

**Juvenile Justice in Karnataka: A Case for Systemic Change**  
**The Concerned for Working Children**  
**June 25, 2012**

**In Summary**

The State has completely failed to implement the provisions of the Juvenile Justice Act (Care and Protection of Children), 2000 and Karnataka's Juvenile Justice (Care and Protection of Children) Karnataka Rules, 2010.

There are also blatant violations of the UN Convention on the Rights of the Child, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) in Karnataka.

The JJ Act classifies children into two categories – **children in conflict with law** and **children in need of care and protection**. The Government of India has devised the Juvenile Justice Board (JJB), to handle cases of children in conflict with the law while Children 'in need of care and protection,' are presented before their respective Child Welfare Committees (CWC), who are the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection. The rights of children placed in both categories are violated on several counts without any recourse to grievance redressal mechanisms or remedies. These children have no structures or procedures for their concerns to be voiced and heard.

Further the JJA does not include any provisions for children in need of care and protection to exercise their Right to Legal Aid and Representation, a violation of the Principle of Natural Justice and the UN Convention on the Rights of the Child (Article 3 and 12)

There is already a large body of evidence in the form of research studies and investigations that have been carried out in India and in Karnataka, that include good practices, rules, orders and codes of conducts. Our submission is based on this information and own detailed investigations of the status of the JJA system, mechanisms and structures.

**Prayers:**

**We humbly request the honourable High Court of Karnataka to**

- 1. Direct the Secretary and the Director of the Department of Women and Child Development (DWCD) and the Commissioner of Police, Karnataka to present an Action Taken Report in thirty days, in response to the Suo Moto case of the Honourable Court and the Prayers of all the impleading parties as the duty bearers of the Nodal Department responsible for the Implementation of JJA and the Special Juvenile Police Units (SJPU).**
- 2. Set up a State Level and 30 District Level High Court Committees that shall monitor both micro and macro issues relating to the implementation of the Juvenile Justice Act in Karnataka, as per the resolutions of the Chief Justice's Conference in 2006, and on the lines of the High Court Committees set up in Delhi (2009) and Mumbai (2010). We recommend that these committees should include elected representatives of the local**

governments, representatives of the appropriate Government officials, Non Government Agencies involved in providing Juvenile Justice to Children as well as the children themselves, in keeping with the Right to Be Heard enshrined in the UNCRC, Article 12.

3. **Direct the Department of Women and Child Development (DWCD) to set up the Children's Committees, Management Committees and the Inspection Committees mandated under the Karnataka Rules with immediate effect, in line with the processes outlined in the Karnataka State Rules.**
  - a. **Direct the DWCD to ensure that the Children's Committees and the Management Committees are monitored by the Inspection Committees as specified in the Rules, to ensure that they are executing their functions meaningfully and appropriately.**
  - b. **Direct the DWCD to develop procedures for selection and removal of members of the Management Committees which are not yet laid out.** (This is to ensure the Management Committees' competence and accountability on one hand and on the other to ensure they are not unduly tampered with by the authorities.)
  - c. **Direct the DWCD to develop appropriate directions for the Inspection Committees on their roles and responsibilities and to ensure that the inspection procedures are child rights friendly, in keeping with the UNCRC's General Comments on JJA (Annexure 1)**
  - d. **Direct the DWCD to empower and build the capacities of the Grama Panchayats, Municipal Wards, Taluk and Zilla Panchayats to monitor the implementation of the Juvenile Justice in their respective areas of jurisdiction.**
4. **Constitute a Special Committee to immediately dispose of all cases pending before the JJBs and CWCs in Karnataka in a thorough manner.** (As of 10 February 2012, there were about 2,500 cases pending under the JJ Act. In Bangalore Urban district, the situation was alarming, with 1567 cases pending as of December 2011 (*Same as Annexure 4 of our submission*). These high numbers are unacceptable and need to be resolved immediately.
5. **Direct the Chief Judicial Magistrate/Chief Metropolitan Magistrate to review the pendency of cases of the JJB and the CWC every six months, and direct them to increase the frequency of their sittings or constitute additional Boards or CWCs.**
6. **Appoint a Magistrate dedicated to the JJB to ensure that the JJB sessions are held on 5 days a week considering the case load before it.** (The provision in the JJ Act is for the enquiry to be completed within four months which is most often violated)
7. **Direct the DWCD to improve the conditions of the juvenile homes in line with the UN CRC General Comments on JJA (Annexure 1) in terms of the following and to submit a compliance report to the Honorable High Court along with a report on the budgetary allocations made for each home.**
  - **Provisions of basic facilities such as nutritious food, hygienic living conditions**
  - **Provisions such as appropriate education, vocational training, counselling and medical facilities etc;**
  - **Appointment and training of legally mandated staff and teachers;**

8. **Direct the Karnataka Legal Aid Cell to ensure the realisation of Children's Right to Legal Aid and Representation in CWC as well as JJB proceedings by setting up a Legal Panel for Children.** (Under the principles of natural justice, every child is guaranteed the right to be heard and should have access to representation in the Juvenile Justice system. There are no provisions for the children's right to be heard in the CWC proceedings, and the existing provisions for the JJB proceedings are not implemented.)

There is an urgent need to introduce the system of a 'Children's Representative' for children in CWC hearings and to enforce the legal aid procedures for children in JJB hearings. As this Right of Children is not presently elaborated in the JJA State rules, we have made detailed submission in this regard as **Annexure 2)**

9. **Direct the DWCD to find alternatives to incarceration,<sup>1</sup> for children who come under the purview of the JJ Act**
  - a. **Direct the DWCD to place children in need of care and protection in foster cares, adoptions and fit person institutions rather than in Government homes**
  - b. **Direct the DWCD to place children in conflict with law with fit person institutions rather than in Government Homes**
  - c. **Direct the DWCD to provide long term rehabilitation for children who have served their sentences in fit person institutions**
10. **Bring the selection of members of the JJBs and the CWCs and their monitoring and review under the judiciary to ensure accountability.** (In the current Juvenile Justice system the JJBs and CWCs are an offshoot of the State through the respective State Departments under whom the implementation of the JJ Act falls. In Karnataka, the entire JJ system is under the Department of Women and Child Development. The State sets the system in place, and it is answerable only to the State itself, which is a conflict of interest.)
11. **Direct the DWCD to ensure that the CWCs, JJBs, Management Committees and the Inspection Committees follow 'child friendly' and 'child rights friendly' procedures as elaborated in the United National General Comments on Juvenile Justice (Annexure 1) and to report to the Honourable High Court on Action taken.**

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<sup>1</sup>‘Law enforcement and other relevant personnel, of both sexes, should ... use, to the maximum extent possible, programmes and referral possibilities for the diversion of young persons from the justice system.’<sup>1</sup>

JDL Rules, *supra* note 92, R. 17. “Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures.”