

Juvenile Justice System: A Situational Analysis of the Reality of the Children

Presentation Prepared by Claire O'Kane and Rita Panicker,
Butterflies Programme of Street and Working Children, New Delhi

tem: A Situational Analysis of
Children

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Juvenile Justice System: A Situational Analysis of the Reality of the Children

OHP 1

Juvenile Justice System: A Situational Analysis of the Reality of the Children

WHAT?	What system is outlined by the Juvenile Justice Act?
WHO?	Which children enter the Juvenile Justice System?
WHY?	Why do such children enter the System?
HOW?	How are children in the J.J. System treated?

What do Children say about their experiences?

→ Brings into question ? the appropriateness of the current J. J. System

- ? Do our law enforcers view families and children living in poverty as victims, as survivors or as crime-breakers?
- ? Does the J.J. Act offer any form of remedy to the increasing number of children living in especially difficult circumstances?

Introduction:

In providing a situational analysis of the reality of children who experience the Juvenile Justice System, this presentation focuses on key questions:

WHAT?	What system is outlined by the Juvenile Justice Act?
WHO?	Which children enter the Juvenile Justice System?
WHY?	Why do such children enter the System?
HOW?	How are children in the J.J. System treated?

This paper focuses on the situation and experiences of children who have experience of the Juvenile Justice System, and gives space to listen to children's views.

Through an analysis of the life and family circumstances of children who are labelled as 'neglected' and 'delinquent' juveniles it seeks to promote an orientation towards understanding the socio-economic and political reasons which result in children entering the system.

With the effects of ongoing structural adjustment programmes and increasing rural to urban migration there are an increasing number of families living in poverty in our urban

settings. In recognition of the significant relationship between poverty and juvenile justice issues, the appropriateness of the current system is brought into question. In reality do our laws enforcers view families and children living in poverty as victims, as survivors or as crime breakers? Does the Juvenile Justice Act really offer any form of remedy to the increasing number of children in our country who find themselves living in difficult circumstances?

As a Programme of Street and Working Children which places great importance on building relations with children, respecting their views and encouraging their participation in programme and advocacy responses, we are in touch with the daily reality of the lives of street and working children. We hear their horror stories and their jokes, the daily challenges that they face in surviving life on the streets. Moreover, through children's participation in Bal Sabha meetings and participatory research activities, we have access to varied reports which share children's perspectives of the Juvenile Justice System.

Listening to the views and experiences of children who have come into contact with the Juvenile Justice system highlights not only the current ineffectiveness of the system, but worse the discrimination, abuse and neglect that occurs within the system. Whilst listening to children's words within the purview of the UN Convention on the Rights of the Child, the continuing violations against this group of children are highlighted.

The Juvenile Justice Act:

OHP 2

WHAT? THE JUVENILE JUSTICE ACT 1986

- ◆ Designed for the care, protection, development and rehabilitation of the neglected and delinquent juvenile
- ◆ Progressive law in accordance with International principles
- ◆ Aims to provide a uniform legal framework of justice across the country
- ◆ Ensures that no child under any circumstances is lodged in jail or police lock-up.
- ◆ Covers children up to 16 years (boys) and 18 years (girls).
- ◆ Distinction between 'neglected' and 'delinquent' juveniles
- ◆ The Act spells out the machinery and infrastructure including: Juvenile Welfare Boards, Juvenile Courts, and Observation Homes
- ◆ Need to develop linkages between formal system and voluntary agencies

The Juvenile Justice Act 1986 came into force as a piece of legislation designed for the care, protection, development and rehabilitation of the neglected and delinquent juvenile, as well as for the adjudication of and disposition of certain matters relating to them. It is generally considered a progressive law in accordance with International principles, such as

the UN Convention on the Rights of the Child, to which the Indian Government became a signatory in 1992.

In signing the Convention the Government accepted obligations to bring all State laws and policies in line with three main principles of children's rights, namely: *best interests*, *non-discrimination*, and *child's voice*. Furthermore, in relation to the administration of Juvenile Justice systems *Article 40* states:

State Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child assuming a constructive role in society.

The Juvenile Justice Act 1986 was enacted by Parliament to replace the Children Acts in different States and Union Territories. The Act aimed to provide a uniform legal framework of justice across the country, so as to ensure that no child under any circumstances are lodged in jail or police lock-up.

The Act covers children up to 16 years in the case of boys, and 18 years in the case of girls. It makes a distinction between 'neglected' juveniles and 'delinquent' juveniles, and thereby deals with the issue separately. Section 2 defines the 'delinquent juvenile' as a juvenile who is found to have committed an offence. Where-as a 'neglected juvenile' is defined as meaning a juvenile who: (i) is found begging or (ii) is found without having any home or settled place of abode and without any ostensible means of livelihood and is destitute, (iii) has a parent or guardian who is unfit or incapacitated to exercise control over the juvenile; (iv) lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution; (v) who is being or is likely to be abused or exploited for immoral or illegal purpose for gain.

The Act spells out the machinery and infrastructure required for the care, protection, development, and rehabilitation of children. Such machinery includes: Juvenile Welfare Boards for the screening of neglected juveniles; Juvenile Courts for the processing of delinquent juveniles; and Observation Homes for temporary reception of juveniles during the pendency of their cases.

Mention is also given to the need for development of appropriate linkages between the formal system and voluntary agencies to assist in implementing a diverse approach towards the recovery, re-education and rehabilitation of social maladjusted juveniles. The Act enables a wide range of dispositional alternatives to the competent authority with preference to family/community-based placements.

Situational Analysis of Children Who Enter the Juvenile Justice System:

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WHO?

A Situational Analysis of Children who Enter the Juvenile Justice System:

- ⇒ Children are born as Children, not Delinquents or Destitutes
- ⇒ Trends concerning Situation of Children in India
- ⇒ Children and Institutions in the Juvenile Justice System

Children are born as children, not as delinquents or destitutes. However, children's situations and circumstances may increase a child's vulnerability to neglect, abandonment and delinquency. Hence, in understanding why children come in touch with the Juvenile Justice system it is necessary to analyse the broader factors which affect children's lives. Thus, this section reports trends concerning the situation of children and families in India¹, as well as figures regarding the number of children and institutions that form part of the Juvenile Justice System².

Situation of Children in India:

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Situation of Children in India

- ◆ 400 million children in India
- ◆ 3 million children under the age of 5 die every year
- ◆ 53% of this same age-group are malnourished
- ◆ 36.7% of India's population suffer from human poverty

- ◆ In 1996 an estimated 100 million people were living in urban slums
- ◆ 37 million children are living in urban poverty
- ◆ Estimated 420,00 street children
- ◆ Increasing economic hardship with increase in consumer prices
- ◆ Different groups of children living in especially difficult circumstances

An estimated 400 million children live in India, making up more than one third of the country's 950 million population. In spite of growing economic disparity social benefits for children have lagged behind. Close to 3 million children under the age of five die every year, depriving them of their most basic right to life. 53% of this same age-group are malnourished, and only 64% of children (majority boys) in India reach grade 5 of primary school.

¹ UNICEF's (1998) 'Rights and Opportunities: The Situation of Children and Women in India'

² Figures from 'Crime in India' (1996)

According to the Human Poverty Index 36.7% of India's population suffer from human poverty, living in circumstances which are characterised by social inferiority, powerlessness, physical weakness, vulnerability, humiliation, isolation and seasonal deprivation. Furthermore, UNDP³ estimates that 49% of India's rural population and 38% of the urban population live at or below the poverty line.

With ongoing patterns of rural to urban migration an increasing percentage of India's children are found in urban areas. Rapid urbanisation has brought with it rapid growth in urban slums. In 1996 an estimated 100 million people were said to be living in urban slums.

Of the 37 million children who are living in urban poverty a substantial proportion of them are living in informal (illegal) settlements or other temporary situations which include living along railway lines, *mullahs* (drainage canals) and on the streets themselves. Products of family instability, violence or economic circumstances of the family, there are an estimated 420,000 street children in India. Co-mingled with street children are a larger group of working children belonging to families of the urban poor. Working to earn money to contribute to their families survival in the day, these children usually return to stay with their families at night.

All these children are subjected to the same economic and social problems, including coping with significant increases in the cost of living. According to the World Bank there was a 37.7% increase in consumer prices from 1990-1994⁴. It is noted that as an increasing number of children face severe economic hardship, more children are becoming involved in unhealthy occupations, such as ragpicking and are increasingly vulnerable to criminal activity and prostitution⁵.

In a world where they lack adult care and protection, the lifestyles of street children (and to a great extent working children) become characterised by a struggle for survival. In seeking out a living to meet their basic needs, they are vulnerable to harassment, assault, abuse and exploitation. Their difficulties are further compounded by prevailing negative attitudes held towards them, which result in further discrimination and a general lack of support from the general public.

Alongside street and working children there are other groups of children in our country facing especially difficult circumstances. These children include: children involved in prostitution and children of sex workers; children who have been sexually or physically abused; children with a substance abuse problem; children affected by HIV; children with disabilities; and refugee children. The presence and difficulties faced by all of these groups of children are compounded by the circumstances of poverty.

³ United Nations Development Programme *Human Development Report, 1996, p.171*

⁴ The World Bank. *Trends in Developing Economies, 1995.* (Washington D.C.) p.246

⁵ Human Rights Watch (1996) *Police Abuse and Killings of Street Children in India.*

Children in the Juvenile Justice System

- ◆ 271 Juvenile Welfare Boards, 189 Juvenile Courts in the Country (1996-7)
- ◆ 280 Observation Homes, 251 Juvenile Homes, 36 Special Homes, and 46 After-Care Organisations functioning under the Act
- ◆ Facilities for care training, rehabilitation, treatment and development are not uniformly available
- ◆ Street children have been arbitrarily detained in homes
- ◆ 24,000 children under Government care

Hard to obtain accurate figures regarding Juvenile Crime. However, according to '*Crime in India*' 1996 figures:

- ◆ In 1996 a total of 19,098 children were apprehended (of whom 26.3% were girls)
- ◆ 23.5% were disposed of after advice or admonition
- ◆ 12% were placed under the care of parents or guardians
- ◆ 4.2% (795 children) were sent to 'fit institutions'
- ◆ 18.5% (1623 children) were sent to special homes
- ◆ 7.9% were either acquitted or otherwise disposed of
- ◆ Of the total juveniles who were involved in various crimes 80% were either illiterate (8195) or had education up to primary level (7080).

Whilst the Juvenile Justice Act is not specifically designed to provide for all these groups of children living in especially difficult circumstances, the Juvenile Justice System is supposed to respond to the needs of all 'delinquent' and 'neglected' children. Thus, a cross-section of children from all the categories mentioned above do come into the purview of the system. However, as a result of non-implementation of the Act and a general lack of political will to address the needs of groups of children living in difficult circumstances, there is not sufficient infrastructure or manpower in place within the Juvenile Justice System to respond to the numbers of children who may be defined as 'in need'.

As per the Annual Report of the Ministry of Welfare for the year 1996-97, there were only 271 Juvenile Welfare Boards and 189 Juvenile Courts in the Country. Furthermore, in terms of Institutional infrastructure despite the fact that 280 observation homes, 251 juvenile homes, 36 special homes, and 46 after-care organisations were reported to be functioning all over the country under the Act, facilities for care training, rehabilitation, treatment and development were yet to be uniformly available.

Furthermore, the children coming into contact with the limited system may not be the children for whom it was most designed. In reality due to the nature of street children's visibility, their lack of power, and prevailing negative attitudes towards them, street and

working children are frequently brought into the Juvenile Justice System without due reason, whilst the needs of other groups of neglected children remain ignored. The arbitrary nature of detention of street children in observation homes has been documented in varied studies of street children in Bangalore, Bombay and Delhi⁶. In Bangalore, 11% of the children were sent to a remand home without a reason. Furthermore, the Bombay study reported that 87.2% of children were sent to remand homes on 'petty cases'. Therefore, whilst there are 24,000 children living under Government care, the likelihood is that a fair proportion of these children have been inappropriately placed there.

Whilst the Act is supposed to have separate procedures for responding to 'neglected' and 'delinquent' juveniles, the borders between the two groups become merged, as the inadequacies and discrimination in the system result in children generally being inappropriately dealt with as criminals.

Whilst official statistics on juvenile crime may be taken as indicators regarding trends in juvenile delinquency, such figures have to be treated carefully, due to common practice of non-reporting of crimes, in addition to the practice of 'false arrests'. Crime records do not accurately reflect the state of crime in India, nor do they give an accurate picture of the number of people detained by the police, or the reason for their detainment.

However, according to 'Crime in India' 1996 figures there has been a declining trend of juvenile offences as a percentage of total Indian Penal Code (IPC) crimes since 1988. In 1996 a total of 19,098 children were apprehended (arrested and sent to court), of whom 26.3% were girls. Of the total juveniles apprehended 23.5% were disposed of after advice or admonition, 12% were placed under the care of parents or guardians, 4.2% (795 children) were sent to 'fit institutions', 8.5% (1623 children) were sent to special homes, 4.6% were dealt with by fine, and 7.9% were either acquitted or otherwise disposed of.

In the 'Crime in India' report it was acknowledged that poor economic set-up were the main attributes for delinquent behaviour of juveniles. Of the total juveniles who were involved in various crimes 80% were either illiterate (8195) or had education up to primary level (7080).

⁶ Nandanna Reddy, *Street Children of Bangalore: A Situational Analysis* (NOIDA, 1992); D'Lima and Gosalia, *Street Children of Bombay: A Situational Analysis*; and Rita Panicker and Parveen Nangia: *Working and Street Children of Delhi* (NOIDA) 1992.

Factors which Push Children into the Juvenile Justice System

OHP 6

WHY?

Why do Such Children Enter the System?

⇒ Deprivation, destitution and neglect are significant factors in the causation of juvenile delinquency

Factors contributing to the increasing vulnerability of juveniles to crime include:

- ⇒ Changes in population structure
- ⇒ Diminishing role of the family
- ⇒ Erosion in social values
- ⇒ Weakening of informal social controls
- ⇒ An unbalanced socio-economic development
- ⇒ Stark deprivation in the midst of affluence

Children further express the significance of:

- ⇒ poverty
- ⇒ their vulnerability due to their young age
- ⇒ gender
- ⇒ nature of child work
- ⇒ prevailing atmosphere of violence

Research in the area of juvenile delinquency has shown that the problem of juveniles drifting away from socially accepted norms is directly influenced by a variety of situational compulsions on them. Deprivation, destitution and neglect are significant factors in the causation of juvenile delinquency.

In a paper by Dr. Hira Singh the Former Director of the National Institute of Social Defence it was acknowledged that: *'Children devoid of an equitable sharing of socio-cultural and economic opportunities for growth and development are highly prone to various kinds of abuse and exploitation and to their eventual induction into a socially deviant life-style.'* Moreover, *'Changes in the population structure, diminishing role of the family, erosion in social values and weakening of informal social controls are among the other factors contributing to this growing phenomenon. An unbalanced socio-economic development, characterised by a stark deprivation in the midst of affluence, is mainly responsible for an increasing vulnerability of juveniles to crime.'*⁷

Children's words re-inforce such analysis. In seeking children's perspectives on the subject of criminal behaviour, they have generally commented that *'poverty and young age are the causes of humiliation that lead children to indulge in crime'*. Others have added that

⁷ Dr. Hira Singh, Former Director of NISD *'Current Issues in Juvenile Justice Administration'*

factors of gender, and the nature of child work increase children's vulnerability to crime. Furthermore, the *'influence of the surroundings also aggravates the problem of violence'*

Whilst the majority of street children are working, with many working 7-12 hours a day, some children find that they are not able to earn enough money from informal work. In need of food and shelter these children become more vulnerable to forces which draw them into begging, theft, crime or prostitution. Furthermore, such anti-social activities are often controlled and organised by local mafia groups (*goondas*), who harrass and bully children into working for them.

? The Appropriateness of the Current Juvenile Justice System

OHP 7

? The Appropriateness of the Current Juvenile Justice System

- ◆ Significant gaps between law and practice
- ◆ Current ineffectiveness of the system
- ◆ Increasing number of children living in poverty
- ◆ Socio-economic and political factors are not being addressed
- ◆ Widespread discrimination, abuse and neglect of children within the system

- ◆ **Current system violates rather than promotes children's rights**

Although more than a decade has passed since the Juvenile Justice Act was implemented, a review of the current system highlights significant gaps between its principles and actual practices. Failures by State Governments to establish the infrastructure, manpower and standards outlined under the Act, have resulted in a continuation of unjust treatment of juveniles.

Many States are yet to constitute the requisite number of Juvenile Welfare Boards and Juvenile Courts. Of those set up many are running without the assistance of a panel of honorary social workers, and are thus legally flawed. Furthermore, in most States the institutional infrastructure, as required under the Act, has yet to be developed in all the areas within their jurisdiction. Even the facilities for at least one Observation Home in every district, and one Juvenile Home and one Special Home in every four districts, as proposed in the Seventh Five Year Plan have yet to be created in several States.

Where institutions do exist the standards and conditions are often lacking. Under-funded by State Governments minimum standards in terms of accomodation, maintenance, education, vocational training, rehabilitation or suitably trained personnel are rarely met. Furthermore, whilst institutional care was supposed to be used as the last measure, in the absence of any suitable alternatives it has become the main recourse of action. Moreover, children are being indiscriminately picked up and placed in Homes without due regard to their circumstances.

'Police dupe children by saying 'Come with us. We will give you food and Rs100'. But when the child goes with them they nab them and put them in a Juvenile Jail.' (Yakub, street boy, age 14).

With its broad definition under the Act 'beggary' has become a pretext for taking street children who are not offenders into custody. The threat to the liberty of the street child has only contributed to the widespread practice of paying 'hafta' to the police.

In such circumstances questions regarding the appropriateness of the current system must be asked. Is the approach of 'picking children up' and placing them in institutions an appropriate strategy to respond to the needs of children and families living in poverty? Moreover, are these actions really in the best interests of the child? Considering the poor conditions of institutions in which the children are placed, is this really a better alternative to life with their families or on the streets?

The Juvenile Justice system is supposed to respond to the needs of all 'delinquent' and 'neglected' juveniles. Yet, at present the Government has the capacity to take care of 350,000 children⁸. Considering that there are 37 million children living in urban poverty with increased vulnerability towards 'neglect' or 'delinquency'; let alone the number of children living in rural poverty, how are we to respond? Should we be building more and more institutions or are there more appropriate strategies?

Far from being placed in an alternative setting that is conducive to their care, protection, growth and development, these children feel that they are being incarcerated in *jails* where they are vulnerable to further neglect, as well as physical, emotional, and sexual abuse. Furthermore, once a child has been institutionalised the whole issue of re-integration into mainstream society must also be addressed.

'One day I was sitting by the Yamuna, looking for a job. A policeman asked me why I was sitting there, I answered that I wanted a job. He asked me to go with him as he would give me a job. He took me in a van and locked me up with other children. They took us all to the 'Delhi Gate' (Observation Home) and locked us up. They beat up anyone who tries to runaway. They make you work a lot, feed you spoilt food and hit you for everything.' (Street Boy, Old Delhi)

In the proceeding sections further testimonies from children regarding their dealings with the police, and their experience of State-Run Institutions are shared. Significant gaps between the Juvenile Justice Act law and the reality for children are highlighted, as children give expression to violations and negligence that occurs within the system. We also share suggestions from street and working children with regards to their ideas for improving the Juvenile Justice System. We hope that the words of these children are

⁸ Gupta 'Juvenile Homes are like Jails'

listened to and that solutions are found to increase the reality of justice for our younger generation. For as one 14 year old boy Yakub suggested:

'The children should share their experiences and make a report. The report could be used to voice our grievances and to suggest alternative solutions.'

Children's Views

OHP 8

HOW?

Children's Views Concerning their Treatment Within the Juvenile Justice System

Police are not good, they should catch the accused - and leave the rest alone
(Umar, age 12, ragpicker)

Children's Experiences of Police Treatment

- ⇒ Treated as thieves and delinquents without reason
- ⇒ Treated unfairly
- ⇒ Regularly Beaten
- ⇒ Harassed
- ⇒ Asked for bribes (hafta)
- ⇒ Arrested without reason
- ⇒ Locked up
- ⇒ Tortured
- ⇒ Sent to jail illegally
- ⇒ 'Picked up' against their will and placed in Homes

Children's Views on Police Treatment:

Police are not good, they should catch the accused - and leave the rest alone
(Umar, age 12, ragpicker)

LAW: *The Juvenile Justice Act gives the police powers to take charge of neglected juveniles and to send them to an Observation Home until they can be brought before the Juvenile Welfare Board.*

REALITY: *Growing brutalisation of the police force in handling cases of children in recent years has been noticed by courts, NHRC, civil liberties activists and NGOs.*

Street and working children describe their daily struggles for justice in dealing with the police. Far from receiving protection from police, they have to protect themselves from police harassment and violence. Whilst trying to struggle for their own survival these

children are frequently scapegoated as thieves and delinquents and treated unfairly as a result. The children report numerous cases of the police beating them, bribing them, locking them up in cells and harrassing them. It becomes apparent that legislations will remain ineffective if the law enforcers themselves are violating the very same laws that are supposed to offer care and protection to children.

'Police is filthy, because they blame you for a crime that had never occurred; they accept bribes and beat without any reason... I would often get beaten up by police and the market people blamed me as thief' (Jamil, age 13, factory worker)

'The police accuse you falsely and then beat you up. Someone else steals and you get caught and beaten up. They don't do anything to people who work for them and pay them.' (Babir, age 11; Vender at Railway Station).

Discrimination against street children by the police is prevalent. Going against the principle of 'innocent until proved guilty' street children are viewed as vagrants and criminals, the first to be suspected of crimes that occur in their proximity. Furthermore, it appears that these children are scapegoated and arrested by the police as 'easy targets' to fill up their quota:

'When I worked as a coolie at New Delhi Railway Station, the police would say that if we paid them Rs100/- they would not beat us for X number of days. They do not eat out of their own pay at all, they only eat out of other people's work. When the police catch us they make money, get names and more numbers to add to their record and show their authority'. (Ajay, 11 year old, coolie)

LAW: *It goes against the fundamental principle of the Juvenile Justice Act to detain juveniles in a police lock-up or jail.*

REALITY: *Children are illegally detained in police lock-ups and adult jails.*

'Once my friend I were picking plastic in Bombay. A policeman asked us what we were doing and we answered that we were picking plastic. There was an older boy with me who had perhaps taken something. The policeman took us both to the police station and hung us upside-down. They tied me up and electrocuted me. They kept beating me and saying 'yes you are a thief' and I said 'no-no I am not'. But finally I said yes 'I am a thief' and they released me. They made be sign a paper confessing that I had stolen something.' (Naushad, 9 years old, handicapped Street Boy)

'Police always hassle me and ask for money. When we don't pay they hit us. They demand a 'Hafta' (weekly bribe) and take 25% of our earnings. They locked me up in a jail many times. One time they locked me up as I didn't have any money to give them. They kept me there from morning till midnight, without food or water and they also hit me.' (Alakram, 13-year old, shoe-shiner).

Knowing that it is illegal to send juveniles to jail, older children have been pressurised by the police to lie about their age:

'The police tell us to tell the courts that we are 19 even though we are younger. If we won't say that we are 19 the police will beat us again.' (Street boys at New Delhi Railway station).

Ganesh, a 15 year old ragpicker testifies: *'Last year a policeman arrested me. He did not even check my sack and said I was a thief. He took me to the station, asked me what I was doing at the railway station, hung me upside down, took off all my clothes and beat me up. He did not give me food or water. In the evening an officer came and said 'Do not keep him here send him to jail'. The next day they took me to court, said I was a thief and increased my age. They sent me to Tihar Jail.'*

The police add further insult to injury by seeking bribes for the children's release:

'We have to give money - bribes to the police if we want to get out of the police station. The police want our money. . If we don't give them money they beat us.' (Street Boys at New Delhi Railway Station).

'They arrested us because we are Bangladeshi's. Our family will come, pay and have us released. They catch us to make money. The police are meant to be for security and protection, but they are always beating us children' (Working girl, Chandni Chowk).

LAW: *When a child is taken into custody every effort must be made to locate their parents. Rather than placing children in Observation Homes, the police are supposed to make attempts to return children to the custody of their parents.*

REALITY: *Children are 'picked up' and placed in Observation Homes without proper attempts to return them to their parents.*

Some children have been left languishing in such homes for years even though their parents are within the city.⁶ In the case of Rohit, an 11 year old boy of Delhi, his widowed mother had made numerous complaints that her son was missing, before he was eventually located in a Government institution, but the institution authorities refused his release. Rohit was brutally beaten to death as he tried to escape.

Children's Experiences in a Remand and Children's Observation Homes

OHP 9

HOW? (continued)

Children's Views Concerning their Treatment Within the J. J. System

Children's Experiences of Homes

- ⇒ More like jails than homes
- ⇒ Poor food and unhygienic living conditions
- ⇒ Verbally abused and beaten by staff
- ⇒ Sexual harassment and abuse
- ⇒ Threatened and beaten if they attempt to run away
- ⇒ Limited educational, training or rehabilitative facilities

The children generally refer to Observation Homes as '*Children's jails*'. When some children were asked why they called it a jail. They answered: '*If it is called a home why is there barbed wire there? We call it a jail as we can't get out of there.*' (Sagir, Jitendre, Ramu - street boys aged 14-16).

Yakub, a street boy aged 14 described how he was against the concept of institutional care. He said that '*a destitute is put in a remand home - which is more like a prison jail even though they have committed no crime. The Remand Homes do not allow the children to go out to meet the people. This is wrong. The child should be allowed to go to the market etc. as and when they want to. The state of the Remand Homes should be improved.*' The majority of children in Remand Homes have not been charged with any offence, yet they suffer the social stigma of being viewed as 'delinquent juveniles'.

LAW: *All Juvenile Homes are supposed to provide the juvenile with accommodation, maintenance and facilities for education, vocational training, rehabilitation and facilities for the development of their character, all round growth and development.*

REALITY: *A number of children have been placed in Homes with poor living conditions, minimal facilities, in circumstances where abuse and neglect are prevalent.*

'I have received beating and mental torture because they call me thief... I have been beaten by the police and by the Remand home staff during my 18 day stay.... I was caught when I was ragpicking.... It was bad in the Remand Home as they used to beat us. Food was not good, they woke us in the morning and we had to bathe in cold water. I had fallen sick but they did not give me any medical care, ... They would make us sleep all in the same room and there the older boys would beat the younger ones and do the dirty acts with them. (Hirwa, Street Boy, age 11, Ragpicker).

'They caught me while working in railway station. I spent a week in the Home. Their behaviour was very bad, they used to beat up the children. There were threats of sexual abuse and life threatening responses if anyone thought of running away ... We learnt the

lesson that one should not run away from these homes, it is not advisable' (Jamil, age 13, worker).

I spent 7-8 days in the Home before my parents took me from there... It was not good. They used to make an old boy leader beat us and every morning they would drag us to put in the queue for bathing. No body can become good there because there is no right teacher (Gyan, street boy, age 17, Ragpicker).

'In the 'children's jail' I was hit often. ... and they didn't feed us well. We had the same vegetables for days and watery dahl.... Some children have died in these places.' (Jitendre, street vendor, aged 14).

'There also used to be so many bugs. We used to feel very itchy. I got so itchy I had to go to hospital. Even the water was dirty, as they used the same water for lots of children' (Sonu, street boy, aged 13).

'In the homes the watchmen barter drugs and cigarettes. There is also a lot of sexual abuse between older boys and younger children' (Ram Chandre, street boy, aged 16)

Children's Ideas for a Better System:

OHP 10

Children's Ideas for a Better System

- ⇒ Action to address Violations by Police
- ⇒ Improve Children's Homes
- ⇒ Develop Mechanisms for Monitoring and Responding to Children's Rights
- ⇒ Raise Public Awareness about Child Right Violations

In sharing their dissatisfaction with the current system, children we have spoken to have been quick to offer their suggestions for improving this system. However, with reference to their powerlessness and the discrimination that they face there is a general disbelief in the prospect of creating a 'just system'. Gyan, a 17 year old ragpicker states how *'the powerful people make the laws. If we talk about the JJ Act then the police beat us'* Other children add that *'the JJ Act is on paper only, that nobody cares about it'* and that *'nothing is going to be happened because police does not accept this.'* However, with slightly more hope for the future Irfan (a 16 year old porter) suggests that *'an awareness program should run among the constable and children'*.

In sharing their ideas for a better system the children's suggestions have focused on 4 key areas:

- Action to address Violations by Police
- Improve Children's Homes
- Develop Mechanisms for Monitoring and Responding to Children's Rights
- Raise Public Awareness about Child Right Violations

Children's Ideas for Tackling Problems with Police:

OHP 11

Children's Ideas to Address Violations by Police

Good/Bad Policeman drawing (OHP 12)

- ⇒ Children's protest rallies and events to raise awareness of police violence
- ⇒ Gain public and Government support
- ⇒ Training for Police
- ⇒ Complaints System so police are held accountable for their actions
- ⇒ Give Children more information about the laws and their rights

Children's Image a Bad/Good Policeman

OHP 12

'Police is for protection. It should be for us like it is for everyone else. Should they hurt us just because we are poor? (Rag-picker girl, age 15).

'Police should be honest and not take bribes. We want Police that do not treat us differently from other people. We may be poor, but we are still children.' (Working girl)

Children's protest rallies and events to raise awareness of police violence:

'We discuss our problem of police violence at the Bal Sabha'

'We should speak up and raise our voices against the police. We should rally against them, oppose them; everyone should get together and fight against them so that things can improve.'

'We should make a rally against violence from police or go on a hunger strike against police violence'

Gain public and Government support:

'People and the Government will have to do something to change police behaviour and attitudes.'

'If we get public support'

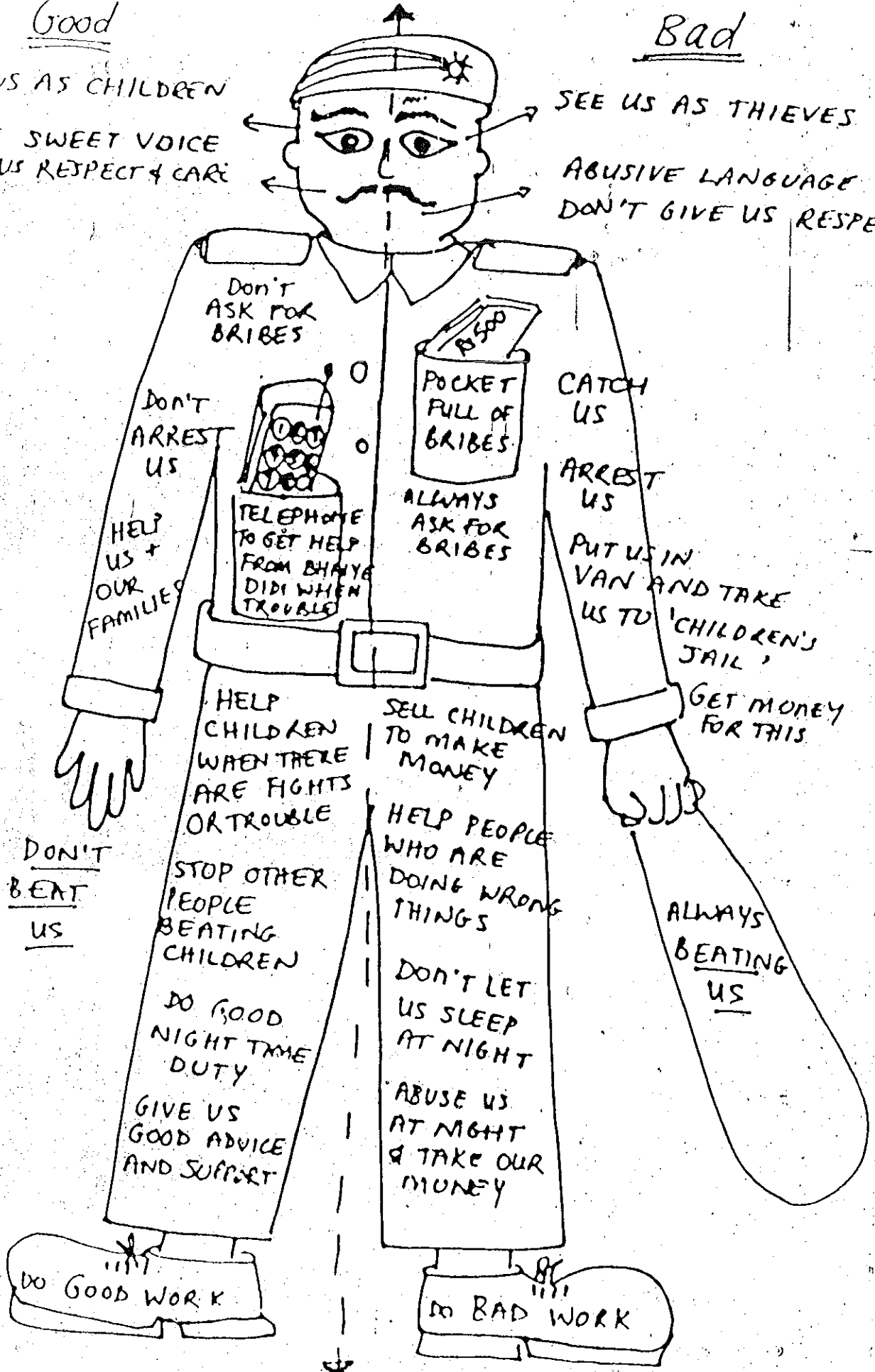
CHILDREN'S DIAGRAM OF A POLICEMAN

Good

Bad

SEE US AS CHILDREN
HAVE SWEET VOICE
GIVE US RESPECT & CARE

SEE US AS THIEVES
ABUSIVE LANGUAGE
DON'T GIVE US RESPECT



Training for Police:

'We should ask the Government to provide proper training for police behaviour'
'The police should be taught something about the problems that street and working children face, so that treat us like children and not like criminals.'

Complaints System so police are held accountable for their actions:

'The problem of police corruption should be looked into and action taken'
'If a policeman troubles the children he should be held accountable to the police or to a judge. There should be cases taken against policeman whenever they hit children. Anyone who sees them hitting children should complain or file a case in court.'
'We should talk to Senior Police Officers to stop violence and harassment from police - go to high level to report the problems.'

Give Children more information about the laws and their rights:

'If we know more about the laws'
'We should be given a card of some kind to stop the police from hitting us.'

CHILDREN'S DESIGN FOR A GOOD JUVENILE HOME

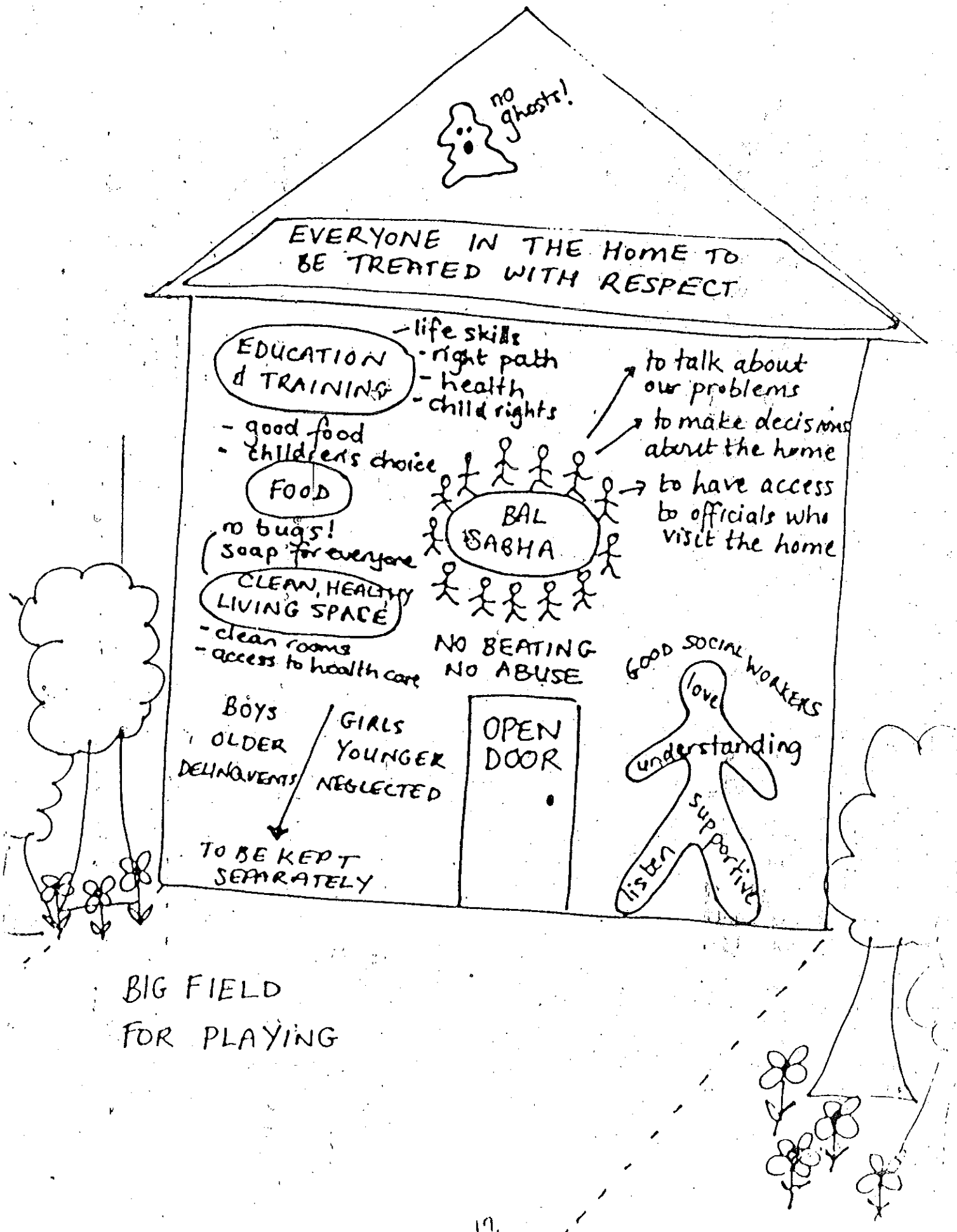


Image of a Good Juvenile Home:

OHP 14

Children's Picture - Ideas to Improve Children's Homes (OHO 13)

- ⇒ Everyone in home to be treated with respect
- ⇒ Education and Training Programme (right path, life skills, health training, child rights education)
- ⇒ Clean bedrooms (no bugs! and no ghosts!)
- ⇒ Children to have choice in what they eat and access to good food (e.g. eggs, rice, dahl, fresh fruit & veg.)
- ⇒ Bal Sabha (Children's meetings) in home:
 - ⇒ to talk about their problems
 - ⇒ to make decisions about the home
 - ⇒ to be given access to speak to officials who come to the home
- ⇒ Open door - children to be able to come and go as they please
- ⇒ Social workers who are good listeners, understanding, and give care and support
- ⇒ No beating or abuse
- ⇒ Older and younger children, girls and boys, neglected and delinquent children to be kept separately

'The delinquents are kept in the same place as runaway children: older and younger ages. They should be kept separately as there is a lot of abuse.' (Ramu)

'Institutions should not be made like prisons.' (Yakub, street boy, aged 15)

Ideas for Child Rights Monitoring Organisation:

Develop Mechanisms for Monitoring and Responding to Child Rights

OHP 15

- ⇒ Develop organisations which respond to children's complaints about abuses and violations of their rights.
- ⇒ These organisations should employ lawyers, social workers and medical staff to offer children support and legal advocacy.
- ⇒ Media reporters to monitor and report on violations of child rights.

Raise Public Awareness about Child Right Violations

OHP 16

- ⇒ Hold more rallies, street plays and puppet shows to make public more aware and sensitive to the situation and problems of street children.
- ⇒ Gain public support to reduce violations against children
- ⇒ Increase media coverage on issues of children's rights

Develop organisations which respond to children's complaints about abuses and violations of their rights:

'We should have an organisation where we can go to make our complaints, and they should be in a position to take action against the culprits.' (Rajesh, ISBT)

'There should be cases against policeman whenever they hit children. Anyone who sees them hitting children should complain or file a case in court.'

These organisations should employ lawyers, social workers and medical staff to offer children support and legal advocacy:

'There should be an organisation with a lawyer, a social worker and a doctor. These organisations should be all over Delhi.'

Media reporters to monitor and report on violations of child rights:

'The atrocities done to children should be brought out in newspapers. There should be reporters from NGOs who should keep roaming around in the areas of concentration of street children and should publish whatever he sees or hears about child's rights being violated.' (Jaswant, ISBT).

Ideas for raising public awareness about child right violations:

'We should take out more rallies every year so that we can make more people aware of our problems. We should also organise street plays and puppet shows.' (Shagird, JM)

'Public should write against the police, but everyone is scared and no-one wants to be involved. The Government should teach the police not to beat up children.'

'If people support us, then police brutality will lessen'

Summing Up and Moving Forwards:

OHP 17

Summing Up and Moving Forwards

- Our current Juvenile Justice System discriminates against children living in difficult circumstances.
 - The system fails to address socio-economic and political factors leading to their involvement in the system.
 - Poor Children are unfairly perceived and treated as thieves and delinquents.
 - There is widespread abuse, harassment, neglect and discrimination within the system.
 - In practice the Juvenile Justice System is both a victim of legislative chaos and statutory malpractice**
- ⇒ Need follow up action on children's ideas (re: police, homes, ways to monitor and respond to child rights)
- ⇒ In responding to the number of children living in poverty we need to review the whole J. J. System
- ⇒ **In seeking justice for juveniles our Government, NGOs, Corporate Sector and Civil Society need to work together to develop alternative, multi-pronged strategies for responding to the needs of children and families living in especially difficult circumstances.**

Through a situation analysis of the life and family circumstances of children who come into contact with the Juvenile Justice System it can be seen that in practice the law views destitute and delinquent children as having violated moral or religious codes, without understanding their socio-economic and political circumstances. Moreover listening to children's experiences has highlighted the extremes of abuse, neglect and discrimination that they face within a system that is supposed to provide for their care, protection and development.

Whilst the Juvenile Justice Act of 1986 has been an attempt to bring Juvenile Justice laws in India in conformity with the International laws and rules, such as the UNCRC, the attempts of the Government authorities to address human rights violations of juveniles have not been very successful. In practice, it is evident that the Juvenile Justice System is both a victim of legislative chaos and statutory malpractices. Its implementation has been poor and general infrastructure lacking. Far from promoting the welfare of the juveniles, the Juvenile Justice Act is proving to provide a mechanism of a dumping ground for poor children as thousands of children languish in observation homes and their rights continue to be violated.

In seeking justice for juveniles there is a need to respond not only to the ideas suggested by children today, with regards to police training, better homes and child rights awareness raising and monitoring services; but also to look towards developing sustainable