



REPORT OF THE ORIENTATION PROGRAMME FOR THE NON-JUDICIAL MEMBERS OF JUVENILE JUSTICE BOARDS IN ODISHA

Organized by:

Centre for Child Rights, National Law University Odisha

In Partnership and Collaboration with:

Department of Women and Child Development, Government of Odisha

Odisha State Child Protection Society (OSCPS)

United Nations Children's Fund (UNICEF)

1. INTRODUCTION

Centre for Child Rights, the specialized research centre of National Law University Odisha, organized an orientation programme for the non-judicial members of the Juvenile Justice Boards of Odisha State on 31 July and 01 August 2015 under project on Effective Implementation of Children's Laws in Odisha, supported by the United Nations Children's Fund (UNICEF) and in collaboration with the Department of Women and Child Development, Government of Odisha and the State Child Protection Society (OSCPS). The programme was held at the campus of the National Law University Odisha, Cuttack (hereafter referred as NLUO) in two batches with members of the Juvenile Justice Boards of fifteen districts in each day. As many as forty-seven members from 30 JJ Boards participated in the programme. The key objective of the programme was to critically sensitize the members of the JJ Board about juvenile justice law and its interrelationship with other legislations and their roles thereto with a view to develop their functional competencies to discharge their judicial responsibilities effectively and efficiently. This orientation programme for JJ Boards' members is a core constituent of the larger engagement of the Centre for Child Rights (hereafter referred as CCR) to provide integrated support to different layers of institutional governance in local, state and national level for the protection of child rights.

Background of the orientation programme: The juvenile justice policy in India is structured around the provisions contemplated by the Constitution of India for the protection of children as well as several international covenants, such UN Convention on the Rights of the Child (CRC) and the UN Standard Minimum Rules for Administration of Juvenile Justice (Beijing Rules), UN Guidelines for the Prevention of Juvenile Delinquency called the Riyadh Guidelines, and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. The first central legislation on juvenile justice in India was the Juvenile Justice Act, 1986 which has been repealed with the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2000 to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing proper care, protection and treatment by catering to their developmental needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under

this enactment. The Juvenile Justice (Care and Protection of Children) Act, 2000 (as amended in 2006) along with Rules framed by the State Governments provides statutory framework to regulate care, treatment protection, and rehabilitation of Children/ Juvenile in Conflict with Law (JCL) and Children in Need of Care and Protection (CNCP). Juvenile Justice Board is the competent authority to deal with children in conflict with law which comprises of a Principal Magistrate and two other non-judicial members. The competent authority to deal with children in need of care and protection is the Child Welfare Committee which constitutes a Chairperson and four other members. The Act provides for the establishment of various kinds of institutions such as Children's Home for the reception of child in need of care and protection, Special Homes for the reception of child in conflict with law, Observation Homes for the temporary reception of child in conflict with law during the pendency of any inquiry, and After-Care Organization for the purpose of taking care of children after they have been discharged from Children's Home or Special Home. Another area of juvenile justice is rehabilitation and social reintegration of children in children homes and special homes through institutional and non-institutional care including adoption, foster care and sponsorship.

The JJ Act 2000 aims at strengthening accountability of child protection systems to ensure that children are adequately protected by the justice system. It specifically aims at ensuring full application of international norms and standards for all children who come into contact with justice systems as victims, witnesses and alleged offenders; or for other reasons where judicial intervention is needed, for example regarding their care, custody or protection. Justice to children is something different to adult justice; therefore juvenile justice system is grounded on the philosophy of restorative and reformatory justice. The "principles of innocence, principles of dignity and worth, best interests, positive measures, non-waiver of rights, non-stigmatizing semantics, equality and non-discrimination, right to privacy and confidentiality, institutionalization as a measure of last resort, repartition and restoration" are the basic principles for the juvenile justice and they are fundamental to the understanding, interpretation, implementation and application of juvenile justice legislation. Juvenile justice requires that any matters relating to juvenile or children and the procedures to be applied therein such as apprehension, enquires, investigation, bail, disposition etc should be considered from socio, psychological and legal perspectives. It entails the

participation of multi-disciplinary stakeholders to ensure the social reintegration of the juveniles through testing, factor analysis, treatment, application of behavior therapy, social reintegration and so on. In view of the above facts, the Juvenile Justice (Care and Protection of Children) Act, 2000 enshrined with the provisions of the establishments of Juvenile Justice Boards in each district consisting of One Metropolitan/Judicial Magistrate of the First Class as Principal magistrate and two Social Workers drawn from the civil society having experiences of seven years in child welfare activities as members of the Board and forming JJB as a bench of Magistrate. The Board is conferred with the powers of Code of Criminal Procedure, 1973 conferred on a Metropolitan/Judicial Magistrate of the First Class. The combination of legally qualified personnel to sit with non-legal persons in a bench and discharging judicial function is to ensure two important issues viz., to ensure the community that crime committed by juveniles have been properly dealt with under due process of law and at the same time smelling the crime by juveniles as a syndrome of deficiency which have to be addressed carefully to prevent the juveniles to turn as repeat offenders. Therefore legal obligations and social reintegration through treatment process of medical model has to be addressed. In view of the above facts only, the formation of bench has been propped in Section 4 of the Juvenile Justice (Care and Protection of Children) Act, 2000 as the combination of experts and judicially aquatinted person to adjudicate jointly. The idea for constituting three-members Juvenile Justice Board is based upon the principle that the treatment paradigm cannot be performed by a person alone having judicial mind but through a collective mind of judicial officer and non-judicial persons. The JJB has unique combination of legally knowledgeable Magistrate with two social workers to balance the requirement of law and the rehabilitation of juvenile in conflict with law. Hence, the multidisciplinary approach of Judicial Magistrate, Social workers and probation officer forms the integral part of access to justice to children. Further, even among the two social worker member one person shall be a woman is also significant as women are more sympathetic and always look for regulations rather than punishment.

In Odisha, all thirty districts have Juvenile Justice Board. The Board is consisted of three members including the Principal Magistrate. The Chief Judicial Magistrate (CJM) for the district has been designated as the Principal Magistrate for the JJ Board. The Government of Odisha in Women and Child Development Department has taken initiatives to sensitize JJ

Board's members about their roles and responsibilities and various child related legislations by conducting training programmes directly or through State Child Protection Unit (OSCPS) or in partnering with Odisha State Judicial Academy and / or deputing some members to the juvenile justice training programme conducted by National Institute for Public Cooperation and Child Development (NIPCCD). In this process, the members of the JJBs have completed first round of training whereby they have gained basic knowledge about juvenile justice law and their roles and responsibilities. However, training for JJ functionaries is bound to be recurring and continuous affair as the members for the Juvenile Justice Board as well as Child Welfare Committees are appointed for specific tenure and after that JJB and CWC are reconstituted. Further training is the most viable methods to keep the functionaries abreast of new legislation, regulation, administrative guidelines etc to update their knowledge.

In this backdrop, the orientation programme for the JJ Board members was conceptualized by the CCR in consultation with Women and Child Development Department, SCPS and UNICEF. Accordingly course curriculum was designed in keeping into consideration of the following areas for which JJ members have required legal knowledge and professional skills to successfully accomplish their roles and responsibilities towards children, especially juvenile in Conflict with Law.

1. Police shall bring a juvenile in conflict with law before a social worker member also on odd days and timings such as holidays and night hours for being ordered to be kept in Observation Home or a place of safety. In such situations, what are the documents supposed to be furnished by police while making requisition for the detention of the juvenile in conflict with law in observation home or a place of safety.
2. Further, if bail application is moved, the strategies for the bail and the competency of the social worker members to release on bail require some expertise.
3. If a juvenile is complained of any ill treatment or noticed any health hazards, the types of directions to be given to the police and medical authorities are also require expertise.

4. Further, while conducting enquiries, the procedure of recording statements under Section 164 of CrPC and the procedure of recording evidences are also require expertise.
5. Above all while pronouncing disposition order, the roles and responsibilities of the social worker members to write their own views on the enquiry conducted and their concluding parts shall also require expertise.
6. Whereas JJ Act 2000 ensures that the disposition pronounced shall be based on the majority opinion and in such cases no majority prevails, the opinion of the presiding Magistrate shall prevail. Therefore, the two social worker members have some crucial roles in the pronouncement of disposition of enquiry against a juvenile and their contributions shall be the foundation for the effective services and access to justice to juveniles in conflict with law.

Therefore the thrust of the programme was focused upon the principles of access to justice to children and the responsibilities of non-judicial members in the Juvenile Justice Boards.

Objectives of the Programme: The members to the JJ Board, except the presiding officer, are necessarily drawn from social work experience. They are required to discharge judicial responsibilities as equal as of the presiding officers in dealing any matter relating to the Juvenile in Conflict with Law. Therefore the objective of the programme was to strengthen legal knowledge base and functional competencies of the non-judicial members of the Board to empower them to discharge their judicial responsibilities effectively and efficiently as well as in the spirit of the juvenile justice law

Programme Schedule: The programme schedule was developed by the NLUO in consultation with the DWCD, UNICEF and SCPU. Apart from introductory and concluding session, there were two technical sessions at the programme. First technical session was on 'Understanding Justice Mechanism' to provide participants the essential of juvenile justice system and the responsibilities of social worker members in rendering accesses to justice to children, Rights of the juveniles and accountabilities of members, Processing of initial hearing, bail and recording of finding and observations, and Time bound disposition and

legal supports. The second technical session was devoted on 'Enhancing professional competency to perform judicial function' to give insight on the recording of statements, report examination, disposition of inquiry, processing bail applications, writing orders, and appeal and revision.

Time Schedule: The programme was of seven hours duration between 9.30 hrs and 17.30 hrs.

Participants: The programme was exclusively for the non-judicial members of the JJ Boards of Odisha. A total of 47 members of JJ Boards from 30 districts of Odisha had attended the programme. Among the members participated in the orientation programme 26 were females and 21 were males. The members have average experience of 1-2 years at the JJ Board.

Resource Persons: The technical sessions of the programme were carried out by the resource persons from the field of law and justice, legal education and legal profession. Their brief profile is as follows:

Prof. (Dr) Srikrishna Deva Rao is the Vice-Chancellor of National Law University Odisha. He holds a Master's degree in Law from Kakatiya University, Warangal, Master of Philosophy in Law from National Law School, Bangalore and Ph.D. from Delhi University. Prior to joining National Law University Odisha as Vice-Chancellor, Prof. Rao has actively involved with legal education and research in India at four National Law Schools: National Law School of India University, Bangalore (1990-1995 & 1997-98), NALSAR, Hyderabad (1998-2004), Gujarat National Law University, Gandhinagar (2004-2007) and National Law University, Delhi (2010-14) including short stint with Jawaharlal Nehru University (1995-96) and University of Delhi (1996-97). He was a member of the UGC expert committee in Law to transform legal education in India (2010-2012). He was a visiting fellow at School of Oriental & African Studies, SOAS, London (2013) and University of Washington at Seattle (2012), He has engaged with several research projects with UKERI, UNDP, Law Commission of India and Ministry of Law and Justice etc. He was a consultant to the Indian Medical Association (IMA), Swedish Development Cooperation (SDC), Sir Dorabji Tata Trust (SDTT), Child Rights and You (CRY) and Swedish National Science

Foundation (SNSF). His research interests include Criminal law, Human Rights, legal education and Access to Justice.

Shri Shasikanta Mishra is at present the Member Secretary to the Orissa State Legal Services Authority. He has made outstanding contribution to strengthen legal service activities in Odisha to ensure access to justice for the poor and marginalized. He had unique distinction and good reputation of being District Judge just before his incumbency of Member Secretary to Odisha State Legal Services Authority. Before his elevation to District Judge, Shri Mishra has had successful legal practice at the Orissa High Court. He is also master trainer of law. He has specialization in civil, criminal and constitutional law.

Sri Sourya Sundar Das is the Senior Advocate of Orissa High Court. He has enriched experience in dealing many matters in Odisha High Court as well as Supreme Court of India. His Professional specialisation is on Constitutional Law & Civil Law. His advocacy for child rights is unique and un-parallel. He has in-depth study and legal acumen on Juvenile Justice (Care & Protection of Children Act). He has special appreciation among the legal fraternities for pleading and deposition.

Shri. S. Kannayiram, Senior Programme Coordinator, Centre for Child Rights, NLUO had served with the Department of Social defence, Government of Tamil Nadu and instrumental in policy formulation in Juvenile Justice and Human trafficking prevention and intervention programmes. He drafted the Tamil Nadu Juvenile Justice (Care and Protection of Children) Rules, 2001. He took voluntary retirement in 2004 and served as Consultant –Child Protection in Nagapattinam in the Tsunami post reconstruction and rehabilitation programme. He has served as lecturer with the Academy for Prison & Correction Officers (1994-1998). He was also associated with various research projects with the Department of Criminology, University of Madras. The 12th Five year plan strategy document for Tamil Nadu was also drafted and submitted to Government.

Shri Ramakrishna Das is presently working as the Assistant Professor at the NLU Odisha. His area of specialization is in criminal law and he is currently teaching Constitutional Law, Law of Contract, Law of Torts, Criminal Procedure Code, Administrative Law and Environmental Law. Prior to his present engagement, he worked as an Assistant

Professor in Chitst University, Bangalore and Dr.Ambedkar Law College, Tirupati, Andhra Pradesh.

Shri Pramoda Kishore Acharya is presently working as Senior Research Associate at the Centre for Child Rights, NLU Odisha. He completed Post Graduation and M.Phil in Political Science and LL.B degree from Utkal University, Odisha. Prior to his present engagement at NLUO, he had been the Lecture in Political Science for five years against UGC Teachers' Fellowship Vacancy and he also worked for more than 10 years in senior managerial position and as Executive Director in a NGO working in the field of law and advocacy for promoting and protecting human rights. His specialization is on Research, Training, Advocacy and Programme Management.

Methodologies: A combination of lecturing and participatory learning methods was followed up at the technical session of the programme. The tools and methods used all-thorough the programme is as follows:

- Power point presentation
- Group discussion
- Role play
- Question-Answer

2. NEED ASSESSMENT

Training is an all important method and essentially required for knowledge update and skill building. But the training management cycle starts with Training Needs Assessment identify gap between desired capacity to manage the position and current capacity of the person holding the position. With that pursuit, CCR undertook a study to ascertain training needs for the JJ Boards' members with a view to develop need-based training curriculum. The Training Needs Assessment (TNA) was sought to identify present level of knowledge and orientation among the JJ Board Members and to ascertain their further needs, and to decide what training is required to fill the gaps. The assessment tools were designed to collect targeted information that identifies gaps in the previous training, and current needs, as well as emerging issues and trend of the juvenile justice, and challenges faced by the functionaries at their service dispensation.

The TNA was made in a consultative process and in dialogue with key stakeholders including the Department of Women and Child Development, the nodal department to oversee the implementation of juvenile justice law in Odisha. Information for the TNA was generated by CCR through different process and methods that included:

- Opinion survey of JJ members by administering semi-structured questionnaire with close-ended and open-ended questions. The questions were by and large related to the knowledge that they have gained from previous training, self-feeling & experience as Board member, Knowledge /experience gained from previous training, emerging trends in juvenile justice, current training needs, and challenges encountered.
- Desk top study of available reports and proceedings of the previous trainings to identify any expectations of the JJ Members that remain unaddressed or unanswered in the previous training programmes.
- Views emerged from the consultation with Principal Magistrate of JJ Boards.

Analysis of the TNA has been made to understand training needs and thematic priorities for the JJ members. It was unanimously viewed by the members that training would be

highly beneficial for them. It is revealed from the analysis that the following themes are found to be preferred by all.

- JJ Act and its interrelations with other legislations
- How to handle critical issues such juvenile sex offenders, habitual offenders, mentally ill person.
- Technical skills for statement recording, order writing, inquiring child, witness examination, summon writing etc
- Child Psychology and Behavior Management

The themes preferred by many for the course curricula are: (i) Roles and Responsibilities for members, (ii) Counseling skills, (iii) Child mental health care, and (iv) Communication skills. The themes which were least preferred by the members is administrative and finance management skills.

The members have wanted great deal of inputs from the training to gain knowledge on case management, restorative justice, order writing, how to judge needs and aspiration of JCL, rehabilitative disposition, Use of information technology, Inter-linkage between juvenile justice and other legislation, Innovative models of Juvenile Justice, and Best Interest of the Child. Some kind of inputs is needed for the members on certain topical areas such as age determination of JCL, roles and responsibilities for the members, probation services and inter-sectoral convergence.

The course curriculum for the orientation programme was contextualized and designed on the basis of the findings of the TNA. It is pertinent to mention that all the identified needs did not find place in the agenda as it could be improper to address all themes, even though they are equally important, in a day long programme.

3. INTRODUCTORY SESSION

The programme was started with warm welcome by Mr. Ramakrishna Das, Assistant Professor in Law and Faculty Coordinator of CCR followed by introductory address by him to share the objective, session plan and outcomes of the orientation programme. At the threshold he highlighted the outcome of the programme held with the Presiding Officers on 12th April 2015 and put forth the critical inputs and concern made by the Principal Magistrate in regard to function of the Juvenile Boards. Mr. Das in his introductory address reiterated that effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 is a matter of serious concern for the Supreme Court of India and for which a committee headed by Hon'ble Justice Mr. Madan B. Lokur has been constituted to monitor its implementation. He brought the attention of the participants regarding the challenges and solutions for the effective functioning of JJ Boards with reference to the findings of the Regional Round Table Conferences, organized by the Supreme Court Committee on Juvenile Justice in the year 2014. The challenges sum up by Mr. Das are as follows:

- Delay in submission Social Inquiry Report
- Non-submission of Individual Care Plan even at the time of Disposition Order
- Lack of adequate number of Observation Homes
- Absence of Fit Homes for Juveniles in Conflict with Law
- Lack of support staffs at JJBs
- Regular sitting of JJBs is not held
- Absence of data management
- Lack of adequate training for JJB
- Lacking of victim rehabilitation and social reintegration
- Lack of coordination between JJB, Probation Officer, CWC, and District Legal Services Authority
- Poor sensitivity of police to child rights

Following welcome address by Mr. Das, participants introduced themselves by their name and any significance attached to it, and shared their experience as the member of the JJ Board. The participants expressed their state of affairs and told that without any

constructive measures to address their minimum requirements of supports, any amount of orientation would go waste.



Prof. (Dr) Srikrishna Deva Rao, Vice-Chancellor, NLUO in his brief inaugural address told that the social workers who have been nominated to the board as member with equal responsibilities with the Magistrate have to keep in mind that they are the best people to help children coming before the system. Prof. Rao expressed that being the Law University our primary duties is for knowledge building and skill enhancement of the personnel working in the field of law and justice. He told that juvenile justice is something different from criminal justice system where rules of relevancy, admissibility, presumption and burden of provided under evidence law is strictly followed up. The ultimate aim of the juvenile justice is for restoration and rehabilitation of the children in conflict with law. He stated that juvenile justice law envisages equally important role for the non-judicial members to leverage socio-psychological perspective in the disposition order. Prof. Rao urged participants to learn basic legal knowledge and practical skills as required for their roles and responsibilities. He stressed that 'learning by practice' is the most viable medium for clinical legal education which needs to be adopted by the JJ members to bring professionalism in the practice of juvenile justice. He opined that effective implementation of JJ Act is dependent on the collective efforts of all stakeholders to perform their roles and responsibilities with a sense of commitment. To him the orientation programme was an

opportunity not only for exchanging knowledge and experience but to spot out the challenges and develop strategies to address them. Any opinions and recommendations emerged from the deliberation shall be reported and same shall be presented to the Juvenile Justice Committee and to the concerned department for remedial action.

Mr. Pramoda Kishore Acharya, Senior Research Associate, Centre for Child Rights presented the findings of the Training Need Assessment to highlight the agenda for the programme has been designed on the basis of expectations of the JJ members. He told that TNA is the first stage of the Training Management Cycle. It is a method to determine current capacity, and future needs of the person and what training is required to fill the gap. In his presentation, Mr. Acharya succinctly discussed why and how need assessment was made. He also opined that in addition to training, alternative methods can be thought of to assist JJ Board members to learn and update knowledge.



4. TECHNICAL SESSION-1: UNDERSTANDING JUVENILE JUSTICE MECHANISMS

Mr. Sourya Sundar Das, Senior Advocate, Orissa High Court and **Mr. S. Kannayiram**, Senior Programme Coordinator, Centre for Child Rights took up this session jointly. Interactive discussion supported by power-point presentation was the method of deliberation for the session. Mr. Das eloquently expressed that the spirit of the Act should be understood by the members and they have equal right and authority in the process of adjudication matters relating to Juvenile in Conflict with Law. Both the members could be the influential persons in the matters of adjudication as the final disposition shall be made based on the opinion of the majority. He further explained that all the members could take on file and release a juvenile on bail and not necessarily that the juvenile in conflict with law should be produced before the Principal magistrate of the Board. By refereeing Section 5 (2) (3) and (4) and Rule- 11 (10) & (14), Mr. Das told that in case Board is not sitting, the juveniles shall be produced before any single member of the Board, who is empowered to pass all appropriate orders except final disposal. It denotes that single member is empowered to pass any order(s) as full-fledged JJ Board can pass, except final disposal order. In the event that juvenile is produced before single member, he/she shall pass the following order as told by Mr. Das.

- Consider release of juvenile on bail.
- Release the juvenile in the supervision or custody of fit persons/ institutions or probation Officers.
- Transfer the juvenile to the CWC, if the police report states that the juvenile is need of care and protection.
- Detain the juvenile in an Observation Home only in the case of juvenile's involvement in serious offences.



Any such order passed by single member is necessarily to be ratified in the next meeting.

Mr. S. Kannayiram highlighted that the combination of a personnel from Judicial Service as Principal Magistrates and two persons and among them one shall be woman from civil society has the purpose. The Judicial officer in the board has to ensure the accountability and the due process conformity to the legal obligations and the other two members from the civil society have to process the empowerment of juvenile in conflict with law and his or her parents. Empowerment should be followed by designing the appropriate intervention strategies and such strategies should be in the best interest of the juvenile in conflict with law, the victim and the community. He has very specifically pointed out the concept of restorative justice system. Since, the disposition option has not been restricted to one single provision such of disposition, keeping in mind the concept of restorative justice, the combinations of the various options could be explored keeping in mind the best interest of the victim, community and the social reintegration process of juvenile in conflict with law.

5. TECHNICAL SESSION-2: ENHANCING PROFESSIONAL COMPETENCY TO PERFORM JUDICIAL FUNCTION

This session was devoted to help participants to learn practical knowledge about technicalities for statement recording, evidence examination, processing bail application, and order writing etc. Resource person for this session was Mr. Shasikanta Mishra, Member Secretary, and Orissa State Legal Services Authority. This session was delivered



through activity learning method supported by power-point presentation. Following a brief discussion on the roles and responsibilities for the JJ Board's members, the participants were divided into groups of five members each. Mr. Mishra provided three sample FIRs alleging of a serious offence by the juvenile to the groups requiring them to make a brainstorming exercise to decide the kind of order is likely to be pronounced by the JJ Board in the instant case. Each group made their presentation with rationale for granting bail or not followed by the presentation on model order by Mr. Mishra to complement or correct the views elicited from the group presentation. Then groups were asked to list out the documents and evidence need to be produced by the Investigating Agency in the instant cases for the examination by the Board. The exercise helped the participants to explore their skills in entertaining a juvenile in conflict with law is produced before the, what are the issues to be taken into consideration while taking on file, how the bail petitions should be processed and how the enquiries are also be conducted.

According to Mr. Mishra, writing is skill which can be developed to perfection through practice. He told that even though there is thumb rule on how to write a judgement or any judicial order, but there are few basic elements that need to be grasped, internalized and practiced to develop standardised order writing skills. Regarding the final disposition and writing of the disposition order, he has through PPT presentation highlighted the steps that should be kept in mind, the stages of information and findings to be incorporated in the report.

6. PROBLEMS AND CHALLENGES

It was noticeable from the views and concern emerged all though the discussion that the involvement of non-judicial members at the JJ Boards are below par to their potentialities. The reason for the sordid affairs at the JJ Boards could be attributed by certain factors such as lack of shared understanding or ambiguity over power and authority between the Principal Magistrate and other members of the Board, discourtesy to the self esteem of members due to discriminatory sitting arrangement between the principal magistrate and members at the board's proceeding, and non-preferential treatment to the members by the principal magistrate in case management, knowledge gaps among the members regarding judicial procedures, lack or inadequate access of members to court records, and absence accountability of support system like SJPU, police, probation officer etc to the members etc. The problems are provocative and they are, by and large, outcome of the operational deficiency, infrastructure shortfall and lack of proper convergence and coordination among the functionaries. Below is presented list of problems faced and challenges encountered by the members at the juvenile justice system.

- Even though the powers and authority given to the members of the Board by the JJ Act is as equal as of the Principal Magistrate, but the members are shackled with differential treatment in regard to their position, function and authority in the JJ System which diminish their value at the JJ Board. The members have no proper seating arrangements and they have to sit in the available spaces resulting in shabby treatment. Little or no opportunity is provided to the social worker (non-judicial member) to pass any order in the matter of LCL, notwithstanding the provision contained in section 5(2) of the JJ Act, 2000 that a child in conflict with law may be produced before any individual member of the Board, when the Board is not sitting read with clause 3 of section 5 that no order made by the Board shall be invalid by reason only of the absence of any member during any stage of proceedings. However, it is revealed from the views of the members that they are not allowed to release the JCL on bail without the concurrence of the Principal Magistrate. Even in

the absence of Principal Magistrate, the matter relating to bail of juvenile is heard by the Additional Chief Judicial Magistrate but not by the other member of the JJB.

- The members have been treated shabbily by the staff members of the CJMs court in which the Juveniles in Conflict with law have been enquired and the proceedings are conducted in the court hall. The Court staff or the person who has been appointed for the specific purpose of handling the case profiles of juveniles used to show upper hands and do not listening to them. The members are not accessible to the case files in the absence of the Principal Magistrate. The purpose of forming a bench has been defeated and they could not contribute towards the social reintegration process.
- The members have also highlighted that the Act has specified that the Principal Magistrate shall be a Magistrate of First Class and the progress of disposition by the board has to be reviewed. But, in Odisha, against the provisions of the Act, the Chief Judicial magistrate has been designated as Presiding officers of JJB and discharging the duties and functions of a lower level judicial Officer.
- Inadequacy in space and logistic facilities for proper seating of the members is a major issue causing inconvenience for the members to function properly. There is hardly separate record room or court clerk available to maintain case records relating to JJ Boards.
- Number of Observation Homes available in Odisha at present is not adequate as to the requirement. Location of observation at three places i.e Angul, Berhampur, and Rourkela is far away for a group of districts, so transportation from the Home to JJB takes long hours. Having such infrastructural deficiencies at the respective district or nearing region, JJBs are left with no option but to release JCL on bail as housing them at the Observation Homes is a difficult possibility.
- There is lack of sensitivity among police officials about child rights and legal provisions governing children in conflict with law. There is a huge gap in knowledge and awareness amongst investigating authorities including police and SJPU as enumerated under rule-3 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 which lays down that these principles are fundamental to the application, interpretation, and implementation of the Act and authorities or

agencies that are involved in the implementation of the Act shall abide and be guided by the principles.

- There is a knowledge gap among the members of the board about rehabilitation and reintegration package available for JCL. No data base is available at the end of the JJ Board regarding the institutions facilitating reform, rehabilitation and reintegration of juveniles. Further, lack of adequate counselling services for juveniles and their families, de-addiction centre exclusively for children, assessment of special needs of juveniles, follow up monitoring of juvenile released on bail or disposition are the major issues to pose hindrances for proper mainstreaming of JCL.
- Lack of convergence and coordination among the institutions of juvenile justice system is another area of concern. JJBs are not sufficiently coordinated with CWCs and other child protection system such as District Child Protection Unit, Special Juvenile Police Unit, and Homes etc.

In course of problems identification, the participants have also put forth different suggestions for improved function of Juvenile Justice Boards. They are as follows:

- There is need for complete separation of JJ Board from the court system. JJ Board has to be invariably placed outside the court premises. A judicial magistrate, essentially from the rank of Judicial Magistrate First Class, shall be designated as principal magistrate to bring accountability in the system as it will make JJ Boards amenable for review and monitoring by the Chief Judicial Magistrate.
- The Legal Cum Probation Officer (LPOs) appointed at the District Child Protection Unit (DCPU) under ICPS shall be positioned to work exclusively for the JJ Board to provide administrative assistance in addition to the Probationary Officers appointed under the Probation Offenders Act. It is pertinent to mention here that as provided by ICPS the State Government can appoint one full Legal cum Probation Officer to the Board. The Probation Officer appointed under the Probation of Offenders Act may also function as Legal cum Probation Officer.
- Funds allocated for JJB from ICPS have remained unutilized or under-utilized. The allocated funds should be optimally used by the state government to provide adequate infrastructure facilities including separate chamber for the Board members, and resource centre for smooth functioning of JJBs.

- The ICPS has also provisions for the establishment of Observation Homes in each district and the same has also not been taken seriously by the Department of Women and Child Development resulting in lots of hardships to children. Observation Homes and Special Homes should be established in every district, with facilities to accommodate boys and girls. Place of safety should be set up in every district for easy accessibility for juveniles to JJBs.
- All the functionaries of the JJ institution and allied system including DCPU, SJPU, DLSA, Child Line, Public Prosecutors and Child Care Institutions should be adequately trained up and shall have proper sensitization on child rights, juvenile in conflict with law and related legislations ensuring justice for children.
- There should be joint orientation programme for the presiding officers and members of JJ Board to sort out the operational issues, and to develop working modalities for effective functioning of JJB with equal participation of members in all stages of judicial proceedings for JCL.
- A stringent monitoring system should be practiced to review the pendency of the cases. There would be video conferencing by the High Court with District Court to review the performance of JJ Boards in the presence of all members of JJ Boards. High Court is required to issue operational guidelines for JJB in the form of a Bench Book to bring uniformity in the functioning of the JJ Boards.
- Absence of officials from Women and Child Development Department of Odisha Government was strongly felt by the members. The participants have urged for the participation of senior officials of the government in future programmes to directly take stock of issues before the Board so that proper administrative strategies to be culled out to address the continuing and emerging challenges faced by the members in the discharge of their judicial accountability in the matter related to JCL.

7. FEEDBACKS AND VALEDICTION

The session began with the summary presentation of the proceedings of the day long discussion to recall and reinforce the learning among the participants. They were told that training is vital to equip participants with knowledge and skills and to encourage them to build and enhance their capacities, but the lesson learned from the training can only be reinforced through its application in practice. It was told to the participants that power can be generated by any person through knowledge acquisition and sheer commitment to the roles and responsibilities as entrusted to him. Therefore, it is necessary for members to equip them with definite knowledge and skills as required for their position so that their participation at the JJ Board would be enhanced. With that brief concluding remarks from the chair, the participants were allowed to offer their critical feedbacks on the orientation programme that included feedbacks on the methodologies and the resource persons.

Feedbacks by the Participants

- Sessions were logically arranged to meet the needs of the participants.
- Resource persons were informative.
- The session on 'Evolving Professional Competency' was practice oriented.
- Sessions were interactive and activity based.
- The atmosphere of the venue was learning friendly.
- Programme could have been for at least two days.
- Space was provided to participants to share their experience and expectations.



Certificate was offered by the NLUO to the participants for their successful completion of orientation programme. In the end, Mr. Pramoda Kishore Acharya offered Vote of Thanks to all who have participated and made contribution for the success of the programme. The programme was wind up with a photo session for group photograph.

Annexure**LIST OF PARTICIPANTS (JJB MEMBERS)**

1. Monoj Kumar Mohapatra, Angul
2. Gadadhar Das, Balasore
3. Subhashree Lenka, Balasore
4. S. Latashree, Bolangir
5. Dillip Kumar Bhoi, Baragarh
6. Mamata Meher, Baragarh
7. Nikunja Ballav Mohapatra, Bhadrak
8. Sangeeta Giri, Bhadrak
9. Sakhi Gopal Pradhan, Boudh
10. Mandakini Jema, Cuttack
11. Srikanta Mohanty, Cuttack,
12. Anupama Rout, Deogarh
13. Manasi Mohapatra, Dhenkanal
14. Pratap Kumar Acharya, Dhenkanal
15. Harish Chandra Nayak, Gajapati
16. Bharati Padhy, Ganjam
17. Abani Sankar Parida, Ganjam
18. Mamata Das, Jagatsinghpur
19. Jyotirmayee Dei, Jagatsinghpur
20. Minakshi Pradhan, Jajpur
21. Hrusikesh Panda, Jajpur
22. Gitanjali Moharana, Jharsuguda
23. Swarnalata Mohanty, Kalahandi
24. Mamata Das, Kandhamal
25. Monoj Kumar Jena, Kandhamal
26. Bipin Bihari Barik, Kendrapada
27. Smitanjali Mohapatra, Kendrapada
28. Dusmanta Jena, Keonjhar
29. Kalpana Rout, Keonjhar
30. Namrata Chadha, Khurda
31. Anuradha Mohanty, Khurda
32. Sasmitarani Sahoo, Koraput
33. Suravi Mohapatra, Koraput
34. Bhaswati Barik, Mayurbhanj
35. Kaberi Mishra, Mayurbhanj
36. Abani Kumar Tripathy, Nawarangpur
37. Damayanti Das, Nawarangpur
38. Swadesh Mishra, Nayagarh
39. Ashok Kumar Joshi, Nuapada
40. Jayashree Mohapatra, Puri
41. Bijoy Kumar Parida, Puri
42. Jayashree Padhy, Rayagada
43. Raj Kishore Sahoo, Rayagada
44. Prasanta Kumar Padhi, Sambalpur
45. Pushhparani Mohapatra, Sambalpur
46. Barun Kumar Mohanty, Subranapur
47. Rama Chandra Behera, Sundergarh