



Assam: The State of Juvenile Justice



ASIAN CENTRE FOR HUMAN RIGHTS



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1. EXECUTIVE SUMMARY AND RECOMMENDATIONS

The State of Assam has been consistently ranking top in juvenile delinquency among the eight north eastern states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim. In 2011, Assam topped the list with 405 cases (402 of IPC¹ crimes and 3 SLL² crimes), followed by Meghalaya with 98 IPC crimes, Arunachal Pradesh with 78 IPC crimes, Tripura with 73 IPC crimes, Sikkim with 63 IPC crimes, and Mizoram with 58 IPC crimes. Figures of Manipur were not available in the 2011 NCRB report.

At the same time, Assam also topped the list of States in India as per the 'Study on Child Abuse India 2007' carried out in 13 states by the Ministry of Women and Child Development of the Government of India. Assam with 84.65% had the highest prevalence of physical abuse of children who faced one or more forms of physical abuse. While 56.37% children in institutions across the country were subjected to physical abuse by staff members of the institutions, in Assam the study reported 90.20% of physical abuse of children in institutional care homes i.e. juvenile homes. Assam with 57.27% had the highest percentage of sexual abuse of those children who faced one or more forms of sexual abuse.

The administration of juvenile justice remains equally deplorable.

There is acute shortage of homes for juveniles in conflict with the law as well as children in need of care and protection. Assam with 27 districts is the second largest but the most populated state in the north east India but

there are only 4 Observation Homes and 3 Children Homes run by the state. These homes are confined to Kamrup, Nagaon and Jorhat district while the shelter homes run by NGOs are located in Guwahati.³ While the Jorhat Observation Home set up in 1987 caters to over 11 districts — Jorhat, Golaghat, Karbi Anglong, Dibrugarh, Tinsukia, Sivasagar, Lakhimpur, Darrang, Udalguri and Sonitpur.⁴ Trafficking prone districts like Dhubri, Kokrajhar, Baksa, Chirang, Bongaigaon etc do not have any home.

Assam's negligence of juvenile justice is astounding. It failed to set up 7 new Open Shelters during 2011 despite availability of funds under the ICPS! Because of this failure the PAB declined to accept the request for grants for 3 existing Open Shelters at the 45th PAB meeting on 11th July 2012 under the ICPS. Instead, the PAB advised Assam to submit separate proposal for additional Open Shelters based on the findings/recommendations of the survey on street children that it had carried across Assam through Jayaprakash Institute of Social Change, a Kolkata based technical resource agency.⁵

The Child Welfare Committees (CWCs) constituted in all 27 districts of the state⁶ remain highly non-functional. Out of the 596 cases registered in 18 districts of Assam during 1st January 2011-31st December

1. Indian Penal Code
2. Special or Local Laws

3. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam; available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>
4. Govt move to free juveniles, The Telegraph, 30 August 2011
5. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam; available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>
6. Affidavit dated 6 January 2011 submitted by Assam before the Supreme Court in Writ Petition No. 473 of 2005 pertaining to implementation of the JJ Act

2011, 347 cases were pending.⁷ The State Child Protection Society (SCPS), Assam failed to specifically provide the total number of reviews done by the State Government on the pendency of cases before each of the CWCs since their constitution. The SCPS only stated that State level review is being done from time to time.⁸

Assam has constituted Juvenile Justice Boards (JJBs) in all 27 districts of Assam⁹ but their functioning remains seriously problematic. At the latest i.e. the 45th Project Approval Board (PAB) Meeting under Integrated Child Protection Scheme (ICPS) held on 11th July 2012, the PAB expressed concern about the high pendency (1,635) at the JJB and suggested to increasing the sittings of the JJBs.¹⁰ Information received under the RTI revealed that percentage of pendency of cases before the JJBs range from minimum 33.3% in Udalguri district to maximum of 100% in Dhemaji and Morigaon district followed by 90.2% in Goalpara district and 79.3% in Darrang district and requires serious consideration.

The problem is compounded by the lack of review of the pendency of cases of the JJBs by the Chief Judicial Magistrate or CMM as required under section 14(2) of the JJ (Care and Protection of Children) Amendment Act, 2006. Replies received from JJBs under the RTI stated that not a single review of the pendency of cases before the JJBs has been conducted by the CMM or CJM in Kokrajhar district¹¹;

Dibrugarh district¹²; Darrang district¹³; Lakhimpur district¹⁴; Udalguri district¹⁵; Dhubri district¹⁶; Goalpara district¹⁷; Barpeta district¹⁸; Golaghat district¹⁹; Morigaon district²⁰; Chirang district²¹; Dhemaji district²² and Nagaon district²³ from date of their constitution till 30th March 2012.

It has been observed that there is complete lack of enforcement of penal provisions in the JJ(C&P) Act, 2000 (as amended in 2006) in Assam. Sections 23-27 of the JJ(C&P) Act, 2000 provides for protections to Juvenile in the form of penalties and punishments to perpetrators accused of cruelty and exploitation against the juvenile or child. Information obtained by ACHR under the RTI Act, 2005 revealed that none of these protective provisions of the Juvenile Justice Act has been enforced in most districts of Assam. Not a single case under any of the above provisions of the JJ (C&P) Act, 2000 (as amended in 200) has been registered in these districts.

Asian Centre for Human Rights recommends the following to the State Government of Assam and the Ministry of Women and Child Development, Government of India:

7. RTI Reply No.SCPS(G)43/2011/151 dated 12.04.2012 received from State Child Protection Society, Assam
 8. RTI Reply No.SCPS(G)43/2011/151 dated 12.04.2012 received from State Child Protection Society, Assam
 9. RTI Reply No.SCPS (G)43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam
 10. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>
 11. RTI reply dated 23.3.2012 received from Principal Magistrate, JJB, Kokrajhar

12. RTI reply dated 22.3.2012 received from Dibrugarh District Child Protection Unit
 13. RTI reply dated 28.3.2012 received from Darrang District Child Protection Committee
 14. RTI reply dated 29.3.2012 received from Lakhimpur district Child Protection Committee
 15. RTI reply dated 26.3.2012 received from JJB, Udalguri district on 26th March 2012
 16. RTI reply dated 27.3.2012 received from Dhubri District Social Welfare Officer
 17. RTI reply dated 30.3.2012 received from the Office of the District and Session Judge, Goalpara district,
 18. RTI reply dated 02.4.2012 received from Barpeta District Probation Officer
 19. RTI reply dated 10.4.2012 received from District Child Protection Officer, Golaghat district
 20. RTI reply dated 12.4.2012 received from the JJB, Morigaon district
 21. RTI reply dated 25.4.2012 received from Chirang District Social Welfare Officer
 22. RTI reply dated 03.5.2012 received from District Social Welfare Officer, Dhemaji
 23. RTI reply dated 11.4.2012 received from District Child Protection Officer, Nagaon

- Establish adequate Observation Homes, Special Homes and Children Homes to cover and reach out to each of the 27 districts of Assam;
- Strengthening the infrastructure needs such as buildings, bathrooms/toilets, sick room, study centers, playground as well as adequate staff like educators, vocational trainers and other staff to the existing juveniles homes;
- Ensure that the sittings of the JJBs are held regularly as provided under Rule 9 (3) of the Assam Juvenile Justice (Care and Protection of Children) Rules, 2011 in order to end pendency of cases;
- Ensure regular review of the pendency of cases of the JJBs by the Chief Judicial Magistrate or CMM as required under section 14(2) of the JJ (Care and Protection of Children) Amendment Act, 2006;
- Make the CWCs functional and ensure regular review of the pendency of cases of the CWCs by the State Government to end pendency of cases;
- Appoint Inspection Committees at the District and City Level and make the State Advisory Board, Inspection Committees at the District and City Level functional to ensure regular inspection of juvenile homes in Assam;
- Ensure full enforcement of penal provisions viz. Sections 23-27 of the JJ (C&P) Act, 2000 (as amended in 2006) to prevent violations of the rights of the juveniles in conflict with law as well as children in need of care and protection;
- Conduct capacity building and training for all members of JJBs, CWCs, Inspection Committees at the State, District and City level, the Probation Officers and the law enforcement officials in the state.

2. STATE OF JUVENILE JUSTICE IN ASSAM

2.1. Assam tops the list of juvenile delinquency in northeast India

According to records available with the National Crime Records Bureau of the Ministry of Home Affairs, Government of India, Assam has been consistently ranking top in the list of juvenile delinquency among the eight north eastern states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim. In 2011, Assam topped the list with 405 cases (402 of IPC crimes and 3 SLL crimes), followed by Meghalaya with 98 IPC crimes, Arunachal Pradesh with 78 IPC crimes, Tripura with 73 IPC crimes, Sikkim with 63 IPC crimes, and Mizoram with 58 IPC crimes. Figures of Manipur were not available in the 2011 NCRB report.

The below given chart depicts the extent of juvenile delinquency in Assam.

No. of cases (IPC and SLL) and no. of juvenile in conflict with law apprehended during 200-2011²⁴

Year	IPC Crimes	IPC Apprehension	SLL Crimes	SLL Apprehension
2011	402	424	3	3
2010	365	383	2	2
2009	546	555	7	8
2008	534	642	2	2
2007	539	1155	0	0
2006	342	539	0	0
2005	311	373	0	0

Disposal of juveniles arrested (Under IPC and SLL Crimes) and sent to courts during 2005-2011²⁵

Year	Arrested and sent to courts	Sent to home after advice or admonition	Released on probation and placed under care of parents	Released on probation and placed under care of Fit Institutions	Sent to Special Homes	Dealt with fine	Acquitted or otherwise disposed off	Pending disposal
2011	427	73	155	42	41	15	40	61
2010	385	158	112	75	4	0	12	24
2009	563	163	155	15	83	30	33	84
2008	644	27	195	147	94	0	75	106
2007	1155	471	228	190	228	7	6	25
2006	539	158	151	77	97	10	6	40
2005	373	96	74	33	64	17	19	70

2.2. Assam has highest percentage of child abuse

Crimes against children are common in Assam. According to Annual Reports from 2001 to 2011 of the National Crimes Records Bureau, Ministry of Home Affairs, Government of India, crimes against children increased manifold since 2005. The number of crimes committed against children was 18 in 2001; 14 in 2002; 19 in 2003; 21 in 2004; 199 in 2005; 252 in 2006; 167 in 2007; 183 in 2008; 44 in 2009; 197 in 2010; and 236 in 2011.²⁶

Children in Assam remain highly vulnerable to abuse in comparison to other states of India. This has been revealed in a national level report titled 'Study on Child Abuse India 2007' carried out in 13 states by the Ministry of Women and Child Development of the Government of India.

24. See NCRB Annual Reports "Crime in India" from 2005 to 2011

25. See NCRB Annual Reports "Crime in India" from 2005 to 2011

26. See NCRB Annual Reports "Crime in India" from 2001 to 2011

According to the report, the types of abuse can be broadly categorized into: (i) Physical abuse and (ii) Sexual abuse. The findings of the report²⁷ are stated as under:

i. Physical abuse

According to the said study Assam with 84.65% topped the list of states with highest prevalence of physical abuse of children who faced one or more forms of physical abuse.

According to the said study, 46.41% of boys and 53.59% of girls suffered physical abuse at the hands of family members while 99.56% children faced corporal punishment in school. The percentage of boys who faced corporal punishment was 45.18 while girls constituted 54.82.

The study also revealed that 56.37% children in institutions across the country were subjected to physical abuse by staff members of the institutions while Assam reported 90.20% of physical abuse of children in institutional care homes i.e. juvenile homes.

The study also revealed that 61.50% of young adult respondents in Assam reported having subjected to physical abuse during childhood.

ii. Sexual abuse

The Study stated that Assam reported the highest incidence of sexual abuse of both boys and girls. Based on State-wise analysis of severe forms of sexual abuse of children in 13 states under study, Assam with 57.27% had the highest percentage of sexual abuse of those children who faced one or more forms of sexual abuse. Based on the state-wise analysis of other forms of sexual abuse of children revealed that Assam again reported the highest percentage of sexual abuse (86.26%) of those children who faced one or more other forms of sexual abuse.

27. 'Study on Child Abuse India 2007' carried out in 13 states by the Ministry of Women and Child Development of the Government of India; available at: <http://wcd.nic.in/childabuse.pdf>

2.3. Violations of the rights of children by security forces in Assam

There are reports of violations of the rights of the child by the law enforcement personnel. In a number of cases, Asian Centre for Human Rights had intervened and a few emblematic cases are highlighted below:

Case 1: Torture of two minors (names withheld) on 21 June 2010

Allegations: Two minor boys (names withheld) of Duworisiga village were tortured by police at Nitaiphukuri outpost in Sivasagar district on 21 June 2009

Case summary: On 11 June 2009 the victims were picked by a police team led by Jitumoni Boro, Officer-in-charge of Nitaiphukuri police outpost on the accusation of stealing mobile phone recharge cards following a complaint lodged by their neighbour Biren Phukan. Both the victims were detained in the police station, stripped and tortured throughout the night. The police allegedly rubbed chillies on their bodies and forced it down their throats. The chillies, locally called as 'bhot jolokia or naga jolokia', are reportedly the hottest chillies in the world.

Action taken by ACHR: On 30 June 2009 ACHR submitted a complaint before the NHRC, among others, requesting the Commission to: direct the state government of Assam to order a judicial inquiry into the alleged torture of the victims; direct the state government of Assam to send the medical reports of the victim to the NHRC; direct the state government of Assam to immediately arrest the accused police personnel including Jitumoni Bora, and take appropriate legal action against them if found to be guilty; direct the state government of Assam to provide an interim compensation of Rs 100,000 (one lakh) to the victims.

Result: The NHRC registered the complaint as Case No.53/3/15/09-10 and issued notice to the Superintendent of Police, Sivasagar district, Assam directing him to submit report on the matter. Vide letter No.HRC/APHQRs/58/09/325 dated 03.11.2009, the Additional Director General of Police, Assam forwarded the enquiry report of the Superintendent of Police, Sivasagar district. On 16.01.2012 the NHRC forwarded the enquiry report to ACHR being the complainant for comments and ACHR submitted its comments on 01.03.2012.

The case is pending final disposal but substantial progress has been seen so far. In its order dated 3rd August 2012, the NHRC made the following order-

“These proceedings shall be read in continuation of the earlier proceedings of the Commission dated 25.5.2012, when it asked the SP, Sivasagar to send a clarification on the following points raised by the complainant :- i) He claims that Debananda Hazarika, the father of Lakhinda Hazarika, had also been illegally detained overnight, though there was no complaint against him; the Commission sees no reference to this in the police record, and asks the SP to confirm if indeed this was true. ii) Lakhinda Hazarika was a minor, aged around 16 when the incident took place. If so, under the provisions of the Juvenile Justice (Care and Protection of Children) Act 2000, he could not have been detained at a police station. The SP must clarify this point. iii) The enquiry report claims that neighbours of the victims had been interviewed but had refuted the allegations of torture. Since the alleged torture took place in the police outpost, it was pointless to ask the neighbours to corroborate the claim and wrong to reach a conclusion on the basis of their statements. The man who was present was Debananda Hazarika, and he has confirmed the fact of torture. iii) The torture

was carried out, according to the victims, by rubbing chillies into their eyes and anus. It is possible that no traces were left when they were medically examined three days after the event, but the Commission also notes that the examination itself was so cursory that the doctor did not even record the ages of his patients on the examination slip. There is nothing to show that he had examined the areas of the bodies on which the torture was inflicted. The enquiry report did not consider the nature of the torture alleged and accepted a perfunctory note from the doctor. v) Though these boys were released on the 22nd June 2009, the same SI arrested them again on the 23rd June, in connection with Demow Police station, case no. 75/09. Details of this case have not been given, but the victims have said this was a false case. On this arrest too, the police were at fault in that a minor was not produced before a Juvenile Justice Board. The requisite clarification on the above points has not been received so far. Let a reminder be issued to the SP Sivasagar to send his clarification to these points within six weeks.”

Case 2: Torture of a 12-year-old minor boy on 16 August 2009

Allegation: Torture of 12-year-old Master Yogender Saikia (name changed) of Sanitpur village by Manuj Boruah, Officer In-Charge at the Sungajan police station in Golaghat district of Assam on 16 August 2009

Case Summary: On 16 August 2009 at about 11 am, a group of about six police personnel had gone to the house of the Yogender Saikia (name changed) in a car. Two police personnel entered the house of the victim and dragged him out from the house without giving any reason. He was taken to the Sungajan police station and on reaching the police station, he was ordered to sit on the floor of the verandah. Mr Manuj Boruah, Officer In-Charge of the police station tied the minor's hands on his

back with a chain and tortured him. He was beaten up with a stick repeatedly on his body including in the thigh, knees, foots, sole, back, arms, elbows and ears. The Officer-In-Charge also asked the victim boy to keep his hand on the table and beaten him on the nails. He was again hit on the head, neck and nose until the victimised boy became unconscious.

Action taken by ACHR: On 12 November 2009 ACHR filed a complaint before the NHRC, urging the Commission to: direct the State Government of Assam to order a judicial inquiry into the case; direct the State Government of Assam to send the medical report of the victim; direct the State Government of Assam to immediately suspend and arrest the accused police personnel and take appropriate legal action including under the provisions of the Juvenile Justice Act; direct the State Government of Assam to provide an interim compensation of Rs 500,000 (five lakhs) to the victim.

Result: The National Human Rights Commission registered the complaint as Case No.135/3/22/09-10 and issued notice to the Superintendent of Police, Golaghat district of Assam. In response, the Superintendent of Police, Golaghat district, vide communication dated 07.12.2010 sent a report. The SP's report confirmed that the accused SI Manuj Baruah directed his subordinate police officials to pick up the victim from his home at 10.00 o'clock; caned him and detained him in the police station. The report of the SP further stated that accused police officer willfully omitted to make necessary entries in the General Diary of the police station, pertaining to the whole episode including the picking up of the victim, his illegal detention and subsequent release. The report further stated that a Departmental Disciplinary Proceeding has been drawn up against the accused officer for criminal misconduct and dereliction of duty.

The NHRC ruled as under:

“The Commission has considered the material placed on record and observes that it is undisputed that Master Dipankar was brought to the police station without his involvement in any criminal case and he was tortured by SI Manoj Kumar Baruah, the then Office-in-charge of Chungajan Police station. No entries were made in the General Diary in this regard. Thus, there was an apparent violation of human rights of the victim boy by the public servant by misusing his office, for which he must be compensated under the provision of the Protection of Human Rights, 1993. As such, the Commission recommends an amount of Rs.50,000 as compensation to the victim child Dipankar Saikia s/o Pradip Saikia for breach of his human rights. The Chief Secretary, Government of Assam be asked to submit compliance report along with proof of payment within eight weeks”.

In a communication dated 3 May 2012, the NHRC informed ACHR that the Joint Secretary to the Government of Assam, Political (A) Department has intimated that payment of compensation amounting to Rs.50,000 has been made through cheque to the victim and the proof of payment has been sent.

Case 3: Killing of 15-year-old Jatan Reang on 14 May 2010

Allegation: Master Jatan Reang (15 years) killed in firing by the personnel of 14th Assam Rifles and arbitrary arrest of four other tribal villagers at Gudgudi village under Katli Chara Police Station in Hailakandi district of Assam on the night of 14 May 2010

Case Summary: The five tribal villagers including the deceased Jatan Reang were returning from Boirabi bazaar when they

were ambushed by the 14th Assam Rifles from North Tripura over a bridge at Gudgudi village at around 10 PM on 14 May 2010. The 14th Assam Rifles personnel opened fire indiscriminately without any provocation and killed Jatan Reang although they were unarmed and innocent. Following the killing of Jatan Reang, the Assam Rifles personnel arrested the four other Reang tribal villagers and handed them over to Katli Chara police station. They have been identified as (1) Bira Singa Reang, son of Jodu Moni Reang, (2) Aiudyo Reang, son of Ram Moni Reang, (3) Mukta Ram Reang, son of unknown, and (4) Jamini Reang, son of Narat Moni Reang. All of them are innocent villagers.

Action taken by ACHR: On 23 July 2010 ACHR filed a complaint with the National Human Rights Commission urging its immediate and appropriate intervention. ACHR, inter alia, requested the NHRC to: direct the Ministry of Home Affairs and the state government of Assam to order a judicial inquiry into the case; direct the Ministry of Home Affairs and the state government of Assam to immediately release the four innocent tribal Reang villagers from illegal custody; direct the Ministry of Home Affairs and the state government of Assam to submit the post-mortem report of the minor deceased; direct the Ministry of Home Affairs and the state government of Assam to immediately arrest the accused personnel of the 14th Assam Rifles and further take appropriate legal actions against them; direct the Ministry of Home Affairs and the state government of Assam to provide an interim compensation of Rs. 10,00,000 (Ten lakhs) to the deceased's family.

Result: The NHRC registered the complaint as Case No.170/3/21/2010-PF/UC and issued notice to the Secretary, Ministry of Home Affairs, Government of India.

During the course of proceeding, the NHRC received the Magisterial Enquiry Report (MER), Investigation Report of the Superintendent of Police, Hailakandi, and the Post-Mortem Report (PMR). The MER stated that a group of 18 personnel consisting of 2 officers, 6 JCOs and 73 Jawans of 14 Assam Rifles camping at Kanchanpur, Tripura entered into Hailakandi district on 21.07.2010 in search of some undesirable elements in Gutguti forest area under Katlicherra Police station.

The MER further stated as under:

“When these boys namely (1) Jatan Riang s/o Kayaram Riang – 17 years, (2) Muktajoy Riang S/o Late Durgaprasad Riang – 20 years, (3) Adyaram Riang s/o Late Rammoni Riang – 30 years and (4) Birasingha Riang S/o Narodmoni Riang – 26 years all of West Gutguti village, were returning home around 23.00 hours. They were cordoned off by the 14 Assam Rifles personnel between east and west Gutguti village near Venture school and asked them to stop. Three of them put their hands up and stopped but Jatan Riang tried to run from the place (being afraid as stated by his companion) towards the nearby bushes. At that one Jawan fired at him and injured him in his right leg (thigh) and due to excessive bleeding the injured succumbed to his injury around 3 AM of 22.07.2010.”

Quoting the PMR the NHRC observed that the victim was not at a distance from the jawan who shot at him. The nature of the injury sustained i.e. scorching; by the boy made it clear that the boy was fired at point blank range. The Assam Rifles's story of running away by the victim from the place was not substantiated in view of independent medical evidence. The Investigation Report of the SP, Hailakandi corroborated that one jawan fired at Jatan Riang and injured his right thigh.

In an order dated 14.09.2011 the NHRC ruled as under:

“The report submitted by the Government of India does not refer to the questions raised by the Commission. The Commission has specifically pointed out that when Jatan Reang tried to run from his place as he was afraid, one Jawan fired at him and injured the boy on the leg thigh. He died on account of excessive bleeding. It is required to be noted that the incident took place at about 23.00 hours. The person succumbed to the injuries at 3.00 AM of 22.07.2010. It was also pointed out that there was no question of self-defence in a case like this and after he was hit by the bullet why the person was not attended to. The killing is not justified and even the killing not providing immediate treatment is further negligence on the part of the Armed Forces.

Considering these aspects, the response cannot be accepted and therefore, the Commission recommends to the Government of India through Secretary, Ministry of Home Affairs to pay a sum of Rs.5.00 lakhs to the NOK of deceased Jatan Reang within a period of eight weeks. Secretary, MHA, Government of India shall forward the compliance report along with the proof of payment”

Vide communication dated 02.04.2012, ACHR has been informed by the NHRC that in view of the receiving the proof of payment, it has closed the case.

Case 4: Extra-Judicial killing of 13-year-old Rakhil Gaur on 8 December 2012

Case summary: On 8 December 2011, in the morning, Cobra commandoes of the Central Reserve Police Force reportedly shot dead the victim identified as 13-year-old Rakhil Gaur at his village, Malasi Namkhi Gaur village under Dolamara police station in Karbi Anglong district of Assam.

Action taken by ACHR: On 9 December 2011, ACHR filed a complaint with the National Human Rights Commission urging its immediate and appropriate intervention. ACHR requested the NHRC to: direct the state government of Assam to order a judicial enquiry into the murder of 13-year-old Rakhil Gaur by the Cobra commandoes of the CRPF at Malasi Namkhi Gaur village under Dolamara police station in Karbi Anglong district of Assam and submit the report; direct the state government of Assam and Ministry of Home Affairs to submit the post mortem report of the victim, which should have been conducted in full conformity with the NHRC guidelines; direct the state government of Assam and Ministry of Home Affairs to immediately suspend the accused commandoes who were/is responsible for shooting to death of the victim pending the inquiry; direct the State Government of Assam and Ministry of Home Affairs to arrest and initiate appropriate legal action against the accused commandoes; direct the state government of Assam and Ministry of Home Affairs to pay an interim compensation of Rs. 10,00,000 (10 Lakh) to the next of kin of the victim.

Result: NHRC registered the complaint as Case NO.348/3/8/2011-PF and issued notice to Director General, CRPF, New Delhi and Superintendent of Police, Karbi Anglong district, Assam calling for reports within four weeks.

The state government of Assam paid a compensation of Rs.300,000 (three lakhs) to the next of kin of the deceased from the Chief Minister's Relief fund and in view of this, the NHRC closed the case.

In addition to the above cases, a number of incidents on the violations of the rights of the child were reported as given below:

On 21 January 2005, the Black Panthers of Assam Police arrested ten-year-old Ajit

Basumatary (name changed), a student of Class III, on the “charge of playing with a toy gun” and kept him in the lock-up in Howraghat police station throughout the night.²⁸

On 27 October 2006, a 14-year-old girl Ranjita (name changed), daughter of Bojendra Rajiyung, was allegedly picked up by the security personnel led by Major Dayamoni Sukla without any reason from her house at Harangajao in North Cachar Hills.²⁹

On 13 March 2008, five policemen led by Liaqat Ali, Second Officer of the Bharalumukh police

station allegedly forcibly undressed a minor (name withheld) and molested her inside the police station. The victim, who was already a victim of gang rape, was summoned by the accused in connection with the gang rape case.³⁰

On 17 November 2008, an Assistant Sub-inspector of police, Abdul Faruki, posted at Manja police station in Karbi Anglong district was suspended for allegedly molesting a minor girl after her family lodged a complaint. According to the victim, Faruki abused her repeatedly for six months³¹.

28. Ten-year-old arrested, The Sentinel, 24 January 2005

29. Dimasa students' stir threat over missing girl, The Assam Tribune, 31 October 2006

30. CJM court summons 5 cops in minor sexual abuse case, The Assam Tribune, 27 July 2009

31. Police officer suspended for molesting minor, The Shillong Times, 18 November 2008

3. STATUS OF IMPLEMENTATION OF JJ (C&P) ACT

3.1 ACHR's Fact finding visit

ACHR visited the Observation Home for boys at Lechubari, Jorhat in Jorhat district of Assam on 12 July 2012. This Observation Home was established in 1987 and is run from its own building.

The ACHR researcher found that the sanctioned capacity of the observation home is 50 inmates but at the time of his visit there were only 16 inmates in the home. The authorities of the Home failed to provide the month wise break-up of inmates in the home to the ACHR. The Liason Officer of the home admitted that at some point of time, the number of inmates increased beyond the sanctioned capacity that required some inmates to share beds.

Inmates are reportedly segregated on the basis of age, degree of offence etc. Children in the home were separated into the age groups for 7-12/12-16/16-18

The infrastructure of the Observation Home consisted- 2 office building; 3 class rooms; 1 recreation room; 1 big Dining Hall; 1 Library Room which is also used as counsel and guidance room; 5 bathrooms and 5 toilets; 1 kitchen and sick room. The Home has a playground.

The Home has sanctioned staff of 25. Out of these, one post each of sweeper and accountant were lying vacant. The Probation Officer stay within the premises of the Home but Principal of the Home, as informed by the security Guard, stays at least five kilometers away from the Home.

During interview, the Liaison Officer of the Home informed that the children were provided clothing and bedding as laid down

in the Assam JJ (C&P) Rules 2011. Drinking water in the Home is safe and hygienic. An iron removal plant, aquaguard and also extra filter were provided.

The children are served tea and breakfast at 7.30 AM; light food at 9.30 AM; lunch at 12.30 PM; tea and snacks at 4.30 PM and dinner at 7.30 – 8.30 PM. Specials meals are served during Bihu festivals.

It was stated that a doctor visits the Home 3 days a week while a doctor on call is available on all working days. A House Mother/Matron is posted at the home to provide first aid. A psychiatrist engaged by Child Welfare Committee (CWC) also visits the home time to time.

Non Formal and Vocational Education is provided to the children in the Home. A hall has been provided for this purpose. Children in the Home receive training for courses such as Cutting, Tailoring, Embroidery, Clay Modeling and Art.

Provision for games viz. carom, ludu, chess, football, volley ball, kabadi, cricket etc is available in the home for recreation of the inmates.

It was stated that the Home is inspected by Social Welfare Department, Assam Legal Services Authority and Magistrate. It is also inspected by official from State, District and City Level. It is inspected sometimes almost every month.

3.2 Statutory structures for administration of juvenile justice

A. Juvenile Justice Boards

Section 4 (1) of the Juvenile Justice (Care and Protection) Act of 2000 (as amended in 2006) provides,

“Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the State Government may, within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such Boards in relation to juveniles in conflict with law under this act.”

Section 4 (1) of the Juvenile Justice (Care and Protection) Act of 2000 (as amended in 2006) requires that the State Government of Assam constitutes at least one Juvenile Justice Board (JJB) in every district of Assam within 1 year of amendment of the Juvenile Justice Act, 2000 which came into force on 22nd August 2006.

Assam has 27 districts. Initially during 2010, Assam constituted only 9 JJBs in 9 districts of Bapeta, Cachar, Dibrugarh, Goalpara, Jorhat, Kamrup (Metro), Kokrajhar, Sonitpur, Tinsukia.³² However, JJBs were subsequently constituted in all the districts. Information received from the State Child Protection Society, Assam, under the Right to Information stated that JJBs have been constituted in all 27 districts of the state.³³

A.1. High Pendency of Juvenile Cases

At the latest i.e. the 45th Project Approval Board (PAB) Meeting under Integrated Child Protection Scheme (ICPS) held on 11th July 2012, the State Government of Assam stated that “JJBs are functioning smoothly and Assistant cum Data Entry Operators have been appointed in all districts”. However, high volume of pendency of cases before the

JJBs simply belies the assertion of Assam Government that the JJBs are functioning smoothly as PAB expressed concern about the high pendency (1,635) at the JJB and suggested to increasing the sittings of the JJBs. The Secretary, Ministry of Women and Child Development, who is also the Chairperson of PAB, suggested organizing special “Adalats” to reduce the pendency.³⁴

According to replies received from various JJBs under the RTI Act, 2005, as many as 1,363 cases were pending before different JJBs across Assam of 3rd April 2012.

These included - 148 cases before the JJB, Dibrugarh district as 22nd March 2012³⁵; 6 cases before JJB, Udalguri district as on 26th March 2012³⁶; 104 cases before the JJB, Sivsagar district as on 27th March 2012³⁷; 129 cases before the JJB, Sonitpur district as on 27th March 2012³⁸; 108 cases before the JJB, Dhubri district as on 27th March 2012³⁹; 138 cases before the JJB, Darrang district as on 28th March 2012⁴⁰; 44 cases before the JJB, Lakhimpur district as on 29th March 2012⁴¹; 166 cases before the JJB, Goalpara district as on 30th March 2012⁴²; 89 cases registered before JJB, Barpeta district as on 1st April 2012⁴³; 113 cases before the JJB, Nagaon

32. Assam Government Notification No.SWD.333/03/Pt-I/338 dated 23rd September 2010 for constitution of 9 JJBs

33. RTI Reply No.SCPS(G) 111/2011/47 dated 03.12.2012 received from State Child Protection Society, Assam

34. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

35. RTI reply dated 22.3.2012 received from Dibrugarh District Child Protection Unit

36. RTI reply dated 31.3.2012 received from JJB, Udalguri district

37. RTI reply dated 30.3.2012 received from Principal Magistrate, JJB, Sivsagar

38. RTI reply dated 27.3.2012 received from the Sonitpur District Child Protection Unit

39. RTI reply dated 27.3.2012 received from Dhubri District Social Welfare Officer

40. RTI reply dated 28.3.2012 received from District Child Protection Committee

41. RTI reply dated 29.3.2012 received from Lakhimpur district Child Protection Committee

42. RTI reply dated 30.3.2012 received from the Office of the District and Session Judge, Goalpara district

43. RTI reply dated 02.4.2012 received from Barpeta District Probation Officer

district as on 10th April 2012⁴⁴; 58 cases before the JJB, Golaghat district as on 10th April 2012⁴⁵; 63 cases before the JJB, Jorhat district as on 10th April 2012⁴⁶; 77 cases registered before the JJB, Morigaon district as on 12th April 2012⁴⁷; 23 cases registered before JJB, Bongaigaon district as on 19th April 2012⁴⁸; 29 cases registered before JJB, Chirang district as on 23rd April 2012⁴⁹; 18 cases before JJB, Kokrajhar district as on 29th February 2012⁵⁰ and 49 cases pending before JJB, Dhemaji as on 3rd May 2012⁵¹.

The below given chart further clarifies the volume of pendency-

Sl. No.	District	No. of cases registered	No. of cases pending	Percentage of pendency
01	Bongaigaon ⁵²	67	23	34.4%
02	Barpeta ⁵³	129	89	68.9%
03	Chirang ⁵⁴	50	29	58%
04	Darrang ⁵⁵	174	138	79.3%
05	Dhemaji ⁵⁶	49	49	100%
06	Dhubri ⁵⁷	140	108	77.1%
07	Dibrugarh ⁵⁸	375	148	39.4%

44. RTI reply dated 11.04.2012 received from District Child Protection Officer, Nagaon
45. RTI reply dated 10.4.2012 received from District Child Protection Officer, Golaghat district
46. RTI reply dated 10.4.2012 received from Jorhat District Child Protection Officer
47. RTI reply dated 12.4.2012 received from the JJB, Morigaon district
48. RTI reply dated 01.4.2012 received from the Principal Magistrate, Bongaigaon
49. RTI reply dated 25.4.2012 received from Chirang District Social Welfare Officer
50. RTI reply dated 7.3.2012 received from Principal Magistrate, JJB, Kokrajhar
51. RTI reply dated 03.5.2012 received from District Social Welfare Officer, Dhemaji
52. RTI reply dated 01.4.2012 received from the Principal Magistrate, Bongaigaon
53. RTI reply dated 02.4.2012 received from Barpeta District Probation Officer
54. RTI reply dated 25.4.2012 received from Chirang District Social Welfare Officer
55. RTI reply dated 28.3.2012 received from Darrang District Child Protection Committee
56. RTI reply dated 03.5.2012 received from District Social Welfare Officer, Dhemaji
57. RTI reply dated 27.3.2012 received from Dhubri District Social Welfare Officer
58. RTI reply dated 22.3.2012 received from Dibrugarh District Child Protection Unit

08	Goalpara ⁵⁹	184	166	90.2%
09	Golaghat ⁶⁰	223	58	26%
10	Jorhat ⁶¹	377	63	16.7%
11	Kokrajhar ⁶²	20	19	95%
12	Lakhimpur ⁶³	135	44	32.5%
13	Morigaon ⁶⁴	77	77	100%
14	Nagaon ⁶⁵	283	113	39.9%
15	Sonitpur ⁶⁶	129	129	100%
16	Sivsagar ⁶⁷	159	104	65.4%
17	Udalguri ⁶⁸	18	6	33.3%

No. of pending before 17 JJBs since their constitution till 25th April 2012 : 1363 cases

Analysis of the information on pending cases received under RTI and information submitted by Assam during the 45th PAB meeting on 11th July 2012 indicates that in less than 2 months, pendency has increased exponentially i.e. 272 cases between 4th May and 11th July 2012.

The volume of pendency of cases before the JJBs range from minimum 33.3% in Udalguri district to maximum of 100% in Dhemaji and Morigaon district, followed by 90.2% in Goalpara district and 79.3% in Darrang district.

The reasons for increasing volume of pending cases are not difficult to find.

First, the huge percentage of pendency of cases compels one to conclude that the sittings of the JJBs are minimal though Rule 9 (3) of

59. RTI reply dated 30.3.2012 received from the Office of the District and Session Judge, Goalpara district
60. RTI reply dated 10.4.2012 received from District Child Protection Officer, Golaghat district
61. RTI reply dated 10.4.2012 received from Jorhat District Child Protection Officer
62. RTI reply dated 07.3.2012 from Principal Magistrate, JJB, Kokrajhar
63. RTI reply dated 29.3.2012 received from Lakhimpur district Child Protection Committee
64. RTI reply dated 12.4.2012 received from the JJB, Morigaon district
65. RTI reply dated 11.4.2012 received from District Child Protection Officer, Nagaon
66. RTI reply dated 27.3.2012 received from Sonitpur District Child Protection Unit
67. RTI reply dated 30.3.2012 received from Principal Magistrate, JJB, Sivsagar
68. RTI reply dated 31.3.2012 received from JJB, Udalguri district

Assam Juvenile Justice (Care and Protection of Children) Rules, 2011 provides,

“The Board shall meet on all working days of a week, unless the case pendency is less in a particular district and concerned authority issues an order in this regard.”⁶⁹

Second, the Metropolitan Magistrates or the Judicial Magistrate of the First Class acts as the Principal Magistrate of the JJB. They are required to perform dual duty. Since they are required to discharge normal duty as Judicial Magistrate of the First class or Metropolitan Magistrate their additional duty as Principal Magistrate of the JJBs suffers leading to piling up of cases.

Third, frequent transfers of officials, delay in appointment and reconstitution of the JJBs are other reasons for increasing number of pending cases in Assam.⁷⁰

Fourth, most police personnel are not conversant with the JJ Act. It was found that police recorded the age of at least 60 juveniles in conflict with the law as 18 years or more though they were later declared as juvenile when their age was determined. The age determination process which is dependent upon production of certificates, medical opinion and in some cases through the opinion of the magistrate, contributed to delay in disposal of cases⁷¹. Not many police official are conversant with the provisions of the JJ Act and this more often resulted in framing charges under Indian Penal Code than the provisions of the JJ Act in cases of juvenile in conflict with the law.⁷²

69. See Rule 9 of Assam Juvenile Justice (Care and Protection of Children) Rules, 2011

70. Govt move to free juveniles, The Telegraph, 30 August 2011

71. Police yet to be well-versed in juvenile justice system, The Assam Tribune, 13 October 2009

72. Juvenile crimes on the rise in State, The Tribune, 31 January 2008

A.2. No Review of the cases pending before the JJBs

Section 14(2) of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 provides,

“The Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall review the pendency of cases of the Board at every six months, and shall direct the Board to increase the frequency of its sittings or may cause the constitution of additional Boards”.

This provision requires that the Chief Judicial Magistrate or the Chief Metropolitan Magistrate to review the pendency of cases of the Juvenile Justice Board at every six months. Depending upon the volume of pending cases, the CJM or CMM is also required to direct the JJB to increase the frequency of the Board’s sittings or cause the constitution of additional JJB to dispose of pending cases.

Asian Center for Human Rights filed applications under the Right to Information Act, 2005 to all JJBs across Assam during March 2012 requesting, inter alia the total number of review of under section 14(2) of the JJ Act done by the CJM or CMM of the pendency of cases of the JJBs. Replies received JJBs stated that not a single review of the pendency of cases before the JJBs has been conducted by the CMM or CJM in Kokrajhar district⁷³; Dibrugarh district⁷⁴; Darrang district⁷⁵; Lakhimpur district⁷⁶; Udalguri district⁷⁷; Dhubri district⁷⁸; Goalpara district⁷⁹;

73. RTI reply dated 23.3.2012 received from Principal Magistrate, JJB, Kokrajhar

74. RTI reply dated 22.3.2012 received from Dibrugarh District Child Protection Unit

75. RTI reply dated 28.3.2012 received from Darrang District Child Protection Committee

76. RTI reply dated 29.3.2012 received from Lakhimpur district Child Protection Committee

77. RTI reply dated 26.3.2012 received from JJB, Udalguri district

78. RTI reply dated 27.3.2012 received from Dhubri District Social Welfare Officer

79. RTI reply dated 30.3.2012 received from the Office of the District and Session Judge, Goalpara district

Barpeta district⁸⁰; Golaghat district⁸¹; Morigaon district⁸²; Chirang district⁸³; Dhemaji district⁸⁴ and Nagaon district⁸⁵. RTI replies stated that 12 reviews were conducted in Bongaigaon district⁸⁶; 1 review was conducted on 23.03.2010 in Jorhat district⁸⁷ while 2 reviews were conducted in Sonitpur district⁸⁸. Information under RTI received from JJB, Sivsagar district stated, “reviewed and monitored time to time”⁸⁹.

B. Special Juvenile Police Unit and Child Welfare Officers

Section 63 (3) of the JJ Act, 2000 provides for creation of Special juvenile police unit in every district or city for better coordination and to upgrade the police treatment of the juveniles and the children. Sub-section (1) of section 63 provides for special training for officers of the special juvenile police unit while sub-section while sub-section 63 of the JJ Act provides that in every police station at least one officer with aptitude and appropriate training and orientation may be designated as the ‘juvenile or the child welfare officer’ who will handle the juvenile or the child in co-ordination with the police.

In an order dated 22nd January 2010 in Writ Petition (Civil) No.51/2006 (Bachpan Bachao Andolan versus Union of India and Others),

80. RTI reply dated 02.4.2012 received from Barpeta District Probation Officer
81. RTI reply dated 10.4.2012 received from District Child Protection Officer, Golaghat district
82. RTI reply dated 12.4.2012 received from the JJB, Morigaon district
83. RTI reply dated 25.4.2012 received from Chirang District Social Welfare Officer
84. RTI reply dated 03.5.2012 received from District Social Welfare Officer, Dhemaji
85. RTI reply dated 11.4.2012 received from District Child Protection Officer, Nagaon
86. RTI reply dated 01.4.2012 received from the Principal Magistrate, Bongaigaon
87. RTI reply dated 10.4.2012 received from Jorhat District Child Protection Officer
88. RTI reply dated 27.3.2012 received from the Sonitpur District Child Protection Unit
89. RTI reply dated 30.3.2012 received from Principal Magistrate, JJB, Sivsagar

the Supreme Court directed the Director-Generals of Police of all the States and Union Territories to ensure that at least one police officer in every police station is designated as Juvenile/Child Welfare officer to deal with the children in conflict with law.⁹⁰

In a compliance report submitted by the Inspector General of Police, Assam in May 2010, it was stated that Special Juvenile Police Units (SJPU) have been constituted in all districts of Assam while Child Welfare Officers were appointed in all 294 police stations in the state.⁹¹ It has been stated that all together 586 Child Welfare Officers and members were appointed throughout the state.⁹²

C. Conditions of juvenile homes

C.1. Observation Homes

Section 8 (1) of the JJ Act, 2000 provides that any State Government may establish and maintain either by itself or under an agreement with voluntary organisations, observation homes in every district or a group of districts, as may be required for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under this Act. Sub-section (2) empowers the State Government to certify any institution other than a home established or maintained under sub-section (1) as fit for the temporary reception of juvenile in conflict with law during the pendency of any inquiry regarding them. Sub-section (3) empowers the State Government to provide for the management of observation homes, including the standards and various types of services to be provided by them for rehabilitation

90. Order dated 22nd January 2010 in Writ Petition (Civil) No.51/2006 (Bachpan Bachao Andolan versus Union of India and Others), available at: <http://judis.nic.in/temp/51200632212010p.txt>
91. Assam Police Memo No.CID-VI/22-01/Pt-I along with list of SJPU's and CWCs
92. Affidavit dated 6 January 2011 submitted by Assam before the Supreme Court in Writ Petition No. 473 of 2005 pertaining to implementation of the JJ Act

and social integration of a juvenile, and the circumstances under which, and the manner in which, the certification of an observation home may be granted or withdrawn.

As of 11th July 2012, the Government of Assam established 4 observation homes viz. Observation Home for Boys at Lechubari in Jorhat; Observation Home for Boys at Bamunigaon, Boko in Kamrup district; Observation Home for Girls at Jalukbari, Guwahati; and Observation Home Girls at Panigaon in Nagaon.⁹³

C.2. Conditions of the Observation Homes

While the conditions of the Observation Home for boys at Lechubari, Jorhat has been stated in the field report section, the state of the rest three observation homes in Assam are as under:

i. Observation Home for Boys at Bamunigaon, Boko

The sanctioned capacity of the observation home for boys at Bamunigaon, Boko is 50 inmates. As on 11th July 2012, there were 20 inmates at the Home.⁹⁴ This home has one building; one learning and training centre; 10-15 bathrooms and toilets; one recreation hall; one prayer room; open space and playground.⁹⁵

Sanctioned staff strength and actual staff posted in this observation home is stated to be nil. The State Child Protection Society, Assam failed to provide information under the RTI Act on this count. It was only stated that the Home is managed by the staff of

93. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

94. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

95. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

the training cum production center and Permanent Liability Home⁹⁶ (a Shelter Home for old aged, widows, patients, children and orphans). There are two educators who are supported by Sarva Shiksha Abhiyan but no vocation trainers.⁹⁷

ii. Observation Home for Girls at Jalukbari, Guwahati

The sanctioned capacity of the observation home for girls at Jalukbari, Guwahati is 50. As on 11th July 2012, there was only 1 inmate at the Home.⁹⁸ This home has one building; one learning and training centre; 10-15 bathrooms and toilets; one recreation hall; one prayer room; open space and playground.⁹⁹

The sanctioned staff strength of this observation home is stated as nil. The State Child Protection Society, Assam failed to provide information under the RTI Act on this count and informed that the home is attached with state destitute home.¹⁰⁰ Two vocational trainers are posted in this Home.¹⁰¹

iii. Observation Home for Girls at Panigaon, Nagaon

The sanctioned capacity of the observation home for girls at Panigaon, Nagaon is 50. As on 11th July 2012, there were 2 inmates at the

96. Permanent Liability Home is Shelter Home for old aged, widows, patients of terminable diseases, orphans and children; available at: <http://socialwelfareassam.com/WWelfare.asp>

97. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

98. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

99. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

100. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

101. RTI Reply No.SCPS(G)43/2011/136 dated 17.3.2012 received from State Child Protection Society, Assam

Home¹⁰². This home has one building; one learning and training centre; 10-15 bathrooms and toilets; one recreation hall; one prayer room; open space and playground.¹⁰³

Only six out of sanctioned seven staffs are posted in this home. One post is lying vacant. Two educators¹⁰⁴ and 3 vocational trainers are posted jointly for this Observation Home and Children Home.¹⁰⁵

D. Children Homes

Section 34 of the JJ(C&P) Act, 2000 provides for establishment of Children's homes. It reads-

“(1) The State Government may establish and maintain either by itself or in association with voluntary organisations, children's homes, in every district or group of districts, as the case may be, for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.

(2) The State Government may, by rules made under this Act, provide for the management of children's homes including the standards and the nature of services to be provided by them, and the circumstances under which, and the manner in which, the certification of a children's home or recognition to a voluntary organisation may be granted or withdrawn.”

The state government of Assam established three Children Homes in the state. These are-

(a) Children Home for Home Boys, Fatasil, Ambari, Guwahati, (b) Children Home for Girls, Jalukbari, Guwahati, (c) Children Home for Girls, Panigaon, Nagaon.¹⁰⁶

D.1. Condition of the Children Homes

i. Children Home for Boys, Fatachil, Ambari, Guwahati

The sanctioned capacity of the Children home for boys at Fatachil, Ambari, Guwahati is 50.¹⁰⁷ Month-wise occupancy of inmates in this Home during October 2010-February 2012¹⁰⁸ is stated below. This shows that there was no over-crowding in this home till 12th February 2012. But information submitted by Assam at the 45th PAB meeting dated 11th July 2012 stated that there were 59 inmates in this home as of 11th July 2012¹⁰⁹. It means that 9 more inmates were lodged at this home beyond its sanctioned capacity in July 2012.

2010											Oct	Nov	Dec
											13	14	10
2011	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
	05	10	16	06	14	24	13	17	07	07	12	10	
2012	Jan	Feb	Mar	Apr	May	Jun	Jul						
	29	12					59						

This home has one building; one learning and training centre; 10-15 bathrooms and toilets; one recreation hall; one prayer room; open space and playground.¹¹⁰ All thirteen sanction posts have been filled up. While there is one

102. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

103. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

104. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

105. RTI Reply No.SCPS(G)43/2011/136 dated 17.3.2012 received from State Child Protection Society, Assam

106. Affidavit dated 6 January 2011 submitted by Assam before the Supreme Court in Writ Petition No. 473 of 2005 pertaining to implementation of the JJ Act

107. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

108. RTI reply No.SCPS (G) 43/2011/136 dated 17.3.2012 received from the State Child Protection Society, Assam

109. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

110. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

educator¹¹¹ only one Vocational Trainer is posted at this home.¹¹²

ii. Children Home for Girls, Jalukbari, Guwahati

The sanctioned capacity of the Children home for girls at Jalukbari, Guwahati is 50.¹¹³ Month-wise occupancy of inmates in this Home during October 2010-February 2012¹¹⁴ is stated below. This shows that there was no over-crowding in this home till 12th February 2012. But information submitted by Assam at the 45th PAB meeting dated 11th July 2012 stated that there were 55 inmates in this home as of 11th July 2012¹¹⁵. It means that 5 more inmates were lodged at this home beyond its sanctioned capacity of 50 in July 2012.

2010											Oct	Nov	Dec
											04	06	10
2011	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
	07	08	11	0	07	08	04	04	09	11	04	05	
2012	Jan	Feb	Mar	Apr	May	Jun	Jul						
	05	08					55						

This home has one building; one learning and training centre; 10-15 bathrooms and toilets; one recreation hall; one prayer room; open space and playground.¹¹⁶

Sanctioned staff strength at this children home is stated to be nil. The State Child Protection Society, Assam failed to provide information

111. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam
 112. RTI reply No.SCPS (G) 43/2011/136 dated 17.3.2012 received from the State Child Protection Society, Assam
 113. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam
 114. RTI reply No.SCPS (G) 43/2011/136 dated 17.3.2012 received from the State Child Protection Society, Assam
 115. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>
 116. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

under the RTI Act on this count. This children home is stated to be attached with state destitute home. One educator who is supported by Sarva Shiksha Abhiyan is posted at this home¹¹⁷ while there are 4 Vocational Trainers.¹¹⁸

iii. Children Home for Girls, Panigaon, Nagaon

The sanctioned capacity of the Children home for girls at Jalukbari, Guwahati is 50.¹¹⁹ Month-wise occupancy of inmates in this Home during October 2010-February 2012¹²⁰ is stated below. This shows that there was no over-crowding in this home till 12th February 2012. But information submitted by Assam at the 45th PAB meeting dated 11th July 2012 stated that there were 60 inmates in this home as of 11th July 2012¹²¹. It means that 10 more inmates were lodged at this home beyond its sanctioned capacity of 50 in July 2012.

2010											Oct	Nov	Dec
											04	04	04
2011	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
	02	04	04	08	15	04	05	05	09	06	09	05	
2012	Jan	Feb	Mar	Apr	May	Jun	Jul						
	03	06					60						

This home has one building; one learning and training centre; 10-15 bathrooms and toilets; one recreation hall; one prayer room; open space and playground.¹²²

117. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam
 118. RTI reply No.SCPS (G) 43/2011/136 dated 17.3.2012 received from the State Child Protection Society, Assam
 119. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam
 120. RTI reply No.SCPS (G) 43/2011/136 dated 17.3.2012 received from the State Child Protection Society, Assam
 121. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>
 122. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

Sanctioned staff strength at this children home is seven. Six of them have been filled up and posted while 1 post is lying unfilled. There are two educators posted at this home¹²³ while three Vocational Trainers are posted at this home.¹²⁴

Apart from the above State run Children Homes, there are 23 Children Homes run by Non-Governmental Organisations¹²⁵ in Assam. List is given as Annexure-I.

E. Shelter Homes

Section 37 of the JJ(C&P) Act, 2000 provides for recognition of shelter homes. It reads-

“(1) The State Government may recognise, reputed and capable voluntary organisations and provide them assistance to set up and administer as many shelter homes for juveniles or children as may be required.

(2) The shelter homes referred in sub-section.- (1) shall function as drop-in-centres for the children in the need of urgent support who have been brought to such homes through such persons as are referred to in sub-section (1) of section 32.”

There are three Open Shelters in Assam which are run by NGOs. These are located - (a) L.phin stone, Nagaon; Total capacity: 75 (Boy: 25 & Girl: 50) run by Gram Vikash Parishad, Chokitup, Nagaon; (b) Hem Baruah Bhawan, Opposite Nehru Stadium, Ulubari Total Capacity: 75 (Boy: 25 & Girl: 50) run by Indian Council for Child Welfare based at G.N. Bordoloi Road, Near Government Emporium, Ambari, Guwahati - 781001; and

(c) Bagharbori, Panjabari, Guwahati; Total capacity: 65 (Boy: 25 & Girl: 40) run by Sadou Asom Gramya Puthibharal Sangstha, Haibargaon, Nagaon.¹²⁶

F. Inadequacy of Juvenile Homes

There is acute shortage of homes for juveniles in conflict with the law as well as children in need of care and protection. Assam with 27 districts is the second largest but the most populated state in the north east India. Apart from issues of poverty, it is marred by ethnic clashes, armed conflicts, natural disaster (commonly flood); it is more than obvious that there are a large number of destitute and orphaned children requiring care and protection. Equally important is to address delinquency in behavior of juveniles.

The existing state run Juveniles Homes – whether Observation Homes or Children Homes - are situated and limited to three districts of Kamrup, Nagaon and Jorhat district. The only two observation homes for boys are based in Guwahati and Jorhat while the only two observation home for girls are situated in Guwahati and Nagaon. Even the shelter homes run by NGOs are located in Guwahati.¹²⁷ At the 45th PAB meeting on 11th July 2012 under the ICPS, the State Government of Assam admitted that the geographical coverage of the Governments run Homes are limited to only 4 districts.¹²⁸ The existing homes are miserably inadequate as it is practically impossible for these homes to cater to needs of such huge and geographically diverse areas covered in rest of the districts.

123. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

124. Information received from the State Child Protection Society, Assam, in March 2012

125. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam; available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

126. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam; available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

127. RTI reply No.SCPS (G) 43/2011/35 dated 03.12.2011 received from the State Child Protection Society, Assam

128. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam; available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

The absence of more juvenile homes makes it difficult to reach out to the vulnerable areas of the state. For example, government managed juvenile homes are conspicuously absent in trafficking prone districts like Dhubri, Kokrajhar, Baksa, Chirang, Bongaigaon etc.

While the Jorhat Observation Home set up in 1987 caters to over 11 districts — Jorhat, Golaghat, Karbi Anglong, Dibrugarh, Tinsukia, Sivasagar, Lakhimpur, Darrang, Udalguri and Sonitpur¹²⁹ the lack of special home in Assam remains a stumbling block to reformation of juveniles in conflict with the law. There are no provisions for longer stay or reform, as there is no correctional home.

Surprisingly Assam failed to set up 7 new Open Shelters during 2011 despite availability of funds under the ICPS! Because of this failure the PAB declined to accept the request for grants for 3 existing Open Shelters at the 45th PAB meeting on 11th July 2012 under the ICPS. Instead, the PAB advised Assam to submit separate proposal for additional Open Shelters based on the findings/recommendations of the survey on street children that it had carried across Assam through Jayaprakash Institute of Social Change, Kolkata, a technical resource agency.¹³⁰

G. Child Welfare Committees

Section 29 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2000 (as amended in 2006) provides,

“The State Government may, within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute

for every district, one or more Child Welfare Committees for exercising the powers and discharge the duties conferred on such Committees in relation to child in need of care and protection under this Act”

This implies that the Assam State Government is required to constitute Child Welfare Committee (CWC) in each of the districts of Assam within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006. The Government of Assam initially set up Child Welfare Committees only in 13 of 27 districts.¹³¹ Subsequently Child Welfare Committees have been constituted in each of the 27 districts of the state.¹³² The list of districts included- (1) Kamrup (Metro); (2) Kamru (Rural); (3) Tinsukia; (4) Baksa; (5) North Cachar Hills; (6) Karbi Anglong; (7) Hailakandi; (8) Sonitpur; (9) Dhemaji; (10) Kokrajhar; (11) Karimganj; (13) Cachar; (12) Bongaigaon; (14) Dibrugarh; (15) Dubri; (16) Sivsagar; (17) Golaghat; (18) Morigaon; (19) Darrang; (20) Barpeta; (21) Lakhimpur; (22) Nalbari; (23) Jorhat; (24) Gaoalpara; (25) Udalguri; (26) Chirang; and (27) Nagaon.¹³³

G.1 Registration, disposal and pendency of cases before the Child Welfare Committees

Section 32(1) of JJ Act, 2000 requires production of any child in need of care and protection may be produced before the Committee. A child in need of care and protection may be produced before the Committee by any police officer or special juvenile police unit or a designated police officer; any public servant; childline, a registered voluntary organisation or by such other voluntary organisation or an agency as

129. Govt move to free juveniles, The Telegraph, 30 August 2011

130. Minutes of the 45th PAB Meeting under ICPS held on 11th July 2012 to discuss the financial proposal of Assam; available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

131. <http://socialwelfareassam.com/JJAct.asp>

132. Affidavit dated 6 January 2011 submitted by Assam before the Supreme Court in Writ Petition No. 473 of 2005 pertaining to implementation of the JJ Act

133. Child Welfare Committees (Status); available at: http://www.wcd.nic.in/icpsmon/pdf/cwclist/Assam_CWC.pdf

may be recognised by the State Government; any social worker or a public spirited citizen authorised by the State Government; or by the child himself.

Section 31 of the Act provides that the Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.

As per information received from State Child Protection Society, Assam on 12th April 2012, a total of 596 cases were registered in 18 out of 27 districts of Assam during 1st January 2011-31st December 2011. A total of 653 were disposed off in these 18 districts while 347 cases were pending before 21 out of 27 districts during the same period as on 31st December 2012. The number of disposed off cases included 295 cases (15 cases in Jorhat and 280 cases in Kokrajhar district) prior to 1st January 2011.¹³⁴

Volume of registration, disposal and pendency of cases before the CWCs in Assam is shown in tabular chart¹³⁵ as under:

Sl. No.	District	No. of cases registered	No. of cases disposed	No. of cases pending
01	Baksa	1	1	0
02	Bongaigaon	8	7	2
03	Barpeta	6	5	2
04	Cachar	0	0	0
05	Chirang	0	0	0
06	Darrang	14	5	14
07	Dhemaji	0	0	0
08	Dhubri	1	1	0
09	Dibrugah	9	9	3
10	Goalpara	0	0	0
11	Golaghat	14	13	2
12	Hailakandi	0	0	0
13	Jorhat	12	37	6

134. RTI Reply No.SCPS(G)43/2011/151 dated 12.04.2012

135. RTI Reply No.SCPS(G)43/2011/151 dated 12.04.2012

14	Kamrup (Metro)	275	193	172
15	Kamrup (Rural)	8	4	6
16	Karbi-Anglong	0	0	0
17	Karimganj	0	0	0
18	Kokrajhar	7	287	0
19	Lakhimpur	0	0	0
20	Morigaon	3	1	2
21	Nagaon	68	47	87
22	Nalbari	3	0	3
23	N.C.Hills	0	0	0
24	Sonitpur	28	18	40
25	Tinsukia	0	0	0
26	Sibsagar	14	12	5
27	Udalguri	15	13	3
Total pending cases as on 31st December 2011				347

G.2 Review of cases of the Child Welfare Committees

Section 33(3) of JJ Act, as amended in 2006, requires that the State Government mandatorily reviews the pendency of cases of the Committee at every six months, and directs the Committee to increase the frequency of its sittings or may cause the constitution of additional Committees.

The State Child Protection Society (SCPS), Assam failed to specifically provide the total number of reviews done by the State Government on the pendency of cases before each of the CWCs since their constitution till 12.03.2012. In its reply under the RTI Act, 2005, the SCPS only stated that State level review is being done from time to time.¹³⁶ This only means that either the State Child Protection Society, Assam has no information or data about the review of pendency of cases of each of the Child Welfare Committee by the State Government or it is hiding the truth.

H. Advisory Boards

Under Section 62 of JJ Act, 2000, an Advisory Board may be constituted at State level to

136. RTI reply No.SCPS(G)43/2011/151 dated 12.04.2012 received from the State Child Protection Society, Assam

advise the Government on matters relating to the establishment and maintenance of the homes, mobilisation of resources, provision of facilities for education, training and rehabilitation of child in need of care and protection and juvenile in conflict with law and co-ordination among the various official and non-official agencies concerned.

Initially, the State government of Assam failed to establish a State Advisory Board. However, a State Advisory Board was constituted vide Notification No.SWD.333/2003/Pt-I/339 dated 4th November 2010. Information under the RTI Act stated that the State Advisory Board was constituted with the Membership of six Government and Non-Government officials from the Social Welfare Department, Law Research Institute, Red Cross Society, UNICEF, Department of Health and SPADE (NGO).¹³⁷

I. Inspection Committees

Section 35 of the JJB Act, 2000 provides for inspection of children homes. Sub-section (1) requires appointment of inspection committees for the children's homes at the State, a district and city level. Sub-section (2) provides that the inspection committee of a State, district or of a city shall consist of such number of representatives from the State Government, Local Authority, Committee, voluntary organisations and such other medical experts and social workers.

According to information obtained under the RTI Act, 2005, Assam has appointed Inspection Committee at the State level but has not appointed the Inspection Committees at the District and City Level as on 12.04.2012. The Inspection Committee at the State Level became functional only since 5.04.2012.¹³⁸

137. RTI reply No.SCPS(G)43/2011/151 dated 12.04.2012 received from the State Child Protection Society, Assam

138. RTI reply No.SCPS(G)43/2011/151 dated 12.04.2012 received from the State Child Protection Society, Assam

4. BUDGETARY ALLOCATIONS FOR WELFARE AND PROTECTION OF CHILDREN

During 2009-10, the Ministry of Women and Child Development, Government of India introduced a comprehensive scheme viz. the Integrated Child Protection Scheme (ICPS) in order to bring several existing child protection programmes under one umbrella, with improved norms. The ICPS incorporates other essential interventions, which aim to address issues which were, so far, not covered by earlier Schemes.¹³⁹

The ICPS being a centrally sponsored scheme, financial assistance are disbursed by Central Government to the State Government/ Union Territory Administration. The Central Government provides a predetermined percentage of the budgeted cost while the State/UT provides grant-in-aid to voluntary organizations under the different components of the Scheme.¹⁴⁰

During 2009-10 Assam received a grants-in-aid of Rs.1,29,92,000 which was 80.3 per cent of total budget of Assam under the ICPS which was Rs.1,61,79,000 while the rest 19.7 per cent amounting to Rs.31,87,000 was the share of the State Government of Assam/concerned non-governmental organizations receiving grants-in-aid under ICPS.¹⁴¹ Similarly, during 2010-2011 Assam received a grants in aid of Rs.3,01,79,000 which was 90.27 per cent of total budget of Assam under the ICPS which was Rs.3,34,35,000 while the rest 9.73 per cent amounting to Rs.32,56,000 was the share of the State Government of Assam/concerned non-governmental organizations receiving grants-in-aid under ICPS.¹⁴² During 2012-2013, Assam received Rs.4,97,74,000 as of 4th September 2012.¹⁴³

139. http://www.wcd.nic.in/icpsmon/st_abouticps.aspx

140. http://www.wcd.nic.in/icpsmon/st_abouticps.aspx

141. Sanction order dated 18th March 2010 from the Ministry of Women and Child Development

142. Sanction order dated 22nd November 2010 from the Ministry of Women and Child Development

143. <http://wcd.nic.in/icpsmon/pdf/sanctions/assamdttd10072012.pdf>

5. DENIAL OF JUVENILITY: TRIAL AND CONVICTION AS ADULT

The Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted to provide a juvenile justice system for juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto.

The justice system as available for adults is not considered suitable for juvenile or child. Yet, juvenile in conflict with the law were continued to be tried and convicted as adult. The below stated cases depict the conditions of juveniles in conflict with the law who are treated as adult and tried and convicted as such.

5.1 Ramdeo Chauhan: A juvenile in conflict with law sentenced to death

Back in 1992, a civil engineer and his family were found murdered in their house in Assam, and the family's 15-year-old help, Ramdeo Chauhan, who is now 34-year-old, was arrested. In 1998, Chauhan was found guilty by the trial court and sentenced to death. His lawyers appealed against the sentence several times claiming that Chauhan was a juvenile at the time of the crime, but to no avail.¹⁴⁴

Section 12 of the JJ Act, 1986 provided

“(1) When any person accused of a bailable or non-bailable offence and apparently a juvenile is arrested or detained or appears or is

brought before a Juvenile Court, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral danger or that his release would defeat the ends of justice.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause him to be kept in an observation home or a place of safety in the prescribed manner (but not in a police station or jail) until he can be brought before a Juvenile Court.

(3) When such person is not released on bail under sub-section (1) by the Juvenile Court it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.”

But section 12 was not followed in Ramdeo's case and by the time tests were finally conducted to ascertain Ramdeo's age, he had already been in prison for more than 5 years. The medical tests found that he was 15-16 years at the time of commission of the crime. Though, under the law, the benefit of doubt should have been given to Ramdeo, the court held him to be an adult and gave him the death penalty.¹⁴⁵

¹⁴⁴. A long wait for freedom, 12 September 2011, The Tehelka. Com, available at: http://www.tehelka.com/story_main50.asp?filename=Ws120911LAW.asp

¹⁴⁵. A long wait for freedom, 12 September 2011, The Tehelka. Com, available at: http://www.tehelka.com/story_main50.asp?filename=Ws120911LAW.asp

Termining the offence committed by Ramdeo Chauhan, as rarest of rare deserving death penalty, the Gauhati High Court upheld the death sentence. Both trial judge and the High Court had rejected his claim of being juvenile.¹⁴⁶

Even the Supreme Court, the highest court in India faltered in delivering justice to Ramdeo Chauhan twice.¹⁴⁷ In 2010, the Hon'ble Supreme Court has finally upheld the grant of clemency by the Governor of State of Assam in accordance with a recommendation by the National Human Rights Commission, acknowledging NHRC's wider role for promotion of human rights.¹⁴⁸ In a unique case of its kind, the Supreme Court admitted repeated mistakes in not dealing properly an appeal against the death sentence of Ramdeo Chauhan, the Supreme Court ultimately upheld Assam Governor's order commuting Ramdeo's death sentence into life sentence at the intervention of the National Human Rights Commission.¹⁴⁹

The Supreme Court, however, did not give any finding but granted liberty to Ramdeo Chauhan to claim juvenility in appropriate forum. Pursuant this, Ramdeo Chauhan moved an application claiming juvenility before the Juvenile Justice Board, Morigaon district but determination of the application was inordinately delayed.¹⁵⁰ On 3 July 2011, child rights activist Minna Kabir wrote a letter to the Chief Justice of the Gauhati High Court seeking intervention to expedite the proceedings before the JJB, Morigaon, on Chauhan's application claiming juvenility. The Gauhati High Court

suo motu converted Ms. Kabir's letter into a public interest litigation (No.39/2011). In the judgement dated 9 August 2011, a bench comprising Justice Amitava Roy and Justice C.R. Sharma held that *"on a rational and judicious assessment of the evidence available on record as well as the authorities cited at the Bar; we are of the unhesitant opinion that the accused applicant was a juvenile as defined in section 2(k) of the Act on the date of the commission of the offence i.e. 8.3.1992 and is thus entitled to be treated as a juvenile in conflict with law vis-à-vis the charges and was entitled at all relevant points of time to be dealt with as such."* The court finally ordered that Ramdeo Chouhan @ Rajnath Chouhan, the applicant herein, be released forthwith from custody.¹⁵¹

5.2 Gobinda Swargiary: Another juvenile convicted for murder

By judgment and order dated 11.9.2006, the learned Sessions Judge, Kamrup, Guwahati, convicted Gobinda Swargiary, in Sessions Case No. 11(K)/2003, on charges of murder under Section 302 of the Indian Penal Code and sentenced him to suffer imprisonment for life.

Aggrieved with his conviction, the appellant filed an appeal (Criminal Appeal No.240 of 2006) in the Gauhati High Court. On 20 January 2012, a division bench of Chief Justice A.K. Goel and Justice C.R. Sarma of Gauhati High Court waived the sentence of imprisonment for life and directed that Gobinda Swargiary be released forthwith. The release of the appellant was based on an enquiry report by the learned Sessions Judge, Kamrup, with regard to the juvenility of the appellant. The learned Sessions judge found that the appellant was 16 years of age, a juvenile, on the date of commission of the offence.¹⁵²

146. SC apologises for teen death verdict, The Asian Age, 8 December 2010

147. SC apologises for teen death verdict, The Asian Age, 8 December 2010

148. Supreme Court acts to prevent travesty of Justice!, available at: <http://www.hrln.org/hrln/child-rights/pils-a-cases/693-supreme-court-acts-to-prevent-travesty-of-justice.html>

149. SC apologises for teen death verdict, The Asian Age, 8 December 2010

150. Supreme Court acts to prevent travesty of Justice!, available at: <http://www.hrln.org/hrln/child-rights/pils-a-cases/693-supreme-court-acts-to-prevent-travesty-of-justice.html>

151. Judgement dated 9 August 2011 in public interest litigation (No.39/2011); available at: <http://ghconline.nic.in/Judgment/PIL392011.pdf>

152. Judgement dated 20.01.2012 in Criminal Appeal No.240/2006; available at: <http://www.ghconline.nic.in/Judgment/CRLA2402006.pdf>

6. NON-ENFORCEMENT OF PENAL PROVISIONS AGAINST PERPETRATORS ACCUSED OF CHILD RIGHTS VIOLATIONS

Sections 23-27 of the Juvenile Justice Act provides for protections to Juvenile in the form of penalties and punishments to perpetrators accused of cruelty and exploitation against the juvenile or child. Section 23 of the Juvenile Justice Act provides for protection of juvenile against cruelty by custodians under whose charge or control the juvenile is while Section 24 makes punishable the employment of juvenile or child for begging. Section 25 penalizes giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child while Section 26 makes punishable the exploitation of juvenile or child employee.

However, according to replies from Superintendents of Police from across Assam under the Right to Information Act, 2005 none of these protective provisions of the Juvenile Justice Act has been enforced in most districts of Assam. Replies under RTI were received from Superintendent of Police, Golaghat district dated 02.05.2012¹⁵³; from Superintendent of Police, Kokrajhar district dated 04.05.2012¹⁵⁴; from Superintendent of Police, Chirang district dated 05.05.2012¹⁵⁵; from Superintendent of Police, Darrang district dated 05.05.2012¹⁵⁶; from Superintendent of Police, Tinsukia district dated 08.05.2012¹⁵⁷; from Superintendent of Police, Bongaigaon

district dated 08.05.2012¹⁵⁸; from Superintendent of Police, North Lakhimpur district dated 08.05.2012¹⁵⁹; from Superintendent of Police, Morigaon district dated 16.05.2012¹⁶⁰; from Superintendent of Police, Sonitpur district dated 19.05.2012¹⁶¹; Superintendent of Police, Dima Hasao district dated 21.05.2012¹⁶²; Superintendent of Police, Dhubri district dated 22.05.2012¹⁶³; Superintendent of Police, Sivasagar district dated 23.05.2012¹⁶⁴; Superintendent of Police, Karimganj district dated 31.05.2012¹⁶⁵; Superintendent of Police, Cachar district dated 02.06.2012¹⁶⁶; Superintendent of Police, Dhemaji district dated 02.06.2012¹⁶⁷; Superintendent of Police, Nagaon district dated 06.06.2012¹⁶⁸; and from Superintendent of Police, Baksa district dated 02.08.2012¹⁶⁹.

Information received under the Right to Information Act, 2005 revealed that only 19 cases were registered in three districts viz.

153. RTI reply Memo No.GLT/CB/RTI/21/2012/5207-09 dated 02.5.2012 received from SP, Golaghat
154. RTI reply Memo No.KJR/Crime/RTI/2012/3031 dated 04.5.2012 received from SP, Kokrajhar
155. RTI reply Memo No.CHR/Crime/RTI/34/2012/3760 dated 05.05.2012 received from SP, Chirang
156. RTI reply Memo No.V/RTI/26/2012/3390 dated 05.5.2012 received from SP, Darrang
157. RTI reply Memo No.TSK/V/RTI/12/6637 dated 08.5.2012 received from SP, Tinsukia

158. RTI reply Memo No.Bngn/Crime/RTI/2012/6552 dated 08.5.2012 received from SP, Bongaigaon
159. RTI reply Memo no.V/Crime/RTI/2012/4842 dated 08.5.2012 received from SP, Lakhimpur
160. RTI reply Memo no.MRG/IV/12/RTI/2008 dated 16.05.2012 received from SP, Morigaon
161. RTI reply Memo No.E/RTI/12/5270 dated 19.5.2012 received from SP, Sonitpur
162. RTI reply Memo No.NCH/Crime/RTI/2012/1601 dated 21.05.2012 received from SP, Haflong
163. RTI reply No.DBB/RTI/2012/642 dated 22.5.2012 received from SP, Dhubri
164. RTI reply Memo No.SVR/V/2012/RTI/1554 dated 23.5.2012 received from SP, Sivasagar
165. RTI reply Memo No.E/IX-RTI/2012/3423 dated 31.5.2012 received from SP, Karimganj
166. RTI reply No.G/RTI/2012/1737 dated 02.6.2012 received from SP, Silchar
167. RTI reply Memo No.DMJ/CRM/RTI/2012/4111 dated 02.6.2012 received from SP, Dhemaji
168. RTI reply Memo No.IV/RTI/05/12/160 dated 06.6.2012 received from SP, Nagaon
169. RTI reply Memo No.BSA/RTI/36/2012/2034-35 dated 02.6.2012

1 case registered in CID Police Station in Guwahati during 2010¹⁷⁰; 14 cases registered across Guwahati City during 2007-2012¹⁷¹;

1 case registered in Jorhat district during 2012¹⁷²; and 3 cases registered in Dibrugarh district during 2010-2012¹⁷³.

170. RTI reply Memo No.CID-XII/RTI/648 dated 08.05.2012 received from Office of the D.G. Assam Police
171. RTI reply Memo No.V/RSI/RTI/CITY/142-12/253 dated 17.05.2012 received from SP, Guwahati

172. RTI reply Memo No.V/CB-60/12/4100 dated 01.06.2012 received from SP, Jorhat
173. RTI reply Memo.No.RB/RTI/2999 dated 01.06.2012 received from SP, Dibrugarh

Annexure – I: List of NGO run Children Homes

1. Students Welfare Mission
Santipur, P.O.
Pathsala, Dist. Barpeta
Type: Children Home
Pin - 781325
Boy: 15
Girl: 10
Total: 15
2. Student Welfare Mission
Shantipur, P.O. Pathsala, Dist. Barpeta,
Pin- 781325
Type: Special Need
Boy: 5
Girl: 5
Total: 10
3. Sri Sri Sewa Ashram,
Borpathar, P.O.
Maduripathar
(Silapathar), Dist. Dhemaji
Pin - 787059
Type: Children Home
Boy: 15
Girl: 10
Total: 25
4. Fulkumari Bapuji Club
Vill. Falimari,
P.O. Falimari,
Distt. Dhubri
Pin - 781325
Type: Children
Boy: 15
Girl: 10
Total: 25
5. Service With Smile
Chiring Chapori,
Old Thana Goli,
Distt Dibrugarh,
Pin- 786001
Type: Children
Boy: 15
Girl: 10
Total: 25
6. Mrinaljyoti Rehabilitation Centre
Chalaktoki Gaon,
Kumud Nagar, P.O. Duliajan,
District Dibrugarh
Pin- 786602
Type: Special Need
Boy: 5
Girl: 5
Total: 10
7. Integrated Development Association
P.O - Kismatpur, Dist- Goalpara
Type: Children
Boy: 15
Girl: 10
Total: 25
8. Bokakhat Nirman
Children Home
Nahorjan Tiniali,
P.O. Bokakhat,
Distt. Golaghat
Pin - 785612
Type Children
Boy: 15
Girl: 10
Total: 25

9. WODWICHEE
P.O. Lakshirbond,
Distt. Hailakandi
Pin - 788155
Type: Children
Boy: 15
Girl: 10
Total: 25
10. IMPACT-NE
P.O. Komlabari,
Majuli,
Distt. Jorhat
Pin - 785106
Type: Children home
Boy: 15
Girl: 10
Total: 25
11. Bikalanga Kalyan Kendra
Vill. Pahumoria Gaon,
P.O. Panigaon, Distt. Lakhimpur
Pin - 787052
Type: Children
Boy: 15
Girl: 10
Total: 25
12. Bikalanga Kalyan Kendra
Vill- Pahumoria Gaon,
P.O. Panigaon, Distt. Lakhimpur,
Pin- 787052
Type: Special Need
Boy: 5
Girl: 5
Total: 10
13. Gramya Unnayan Sanstha
Moilabari, College Road,
P.O. Moilabari, Distt. Morigaon
Pin: 782126
Type: Children
Boy: 15
Girl: 10
Total: 25
14. Gram Vikash Parishad
Vill. Rangaloo,
P.O. Jumarmur, Dist. Nagaon
Pin: 782427
Type: Children
Boy: 15
Girl: 10
Total: 25
15. SOFTSEED
Vill: Kaliabor,
P.O. Kaliabor, Kuworitol,
Distt. Nagaon
Pin- 782137
Type: Children
Boy: 15
Girl: 10
Total: 25
16. Shanti Seva Ashram
P.B. No. 24, Balugada,
Sabjibari, Makum Road,
Distt. Tinsukia
Pin - 786146
Type: Children
Boy: 15
Girl: 10
Total: 25

17. Mission North-East
Pakhamara Road,
P.O. Barama, Distt. Baksa
Pin - 781346
Type: Children
Boy: 15
Girl: 10
Total: 25
18. North East Vision
Chapaguri, P.O. Chapaguri,
Distt. Chirang, Bodoland Territorial
Council
Pin - 783380
Type: Children Home
Boy: 15
Girl: 10
Total: 25
19. Nichima Orphanage Home Society
Koilamoila, Distt. Chirang,
Bodoland Territorial Council
Pin -783393
Type: Children
Boy: 15
Girl: 10
Total: 25
20. Snehalaya, Centre for Child Rights
Don Bosco, Pan Bazar, K.B. Road,
Guwahati, Distt. Kamrup (Metro)
Pin: 781008
Type: Children
Boy: 15
Girl: 10
Total: 25
21. SOS Childrens Village
Rani, Dist. Kamrup (Metro)
Pin: 781015
Type: Children Home
Boy: 15
Girl: 10
Total: 25
22. Assam Sishu Kalyan Sadan
Sundarbari, Jalukbari,
Guwahati, Distt. Kamrup (Metro)
Pin: 7810014
Type: Children Home
Boy: 15
Girl: 10
Total: 25
23. Holy Child Children Home
No. 3 Sapkhati, P.O. Barnagaon,
Distt. Udalguri
Pin: 784509
Type: Children Home
Boy: 15
Girl: 10
Total: 25

Annexure – II**Registered No. 768/97**

THE ASSAM GAZETTE EXTRAORDINARY PUBLISHED BY THE AUTHORITY
No. 263 Dispur, Tuesday, 16th August, 2011, 25th Sravana, 1933 (S.E.)

GOVERNMENT OF ASSAM ORDERS BY THE GOVERNOR SOCIAL WELFARE
DEPARTMENT, DISPUR NOTIFICATION

The 6th August, 2011

THE ASSAM JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)
RULES. 2011

No. SWD.333/03/Pt-III/24. WHEREAS the Constitution has, in several provisions, including clause (3) of Article 15, Article 21, Article 21A, clauses (1) and (2) of Article 22, Articles 23 and 24 clauses (e) and (f) of Article 39, Article 39 A, Articles 45, 47 and 51 A (k) impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic rights are fully protected;

AND WHEREAS, the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on the 20th November, 1989 and ratified by India on 11th December 1992, emphasizes conferment of rights on children, and reintegration of juveniles and care and protection of vulnerable children, with a view to furthering their right to survival, development, protection and participation;

AND WHEREAS, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) set the minimum standard to be adhered to in the administration of juvenile justice in respect of juveniles in conflict with law;

AND WHEREAS, the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and all other

relevant international instruments focus on the prevention of juvenile delinquency and provide guidelines for it;

AND WHEREAS, to give effect to the provisions of the Constitution and relevant international instruments, the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) as amended by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 (33 of 2006) was enacted to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their developmental needs, and by adopting a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto, through institutional as well as non-institutional measures enumerated under the said Act;

Now, THEREFORE, with a view to provide for better implementation and administration of the provisions of the said Act in its true spirit and substance, the Government of Assam in pursuance of the above said provisions and in exercise of the powers conferred by the proviso to sub-section (1) of section 68 of the Juvenile

Justice (Care and Protection of Children) Act, 2000 (56 of 2000) hereby makes the following Rules and lays down the fundamental principles to be applied in administration of juvenile justice, namely:

CHAPTER - I PRELIMINARY

1. Short title and commencement.- (1) These Rules may be called the Assam Juvenile Justice (Care and Protection of Children) Rules, 2011.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.- In these Rules, unless the context otherwise requires,-

- (a) “abandoned” means an unaccompanied and deserted child who is declared abandoned by the Committee after due inquiry;
- (b) “Act” means the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) as amended by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 (33 of 2006);
- (c) “best interest of the child” means a decision taken to ensure the physical, emotional, intellectual, social and moral development of juvenile or child;
- (d) “child friendly” means any process and interpretation, attitude, environment and treatment, that is humane, considerate and in the best interest of the child;
- (e) “community service” implies service rendered to the society by juveniles in conflict with law in lieu of other judicial remedies and penalties, which is not degrading and dehumanizing. Examples of this may include,-
 - (i) cleaning a park;
 - (ii) getting involved with a local community based organization;
 - (iii) serving the elderly in nursing homes;
 - (iv) helping out a local fire or police department;
 - (v) helping out at a local hospital or nursing home; and
 - (vi) serving disabled children;
- (f) “detention” in case of juveniles in conflict with law means “protective custody” in line with the principles of restorative justice;
- (g) “Form” means the form appended to these Rules;
- (h) “individual care plan” is a comprehensive development plan for a juvenile or child based on age specific and gender specific needs and the case history of the juvenile or child, prepared in consultation with the juvenile or child, in order to restore the juvenile’s or child’s self-esteem, dignity and self-worth and nurture him into a responsible citizen and accordingly the plan shall address the following needs of a juvenile or a child:-
 - (i) Health needs;
 - (ii) Emotional and psychological needs;
 - (iii) Educational and training needs;
 - (iv) Leisure, creativity and play;
 - (v) Attachments and relationships;
 - (vi) Protection from all kinds of abuse, neglect and maltreatment;
 - (vii) Social mainstreaming; and
 - (viii) Follow-up post release and restoration;
- (i) “institution” means an observation home, or a special home, or a children’s home

- or a shelter home set up, certified or recognized and registered under sections 8, 9, 34 and 37 of the Act respectively;
- (j) “Officer-in-charge” or such other nomenclature as issued by the State Government, means a person appointed for the control and management of the institution;
- (k) “orphan” means a child who is without parents or willing and capable legal or natural guardian;
- (l) “place of safety” means any institution set up and recognized under subsection (3) of section 12 and sub-section (1) of section 16 of the Act for juvenile in conflict with law or children;
- (m) “recognized” means a person found fit by the competent authority or, an institution found fit by the State Government on the recommendation of the competent authority as per clauses (h) and (i) of section 2 of the Act; or, recognition of an institution or agency or voluntary organization by the State Government to operate as a children’s home, observation home and special home or a shelter home, specialized adoption agency or after care organization under sub-section (1) of section 37, sub-section (4) of section 41 and clause (a) of section 44 of the Act;
- (n) “registered” means all institutions or agencies or voluntary organizations providing residential care to children in need of care and protection registered under sub-section (3) of section 34;
- (o) “State Government” in relation to a Union Territory means the Administrator of that Union Territory appointed by the President under Article 239 of the Constitution;
- (p) “street and working children” means children without ostensible means of livelihood, care, protection and support in accordance with the provisions laid down under clause (d) (1) of section 2 of the Act;
- (q) “surrendered child” means a child, who in the opinion of the Committee, is relinquished on account of physical, emotional and social factors beyond the control of the parent or guardian;
- (r) all words and expressions defined in the Act and used, but not defined in these Rules, shall have the same meaning as assigned to them in the Act.

CHAPTER - II

FUNDAMENTAL PRINCIPLES OF JUVENILE JUSTICE AND PROTECTION OF CHILDREN

3. Fundamental principles to be followed in administration of these Rules.

(1) The State Government, the Juvenile Justice Board, the Child Welfare Committee or other competent authorities or agencies, as the case may be, while implementing the provisions of these Rules shall abide and be guided by the principles, specified in sub-rule (2).

(2) The following principles shall, interalia, be fundamental to the application, interpretation and implementation of the Act and the Rules made hereunder:-

I. Principle of presumption of innocence:

(a) A juvenile or child or juvenile in conflict with law is presumed to be innocent of any malafide or criminal intent up to the age of eighteen years.

(b) The juvenile or juveniles in conflict with law or child’s right to presumption of

innocence shall be respected throughout the process of justice and protection, from the initial contact to alternative care, including aftercare.

- (c) Any unlawful conduct of a juvenile or a child or a juvenile in conflict with law which is done for survival, or is due to environmental or situational factors or is done under control of adults, or peer groups, is ought to be covered by the principles of innocence.
- (d) The basic components of presumption of innocence are,

(i) *Age of innocence*

Age of innocence is the age below which a juvenile or child or a juvenile in conflict with law cannot be subjected to the criminal justice system. The Beijing Rule 4(1) clearly lays down that “the beginning of the age of criminal responsibility shall not be fixed at too low an age level bearing in mind the facts of mental and intellectual maturity”. In consonance with this principle, the mental and intellectual maturity of juvenile or child or a juvenile in conflict with law below eighteen years is considered insufficient throughout the world.

(ii) *Procedural protection of innocence*

All procedural safeguards that are guaranteed by the Constitution and other statutes to the adults and that go into strengthen the juvenile’s or child’s right to presumption of innocence shall be guaranteed to juveniles or the children or juveniles in conflict with law.

(iii) *Provisions of Legal aid and Guardian Ad Litem*

Juveniles in conflict with law have

a right to be informed about the accusations against them and a right to be legally represented. Provisions must be made for guardian ad litem, legal aid and other such assistance through legal services at State expense. This shall also include such juveniles right to present his case before the competent authority on his own.

II. Principle of dignity and worth:

- (a) Treatment that is consistent with the child’s sense of dignity and worth is a fundamental principle of juvenile justice. This principle reflects the fundamental human right enshrined in Article 1 of the Universal Declaration of Human Rights that all human beings are born free and equal in dignity and rights. Respect of dignity includes not being humiliated, personal identity, boundaries and space being respected, not being labeled and stigmatized, being offered information and choices and not being blamed for their acts.
- (b) The juvenile’s or child’s right to dignity and worth has to be respected and protected throughout the entire process of dealing with the child from the first contact with law enforcement agencies to the implementation of all measures for dealing with the child.

III. Principle of Right to be heard:

Every child’s right to express his views freely in all matters affecting his interest shall be fully respected through every stage in the process of juvenile justice. Children’s right to be heard shall include creation of developmentally appropriate tools and processes of interacting with the child, promoting children’s active involvement in decisions regarding their own lives and providing opportunities for discussion and debate.

IV. Principle of Best Interest:

- (a) In all decisions taken within the context of administration of juvenile justice, the principle of best interest of the juvenile or the juvenile in conflict with law or child shall be the primary consideration.
- (b) The principle of best interest of the juvenile or juvenile in conflict with law or child shall mean for instance that the traditional objectives of criminal justice, retribution and repression, must give way to rehabilitative and restorative objectives of juvenile justice.
- (c) This principle seeks to ensure physical, emotional, intellectual, social and moral development of a juvenile in conflict with law or child so as to ensure the safety, well being and permanence for each child and thus enable each child to survive and reach his or her full potential.

V. Principle of family responsibility:

- (a) The primary responsibility of bringing up children, providing care, support and protection shall be with the biological parents. However, in exceptional situations, this responsibility may be bestowed on willing adoptive or foster parents.
- (b) All decision making for the child should involve the family of origin unless it is not in the best interest of the child to do so.
- (c) The family - biological, adoptive or foster (in that order), must be held responsible and provide necessary care, support and protection to the juvenile or child under their care and custody under the Act, unless the best interest measures or mandates dictate otherwise.

VI. Principle of Safety (no harm, no abuse, no neglect, no exploitation and no maltreatment):

- (a) At all stages, from the initial contact till such time he remains in contact with the care and protection system, and thereafter, the juvenile or child or juvenile in conflict with law shall not be subjected to any harm, abuse, neglect, maltreatment, corporal punishment or solitary or otherwise any confinement in jails and extreme care shall be taken to avoid any harm to the sensitivity of the juvenile or the child.
- (b) The state has a greater responsibility for ensuring safety of every child in its care and protection, without resorting to restrictive measures and processes in the name of care and protection. .

VII. Positive measures:

- (a) Provisions must be made to enable positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other mainstream community institutions or processes, for the purpose of promoting the well-being of the juvenile or child through individual care plans carefully worked out.
- (b) The positive measures shall aim at reducing vulnerabilities and reducing the need for intervention under the law, as well as effective, fair and humane dealing of the juvenile or child.
- (c) The positive measures shall include avenues for health, education, relationships, livelihoods, leisure, creativity and play.
- (d) Such positive measures must facilitate the development of identity for the child and provide them with an inclusive and enabling environment.

VIII. Principle of non-stigmatizing semantics, decisions and actions:

The non-stigmatizing semantics of the Act must be strictly adhered to, and the use of adversarial or accusatory words, such as, arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody or jail is prohibited in the processes pertaining to the child or juvenile in conflict with law under the Act.

IX. Principle of non-waiver of rights:

- (a) No waiver of rights of the child or juvenile in conflict with law, whether by himself or the competent authority or anyone acting or claiming to act on behalf of the juvenile or child, is either permissible or valid.
- (b) Non-exercise of a fundamental right does not amount to waiver.

X. Principle of equality and non-discrimination:

- (a) There shall be no discrimination against a child or juvenile in conflict with law on the basis of age, sex, place of birth, disability, health, status, race, ethnicity, religion, caste, cultural practices, work, activity or behaviour of the juvenile or child or that of his parents or guardians, or the civil and political status of the juvenile or child.
- (b) Equality of access, equality of opportunity, equality in treatment under the Act shall be guaranteed to every child or juvenile in conflict with law.

XI. Principle of right to privacy and confidentiality:

The juvenile's or child's right to privacy and confidentiality shall be protected by all means and through all the stages of the proceedings and care and protection processes.

XII. Principle of last resort:

Institutionalization of a child or juvenile in conflict with law shall be a step of the last resort after reasonable inquiry and that too for the minimum possible duration.

XIII. Principle of repatriation and restoration:

- (a) Every juvenile or child or juvenile in conflict with law has the right to be reunited with his family and restored back to the same socio-economic and cultural status that such juvenile or child enjoyed before coming within the purview of the Act or becoming vulnerable to any form of neglect, abuse or exploitation.
- (b) Any juvenile or child, who has lost contact with his family, shall be eligible for protection under the Act and shall be repatriated and restored, at the earliest, to his family, unless such repatriation and restoration is likely to be against the best interest of the juvenile or the child.

XIV. Principle of Fresh Start:

- (a) The principle of fresh start promotes new beginning for the child or juvenile in conflict with law by ensuring erasure of his past records.
- (b) The State shall seek to promote measures for dealing with children alleged or recognized as having impinged the penal law, without resorting to judicial proceedings.

CHAPTER - III**JUVENILE IN CONFLICT WITH LAW**

4. Juvenile Justice Boards.- There shall be one or more Juvenile Justice Boards in every district, which shall be constituted by the State Government as per section 4 of the Act.

5. Composition of the Juvenile Justice Board.-

(1) The Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, and two social workers of whom at least one shall be a woman, forming a bench:

Provided that the Principal Magistrate of the Board shall review the pendency of cases before the Board and take such steps, as may be necessary in the expeditious disposal of the cases.

(2) Every such bench shall have the powers conferred by the Code of Criminal Procedure 1973 (2 of 1974).

(3) (i) A Magistrate with special knowledge or training in child psychology or child welfare shall be designated as the Principal Magistrate of the Board.

(ii) In case the Principal Magistrate with such special knowledge or training is not available, then, the State Government shall provide for such short-term training in child psychology or child welfare as it considers necessary.

(4) The two social workers, of whom at least one shall be a woman, shall be appointed by the State Government on the recommendation of the Selection Committee set up under Rule 91 of these Rules.

(5) The State Government shall provide for such training and orientation in child psychology, child welfare, child rights, national and international standards for juvenile justice to all members of the Board as it considers necessary, in accordance with the Integrated Child Protection Scheme of the Central Government.

6. Tenure of the Board.- (1) The Board shall have a tenure of three years and the appointment of

members shall be co-terminus with the tenure of the Board.

(2) A social worker being a member of the Board shall be eligible for appointment for a maximum of two consecutive terms.

(3) Any extension of the tenure of members of the Board shall be on the basis of their performance appraisal by the District Child Protection Unit of the State Government and on the recommendation of a Selection Committee constituted for the purpose and the performance appraisal of members of the Board shall necessarily assess their participation in the proceedings of the Board and contribution in case disposal.

(4) A member may resign any time, by giving one month's advance notice in writing or may be removed from his office as provided in sub-section (5) of section 4 of the Act.

(5) Any vacancy in the Board may be filled by appointment of another person from the panel of names prepared by the Selection Committee, and shall hold office for the remaining term of the Board.

7. Qualifications for Members of the Board.- (1)

The social worker to be appointed as a member of the Board shall be a person not less than 35 years of age, who is preferably a post-graduate in social work, health, education, psychology, child development or any other social science discipline and has been actively involved and engaged in planning, implementing and administering measures relating to child welfare for at least seven years. The DSWO may advertise in the local newspapers for the posts in each district in order to receive response from applicants who are qualified and also have genuine interest to work in the field of child welfare.

(2) No person shall be considered for selection as a Member of the Board, if he,

- (a) has been convicted under any law;
- (b) have ever indulged in child abuse or employment of child labour or any other human rights violations or immoral act;
- (c) is holding such other occupation that does not allow him to give necessary time and attention to the work of the Board;
- (d) does not fulfill the qualification and experience prescribed in the Act and the Rules made thereunder and in such a case the Selection Committee shall after due inquiry and on establishment of such fact, reject his application and recommend the name of the next person from the list of names prepared for filling the vacancies.

8. Sitting and conveyance allowances.- The social worker members of the Board shall be paid such travel and sitting allowance, as the State Government may determine, but it shall not be less than rupees five hundred per sitting subject to concurrence of Finance (Estt.-B) Department.

9. Sittings of the Board.- (1) The Board shall hold its sittings in the premises of an Observation Home or, at a place in proximity to the observation home or, at a suitable premise in any institution run under the Act, and in no circumstances shall the Board operate from within any court premises.

(2) The premises where the Board holds its sittings shall be child-friendly and shall not look like a court room in any manner whatsoever; for example, the Board shall not sit on a raised platform and the sitting arrangement shall be uniform, and there shall be no witness boxes.

(3) The Board shall meet on all working days of a week, unless the case pendency is less in a particular district and concerned authority issues an order in this regard.

(4) A minimum of three-fourth attendance of the Chairperson and Members of the Board is necessary in a year.

(5) Every member of the Board shall attend a minimum of five hours per sitting.

10. Functions of the Board.- The Board shall perform the following functions to achieve the objectives of the Act, namely:-

- (a) adjudicate and dispose cases of juveniles in conflict with law;
- (b) take cognizance of crimes committed under section 23 to 28 of the Act;
- (c) monitoring institutions for juveniles in conflict with law and seeking compliance from them in cases of any noticeable lapses and improvement based on suggestions of the Board;
- (d) deal with non-compliance on the part of concerned government functionaries or functionaries of voluntary organizations, as the case may be, in accordance with due process of law;
- (e) pass necessary direction to the district authority and police to create or provide necessary infrastructure or facilities so that minimum standards of justice and treatment are maintained in the spirit of the Act;
- (f) maintain liaison with the Committee in respect of cases needing care and protection;
- (g) liaison with Boards in other districts to facilitate speedy inquiry and disposal of cases through due process of law;
- (h) take suitable action for dealing with unforeseen situations that may arise in the implementation of the Act and remove such difficulties in the best interest of the juvenile;

- (i) send quarterly reports in a prescribed format about juveniles in conflict with law produced before them, to the District, State Child Protection Unit, the State Government, Department of Social Welfare through the concerned Probation Officer and also to the Chief Judicial Magistrate or Chief Metropolitan Magistrate for review under sub-section (2) of section 14 of the Act;
- (j) any other function assigned by the State Government from time to time relating with juveniles in conflict with law.

11. Pre and Post-Production action of police and other agencies.- (1) As soon as a juvenile alleged to be in conflict with law is apprehended by the police, the concerned police officer shall inform,-

- (a) the designated Juvenile or the Child Welfare Officer in the nearest police station to take charge of the matter;
- (b) the parents or guardian of the juvenile alleged to be in conflict with law about the apprehension of the juvenile, about the address of the Board where the juvenile will be produced and the date and time when the parents or guardian need to be present before the Board;
- (c) the concerned probation officer, of such apprehension to enable him to obtain information regarding social background of the juvenile and other material circumstances likely to be of assistance to the Board for conducting the inquiry.

(2) Soon after apprehension, the juvenile shall be placed under the charge of the Juvenile or Child Welfare Officer from the nearest police station, who shall produce the juvenile before the Board within twenty four hours as per sub-section (1) of section 10 of the Act and where such Juvenile or the Child Welfare Officer has not been designated as per provisions laid down

under sub-section (2) of section 63 of the Act or is not available for some official reasons, the police officer who had apprehended the juvenile shall produce him before the Board.

(3) The police apprehending a juvenile in conflict with law shall in no case send the juvenile in lock-up or delay his charge being transferred to the Juvenile or the Child Welfare Officer from the nearest police station, if such an officer has been designated.

(4) A list of all designated Juvenile or the Child Welfare Officers in a district and members of Special Juvenile Police Unit with contact details shall be prominently displayed in every police station.

(5) For gathering the best available information it shall be incumbent upon the Police or the Juvenile or the Child Welfare Officer from the nearest police station, to contact the parents or guardians of the juvenile and also apprise them of the juvenile's law breaking behaviour.

(6) The police or the Juvenile or the Child Welfare Officer from the nearest police station, shall also record the social background of the juvenile and circumstances of apprehension and offence alleged to have been committed in the case diary of each juvenile, which shall be forwarded to the Board forthwith.

(7) The police or the Juvenile or the Child Welfare Officer from the nearest police station, shall exercise the power of apprehending the juvenile only in cases of his alleged involvement in serious offences (entailing a punishment of more than 7 years imprisonment for adults).

(8) In such cases where apprehension apparently seems to be in the interest of the juvenile, the police or the Juvenile or the Child Welfare Officer from the nearest police station, shall rather treat the juvenile as a child in need of care and protection and produce him before the Board, clearly explaining the juvenile's need

for care and protection in its report and seek appropriate orders from the Board under rule 13 (1) (b) of these Rules.

(9) For all other cases involving offences of non-serious nature (entailing a punishment of less than 7 years imprisonment for adults) and cases where apprehension is not necessary in the interest of the juvenile, the police or the Juvenile or the Child Welfare Officer from the nearest police station, shall intimate the parents or guardian of the juvenile about forwarding the information regarding nature of offence alleged to be committed by their child or ward along with his socio-economic background to the Board, which shall have the power to call the juvenile for subsequent hearings.

(10) In case the Board is not sitting, the juvenile in conflict with law shall be produced before the single member of the Board as per the provisions laid down under the sub-section (2) of section 5 of the Act.

(11) In dealing with cases of juveniles in conflict with law the Police or the Juvenile or the Child Welfare Officer from the nearest police station, shall not be required to register an FIR or file a charge-sheet, except where the offence alleged to have been committed by the juvenile is of a serious nature such as rape, murder or when such offence is alleged to have been committed jointly with adults; instead, in matters involving simple offences, the Police or the Juvenile or the Child Welfare Officer from the nearest police station shall record information regarding the offence alleged to have been committed by the juvenile in the general daily diary followed by a report containing social background of the juvenile and circumstances of apprehension and the alleged offence and forward it to the Board before the first hearing.

(12) The State Government shall recognize only such voluntary organizations that are in a position to provide the services of probation,

counseling, case work, a safe place and also associate with the Police or the Juvenile or the Child Welfare Officer from the Special Juvenile Police Unit, and have the capacity, facilities and expertise to do so as protection agencies that may assist the Police or the Juvenile or the Child Welfare Officer from the police at the time of apprehension, in preparation of the report containing social background of the juvenile and circumstances of apprehension and the alleged offence, in taking charge of the juvenile until production before the Board, and in actual production of the juvenile before the Board within twenty-four hours.

(13) The Police or the Juvenile or the Child Welfare Officer from the Special Juvenile Police Unit, or the recognized voluntary organization shall be responsible for the safety and provision of food and basic amenities to the juveniles apprehended or kept under their charge during the period such juveniles are with them.

(14) When a juvenile is produced before an individual member of the Board, and an order obtained, such order shall need ratification by the Board in its next meeting.

(15) The Board of the concerned district where the juvenile is apprehended, may shift the juvenile to the observation home of the nearest district following the initial hearing, if there is no observation home in that district. The case file should be handed to the authorities of the district from where the juvenile belongs.

12. Procedure to be followed in determination of Age.- (1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in Rule 19 of these Rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.

(2) The court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.

(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining-

- (a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;
- (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;
- (iii) the birth certificate given by a corporation or a municipal authority or a panchayat;
- (b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any

of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board or as the case may be the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these Rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of section 7 A, section 64 of the Act and these Rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or any other documentary proof referred to in sub-rule (3) of this Rule.

(6) The provisions contained in this Rule shall also apply to those disposed off cases, where the status of juvenility has not been determined in accordance with the provisions contained in subrule (3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law.

13. Post-production processes by the Board.- (1) On production of the juvenile before the Board, the report containing social background of the juvenile and circumstances of apprehension and offence alleged to have been committed provided by the officers, individuals, agencies producing the juvenile shall be reviewed by the Board, and the Board shall pass the following order in the first summary inquiry on the same day, namely:

- (a) dispose off the case, if the evidence of his conflict with law appears to be unfounded or where the juvenile is involved in trivial law breaking;
 - (b) transfer to the Committee, matters concerning juveniles clearly stated to be in need of care and protection in the police report submitted to the Board at the time of production of the juvenile;
 - (c) release the juvenile in the supervision or custody of fit persons or fit institutions or probation officers as the case may be, through an order in Form-I, with a direction to appear or present a juvenile for an inquiry on a next date;
 - (d) detain the juvenile in an Observation Home or fit institution pending inquiry, only in cases of juvenile's involvement in serious offences as per an order in Form-II;
 - (e) in all cases of release pending inquiry, the Board shall notify the next date of hearing, not later than 15 days of the first summary enquiry and also seek social investigation report from the concerned Probation Officer through an order in Form-III;
- (2) The Board shall take the following steps to ensure fair and speedy inquiry, namely:
- (a) at the time of initiating the inquiry, the Board shall satisfy itself that the juvenile in conflict with law has not been subjected to any ill-treatment by the police or by any other person, including a lawyer or probation officer and take corrective steps in case of such ill-treatment;
 - (b) in all cases under the Act the proceedings shall be conducted in as simple a manner as possible and care shall be taken to ensure that the juvenile, against whom the proceedings have been instituted, is given child-friendly atmosphere during the proceedings;
 - (c) every juvenile brought before the Board shall be given the opportunity to be heard and participate in his inquiry;
 - (d) cases of petty offences, if not disposed off by the Special Juvenile Police Unit or at the police station itself, may be disposed off by the Board through summary proceedings or inquiry, while in cases of heinous offences entailing punishment of 7 years or more, due process of inquiry in detail may follow;
 - (e) even in cases of inquiry pertaining to serious offences the Board shall follow the procedure of trial in summons cases.
- (3) When witnesses are produced for examination in inquiry relating to a juvenile in conflict with law, the Board shall keep in mind that the inquiry is not to be conducted in the spirit of strict adversarial proceedings and it shall use the powers conferred by section 165 of the Indian Evidence Act, 1872 (1 of 1872) so as to question the juvenile and proceed with the presumptions that favour the juvenile's right to be restored.
- (4) While examining a juvenile in conflict with law and recording his statement, the Board shall address the juvenile in a child-friendly manner in order to put the juvenile at ease and to encourage him to state the facts and circumstances without any fear, not only in respect of the offence of which the juvenile is accused, but also in respect of the home and social surroundings and the influence to which the juvenile might have been subjected.
- (5) The Board may take into account the report of the police containing circumstances of apprehension and offence alleged to have been committed and the social investigation report in Form-IV prepared by the Probation officer

or the voluntary organization on the orders of the Board as per Form-III, along with the evidence produced by the parties for arriving at a conclusion about the juvenile.

(6) Every inquiry by the Board shall be completed within a period of four months after the first summary inquiry and only in exceptional cases involving trans-national criminality, large number of accused and inordinate delay in production of witnesses, the period of inquiry may be extended by two months on recording of reasons by the Board.

(7) In all other cases except where the nature of alleged offence is serious, delay beyond four to six months shall lead to the termination of the proceedings.

(8) Where the proceedings are delayed beyond six months on account of serious nature of the offence alleged to have been committed by the juvenile, the Board shall send a periodic report of the case to the Chief Judicial Magistrate or Chief Metropolitan Magistrate stating the reason for delay as well as steps being taken to expedite the matter.

14. Legal Aid.- (1) The proceedings before the Board shall be conducted in non adversarial environment, but with due regard to all the due process guarantees such as right to counsel and free legal aid.

(2) The Board shall ensure that the Legal Officer in the District Child Protection Unit and the State Legal Services Authority shall extend free legal services to all the juvenile in conflict with law.

(3) The Legal Officer in the District Child Protection Unit and the State Legal Services Authority shall be under an obligation to provide legal services sought by the Board.

(4) In the event of shortfall in the State Legal Services support, the Board shall be responsible

for seeking legal services from recognized voluntary legal services organizations or the university legal services clinics.

(5) The Board may also deploy the services of the student legal services volunteers and nongovernmental organization volunteers in para-legal tasks such as contacting the parents of juveniles in conflict with law and gathering relevant social and rehabilitative information about the juveniles.

15. Completion of Inquiry and Dispositional Alternatives.- (1) The Board shall complete every inquiry within the stipulated time of four months and on recording a finding about juvenile's involvement in the alleged offence, pass one of the seven dispositional orders enumerated in section 15 of the Act.

(2) Before passing an order, the Board shall obtain a social investigation report prepared by the probation officer or by a recognized voluntary organization ordered to do so by the Board, and take the findings of the report into account.

(3) All dispositional orders passed by the Board shall necessarily include an individual care plan for the concerned juvenile in conflict with law, prepared by a probation officer or voluntary organization on the basis of interaction with the juvenile and his family where possible.

(4) Where the Board decides to release the juvenile after advice and admonition or after participation in group counseling or orders him to perform community service, necessary direction may also be made by the Board to the District or State Child Protection Unit or the State Government for arranging such individual counseling, group counseling and community service.

(5) Where the Board decides to release the juvenile in conflict with law on probation and place him under the care of the parent or

guardian or fit person, the person in whose custody the juvenile is released may be, required to submit a written undertaking in Form-V for the good behavior and well-being of the juvenile for a maximum period of three years.

(6) The Board may order release of a juvenile in conflict with law on execution of a personal bond without surety in Form VI.

(7) In the event of placement of a juvenile in conflict with law in care of a fit institution or special home, the Board shall keep in mind that the fit institution or special home is located nearest to the place of residence of the juvenile's parent or guardian.

(8) The Board, where it releases a juvenile in conflict with law on probation and places him under the care of parent or guardian or fit person or where the juvenile is released on probation and placed under the care of fit institution, may order that the juvenile be placed under the supervision of a probation officer. The period of supervision shall be a maximum of three years.

(9) Where the Board decides that a juvenile in conflict with law ought to be treated as a child in need of care and protection, it shall make necessary orders for production of such juvenile before the nearest Committee for suitable care, protection and rehabilitation.

(10) Where it appears to the Board that the juvenile in conflict with law has not complied with probation conditions, it may order the juvenile to be sent for detention in a special home.

(11) Where a juvenile in conflict with law who has attained the age of sixteen years and the offence committed by him is of such a serious nature that in the satisfaction of the Board, it is neither in the interest of the juvenile himself nor in the interest of other juveniles of the special home, the Board may order the juvenile

to be kept in a place of safety and in a manner considered most appropriate by it.

(12) Depending upon the nature of offence, the State Government shall make arrangement for complying with the detention of special category of juveniles in conflict with law, in a place of safety with adequate protection.

(13) In no case the period of detention shall exceed beyond the maximum period provided in clause (g) of sub-section (1) of section 15 of the Act.

16. Institutions for juveniles in conflict with law,- (1) The State Government or the voluntary organization recognized by that State Government shall set up separate observation homes or special homes for boys and girls.

(2) The observation homes or special homes shall set up separate residential facilities for boys and girls up to 12 years, 13-15 years and 16 years and above.

(3) Every institution shall keep a copy of the Act, the Rules made by the Central Government and the State Rules if any, for use by both-staff, juveniles and children residing therein.

(4) The State Governments in collaboration with civil society shall develop and make available simplified and child friendly versions of the Act and the Rules in regional languages.

(5) All facilities and services for juveniles in conflict with law shall be made available and maintained as per the provisions of the Act and the State Rules.

17. Release.- (1) The Officer-in-charge shall maintain a roster of the cases of juveniles in conflict with law to be released on the expiry of the period of stay as ordered by the Board.

(2) Each case shall be placed before the Management Committee set up under Rule 55 of these Rules by the concerned probation

officer or child welfare officer or case worker for ensuring proper release and social mainstreaming of the juvenile post release.

(3) The release shall be as per the pre-release and post-release plan prepared under the individual care plan and reviewed from time to time by the management committee set up under Rule 55 of these Rules and in all cases of release, necessary action and preparation shall be initiated well before the time of release and shall include preparation for post-release follow-up.

(4) The timely information of the release of a juvenile and of the exact date of release shall be given to the parent or guardian and the parent or guardian shall be invited to come to the institution to take charge of the juvenile on that date.

(5) If necessary, the actual expenses of the parent's or guardian's journey both ways and of the juvenile's journey from the institution shall be paid to the parent or guardian by the Officer-in-charge at the time of the release of the juvenile.

(6) If the parent or guardian, as the case may be, fails to come and take charge of the juvenile on the appointed date, the juvenile shall be taken by the escort of the institution; and in case of a girl, she shall be escorted by a female escort.

(7) At the time of release or discharge, a juvenile shall be provided with a set of summer or winter clothing and essential toiletries, if the Officer-in-charge considers it necessary.

(8) If the juvenile has no parent or guardian, he may be sent to an aftercare organization, or in the event of his employment, to the person who has undertaken to employ the juvenile.

(9) The Officer-in-charge of a girls' institution may, subject to the consent of the girl and the

approval of the competent authority, help the girl with her social reintegration by way of sending a girl above the age of eighteen years to an aftercare programme or, helping her with some vocation or gainful employment or, helping her settle into family life according to the procedure laid down by the competent authority from time to time.

(10) The Officer-in-Charge shall order the discharge in Form-VII of any juvenile whose detention period has come to an end and inform the competent authority within seven days of the action taken and if the date of release falls on a Sunday or a public holiday, the juvenile may be discharged on the preceding day with an entry to that effect being made in the register of discharge.

(11) The Officer-in-charge shall in appropriate cases, order the payment of subsistence money, at such rates as may be fixed from time to time, by the State or the District Child Protection Unit or the State Government, and the railway or road, or both, fares, as the case may be.

(12) In deserving cases, the Officer-in-charge may provide the juvenile with such small tools, as may be necessary, to start a work or business subject to such maximum cost as may be fixed by the institution which shall also form part of the post-release plan.

(13) Where a girl has no place to go after release and requests for stay in the institution after the period of her stay is over, the Officer-in-charge may, subject to the approval of the competent authority, allow her stay till the time some other suitable arrangements are made.

18. Procedure to be followed in respect of sections 21, 22, 23, 24, 25 and 26 of the Act.-

(1) In the event of violation of provisions laid down under section 21 of the Act,-

(a) the Board shall take cognizance of such violation by print or electronic media

and shall initiate necessary inquiry and pass appropriate orders as per provisions contained in subsection (2) of section 21 of the Act; and

- (b) where the National or the State Commission for Protection of Child Rights takes suo moto cognizance of violation under section 21 of the Act, it shall inform the District or the State Child Protection Unit of the concerned district and the State directing them to initiate necessary action through the Board.

(2) In the event of an escape of a juvenile in conflict with law or a child, the following action shall be taken within twenty-four hours:-

- (a) the Officer-in-Charge of any institution shall immediately send a report to the area Police Station or Special Juvenile Police Unit along with the details and description of the juvenile or child, with identification marks and a photograph, with a copy to the Board, District Child Protection Unit and other authorities concerned;
- (b) the Officer-in-charge of institutions other than shelter homes or drop-in-centre shall send the guards or concerned staff in search of the juvenile, at places like railway stations, bus stands and other places where the juvenile is likely to go;
- (c) the parents or guardians shall be informed immediately about such escape; and
- (d) the Officer-in-charge of an institution other than a shelter home or drop-in-centre shall hold an inquiry about such escape and send his report to the Board or Committee and the authorities concerned and the report shall be placed before the Management Committee set up under Rule 55 of these Rules in the next meeting for review.

(3) The offences against a juvenile in conflict with law or a child specified in sections 23, 24, 25 and 26 shall be either bailable or non-bailable besides being cognizable under the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) and the procedures shall apply on the Police, the Board and the concerned authorities and functionaries accordingly.

CHAPTER IV

CHILD IN NEED OF CARE AND PROTECTION

19. Child Welfare Committee.- There shall be a Child Welfare Committee in every district, which shall be constituted by the State Government through a notification in the Official Gazette as per sub-section (1) of section 29 of the Act.

20. Composition of the Child Welfare Committee.- (1) The Committee shall consist of a Chairperson and four other members, of whom at least one shall be a woman.

(2) The Chairperson and members of the Committee shall be appointed on the recommendation of a Selection Committee set up by the State Government, for the purpose under Rule 91.

(3) The Selection Committee, while selecting the Chairperson and Members of the Committee, shall as far as possible ensure that none of them are from any adoption agency.

(4) The State Government shall provide for such training and orientation in child psychology, child welfare, child rights, national and international standards for juvenile justice to all members of the Committee as it considers necessary.

21. Tenure of the Committee.- (1) The Committee shall have a tenure of three years and the tenure of Chairperson and Members

shall be co-terminus with the tenure of the Committee.

(2) The Chairperson and Members of the Committee shall be eligible for appointment for a maximum of two consecutive terms.

(3) Extension of the tenure of members of the Committee shall be on the basis of their performance appraisal by the District Child Protection Unit or the State Government and on the recommendation of the Selection Committee.

(4) With a view to ensuring continuity on completion of the tenure of a Committee, the State Government shall constitute a new Committee before the expiry of the term of the existing Committee; where after the existing Committee shall handover all records and information to the newly formed Committee.

(5) The Chairperson and Members may resign at any time by giving, one month's notice in writing or may be removed from office as provided in sub-section (4) of section 29 of the Act.

(6) Any casual vacancy in the Committee may be filled by appointment of another person from the panel of names prepared by the Selection Committee, and shall hold office for the remaining term of the Committee.

22. Qualifications for Chairperson and Members of the Committee.- (1) A person to be selected as a Chairperson or Member of the Committee shall have either of the following qualifications, in addition to a minimum of seven years experience in their respective field:

(a) a person with post graduate degree in social work, psychology, child development, education, sociology, law, criminology and, where such a person

is not available, a person with at least a graduate degree in any of the social science disciplines;

(b) a teacher, doctor or a social worker who has been involved in work concerning children.

(2) The Chairperson or Member of the Committee shall be a person not less than 35 years of age.

(3) No person shall be considered for Selection as a Chairperson or Member of the Committee, if he,-

(i) has a previous conviction record;

(ii) has been involved in any immoral act or in an act of child abuse or employment of child labour;

(iii) is holding such full-time occupation that may not allow him to give necessary time and attention to the work of the Committee as per the Act and these Rules;

(vi) does not fulfill the qualification and experience prescribed in the Act and the Rules made there under, and in such a case the Selection Committee shall after due inquiry and on establishment of such fact, reject his application and recommend the name of the next person from the list of names prepared for filling the vacancies.

23. Sitting and conveyance allowances.- The Chairperson and Members of the Committee shall be paid such travel and sitting allowance, as the State Government may determine, but it shall not be less than rupees five hundred per sitting per member subject to concurrence of Finance (Estt.-B) Department.

24. Sitting of the Committee.- (1) The Committee shall hold its sittings in the premises of the children's home or, at a place in proximity

to the children's home or, at a suitable premise in any institution run under the Act.

(2) On receiving information about child or children in need of care and protection, if circumstances are such that the child or children cannot be produced before the Committee, the Committee may move out to reach the child or children and hold its sitting at a place that is convenient for such child or children.

(3) The premises where the Committee holds its sittings shall be child-friendly and shall not look like a court room in any manner whatsoever; for example, the Committee shall not sit on a raised platform and the sitting arrangement shall be uniform and there shall be no witness boxes.

(4) The Committee shall meet a minimum of three days a week, which may be extended by the State Government depending on case and pendency of work.

(5) A minimum of three-fourth attendance of the Chairperson and Members of the Committee is necessary in a year.

(6) The duration of a sitting is dependent on the pendency of work before the Committee.

25. Functions and Powers of the Committee.- The Committee shall perform the following functions to achieve the objectives of the Act, namely:-

- (a) take cognizance of and receive children produced before the Committee;
- (b) decide on the matters brought before the Committee;
- (c) reach out to such children in need of care and protection who are not in a position to be produced before the Committee, being in difficult circumstances, with support from the District Child Protection Unit or State Child Protection Unit or the State Government;

(d) conduct necessary inquiry on all issues relating to and affecting the safety and well being of the child;

(e) direct the Child Welfare Officers or Probation Officers or non-governmental organizations to conduct social inquiry and submit a report to the Committee;

(f) ensure necessary care and protection, including immediate shelter;

(g) ensure appropriate rehabilitation and restoration, including passing necessary directions to parents or guardians or fit persons or fit institutions in this regard, in addition to follow-up and coordination with District Child Protection Unit or State Adoption Resource Agency and other agencies;

(h) direct the Officer-in-charge of children's homes to receive children requiring shelter and care;

(i) document and maintain detailed case record along with a case summary of every case dealt by the Committee;

(j) provide a child-friendly environment for children;

(k) recommend 'fit institutions' to the State Government for the care and protection of children;

(l) declare 'fit persons';

(m) declare a child legally free for adoption;

(n) keep information about and take necessary follow-up action in respect of missing children in their jurisdiction;

(o) maintain liaison with the Board in respect of cases needing care and protection;

(p) visit each institution where children are sent for care and protection or adoption at least once in three months to review the condition of children in institutions,

with support of the State Government and suggest necessary action;

- (q) monitor associations and agencies within their jurisdiction that deal with children in order to check on the exploitation and abuse of children;
- (r) co-ordinate with the Police, Labour Department and other agencies involved in the care and protection of children with the support of District Child Protection Unit or State Child Protection Unit or State Government;
- (s) liaison and network with the corporate sector and non-governmental organizations for any of the above, including for social inquiry, restoration and rehabilitation, as and when required: and
- (t) maintain a suggestion box to encourage inputs from children and adults alike and take necessary action.

26. Procedure in relation to Committee.- (1) The quorum for the meeting shall be three members attending, which may include the Chairperson.

(2) Any decision taken by an individual member, when the Committee is not sitting, shall require ratification by the Committee in its next sitting.

(3) The Committee shall take into consideration the age, developmental stage, physical and mental health, opinion of the child and the recommendation of the child welfare officer or caseworker, prior to disposal of cases.

(4) For final disposal of a case, the order of the Committee shall be signed by at least two members, including the Chairperson. In the absence of the Chairperson, any two members shall sign the order.

27. Production of a Child before the Committee.- (1) A child in need of care and protection shall be produced before the Committee within twenty-four hours, excluding journey time, by one of the following persons-

- (a) any police officer or Special Juvenile Police Unit or a designated police officer;
- (b) any public servant;
- (c) Childline, a registered voluntary organization or by such other voluntary organization or an agency as may be recognized by the State Government;
- (d) social worker;
- (e) any public spirited citizen; or
- (f) by the child himself.

(2) In case of a child under two years of age, who is medically unfit, the person or the organization shall send a written report along with the photograph of the child to the Committee within twenty-four hours and produce the child before the Committee as soon as the child is medically fit along with a medical certificate to that effect.

(3) The Committee can suo moto take cognizance of cases brought to their notice and reach out to a child in need of care and protection where necessary and the District or the State Child Protection Unit or the State Government shall provide necessary support and assistance to the Committee for carrying out such functions.

(4) In case the Committee is not sitting, the child may be produced before the single member of the Committee as per the provisions laid down under the subsection (2) of section 30 of the Act for being placed in safe custody of parent or guardian or fit person or fit institutions, as the case may be, till such time that the child can be produced before the Committee.

(5) In case the single member is also not accessible, or that the hours are odd, the child shall be taken by a non-governmental organization or Childline or Police to an appropriate institution for children registered under the Act with all the necessary documents, and placed in such institution till the time of production before the Committee.

(6) The concerned institution shall inform the Chairperson or a member of the Committee about such child and produce the child before any member of the Committee within twenty four hours and the committee should regularize the same in the next meeting. In such cases, it may not be necessary for the person who brings a child in need of care and protection to an institution to be present at the time of production of the child before the Committee.

(7) Whoever produces a child before the Committee shall submit a report on the circumstances under which the child came to their notice and efforts made by them on informing the police and the missing persons squad and in cases where a recognized voluntary organization or any police personnel produce a child before the Committee, they shall also submit a report on the efforts made by them for tracing the family of the child.

(8) Any general medical or gynecological examination of children shall not be a prerequisite for production of the child before the Committee or admission in an institution.

(9) The Committee shall facilitate the filing of a police complaint and First Information Report in cases of missing children as well as matters of violence, exploitation and abuse of children and arrange for required legal aid through the Legal Officer in the District Child Protection Unit or District or State Legal Services Authority or voluntary organizations.

(10) Each Committee shall send quarterly information about children in need of care and protection received by them to the District or State Child Protection Unit or State Government.

(11) Children shall be provided a child-friendly environment during the proceedings of the Committee.

(12) The Committee shall have an empanelled list of lawyers, social workers and mental health expert who may assist the Committee in dealing with cases of abused children and who may also interface with the Public Prosecutor or Assistant Public Prosecutor to facilitate legal services to the abused children, when the cases relating to such children are taken up in regular criminal courts.

(13) Every possible effort shall be made to trace the family with support from the District Child Protection Unit, and assistance of recognized voluntary organizations, Childline, the media or police may also be taken.

(14) The Committee shall send the child to the designated place of safety, with age and gender appropriate facilities, pending inquiry and in such eventuality, the District Child Protection Unit or State Child Protection Unit or State Government shall provide transport or make necessary budgetary allocations for such expenses based on the actual fare.

(15) The child may be escorted by the police officer in plain clothes or representative of the voluntary organization or by any other arrangement as considered appropriate by the Committee with support from the District Child Protection Unit and in case of a girl child, a female escort shall accompany the child.

(16) A list of all recognized child care institutions along with their capacity and appropriate facilities as prescribed under section 34 of the Act, a list of all child related

resource services and a list of contact details of all Child Welfare Committees across the country shall be provided to the Committee by the District Child Protection Unit or State Government.

(17) The Committee may, while making an order in Form VIII placing a child under the care of a parent, guardian or fit person pending inquiry or at the time of restoration, as the case may be, direct such parent, guardian or fit person to enter into an undertaking in Form IX.

(18) Whenever the Committee orders a child to be kept in an institution, it shall forward to the Officer-in-charge of such institution a copy of the order of short term placement pending inquiry, in Form X with particulars of the home and parents or guardian and previous record.

(19) Whenever the Committee orders a child to be kept in a fit institution as part of restoration under clause (f) of sub-section (3) of section 39 of the Act, it shall forward a copy of its order of restoration in Form XI to the Officer-in charge of such institution.

(20) The child shall be placed in an institution closest to where his parents or guardians belong as far as possible, unless the child has been subjected to abuse or exploitation by parents or guardians.

28. Procedure for inquiry.- (1) When a child is brought before the Committee, the Committee shall assign the case to a social worker or caseworker or child welfare officer or Officer-in-charge as the case may be, of the institution or any recognized agency for conducting the inquiry through an order in Form-XII.

(2) The Committee shall direct the concerned person or organization about the details or particulars to be enquired into for developing an individual care plan and suitable rehabilitation.

(3) All inquiries conducted by a social worker or caseworker or child welfare officer or Officer-in-charge of the institution or any recognized agency shall be as per Form-XIII and must provide an assessment of the family situation of the child in detail, and explain in writing whether it will be in the best interest of the child to restore him to his family.

(4) The inquiry must be completed within four months or within such shorter period as may be fixed by the Committee:

Provided that the Committee may, in the best interest of the child and for the reasons to be recorded in writing, extend the said period under special circumstances.

(5) After completion of the inquiry, if, the child is under orders to continue in the children's home, the Committee shall direct the Officer-in-charge of the home to submit quarterly progress report of such child.

29. Children's Homes.- (1) The State Government itself or in association with voluntary organizations, shall set up separate homes for children in need of care and protection, in the manner specified below:

- (i) all children's homes shall be registered as child care institutions under sub-section (3) of section 34 of the Act and Rule 71 of these Rules;
- (ii) all children's homes shall be certified as per the procedure laid down in Rule 70;
- (iii) all children's homes shall report to the concerned Committee about every child in need of care and protection received by them;
- (iv) children of both sexes below ten years may be kept in the same home but separate facilities shall be maintained for boys and girls in the age group 5 to 10 years;

- (v) every children's home shall include separate facilities for children in the age group of 0-5 years with appropriate facilities for the infants;
 - (vi) separate children's homes shall be set up for boys and girls in the age group 10 to 18 years;
 - (vii) children in the age group of 10 to 18 shall be further segregated into two groups of 10 to 15 years and 15 to 18 years.
- (2) Each children home shall be a comprehensive child care center with the primary objective to promote an integrated approach to child care by involving the community and local Non- Governmental Organizations through the Management Committee set up under Rule 55 of these Rules and the District Child Protection Unit or State Child Protection Unit or the State Government shall make an annual performance review of functioning of the children's homes.
- (3) The activities of such centre shall focus on,
- (a) preparing and following individual care plans for every child, with rights based approach, specifically addressing the child's physical and mental health, emotional needs, education, skill development, protection and special needs if any;
 - (b) family based non-institutional services, such as, foster family care, adoption and sponsorship;
 - (c) specialized services in situations of conflict or disaster and for juvenile or children affected by terminal or incurable disease to prevent neglect by providing family counseling, nutrition, health interventions, psycho-social interventions and sponsorship;
- (d) emergency outreach service through Childline (Toll free Help Line No. 1098);
 - (e) linkages with Integrated Child Development Services to cater to the needs of children below six years;
 - (f) linkages with organizations and individuals who can provide support services to children; and
 - (g) opportunities to volunteers willing to provide various services for children.
30. Shelter Homes.- (1) For children in urgent need of care and protection, such as street children and run-away children, the State Government shall support creation of requisite number of shelter homes or drop-in-centre through the voluntary organizations.
- (2) Shelter homes shall include,-
- (h) short-stay homes for children needing temporary shelter, care and protection for a maximum period of one year,
 - (i) transitional homes providing immediate care and protection to a child for a maximum period of four months,
 - (j) 24 hour drop-in-centre for children needing day care or night shelter facility.
- 24 hour drop-in-centre for children needing day care or night shelter facility.
- (3) The shelter homes or drop-in-centre shall have the minimum facilities of boarding and lodging, besides the provision for fulfillment of basic needs in terms of clothing, food, health care and nutrition, safe drinking water and sanitation.
- (4) There shall be separate shelter homes for girls and boys as per Rule 40(2)(d) of these Rules.

(5) All shelter homes shall provide requisite facilities for education, vocational training, counseling and recreation or make arrangements for it in collaboration with voluntary organizations or corporate sector.

(6) The Committee, Special Juvenile Police Units, public servants, Childline, voluntary organizations, social workers and the children themselves may refer a child to such shelter homes.

(7) All shelter homes shall submit a report of children using the shelter home facility along with a photograph of the child to the Committee, the missing person bureau or special juvenile police unit and the District Child Protection Unit or the State Child Protection Unit.

(8) The requirements of producing a child received by a shelter home before the Committee, inquiry and disposal under sections 32, 33, 38 and 39 of the Act shall apply only to shelter homes other than drop-in-centre as specified in Rule 30(2)(c) of these Rules.

(9) The services of Officer-in-charge, child welfare officer, social worker shall be provided for the proper care, protection, development, rehabilitation and reintegration needs of children in shelter homes.

(10) No child shall ordinarily stay in a short stay home for more than a year except in special circumstances with the approval of the Committee.

31. Guidelines for prevention of sexual abuse of children.- The Central Government, State Government, the Juvenile Justice Board, the Child Welfare Committee, other competent authorities and agencies shall, in the best interest of children, ensure that every person, school or such other educational institutions abide by the guidelines issued from time to time by Central Government and State Government.

CHAPTER V

REHABILITATION AND SOCIAL REINTEGRATION

32. Rehabilitation and Social Reintegration.- The primary aim of rehabilitation and social reintegration is to help children in restoring their dignity and self-worth and mainstream them through rehabilitation within the family where possible, or otherwise through alternate care programmes and long-term institutional care shall be of last resort.

33. Adoption.- (1) The primary aim of adoption is to provide a child who cannot be cared for by his biological parents with a permanent substitute family.

(2) For all matters relating to adoption, the guidelines issued by the Central Adoption Resource Agency and notified by the Central Government under subsection (3) of section 41 of the Act, shall apply.

(3) In case of orphaned and abandoned children the following procedure shall apply, namely:-

- (a) Specialized Adoption Agencies shall produce all orphaned and abandoned children who are to be declared legally free for adoption before the Committee within twenty-four hours of receiving such children, excluding the time taken for journey;
- (b) a child becomes eligible for adoption when the Committee has completed its inquiry and declares the child legally free for adoption;
- (c) such declaration shall be made in Form XIV;
- (d) a child must be produced before the Committee at the time of declaring such child legally free for adoption;

- (e) whenever intimation is received by the police about an abandoned infant, the police shall take charge of the infant and arrange to provide immediate medical assistance and care;
 - (f) subsequently, the child shall be placed in a specialized adoption agency or recognized and certified children's home or in a pediatric unit of a Government hospital followed by production of the child before the Committee within twenty-four hours;
 - (g) procedure for declaring a child abandoned and certifying him legally free for adoption:
 - (i) in case of an abandoned child, the recognized agency shall within twenty four hours, report and produce the child before the Committee with the copy of the report filed with the police station in whose jurisdiction the child was found abandoned;
 - (ii) the Committee will institute a process of inquiry, which shall include a thorough inquiry conducted by the Probation Officer or Child Welfare Officer, as the case may be and who shall give report in Form XIII to the Committee containing the findings within one month;
 - (iii) there shall be a declaration by the specialized adoption agency, stating that there has been no claimant for the child even. after making notification in at least one leading national newspaper and one regional language newspaper for children below two years of age and for children above two years, an additional television or radio announcement and notification to the missing persons squad or bureau shall be made;
 - (iv) the steps stated in (iii) shall be taken within a period of sixty days from the time when the child is found in case of a child below two years of age and in case of children above two years of age, this period shall be four months;
 - (v) the period of notification shall run concurrently with the inquiry to be conducted and report submitted under clause (ii) of this sub-rule;
 - (vi) the Committee shall declare the child legally free for adoption on completion of the process of inquiry, including declaration of the specialized adoption agency made under clauses (ii) and (iii) of this sub-rule;
 - (vii) no child above seven years who can understand and express his opinion shall be declared free for adoption without his consent.
- (4) In case of surrendered children the following procedure shall apply, namely:
- (a) a surrendered child is one who had been declared as such after due -process of inquiry by the Committee and in order to be declared legally free for adoption, a 'surrendered' child shall be any of the following:
 - (i) born as a consequence of non-consensual relationship;
 - (ii) born of an unwed mother or out of wedlock;
 - (iii) a child in whose case one of the biological parents is dead and the living parent is incapacitated to take care;
 - (iv) a child where the parents or guardians are compelled to relinquish him due to physical, emotional and social factors beyond their control;

- (b) serious efforts shall be made by the Committee for counseling the parents, explaining the consequences of adoption and exploring the possibilities of parents retaining the child and if, the parents are unwilling to retain, then, such children shall be kept initially in foster care or arranged for their sponsorship;
- (c) if the surrender is inevitable, a deed of surrender in Form XV shall be executed on a nonjudicial stamp paper in the presence of the Committee;
- (d) the adoption agencies shall wait for completion of two months reconsideration time given to the biological parent or parents after surrender;
- (e) in case of a child surrendered by his biological parent or parents, the document of surrender shall be executed by the parent or parents before the Committee;
- (f) after due inquiry, the Committee shall declare the surrendered child legally free for adoption in Form XIII as the case may be after a sixty days' reconsideration period as per Central Adoption Resource Agency guidelines.

(5) For the purposes of section 41 of the Act, 'court' implies a civil court, which has jurisdiction in matters of adoption and guardianship and may include the court of the district judge, family courts and city civil court.

34. Foster Care.- (1) For children who cannot be placed in adoption, order shall be issued by the competent authority in Form XVII for carrying out foster care, as given in sub-section (2) of section 42 of the Act and Rule 35 (1) of these rules, under the supervision of a probation officer or case worker or social worker, as the case may be, and the period of foster care shall depend on the need of the child.

(2) Every State Government shall design its own foster care programme so as to reduce institutionalization of children and enable a nurturing family environment for every child.

(3) The State Government shall consult the Boards or Committees, nongovernmental organizations, academicians and organizations working on alternative care for children in developing the foster care programme.

(4) The State Government shall constitute a Foster Care Committee which shall frame the Foster Care Guidelines for implementation of the programme in consonance with the latest developments / changes in the field of alternative care.

35. Criteria for selection of families for foster care.- (1) In case of the children covered under Rule 34 of these Rules, the following criteria shall apply for selection of families for foster care, namely:-

- (i) foster parents should have stable emotional adjustment within the family;
- (ii) foster parents should have an income in which they are able to meet the needs of the child and are not dependent on the foster care maintenance payment;
- (iii) the monthly family income shall be adequate to take care of foster children and approved by the Committee;
- (iv) medical reports of all the members of the family residing in the premises should be obtained including checks on Human Immuno Deficiency Virus (HIV), Tuberculosis (TB) and Hepatitis B to determine that they are medically fit;
- (v) the foster parents should have experience in child caring and the capacity to provide good child care;
- (vi) the foster parents should be physically, mentally and emotionally stable;

- (vii) the home should have adequate space and basic facilities;
- (viii) the foster care family should be willing to follow rules laid down including regular visits to pediatrician, maintenance of child health and their records;
- (ix) the family should be willing to sign an agreement and to return the child to the specialized adoption agency whenever called to do so;
- (x) the foster parents should be willing to attend training or orientation programmes; and
- (xi) the foster parents should be willing to take the child for regular (at least once a month in the case of infants) checkups to a pediatrician approved by the agency.

(2) There shall be no discrimination in selection of foster-parents on the basis of caste, religion, ethnic status, disability, or health status and the best interest of the child shall be paramount in deciding foster-care placement.

(3) The foster parents shall be declared 'fit persons' by the Committee before placing the child as per the provisions laid down in clause (i) of section 2 of the Act after thorough assessment done by the Probation Officer / Child Welfare Officer or Social Worker as per Form XVI.

36. Pre-adoption Foster Care.- In case of pre-adoption foster care, the provisions contained in sub-section (1) of section 42 and the corresponding guidelines notified under subsection (3) of section 41 of the Act, shall apply.

37. Sponsorship.- (1) The State Government shall prepare sponsorship programme in consultation with the Non Governmental Organizations, Child Welfare Committees, other relevant government agencies and the corporate sector.

(2) The State Government, with the help of District or State Child Protection Units shall identify families and children at risk and provide necessary support services in the form of sponsorship for child's education, health, nutrition and other developmental needs.

(3) The children's homes and special homes shall promote sponsorship programmes as laid down in section 43 of the Act.

(4) The institutions receiving sponsorship, shall maintain proper and separate accounts of all the receipts and payments for the programme.

(5) The Board or the Committee shall make an order in Form XVIII for support to a juvenile or child through sponsorship and send a copy to the District or State Child Protection Unit or the State Government for appropriate action.

38. After Care Organisation.- (1) The State Government shall set up an after care programme for care of juveniles or children after they leave special homes and children's homes with the objective to facilitate their transition from an institution-based life to mainstream society for social re-integration.

(2) After care programmes shall be made available for 18-21 year old persons, who have no place to go to or are unable to support themselves, by the District or State Child Protection Units in collaboration with voluntary organizations for the purpose of section 44 of the Act and this Rule.

(3) Once the Board or the Committee passes an order in Form XIX for placing a juvenile or a child completing 18 years of age under the aftercare programme, a copy of such order shall be sent to the District and the State Child Protection Unit and the State Government, who shall be responsible for arranging after care.

(4) The Board or the Committee shall have jurisdiction over persons placed in after care programme.

(5) The objective of these organizations shall be to enable such children to adapt to the society and during their stay in these transitional homes these children will be encouraged to move away from an institution-based life to a normal one.

(6) The key components of the programme shall include:-

- (a) community group housing on a temporary basis for groups of young persons aged 18-21 years;
- (b) encouragement to learn a vocation or gain employment and contribute towards the rent as well as the running of the home;
- (c) encouragement to gradually sustain themselves without State support and move out of the group home to stay in a place of their own after saving sufficient amount through their earnings;
- (d) Provision for a peer counselor to stay in regular contact with these groups to discuss their rehabilitation plans and provide creative outlets for their energy and to tide over crisis periods in their life.

(7) During the course of vocational training a stipend may be provided till such time that the youth gets employment.

(8) Loans may be arranged for the youth in an aftercare programme aspiring to set up entrepreneurial activities on the basis of an application made by them and due verification of the need for such a loan, and necessary professional advice and training shall be made available to the youth in the aftercare programme in this regard.

(9) The structure shall include 6 to 8 youths in each group home who may opt to stay together on their own and one peer counselor for a cluster of five group homes.

39. Linkages and co-ordination.- (1) The State Government shall circulate a copy of the Act and the Rules framed thereunder to establish effective linkages between various government, non-government, corporate and other community agencies for facilitating the rehabilitation and social reintegration of juveniles or children through the Board or the Committee as the case may be.

(2) The State Government with the help of State or District Child Protection Unit shall identify the roles and responsibilities of each department at State or district levels for effective implementation of the Act and the Rules and inform them through a notification.

(3) The State Government with the help of State or District Child Protection Unit shall arrange for appropriate training and sensitization of functionaries of these departments from time to time in coordination with National Institute of Public Cooperation and Child Development and its Regional Centre.

(4) The State Government with the help of State or District Child Protection Unit shall develop effective networking and linkages with local non-governmental organizations for specialized services and technical assistance like vocational training, education, health care, nutrition, mental health intervention, drug de-addiction and legal aid services.

CHAPTER VI

STANDARDS OF CARE FOR INSTITUTIONS

40. Physical infrastructure.- (1) The homes for juveniles in conflict with law and children in

need of care and protection shall function from separate premises.

(2) The accommodation in each institution shall be as per the following criteria, namely:-

(a) Observation Home:

- (i) Separate observation homes for girls and boys;
- (ii) Classification and segregation of juveniles according to their age group preferably 7-11 years, 12-16 years and 16-18 years, giving due consideration to physical and mental status and the nature of the offence committed.

(b) Special Home:

- (i) Separate special homes for girls above the age of 10 years and boys in the age groups of 11 to 15 and 16 to 18 years;
- (ii) Classification and segregation of juveniles on the basis of age and nature of offences and their mental and physical status

(c) Children's Home:

- (i) While children of both sexes below 10 years can be kept in the same home, separate bathing and sleeping facilities shall be maintained for boys and girls in the age group of 5-10 years;
- (ii) Separate children's homes for boys and girls in the age group of 7-11 and 12-18 years;
- (iii) Separate facilities for children in the age group of 0-5 years with appropriate facilities for infants.

(d) Shelter Home:

- (i) Separate shelter homes for girls and boys;

- (ii) Separate shelter homes for girls above the age of 10 years and boys in the age groups of 11 to 15 and 16 to 18 years:

(3) The norms for building or accommodation for an institution with 50 juveniles or children shall be as under:

- | | | |
|--------|------------------------------|---|
| (i) | 2 Dormitories | Each 1000 Sq. ft. for 25 juveniles/children i.e. 2000 Sq. ft. |
| (ii) | 2 Classrooms | 300 Sq. ft. for 25 juveniles/children i.e. 600 Sq. ft. |
| (iii) | Sickroom/First aid room | 75 Sq. ft. per juvenile/children for 10 i.e. 750 Sq. ft. |
| (iv) | Kitchen | 250 Sq. ft. |
| (v) | Dining Hal | 800 Sq. ft. |
| (vi) | Store | 250 Sq. ft. (2 rooms depending upon the need of the home) |
| (vii) | Recreation room | 300 Sq. ft. |
| (viii) | Library | 500 Sq. ft. |
| (ix) | 5 bathrooms | 25 Sq. ft each i.e. Sq. ft. |
| (x) | 8 toilets/latrines | 25 Sq. ft. each i.e. 200 Sq. ft. |
| (xi) | Office rooms | (a) 300 Sq. ft. (b) Superintendent's room 200 Sq. ft. |
| (xii) | Counseling and guidance room | 120 Sq. ft. |
| (xiii) | Workshop | 1125 Sq. ft. for 154 juvenile @ 75 Sq. ft. per trainee |

(xiv) Residence for Superintendent	(a) 3 rooms of 250 Sq. ft. each (one common Room and two other rooms) (b) kitchen 75 Sq. ft. (c) bathroom cum Toilet/latrine 50 Sq. ft.
(xv) Residence for other care givers Nurse, Warden/Matron/ House Mother, housekeeping and Maintenance staff and guards Quarters within the premises	(2 rooms of 250 Sq. ft. each (b) kitchen 75 Sq. ft. (c) bathroom cum toilet/latrine 50 Sq. ft.
(xvi) 2 rooms for Juvenile Justice Board/ Child Welfare Committee	300 Sq. ft. each i.e. 600 Sq. ft.
(xvii) Play ground	Sufficient area according to the total Number of juveniles or children
Total	8495 Sq. ft.

in Rule 40(2) shall be observed to the extent possible and shall include a minimum of following facilities:

- (a) Dormitory: 40 Sq. ft. per juvenile or child
- (b) Classroom: 300 Sq. ft. for 25 juvenile or child
- (c) Workshop: 75 Sq. ft. per juvenile or child
- (d) Play ground: Sufficient play ground area shall be provided in every institution according to the total number of juveniles in institution

(ii) there shall be proper and smooth flooring for preventing accidents.

(iii) there shall be adequate lighting, ventilation, heating and cooling arrangements, safe drinking water and clean toilets, in terms of gender, age appropriateness and accessibility.

(iv) all institutions under the Act shall make provision of first aid kit, fire extinguishers in kitchen, dormitories, store rooms, counseling room, periodic review of electrical installations, proper water storage, provision of safe drinking water, and inspection of articles of food stuffs. Stand-by arrangements for water storage and emergency lighting.

(4) The Superintendent shall stay within the institution and be provided with quarters and in case he is not able to stay in the home for legitimate reasons (to be permitted by Director, Child Protection), any other senior staff member of the institution shall stay in the institution and be in a position to supervise the overall care of the children or juveniles and, take decisions in the case of any crisis and emergency.

(6) The Observation homes and special homes shall be child-friendly and in no way shall they look like a jailor lock-up.

41. Clothing and Bedding.- The clothing and bedding shall be as per the scale and climatic conditions. The requirements of each juvenile or child and the recommended minimum standards for clothing and bedding are laid down in Schedule-I of these Rules.

(5) (i) the recommended standards of accommodation as per the norms laid down

42. Sanitation and Hygiene.- Every institution shall have the following facilities, namely :-

- (a) sufficient treated drinking water; water filters shall be installed;
- (b) sufficient water for bathing and washing clothes, maintenance and cleanliness of the premises;
- (c) proper drainage system;
- (d) arrangements for disposal of garbage;
- (e) protection from mosquitoes by providing mosquito nets;
- (f) annual pest control;
- (g) sufficient number of well lit and airy toilets in the proportion of at least one toilet for seven children;
- (h) sufficient number of well lit and airy bathrooms in the proportion of at least one bath room for ten children;
- (i) sufficient space for washing;
- (j) clean and fly-proof kitchen and separate area for washing utensils;
- (k) sunning of bedding and clothing;
- (l) maintenance of cleanliness in the Medical Centre.

43. Daily Routine.- (1) Every institution shall have a daily routine for the juveniles or children developed in consultation with the Children's Committees, which shall be prominently displayed at various places within the institution.

(2) The daily routine shall provide, inter alia, for a regulated and disciplined life, personal hygiene and cleanliness, physical exercise, yoga, educational classes, vocational training, organized recreation and games, moral education, group activities, prayer and community singing and special programmes for Sundays and holidays.

44. Nutrition and Diet Scale.- The following nutrition and diet scale shall be followed

by the institutions, namely:-

- (a) the children shall be provided four meals in a day including breakfast;
- (b) the menu shall be prepared with the help of a nutritional expert or doctor to ensure balanced diet and variety in taste as per the minimum nutritional standard and diet scale set out in Schedule II of these Rules;
- (c) every institution under this Act shall strictly adhere to the recommended minimum nutritional standard and diet scale specified in Schedule II;
- (d) juveniles or children may be provided special meals on holidays and festivals;
- (e) infants and sick juveniles or children shall be provided special diet according to the advice of the doctor on their dietary requirement.

45. Medical Care.- Every institution shall,-

- (a) maintain a medical record of each juvenile or child on the basis of monthly medical check-up and provide necessary medical facilities;
- (b) ensure that the medical record includes weight and height record, any sickness and treatment, and other physical or mental problem;
- (c) have arrangement for the medical facilities, including a doctor on call available on all working days for regular medical check-ups and treatment of juveniles or children;
- (d) have sufficient medical equipments to handle minor health problems including first aid kit with stock of emergency medicines and consumables;
- (e) train all staff in handling first aid;

- (f) tie-up with local Primary Health Centre, government hospital, medical colleges, other hospitals, clinical psychologists and psychiatrists and mental health institutes for regular visits by their doctors and students and for holding periodic health camps within the institutions;
- (g) make necessary arrangements made for the immunization coverage;
- (h) take preventive measures in the event of outbreak of contagious or infectious diseases;
- (i) set up a system for referral of cases with deteriorating health or serious cases to the nearest civil hospital or recognized treatment centre;
- (j) keep sick children under constant medical supervision;
- (k) admit a juvenile or child without insisting on a medical certificate at the time of admission;
- (l) arrange for a medical examination of each juvenile or child admitted in an institution by the Medical Officer within twenty four hours and in special cases or medical emergencies immediately;
- (m) arrange for a medical examination of the juvenile or child by the Medical Officer at the time of transfer within twenty four hours before transfer;
- (n) not carry out any surgical treatment on any juvenile or child without the previous consent of his parent or guardian, unless either the parent or guardian cannot be found and the condition of the juvenile or child is such that any delay shall, in the opinion of the medical officer, involve unnecessary suffering or injury to the health of the juvenile or child, or otherwise without obtaining a written consent to this effect from the Officer-in-charge of the institution;
- (o) provide or arrange for regular counseling of every juvenile or child and ensure specific mental health interventions for those in need of such services, including separate rooms for counseling sessions within the premises of the institution;
- (p) refer such children who require specialized drug abuse prevention and rehabilitation programme, to an appropriate centre administered by qualified personnel where these programmes shall be adopted to the age, gender and other specifications of the concerned child.
46. Mental Health.- (1) A mental health record of every juvenile or child shall be maintained by the concerned institutions.
- (2) Both milieu based interventions that is creating an enabling environment for children and individual therapy are must for every child and shall be provided in all institutions.
- Explanation:- For the purpose of this sub-rule, milieu based intervention is a process of recovery, which starts through providing an enabling culture and environment in an institution so as to ensure that each child's abilities are discovered and they have choices and right to take to decisions regarding their life and thus, they develop and identify beyond their negative experiences and such intervention has a critical emotional impact on the child.
- (3) The environment in an institution shall be free from abuse, allowing juveniles or children to cope with their situation and regain confidence.
- (4) All persons involved in taking care of the juveniles or children in an institution shall participate in facilitating an enabling environment and work in collaboration with the therapists.

(5) Individual therapy is a specialized process and each institution shall make provisions for it as a critical mental health intervention.

(6) Every institution shall have the services of trained counselors or collaboration with external agencies such as child guidance centres psychology and psychiatric departments or similar government and non-governmental agencies, for specialized and regular individual therapy for every juvenile or child in the institution.

(7) A mental health care plan shall be developed for any juvenile or child based on the symptoms Present by the Officer in charge of the institution/child welfare officers in consultation with mental health experts associated with the institution and integrated into the individual care plan of the concerned juvenile or child.

(8) The recommendations of mental health experts shall be maintained in every case file and integrated into the care plan for every child.

(9) All care plans shall be produced before the Management Committee set up under Rule 55 of these Rules every month and before the Child Welfare Committee every quarter.

(10) No juvenile or child shall be administered medication for mental health problems without a psychological evaluation and diagnosis by appropriately trained mental health professionals.

47. Education.- (1) Every institution shall provide education to all juveniles or children according to the age and ability both inside the institution or outside, as per the requirement.

(2) There shall be a range of educational opportunities including, mainstream inclusive schools, bridge school, open schooling, non formal education and learning and input from special educators where needed.

(3) Wherever necessary, extra coaching shall be made available to school going children in the institutions by encouraging volunteer services or tying up with coaching centers.

48. Vocational Training.- (1) Every institution shall provide gainful vocational training to juveniles or children.

(2) The institutions shall develop networking with Institute of Technical Instruction, Jan Shikshan Sansthan, Government and Private Organization or Enterprises, Agencies or nongovernmental organizations with expertise or placement agencies.

49. Recreation facilities.- (1) A provision of guided recreation shall be made available to all juveniles or children in the institutions.

(2) It shall include indoor and outdoor games, music, television, picnics and outings, cultural programmes and library.

50. Institutional Management of juveniles or children.- (1) The following procedure shall be followed in respect of the newly admitted juveniles:-

- (i) receiving and search;
- (ii) disinfection and storing of juvenile's personal belongings and other valuables;
- (iii) bath and haircut (unless prohibited by religion);
- (iv) issue of toiletry items; new set of clothes, bedding and other outfit and equipment (as per scales);
- (v) medical examination and treatment where necessary and in case of every juvenile suspected to be suffering from contagious or infectious diseases, mental ailments or addiction;
- (vi) segregation in specially earmarked dormitories or wards or hospitals in

case of a child suffering from contagious disease requiring special care and caution;

- (vii) attending to immediate and urgent needs of the juveniles like appearing in examinations, interview letter to parents, personal problems and verification by the Officer-in-charge of age of juvenile as per order of the Board.
- (2) Every newly admitted juvenile or child shall be allotted a case worker from amongst the probation officers or child welfare officers or social workers or counselors attached to the institutions or voluntary social workers or counselors.
- (a) personal health, hygiene and sanitation;
 - (b) institutional discipline and standards of behaviour, respect for elders and teachers;
 - (c) daily routine, peer interaction, optimum use of developmental opportunities; and
 - (d) rights, responsibilities and obligations within the institution.
- (4) The designated officer shall enter the name of the juvenile or child in the Admission Register and allocate appropriate accommodation facility.
- (5) The photograph shall also be taken immediately for records and the case worker or probation officer or welfare officer shall begin the investigation and correspondence with the person, the juvenile or child might have named.
- (6) The Officer-in-charge shall see that the personal belongings of the juvenile or child received by the institution is kept in safe custody and recorded in the Personal Belonging Register and the item must be returned to the juvenile or child when he leaves the institution.
- (7) The girl juvenile or child shall be searched by a female member of the staff, and with due regard to decency and dignity of the juvenile or child.
- (8) The educational level and vocational aptitude of the juvenile admitted, may be assessed on the basis of test and interview conducted by the teacher, the workshop supervisor and other technical staff and necessary linkages may also be established with outside specialists and community-based welfare agencies, psychologist, psychiatrist, child guidance clinic, hospital and local doctors, open school or Jan Sikshan Sansthan.
- (9) A case history of the juvenile or the child admitted to an institution shall be maintained as per Form XX, which shall contain information regarding his socio-cultural and economic background and these information may invariably be collected through all possible and available sources, including home, parents or guardians, employer, school, friends and community.
- (10) A well conceived programme of pre-release planning and follow up of cases discharged from special homes shall be organized in all institutions in close collaboration with existing governmental and voluntary welfare organizations.
- (11) In the event of a juvenile or child leaving the institution without permission or committing an offence within the institution, the information shall be sent by the officer-in-charge of the concerned institution to the police and the family, if known; and the detailed report of circumstances along with the efforts to trace the juvenile or child where the juvenile or child is missing, shall be sent to the Board or Committee, as the case may be.
- (12) An individual care plan for every juvenile or child in institutional care shall be developed with the ultimate aim of the child being

rehabilitated and re-integrated based on their case history, circumstances and individual needs and the individual care plan shall be based on following guidelines:-

- (a) the Officer-in-charge, counselor along with the probation officer, child welfare officer or case worker, or social worker shall prepare an individual care plan for every child in an institution within one month of his admittance as per Form XXI;
- (b) all care plans shall include a plan for the juvenile's or child's restoration, rehabilitation, reintegration and follow-up;
- (c) the care plan shall be reviewed quarterly by the Management Committee set up under Rule 55 of these Rules for appropriate development and rehabilitation including options for release or restoration to family or foster care or adoption;
- (d) juveniles or children shall be consulted while determining their care plan;
- (e) continuity of care plan shall be ensured in cases of transfer or repatriation or restoration.

51. Prohibited Articles.- No person shall bring into the institution the following prohibited articles, namely:-

- (a) fire-arms or other weapons, whether requiring license or not (like knife, blades, lathi, spears and swords);
- (b) alcohol and spirit of any description;
- (c) bhang, ganja, opium or other narcotic or psychotropic substances;
- (d) tobacco; or
- (e) any other article specified in this behalf by the State Government by a general or special order.

52. Articles found on search and inspection.-

(1) The Officer-in-Charge shall see that every juvenile received in the institution is searched, his personal belongings inspected and money or any valuables found with the juvenile is kept in the safe custody of the Officer-in-Charge.

(2) The girls shall be searched by a female member of the staff and both the girls and boys shall be searched with due regard to decency and dignity.

(3) In every institution, a record of money, valuables and other articles found with a juvenile shall be maintained in the "Personal Belongings Register".

(4) The entries made in the Personal Belongings Register, relating to each juvenile, shall be read over to juvenile in the presence of a witness, whose signature shall be obtained in token of the correctness of such entries and it shall be countersigned by the Officer-in-Charge.

53. Disposal of articles.- The money or valuables belonging to a juvenile received or retained in an institution shall be disposed of in the following manner, namely:-

- (i) on an order made by the competent authority in respect of any juvenile, directing the juvenile to be sent to an institution, the Officer-in-Charge shall deposit such juvenile's money together with the sale proceeds in the manner laid down from time to time in the name of the juvenile;
- (ii) the juvenile's money shall be kept with the Officer in-Charge and valuables, clothing, bedding and other articles, if any, shall be kept in safe custody;
- (iii) when such juvenile is transferred from one institution to another, all his money, valuables and other articles, shall be sent

- along with the juvenile to the Officer-in-Charge of the institution to which he has been transferred together with a full and correct statement of the description and estimated value thereof;
- (iv) at the time of release of such juvenile, the valuables and other articles kept in safe custody and the money deposited in name of the juvenile shall be handed over to the parent or guardian, as the case may be, with an entry made in this behalf in the register and signed by the Officer-in-Charge;
- (v) when a juvenile in an institution dies, the valuable and other articles left by the deceased and the money deposited in the name of the juvenile shall be handed over by the Officer-in-Charge to any person who establishes his claim thereto and executes an indemnity bond;
- (vi) a receipt shall be obtained from such person for having received such valuables and other articles and the amount;
- (vii) if no claimant appears within a period of six months from the date of death or escape of such juvenile, the valuables and other articles and amount shall be disposed of as per the decision taken by Management Committee set up under Rule 55 of these Rules.
54. Maintenance of case file.- (1) The case file of each juvenile and child shall be maintained in the institution containing the following information:-
- (a) report of the person or agency who produced the juvenile before the Board;
- (b) officer-in-charge's, probation officer's or child welfare officer's, counselor's and caseworkers reports;
- (c) information from previous institution;
- (d) report of the initial interaction with the juvenile, information from family members, relatives, community, friends and miscellaneous information;
- (e) source of further information;
- (f) observation reports from staff members;
- (g) regular health status reports from Medical Officer, drug de-addiction progress reports, progress reports vis-a-vis psychological counseling or any other mental health intervention, where applicable;
- (h) Intelligence Quotient (I.Q) testing, aptitude testing, educational or vocational tests; IQ testing to be conducted for the juvenile or child based on the presenting symptoms
- (i) social history;
- (j) summary and analysis by case-worker and Officer-in-charge;
- (k) instruction regarding training and treatment programme and about special precautions to be taken;
- (l) leave and other privileges granted;
- (m) special achievements and violation of rules, if any ;
- (n) quarterly progress report;
- (o) individual care plan, including pre-release programme, post release plan and follow-up plan as prescribed in Form XXI;
- (p) leave of absence or release under supervision; final discharge;
- (q) follow-up reports;
- (r) annual photograph;
- (s) case history duly filled in prescribed Form XX;
- (t) follow-up report of post release cases as per direction of the competent authority if any; and
- (u) remarks.

(2) All the case files maintained by the institutions and the Board or Committee shall, as far as possible, be computerized and networked so that the data is centrally available to the State and the District Child Protection Unit and the State Government.

55. Management Committee.- (1) Every institution shall have a Management Committee for the management of the institution and monitoring the progress of every juvenile and child.

(2) The Management Committee in institutions managed by NGOs shall consist of the following personnel:-

District Child Protection Officer (District Child Protection Unit)	Chairperson
Officer-in-charge Probation Officer or Child Welfare Officer or Case Worker	Member-Secretary Member
Medical Officer	Member
Psychologist or Counselor	Member
Workshop Supervisor or Instructor in Vocation	Member
Teacher	Member
Social Worker Juvenile Justice Board or Child Welfare Committee	Member of
A juvenile or child representative from each of the Children's Committees (on a monthly rotation basis to ensure representation of juveniles or children from all age groups)	Member

(3) The DCPO/PO any member of CWC or JJB shall be appointed as members of the

Management Committee. Anyone of the three members shall be present during the committee meeting.

(4) In the districts where District Child Protection Unit is not constituted the DSWO/PO or his nominee shall be the Chairperson of this Committee.

(5) Where voluntary organizations are involved in providing professional and technical services like education, vocational training, psychosocial care, mental health intervention and legal aid, the Management Committee may invite a representative of such voluntary organizations as a special invitee to the Management Committee meetings.

(6) (a) The Management Committee shall meet every month to consider and review,-

- (i) custodial care or care in the institution, housing, area of activity and type of supervision or interventions required;
- (ii) medical facilities and treatment;
- (iii) food, water, sanitation and hygiene conditions;
- (iv) mental health interventions with the juveniles and children;
- (v) individual problems of juveniles and children, provision of legal aid services and institutional adjustment, leading to the quarterly review of individual care plans;
- (vi) vocational training and opportunities for employment;
- (vii) education and life skills development programmes;
- (viii) social adjustment, recreation, group work activities, guidance and counseling;

- (ix) review of progress, adjustment and modification of residential programmes to the needs of the juveniles and children;
 - (x) planning post-release or post-restoration rehabilitation programme and follow up for a period of two years in collaboration with aftercare services;
 - (xi) pre-release or pre-restoration preparation;
 - (xii) release or restoration;
 - (xiii) post release or post-restoration follow-up;
 - (xiv) minimum standards of care, including infrastructure and services available;
 - (xv) daily routine;
 - (xvi) community participation and voluntarism in the residential life of children such as education, vocational activities, recreation and hobby;
 - (xvii) oversee that all registers as required under the Act and Rules are maintained by the institution, check and verify these registers, duly stamped and signed in the monthly review meetings;
 - (xviii) matters concerning the Children's Committees;
 - (xix) any other matter which the Officer-in-Charge may like to bring up.
- (b) The officer-in-charge or child welfare officer shall file a quarterly progress report of every juvenile or child in the case file and send a copy to the District Child Protection Unit and Board or Committee, as the case may be.
- (7) The Management Committee shall set up a complaint and redress mechanism in every institution and a Children's Suggestion Box

shall be installed in every institution at a place easily accessible to juveniles and children away from the office set up and closer to the residence or rooms or dormitories of the children.

(8) (a) The Children's Suggestion Box, whose key shall remain in the custody of the Chairperson of the Management Committee, shall be checked every week by the Chairperson of the Management Committee or his representative from District Child Protection Unit, in the presence of the members of the Children's Committees.

(b) If there is a problem or suggestion that requires immediate attention, the Chairperson of the Management Committee shall call for an emergency meeting of the Management Committee to discuss and take necessary action.

(c) The quorum for conducting the emergency meetings shall be five members, including two members of Children's Committees, Chairperson of the Management Committee, Member of Committee or the Board as the case may be and the Officer-in-Charge of the institution.

(d) In the event of a serious allegation or complaint against the Officer-in-Charge of the institution, he shall not be part of the emergency meeting and another available member of the Management Committee shall be included in his place.

(e) All suggestions received through the suggestion box and action taken as a result of the decisions made in the emergency meeting or action required to be taken shall be placed for discussion and review in the monthly meeting of the Management Committee.

(9) A Children's Suggestion Book shall be maintained in every institution where the complaints and action taken by the Management Committee are duly recorded and such action

and follow up shall be communicated to the Children's Committees after every monthly meeting of the Management Committee.

(10) The Board or Committee shall review the Children's Suggestion Book at least once in three months.

56. Children's Committees.- (1) Officer-in-Charge of every institution for juveniles or children shall facilitate the setting up of Children's Committees for three different age groups of children, viz., 6-10 years, 11-15 years and 16-18 years and these Children's Committees shall be constituted solely by children.

(2) Such Children's Committee shall be encouraged to participate in following activities:-

- (a) improvement of the condition of the institution;
- (b) reviewing the standards of care being followed;
- (c) preparing daily routine and diet scale;
- (d) developing educational, vocational and recreation plans;
- (e) supporting each other in managing crisis;
- (f) reporting abuse and exploitation by peers and caregivers;
- (g) creative expression of their views through wall papers or newsletters or paintings or music or theater;
- (h) management of institution through the Management Committee.

(3) The Officer-in-Charge shall ensure that the Children's Committees meet every month and maintain a register for recording its activities and proceedings, and place it before

the Management Committee in their monthly meetings.

(4) The Officer-in-Charge shall ensure that the Children's Committees are provided with essential support and materials including stationary, space and guidance for effective functioning.

(5) The Officer-in-Charge shall, as far as possible, seek assistance from local voluntary organization or child participation experts for the setting up and functioning of the Children's Committees.

(6) The local voluntary organization or child participation expert shall support the Children's Committees in the following:-

- (a) selecting their leaders;
- (b) conducting the monthly meetings;
- (c) developing rules for the functioning of Children's Committees and following it;
- (d) maintaining records and Children's Suggestion Book and other relevant documents;
- (e) any other innovative activity.

(7) The Management Committee shall seek a report from the Officer-in-Charge on the setting up and functioning of the Children's Committees, review these reports in their monthly meetings and take necessary action where required.

57. Rewards and Earnings.- The rewards to a juvenile or child, at such rates as may be fixed by the management of the institution from time to time, may be granted by the Officer-in-Charge as an encouragement to steady work and good behavior; and at the time of release, the reward shall be handed over after obtaining a receipt from the parent or the guardian who comes to take charge of the juvenile or child or juvenile or child himself.

58. Visits to and communication with juveniles or children.- (1) The parents and relatives of the juveniles or children shall be allowed to visit once in a month or in special cases, more frequently at the discretion of the Officer-in-Charge as per the visiting hours laid down by him, except where parents or relatives or guardian have been found to be responsible for subjecting the juvenile or child to violence, abuse and exploitation.

(2) The receipt of letters by the juveniles or children of the institution shall not be restricted and they shall have freedom to write as many letters as they like at all reasonable times; and the institution shall ensure that where parents, guardians or relatives are known, at least one letter is written by the juvenile or children every month for which the postage shall be provided by the institution.

(3) The Officer-in-Charge may peruse any letter written by or to the juvenile or children, and may for the reasons that he considers sufficient refuse to deliver or issue the letter and forward it to the Committee after recording his reasons in a book maintained for the purpose.

(4) The Officer-in-Charge shall, in special circumstances or as per orders of the Board or Committee, allow a juvenile or child to make telephonic communication with his parents or guardians or relatives.

59. Death of a juvenile or child.- On the occurrence of any case of death or suicide in an institution the procedure to be adopted shall be as under:-

(1) In the event of an unnatural death or suicide of a juvenile or child in an institution it is imperative for the institution to ensure that an inquest and post-mortem examination is held at the earliest.

(2) In case of natural death or due to illness of a juvenile or child, the Officer-in-charge shall obtain a report of the Medical Officer stating the cause of death and a written intimation about the death shall be given immediately to the nearest Police Station, the Board or Committee, the National or State Commission for Protection of Child Rights, District Child Protection Unit or State Child Protection Unit or any other concerned authority and the parents or guardians or relatives of the juvenile or child.

(3) Whenever a sudden or violent death or death from suicide or accident takes place, immediate information shall be given by the case-worker or probation officer or welfare officer to the Officer-in-Charge and the Medical Officer and the Officer-in-Charge shall immediately inform the nearest police station, Board or Committee and parents or guardians or relatives of the deceased juvenile or child.

(4) If a juvenile or child dies within twenty four hours of his admission to the institution, the Officer-in-charge of the institution shall report the matter to the officer-in-charge of the Police Station having jurisdiction and the District Medical Officer or the nearest Government Hospital and the parents or guardians or relatives of such juvenile or child without delay.

(5) The Officer-in-charge shall also immediately give intimation to nearest Magistrate empowered to hold inquests and to the Board or as the case may be the Committee.

(6) The Officer-in-Charge and the Medical Officer at the institution shall record the circumstances of the death of the child and send a report to the concerned

Magistrate, the Officer-in-charge of the police station having jurisdiction, the Committee and the District Medical Officer or the nearest government hospital where the dead body of the juvenile or child is sent for examination, inspection and determination of the cause of death and the Officer-in-charge and the Medical Officer shall also record in writing their views on the cause of the death if any, and submit it to the concerned Magistrate and the Officer-in-charge of the police station having jurisdiction.

- (7) The officer-in-charge and the Medical Officer shall make themselves available for any inquiries initiated by the police or the Magistrate concerning the cause of death and other details regarding such juvenile or child.
- (8) As soon as the inquest is held, the body shall be handed over to the parents or guardian or relatives or, in the absence of any claimant, the last rituals shall be performed under the supervision of the officer-in-charge in accordance with the known religion of the juvenile or child.

60. Abuse and exploitation of the juvenile or child.- (1) Every institution shall have systems of ensuring that there is no abuse, neglect and maltreatment and this shall include the staff being aware of what constitutes abuse, neglect, corporal punishment and maltreatment as well as early indicators of abuse, neglect, corporal punishment and maltreatment and how to respond to these.

(2) In the event of any physical, sexual or emotional abuse, including neglect of juveniles and children in an institution by those responsible for care and protection, the following action shall be taken:-

- (i) the incidence of abuse and exploitation must be reported by any staff member of the institution immediately to the Officer-in-Charge on receiving such information;
- (ii) when an allegation of physical, sexual or emotional abuse comes to the knowledge of the Officer-in-Charge, a report shall be placed before the Board or Committee, who in turn, shall order for special investigation;
- (iii) the Board or Committee shall direct the local police station or Special Juvenile Police Unit to register a case, take due cognizance of such occurrences and conduct necessary investigations;
- (iv) the Board or Committee shall take necessary steps to ensure completion of all inquiry and provide legal aid as well as counseling to the juvenile or child victim;
- (v) the Board or Committee shall transfer such a juvenile or child to another institution or place of safety or fit person;
- (vi) the Officer-in-charge of the institution shall also inform the chairperson of the management committee and place a copy of the report of the incident and subsequent action taken before the management committee in its next meeting;
- (vii) in the event of any other crime committed in respect of juveniles or children in institutions, the Board or Committee shall take cognizance and arrange for necessary investigation to be carried out by the local police station or Special Juvenile Police Unit;
- (viii) the Board or Committee may consult Children's Committee setup in each

institution to enquire into the fact of abuse and exploitation as well as seek assistance from relevant voluntary organizations, child rights experts, mental health experts or crisis intervention centre in dealing with matters of abuse and exploitation of juveniles or children in an institution.

61. Juvenile or Child suffering from serious diseases or mental health problems.- (1) When a juvenile or a child placed under the care of a fit person or a fit institution under the provisions of the Act, is found to be suffering from a disease or physical or mental health problems requiring prolonged medical treatment, or is found addicted to a narcotic drug or psychotropic substance, the juvenile or the child may be sent by an order of the competent authority to an appropriate place for such period as may be certified by medical officer to be necessary for proper treatment of the juvenile or the child or for the remainder of the term for which he has to stay. The Officer in charge of the institution should use his/her discretion in case of emergencies by admitting the juvenile or child in the hospital for treatment after informing the competent authority immediately over the phone, e-mail or in person.

(2) When the juvenile or the child is cured of the disease or physical or mental health problems, the competent authority may, if the juvenile or child is still liable to stay, order the juvenile or the child to be placed back in the care of fit person or institution from where the juvenile or child was removed for treatment and if the juvenile or the child is no longer liable to be kept under the care of fit person or institution, the competent authority may order him to be discharged.

(3) The order of restoration of a juvenile or a child suffering from an infectious or contagious disease to his parents or guardian shall be based on the principle of best interest

of the juvenile or child, keeping in mind the risk of stigmatization and discrimination and discontinuation of treatment.

(4) Where there is no organization either within the jurisdiction of the competent authority, or nearby District or State for care and protection of juvenile or children suffering from serious psychiatric or physical disorder and infection, as required under section 58 of the Act, necessary organization shall be set up by the State Government at such places, as it may deem fit to cater to the special needs of such juveniles or children.

(5) Specialized and need based care shall be extended by the Board, Committee, Police, Probation Officer, Officer in charge of the institution to any child with any form of disability (physical or mental) when they are produced before them.

62. Leave of absence of a juvenile or child.-

(1) A juvenile or child in an institution may be allowed to go on leave of absence or released under supervision for examination or admission, special occasions like marriage or emergencies like death or accident or serious illness in the family.

(2) While the leave of absence for short period generally not exceeding seven days excluding the journey time may be recommended by the Officer-in-charge, but granting of such leave shall be by the Board or Committee.

(3) The parents or guardian of the juvenile or the Officer-in-charge on behalf of the juvenile or child may submit an application to the Board or Committee requesting for relieving or child on leave, stating clearly the purpose for the leave and the period of leave.

(4) While considering the application of leave of absence, the Board or Committee shall hear the juvenile or child or the parents or guardians of the juvenile or child and if the

Board or Committee considers that granting of such leave is in the interest of the juvenile or child, appropriate order shall be made and the Board or Committee may call for a report from the probation officer or child welfare officer in case the preliminary information gathered from the juvenile or child or concerned parent or guardian is not sufficient for the purpose.

(5) While issuing orders sanctioning the leave of absence or relieving under supervision, as the case may be, the competent authority shall mention the period of leave and the conditions attached to the leave order, and if any of these conditions are not complied with during the leave period, the juvenile or child may be called back to the institution.

(6) The parent or guardian shall arrange to escort the juvenile or child from and to the institution and where this is not possible, the Officer-in-charge may arrange to escort the juvenile or child to the place of the family and back by informing the concerned competent authority. In case the parents or guardian is willing to arrange escort but does not have requisite financial means, the Officer-in-charge shall arrange for the traveling expenses as admissible under the Rules.

(7) If the juvenile or child runs away from the family during the leave period, the parent or guardian is required to inform the Officer-in-charge of the institution immediately, and try to trace the juvenile or child and if found, the juvenile or child shall be brought back to the institution immediately.

(8) If the juvenile or child is not found within twenty four hours; the Officer-in-Charge shall report the matter to the nearest police station and missing person's bureau, but no adverse disciplinary action shall be taken against the juvenile or child and procedure laid down under the Act shall be followed.

(9) If the parent or guardian does not take proper care of the juvenile or child during the leave period or does not bring the juvenile or child back to the institution within the stipulated period, such leave may be refused on later occasions.

(10) If the juvenile or child does not return to the institution on expiry of the sanctioned leave, the Board or Committee shall refer the case to police for taking charge of the juvenile and bring him back to the institution.

(11) The period of such leave shall be counted as a part of the period of stay in the institution and the time which elapses after the failure of a juvenile to return to the institution within the stipulated period, shall be excluded while computing the period of his stay in the institution.

63. Inspection.- (1) The State Government shall constitute State, District or city level inspection committee on the recommendation of the Selection Committee constituted under Rule 91 in districts where there are registered children's homes. The committee shall consist of a minimum of five members with representative(s) of the State Government, the Juvenile Justice Board, Child Welfare Committee, and the State Commission for the Protection of Child Rights, Special Juvenile Police Unit (SJPU), medical and other experts, voluntary organizations and reputed social workers in the field of child welfare.

(2) The Social Welfare Department of the State Government shall issue necessary notifications regarding the constitution of these inspection committees.

(3) The inspection committee shall visit and oversee the conditions in the institutions and appropriateness of the processes for safety, well being and permanence, review the standards of care and protection being followed by

the institutions, look out for any incidence of violation of child rights, look into the functioning of the Management Committee and Children's Committee set up under Rules 55 and 56 of these Rules and give appropriate directions.

(4) The committee shall also make suggestions for improvement and development of the institution.

(5) The inspection shall be carried out at least once in every three months.

(6) The inspection visit shall be carried out by not less than three members.

(7) The team may visit the institutions either by prior intimation or make a surprise visit.

(8) The team shall interact with the children during the visits to the institution, to determine their well-being and uninhibited feedback.

(9) The follow up action on the findings and suggestion of the children shall be taken by all concerned authorities.

(10) The action taken report, findings and suggestions from the Inspection Committee shall be sent to the District Child Protection Unit and the State Government.

64. Social Audit.- (1) The Central Government or the State Government shall monitor and evaluate the implementation of the Act annually by reviewing matters concerning establishment of Board or Committee or Special Juvenile Police Unit where required, functioning of Board or Committee or Special Juvenile Police Unit, functioning of institutions and staff, functioning of adoption agencies, child friendly administration of juvenile justice and any other matter concerning effective implementation of the Act in the State.

(2) The social audit shall be carried out with support and involvement of organizations

working in the field of mental health, child care and protection and autonomous bodies like the National Institute of Public Co-operation and Child Development, Indian Council for Child Welfare, Childline India Foundation, Central and State level Social Welfare Boards, School of Social Work and School of Law.

65. Restoration and Follow-up.- (1) The order for restoration of the juvenile or child shall be made by the Board or Committee on the basis of a fair hearing of the juvenile or child and his parents or guardian, as well as on the reports of the Probation Officers or Child Welfare Officers or non-governmental organizations directed by the Board or Committee to conduct the home study and any other relevant document or report brought before the Board or Committee for deciding the matter.

(2) The Board or Committee shall send a copy of the restoration order along with a copy of the order for escort as per Form XXII to the District Child Protection Unit or State Government who shall provide funds for restoration of the juvenile or child.

(3) Every restoration shall be planned for as part of the individual care plans prepared by the case-workers or counselors or child welfare officers or probation officer, as the case may be, and shall be based on the review and recommendations of the Management Committee set up under Rule 55 of these Rules.

(4) Besides police, the Board or Committee shall seek collaboration with nongovernmental organizations to accompany juveniles or children back to their family for restoration.

(5) In case of girls, the juvenile or child shall necessarily be accompanied by female escorts.

(6) The expenses incurred on restoration of a juvenile or child, including travel and other incidental expenses, shall be borne by

the District Child Protection Unit or State Government.

(7) When a juvenile or child expresses his unwillingness to be restored back to the family, the Board or Committee shall make a note of it in its records in writing and such juvenile or child shall not be coerced or persuaded to go back to the family, particularly if the social investigation report of the child welfare officer or probation officer establishes that restoration to family may not be in the best interest of the juvenile or child and the child may continue to stay in the institution. If the parents or guardians refuse to accept the juvenile or child back, the Officer in charge of the institution shall make arrangements for family counseling to be provided by the counselor/case worker/probation officer in order to facilitate the reintegration process of the juvenile or child.

(8) A follow-up plan shall be prepared as part of the individual care plans by the Child Welfare Officers or Probation Officers or non-governmental organizations assigned by the Board or Committee to assist in restoration of the child.

(9) A quarterly follow-up report shall be submitted to the Board or Committee by the concerned Child Welfare Officer or Probation Officer or non-governmental organization for a period of two years with a copy to the officer-in-charge of the institution from where the juvenile or child is restored.

(10) The follow-up report shall clearly state the situation of the juvenile or child post restoration and the juvenile's or child's needs to be met by the State Government in order to reduce further vulnerability of the juvenile or child.

(11) The officer-in-charge shall file the follow-up report in the case-file of the juvenile or child and place the report before the management committee set up under Rule 55 of these Rules in its next meeting.

(12) The officer-in-charge shall also send a copy of the follow-up reports to the District Child Protection Unit.

(13) Where a follow-up is not possible due to unavailability of government functionaries or nongovernmental organizations, the concerned District Child Protection Unit shall provide necessary assistance and support to the concerned Board or Committee.

(14) If a juvenile in conflict with law does not have appropriate family support or a guardian, the juvenile may be referred to the CWC for further rehabilitation education or vocational training as per the needs of the child.

66. Visitor's Book.- (1) A Visitor's Book shall be maintained, in every institution, in which the person visiting the home shall record the date of his visit with remarks or suggestions, which he may think proper.

(2) The Officer-in-charge shall maintain a visitor's book and make it available whenever the District Child Protection Unit or State Government personnel visits the institution and also place it before the Management Committee during the meetings.

67. Maintenance of Registers.- The Officer-in-charge shall maintain in his office, such registers and forms, as required by the Act and as specified by these Rules made there under and the list of registers or files or books to be maintained shall minimally comprise of,-

- (a) Admission and discharge register;
- (b) Supervision register;
- (c) Medical file or medical report;
- (d) Nutrition diet file;
- (e) Stock register;
- (f) Log book;
- (g) Order book;

- (h) Meeting book;
- (i) Cash book;
- (j) Budget statement file;
- (k) Inquiry report file;
- (l) Individual case file with individual care plan;
- (m) Children's Suggestion book;
- (n) Visitor's book;
- (o) Staff movement register;
- (p) Personal belongings register;
- (q) Minutes register of Management Committee;
- (r) Minutes register of Children's Committees; and
- (s) Attendance register for staff and juveniles or children.

68. Personnel or Staff of a Home.- (1) The personnel strength of a home shall be determined according to the duty, posts, hours of duty per day and category of children that the staff is meant to cater to. The existing staff/Officers of the Social Welfare Department will be redeployed to conform to the specific provision of the Juvenile Justice (Care and Protection of Children) Act, 2000 and the Amendment Act 2006.

(2) The institutional organizational set up shall be fixed in accordance with the size of the home, the capacity, workload, distribution of functions and requirements of programmes.

(3) The whole-time staff in a home may consist of Officer-in-charge, Probation Officer (in case of Observation home or Special home), Case Workers (in case of Children's home or shelter home or after care organization), Child Welfare Officers, Counselor, Educator, Vocational Training Instructor, Medical Staff, Administrative staff,

Care Takers, house father and house mother, child mentors, volunteers, store keeper, cook, helper, washerman, safai karamchari, gardener as required.

(4) The part-time staff, shall include Psychiatrist, Psychologist, Occupational therapist, and other professionals as may be required by time to time.

(5) The staff of the home shall be subject to control and overall supervision of the Officer-in-charge who by order, shall determine their specific responsibilities and shall keep the concerned authority informed of such orders made by him from time to time.

(6) The duties and responsibilities of the staff under the Officer-in-charge shall be fixed in keeping with the statutory requirements of the Act.

(7) The Officer-in-charge and such other staff who may be required, shall live in the quarters provided for them within the premises of the home.

(8) The number of posts in each category of staff shall be fixed on the basis of capacity of the institution; and the staff shall be appointed in accordance with the educational qualifications, training and experience required for each category.

(9) The suggested staffing pattern for an institution with a capacity of 100 juveniles or children could be as mentioned below:-

Sl. No.	Staff/Personnel	No. of Posts
1	Officer-in-Charge (Superintendent)	1
2	Counsellor	2
3	Probation Officer or Child Welfare Officer or Case Worker	3

4	House Mother or House Father	4
5	Educator	2 (voluntary or part time)
6	Doctor	1
7	Paramedical staff	1
8	Matron cum Store Keeper	1
9	Accountant	1
10	Art & Craft	1(part time)
11	Music Teacher	1(part time)
12	PT Instructor cum Yoga Trainer	1(part time)
13	Driver	1
14	Cook	2
15	Helper	2
16	Housekeeping	2
17	Gardener	1(part time)
	Total	27

(10) The number of posts in the category of counselor, case worker or probation officer, house father or house mother, educator, and vocational instructor shall proportionally increase with the increase in the capacity of the institution.

(11) In case of institutions housing infants, provision for baby sitters and paramedical staff shall be made as per the need.

CHAPTER VII

MISCELLANEOUS

69. Recognition of fit persons or fit institution.-

(1) Any individual who is willing temporarily to receive a juvenile or child in need of care,

protection or treatment for a period as may be necessary, may be recognized by the competent authority as a fit person after due verification of their credentials and reputation.

(2) Any suitable place or institution, the manager of which is willing temporarily to receive a juvenile or child in need of care and protection for a period as may be necessary, may be recognized by the State Government as a fit institution on the recommendation of the competent authority. Approved List of Fit Institutions along with intimation/copies under Rule 70(1) and 71(3&5) shall be made available to the SJPU of each district.

(3) An institution recognized as a fit institution shall,-

- (a) meet the standards of care laid down in the Act and the Rules made thereunder;
- (b) have the capacity and willingness to meet the standards of care laid down in the Act and the Rules;
- (c) receive and provide basic services for care and protection of the juveniles and children;
- (d) prevent subjection of juvenile or child to any form of cruelty or exploitation or neglect; and
- (e) abide by the orders of the competent authority.

(4) A list of fit institutions approved by the State Government shall be kept in the office of the Board and the Committee.

(5) A fit institution with collateral branches may send the juvenile or child placed therein by an order of the competent authority to any of its branches outside the district after seeking permission from the competent authority.

(6) Before declaring any person as a fit person or recommending an institution as a fit institution,

the competent authority shall hold due enquiry and only on being satisfied, recognition shall be given.

70. Registration under the Act.- (1) All institutions and organizations running institutional or non-institutional care services for children in need of care and protection, whether run by the government or voluntary organization, shall get themselves registered under sub-section (3) of section 34 of the Act.

(2) All such institutions shall make an application together with a copy each of rules, bye-laws, memorandum of association, list of governing body, office bearers, balance sheet of past three years, statement of past record of social or public service provided by the institution or organization to the State Government, who shall after verifying that provisions made in the institution or organization for the care and protection of children, health, education, boarding and lodging facilities, if any, vocational facilities and scope of rehabilitation, may issue a registration certificate to such organization under sub-section (3) of section 34 of the Act and as per this Rule.

71. Certification or recognition and transfer of Management of Institutions and after care organizations.- (1) Any organization desiring certification under the Act shall make an application together with a copy each of the rules, bye-laws articles of association, list of members of the society or the association running the organization, office bearers and a statement showing the status and past record of specialized childcare services provided by the organization, to the State Government, who shall after verifying the provisions made in the organization for the boarding and lodging, general health, educational facilities, vocational training and treatment services may grant certification or recognition under sections 8, 9, 34, 37, 41 and 44 of the Act, as the case may be, on the condition that the organization shall

comply with the standards or services as laid down under the Act and the Rules framed thereunder, from time to time and to ensure an all round growth and development of juvenile or child placed under its charge.

(2) Any organization desiring recognition under the Act shall make an application to the Competent Authority, who shall after due inquiry, recommend the State Government for such recognition.

(3) The State Government may, transfer the management of any State run institution under the Act to a voluntary organization of repute, who has the capacity to run such an institution; and certify or recognize the said voluntary organization as a fit institution to own the requisite responsibilities under a Memorandum of Understanding for a specified period of time.

(4) The State Government may, if dissatisfied with the conditions, rules, management of the organization certified or recognized under the Act, at any time, by notice served on the manager of the organization, declare that the certificate or recognition of the organization, as the case may be, shall stand withdrawn as from a date specified in the notice and from the said date, the organization shall cease to be an organization certified or recognized under sections 8, 9, 34, 37, 41 or 44 of the Act, as the case may be:

Provided that the concerned organization shall be given an opportunity of making a representation in writing and also an opportunity to be heard before decision is taken within a period of thirty days, against the grounds of withdrawal of certificate or recognition of that organization.

(5) The decision to withdraw or to restore the certificate or recognition of the organization may be taken, on the basis of a thorough

investigation by a specially constituted advisory board under section 62 of the Act.

(6) On the report of the advisory board, the Officer-in-charge of the institution shall be asked to show cause or give an explanation within thirty days as to why their certification should not be withdrawn.

(7) When an organization ceases to be an organization, certified or recognized under sections 8, 9, 34, 37, 41 or 44 of the Act, the juvenile or the child kept therein shall, be transferred to some other institution of repute, certified or recognized under sections 8, 9, 34, 37, 41 or 44 of the Act or discharged, in accordance with the provisions of the Act and the Rules relating to their discharge and transfer by giving intimation of such discharge or transfer to the Board or the Committee, as the case may be. All Government grants and other funds received by the organization shall be withdrawn if a sufficient ground of disqualification is provided by the Advisory Board on the basis of a thorough investigation.

(8) Financial support shall be provided to such organization, where the children are received by the State Government.

72. Grant in aid to certified or recognized organization.- (1) An organization certified or recognized or registered under sections 8, 9, 34, sub-section (3) of section 34, 37 or 44 of the Act, may during the period when certification or recognition or registration is in force, may apply for grants-in-aid by the State Government, for the maintenance of juvenile or child received by them under the provisions of the Act; and for expenses incurred on their education, treatment, vocational training, development and rehabilitation.

(2) The grants-in-aid may be admissible, at such rates, which shall be sufficient to meet the prescribed norms, in such manner and subject

to such conditions as may be mutually agreed to by both the parties.

(3) In case of transfer of management of government run homes under sections 8, 9, 34, subsection (3) of section 34, 37 and 44 of the Act to a voluntary organization, the same budget which the Government was spending on that home, shall be given to the voluntary organization as grant-in-aid under the Memorandum of Understanding signed between both the parties describing their role and obligations.

73. Admission of outsiders.- (1) Visitors shall be admitted to the premises with the permission of the Officer in charge, or on an order from the Board or Committee. Officer / Superintendent, should display the visiting hours of the home near the office with two timings - during office hours and after office hours.

(2) In special cases, where parents or guardians have travelled a long distance from another state or district, the Officer-in-Charge shall allow parents or guardians entry into the premises, even after office hours and a meeting with their children, provided they possess proper identification and are not reported to have subjected the juvenile or child to abuse and exploitation.

74. Identity Photos.- (1) On admission to a home established under the Act, every juvenile or child shall be photographed.

(2) One photograph shall be kept in the case file of the juvenile or the child and two additional copies shall be kept in the album maintained in the home.

(3) In case of a child missing from an institution or in case of lost children received by an institution, a photograph of the child with relevant details shall be sent to the missing person's bureau and the local police station.

(4) In Children's Homes, children shall be photographed annually which shall be documented in their individual case files.

75. Police Officers to be in plain clothes.- While dealing with a juvenile or a child under the provisions of the Act and the Rules made there under, except at the time of apprehending the juvenile or child, the Police Officer shall wear plain clothes and not the police uniform.

76. Prohibition on the use of handcuffs and fetters.- No child or the juvenile in conflict with law dealt with under the provisions of the Act and the Rules made there under shall be handcuffed or fettered.

77. Procedure to be followed by a Magistrate not empowered under the Act.(1) When any juvenile or child is produced before a Magistrate other than Board or Committee, and the Magistrate is of the opinion that such person is a juvenile or child, he shall record his reasons and send the juvenile or child to the appropriate competent authority.

(2) In case of a juvenile produced before a Magistrate not empowered under this Act, such Magistrate shall direct the case to be transferred to the Board for inquiry and disposal.

(3) In case of a child in need of care and protection produced as a victim of a crime before a Magistrate not empowered under the Act, such Magistrate shall transfer the matter concerning care and protection, rehabilitation and restoration of the child to the appropriate Committee.

78. Transfer.- (1) During the inquiry, if it is found that the juvenile or child hails from a place outside the jurisdiction of the Board or Committee, the Board or Committee shall order the transfer of the juvenile or child and send a copy of the order to the State Government through the concerned Probation Officer or State or District Child Protection Unit.

Provided that,-

- (i) such transfer is in the best interest of the juvenile or child;
 - (ii) no child shall be transferred or proposed to be transferred only on the ground that the child has created problems or, has become difficult to be managed in the existing institution or, is suffering from a chronic or terminal illness or, on account of disability; The wishes of the child shall be taken into consideration at the time of transfer and the Officer in charge of the institution shall make provisions to discuss with the child about the purpose of transfer keeping the child's best interest in mind.
 - (iii) such transfer shall only take place after the completion of evidence and cross; examination that may be required in a legal proceeding involving a juvenile or child; and
 - (iv) the reasons for and circumstances of such transfer are recorded in writing.
- (2) The State Government or State or District Child Protection Unit shall accordingly,
- (i) send the information of transfer to the appropriate competent authority having jurisdiction over the area where the child is ordered to be transferred by the Board or Committee; and
 - (ii) send a copy of the information to the Officer-in-charge of the institution where the child is placed for care and protection at the time of the transfer order.
- (3) On receipt of copy of the information from the State Government or State or District Child Protection Unit, the Officer-in-charge shall arrange to escort the child at government expenses to the place or person as specified in the order.

(4) On such transfer, case file and records of the juvenile or child shall be sent along with the juvenile or child.

79. Procedure for sending a juvenile or child outside the jurisdiction of the competent authority.- (1) In the case of a juvenile or a child whose ordinary place of residence lies outside the jurisdiction of the competent authority, and if the competent authority considers it necessary to take action under section 50 of the Act, it shall direct a probation officer or case worker or child welfare officer, as the case may be, to make enquiries as to the fitness and willingness of the relative or other person to receive the juvenile or the child at the ordinary place of residence, and whether such relative or other fit person can exercise proper care and control over the juvenile or the child.

(2) Where a juvenile or child is ordered to be sent to the ordinary place of residence or to a relative or fit person, execution of a bond by the juvenile or child without any surety, in Form VI, is necessary along with an undertaking by the said relative or fit person in Form V or IX as the case may be.

(3) Any breach of a bond or undertaking or of both given under sub-rule (2) of this Rule, shall render the juvenile liable to be brought before the competent authority, who may make an order directing the juvenile to be sent to an institution home.

(4) Any juvenile or a child, who is a foreign national and who has lost contact with his family shall also be entitled for protection.

(5) The juvenile or the child, who is a foreign national, shall be repatriated, at the earliest, to the country of his origin in co-ordination with the respective Embassy or High Commission.

(6) The Board or Committee shall keep the Ministry of External Affairs informed about repatriation of every juvenile or child of foreign

nationality carried out on the orders of the Board or Committee.

(7) A copy of the order passed by the competent authority under section 50 of the Act shall be sent to-

- (a) the probation officer or child welfare officer who was directed to submit a report under sub-rule (1) of this Rule;
- (b) the probation officer or child welfare officer, if any, having jurisdiction over the place where the juvenile or the child is to be sent;
- (c) the competent authority having jurisdiction over the place where the juvenile or the child is to be sent; and
- (d) the relative or the person who is to receive the juvenile or the child.

(8) During the pendency of the order under sub-rule (6) of this Rule, the juvenile or the child shall be sent by the competent authority to an observation home or children's home as the case may be.

(9) Where the competent authority considers it expedient to send the juvenile or the child back to his ordinary place of residence under section 50, the competent authority shall inform the relative or the fit person, who is to receive the juvenile or the child accordingly; and shall invite the said relative or fit person to come to the home, to take charge of the juvenile or the child on such date, as may be specified by the competent authority.

(10) The competent authority inviting the said relative or fit person under sub-rule (8) of this Rule may also direct, if necessary, the payment to be made by the Officer-in-charge of the home, of the actual expenses of the relative or fit person's journey both ways, by the appropriate class and the juvenile's or child's journey from the home to his ordinary place of residence, at the time of sending the juvenile or the child.

(11) If the relative or the fit person fails to come to take charge of the juvenile or the child on the specified date, the juvenile or the child shall be taken to his ordinary place of residence by the escort of the observation home and in the case of a girl, at least one escort shall be a female.

80. State Child Protection Unit.- The specific functions of the State Child Protection Unit shall include,-

- (a) implementation of the Act and supervision and monitoring of agencies and institutions under the Act;
- (b) set up, support and monitor the District Child Protection Units;
- (c) represent State Child Protection Unit as a member in the Selection Committee for appointment of members of Boards or Committees;
- (d) make necessary funds available to the District Child Protection Units for providing or setting up required facilities to implement the Act;
- (e) network and coordinate with all government departments to build inter-sectoral linkages on child protection issues, including Departments of Health, Education, Social Welfare, Urban Basic Services, Backward Classes & Minorities, Youth Services, Police, Judiciary, Labour, State AIDS Control Society, among others;
- (f) network and coordinate with civil society organizations working for the effective implementation of the Act;
- (g) training and capacity building of all personnel (Government and Non-government) working under the Act;
- (h) establish Minimum Standards of Care and ensure its implementation in all institutions set up under the Act;

- (i) review of the functioning of Committees; and
- (j) all other functions necessary for effective implementation of the Act.

81. District Child Protection Unit.- (1) The District Child Protection Unit shall coordinate and implement all child rights and protection activities at district level.

(2) The specific functions of the District Child Protection Unit shall include,-

- (a) ensure effective implementation of the Act at district or city levels by supporting creation of adequate infrastructure, such as, setting up Boards, Committees, Special Juvenile Police Units and homes in each districts;
- (b) identify families at risk and children in need of care and protection;
- (c) assess the number of children in difficult circumstances and creating district-specific databases to monitor trends and patterns of children in difficult circumstances;
- (d) periodic and regular mapping of all child related services at district for creating a resource directory and making the information available to the Committees and Boards from time to time;
- (e) implement family based non-institutional service including sponsorship, foster care, adoption and after care;
- (f) ensure setting up of District, Block and Village level Child Protection Committees for effective implementation of programmes as well as discharge of its functions;
- (g) facilitate transfer of children at all levels for either their restoration to their families or placing the child in long

- or short-term rehabilitation through institutionalization, adoption, foster care and sponsorship;
- (h) supporting State Adoption Resource Agency in implementation of family based non-institutional services at district level;
 - (i) network and coordinate with all government departments to build inter-sectoral linkages on child protection issues, including Departments of Health, Education, Social Welfare, Urban Basic Services, Backward Classes & Minorities, Youth Services, Police, Judiciary, Labour, State AIDS Control Society, among others;
 - (j) network and coordinate with civil society organizations working under the Act;
 - (k) develop parameters and tools for effective monitoring and supervision of agencies and institutions in the district in consultation with experts in child welfare;
 - (l) supervise and monitor all institutions or agencies providing residential facilities to children in district;
 - (m) train and build capacity of all personnel (Government and Non-government) implementing the Act to provide effective services to children;
 - (n) organize quarterly meeting with all stakeholders at district level including CHILDLINE, Specialized Adoption Agencies, Officer-in charges of homes, non-governmental organizations and members of public to review the progress and implementation of the Act; and
 - (o) liaison with the State Child Protection Unit, State Adoption Resource Agency at State level and District Child Protection Units of other districts.

82. Setting of the Child Welfare Committee.-
- (1) The State Government shall set up by notification in Official Gazette Child Welfare Committees under section 29 of the Act in every district with requisite infrastructure, personnel, and finances for smooth running, as listed below:
- (a) the infrastructure shall consist of a sitting hall, a separate room for the Committee, room for office staff, waiting room for children, waiting room for parents or guardian, room for personal interaction between the child or parents and the Committee, a record room, safe drinking water facility and toilets;
 - (b) the State Government shall provide necessary human resource support for every Committee, including welfare officer, steno-typist or computer operator, peon, safai karamchhari.
- (2) The allowances of the Chairperson and Members shall be disbursed by the District Child Protection Unit or State Government as per Rule 23 of these Rules.
83. Setting up of Juvenile Justice Board.-
- The State Government shall set up by notification in Official Gazette, Juvenile Justice Board in every district, with requisite infrastructure, personnel, besides the Principal Magistrate and Members and Finances as listed below:
- (1) Infrastructure shall consist of a Board Room, waiting room for children, a room for Principal Magistrate and Members, a record room, room for Probation Officers, waiting room for parents and visitors, safe drinking water facility and toilets.
 - (2) The State Government shall provide necessary human resource support for every Board, including probation officer, steno-typist or computer operator, peon, safai karamchhari.

84. Special Juvenile Police Unit,- (1) The State Government shall appoint a Special Juvenile Police Unit at the District level within four months of the notification of these Rules and the unit shall consist of a juvenile or child welfare officer of the rank of police inspector and two paid social workers having experience of working in the field of child welfare, of whom one shall be a woman.

(2) The District Child Protection Unit or the State Government shall provide services of its two social workers to the Special Juvenile Police Unit for discharging their duties.

(3) The juvenile or child welfare officer at the police station shall be a person with aptitude and appropriate training and orientation to handle the cases of juveniles or children in terms of the provisions of the Act.

(4) The transfer and posting of the designated Juvenile or Child Welfare Officer shall be within the Special Juvenile Police Units of other police stations or district unit, unless there is an exceptional case of promotion and in such cases, other police officer must be designated and deputed in the unit so that there is no shortfall.

(5) Special Juvenile Police Unit at district level shall coordinate and function as a watch-dog for providing legal protection against all kinds of cruelty, abuse and exploitation of child or juvenile.

(6) The unit shall take serious cognizance of adult perpetrators of crimes against children and see to it that they are without delay apprehended and booked under the appropriate provisions of the law and for this purpose the district level units shall maintain liaison with other units of police station.

(7) The Special Juvenile Police Units shall seek assistance from the voluntary organizations, panchayats and Gramsabhas or Resident

Welfare Associations in identifying juveniles in conflict with law as well as reporting cases of violence against children, child neglect and child abuse.

(8) The Special Juvenile Police Units shall particularly seek assistance from voluntary organizations recognized as protection agencies by the State Government for the purpose of assisting Special Juvenile Police Units and local police stations at the time of apprehension, in preparation of necessary reports, for taking charge of juveniles until production and at the time of production before the Board as per Rule 11 (12) of these Rules.

(9) The Superintendent of Police in a district shall head the Special Juvenile Police Unit and oversee its functioning from time to time.

(10) A Nodal Officer from Police not less than the rank of Inspector General of Police shall be designated in each State to coordinate and upgrade role of police on all issues pertaining to care and protection of children or juveniles under Act.

(11) Any police officer found guilty, after due inquiry, of torturing a child, mentally or physically, shall be liable to be removed from service, besides being prosecuted for the offence.

85. Honorary or Voluntary Welfare Officers and Probation Officers.- To augment the existing probation service, honorary or voluntary welfare officers and probation officers may be appointed from the voluntary organization and social workers found fit for the purpose by the competent authority and their services may also be co-opted into the implementation machinery by the orders of the competent authority. The State Government shall make provision for allowances like Travelling Allowances and Dearness Allowances (TA/DA) and honorarium for the Voluntary officers.

86. Duties of the Officer-in-Charge of an institution.- (1) The Officer-in-charge shall have the primary responsibility of maintaining the institution and shall stay within the institutional premises to be readily available as and when required by the juveniles or children and the staff and in case where an accommodation is not available within the institutional premises, the Officer-in-charge shall, stay at a place in close proximity to the institution till such time that such an accommodation is made available within the institution.

(2) The general duties and functions of the Officer-in-charge shall include,-

- (a) compliance with provisions of the Act and the Rules and orders made there under;
- (b) compliance with the orders of the Board or Committee;
- (c) providing homely atmosphere of love, affection, care, development and welfare for juveniles or children;
- (d) maintaining minimum standards of care in the institution;
- (e) proper maintenance of buildings and premises;
- (f) security measures and periodical inspection, including daily inspection and rounds of the institution, proper storage and inspection of food stuffs as well as food being served;
- (g) supervision and monitoring of juveniles' or children's discipline and well being;
- (h) planning implementation and coordination of all institutional activities, programmes and operations, including training and treatment programmes or correctional activities as the case may be;
- (i) prompt action to meet emergencies;
- (j) ensuring accident and fire preventive measures within the institutional premises;
- (k) stand-by arrangements for water storage, power plant, emergency lighting;
- (l) careful handling of plants and equipments;
- (m) segregation of a juvenile or child suffering from contagious or infectious diseases;
- (n) observance and follow-up of daily routine;
- (o) filing of monthly report of juvenile or child in the case file;
- (p) organize local and national festivals in the institution;
- (q) organize trips or excursions or picnics for juveniles or children;
- (r) preparation of budget and control over financial matters;
- (s) allocation of duties to personnel;
- (t) supervision over office administration, including attending to personnel welfare and staff discipline;
- (u) prompt, firm and considerate handling of all disciplinary matters;
- (v) organize the meetings of the Management Committee set up under Rule 55 of these Rules and provide necessary support.
- (w) maintenance of all records and registers required under the Act and the Rules and monthly verification of the same by the Management Committee set up under Rule 55 of these Rules;
- (x) liaison, coordination and cooperation with the District Child Protection Unit or State Government as and when required; and

- (y) coordination with the legal officer in the District Child Protection Unit to ensure that every juvenile is legally represented and provided free legal aid and other necessary support or, where the District Child Protection Unit has not been set up, services of the District or State Legal Services Authority shall be made available.
- (z) to organize monthly staff meetings in order to review the work accomplished and also develop a plan of action for the next month.
87. Duties of a Probation Officer or Child Welfare Officer or Case Worker.- (1) Every probation officer or child welfare officer or case-worker shall carry out all directions given by the Board or Committee or concerned authority and shall perform the following duties, functions and responsibilities:-
- (a) making social investigation of the juvenile (Form IV) or the child (Form XIII) through personal interview and from the family, social agencies and other sources;
- (b) attending the proceedings of the Board or Committee and submitting reports as and when required;
- (c) clarifying problems of the juvenile or the child and dealing with their difficulties in institutional life;
- (d) participating in the orientation, monitoring, education, vocational and rehabilitation programmes;
- (e) establishing co-operation and understanding between the juvenile or the child and the Officer- in-charge;
- (f) assisting the juvenile or the child to develop contacts with family and also providing assistance to family members;
- (g) developing a care plan for every child in consultation with the juvenile or child and following up its implementation;
- (h) participating in the pre-release programme and helping the juvenile or the child to establish contacts which can provide emotional and social support to juvenile or child after their release;
- (i) establishing linkages with voluntary workers and organizations to facilitate rehabilitation and social reintegration of juveniles and to ensure the necessary follow-up;
- (j) follow-up of juveniles after their release and extending help and guidance to them;
- (k) visiting regularly the residence of the juvenile or child under their supervision and also places of employment or school attended by such juvenile or child and submitting fortnightly reports as prescribed in Form XXI;
- (l) accompanying juveniles or children where ever possible, from the office of the Board to observation home, special home, children's home or fit person, as the case may be; and.
- (m) maintaining case file and such registers as may be specified from time to time.
- (2) On receipt of information from the Police or Juvenile or Child Welfare Officer of the Police under clause (b) of section 13 of the Act, the probation officer shall inquire into the antecedents and family history of the juvenile or the child and such other material circumstances, as may be necessary and submit a social investigation report/inquiry report as early as possible, in Form IV or XIII, to the Board, the Committee and the Child Welfare Officer of SJPU incorporated as per Rule 87(2).

88. Duties of House Father or House Mother / Matron,- (1) The general duties, functions and responsibilities of a house father, house mother and other care givers shall be as follows:

- (a) handling juvenile or child with love and affection;
- (b) taking proper care and welfare of juvenile or child;
- (c) maintaining discipline among the juveniles or children;
- (d) maintenance, sanitation and hygiene;
- (e) implementing daily routine in an effective manner and ensuring children's involvement;
- (f) looking after the security and safety arrangements of the home; and
- (g) escorting juveniles or children, whenever they go out of the home.

89. Disqualification for officer-in-charge, probation officer or child welfare officer or case-worker, house father or house mother and other care givers and staff.- (1) The officer-in-charge, probation officer or child welfare officer or caseworker, house father or house mother and other care givers and staff shall not employ a juvenile or child under their supervision or care and protection for their own purposes or take any private service from them.

(2) Any report of physical, sexual or emotional abuse of a juvenile or a child in an institution or outside, by a caregiver, shall hold them liable for disqualification after due inquiry by the State Government.

90. Training of Personnel.- (1) The State Government or the Officer-in-charge shall provide for training of personnel of each category of staff, in keeping with their statutory responsibilities and specific jobs requirements.

(2) The training programme shall include-

- (a) orientation and induction training of the newly-recruited staff,
- (b) refresher training courses and skill enhancement programmes for all care givers once a year, and
- (c) staff conferences, seminars, workshops

(3) The State Government with the help of the State Child Protection Unit, CID Organization, National Institute of Public Cooperation and Child Development and its Regional Centres shall organize regular training and capacity building of personnel involved in the implementation of the Act and the Rules made there under.

91. Selection Committee and its composition.- The State Government shall constitute a Selection Committee by notification in the official gazette, for a period of five years, consisting of the following seven members, namely:-

- (a) a retired judge of High Court as the Chairperson;
- (b) one representative from the concerned Department of State Government not below the rank of Director as the Member Secretary;
- (c) two representatives from a reputed non-governmental organization, working in the area of child welfare;
- (d) two representatives from academic bodies concerned with social work, psychology, sociology, child development, education, law, criminology and with experience of working on children's issues; and
- (e) a representative of the National or State Human Rights Commission or, National or State Commission for Protection of Child Rights or, National or State Commission for Women.

92. Functions of the Selection Committee.-
- (1) (a) In making appointment of members of the Board or Committee, the Selection Committee shall take into consideration the applications received in this regard in response to a public advertisement to this effect by the District or State Child Protection Unit or the State Government; and
- (b) the Selection Committee shall select and recommend a panel of names to the State Child Protection Unit or State Government for appointment as members of the Board or Committee from amongst the applications received.
- (2) In the event of any complaint against a member of the Board or Committee, the Selection Committee shall hold necessary inquiry and recommend termination of appointment of such member to the State Child Protection Unit or State Government, if required.
- (3) (a) The Selection Committee, at the time of recommending names for appointment as member of Board or Committee shall also prepare a panel of names for each Board or Committee to fill in vacancies, which may arise during the tenure of the Board or Committee.
- (b) In the event of a vacancy in the Board or Committee, the District Child Protection Unit shall inform the State Child Protection Unit or State Government for filling up such vacancy.
- (c) The State Child Protection Unit or State Government shall fill the vacancies on the basis of the panel of names recommended by the Selection Committee.
- (4) The Selection Committee shall recommend names for constitution of the State or District or City level Inspection Committees as required under section 35 of the Act.
93. Advisory Boards.- (1) The Central Government and the State Government shall

constitute Advisory Board at Central, State, District, City levels for a period of three years.

(2) The Central Advisory Board shall be constituted through the Union Ministry of Women and Child Development.

(3) The State Government shall constitute the State Advisory Board, District Advisory Board and the City Advisory Board.

(4) All the Advisory Boards shall hold at least two meetings in a year.

(5) These Advisory Boards shall inspect the various institutional or non institutional services in their respective jurisdictions; and the recommendations made by them, shall be acted upon by the Central Government and the State Government.

(6) The Central Government through the Central Ministry of Women and Child Development shall set up the Central Advisory Board to be headed by the Minister concerned and shall consist of the Secretary of the Ministry aforesaid, representatives from State Governments, representative members from the competent authority, leading non-governmental organizations, experts in child or juvenile care, children's institution and academic institutions as members.

(7) A designated official of the Central Ministry of Women and Child Development shall function as the Member Secretary of the Central Advisory Board.

(8) The State Government, through the Selection Committee constituted under Rule 91 of these Rules, shall set up State, District and City level Advisory Boards, which shall consist of representatives of the State Government, members of the competent authority, academic institutions, locally respectable and spirited citizens, representatives of non-governmental organizations.

(9) The State Advisory Board shall meet once a year to determine the unit cost incurred on food and nutrition, clothing, health, education and other basic amenities of children in institutional care. It shall relate the standards of care for institutions specified in the Rules with the budgetary support received from the Government and suggest appropriate changes to the budget if felt essential.

(10) The District or City level Advisory Board constituted in terms of sub-section (3) of section 62 of the Act shall also function as the inspection committee under section 35 of the Act.

(11) The termination, resignation, or other vacancy caused in an advisory board and appointment of new members therein shall be done in the same manner as is done in case of the competent authority.

94. Openness and Transparency.- (1) All Children's homes shall be open to visitors with the permission of the Committee or Officer-in-charge as the case may be. Representatives of local self government, voluntary organizations, social workers, researchers, medicos, academicians, prominent personalities, media and any other persons may be allowed as visitors, as the Officer-in-charge considers appropriate keeping in view the security, welfare and the interest of the children.

(2) The Officer-in-charge of the home shall encourage active involvement of local community in improving the conditions in the homes, if, the members of the community want to serve the institution or want to contribute through their expertise.

(3) The Officer-in-charge shall maintain a visitor book and the remarks of the visitors given therein shall be considered by the advisory inspecting authority.

(4) While visiting an institution, the visitors will not say or do anything that undermines the authority of the Officer-in-charge or is in contravention of the Act or Rules or impinges on the dignity of the children.

(5) The visitors may be allowed to visit observation homes and special homes with the permission of the competent authority.

95. Juvenile Justice Fund.- (1) The State Government shall create a Fund at the State level under section 61 of the Act to be called the 'Juvenile Justice Fund' (herein under referred to as the Fund) for the welfare and rehabilitation of the juvenile or the child dealt with under the provisions of the Act.

(2) In addition to donations, contributions or subscriptions coming under subsection (2) of section 61, the Central Government shall also make contribution to the Fund.

(3) The Fund shall be applied:-

- (a) to implement programmes for the welfare, rehabilitation and restoration of juveniles or children;
- (b) to provide funds to NGOs for rehabilitation and after care of children who are specifically referred to them;
- (c) to meet the expenses of State Advisory Board and its purpose;
- (d) to organise all other functions that are incidental and necessary for the above purposes.

(4) The management and administration of the Fund shall be under the control of the State Advisory Board under sub-section (3) of section 61 of the Act.

(5) The assets of the Fund shall include all such grants and contributions, recurring or nonrecurring, from the Central Government and State Government or any other statutory

or non-statutory bodies set up by the Central or State Government as well as the voluntary donations from any individual or organization.

(6) All withdrawals shall be made by cheques or requisitions, as the case may be, signed by the secretary-cum-treasurer and in the case of amounts exceeding rupees one thousand, they shall be signed duly by the secretary-cum-treasurer and a member of the board of management to be nominated by the State Advisory Board.

(7) The regular accounts shall be kept of all money and properties, and all incomes and expenditure of the Fund and shall be audited by a notified firm of Chartered Accountants, or any other recognized authorities as may be appointed by the Board.

(8) The auditors shall also certify the expenditure from the Fund made by the secretary-cum-treasurer.

(9) All contracts and other assurances shall be in the name of the board of management and signed on their behalf by the secretary-cum-treasurer and one member of the board of the management authorized by it for the purpose.

(10) The board of management shall invest for the time being the proceeds of sale or other disposal of the property, as well as any money or property not immediately required to be used to serve the objective of the Fund, in anyone or more of the modes of investment authorized by law for the investment of trust moneys as the board of management may think proper.

(11) The board of management may delegate to one or more of the members such of its powers, which in its opinion are merely a procedural arrangement.

(12) The Accounts of the Juvenile Justice fund duly audited by the Chartered Accountant shall

be placed before the State Assembly along with the report of the Auditors by the Social Welfare Department annually.

96. Pending Cases.- (1) No juvenile in conflict with law or a child shall be denied the benefits of the Act and the Rules made there under.

(2) All pending cases which have not received a finality shall be dealt with and disposed of in terms of the provisions of the Act and the Rules made there under.

(3) Any juvenile in conflict with law, or a child shall be given the benefits under sub-rule (1) of this Rule, and it is hereby clarified that such benefits shall be made available to all those accused who were juvenile or a child at the time of commission of an offence, even if they cease to be a juvenile or a child during the pendency of any inquiry or trial.

(4) While computing the period of detention or stay or sentence of a juvenile in conflict with law or of a child, all such period which the juvenile or the child has already spent in custody, detention, stay or sentence of imprisonment shall be counted as a part of the period of stay or detention or sentence of imprisonment contained in the final order of the court or the Board.

97. Disposed off cases of juveniles in conflict with law.- The State Government or as the case may be the Board may, either suo moto or on an application made for the purpose, review the case of a person or a juvenile in conflict with law, determine his juvenility in terms of the provisions contained in the Act and Rule 12 of these Rules and pass an appropriate order in the interest of the juvenile in conflict with law under section 64 of the Act, for the immediate release of the juvenile in conflict with law whose period of detention or imprisonment has exceeded the maximum period provided in section 15 of the said Act. Copies of such orders

issued by the Board shall be made available to the Officer in charge of the Observation Home / Probation Officer and Special Juvenile Police Unit immediately.

98. Disposal of records or documents.- The records or documents in respect of a juvenile or a child or a juvenile in conflict with law shall be kept in a 'safe place' (Juvenile Justice Board, Child Welfare Committee and Police Station) for a period of seven years and no longer, and thereafter be destroyed by the Officer in-charge or Board or Committee.

99. Review of the Rules.- The State Government shall constitute a Monitoring and Evaluation

Committee with representatives from the State Government, the Juvenile Justice Board, Child Welfare Committee, medical and other experts in the field of child welfare. The committee shall meet once in a year to review and monitor the implementation of the Rules and also suggest changes, if required to ensure better protection of children who are in need.

sd/

(H.K. Sharma)

Commissioner & Secretary
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