

# Introduction to Children's Rights and Protection Laws

Module  
1





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## Abbreviations

CARA	Central Adoption Resource Agency
CCI	Child Care Institution
CCL	Child in Conflict with Law
CIF	Childline India Foundation
CJM	Chief Judicial Magistrate
CMM	Chief Metropolitan Magistrate
CNCP	Child in Need of Care and Protection
CPS	Child Protection Services
CPSU	Central Project Support Unit
CSO	Civil Society Organisation
CWC	Child Welfare Committee
DCPC	District Child Protection Committee
DCPU	District Child Protection Unit
DM	District Magistrate
GoI	Government of India
ICPS	Integrated Child Protection Scheme
NGO	Non-Governmental Organisation
PFMS	Public Financial Management System
JJA	Juvenile Justice Act
JJB	Juvenile Justice Board
MIS	Management Information System
MWCD	Ministry of Woman & Child Development
NCPCR	National Commission for Protection of Child Rights
NIPCCD	National Institute of Public Cooperation and Child Development
POCSO	Protection of Children from Sexual Offences Act
RTE	Right to Education Act
SAA	Specialised Adoption Agency
SAAC	State Adoption Advisory Committee
SARA	State Adoption Resource Agency
SCPC	State Child Protection Committee
SCPCR	State Commissions for Protection of Child Rights
SCPS	State Child Protection Society
SJPU	Special Juvenile Police Units
SOPs	Standard Operating Procedures
SPSU	State Project Support Unit
UNCRC	United Nations Convention for the Rights of the Child



## Introduction to Children's Rights and Protection Laws.....

### Introduction to the module

This module is an introduction to the concept and issues of child rights and child protection. It discusses the legislative provisions and child protection structures that are in place to ensure safety and protection of children in India.



The module deals with understanding who is a child, the concepts of child rights and why do children need protection. When we are talking about a child, let's understand who is a 'child'.

The United Nations Convention for the Rights of the Child (UNCRC) (Article 1) defines a 'child' as a person below the age of 18 years.

The Juvenile Justice (care and protection of children) Act, 2015 [Section 2 (12)], prescribes that a 'child' means a person who has not completed 18 years of age.



### Module Objectives

By the end of the module, participants will be able to describe:

- ◆ Child rights and why do children need separate rights
- ◆ What is child protection and who are the children in need of protection
- ◆ Who is responsible for the protection of children
- ◆ Non-negotiable entitlements that every child should have
- ◆ Legal measures and systems for protection of children in India
- ◆ Delivery structures of child protection scheme

# Concepts of Child Rights and Need for Separate Child Rights



Time  
60 Minutes



## Step 1



### Objectives

At the end of the session, the participants will be able to describe:

- ◆ What are child rights?
- ◆ The approach of the child rights
- ◆ Why do children need separate rights?



### Process

**Step A:** Ask the participants that having known what is the meaning of the word 'child', it is also important to know what is meant by the term 'rights'.

Listen to their responses and discuss on the basis of the following points:

- ◆ 'Right' is a claim, which places obligations over others to respect, to protect or to fulfill.
- ◆ What we claim for ourselves, others also have a right to claim for themselves and everyone has corresponding obligations.
- ◆ Respecting a right means an obligation not to do anything that can result in the violation, deprivation or curtailment of someone's human rights.

**Step B:** Ask the participants what they understand by 'child rights'. Listen to their responses. Invite them to carry out the below activity.



**Note for the facilitator:** The activity will take about 30 minutes. The facilitator may want to carry it out or skip it based on time available. If required, the facilitator can also ask participants to describe what all a child needs to live, grow and thrive. Categorise these under the four pillars as per UNCRC. Also when participants describe and during the points brought out by them, if any one of these four pillars is not clearly brought out or not mentioned, that can be discussed further by the facilitator.



## Step 2: Activity: Understanding Child Rights through the Wants, Needs and Rights exercise



### Aim:

To make participants aware of the differences between rights, wants and needs.



### Materials required:

Wants and Needs Card sheets (4-6 sets) (see Annexure 1), flipchart, marker pens.



### Method:

Divide all the participants into four groups and ask them to assume that they have become children again. Give them half a minute to get into the role.

Give each group a set of card sheets with various wants and needs. These sheets contain 20 wants and needs. In addition, there are four blank boxes. Ask the groups to add four more wants and needs that they think they desire as children. Once all the groups have done this, tell them that the country is going through economic crisis and therefore they have to curtail their list from 24 to 16. Give them five minutes to bring the number down to 16 as they would need to discuss amongst group members and decide. Ask them to write them on a sheet of paper. Tell them that this list of 16 has to have the consensus of all group members.

Now tell them that the country is experiencing civil war and therefore they need to further reduce their list to 12 so that the government can make several cuts in expenses. Give them three more minutes for this task.

Next, ask the participants to further reduce their list to eight as the country is dealing with economic crisis and civil war as well as floods resulting in an emergency situation.

Ask groups to explain to the larger group as to how they came up with the consensus to shorten the list. Ask all the groups to display their list of eight items. Highlight the common ones from all the groups.

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**Explanation:** Help the participants understand that what they eliminated in the first round were things which were least important. In the second round, they may have eliminated some important things but perhaps some of them were not as important for all the children in the country. Finally, what they got was the list of the most important wants and needs, by and large common to all the children, which they felt were non-negotiable even in an emergency situation.

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Conclude as follows:



### Step 3

**Step C:** Now ask the groups if the eight most important and non-negotiable wants and needs (rather rights) can be clubbed together under four main groups on the basis of the purpose they meet, e.g. nutritious food, healthcare and decent shelter are necessary for survival. Similarly, playground and education are necessary for development. Help the participants categorise the eight rights under the following heads:

**Survival**

**Development**

**Protection**

**Participation**



Such categorisation will explain that sometimes it is difficult to club a particular right under any one category as it may fulfill more than one purpose. For example, decent shelter may be clubbed under survival as well as protection, because homeless children are very vulnerable to exploitation and abuse; inadequate housing not only exposes children to disease but also to exploitation and abuse.

### Definition of Child Rights

- ◆ UNCRC defines child rights as the minimum entitlements and freedoms that should be afforded to every citizen below the age of 18 regardless of race, national origin, colour, gender, language, religion, opinions, origin, wealth, birth status or ability and therefore apply to all people everywhere.
- ◆ These rights encompass freedom of children and their civil rights, family environment, necessary healthcare and welfare, education, leisure and cultural activities and special protection measures.

All children have these rights and they are all equally important, as well as connected to each other.

## Types of Child Rights

The UNCRC classifies children's rights into four broad categories that suitably cover all civil, political, social, economic and cultural rights of every child:

- ◆ **Right to survival/life:** Include the child's right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services.



- ◆ **Right to development:** Every child has the right to development that lets the child explore her/his full potential. It includes the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion.

- ◆ **Right to protection:** Children have the right to be protected from being hurt and mistreated, physically or mentally. It ensures children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.



- ◆ **Right to participation:** Encompasses children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully according to their age and maturity. This means that children have the right to participate in the activities of their society, in preparation for a responsible adulthood.

Brainstorm with the participants on why the children need separate rights. Encourage them to share their views and summarise them as below.



## Step 4: Why do children need separate rights?

Children as an agency need separate rights which may be different from the needs of adults because:

- ♦ **Children are vulnerable** and they are the least powerful section of society, economically, politically as well as physically.
- ♦ **Gender and caste based discrimination** make the girl children all the more vulnerable when they are not given proper food, not educated, married early and denied many other social rights as compared to boys of the same categories.
- ♦ **Children cannot carry their voice** to policy makers and legislators as they cannot vote and therefore make it even more incumbent on adults to carry their voice.
- ♦ **Children are often abused in different societies** and this includes beating at home and at school, trafficking, kidnapping, drug pushing, forced prostitution, being forced to beg and sexual violence.
- ♦ **Children are often not regarded as full human beings.** Girl children are often discriminated with less education, less nutritious diet, less healthcare than the male child. They are also subject to more social taboos and restrictions, which makes them more susceptible to rights violations.
- ♦ **Children need special protection** as they are vulnerable to child labour, early marriage, sexual abuse, being deprived of family care, being in conflict situations or natural disasters. In all cases, children tend to bear the brunt and therefore, special measures are needed to safeguard their rights.
- ♦ **Children do not get to participate:** Children's views and feelings about matters that affect them are seldom given serious consideration.



### Note for the facilitator:

If time permits, carry out the activity given at the end of the session, otherwise continue as below. Refer to the balloon activity (20 minutes) in Annexure 2.

## Child Rights: Principles and Shift in Approach



### Objectives:

At the end of the session, participants will be able to describe:

- ◆ Recognitions made by UNCRC
- ◆ Principles of child rights
- ◆ Violations of the right to protection
- ◆ Shift in approach from need based to rights based

The UNCRC recognised the human rights of children and defined children as persons up to the age of 18 years. The convention establishes that state parties must ensure that all children, without discrimination in any form:

- ◆ Benefit from special protection measures and assistance
- ◆ Have access to services such as education and healthcare
- ◆ Can develop their personalities, abilities and talents to the fullest potential
- ◆ Grow up in an environment of love, happiness and understanding
- ◆ Are informed about and participate in achieving their rights in an accessible manner.



**Step 1:** Discuss with the participants on what are the possible principles of child rights. Encourage them to participate enthusiastically and summarise as below.

### UNCRC Principles of child rights and human rights

#### Non-negotiable entitlements

Universality and non-discrimination

Indivisibility

Survival and development

Participation and best interest of the child










**Step 2:** Discuss with participants that the approach to child rights has shifted from 'needs based' to 'rights based'. Show the participants the table as below.

Shift from Needs based to	Rights based approach
<ul style="list-style-type: none"><li>◆ Welfare</li><li>◆ Some have to be left out</li><li>◆ Institutional and residential care</li><li>◆ Custodial care in institutions</li><li>◆ Segregation and isolation</li><li>◆ Beneficiary and recipient</li><li>◆ Clear obligation</li><li>◆ Active participation</li><li>◆ Focus is on the specific immediate situation</li><li>◆ Certain groups have expertise to meet children's needs</li></ul>	<ul style="list-style-type: none"><li>◆ Development and empowerment</li><li>◆ All have same rights</li><li>◆ Non-institutional and family based alternatives</li><li>◆ Holistic development through quality child care institutions</li><li>◆ Inclusion and mainstreaming</li><li>◆ Participant and partner (his/her own development and decisions)</li><li>◆ No one has definite obligations</li><li>◆ Analysis of root cause</li><li>◆ All adults can play a role in achieving children's rights</li></ul>

**Step 2 Part A:** Ask the participants to share their opinion on how child rights are violated. Listen to their responses and divide them into further groups. Each group can discuss and present in a chart 'what mechanisms exist to prevent and respond to the respective issues'.

### Violations of the right to protection

-  Child sexual abuse
-  Child labour, bonded, on the street
-  Orphaned, abandoned
-  Child marriage - cycle of deprivation
-  Corporal punishment, violence
-  Trafficking, child beggary
-  Children/Families affected by HIV/AIDS, disasters



### Objectives:

At the end of the session, the participants will be able to describe:

- ◆ What is child protection?
- ◆ Who are the children in need of protection?



**Step 1:** Ask the participants what they understand by child protection. Listen to their responses and discuss as below.

UNICEF uses the term ‘child protection’ to refer to preventing and responding to violence, exploitation and abuse against children – including commercial sexual exploitation, trafficking, child labour and harmful traditional practices such as female genital mutilation/cutting and child marriage.

UNICEF’s child protection programmes also target children who are uniquely vulnerable to these abuses, such as: when living without parental care, in conflict with law and in armed conflict.

Violations of the child’s right to protection take place in every country and are massive, under-recognised and under-reported barriers to child survival and development, in addition to being human rights violations. Children subjected to violence, exploitation, abuse and neglect are at risk of death, poor physical and mental health, HIV/AIDS infection, educational problems, displacement, homelessness, vagrancy and poor parenting skills later in life.

Explain that the definition is a holistic approach to child protection and consists of four major points. Write the definition up on a flipchart and underline the points or you can read the definition and go back and point out on your fingers the four major points as listed below:

- 1. Identifying risks for children. What are the things that are often missed for reducing risks**
- 2. Making children’s rights a reality by responding to and preventing their violation**
- 3. Restoring hope and a dignified living**
- 4. Creating an enabling environment**



**Step 2:** Ask the participants who are the children in need of protection.

Listen to their responses and add points which got missed from their end. Also explain in the discussion why certain responses by the participants cannot be included in this list if they do not fall under the broader category of child protection.



**Note for the facilitator:** If time permits, read out the case studies below and ask the participants whether the children in the case studies need protection.

### Caselets for group work and discussion

**Caselet 1.** Narayan and Naina live in a village with their nine year old son Rajesh who is differently abled. The couple thinks that their son should not go out and play with other children as he may get hurt. Their neighbours think that Rajesh should not play with their children as he may bring bad luck to them. Does Rajesh need help?

**Caselet 2.** Suresh and Sapna are both HIV positive. They have a daughter named Roshni. She is seven years old and goes to school. Children at the school have starting mocking at her and teachers also make her sit on the last bench. Does Roshni need protection?

**Caselet 3.** Nandlal and Sunita live in a small village that has a primary school. Their daughter Pooja has completed class five. But the middle school is 3 kms away in another village. Her parents do not want to send her there and want her to discontinue studies. Pooja's father is now considering sending her to the nearby town with a family member who works there and has assured to find a good home for working there. However, Pooja's mother thinks it is not safe for her daughter as she has reached puberty and asks her husband to consider having her married.



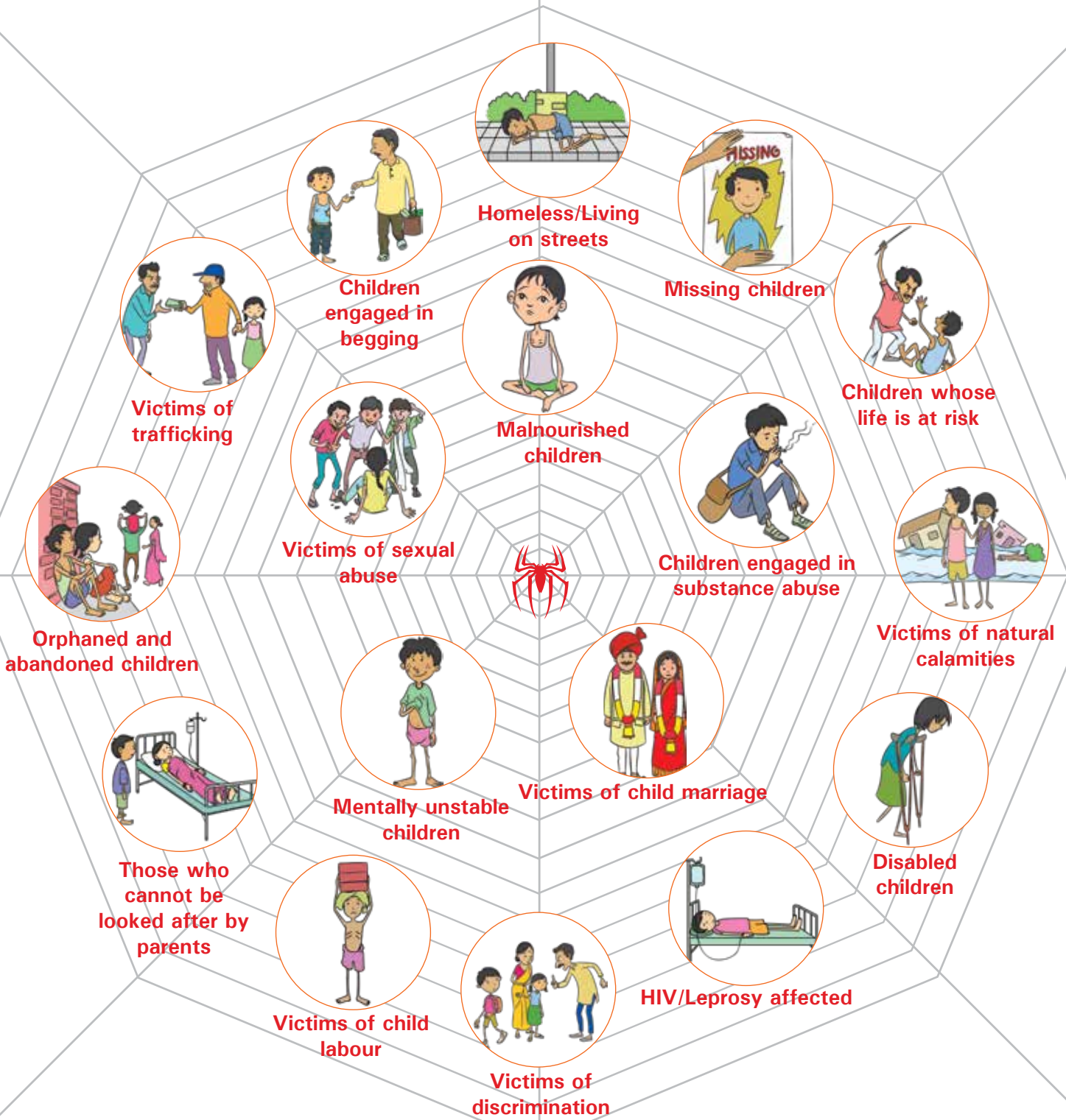
**Note for the facilitator:** The facilitator should guide the participants for possibility of looking at the provisions of the Act and understand how a child in need of care and protection is defined.

The JJ Act and the Integrated Child Protection Scheme (ICPS) consider the following two categories of children as vulnerable and in need of protection. (Facilitator can use the given link to show video on *CCL and CNCP description*): <http://haqrcr.org/our-work/training/>)

- ◆ **“Child in conflict with law” (CCL)** (Section 13) - A child who is alleged or found to have committed an offence and who has not completed 18 years of age on the date of commission of such offence
- ◆ **“Child in need of care and protection” (CNCP)** (Section 14) – A child
  - (i) who is found without any home or any ostensible means of subsistence;
  - (ii) who is found working in contravention of labour laws, is found begging, or living on the street;
  - (iii) who resides with a person (whether a guardian of the child or not) and such a person has injured, exploited, abused or neglected the child, has threatened to kill or has killed the child;
  - (iv) who is mentally ill or mentally or physically challenged;
  - (v) who has unfit or incapacitated parent or guardian;
  - (vi) who does not have parents or a caregiver;
  - (vii) who is missing or run away child;
  - (viii) who has been or is being or is likely to be sexually abused, tortured or exploited;
  - (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking;
  - (x) who is being or is likely to be abused for unconscionable gains;
  - (xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; and
  - (xii) who is at imminent risk of marriage before attaining the age of marriage.



# Children in need of care and protection (CNCP)







## Objectives:

At the end of the session, the participants will be able to describe what are the fundamental rights and directive principles of protecting child rights in the Constitution of India.

## Section 3.1: International Convention

- ◆ The UNCRC that came into force on 2 September, 1990 is a comprehensive international child rights law. It incorporates the full range of human rights – civil, cultural, economic, political and social rights. These rights are spelt out in 54 articles.
- ◆ India ratified the UNCRC on 11 December, 1992, agreeing in principle to all articles and committed to protecting and ensuring children’s rights enshrined in it, except with certain reservations on issues relating to child labour.



**Step 1:** Discuss with participants about various fundamental rights and directive principles to protect children as per the Constitution of India.

The Constitution of India lays down its commitment to protect children in the fundamental rights and directive principles. It enjoins upon the state to ensure that these rights are protected.

### Fundamental Rights related to children

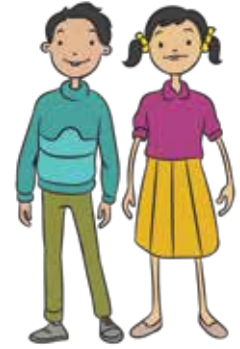
- ◆ Article 15 (3) – State should make special provisions for children
- ◆ Article 21 A – Provides for free and compulsory education to all children of the age 6-14 years
- ◆ Article 23 – Prohibits trafficking of human beings including children
- ◆ Article 24 – Directs that no child below 14 years of age can engage in hazardous occupation

### Directive Principles related to children

- ◆ Article 39 (e) & (f) require that the state policies are directed towards securing the tender age of children
- ◆ Article 45 requires provision of early childhood care and education to all children below six years
- ◆ Article 51 A states that it is the fundamental duty of parents/guardians to provide opportunities of education to their child or ward aged 6-14 years

## Other National Policies

**The National Charter for Children, 2003** adopted on 9 February, 2004 underlined the intent to secure for every child the inherent right to be a child and enjoy a healthy and happy childhood; to address the root causes that negate the healthy growth and development of children; and to awaken the conscience of the community in the wider societal context to protect children from all forms of abuse, while strengthening the family, society and the nation.



**The National Policy for Children, 2013** was adopted by the Government of India (GoI) on 26 April, 2013. It adopts a rights-based approach to address the continuing and emerging challenges in the situation of children. It adheres to the constitutional mandate and guiding principles of UNCRC and identifies rights of children under four key priority areas, namely, Survival, Health and Nutrition, Education and Development, Protection and Participation.



**The National Plan of Action for Children, 2016** provides a roadmap that links the policy objectives to actionable strategies under the four key priority areas of Survival, Health and Nutrition, Education and Development, Protection and Participation. It aims at establishing effective coordination and convergence among all stakeholders, including Ministries and Departments of GoI and civil society organisations, to address key issues pertaining to rights of children.

## Section 3.2: Child Protection Laws in India



### Objectives

At the end of the session, participants will be able to describe what is:

- ◆ The Juvenile Justice (Care and Protection of Children) Act, 2015
- ◆ Other child protection laws and their features



**Step 1:** Ask the participants to share what they know about the JJ Act, 2015. Discuss when it came into being and when it was amended. Appreciate the participants giving correct answers and add the left out information from the following:

### The Juvenile Justice (Care and Protection of Children) Act, 2015

#### Introduction

The Juvenile Justice Act, 2000 was in operation for more than a decade. Though it was amended twice in 2006 and 2011, many issues arose, constraining its effective implementation. The Juvenile Justice (Care and Protection of Children) Bill, 2015 was passed by the Parliament on 22 December, 2015. The Act came into force from 15 January, 2016.

## Objectives of JJ Act, 2015

- ◆ To achieve the objectives of UNCRC, Beijing Rules and other related international instruments.
- ◆ To provide proper care, protection, development, treatment, social reintegration of CCL and CNCP.
- ◆ To specify procedural safeguards for children in conflict with law.
- ◆ To address challenges in the existing act.

## Highlights of JJ Act, 2015

- ◆ Number of chapters increased from five to 10.
- ◆ New chapters relate to general principles of care and protection of children, Juvenile Justice Board (JJB), Child Welfare Committee (CWC), adoption, other offences against children.
- ◆ Number of sections increased from 70 to 112.
- ◆ Greater clarity in the definition of CCI and Children's Court.
- ◆ Act has been divided into two major parts - CCL and CNCP.

## Key Elements of 2015 Act:

- ◆ Change in nomenclature from Juvenile to Child across the Act.
- ◆ Categorisation of offences as petty, serious and heinous.
- ◆ Timelines for inquiry by the Juvenile Justice Board (JJB).
- ◆ Special provisions for children above the age of 16 years alleged to have committed a heinous offence.
- ◆ Mandatory registration of all child care institutions and stringent penalty in case of non-compliance.
- ◆ Separate new chapter on adoption to streamline adoption procedures for orphans, abandoned and surrendered children.
- ◆ Mandatory reporting and penalty in case of non-reporting of child who appears or claims to be abandoned, lost, orphaned or without family support.
- ◆ Several new offences against children included which are so far not adequately covered under any other law such as sale and procurement of children for any purpose including illegal adoption.
- ◆ Corporal punishment in institutions.
- ◆ Use of child by militants and other adult groups.
- ◆ Offences against disabled children.
- ◆ Kidnapping and abduction.
- ◆ Using a child for vending, peddling, carrying, supplying or smuggling intoxicating liquor, narcotic drugs or psychotropic substance.



## Step 2: Key Elements of 2015 Act related to Children in Conflict with Law

- ◆ Juvenile in conflict with law has been replaced with “child in conflict with law”.
- ◆ No child can be sentenced to death or life imprisonment.
- ◆ Offences have been categorised as:
  - Petty offences
  - Serious offences
  - Heinous offences



- ◆ Children in the age group of 16-18 years may be tried as ‘adults’ in cases of heinous offences after preliminary assessment by JJB.
- ◆ A preliminary assessment to be conducted by the JJB within a period of three months to assess the capacity of such child to commit and understand the consequence of the alleged offence.
- ◆ In case the Board is satisfied that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973.
- ◆ When the Board after preliminary assessment comes to the conclusion that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children’s Court having jurisdiction to try such offences.
- ◆ Based on the preliminary assessment report from the Probation Officer, the Board shall take a decision whether to commute the inquiry to the Children’s Court or continue to deal with it.
- ◆ After preliminary assessment by the Board, the court will decide whether the child is to be tried as adult as per the provisions of the Code of Criminal Procedure, 1973 and pass appropriate orders or conduct inquiry as a Board and pass appropriate orders in accordance with the provisions of section 18 of the JJ Act.
- ◆ The Children’s Court shall ensure that the final order, with regard to CCL, shall include an individual care plan for the rehabilitation of the child.
- ◆ The Children’s Court shall ensure that the child who is found to be in conflict with law is sent to a place of safety till he attains the age of 21 years and thereafter, the person shall be transferred to a jail.



### Step 3: JJ Act, 2015: General principles<sup>1</sup> for care and protection of children

The JJ Act lays down the following general principles for the administration of its provisions:

- (i) **Presumption of innocence:** A child shall be presumed innocent of criminal intent up to 18 years.
- (ii) **Principle of dignity and worth:** All human beings shall be treated with equal dignity and rights.
- (iii) **Principle of participation:** Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest.
- (iv) **Principle of best interest:** All decisions shall have the primary consideration that they are in the best interest of the child.
- (v) **Principle of family responsibility:** The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents.
- (vi) **Principle of safety:** All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system.
- (vii) **Positive measures:** All resources are to be mobilised including those of family and community, for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.
- (viii) **Principle of non-stigmatising semantics:** Adversarial or accusatory words are not to be used in the process pertaining to a child.
- (ix) **Non-waiver of rights:** No waiver of any of the rights of the child is permissible or valid.
- (x) **Equality and non-discrimination:** No discrimination against a child on any grounds.
- (xi) **Right to privacy and confidentiality:** Every child shall have a right to protection of his privacy and confidentiality throughout the judicial process.
- (xii) **Institutionalisation as a measure of last resort:** A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.
- (xiii) **Repatriation and restoration:** Every child in the juvenile justice system shall have the right to be re-united with his family unless such restoration and repatriation is not in his best interest.
- (xiv) **Fresh start:** All past records of any child under the Juvenile Justice system should be erased except in special circumstances.
- (xv) **Diversion:** Measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.
- (xvi) **Natural justice:** Basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review.

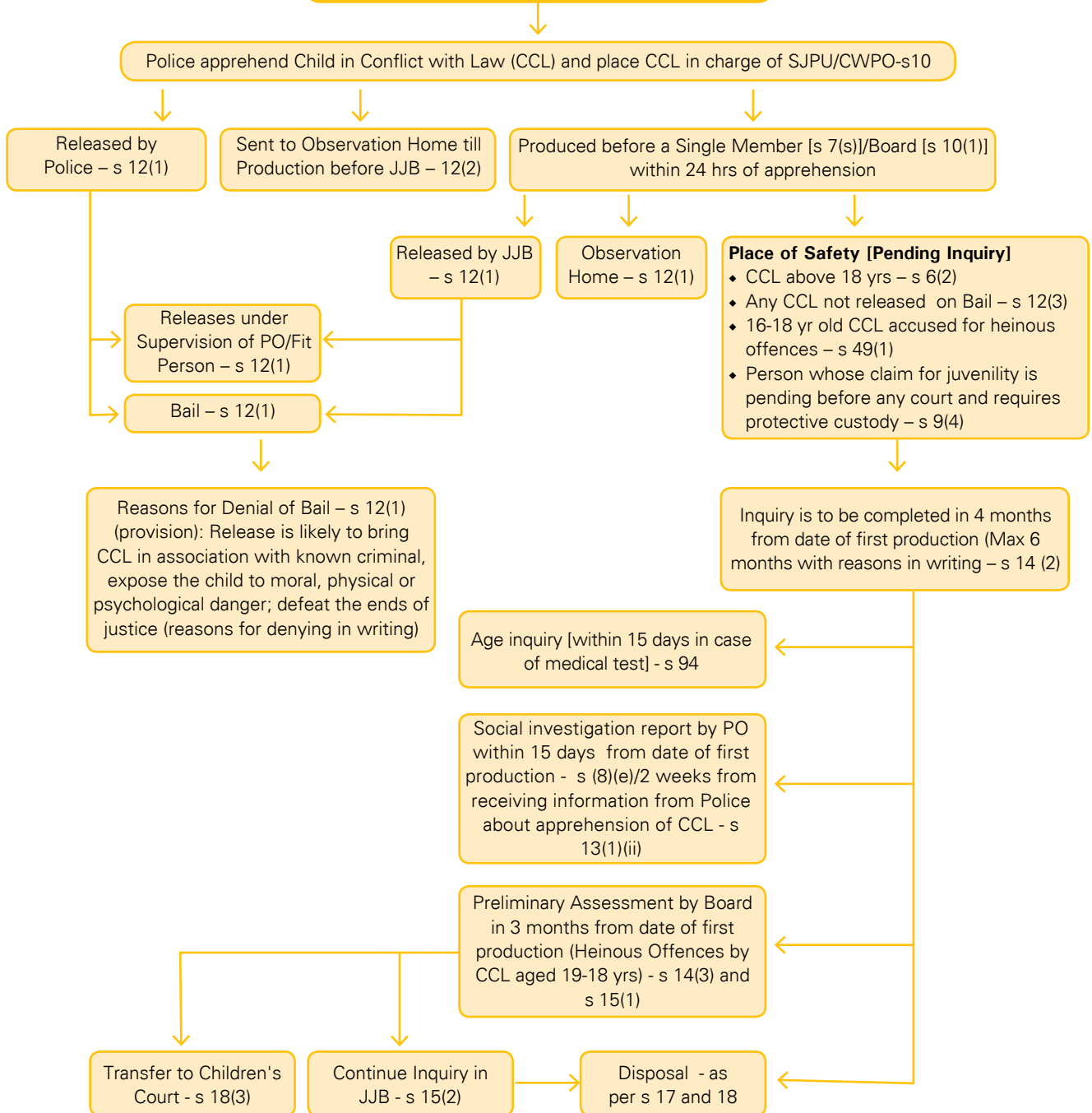


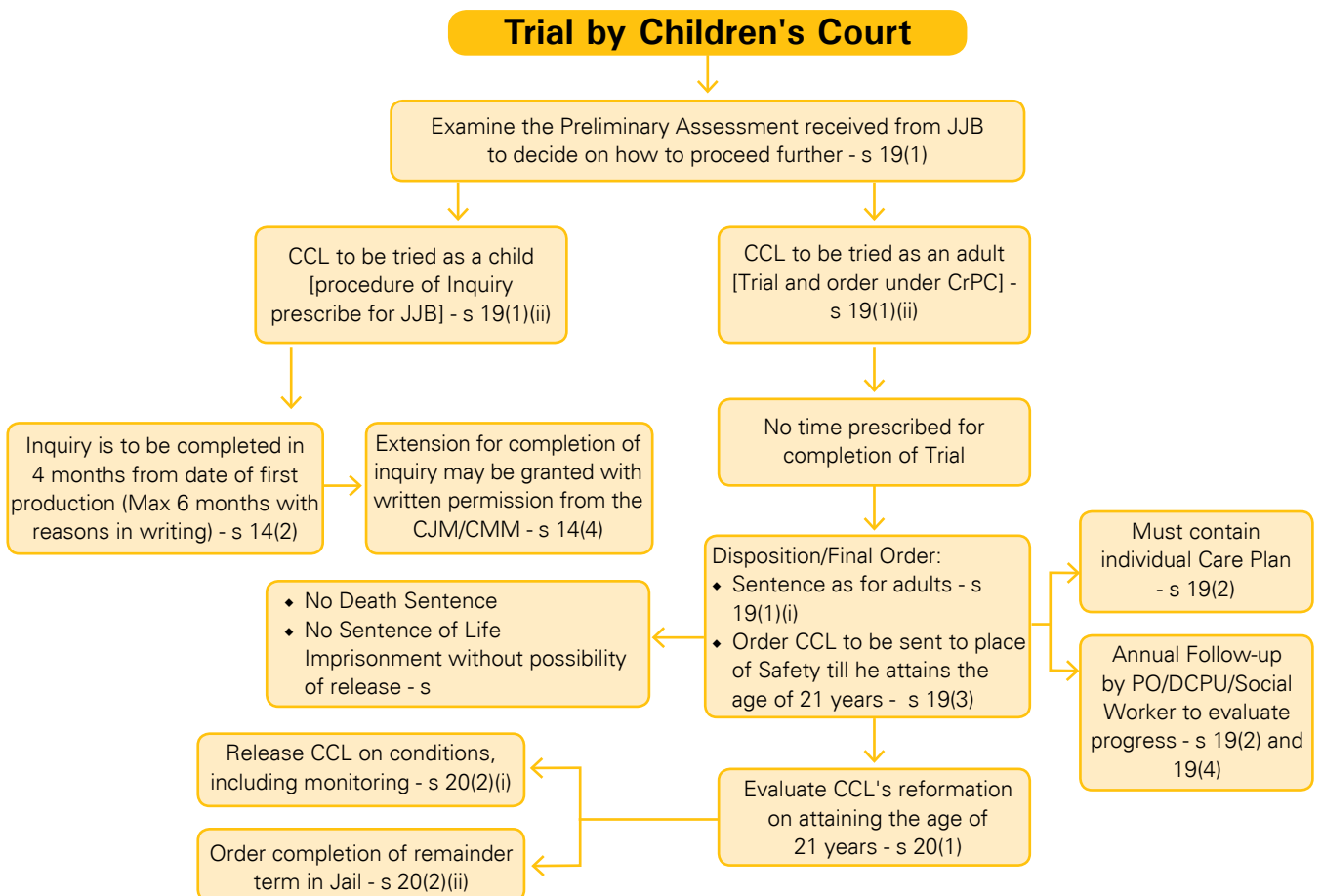
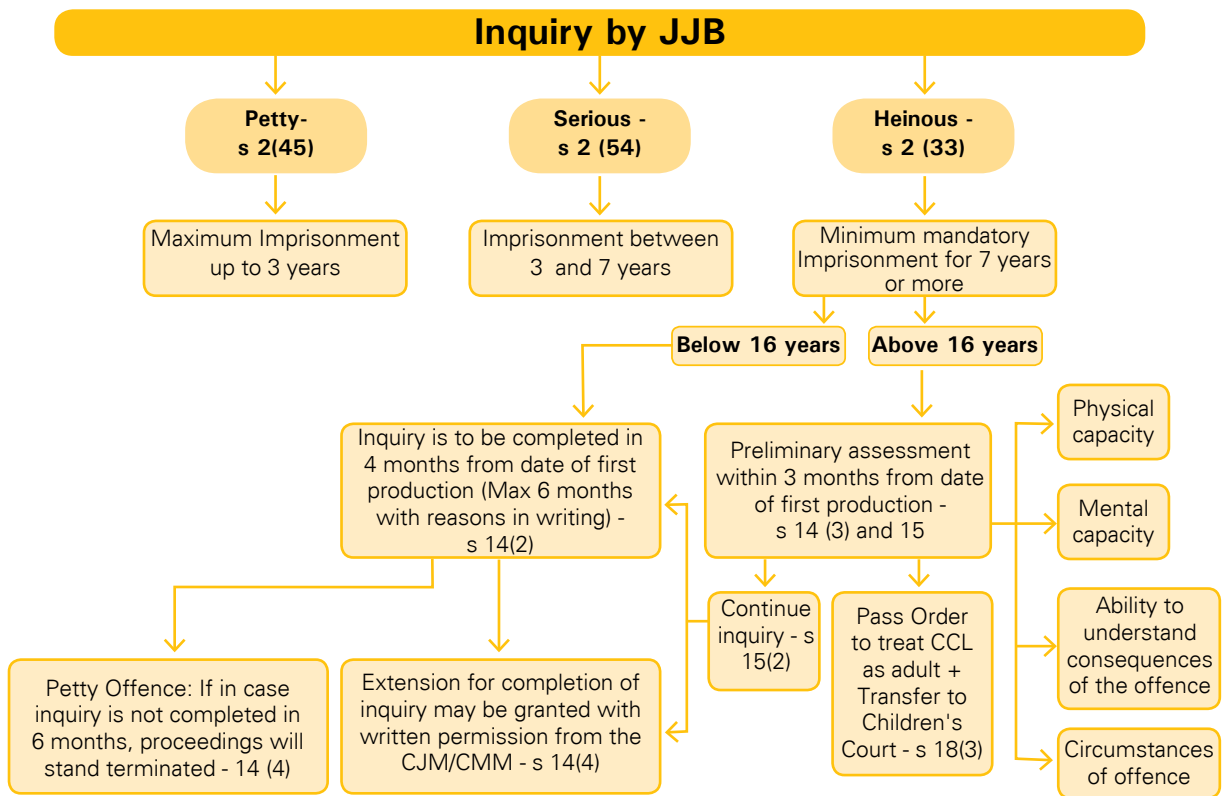
<sup>2</sup> [http://legislative.gov.in/sites/default/files/A2016-2\\_0.pdf](http://legislative.gov.in/sites/default/files/A2016-2_0.pdf)



## Step 4: Flow Chart on Child in Conflict with Law - CCL

### Offence committed by a child



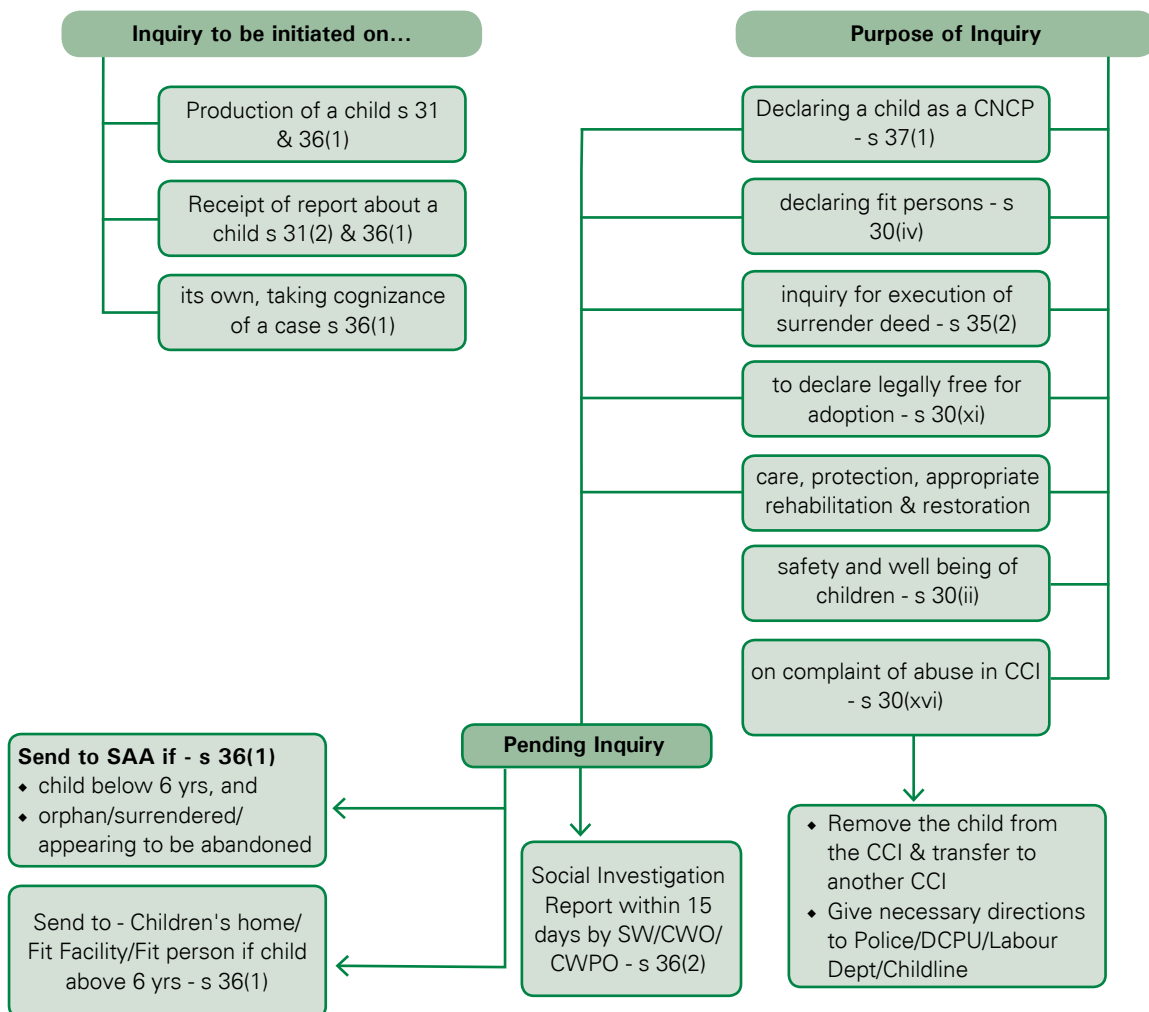




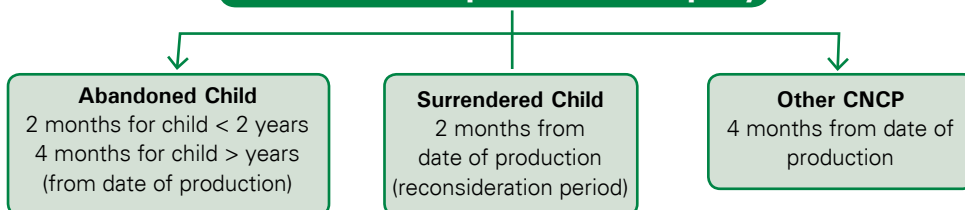
## Step 5: Children in Need of Care and Protection (CNCP)

- ◆ Child to be produced before CWC within 24 hours.
- ◆ Mandatory reporting of child found separated from guardian.
- ◆ Non-reporting will be considered as a punishable offence.
- ◆ CWC shall meet at least 20 days in a month.
- ◆ District Magistrate (DM) shall conduct a quarterly review of functioning of CWC.

### Inquiry by CWC



### Time for Completion of Inquiry







## Step 6: Institutional Care

- ◆ Mandatory registration of child care institutions (CCIs) within six months from the date of commencement of the Act. Failure of compliance will be considered as a punishable offence.
- ◆ Application of registration to be disposed within six months (otherwise it will be regarded as dereliction of duty and will invoke departmental proceedings).

### Institutional Care for CCL

- ◆ At the Observation Home for temporary reception of CCL during pendency of inquiry, the child will be segregated according to age, gender, physical and mental status and in a few cases, it would also be based on the degree of offence.
- ◆ Child who has been found to have committed an offence by JJB will be placed in Special Home.
- ◆ Place of Safety will be set up for children above the age of 18 years or children of the age group of 16-18 years who are convicted for committing a heinous offence.
- ◆ Place of Safety will have separate arrangement and facilities for children during pendency of inquiry/trial and for rehabilitation after a child is convicted.
- ◆ JJB will conduct regular inspection of jails meant for adults to check if any child is lodged in such jails and take immediate measures for transfer of such a child to the observation home(s).

### Institutional Care for CNCP

- ◆ Open shelter for children in need of community support, on short term basis for protecting them from abuse or keeping them away from life on the streets.
- ◆ CWC could recognise a facility to be a fit facility to temporarily take the responsibility of a child, after due inquiry regarding the suitability of the facility and the organisation to take care of the child.
- ◆ Special adoption agency for rehabilitation of orphaned, abandoned or surrendered children.

### Rehabilitation and Social Re-integration

- ◆ Rehabilitation and social integration of children shall be undertaken, based on the individual care plan of the child, preferably through family based care, such as by restoration to family or guardian with or without supervision or sponsorship, or adoption or foster care plan.
- ◆ For CCL, the process of rehabilitation and social integration shall be undertaken in the observation homes, if the child is not released on bail or in special homes or place of safety or fit facility or with a fit person, if placed there by the order of the Board.



- ◆ CNCP who are not placed in families for any reason may be placed in an institution registered for such children under this Act or with a fit person or a fit facility, on a temporary or long-term basis, and the process of rehabilitation and social integration shall be undertaken wherever the child is so placed.
- ◆ CNCP who are leaving institutional care or children in conflict with law leaving special homes or place of safety on attaining 18 years of age, may be provided financial support as specified in section 46, to help them to re-integrate in the mainstream society.

## Other Salient Provisions

1. The Central Adoption Resource Authority (CARA) will frame rules and regulations for adoption of orphaned children. Inter-country adoption is allowed when no Indian adoptive parents are available within 30 days of child being declared free for adoption.
2. Adoptive parents should be financially and physically sound. A single or divorced person may adopt a child. A single male may not adopt a girl child. Disabled children will be given priority for adoption.
3. CNCP can be allowed to be placed in foster care based on the orders of the CWC and selection of the foster family.
4. Buying and selling of a child attracts imprisonment up to five years. Giving an intoxicating or narcotic substance to a child attracts imprisonment up to seven years.
5. Establishment of facilities such as children's homes, observation homes, special homes etc. is mandatory for state governments.
6. Compulsory registration of all CCIs/residential facilities for CNCP and penalty for non-registration.
7. Institutions for child care must be registered. Corporal punishment of children in child care institutions is also punishable.
8. Individual care plan is mandatory both in case of CCL and CNCP.
9. Non-disclosure of identity of juvenile offenders by media.



## Step 7: Punishment for Offences against Children

- ◆ Punishment for cruelty to children has been enhanced from six months to three years.
- ◆ Selling or buying of children will be a punishable offence with maximum imprisonment of five years.
- ◆ Corporal punishment within CCI will henceforth be a punishable offence.
- ◆ Adoption without prescribed procedures shall be punishable with imprisonment for three years, or fine of one lakh rupees or with both.



## Other Child Protection Laws and Key Features

### ◆ **The Protection of Children from Sexual Offences**

**Act, 2012** – An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of special courts for trial of such offences and for matters connected with it.



- Where the Special Juvenile Police Unit (SJPU) or police is satisfied that an offence has been committed against a child, it shall make arrangements to give him/her care and protection (admit the child into shelter home or at the nearest hospital).
- The SJPU or police shall, within a period of 24 hours, report the matter to the CWC and the Special Court or where no Special Court has been designated, to the Court of Session.
- The statement of the child shall be recorded at the residence of the child or the place of his/her choice by a woman police officer not below the rank of sub-inspector.
- The police officer while recording the statement shall not be in uniform.
- The police officer making the investigation shall ensure that at no point of time the child comes in contact with the accused.
- No child shall be detained in police station in the night for any reason.
- The police officer shall ensure that the identity of the child is protected from the public.
- The medical examination shall be conducted in the presence of the parent of the child or any other person in whom the child reposes trust or confidence.
- In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.
- For speedy trial, the State Government shall designate for each district, a Court of Session to be a Special Court to try the offences. As per Rule 4(5) of the POCSO Rules, 2012, the CWC should take into account any preference or opinion expressed by the child on the matter together with the best interest of the child. Also, prior to making such determination, an inquiry should be conducted in such a way that the child is not unnecessarily exposed to injury or inconvenience. This inquiry may therefore be conducted either by the CWC itself or with the assistance of a social worker/probation officer/NGO/any other person found fit by the CWC to be appointed for this purpose. Where a support person has been appointed for the child, the same person may be engaged to conduct the inquiry under Rule 4(5) to assist the CWC in its inquiry.
- The Special Court shall try cases in camera and in the presence of the parents of the child or any other person in whom the child has trust or confidence.

- The Special Court shall ensure that the child is not called repeatedly to testify in the Court.
- The Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognisance of the offence.

## Offences listed under POCSO

- ◆ Sexual offences against children
  - Penetrative sexual assault
  - Aggravated penetrative sexual assault
  - Sexual assault
  - Aggravated sexual assault
  - Sexual harassment
  - Using child for pornographic purposes
  - Abetment of and attempt to commit offence
  - Failure to report or record a case
  - False complaint or false information.



## The Protection of Children from Sexual Offences (Amendment) Bill, 2019

- ◆ **Penetrative sexual assault:** Under the Act, a person commits “penetrative sexual assault” if he: (i) penetrates his penis into the vagina, mouth, urethra or anus of a child, or (ii) makes a child do the same, or (iii) inserts any other object into the child’s body, or (iv) applies his mouth to a child’s body parts. The punishment for such offence is imprisonment from seven years to life, and a fine. The Bill increases the minimum punishment from seven to 10 years. It further adds that if a person commits penetrative sexual assault on a child below the age of 16 years, he will be punishable with imprisonment from 20 years to life, with a fine.
- ◆ **Aggravated penetrative sexual assault:** The Act defines certain actions as “aggravated penetrative sexual assault”. These include cases when a police officer, a member of the armed forces, or a public servant commits penetrative sexual assault on a child. It also covers cases where the offender is a relative of the child, or if the assault injures the sexual organs of the child or the child becomes pregnant, among others. The Bill adds two more grounds to the definition of aggravated penetrative sexual assault. These include: (i) assault resulting in death of child, and (ii) assault committed during a natural calamity, or in any similar situations of violence. Currently, the punishment for aggravated penetrative sexual assault is imprisonment from 10 years to life, and a fine. The Bill increases the minimum punishment from 10 to 20 years, and the maximum punishment to death penalty.

- ◆ **Aggravated sexual assault:** Under the Act, “sexual assault” includes actions where a person touches the vagina, penis, anus or breast of a child with sexual intent without penetration. “Aggravated sexual assault” includes cases where the offender is a relative of the child, or if the assault injures the sexual organs of the child, among others. The Bill adds two more offences to the definition of aggravated sexual assault. These include: (i) assault committed during a natural calamity, and (ii) administering or help in administering any hormone or any chemical substance to a child for the purpose of attaining early sexual maturity.
- ◆ **Pornographic purposes:** Under the Act, a person is guilty of using a child for pornographic purposes if he uses a child in any form of media for the purpose of sexual gratification. The Act also penalises persons who use children for pornographic purposes resulting in sexual assault. The Bill defines child pornography as any visual depiction of sexually explicit conduct involving a child including photograph, video, digital or computer generated image indistinguishable from an actual child. In addition, the Bill enhances the punishments for certain offences as shown in Table 1.

**Table 1: Punishment for offences for using child for pornographic purposes**

Offence	POCSO Act, 2012	2019 Bill
Use of child for pornographic purposes	◆ Maximum: 5 years	◆ Minimum: 5 years
Use of child for pornographic purposes resulting in penetrative sexual assault	◆ Minimum: 10 years ◆ Maximum: life imprisonment	◆ Minimum: 10 years (in case of child below 16 years: 20 years) ◆ Maximum: life imprisonment
Use of child for pornographic purposes resulting in aggravated penetrative sexual assault	◆ Life imprisonment	◆ Minimum: 20 years ◆ Maximum: life imprisonment, <i>or</i> death.
Use of child for pornographic purposes resulting in sexual assault	◆ Minimum: Six years ◆ Maximum: Eight years	◆ Minimum: Three years ◆ Maximum: Five years
Use of child for pornographic purposes resulting in aggravated sexual assault	◆ Minimum: Eight years ◆ Maximum: 10 years	◆ Minimum: Five years ◆ Maximum: Seven years

**Note:** Punishment for using a child for pornographic purposes resulting in any form of sexual assault is in addition to minimum five years for use of child for pornographic purposes.

- ◆ **Storage of pornographic material:** The Act penalises storage of pornographic material for commercial purposes with a punishment of up to three years, or a fine, or both. The Bill amends this to provide that the punishment can be imprisonment between three and five years, or a fine, or both. In addition, the Bill adds two other offences for storage of pornographic material involving children. These include: (i) failing to destroy, or delete, or report pornographic material involving a child, and (ii) transmitting, displaying, distributing such material except for the purpose of reporting it.

**Sources:** Protection of Children from Sexual Offences (Amendment) Bill, 2019; Protection of Children from Sexual Offences Act, 2012; PRS.

**Note: We need more reformative/healing and preventive efforts in the system to counter crimes such as sexual assaults against children and women. Laws are necessary but they will not change the deep rooted gender biases, norms and discriminatory practices.**



## Step 8: The Child Labour (Prohibition And Regulation) Amendment Act, 2016

- ◆ An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected with it.
  - No child (means a person who has not completed his 14th year of age) shall be employed or permitted to work in any occupation or process except where a child helps his/her family or family enterprise, which is other than any hazardous occupations or processes, after his school hours or during vacations or where a child works as an artist in an audio-visual entertainment industry.
  - No adolescent (a person between 14-18 years) shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule.
  - Whoever employs any child or any adolescent in contravention of the provisions of the Act shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than 20,000 rupees but which may extend to 50,000 rupees, or with both.



- Whoever, having been convicted of an offence under the Act commits a like offence afterwards, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years.
- ◆ **The Prohibition of Child Marriage Act, 2006**
  - An Act to provide for the prohibition of solemnisation of child marriages. In this Act, a child means a person who, if a male, has not completed 21 years of age, and if a female, has not completed 18 years of age.
- ◆ **The Immoral Traffic Prevention Act, 1956**
  - The Act intends to combat trafficking and sexual exploitation for commercial purposes.
- ◆ **The Right of Children to Free and Compulsory Education Act or Right to Education (RTE) Act** – An Act to provide for free and compulsory education to all children of 6 to 14 years.
- ◆ **The Commissions for Protection of Child Rights Act, 2005** - An Act to provide for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected with it.



## Step 9: Monitoring

National Commission for Protection of Child Rights (NCPCR) and State Commissions for Protection of Child Rights (SCPCR) are mandated to monitor the implementation of the provisions of this Act, in such manner, as may be prescribed. The Supreme Court of India and the High Courts have a committee on Juvenile Justice with appointed sitting judges who are also tasked with the monitoring of the implementation of the JJ Act primarily but also other related legislations.

## Child Protection Services Scheme<sup>2</sup> for the Well-being of Children (erstwhile ICPS) under MWCD



Time:  
**60 Minutes**

The Child Protection Services Scheme is being executed since 2009, for ensuring effective implementation of the JJ Act. The scheme aims to provide a security net through well-defined service delivery structures and institutional care amongst other things. Further, the scheme has been brought under the umbrella of ICDS as its sub-scheme with the nomenclature as Child Protection Services (CPS). CPS provides preventive, statutory care and rehabilitation services to children who are in need of care and protection and those in conflict with law as defined under the JJ Act, 2015 and any other vulnerable child. It is a centrally sponsored scheme providing financial support to State Governments/UT Administrations for delivering services (as mandated under the JJ Act, 2015 & JJ Rules thereunder) for children, either themselves or through suitable non-governmental organisations (NGOs). In 2019, the emphasis has been given on rationalisation of facilities and emphasising umbrella of monitoring and inspection of CCIs to ensure effective management of services in the best interest of the children living therein.



### Objectives:

At the end of the session, the participants will be able to describe the features of CPS. CPS indicates a shift of focus from Scheme approach to Project approach. It emphasises Family-based Non- Institutional Care.



### Step 1

#### Objectives of CPS are to

- ◆ Institutionalise essential services and strengthen structures for emergency outreach, institutional care, family and community based care, counselling and support services at the national, regional, state and district levels.
- ◆ Enhance capacities at all levels, of all functionaries including administrators and service providers, members of allied systems including local bodies, police and judiciary.
- ◆ Create database and knowledge base for CPS, including Management Information System (MIS) and child tracking system in the country for effective implementation and monitoring of CPS.
- ◆ Strengthen child protection at family and community levels.

<sup>2</sup> <http://pib.nic.in/newsite/PrintRelease.aspx?relid=187560>



- ◆ Ensure appropriate inter-sectoral response at all levels.
- ◆ Raise public awareness, educate public on child rights and protection.

## Components

- ◆ Institutional Care
- ◆ Non-Institutional Care
- ◆ MIS: Child Tracking System & Missing Children Website
- ◆ Emergency Outreach Services

## Delivery Structure

### National Level

- ◆ Ministry of Woman & Child Development (MWCD)
- ◆ Central Adoption Resource Agency (CARA)
- ◆ Central Project Support Unit (CPSU)
- ◆ National Institute of Public Cooperation and Child Development (NIPCCD)
- ◆ Childline India Foundation (CIF)

### State Level

- ◆ State Child Protection Society (SCPS) in every State/UT as the fundamental unit for the implementation of the scheme.
- ◆ State Project Support Unit (SPSU) will be set up in every State where ICPS is launched in order to support CPSU in ensuring effective implementation of ICPS in the States/UTs.
- ◆ State Adoption Resource Agency (SARA) - In order to support CARA in promoting in-country adoption and regulating inter-country adoption, ICPS provides for establishment of a SARA in every State/UT as a unit under the SCPS, to coordinate, monitor and develop the work of adoption and render secretarial and administrative assistance to the State Adoption Advisory Committee(SAAC).
- ◆ The State Child Protection Committee (SCPC) under the chairpersonship of Principal Secretary/Secretary shall monitor the implementation of ICPS on the basis of state specific indicators.
- ◆ State Adoption Advisory Committee (SAAC).

### District Level

- ◆ District Child Protection Units (DCPUs) in each district as a fundamental unit for the implementation of the scheme.
- ◆ District Child Protection Committee (DCPC) under the overall administrative control and supervision of the district magistrate (DM) shall monitor the implementation of ICPS on the basis of district-specific indicators.
- ◆ Specialised Adoption Agency (SAA) shall identify vulnerable families and children for foster care support and prepare the Individual Care Plan of the child and recommend the case to the CWC for issuing appropriate order.
- ◆ Sponsorship & Foster Care Approval Committee.



## Step 2

**CPS Roll Out in India** (For details of ICPS beneficiaries in the year 2017-18, see Annexure 3)

### **Statutory Support Services under CPS**

It has been reported by the State Governments/UT Administrations that so far, 723 CWCs and 702 JJBs have been set up across the country.

### **Institutional Care Services under CPS**

During 2018-19, the Ministry has assisted 1511 Homes, 322 SAAs and 265 Open Shelters through State Governments/UT Administrations.

### **Beneficiaries covered through Institutional Care**

During 2018-19, more than 78,000 children availed the institutional care facilities provided under CPS.

### **Inspection and Monitoring of CCIs**

In order to ensure protection of children living in CCIs, the Ministry has pursued with State/UT Governments to conduct inspections and maintain the institutions in accordance with the vision of the JJ Model Rules, 2016. The Ministry has also advised State Governments to conduct background check of agencies managing CCIs and also ensure police verification of the staff. The Ministry has advised the States/UTs to take action for the welfare of children, in case of any eventuality while living in CCIs. The Ministry has consistently pursued with the States/UTs to ensure registration of all CCIs under the JJ Act. So far, more than 8,200 CCIs across the country have been registered under the JJ Act. As many as 539 CCIs have been closed by the States/UTs after inspections on various grounds.

### **Non-institutional Care Services**

During 2018-19, emphasis was also given on strengthening non-institutional support services including foster care, sponsorship and adoption. As of 30 November, 2018 more than 6,000 children have benefitted through sponsorship component of the Scheme. Apart from this, around 1,900 children were placed for 'In-country adoption' and 365 children were placed for 'Inter Country Adoption' during this year (as of 30 November, 2018).

### **Child Helpline**



Child Helpline (1098) is a component of the Scheme linking the child to the child protection system directly and assisting thereafter in availing the services thereunder. Presently, around 65% of the country covering 475 locations is being serviced by Child Line. The Ministry has been running the 24x7 Child Helpline in collaboration with civil society organisations (CSOs). The service is being provided by CIF, a Mother NGO, in partnership with other CSOs across the country. In order to ensure transparency and accountability in delivering CPS, the NGO partners are registered on NITI Ayog and have been boarded on Public Financial Management System portal.

### **Child Help Desks at Railway Stations**

The MWCD has framed Standard Operating Procedures (SOPs) to be implemented with

the help of Railways for rescue and rehabilitation of runaway, abandoned, kidnapped or trafficked children. Child Help Desks are set up at various railway stations for rescue and rehabilitation of children. Child Help Desks at railway stations have been increased from 62 railway stations during 2017-18 to 84 railway stations during 2018-19. Over 60,000 children have been assisted by these facilities during the current year.

## Celebration of Hausala 2018

The MWCD hosted the 2nd Inter-Child Care Institution Festival, "Hausala 2018", for children residing in CCIs from 26-29 November, 2018. The event was organised around the theme of 'child safety' to inspire the children of CCIs so that they can reach the national stage for expressing their capabilities. Besides, the event also aimed to understand the views of children regarding their safety in various situations. During the festival, children participated in various activities like debate, painting, athletics, football and chess competition. A new competition called 'Abhiviyakti' to encourage free expression amongst children was introduced this year. More than 600 children from CCIs across 18 States/UTs participated in the programme.

## Khoya-Paya Portal

In order to bring citizen participation for protecting children, a citizen based portal Khoya-Paya was launched in June, 2015, which enables posting of information of missing or sighted children. So far, more than 9,962 users have been registered on the portal during 2018-19. Besides, more than 1,10,000 cases of missing or sighted children have been published on the portal.



## e-Box for Children who have suffered Sexual Abuse

Children are often unable to complain about sexual abuse. In order to provide them with a safe and anonymous mode of making a complaint, an internet based facility, Protection of Children from Sexual Offences (POCSO)

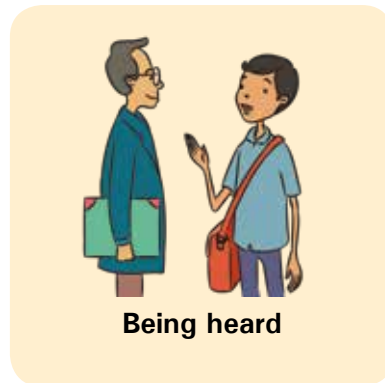
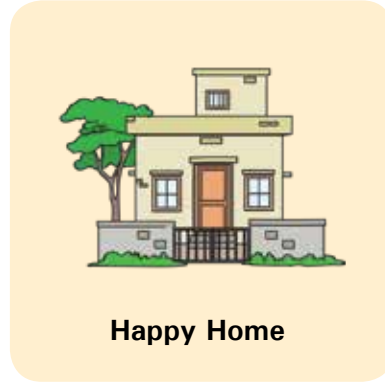
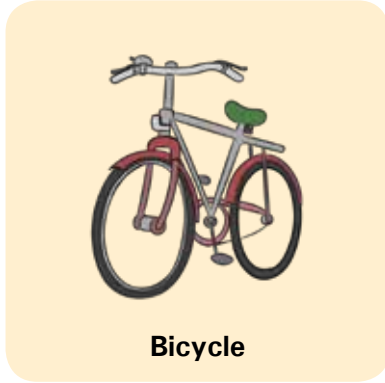
The image shows a screenshot of the POCSO e-Box complaint form. The form is titled 'e-Box for Children who have suffered Sexual Abuse'. It contains several input fields for providing details of the complaint, including the name of the child, the name of the complainant, and the address. There is also a 'Report' button and a 'Logout' button. The form is designed to be user-friendly and accessible for children and their guardians.

e-Box, has been provided at NCPCR website where the child or anyone on his/her behalf can file a complaint with minimal details. POCSO e-Box receives complaints from other mediums such as e-mail, POCSO e-button, etc. As soon as the complaint is filed, a trained counsellor immediately contacts the child and provides assistance to the child. The counsellor also registers a formal complaint on behalf of the child, wherever warranted. A total number of 3,213 hits have been received on helpline number since the launch of POCSO e-Box, i.e., from 26 August, 2016 till 20 December, 2018. Out of these hits, 135 cases were found to be covered under the Protection of Children from Sexual Offences Act, 2012.

## Draft Child Protection Policy

The Ministry framed the draft Child Protection Policy 2018. The policy draws upon the safeguards provided under the Constitution of India, various child-centric legislations, international treaties as well as other existing policies for the protection and well-being of children. It aims at providing a safe and conducive environment for all children through the prevention of and response to child abuse, exploitation and neglect. It provides a framework for all institutions, and organisations (including corporate and media houses), government or private sector to understand their responsibilities in relation to safeguarding/protecting children and promoting the welfare of children, individually and collectively.

# Annexure 1: Picture Cards to Understand Child Rights





**Caring Family**



**Safe Environment**



**Toys and Games**



**Ability to buy things**



**Non-discrimination**



**Participation**



**Sleeping as long as desired**



**TV and Computer**

## Annexure 2: The Balloon Activity



Time:  
**20 Minutes**



### Objective:

To introduce the topic of child protection in a fun, non-threatening manner. (This activity is good to use at the beginning of a workshop to actively engage participants and prepare them for a greater discussion on the topic.)



### Materials required

- ◆ Balloons tied to a string – enough for one quarter of the participants
- ◆ Large space that is enough for people to move around freely
- ◆ Pens

### Instructions

1. Count the number of participants and divide them to form four groups. Ask for first group of volunteers for an activity (don't give any more information than that). Step out of the room with them. They will be Group One. Distribute the balloons to them and instruct them to blow up the balloons and to tie them tightly to their wrists, ankles or any part of their body. Tell them nothing else.
2. Request another group of volunteers (same number as group 1) to step out of the room with you. Their instruction is that when the game starts, they must each stand by one person with a balloon and protect that one person only. They must not talk at all. They are Group Two.
3. Request a third group of volunteers of two or three people. Tell them that their task is to pop all the balloons as quickly as possible and they can strategise however they like. They are Group Three.
4. The remaining participants are told to watch. They are Group Four. Do not inform Group One or Two or Four what the aim of the game is. Only Group Three knows.
5. **The Game** 1. Ask everyone to re-enter the room. 2. Call the group to silence. 3. Instruct Group Two to stand by the Group One volunteers. One-on-one. 4. Call – start the game.
6. The game is finished after one to two minutes. Usually one minute is enough to pop most or all of the balloons.

## Debrief

1. Make all of the participants sit in a circle.
2. Ask the people with the balloon how they felt during the exercise. Typical comments are – did not know what was going on; frightened; attacked; frustrated; looked for help from someone bigger; did not trust the person standing next to me, etc.
3. Ask Group Two – How did you feel? Typical comments are – frustrated because I did not know what the game was; did not have time to prepare; could not protect the person well because the attackers seemed to have a plan; thought I could protect at the beginning then had no chance; helpless; did not really know what to do.
4. Ask Group Three – How did you feel? Typical answers – great; easy to pop the balloons; sneaky; they were in more control.
5. Ask Group Four – How did you feel? Typical answers are – Wanted to do something but did not know what I could do; helpless; entertained.

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**Explanation:** Whom do the four groups actually represent? Ask the participants if they can guess what each group represents.

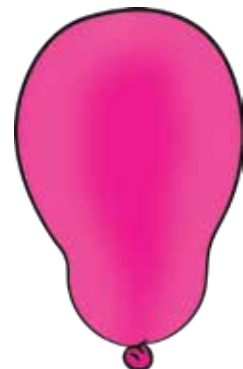
- a. Group One represents children who need protection.
  - b. Group Two represents adults who are doing their best to protect children.
  - c. Group Three represents those adults who have no regard for child rights and therefore abuse children in a variety of ways, or those who, through ignorance, allow children to become more vulnerable. Group Three can also represent negative actions that can harm children. Although the group/organisation/person may believe they are helping the child, through their lack of knowledge on child rights, child protection, and children's development, their ignorance may lead to negative actions, thus causing harm to children.
  - d. Group Four represents those people who just watch and do nothing. They may want to do something but do not know what to do. Or they may not think that something is so wrong.
- 

Ask participants what was needed to stop the balloons from being popped by Group Three.

Some potential responses:

### Children

Need to know what is happening. Some have skills to resist but others are more vulnerable (refer to the balloon game - some ran away and others were caught quickly). Sometimes children team up together and protect each other. All need some skills to protect themselves but they are not responsible for protection.



### **Adults are Protectors**

- ◆ Need to know what was going on.
- ◆ Need to combine forces and protect as a group, not just as individuals.
- ◆ Need to know the tactics of those who intentionally abuse children or need to know how children become more vulnerable.

### **Abusers**

- ◆ Need to know that their behaviour is not acceptable.

### **Ignorant and Observers**

- ◆ Need to know how their actions make children more vulnerable.
- ◆ Must actively participate in protection and not just observe.
- ◆ Need to know how to recognise protection problems and how and when they should respond.



# Annexure 3: Individual Care Plan

## FORM 7

[Rules 11(3), 13(7)(vi), 13(8)(ii), 19(4), 19(17), 62(6)(vii), 62(6)(x), 69 I (3)]

### INDIVIDUAL CARE PLAN

#### Child in Conflict with Law/ Child in Need of Care and Protection

(tick whichever is applicable)

Name of Case Worker/Child Welfare Officer/Probation officer.....

Date of preparing the ICP .....

Case/Profile No.....of 20.....

FIR No.....

U/Sections (Type of offence),applicable in case of Children in Conflict with Law.....

Police Station.....

Address of the Board or the Committee.....

Admission No.(if child is in an institution).....

Date of Admission (if child is in an institution).....

Stay of the child (Fill as applicable)

- (i) Short term (up to six months)
- (ii) Medium Term (six months to one year)
- (iii) Long term (more than 1 year)

#### A. PERSONAL DETAILS (to be provided by child/parent/both on admission of the child in the institution)

1. Name of the Child.....

2. Age/Date of Birth.....

3. Sex: Male/Female.....

4. Father's name:.....

5. Mother's name.....

6. Nationality.....

7. Religion.....

8. Caste.....

9. Language spoken.....

10. Level of Education.....

11. Details of Savings Account of the child, if any.....

12. Details of child's earnings and belongings, if any.....

13. Details of awards/rewards received by the child, if any.....

14. Based on the results of Case History, Social Investigation report and interaction with the child, give details on following areas of concern and interventions required, if any

S.No.	Category	Areas of concern	Proposed Interventions
1.	Child's expectation from care and protection		
2.	Health and nutrition needs		
3.	Emotional and psychological support needs		
4.	Educational and Training needs		
5.	Leisure, creativity and play		
6.	Attachments and Inter-personal Relationships		
7.	Religious beliefs		
8.	Self care and life skill training for Protection from all kinds of abuse, neglect and maltreatment		
9.	Independent living skills		
10.	Any other such as significant experiences which may have impacted the development of the child like trafficking, domestic violence, parental neglect, bullying in school, etc. (Please specify)		

**B. PROGRESS REPORT OF THE CHILD ( to be prepared every fortnight for first three months and thereafter to be prepared once a month)**

[Note: Use different sheet for Progress Report]

1. Name of the Probation Officer/Case Worker/Child Welfare Officer.....
2. Period of the report.....
3. Admission No.....
4. Board or Committee.....
5. Profile No.....
6. Name of the Child.....
7. Stay of the child (Fill as applicable)
  - (iv) Short term (up to six months)
  - (v) Medium Term (six months to one year)
  - (vi) Long term (more than 1 year)
8. Place of interview ..... Dates.....
9. General conduct and progress of the child during the period of the report
 

.....

.....
10. Progress made with regard to proposed interventions as mentioned in point 14 of Part A of this Form.

S. No.	Category	Proposed Interventions	Progress of the child
1.	Child's expectation from care and protection		
2.	Health and nutrition needs		
3.	Emotional and psychological support needed		
4.	Educational and Training needs		
5.	Leisure, creativity and play		
6.	Attachments and Inter-personal Relationships		
7.	Religious beliefs		
8.	Self care and life skill training for Protection from all kinds of abuse, neglect and maltreatment		
9.	Independent living skills		
10.	Any other such as significant experiences which may have impacted the development of the child like trafficking, domestic violence, parental neglect, bullying in school, etc. (Please specify)		

11. Any proceedings before the Committee or Board or Children's Court

- (i) Variation of conditions of bond
- (ii) Change of residence of the child
- (iii) Other matters, if any

12. Period of supervision completed on.....

Result of supervision with remarks (if any).....

Name and Addresses of the parent or guardian or fit person under whose care the child is to live after the supervision is over.....

Date of report.....Signature of the Probation Officer.....

**C. PRE-RELEASE REPORT (to be prepared 15 days prior to release)**

1. Details of place of transfer and authority concerned responsible in the place of transfer/release
2. Details of placement of the child in different institutions/family
3. Training undergone and skills acquired
4. Last progress report of the child (to be attached, refer Part B)
5. Rehabilitation and restoration plan of the child ( to be prepared with reference to progress reports of the child)

S.No.	Category	Rehabilitation and restoration plan of the child
1.	Child's expectation from care and protection	
2.	Health and nutrition	
3.	Emotional and psychological	
4.	Educational and Training	
5.	Leisure, creativity and play	
6.	Attachments and Inter-personal Relationships	
7.	Religious belief	
8.	Self care and life skill training for Protection from all kinds of abuse, neglect and maltreatment	
9.	independent living skills	
10.	Any other	

6. Date of release/transfer/repatriation.....
7. Requisition for escort if required.....
8. Identification Proof of escort such as driving license, Aadhar Card, etc.....
9. Recommended rehabilitation plan including possible placements/sponsorships....
10. Details of Probation Officer/non-governmental organization for post-release follow-up.....
11. Memorandum of Understanding with non-governmental organisation identified for post-release follow-up (Attach a copy).....
12. Details of sponsorship agency/individual sponsor, if any.....
13. Memorandum of Understanding between the sponsoring agency and individual sponsor (Attach a copy).....
14. Medical examination report before release.....
15. Any other information.....

**D. POST-RELEASE/RESTORATION REPORT OF THE CHILD**

1. Status of Bank Account : Closed / Transferred
2. Earnings and belongings of the child: handed over to the child or his parents/guardians – Yes/No
3. First interaction report of the Probation Officer/Child Welfare Officer/Case Worker /social worker/non-governmental organisation identified for follow-up with the child post-release.....
4. Progress made with reference to Rehabilitation and Restoration Plan.....
5. Family's behavior/attitude towards the child.....
6. Social milieu of the child, particularly attitude of neighbours/community.....
7. How is the child using the skills acquired.....
8. Whether the child has been admitted to a School or vocation? Give date and name of the school/institute/any other agency Yes/No
9. Report of second and third follow-up interaction with the child after two months and six months respectively.....
- 10 Efforts towards social mainstreaming and child's opinion/views about it.....
11. Identity Cards and Compensation

[Instruction: Please verify with the physical documents]

IDENTITY CARDS	Present status (Please tick whichever is applicable)		Action taken
	Yes	No	
Birth Certificate			
School certificate			
Caste certificate			
BPL Card			
Disability Certificate			
Immunization card			
Ration Card			
Adhaar Card			
Received compensation from Government			

**Signature of the Probation Officer/Child Welfare Officer**  
**Stamp and Seal where available**

## Annexure 4: ICPS beneficiaries in the year 2017-18

Detail of 2017-18 ( up to 5 February, 2018)													
#	State	Institutional Care [Homes]		Open Shelters		Specialised Adoption Agencies		CWC	JJB	SCPS	DCPU	SARA	Total Beneficiaries
		No. Assisted	Beneficiaries	No. Assisted	Beneficiaries	No. Assisted	Beneficiaries						
1	Andhra Pradesh	73	4439	12	300	14	135	13	13	1	13	1	4874
2	Arunachal Pradesh	15	62	0	0	1	3	21	21	1	20	1	65
3	Assam	36	1128	3	75	14	78	27	27	1	27	1	1281
4	Bihar	54	1929	14	216	28	170	38	38	1	38	1	2315
5	Chhattisgarh	76	2172	19	127	14	42	27	27	1	27	1	2341
6	Goa	21	1015	8	200	2	46	2	2	1	2	1	1261
7	Gujarat	54	2166	3	75	14	163	33	33	1	33	1	2404
8	Haryana	33	1630	25	1541	7	48	21	21	1	21	1	3219
9	Himachal Pradesh	30	1187	3	44	1	6	12	12	1	12	1	1237
10	Jammu and Kashmir	22	1141	0	0	2	20	22	22	1	22	1	1161
11	Jharkhand	36	1448	5	125	15	217	24	24	1	24	1	1790
12	Karnataka	80	3131	40	1194	28	255	33	30	1	30	1	4580
13	Kerala	31	708	4	103	17	95	14	14	1	14	1	906
14	Madhya Pradesh	61	2249	6	206	22	213	51	51	1	51	1	2668
15	Maharashtra	77	6155	3	108	17	181	39	36	1	36	1	6444
16	Manipur	34	993	12	247	5	35	9	9	1	9	1	1275
17	Meghalaya	54	1351	4	181	6	7	11	11	1	11	1	1539
18	Mizoram	45	1300	0	0	7	51	8	8	1	8	1	1351
19	Nagaland	41	495	3	37	4	7	11	11	1	11	1	539
20	Orissa	110	7233	13	341	17	217	31	34	1	30	1	7791
21	Punjab	17	511	1	25	5	107	22	22	1	20	1	643
22	Rajasthan	91	2883	23	405	12	40	33	34	1	33	1	3328
23	Sikkim	18	540	4	52	4	6	4	4	1	4	1	598

Detail of 2017-18 ( up to 5 February, 2018)													
#	State	Institutional Care [Homes]		Open Shelters		Specialised Adoption Agencies		CWC	JJB	SCPS	DCPU	SARA	Total Beneficiaries
		No. Assisted	Beneficiaries	No. Assisted	Beneficiaries	No. Assisted	Beneficiaries						
24	Tamil Nadu	193	14055	14	350	15	150	32	32	1	32	1	14555
25	Tripura	20	500	2	52	6	48	4	8	1	8	1	600
26	Uttar Pradesh	81	2497	22	550	17	170	75	75	1	75	1	3217
27	Uttarakhand	20	318	2	36	0	0	13	13	1	13	1	354
28	West Bengal	66	5890	33	850	22	273	25	23	1	23	1	7013
29	Telangana	56	3014	12	246	11	309	31	31	1	31	1	3569
30	Andaman & Nicobar	8	367	-	0	-	0	3	3	1	3	0	367
31	Chandigarh	8	326	0	0	4	17	1	1	1	1	1	343
32	Dadra and Nagar Haveli	-	0	-	0	-	0	1	1	1	1	1	0
33	Daman and Diu	2	100	-	0	-	0	2	2	1	2	1	100
34	Lakshadweep	-	0	-	0	-	0	1	1	-	-	-	0
35	Delhi	28	1479	13	415	3	60	10	3	1	10	1	1954
36	Puducherry	29	1166	2	47	2	13	3	4	1	2	1	1226
	<b>Total</b>	1620	75578	305	8148	336	3182	707	701	35	697	34	86908

# Flow chart on Child in Conflict with Law- CCL

## Offence committed by a child

Police apprehend Child in Conflict with Law (CCL) and place CCL in charge of SJPU/CWPO-s10

Released by Police – s 12(1)

Sent to Observation Home till Production before JJB – 12(2)

Produced before a Single Member [s 7(s)]/Board [s 10(1)] within 24 hrs of apprehension

Released by JJB – s 12(1)

Observation Home – s 12(1)

**Place of Safety [Pending Inquiry]**

- CCL above 18 yrs – s 6(2)
- Any CCL not released on Bail – s 12(3)
- 16-18 yr old CCL accused for heinous offences – s 49(1)
- Person whose claim for juvenility is pending before any court and requires protective custody – s 9(4)

Releases under Supervision of PO/Fit Person – s 12(1)

Bail – s 12(1)

Reasons for Denial of Bail – s 12(1) (provision): Release is likely to bring CCL in association with known criminal, expose the child to moral, physical or psychological danger; defeat the ends of justice (reasons for denying in writing)

Inquiry is to be completed in 4 months from date of first production (Max 6 months with reasons in writing – s 14 (2))

Age inquiry [within 15 days in case of medical test] - s 94

Social Investigation Report by PO within 15 days from date of first production - s (8) (e)/2 weeks from receiving information from Police about apprehension of CCL - s 13(1)(ii)

Preliminary Assessment by Board in 3 months from date of first production (Heinous Offences by CCL aged 19-18 yrs) - s 14(3) and s 15(1)

Transfer to Children's Court - s 18(3)

Continue Inquiry in JJB - s 15(2)

Disposal - as per s 17 and 18

# Inquiry by JJB

**Petty-  
s 2(45)**

Maximum Imprisonment  
up to 3 years

**Serious -  
s 2 (54)**

Imprisonment between  
3 to 7 years

**Heinous -  
s 2 (33)**

Minimum Mandatory  
Imprisonment for 7 years  
or more

**Below 16 years**

**Above 16 years**

Inquiry is to be completed in 4 months from  
date of first production (Max 6 months with  
reasons in writing) - s 14(2)

Preliminary Assessment  
within 3 months from  
date of first production -  
s 14 (3) and 15

Continue  
Inquiry -  
s 15(2)

Pass Order to  
treat CCL as  
adult + Transfer  
to Children's  
Court - s 18(3)

Extension for completion  
of Inquiry may be granted  
with written permission  
from the CJM/CMM -  
s 14(4)

Petty Offence: If in  
case inquiry is not  
completed in 6 months,  
proceedings will stand  
terminated - 14 (4)

Physical Capacity

Mental Capacity

Ability to understand  
consequences of  
the offence

Circumstances of  
offence



# Trial by Children's Court

Examine the Preliminary Assessment received from JJB to decide on how to proceed further - s 19(1)

CCL to be tried as a child [procedure of Inquiry prescribe for JJB] - s 19(1)(ii)

CCL to be tried as an adult [Trial and order under CrPC] - s 19(1)(ii)

Inquiry is to be completed in 4 months from date of first production (Max 6 months with reasons in writing) - s 14(2)

Extension for completion of Inquiry may be granted with written permission from the CJM/CMIM - s 14(4)

No time prescribed for completion of Trial

- ◆ No Death Sentence
- ◆ No Sentence of Life Imprisonment without possibility of release - s

Disposition/Final Order:

- ◆ Sentence as for adults - s 19(1)(i)
- ◆ Order CCL to be sent to place of Safety till he attains the age of 21 years - s 19(3)

Must contain individual Care Plan - s 19(2)

Annual Follow-up by PO/DCPU/Social Worker to evaluate progress - s 19(2) and 19(4)

Release CCL on conditions, including monitoring - s 20(2)(i)

Order completion of remainder term in Jail - s 20(2)(ii)

Evaluate CCL's reformation on attaining the age of 21 years - s 20(1)

## Inquiry by CWC

### Inquiry to be initiated on...

Production of a child s 31 & 36(1)

Receipt of report about a child s 31(2) & 36(1)

its own, taking cognizance of a case s 36(1)

### Purpose of Inquiry

Declaring a child as a CNCP - s 37(1)

Declaring fit persons - s 30(iv)

Inquiry for execution of surrender deed - s 35(2)

To declare legally free for adoption - s 30(xi)

Care, protection, appropriate rehabilitation & restoration

Safety and well being of children - s 30(ii)

On complaint of abuse in CCI - s 30(xvi)

### Pending Inquiry

#### Send to SAA if - s 36(1)

- ◆ Child below 6 yrs, and
- ◆ Orphan/surrendered/ appearing to be abandoned

Send to - Children's home/ Fit Facility/Fit person if child above 6 yrs - s 36(1)

Social Investigation Report within 15 days by SW/CWO/ CWPO - s 36(2)

- ◆ Remove the child from the CCI & transfer to another CCI
- ◆ Give necessary directions to Police/DCPU/Labour Dept/Childline

## Time for Completion of Inquiry

#### Abandoned Child

2 months for child < 2 years  
4 months for child > years  
(from date of production)

#### Surrendered Child

2 months from date of production  
(reconsideration period)

#### Other CNCP

4 months from date of production



