



Campaign Report

Restoring The Youth: Pan-India Campaign for Identifying Juveniles in Prisons and Rendering Legal Assistance - 2024

25th January to 27th February, 2024

NATIONAL LEGAL SERVICES AUTHORITY

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Abbreviations

CCI.....	Child Care Institution
CCL.....	Child in Conflict with Law
CWC.....	Child Welfare Committee
DLSA.....	District Legal Services Authority
JJB.....	Juvenile Justice Board
NALSA.....	National Legal Services Authority
PLV.....	Para Legal Volunteer
SLSA.....	State Legal Services Authority
SOP.....	Standard Operating Procedure

I. Background

‘Restoring the Youth’: Pan-India Campaign for identifying juveniles in prisons and rendering legal assistance – 2024 was launched by Hon’ble Mr. Justice Sanjiv Khanna, Judge, Supreme Court of India & Executive Chairman, NALSA on 25th January, 2024 on the eve of the 75th Year of India as the Republic. The Campaign was conceived in the context of the repeated instances of juveniles being detained in prisons despite multiple safeguards and monitoring mechanisms provided in substantive and procedural laws.

The Hon’ble Executive Chairman during the launch of the Campaign emphasized that *“the dignity of a child is an uncompromising facet of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the child right framework. Juveniles are in a way victims of the society which has ignored them and has failed to protect them against the vulnerability of the youth”*.

II. Juvenile Justice Law in India: Separate legal system for Children alleged or found in conflict with law

India's legal system has long mandated distinct penal treatment for children. The *Apprentices Act of 1850* was the first legislation in India by the colonial British government which permitted Courts to treat children who committed petty offenses as apprentices rather than sentencing them to prison. This Act was succeeded by several laws¹ in the coming decades of the colonial rule in India which sought to establish a distinct legal framework, including children's courts, to separate children from the adult criminal justice system. However, nationally the country lacked a uniform separate legal system for children alleged or found to have committed penal offences.

The *Constitution of India* adopted and enacted by the ‘People of India’ on 26 November, 1949 recognized the need for special provisions for children under *clause 3 of the Article*

¹ The Reformatory Schools Act, 1897; The Madras Children Act, 1920; Bengal Children Act, 1922; Bombay Children Act 1924.

15 and recommends protection of children as a policy principle to the State under clause (e) & (f) of Article 39.

Post independence, a serious formulation of a protective and rehabilitative legal system began with the passing of the *Children Act, 1960*. This law mandated a uniform legal system to “*provide for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union territories.*”

(emphasis supplied)

In 1986, after UN adopted the *Beijing Rules of 1985*², the Juvenile Justice Act, 1986 was passed to provide for a uniform legal system for juveniles in India to bring the juvenile justice system in conformity with the country’s international commitment.

The 1986 Act was repealed by the *Juvenile Justice (Care and Protection of Children) Act, 2000* which was passed in compliance of the *United Nations Convention on the Rights of the Child (UNCRC) 1989* which was signed by India and ratified by the parliament in 1992.

To address the lacunas in the 2000 Act and in response to the public sentiment for allowing juveniles alleged to have committed heinous to be tried as adults, the *Juvenile Justice (Care and Protection of Children) Act, 2015*³ was passed. The 2015 Act is a complete code for securing the best interest of children in conflict with the law and children in need of care protection.

Section 1 of the 2015 Act gives it an overriding effect over other existing laws in all matters concerning apprehension, detention, prosecution, penalty or imprisonment, rehabilitation and social re-integration of children in conflict with law and all other legal aspects related to children in need of care and protection.

² United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) adopted by the United Nations General Assembly vide Resolution No. A/RES/40/33 on 29 Nov. 1985.

³ The long title of the 2015 Act states that the Act has been framed “*taking into consideration the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (1993), and other related international instrument*” in addition to UNCRC, 1989 and Beijing Rules, 1985.

Section 6 of the 2015 Act provides that a person, alleged to have committed an offence when they were below the age of 18 years, shall be treated as a child during the process of the inquiry. If custody is required, such person shall be placed in a ‘place of safety’ during the pendency of inquiry.

Section 10 of the 2015 Act states that “...in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail” and mandates that a child alleged to be in conflict with law be sent only to an observation home or place of safety.

Section 47 of the 2015 Act mandates that pending inquiry if custody is to be granted, a child in conflict with law is to be placed in an ‘Observation Home’.

Section 48 mandates that a child in conflict with law (child who is found to have committed an offence) is to be placed in a ‘Special Home’.

Section 49 mandates that a child between 16 to 18 years either accused of or convicted for committing a heinous offence or a person above the age of 18 years who is alleged or found to have committed an offence when the person was a minor, shall be placed in a ‘Place of Safety’. *Section 9* of the 2015 Act states that while a person’s juvenility claim is being enquired into and such a person is required to be put in protective custody, they may be placed in a ‘Place of Safety’ during this period.

III. Children’s Right to Free Legal Services

All children are entitled to free legal services under the *Legal Services Authorities Act, 1987*. Free legal services are provided to children under *Section 12* of the Act by the Legal Services Institutions under the aegis of NALSA. NALSA’s Schemes and Frameworks related to children and prisons, such as the *NALSA (Child Friendly Legal Services to Children and their Protection) Scheme 2015* and the *SOP on Access to Legal Services to Prisoners and Functioning of Prison Legal Aid Clinics 2022* provide mechanisms for identification of such persons who appear or claim to be minor at the time of commission of offence in prisons and providing them free legal services.

Under the Constitutional and statutory mandate, the Legal Services Institutions under the aegis of NALSA provided legal services to **69,526** children across the country including **48,565** children who were provided legal services at the Juvenile Justice Boards in F.Y. **2023-24**.

IV. Campaign Objectives

- i. Identification of –
 - a. all persons in prison who claim to be minor (undertrial or convict) on the date of occurrence of offence, whose applications for claim of juvenility are either pending or not filed;
 - b. all persons (undertrial or convict) in prison who appear to be a minor or claim to be a minor, whose applications for claim of juvenility and consequential transfer to a Child Care Institution (CCI) are either pending or not filed;
 - c. all persons (undertrial or convict) in prison who were aged between 18 to 22 years as per the prison record on the date of the admission, for screening to identify potential minors on the date of the occurrence of the offence.
- ii. Filing of necessary applications/petitions before appropriate Courts and consequential transfer to Child Care Institutions (CCI) in identified cases.
- iii. Follow-up on the identified cases for timely disposal.

V. Campaign Outline

24th January	<ul style="list-style-type: none">• Member Secretary, NALSA's virtual meeting with SLsAs & DLsAs
25th January	<ul style="list-style-type: none">• Launch by the Hon'ble Executive Chairman, NALSA
26th January	<ul style="list-style-type: none">• Orientation by Secretary, DLsA to the JVLs & PLVs
27th & 28th January	<ul style="list-style-type: none">• Legal Awareness Programme for Prisoners on Juvenile Justice Laws
28th Jan. to 10th Feb.	<ul style="list-style-type: none">• Identification of Juveniles & Young Offenders in Prisons
3rd & 4th February	<ul style="list-style-type: none">• Supervisory visits by Secretary, DLsA to Prisons
14th to 27th February	<ul style="list-style-type: none">• Reporting: DLsA to SLsA to NALSA
27th February	<ul style="list-style-type: none">• Valedictory meeting by Ld. Member Secretary, NALSA

VI. Campaign Outcome at a Glance

7134

Total persons identified

- Who claim to be minor on the date of offence commission,
- Who appear as minor, and
- Who were between the age group of 18 to 22 years on the date of admission to prison

3381

Total applications filed

Applications filed along with supporting documents for juvenility claim if any after screening of all the identified persons

461

Persons released on bail out of the identified

Identified persons released on bail either during the pendency of the application claiming juvenility or before the filing of application.

287

Juveniles transferred to CCIs

Transferred to a Child Care Institution by the end of February, 2024.

- ❖ Out of the 3,381 applications filed for claiming juvenility, 64% i.e. 2,173 applications were pending as of 27th February, 2024.

VII. State-wise Campaign Data

Sl. No.	States/UTs	Total Persons Identified	Total Applications Filed	Total Applications Pending	Total Applications Disposed	Total Juveniles Transferred Either to Place of Safety or CCI	Total Identified Persons Released on Bail
1.	Andaman & Nicobar Islands	0	0	0	0	0	0
2.	Andhra Pradesh	170	55	50	5	3	4
3.	Arunachal Pradesh	25	20	1	19	4	11
4.	Assam	522	229	133	96	12	51
5.	Bihar	977	714	426	288	89	136
6.	Chandigarh	17	10	4	6	4	1
7.	Chhattisgarh	16	16	12	4	3	1
8.	Dadar & Nagar Haveli	68	0	0	0	0	0
9.	Daman & Diu	5	1	0	1	0	0
10.	Delhi	523	244	190	54	0	8
11.	Goa	5	5	1	4	0	0
12.	Gujarat	100	21	16	5	1	6
13.	Haryana	123	75	54	21	6	3
14.	Himachal Pradesh	8	5	3	2	1	1
15.	Jammu & Kashmir	46	28	15	1	0	2
16.	Jharkhand	638	516	416	100	31	43
17.	Karnataka	43	36	19	17	9	5
18.	Kerala	32	30	12	18	2	16
19.	Ladakh	Nil	Nil	Nil	Nil	Nil	Nil
20.	Lakshadweep	0	0	0	0	0	0
21.	Madhya Pradesh	205	159	115	44	6	5
22.	Maharashtra	113	32	28	4	2	1
23.	Manipur	18	11	11	Nil	2	Nil
24.	Meghalaya	7	2	3	2	2	0
25.	Mizoram	41	23	7	16	3	1
26.	Nagaland	18	9	1	9	Nil	2
27.	Orissa	878	383	141	242	12	89

Sl. No.	States/UTs	Total Persons Identified	Total Applications Filed	Total Applications Pending	Total Applications Disposed	Total Juveniles Transferred Either to Place of Safety or CCI	Total Identified Persons Released on Bail
28.	Puducherry	Nil	Nil	Nil	Nil	Nil	Nil
29.	Punjab	307	103	58	45	19	7
30.	Rajasthan	1163	45	26	19	6	5
31.	Sikkim	35	0	0	0	0	0
32.	Tamil Nadu	26	11	6	5	1	5
33.	Telangana	92	60	58	2	2	30
34.	Tripura	9	7	Nil	7	5	Nil
35.	Uttar Pradesh	655	461	320	141	46	22
36.	Uttarakhand	99	23	12	11	8	2
37.	West Bengal	150	47	35	12	8	4
	Total	7134	3381	2173	1200	287	461

VIII. Analysis

- The highest number of persons were identified in Rajasthan i.e. 1163 followed by Bihar (977) and Orissa (878).
- The highest number of applications were filed in Bihar i.e. 714 followed by Jharkhand (516) and Uttar Pradesh (461).
- Overall, 36% of the total applications filed were disposed as of March 2024. 100% disposal is recorded only in Tripura where 7 applications were filed & disposed and Daman & Diu where only one application was filed & disposed.
- Among the States where more than 100 applications were filed, the highest disposal rate of 63% was recorded in Orissa wherein 242 out of 383 applications filed were disposed of.
- The highest number of juveniles i.e. 89 were transferred to CCIs in Bihar followed by 46 in Uttar Pradesh and 31 in Jharkhand.

IX. Issues Identified

The analysis of data received from the SLSAs on the interventions made by the Legal Services Institutions under the aegis of NALSA during the Campaign period highlights the following issues:

- Continued detention of minors/ juveniles in prisons meant for adult inmates.
- Awareness among the prison inmates, on the rights of children and Juvenile Justice Laws.
- Monitoring and screening of prison inmates who appear to be minor or claim to be minor at the time of commission of offence.
- Delay in the processing of applications for claiming juvenility.
- The mechanisms for identification of juveniles in prisons and filing of applications for claiming juvenility.

X. Proposed Actionable Points

The following actions are proposed to address the above-mentioned issues for kind consideration by the competent authority:

1. The SLSAs be asked to provide information on the status of the pending applications for claiming juvenility filed in pursuance of the present campaign.
2. A Pan-India Campaign for Legal Awareness of Prisoners, Children in Conflict with Law and their family members.
3. DLSAs be asked to give due publicity and disseminate information through posters, banners, etc. about the legal provisions on juvenility and procedure for filing juvenility claim applications. The awareness materials be designed in regional languages in such a manner that all sections / vulnerable groups including prisoners who cannot read & write can understand them and be displayed at prominent areas in police stations, court rooms, legal aid clinics, prisons, hospitals and community centers.

4. SLSAs be asked to collate and send prison wise data for the year 2023 (January to December) w.r.t. compliance of Para 3.4.2 (j)⁴ of the *NALSA Standard Operating Procedures on Access to Legal Aid Services to Prisoners and Functioning of The Prison Legal Aid Clinics, 2022*, in the following format enclosed as **Annexure-A**.
5. To ascertain and understand the gaps in identification of children in prisons and the reasons behind their detention in prisons, the DLSAs be asked to conduct individual case wise review of the 287 cases where children were found in prisons and were transferred to Child Care Institutions. The DLSAs to also conduct enquiries in cases where these children, if any, were represented by a legal aid counsel / panel lawyer before the commencement of this campaign as to why the juvenility claim application was not filed earlier. In this regard, SLSAs be asked to collate and provide district wise number of such cases by 15th June, 2024 and thereafter send individual case wise reports to NALSA by 31st July, 2024.
6. Need for capacity building of Secretaries, DLSAs and PLVs, along with other stakeholders who are first point of contact in cases involving CCLs, such as Police, Judicial Officers and Prison Superintendents.
7. Intensive capacity building programmes be designed for PLVs, doctors and police personnel on timely identification of prisoners appearing to be minor or claiming to be minor and taking required action such as filling of necessary applications and follow-up.
8. Bi-Annual Pan-India campaigns to identify juveniles in prisons may be conducted till no such person who appears to be a minor or claims to be minor, is found to be lodged in prison for three consecutive campaigns. The second such campaign of this year may be launched on 15th August, 2024.

Dated: 27.05.2024

⁴ 3.4.2 Functions of Paralegal Volunteers: “j) If you come across a prisoner who claims to be a juvenile at the time of commission of offence or at arrest, to draft an application to bring the case to the attention of the concerned Legal Services Authority, Juvenile Justice Board and the Child Welfare Committee.”

ANNEXURE-A

Format for monitoring action taken under Para 3.4.2 (j)¹ of the *NALSA Standard Operating Procedures on Access to Legal Aid Services to Prisoners and Functioning of The Prison Legal Aid Clinics, 2022*

1st January, 2023 to 31st December, 2023

District/ DLSA	Prison	Number of Prisoners identified who claimed to be Juvenile at the time of commission of offence or arrest or appeared as minors	Lawyer assigned / engaged		Number of applications sent by the PLV to intimate the DLSA about such cases	Number of Juveniles transferred to JJBs
			Legal Aid	Private		

¹ 3.4.2 Functions of Paralegal Volunteers: “j) *If you come across a prisoner who claims to be a juvenile at the time of commission of offence or at arrest, to draft an application to bring the case to the attention of the concerned Legal Services Authority, Juvenile Justice Board and the Child Welfare Committee.*”