

**Guiding Framework
for
Juvenile Justice
Committees
of
High Courts**



Table of Contents

1. Genesis of Juvenile Justice Committees of the High Courts	3
2. Purpose of the Framework	3
3. General Principles of the Juvenile Justice Act, 2015	3
4. The Guiding Framework for the Juvenile Justice Committees of High Courts	4
4.1 Role of HC-JJC in Monitoring and Evaluation	5
4.2 Role of HC-JJC in Coordination, Co-operation & Coherence	6
4.3 Roles and Responsibilities of the Secretariat of the HC-JJCs	7
 Annexure 1 - Monitoring Indicators	 8
 Annexure 2 - List of District Level Institutions and Authorities relevant for implementation of JJ Act, 2015	 10

1. Genesis of Juvenile Justice Committees of the High Courts

The genesis of the Juvenile Justice Committees of the Supreme Court and the High Courts can be traced to the resolutions passed by the Chief Justices' Conference from 2006 to 2016. The Resolutions of 2006, 2009, 2013, 2015, and 2016 in varying degrees, urged Chief Justices of all High Courts to nominate a High Court Judge to oversee the conditions and functioning of the institutions created under the (erstwhile) Juvenile Justice (Care and Protection of Children) Act of 2000, under the broad mandate of overseeing the juvenile justice system. The 2013 Chief Justices' Conference specifically resolved that the Juvenile Justice Committee, as had been set up in the Delhi High Court, under the JJ Act of 2000, be set up in all High Courts to monitor the implementation of the provisions of the Act in their true spirit.

The Supreme Court Committee on Juvenile Justice (SCC-JJ) was subsequently set up in August 2013 to ensure the effective implementation of the (erstwhile) JJ Act of 2000. In one of the review meetings by the SCC-JJ with the State level Juvenile Justice Committees of the High Courts (HC-JJC) in 2014, it emerged that there was a need to develop strategies for effective implementation of the JJ Act across the country.

2. Purpose of the Framework

Juvenile Justice Committees have been set up in the High Courts and are conducting their work under the mandate of the JJ Act (erstwhile 2000 and the new law of 2015). Currently, there is no guiding framework for the functioning of the JJC's of the different High Courts, and each one functions according to their distinct understanding of their role in the implementation of the JJ Act. Whilst, flexible interpretation of the roles and responsibilities of the JJC's has its advantages, one of the drawbacks could be a perception of limitation regarding their true mandate.

3. General Principles of the Juvenile Justice Act, 2015

The United Nations Convention on the Rights of the Child (UNCRC) is the most important legal instrument in relation to juvenile justice, and is the bedrock of the juvenile justice law in India. The CRC prescribes binding standards for India, in securing the 'best interest of the child', by virtue of India having acceded to the Convention in 1992.

The Preamble of JJ Act, 2015 highlights the objectives of a 'child-friendly' approach and 'best interest of the child' principle in their care, protection, development, treatment, and social re-integration. The Principles underlined in the JJ Act, 2015 for guiding the juvenile justice system are as follows–

- Principle of presumption of innocence
- Principle of dignity and worth
- Principle of participation
- Principle of best interest
- Principle of family responsibility

- Principle of safety
- Positive measures
- Principle of non-stigmatizing semantics
- Principle of non-waiver of rights
- Principle of equality and non-discrimination
- Principle of right to privacy and confidentiality
- Principle of institutionalization as a measure of last resort
- Principle of repatriation and restoration
- Principle of fresh start
- Principle of diversion
- Principles of natural justice

The High Court Juvenile Justice Committees will be guided essentially by the core objectives and Principles from the JJ Act, 2015 in fulfilling their roles and mandates with respect to rights of children.

4. The Guiding Framework for the Juvenile Justice Committees of High Courts

This Framework document is intended to be a mechanism to enhance the clarity of roles and responsibilities through a collaborative process involving the HC-JJCs, government institutions, and non-government organizations. The Framework is also to ensure compliance with the legislative vision as well as the legal obligations that arise from the Constitution and the UN Convention on the Rights of the Child ratified by India. *This Framework is neither prescriptive, nor self-limiting, and HC-JJCs could embellish and augment it further at their own discretion.* The Framework is basically an expansive guideline, laying down on the one hand, fundamental responsibilities within the legalities of the juvenile justice law, and on the other, the possibilities of interventions and solutions driven approaches to strengthen the juvenile justice systems within the States.

It is pertinent to recount the Supreme Court Judgments in *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu vs. Union of India and Ors.* (05.05.2017) and *Sampurna Behura vs. Union of India and Ors* (09.02.2018). In the 2017 judgment, the Court had stated - 'While the Juvenile Justice Committee in each High Court is performing its role in ensuring the implementation of the JJ Act and Model Rules, there is no doubt that each Committee will require a small Secretariat by way of assistance. We request each Juvenile Justice Committee to seriously consider establishing a **Secretariat** for its assistance and we direct each State Government and Union Territory to render assistance to the Juvenile Justice Committee of each High Court and to cooperate and collaborate with the Juvenile Justice Committee in this regard'.

In the 2018 judgment, the Court directed *inter alia*, for filling up of all vacancies in all child rights institutions and bodies; to make creative use of information and communication technology not only for the purpose of collecting data and information but also for other issues connected with the JJ Act; the Chief Justice of every High Court to register proceedings on its own motion for the effective implementation of the JJ Act, 2015, so that road-blocks if any, encountered by statutory authorities and the Juvenile Justice Committee of the High Court are meaningfully addressed; and request the Chief

Justice of each High Court to seriously consider establishing child friendly courts and vulnerable witness courts in each district.

HC-JJCs are advised to expedite the setting-up of these Secretariats for assisting them in the fulfillment of their mandate towards a stronger and strengthened juvenile justice system. The Secretariats of the HC-JJCs, should be staffed with judicial and/ or administrative officers of the High Court. Support and assistance of any external agency (such as, UNICEF, National Law Schools, any other NGO, etc.), may be taken on the basis of specific requirements and on project basis.

4.1 Role of HC-JJC in Monitoring and Evaluation

1. The JJC is to be a policy making body with supervisory and monitoring functions; whilst the Secretariat that will be set-up for the HC-JJC, will assist in fulfilling all responsibilities of the JJC.
2. Setting up of Juvenile Justice System in the State – to monitor if all the below mentioned institutions/ authorities/ units have been set-up under the JJ Act and the guiding JJ Rules: -
 - Inspection Committee (s) and Monitoring Authorities for Institutions
 - Child Welfare Committees (CWC) for a district or a group of districts
 - Juvenile Justice Boards (JJB) for a district or a group of districts
 - State Child Protection Society
 - District Child Protection Units
 - Special Juvenile Police Units in every district
 - Child Welfare Police Officer
 - Designated juvenile police officers in every police station
 - Juvenile Justice Fund
 - Registration of Child Care Institutions (CCIs) under the JJ Act.
3. Seek and evaluate a quarterly report from Department of Women and Child on the existing status of the setting-up of the institutions/ authorities/ units as per the JJ Act, 2015 and the guiding JJ Rules. The monitoring indicators for evaluating the above, are provided in Annexure 1.
4. Impress upon the Department of the Women and Child Development to upgrade the mechanism of supervision of CCIs, through effective use of technology, wherever possible enabling effective supervision, in a non-intrusive manner.
5. Seek and evaluate a quarterly report from the District Judges on the pendency and disposal of cases under The Juvenile Justice (Care and Protection of Children) Act, 2015; The Protection of Children from Sexual Offences Act (POCSO Act), 2012; The Immoral Traffic (Prevention) Act (ITPA), 1956; trafficking cases under Sec. 370 and 370A of Indian Penal Code; The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; and The Prohibition of Child Marriage Act, 2006.
6. Monitor quarterly reports from Court Appointed State Level Monitoring Committees (where ever appointed) with such Committees at district levels to

- give regular reports on the functioning of the institutions under the JJ Act, 2015.
7. Seek assistance from District Legal Services Authority on the disbursement of victim compensation funds to child victims (such as, under any Scheme/ Fund awarding compensation; or the Nirbhaya Fund; or Sec. 357A of Cr. PC.; or the Central Scheme for Rehabilitation of Bonded Labour, 2016; and others).
 8. Require Department of Women and Child to annually submit reports of Social Audits of the Integrated Child Protection Scheme (ICPS) and Integrated Child Development Services (ICDS) for purposes of monitoring its implementation.
 9. Require Department of Women and Child to submit biannual reports for the first two years and subsequently annual reports, on the steps taken by the state government to ensure “universalization with equality”¹, wherein all ICDS services (supplementary nutrition, growth monitoring, nutrition and health education, immunization, referral and pre-school education) must be extended to every child under the age of six.
 10. Prepare an Annual Report on the functioning of the JJ system.
 11. Where the High Court has more than one bench, the Chief Justice of the High Court may constitute a Sub-Committee in other Benches. The main HC-JJC will however, remain overall responsible for implementing the Framework as laid out herein.
 12. Organize preferably in coordination with National/ State Legal Services Authority or State Commissions for Protection of Child Rights, sensitization and training programmes and periodic refresher courses for police officials, prosecutors, judicial officers, members of CWCs and JJBs, Probation Officers, and other child rights institutions and authorities.

4.2 Role of HC-JJC in Coordination, Co-operation & Coherence

1. Hold regular review meetings, preferably once a month, with the concerned departments, functionaries, NGOs, and others for monitoring the implementation of the JJ Act, 2015 and to resolve systemic, operational and attitudinal challenges that hinder linkages between the juvenile justice functionaries and other government agencies. A list of the relevant stakeholders is placed at Annexure 2.
2. Seek compliance reports from concerned departments and others on the orders passed by the JJC.
3. Endeavour to improve convergence between the criminal justice system, child friendly courts and vulnerable witness courts vis-à-vis child protection system towards ‘child-centred’ approach during the child’s interface with the criminal justice system and towards a more effective rehabilitation and reintegration.
4. The Department of Women and Child may where ever possible, involve Corporate Social Responsibility components of the business sector and Public Sector Units, towards infrastructure development, entrepreneurship

¹ SC orders (2001, 2004, 2009, 2011) in PUCL v/s Union of India and others (Writ Petition [Civil] No. 196 of 2001)

and skill building of adolescents, for providing quality care and services within CCIs, and for other relevant purposes. Since the JJC monitors the CCIs, the Department could be advised towards this activity, as and when required.

5. Encourage the Department of Women and Child and CCIs, towards providing skill development programmes for economic empowerment and reintegration of children after their release from CCIs.
6. Direct the Secretariat of the HC-JJC to organize conferences for getting all stakeholders to deliberate on urgent issues pertaining to child development and child protection within the State.

4.3 Roles and Responsibilities of the Secretariat of the HC-JJCs

1. The Secretariats of the HC-JJCs, should be staffed with judicial and/ or administrative officers of the High Court working on a full time basis. Support and assistance of any external agency should be taken on the basis of specific requirements only.
2. The role and responsibilities of the Secretariat would be to primarily assist and support the HC-JJC in fulfilling its responsibilities.
3. Provide all relevant information to the HC-JJC on all issues pertaining to children, and to essentially fill in the information gaps which may otherwise not reach the notice of the HC-JJC due to the geographical remoteness of the incident.
4. Issue communication on behalf of the HC-JJC, to the concerned department/ official, calling for submission of Status/ Monitoring Reports before the date of HC-JJC meeting; intimate time and venue for the meeting; and ensuring presence of concerned officials.
5. Listing of the identified area/ issues on the Agenda of HC-JJC and fixing a date for the meeting, along with relevant supporting documents/ reports/ Action Taken Report, and others.
6. Drafting Agenda, preparation of minutes, and coordination and follow up with concerned departments/ officials of HC-JJC meetings.
7. Organize conferences, seminar, consultations on the directions of the HC-JJC, by identifying the theme, and relevant participants.
8. Building and maintaining necessary information resources, which may be relevant for HC-JJC (copies of bare Acts, judgments of Supreme Court and all High Courts on matters related to JJ Act, 2015, research reports, news clippings, and others).
9. Any other additional duties and responsibilities as may be entrusted by the HC-JJC.

Annexure 1 - Monitoring Indicators

Monitoring Indicators for Child in Need of Care and Protection (CNCP) (an indicative list)

A. Human Resources

1. Process of selection and qualification of CWC Members
2. Training and capacity building of CWC members
3. Is the Chairperson appointed for the CWC?
4. Are the total members in the CWC 4?
5. Is there at least 1 woman out of the 4 members in the CWC?
6. Was the induction training and sensitization of newly recruited members conducted?
7. Provision of Social/ welfare workers, counselors, legal aid lawyers and other support staff
8. Creation of required posts and recruitments
9. Honorarium/ Salaries/ Other incidental expenses

B. Infrastructure

1. Location and infrastructure for the CWC members (proper place to sit, computers, storage for records, etc.)
2. Infrastructure for children in the CWC such as waiting room, drinking water, toilets, etc.
3. Provision of mental health assessment and support
4. Suggestion/ Complaint Box for children/ families

C. Functioning of the CWC

1. Frequency of sittings and attendance
2. Preparing orders and maintaining data
3. Disposal and Pendency
4. Individual care plans for each child
5. Total no. of rehabilitation cards issued
6. Non-institutional care e.g. Adoption, Foster Care and Sponsorship
7. Follow-up
8. After care
9. Performance Appraisals and Complaints against CWC members
10. Has the District Magistrate conducted a quarterly review of the CWCs?

Although difficult to monitor, it is important to be able to assess the way the members deal with children and their families to see how sensitive they are in their interactions. This information can be collected from NGOs, Child Line workers and others who produce children before the CWC.

Monitoring Indicators for Child in Conflict with Law (CICL) (an indicative list)

A. Human Resources

1. Selection and appointment of Magistrate and Social Workers for the Board
2. Total number of members in the JJB
3. Frequency of sittings
4. Training of JJB members
5. Availability of probation officers and other support staff
6. Provision and availability of legal aid and counseling
7. Availability and training of Juvenile Police Officers
8. Creation of required posts and recruitments
9. Honorarium/ Salaries/ Other incidental expenses

B. Infrastructure

1. Location and infrastructure for the JJB members (proper place to sit, computers, storage for records, etc.)
2. Infrastructure for children in the JJB such as waiting room (kharja), drinking water, toilets, etc.
3. Infrastructure for transportation of children (JCL/CICL) from observation homes/ special homes by police to the JJB in case the observation homes are at a distance from the JJB
4. Provision of mental health assessment and support
5. Suggestion/ Complaint Box for children/ families

C. Functioning of the JJB

1. Total number of cases attended
2. Preparing orders and maintaining data
3. Nature of Dispositional orders
4. Total number of cases pending
5. Individual care plans
6. Number of rehabilitation cards issued
7. Review and follow-up
8. Performance Appraisals and Complaints against JJB members

Although difficult to monitor, it is important to be able to assess the way the members deal with children and their families to see how sensitive they are in their interactions. This information can be collected from children or NGOs who may be assisting such children.

Annexure 2 - List of District Level Institutions and Authorities relevant for implementation of JJ Act, 2015

1. Child Welfare Committee
2. Juvenile Justice Board
3. Children's Court
4. Court of Sessions
5. District Child Protection Unit
6. District Level Inspection Committee
7. Deputy Superintendent rank officer, who is head of Special Juvenile Police Unit
8. District Superintendent of Police
9. Chief Judicial Magistrate/ Chief Metropolitan Magistrate
10. District Magistrate
11. District Judge
12. District Child Protection Officer
13. Chief Medical Officer
14. Child Line of the District
15. Chief Probation Officer of District or Probation Officer of District
16. District Legal Services Authority
17. District Head of Prosecution Department
18. Superintendent of District Jail
19. Superintendents of various Child Care Institutions in a District
20. Specialized Adoption Agency of District
21. District Court (Family Court) having jurisdiction on adoption matters
22. District Heads of Railway Police (RPF & GRP)
23. Two Social Workers appointed in District Level Special Juvenile Police Unit
24. All Child Care Institutions at the district level
25. Department of Labour
26. Department of Education
27. District Coordinator under the Ministry of Skill Development and Entrepreneurship