27 in August 2011 and 29 in September 2011.¹²⁴

Out of 10 sanctioned staffs, only 6 have been appointed as of 12 October 2011. The posts of

Probationary Officer (P.O.). grade I, P.O grade II, one guard and one assistant cook were vacant. There are no educators or vocational trainers posted at the Home. The infrastructure of the Home included one building, four bathrooms, and nine toilets. There was no recreation centre, learning or training centres.¹²⁵

Govt Juvenile Children Home for Boys, Khanapur

The total sanctioned capacity is 100 inmates. The month-wise number of inmates in the Home is as follows: 1 in April 2010, 2 in May 2010, 8 in June 2010, 5 in July 2010, Nil in August 2010, Nil in September 2010, Nil in October 2010, Nil in November 2010, 01 in December 2010, Nil in January 2011, Nil in February 2011, 1 in March 2011, Nil in April 2011, 3 in May 2011, 24 in June 2011, 2 in July 2011, and Nil in August 2011.¹²⁶

Out of 11 sanctioned staffs, only 8 have been appointed as of 26 October 2011. There are 2 educators, and 2 vocational trainers posted at the Home. The infrastructure of the Home included four buildings, six bathrooms, and six toilets. There is also one recreation centre, and 2 learning and training centres.¹²⁷

Children Home for Girls, Tumkur

The total sanctioned capacity is 50 inmates. The month-wise number of inmates in the Home is as follows: 4 in October 2010, 8 in November 2010, 5 in December 2010, 2 in January 2011, 1 in February 2011, 1 in March 2011, 1 in April 2011, 2 in May 2011, 5 in June 2011, 2 in July 2011, 2 in August 2011 and 1 in September 2011.¹²⁸

Out of 9 sanctioned staffs, only 6 have been appointed. There is one educator. The inmates are being given 6 month's training in tailoring, computer and craft at the Home. The infrastructure of the Home included one building, 4 bathrooms, and 5 toilets. TV set has been installed for recreation purpose.¹²⁹

Children Home for Girls, Haveri

This Home has been started recently. It runs

from a rented building. There are one bathroom, one toilet and without recreation centres, learning and training centres. The total sanctioned capacity is 50 inmates but no inmate has been lodged yet as of 14 October 2011. A total of 9 full time and 2 part time staff have been sanctioned, but only 2 staff have been appointed. There are no educators or vocational trainers at the Home.¹³⁰

Children Home run by Deenbandhu Seva Mandal, Bharnal

The total sanctioned capacity is 30 inmates. The month-wise number of inmates in the Home is as follows: 20 in October 2010, 19 in November 2010, 22 in December 2010, 23 in January 2011, 23 in February 2011, 23 in March 2011, 24 in April 2011, 23 in May 2011, 23 in June 2011, 25 in July 2011, 24 in August 2011, 23 in September 2011 and 23 in October 2011.¹³¹

The total sanctioned number of staff is 18 but only 8 staff have been appointed. The posts of Superintendent, Headmaster, one teacher, craft teacher, typist and cook were lying vacant as of 1 October 2011. In the absence of the cook, one wonders who cook the food for 62 inmates and 8 staff. There is also no vocational trainer. The Home is functioning from rented building. There are 3 bathrooms and 5 toilets.¹³²

Govt Home for Girls, Gulbarga

The total sanctioned strength of the Home is 100. There was no overcrowding. The month-wise number of inmates lodged was as follows: 2 in October 2010, 2 in November 2010, 4 in December 2010, 4 in January 2011, 2 in February 2011, 7 in March 2011, 3 in April 2011, 5 in May 2011, 2 in June 2011, 7 in July 2011, 1 in August 2011, 3 in September 2011, and NIL in October 2011.¹³³

The total sanctioned staff are 16 but only 6 staff have been appointed as of 9 November 2011. There are 3 educators posted in the Home but no vocational trainer. The Home is running from the State Home for Women building which has 3 bathrooms, four toilets, and one training centre.¹³⁴

Amulya Shishu Graha, Gulbarga

The total sanctioned strength of the Home is 10. There was no overcrowding. The month-wise number of inmates lodged was as follows: 2 in October 2010, NIL in November 2010, 1 in December 2010, 5 in January 2011, NIL in February 2011, 2 in March 2011, NIL in April 2011, NIL in May 2011, 2 in June 2011, 1 in July 2011, 3 in August 2011, 2 in September 2011, and NIL in October 2011.¹³⁵

The total sanctioned staff are 7 and all of them have been appointed. There is no educator or vocational trainer posted in the Home. The Home is running in the building of State Home for Women.¹³⁶

Balakara Bal Mandir, Gulbarga

The total sanctioned strength is 100. There is no overcrowding. The month-wise number of inmates during October 2010 to October 2011 is as follows: 58 in October 2010, 55 in November 2010, 54 in December 2010, 45 in January 2011, 47 in February 2011, 52 in March 2011, 49 in April 2011, 37 in May 2011, 54 in June 2011, 52 in July 2011, 45 in August 2011, 45 in September 2011 and 40 in October 2011.¹³⁷

There is acute shortage of staff. As of October 2011, only 12 staff posts have been filled up against 16 staff posts sanctioned. There were 3 educators posted at the Home but no vocational training facilities. The Home has 6 bathrooms, 9 toilets, one recreation centre but no learning and training centre.¹³⁸

Balakiyara Balamandira, Udupi

The total sanctioned strength of the Home is 100. There was no overcrowding. The month-wise number of inmates lodged was as follows: 42 in October 2010, 42 in November 2010, 41 in December 2010, 40 in January 2011, 40 in February 2011, 37 in March 2011, 11 in April 2011, 16 in May 2011, 18 in June 2011, 18 in July 2011, 18 in August 2011, 18 in September 2011, and 18 in October 2011.¹³⁹

The total sanctioned staff are 19 but only 16 staff have been appointed as of 29 October 2011.

There is one educator but the sanctioned post of the vocational trainer was vacant. The Home has 7 bathrooms, 8 toilets, 2 dormitory, 1 dining hall, 1 kitchen, 1 washing vessel, 2 store rooms, 1 meeting hall, 1 gas cylinder chamber, 1 healthcare chamber, 1 superintendent chamber, 1 probation officer grade chamber, 1 matron chamber and 1 educational room.¹⁴⁰

Children's Home for Boys, Koppal

The total sanctioned strength is 50. There is no overcrowding. The month-wise number of inmates during October 2010 to August 2011 is as follows: 21 in October 2010, 21 in November 2010, 23 in December 2010, 24 in January 2011, 29 in February 2011, 28 in March 2011, 28 in April 2011, 27 in May 2011, 36 in June 2011, 39 in July 2011, 35 in August 2011, 34 in September 2011 and 36 in October 2011.¹⁴¹

There is acute shortage of staff. Against eight sanctioned staff only two have been appointed. There is no educator or vocational trainer posted at the Home.¹⁴²

The Home runs from a rented building at the monthly rent of Rs 4600/- since June 2003. There are two toilets, two bathrooms, one big hall, one kitchen room, one staff room, one officer room present in the building.¹⁴³

Balakara Balamandira, Mandya

The total sanctioned strength is 50. There was no overcrowding. The month-wise number of inmates during October 2010 to September 2011 is as follows: 16 in October 2010, 15 in November 2010, 16 in December 2010, 15 in January 2011, 15 in February 2011, 14 in March 2011, 14 in April 2011, 20 in May 2011, 13 in June 2011, 17 in July 2011, 18 in August 2011, and 23 in September 2011.¹⁴⁴

There is shortage of staff. As of 30 November 2011, all the top posts namely Probation Officer Grade 1, Superintendent and Deputy Superintendent have been lying vacant. While the post of Probation Officer Grade 1 has been lying vacant since 10 February 2011, the post of Probation Officer Grade II/Office Superintendent has been lying vacant since 3

February 2011 and that of Deputy Superintendent since 3 February 2011. Interestingly, the post of Guard has been also lying vacant since 25 June 2010, that of Cook since 1 September 1998, Assistant Cook since 10 February 2011, and Physiotherapist since 25 May 1984. There is no teacher posted at the Home.¹⁴⁵ If both the posts of Cook and the Assistant Cook are vacant, who cook food for the inmates?

Further, the Balakara Balamandira, Mandya, is functioning from a rented building. It has only one bathroom and two toilets, and without any recreation facilities.¹⁴⁶

Balakiyara Balamandira, Mandya

The total sanctioned strength is 50. There was no overcrowding. The month-wise number of inmates during April to November 2011 is as follows: Nil in April 2011, 3 in May 2011, 5 in June 2011, 3 in July 2011, 4 in August 2011, 6 in September 2011, Nil in October 2011 and Nil in November 2011.¹⁴⁷

There is shortage of staff. No cook has been appointed since 12 December 1996. The post of medical officer (part time) has been lying vacant since 23 May 1984, and out of three sanctioned posts of guards only one has been appointed. No teacher has been sanctioned at the Home.¹⁴⁸

The Home runs from a rented building having two bathrooms and three toilets. The Home does not have any recreation centre or learning & training centre.¹⁴⁹

Children's Home for Boys at Madikeri, Kodagu district

The total sanctioned strength is 50. There was no overcrowding. The month-wise number of inmates during April to November 2011 is as follows: 1 in April 2011, 2 in May 2011, 8 in June 2011, nil in July 2011, 2 in August 2011 and 2 in September 2011.¹⁵⁰

There is shortage of staff. Out of eight sanctioned staff, only three have been appointed leaving five posts vacant. There are two educators posted in the Home but no vocational training facilities. The Home has 3 bathrooms

and 4 toilets. It has no recreation centres.¹⁵¹

Children Home for Boys, Chikmagalur

The total sanctioned strength is 50. There is no overcrowding. The month-wise number of inmates during October 2010 to October 2011 is as follows: Nil in October 2010, Nil in November 2010, Nil in December 2010, 2 in January 2011, 1 in February 2011, 2 in March 2011, Nil in April 2011, 3 in May 2011, 6 in June 2011, 2 in July 2011, 2 in August 2011, 1 in September 2011 and 2 in October 2011.¹⁵²

As of 11 November 2011, out of 9 sanctioned staff, the posts of 3 staff including the cook were lying vacant. There was no educator or vocational trainer. The Home has 6 bathrooms, 13 toilets, one recreation centre but no learning and training centre.¹⁵³

Govt Juvenile Home for Boys, Khanapur

The total sanctioned strength of the Home is 100. There was no overcrowding. The month-wise number of inmates lodged were as follows: 01 in April 2010, 02 in May 2010, 08 in June 2010, 05 in July 2010, nil in August 2010, nil in September 2010, nil in October 2010, nil in November 2010, 01 in December 2010, nil in January 2011, nil in February 2011, 01 in March 2011, nil in April 2011, 03 in May 2011, 24 in June 2011, 02 in July and nil in August 2011.¹⁵⁴

The total sanctioned staff is 11 but only 8 staff have been appointed. 02 educators, and 02 vocational trainers are posted at the Home. There are 4 buildings, 6 bathrooms, 6 toilets, 1 recreation centre and 2 learning & training centres.¹⁵⁵

Children's Home for Boys, Mangalore

The total sanctioned capacity of the Home is 50. The number of inmates were as follows: one in October 2010, nil in November 2010, one in December 2010, nil in January 2011, two in February 2011 and three in March 2011.¹⁵⁶

Out of seven sanctioned staff posts, only five staff have been appointed. No educator or vocational trainer has been appointed. The Home has 5 bathrooms, and 7 toilets.¹⁵⁷

3.3 Lack of review of cases pending before the JJ Boards

As per Section 14(2) of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 “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”.

The Government of Karnataka informed the NCPCR vide letter No. WCD 28 SBB 2006 dated 05.05.2010 that regular review was not being done at Juvenile Justice Boards.¹⁵⁸ As of 10 February 2012, there were about 2,500 cases pending under the Juvenile Justice (Care and Protection of Children) Act.¹⁵⁹ In Bangalore Urban district, the situation was particularly alarming with 1567 cases pending as of December 2011.¹⁶⁰

The month wise breakdown of the cases in Bangalore Urban District from 2009 is provided below:¹⁶¹

Month	2009-10	2010-11	2011-12
January	1664	1687	1725
February	1673	1697	1724
March	1681	1712	1717
April	1692	1708	1763
May	1717	1723	1768
June	1724	1727	1757
July	1741	1731	1741
August	1785	1731	1741
September	1802	1729	1794
October	1788	1729	1713
November	1788	1731	1604
December	1760	1734	1567

According to RTI information obtained by ACHR, there were a total of 106 cases pending before the Juvenile Justice Board in Mysore district,¹⁶² 19 cases pending before JJB in Bagalkot¹⁶³ and 149 cases pending before JJB Gulbarga as of December 2011.¹⁶⁴

The lack of coordination between the JJBs,

prosecution, police and the Department of Women and Child Development of Karnataka has resulted in the pendency of cases. Pending cases not only result in denial of justice but also leads to sufferings of the juveniles who are forced to languish in congested Observation Homes where living conditions are miserable.¹⁶⁵

This is clear violation of Rule 20 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") which provides that “Each case shall from the outset be handled expeditiously, without any unnecessary delay.” In its commentary it states that, “The speedy conduct of formal procedures in juvenile cases is a paramount concern. Otherwise whatever good may be achieved by the procedure and the disposition is at risk. As time passes, the juvenile will find it increasingly difficult, if not impossible, to relate the procedure and disposition to the offence, both intellectually and psychologically.”

3.4. Child Welfare Committees

The State government is required to establish at least one Child Welfare Committee in every district. Section 29 (1) of the Juvenile Justice (Care and Protection of Children) Act 2000 (as amended in 2006) 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 state government of Karnataka has established Child Welfare Committees (CWCs) in 28 districts out of 30 districts. No CWC has been established in two districts of Yadgir and Chikballapur. In Bangalore Urban district, two CWCs, one for boys and one for girls, were established¹⁶⁶ but no probation officer/case

worker/social worker/counselor on full time basis has been appointed in the CWCs as of 5 May 2010.¹⁶⁷

In October 2010, the state government reportedly issued an order preventing members of Child Welfare Committees from visiting child care institutions when they are not holding a sitting, without prior permission of the heads of the concerned institutions. This is a violation of the Juvenile Justice Rules of Karnataka, 2010 which gives the power to the CWCs to visit any child care institution any time. Further, the Government Order gives power to the Deputy Director of Department of Women and Child Development of Karnataka to visit and review cases being dealt by the CWCs once in 15 days which could interfere into the functioning of the CWCs.¹⁶⁸

3.5 Review of pending cases of the CWCs

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”.

However, as per the replies submitted by Government of Karnataka to the NCPCR vide letter No. WCD 28 SBB 2006 dated 05.05.2010, review of the cases pending at the Child Welfare Committees have not been taken up.¹⁶⁹

As per the information provided to the ACHR under the RTI Act, a total of 32 cases (involving 15 boys and 17 girls) were pending before the Child Welfare Committee in Shimoga district as of December 2011,¹⁷⁰ seven cases before CWC, Mysore as of December 2011,¹⁷¹ 91 cases before CWC-1, Bangalore Urban as of March 2011¹⁷² and 37 cases before CWC-2, Bangalore Urban as of March 2011.¹⁷³

3.6 Inspection Committees

Section 35 of JJ Act 2000 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.”

The Government of Karnataka informed the NCPCR vide letter No. WCD 28 SBB 2006 dated 05.05.2010 that Inspection Committees have been formed only in 18 districts.¹⁷⁴

In a number of juvenile justice homes, no inspection has taken place during 2009-2011 according to information under the Right to Information Act. During 2009-2011, no inspection took place in the Balakara Bal Mandir, Gulbarga,¹⁷⁵ Children Home for Boys, Chikmagalur,¹⁷⁶ Government Observation Home (Boys), Gulbarga,¹⁷⁷ Government Observation Home, Dharward,¹⁷⁸ the Government Juvenile Home for Boys at Bagalkot and Government Juvenile Home for Girls at Bagalkot.¹⁷⁹

Worst, in the case of the Balamandir for Boys, Belgaum, as of 23 September 2011 no inspection was done since 2007-08. The only inspection which was conducted by the Women and Child Development Department was done in 2006-07.¹⁸⁰

In Government Children Home for Boys, Gadag, during 2009-2011 only three inspections took place respectively on 2 October 2010, 23 October 2010 and 19 August 2011.¹⁸¹

3.7. Special Juvenile Police Units

Section 63 of the JJ Act provides for creation of “Special juvenile police unit” in every district and city “to co-ordinate and to upgrade the police treatment of the juveniles and the children”. Police officers will be “specially instructed and trained” to handle the JCL and CNCP, and in every police station at least one

officer with appropriate training and orientation may be designated as the Juvenile/Child Welfare Officer (JWO/CWO). All such trained police officers will be members of "Special juvenile police unit" created at city and district level.

V. Shiva Kumar, Under Secretary to Government of Karnataka, Women & Child Development Department informed the NCPCR vide letter No. WCD 28 SBB 2006 dated 05.05.2010 that Special Juvenile Police Units (SJPU) have been formed in every district. One or two police officer in every police station is designated as Child Welfare Officer and training is given. There are a total of 815 CWOs in the state.¹⁸²

3.8. Lack of segregation of inmates

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") in its commentary on Rule 13 pertaining to "detention pending trial" states that "The danger to juveniles of "criminal contamination" while in detention pending trial must not be underestimated". It is in this context that United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") provide for separation of the juveniles from the adults. Rule 17 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, goes a step further and, among others, provide that "Untried detainees should be separated from convicted juveniles".

This has been duly reflected in the Juvenile Justice (Care and Protection of Children) Karnataka Rules, 2010 which provide for segregation of the inmates in Observation Homes, Special Homes and Children's Homes on the basis of their ages. Rule 14 provides that:

"(1) The Observation Homes shall have separate residential facilities for juveniles (both boys & girls) in accordance with the degree of offence and age preferably up to 12 years, 12-16 years and 16 years and above."

Rule 15 further provides that "(1) The Special Homes shall have separate residential facilities

for juveniles (both boys & girls) in accordance with the degree of offence and age from 12-16 years and 16-18 years."

Rule 32 also provides,

"32. Childrens Home:-

(1) All children's homes shall be registered as child care institutions under Section 34(3) of the Act (as amended in 2006)

(2) Children of both sexes below ten years may be kept in the same home but separate facilities shall be maintained for boys and girls in the age group of 6-10 years.

(3) Every Home shall have separate facilities for children in the age group of 0-6 years with appropriate facilities for infants.

(4) Children in the age group of 10-18 shall be further segregated into two groups of 10-15 years and 15-18 years and housed in separate unconnected buildings, each with its own administration.
....."

However, these provisions have been blatantly violated in some Juvenile Justice Homes.

At Govt Children Home for Boys, Chitradurga, there were 28 inmates in April 2011, 27 in May 2011, 48 in June 2011, 50 in July 2011, 51 in August 2011 and 50 in September 2011 (upto 22 September).¹⁸³ But the authorities informed ACHR that there was no segregation of the inmates on the basis of age and nature of offence.¹⁸⁴ Similarly in Children's Home for Boys, Mysore, there is no segregation of children on the basis of age.¹⁸⁵

The lack of separation of the inmates on the basis of their age creates problems.

On the late night of 7 February 2012, juveniles set fire to mattresses and destroyed properties in a bid to escape from the State-run Government Observation Home in Madiwala. The trouble began when four inmates, who were above 20 years of age, allegedly attempted to escape.¹⁸⁶ A team from the KSCPCR, who visited the

Observation Home in Madiwala found that the four inmates who started the violence were aged between 20 and 22 years. There were no separate residential facilities for inmates who are no longer juveniles in the Madiwala Observation Home but all were kept together in the same facility. The KSPCR's preliminary inquiry also stated that the root cause of the agitation by inmates was the lack of any correctional services or specialised care for the children.¹⁸⁷

4. Conclusions and recommendations

The fact that as many as 1,089 children below 14 years have reportedly gone missing from 34 Bala Mandirs (Children's Homes) in Karnataka during February 2005 to February 2011 indicates the malaise with the institutions established under the Juvenile Justice (Care and Protection of Children) Act, 2000.

The establishment of the CWCs in most of the districts of Karnataka is commendable but the non-appointment of the sanctioned staffs in the Homes remains a serious concern. Further, by making it mandatory for the CWC Members to take prior permission to undertake a visit, the State government has effectively barred effective monitoring of children's homes in the state.

The establishment of the JJBs in 28 out of 30 districts is welcome but inadequate. The issuance of notification and appointment of members of the JJB does not automatically lead to their functioning. The number of pending cases and inability to review the cases in Bangalore Urban district remains a serious concern.

Most regrettably, the administration of juvenile justice has been reduced to trying the juveniles in conflict with law or ensuring well-being of the children in need of care and protection. The approach remains "welfare". The fact that administration of juvenile justice also is about trying those violating the rights of the juveniles as provided under Sections 23, 24, 25 and 26 of the Juvenile Justice (Care and Protection of Children) Act has been completely ignored.

Section 23 of the Act Juvenile Justice (Care and Protection of Children) Act is clear. It provides

that "Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or willfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both".

Those who illegally detain, handcuff, and chain children or those who abandon, expose or neglect in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering can be tried for violating the Act. Yet, the police, prison officials and those responsible for care and protection of juveniles have seldom been tried or even investigated.

The role of the State Commission for Protection of Child Rights and the National Commission for Protection of Child Rights has been limited to ordering the release of those illegally detained or recommending departmental action.

The National Commission for Protection of Child Rights which has been given the responsibility to monitor the implementation of the JJ (Care and Protection of Children) Act has failed to learn from its counter-parts to deal with violations of the Act in the juvenile institutions.

A. Recommendations to the KSCRPC:

- Undertake surprise visits especially in view of the order of the Karnataka Government banning the visit by the CWCs without prior permission from Head of the Institutions;
- Inquire into violations of the Juvenile Justice (Care and Protection of Children) Act and recommend initiation of criminal proceedings as provided under Section 23 of the JJA;

B. Recommendations to the State Government of Karnataka:

- Revoke the order prohibiting the visit to the juvenile homes by the CWCs without

- prior information from the authorities;
- Fill up all the vacancies relating to staff, teachers, vocational trainers and cooks in all the Homes established under the JJA;
 - Fix criminal responsibility for missing of 1,089 children below 14 years from 34 Bala Mandirs (Children's Homes) in Karnataka during February 2005 to February 2011 and further take appropriate steps to prevent missing and disappearances of children from juvenile homes;
 - Ensure the right to education by appointing teachers and vocational trainer and providing alternative arrangement by admitting the children in nearby schools;
 - Improve the conditions of the juvenile homes in terms of access to food, hygiene and nutrition;
 - Ensure segregation of children and under no circumstances the boys and girls be housed together and in this context alternative arrangement for girls who are being kept at Children Home for Boys, Chikmagalur be addressed immediately.
 - Establish Children's Court for the purpose of providing speedy trial of offences against children or of violation of child rights for each district; and
 - Direct the Home Department to collect information with regard to violations of the JJA.

C. Recommendations to the National Commission for Protection of Child Rights:

The National Commission for Protection of Child Rights should intervene based on this report and direct the State Government of Karnataka to:

- Inform with regard to revoking of the order prohibiting the visit to the juvenile homes by the CWCs without prior information from the authorities;
- Inform the NCPCR about the filling up all the vacancies relating to staff, teachers,

vocational trainers and cooks in all the Homes established under the JJA;

- Submit inquiry commission report pertaining to missing of 1,089 children below 14 years from 34 Bala Mandirs (Children's Homes) in Karnataka during February 2005 to February 2011 and further take appropriate steps to prevent missing and disappearances of children from juvenile homes;
- Direct the State government of Karnataka to submit a report on the implementation of the right to education by appointing teachers and vocational trainers and providing alternative arrangement by admitting the children in nearby schools;
- Improve the conditions of the juvenile homes in terms of access to food, hygiene and nutrition;
- Report on measures being taken to ensure segregation of children and arrangements made for the girls who are being kept at Children Home for Boys, Chikmagalur;
- Establishment of the Children's Court for the purpose of providing speedy trial of offences against children or of violation of child rights for each district; and
- Measures taken by the Home Department of Karnataka to collect information with regard to violations of the JJA.

Endnotes:

1. Rights panel finds boy illegally detained in police station, The Hindu, 21 December 2011
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 13. RTI reply from Observation Home, Dharwad dated 15/10/2011
 14. RTI reply from Observation Home, Takke Bijapur dated 1/10/2011
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C-3/441-C, Janakpuri, New Delhi-110058, India Phone/Fax: +91-11-25620583, 25503624
Email: suhaschakma@achrweb.org; Website: www.achrweb.org