



Madhya Pradesh: Snail speed on implementation of juvenile justice



ASIAN CENTRE FOR HUMAN RIGHTS



Madhya Pradesh: Snail speed on implementation of juvenile justice



ASIAN CENTRE FOR HUMAN RIGHTS



Madhya Pradesh: Snail speed on implementation of juvenile justice

Published by:

Asian Centre for Human Rights

C-3/441-C, Janakpuri, New Delhi 110058 INDIA

Tel/Fax: +91 11 25620583, 25503624

Website: www.achrweb.org

Email: suhaschakma@achrweb.org

First published December 2012

© Asian Centre for Human Rights, 2012

No part of this publication can be reproduced or transmitted in any form or by any means, without prior permission of the publisher.

ISBN : 978-81-88987-28-3

Suggested contribution Rs. 345/-



Acknowledgement: This report is being published as a part of the ACHR's "National Campaign for Prevention of Violence Against Children in Conflict with the Law in India" - a project funded by the European Commission under the European Instrument for Human Rights and Democracy – the European Union's programme that aims to promote and support human rights and democracy worldwide. The views expressed are of the Asian Centre for Human Rights, and not of the European Commission.

CONTENTS

1. Executive Summary and Recommendations	1
2. State of juvenile justice in Madhya Pradesh	4
2.1. Madhya Pradesh tops the list of juvenile delinquency	4
2.2. Violations of the rights of the juveniles in Madhya Pradesh	5
3. Implementation of the JJ(C&PC) Act	7
3.1 ACHR's fact finding reports	7
<i>A. Findings of the Bhopal field visit</i>	8
<i>B. Findings of the Indore field visit</i>	10
3.2 State of the statutory structures for administration of juvenile justice	11
A. Juvenile Justice Boards.....	11
<i>i. Lack of review of cases pending before the JJBs</i>	12
B. Child Welfare Committees	14
<i>i. Lack of review of pending cases before the CWCs</i>	14
C. Inspection Committees	15
D. Special Juvenile Police Units.....	15
3.3 State of the institutions providing institutional care	16
A. Observation Homes.....	16
<i>i. Conditions of Observation Homes Govt. Observation Home, Seoni</i>	17
B. Special Homes	21
<i>i. Conditions of the Special Homes</i>	21
C. Children Homes	23
<i>i. Conditions of the Children Homes</i>	24
Annexure – I: Existing homes run by the Government as per information submitted to the Ministry of Women and Child Development for the project approval Board meeting on 23 September 2012	26
Annexure – II: The Madhya Pradesh Juvenile Justice (Care and Protection of Children) Rules 2003	30

1. EXECUTIVE SUMMARY AND RECOMMENDATIONS

Madhya Pradesh faces serious problems with juvenile delinquency. Among the states of India, Madhya Pradesh has been topping the list of “juvenile crimes” under the Indian Penal Code (IPC) from 2005 to 2011 except in 2009 during which it ranked second after Maharashtra. According to the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs, during 2011, a total of 4,997 incidence of crime by juveniles were reported and 5,495 juveniles were apprehended.¹ However, Madhya Pradesh has been excessively slow in the implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 [hereinafter referred to JJ(C&PC) Act].

There are numerous cases of juveniles being detained in police lock ups and prisons in clear violation of the JJ(C&PC) Act. During the field visits by Asian Centre for Human Rights (ACHR) to the Observation Homes in Bhopal on 6-7 March 2012 and Indore on 16-17 April 2012, many juveniles stated that while they were treated well once produced before the Juvenile Justice Boards (JJBs), many of them were subjected to torture and other inhuman and degrading treatment while in police custody.

The police remain unaware of the provisions of the JJ(C&PC) Act. In a letter dated 8 March 2010 the Madhya Pradesh government informed the National Commission for Protection of Child Rights (NCPCR) that Special Juvenile Police Units (SJPU) have been set up in all the 50 districts of the state. In the same letter, Madhya Pradesh government also claimed that only 836 Juvenile or Child Welfare Officers were trained² which implies that a maximum of 836 police stations had at least one trained Juvenile or Child

Welfare Officer. However, as per the Bureau of Police Research and Development, there were 941 police stations in the State as on 1 January 2010 and this implies that about 105 police stations did not have either any Juvenile/Child Welfare Officer or trained Juvenile/Child Welfare Officers to handle the juveniles or children under the JJ(C&PC) Act.³ Further, the claim of Madhya Pradesh government has to be taken with a pinch of salt: according to news reports, Special Juvenile Police Unit was first launched in Madhya Pradesh as late as in November 2010.⁴

Despite Madhya Pradesh consistently topping the list of “juvenile crimes”, there are no Observation Homes in 32 districts. At the same time, the State Government of Madhya Pradesh admitted during the 29th Project Approval Board (PAB) meeting of the Integrated Child Protection Scheme (ICPS) of the Ministry of Women and Child Development on 22 November 2011 that 15 out of the 18 Observation Homes were underutilised.⁵ Obviously rationalization for the use of the Observations Homes has not been taking place.

There are problems of over-crowding in the Special Homes for boys. The NCRB reported that during 2011, about 450 juveniles were sent to Special Homes.⁶ However, Madhya Pradesh has only three Special Homes with a total sanction capacity of 200 juveniles. The Government of Madhya Pradesh despite increase in juvenile crimes has not built any new Special Home since 1988. The Govt. Special Home, Seoni was built on 26 December 1988 while the Govt. Special Home for Boys, Indore was built in 1972 and the Govt. Special Home for

1. Crime in India, 2005 to 2011, NCRB, available at: <http://ncrb.nic.in/>

2. D.O. letter No./210/CS/JJA/2010 dated 8.3.2010 obtained under the RTI Act, 2005 by Suhas Chakma, Director of Asian Centre for Human Rights

3. Data on Police Organisation in India as on 1 January 2010, BPRD, available at: <http://bprd.nic.in/writereaddata/linkimages/1243588636-Data%20on%20Police%20Organization%202010.pdf>

4. MP gets first special juvenile police unit, Zee News, 14 November 2010, available at: http://zeenews.india.com/news/madhya-pradesh/mp-gets-first-special-juvenile-police-unit_668091.html

5. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

6. Crime in India 2011, NCRB, available at: <http://ncrb.nic.in/>

Girls, Indore was built in 1971. In the absence of adequate number of Special Homes it is suspected that juveniles found guilty by the JJBs are sent to Observation Homes and Children's Homes.

The problem is further compounded by the fact that children in need of care and protection and juveniles in conflict with law but not found guilty by the JJBs have been sent to Special Homes. The PAB of the Ministry of Women and Child Development noted that *"The State should ensure that only those children who are found guilty by JJBs after enquiry should be sent to Special Home and children in need of care and protection should not be kept in these Homes."*⁷

There are significant problems with the administration of juvenile justice. The Project Approval Board, Ministry of Women & Child Development during its 51st meeting held on 18 September 2012 noted that there were 14000 cases pending disposal in the JJBs.⁸ What is more alarming is that an average of more than 2,000 cases remain pending disposal every year as per the NCRB. There was no sign of reduction of pending cases. According to the NCRB, there was an increase of pending cases during 2011 over the previous year. At the end of 2011, 2170 cases were pending disposal at various JJBs in the state, while 2033 cases were pending disposal during 2010.⁹ Yet, the JJBs sit only two days in a week and there seems to be no urgency to increase the number of sittings or conduct special sittings. The State government even failed to encourage the JJB members by its failure to pay Rs 500/- per sitting and travel allowances as required under the Madhya Pradesh Juvenile Justice Rules, 2003 (amended in 2008). The State government reportedly provides only Rs 120 per sitting to each JJB member. Further, the Probation Officers who conduct the

investigation on which basis the JJBs decide the cases, are not trained in child rights.

On 22 November 2011, the state government informed during the PAB meeting that many of the 70 Child Care Institutes (CCIs) identified in the state were functioning without registration.¹⁰ Given that many of the CCIs were functioning without registration it becomes important to conduct inspections at regular intervals which is not the case.

Though Child Welfare Committees have been constituted in all the 50 districts of the state,¹¹ many CWC members do not attend the meetings at all.¹² In addition, proper procedures were not followed by the CWCs. On 22 November 2011, the state informed during the PAB meeting that a CWC had given one child in foster care without following due procedure.¹³ The CWCs are sitting for only two days in a week i.e. 8 sittings in a month while the Integrated Child Protection Scheme provides for 12 sitting per month to perform other functions such as inspections, follow up of individual care plans etc.

Asian Centre for Human Rights recommends the followings to the State Government of Madhya Pradesh and the Ministry of Women and Child Development, Government of India:

- Instruct the JJBs and Child Welfare Committees and the Superintendents of the Observation Homes, Special Homes and Children's Home to inquire as to whether any child taken into custody have been subjected to violations of the Juvenile Justice (Care and Protection of Children Act), 2000;

7. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

8. Minutes of 51st PAB Meeting under ICPS held on 18th September 2012 to discuss the financial proposal of Madhya Pradesh, available at: [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP\(1\).pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP(1).pdf)

9. Chapter 10, Table 10.13, Crime in India 2010, National Crime Records Bureau, available at: <http://ncrb.nic.in/CI12010/cii-2010/Table%2010.13.pdf>

10. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

11. List of JJBs and CWCs, Women and Child Development, Madhya Pradesh, available at: <http://www.mpwcd.nic.in/icps/ListofKishoreNyayaBoard.pdf>

12. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

13. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

- Increase the number of Special Homes to reduce over-crowding and ensure that juveniles found guilty by the Juvenile Justice Boards are not sent to the Observation Homes and Children's Home;
- Rationalise the number of Observation Homes in term of capacity and manpower and to use cluster approach for Homes;
- Increase the number of sittings, inspections and inquiries by the Child Welfare Committees;
- Remove members of the Child Welfare Committees who do not attend two meetings consecutively without prior notice providing valid reasons;
- Reduce pendency of cases by increasing sitting of the Juvenile Justice Boards;
- Fill up the post of all members of the JJBs and provide sitting and travel allowances as per the Madhya Pradesh Juvenile Justice Rules 2003 (amended in 2008);
- Increase and constitute Observation Homes in the rest 32 districts where they have not been established as yet;
- Take necessary measures against Children's Homes not registered with the State Government;
- Designate police officers as "Juvenile or Child Welfare Officers" in every police station who shall be members of the Special Juvenile Police Units and train them; and
- Provide training for all members of JJBs and the Probation Officers in the state.

2. STATE OF JUVENILE JUSTICE IN MADHYA PRADESH

2.1. Madhya Pradesh tops the list of juvenile delinquency

In Madhya Pradesh, the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as “JJ(C&PC) Act”) came into force from 1 April 2001. On 15 July 2003, the state government notified the Madhya Pradesh Juvenile Justice (Care and Protection of Children), Rules 2003 in exercise of the powers conferred by Section 68 of the JJ(C&PC) Act, 2000 (Central Act 56 of 2000). Subsequently, the state government notified the Madhya Pradesh Juvenile Justice (Care and Protection of Children) Amended Rules, 2003 on 4 October 2008 following the amendment of the JJ(C&PC) Act in 2006.¹⁴

Yet, Madhya Pradesh has serious problem of juvenile delinquency. Among all the States of India, Madhya Pradesh has been topping the list of juvenile crimes under the Indian Penal Code (IPC) from 2005 to 2011 except in 2009 during which it ranked second next to Maharashtra. According to the National Crime Records Bureau (NCRB), 4,997 incidence of crime by juveniles were reported in 2011; 5,554 in 2010; 4,535 in 2009; 5,214 in 2008; 5,089 in 2007; 4,976 in 2006; and 4,557 in 2005.¹⁵

During 2011, out of the total 5,794 juveniles apprehended, 837 were sent to their homes after advice or admonition after being produced before the Juvenile Justice Boards (JJBs). Further, 1,459 juveniles were released on probation and placed under the care of parents/guardians (1,332)

and Fit Institutions (127), 450 juveniles were sent to Special Homes, 412 were dealt with fine and 466 were acquitted or otherwise disposed of. However, cases of 2,170 juveniles remained pending for disposal at the end of 2011.¹⁶

Out of the total of 5,794 juveniles apprehended under Indian Penal Code (IPC) and Special Local Laws (SLL) offences, 5,385 were boys and 409 were girls. By age groups, the highest number of offences under IPC and SLL were committed by juveniles in the age groups of 16-18 years with 3,702 juveniles, including 221 girls, followed by 1,914 juveniles, including 171 girls, between 12-16 years; and 178 juveniles, including 17 girls, between 7-12 years.¹⁷

With respect to classification of juveniles apprehended under IPC and SLL by attributes during 2011, out of the total of 5,794 juveniles 1,445 were illiterate, 2,075 juveniles had education up to primary level, 1,396 juveniles had education above primary level but below Matric/Higher Secondary level, and 878 juveniles had education up to Matric/Higher Secondary level and above. With regard to family background, as many as 4,892 juveniles apprehended were living with parents, 606 were living with guardians and 296 were homeless children. A large number of juveniles (3447) belonged to the poor families whose annual income was up to Rs. 25,000/-. About 1,562 juveniles belonged to families whose annual income was above Rs. 25000 but below Rs. 50000.¹⁸

Out of the total of 5,794 juveniles, 1,147 were recidivists, while 4,647 were new delinquents.¹⁹

14. Letter No. D.O. Letter No.42/CS/PS,SJ/10 dated 24.2.2010 of the Chief Secretary, Madhya Pradesh to NCPCR regarding the implementation of the directions issued by the Hon'ble Supreme Court in the matter of Bachpan Bachao Andolan Vs Union of India & others

15. Crime in India, 2005 to 2011, NCRB, available at: <http://ncrb.nic.in/>

16. Crime in India 2011, NCRB, available at: <http://ncrb.nic.in/>

17. Crime in India 2011, NCRB, available at: <http://ncrb.nic.in/>

18. Crime in India 2011, NCRB, available at: <http://ncrb.nic.in/>

19. Crime in India 2011, NCRB, available at: <http://ncrb.nic.in/>

2.2. Violations of the rights of the juveniles in Madhya Pradesh

There are consistent reports of violations of the rights of the juveniles. The police still remain unaware of the provisions of the JJ(C&PC) Act of 2000 as amended in 2006. During ACHR's field visit juveniles complained of torture at the hands of the law enforcement personnel.

ACHR has further documented a number of cases of violations of the rights of the juveniles.

On 5 February 2012, 13-year-old Dalit boy Nagen (name changed) was picked up by Assistant Sub-Inspector Ghanshayam Dubey and Constable Vishwanath Mishra on suspicion in a case of theft in Sagar under Sagar district. The minor was taken to the police station where he was subjected to torture to extract a confession. The police allegedly pulled the minor upward by holding his ears. As a result, the victim's left ear got severely damaged, requiring immediate hospitalization.²⁰ ACHR filed a complaint before the NHRC on 7 February 2012. On 2 April 2012 the NHRC transferred the case to the Madhya Pradesh State Human Rights Commission (SHRC) under Section 13(6) of the Protection of Human Rights Act, 1993, for disposal in accordance with the provision of the Act. On 16 June 2012, the ACHR followed up with the MP SHRC, requesting the SHRC to inform about the progress of the case and to provide copies of the reports/comments submitted to the SHRC by the concerned authorities, but the ACHR is yet to hear from the SHRC.

On 2 February 2012, 15-year-old tribal boy Haridhar Gond (name changed) was handed over to the Barhi police station in Katni district by two persons on the suspicion of theft. At the police station, the victim, a Class VIII student, was locked-up and beaten by the policemen. When he kept denying the theft charges, four policemen allegedly inflicted electric shocks to his genitals, resulting in severe bodily injuries. As the condition of the minor deteriorated after the torture, the

police took him back to the village and left him a few metres away from the hamlet.²¹ ACHR filed a case before the NHRC on 15 February 2012. The NHRC has sought for additional information from the authorities on 11 October 2012 and put up the file for hearing on 5 December 2012.

On 5-7 November 2011, a 17-year-old minor girl Deepa (name changed) with her 20-day-old child was illegally kept in the Mahila (Women) police station in Bhopal. The minor victim gave birth to a child after she was allured by a man to have physical relationship on the false pretext of marriage. The police filed a case of allurement and kidnapping against the man following a complaint filed by the victim's mother. On 5 November 2011, the police brought the minor victim along with her baby to the police station for recording her statements in the court. Police claimed that since it was not a working day the minor was kept in the Mahila police station for security reasons to be produced in the court on 9 November 2011.²²

On 27 October 2011, a minor girl Rashmi (name changed) along with her three younger brothers and mother were allegedly picked up by about 10 police personnel from her house and taken to Betul Bazaar police station in Betul district. At the police station, the minor girl was allegedly subjected to sexual abuse which included being stripping naked and molested in front of her mother and three siblings.²³ On 14 November 2011, ACHR filed a complaint before the NHRC which transferred the case to the Madhya Pradesh State Human Rights Commission under Section 13(6) of the Protection of Human Rights Act, 1993, for disposal in accordance with the provisions of the Act as "[t] he grievance raised in this complaint relates to the matter, which is subject of the State".

On 18 November 2009, two minor boys Deepak Mishra (name changed) and Bara Chawwani (name changed) were picked up by police in connection

20. ACHR's complaint to National Human Rights Commission dated 7 February 2012

21. ACHR's complaint to National Human Rights Commission dated 15 February 2012

22. Minor in Mahila Thana for last 3 days, The Pioneer, 8 November 2011

23. ACHR's complaint to National Human Rights Commission dated 14 November 2011

with a theft case and detained at the lock-up of Damoh police station in Damoh district. There was no complaint against them. The victims were allegedly hand-cuffed and tortured. The torture continued till one of the victims collapsed and had to be hospitalized. Two police personnel were suspended in the case.²⁴ ACHR filed a complaint before the NHRC on 20 November 2009. On 25 November 2010, the NHRC held since the matter was pending in the court “the Commission requires no further intervention in the matter”.

On the night of 7 October 2009, the police picked up a 12-year-old minor Nila (name changed) along with her mother Sushila Bai (40) from their home on a false case of theft. Both of them were kept in custody at the T.T. Nagar police station in Bhopal for six hours and were allegedly subjected to torture. Both the victims were released at about 3 am on 8 October 2009 following the intervention of the victim’s neighbours. However, they were again picked up on the same day i.e. 8 October 2009 and booked for theft after the neighbours protested outside the police station upon hearing that the victims were tortured. On 9 October 2009, the woman was released on bail, while the minor was sent to a juvenile home.²⁵

The above cases demonstrate that either there is no Juvenile or Child Welfare Officers in these police stations or they have not been trained in the JJ(C&PC) Act.

The police also sent juveniles to jail without verifying the claim of juvenility. In September 2011, one Nanhe Khan, father of a juvenile, moved the Special Session Court in Madleshwar after his 15-year-old son Salim (name changed) was arrested and jailed for three months in Khargone district. According to the juvenile’s father, his son had fled with a girl on 10 March 2011 and later the police arrested his son. Although, the juvenile’s father had informed the police that his son was a minor, the police did not provide the benefit of

the JJ(C&PC) Act and booked the juvenile under Sections 363, 366, 368 and 76 of the Indian Penal Code (IPC) and sent to jail for three months. Later, the juvenile was released on bail. The juvenile’s school certificate clearly mentioned that he was only 15 years old.²⁶

In April 2010, the Supreme Court ordered the immediate release of a juvenile sentenced to life imprisonment in a murder case after remaining in jail for nine years. The order was passed when the issue of the juvenile being a minor at the time of committing the offence was brought to the notice of the apex court. The juvenile had approached the Supreme Court challenging the verdict of Madhya Pradesh High Court which upheld his conviction by the trial court at Dhar in 1994. A bench comprising Justices Altamas Kabir and Cyriac Joseph stated “The provisions of Juvenile Justice Act (JJA) squarely apply to the juvenile. His case is to be considered not only for grant of bail but also for release in terms of the Act.” Contrary to the provisions of the Juvenile Justice (Care and Protection of Children Act) [hereinafter referred as JJ(C&PC) Act], the juvenile was tried by the lower court along with other co-accused in a murder case. The JJ(C&PC) Act provides for separate trial of a juvenile before the JJB in case they are co-accused for an offence with others who are major. The JJ(C&PC) ACT also provides that a juvenile cannot be kept under detention for a period of more than three years. The birth certificate issued by the Chief Registrar of Dhar district under the Registration Act confirmed that the juvenile was a minor at the time of committing the offence. As per the JJ(C&PC) ACT “The claim of juvenility under the JJ(C&PC) ACT can be raised before the court at any stage even after final disposal of the case.” However, the High Court and the lower court ignored the age of the juvenile and did not even send the juvenile to JJB and instead passed the sentence.²⁷

24. ACHR’s complaint filed with National Human Rights Commission dated 20 November 2009

25. Custodial violence inflicted on mother-son in MP, The Hindu, 12 October 2009

26. Khargone cops arrest 15-yr-old, The Times of India, 16 September 2011

27. Juvenile given life for murder gets relief from SC, 29 April 2010, available at: <http://zeenews.india.com/news/nation/juvenile-given->

3. IMPLEMENTATION OF THE JJ(C&PC) ACT

The Ministry of Women and Child Development, Government of India launched the Integrated Child Protection Scheme (ICPS) to bring together multiple existing child protection schemes of the Ministry under one comprehensive umbrella, and to integrate additional interventions for protecting children and preventing harm. ICPS, therefore, institutionalizes essential services and strengthens structures, enhances capacities at all levels, creates database and knowledge base for child protection services, strengthens child protection at family and community level and ensure appropriate inter-sectoral response at all levels. All the programmes relating to the JJA(C&PC) Act come under the ICPS.

The implementation of the ICPS in Madhya Pradesh remains wanting. In September 2012, the Madhya Pradesh State Government stated that *State Adoption Resource Agency (SARA)* was set up in March, 2011, State Project Support Unit (SPSU) in June, 2011 and *State Child Protection Society (SCPS)* in July, 2010 but the staff could not be appointed as clearance for creation of posts was not provided by the Finance Department earlier. It was informed that in all 667 positions under ICPS (including staff at service delivery structures) in the State will be filled by October/November 2012.²⁸

Madhya Pradesh government further informed the Ministry of Women and Child Development that the State was finding it difficult to recruit suitable staff due to low salaries under ICPS, some of which are lower than the minimum wages prescribed in the State. While mentioning that the Ministry will be processing for enhancement of norms, Joint Secretary advised the State to supplement the salary

from their own resources, as required.²⁹ Ironically, it is the same State government which is paying Rs 120 to members of the JJBs instead of Rs 500 as allowance for per sitting and travel as provided under the Madhya Pradesh Juvenile Justice Rules, 2003 (amended in 2008).

3.1 ACHR's fact finding reports

As part of its research, ACHR researcher visited two juvenile homes in Madhya Pradesh i.e. Bhopal on 6-7 March 2012 and Indore on 16-17 April 2012 to examine the functioning of the statutory structures for administration of juvenile justice and the state of the institutions providing institutional care.

Bhopal was chosen for being the capital of the state and Indore being the commercial city of the state. Further, the Observation Homes of both Bhopal and Indore have to accommodate inmates from other districts. The Observation Home for Boys, Bhopal had to accommodate inmates from four other districts of Raisen, Rajgarh, Vidisha and Sehore. In Indore, the Observation Home caters juveniles from six districts of Barwani, Burhanpur, Dhar, Jabua, Khandwa and Kargone.

Interviews were conducted with the Principal Magistrates and Social Workers of the JJBs of Bhopal and Indore, juveniles, parents of the juveniles, Probation Officers and Superintendents of the Observation Homes of Bhopal and Indore.

ACHR field visits revealed that while juveniles were treated well once produced before the Juvenile Justice Boards but they were subjected to torture and other inhuman and degrading treatment while in police custody.

life-for-murder-gets-relief-from-sc_622951.html

28. Minutes of 51st PAB Meeting under ICPS held on 18th September 2012 to discuss the financial proposal of Madhya Pradesh available at [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP\(1\).pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP(1).pdf)

29. Minutes of 51st PAB Meeting under ICPS held on 18th September 2012 to discuss the financial proposal of Madhya Pradesh available at [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP\(1\).pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP(1).pdf)

A. Findings of the Bhopal field visit

i. Interviews with members of JJB, Bhopal

The ACHR researcher visited the Juvenile Justice Board and Observation Home in Bhopal on 6-7 March 2012. Ms. Preety Singh, the Principal Magistrate and Mr. Satyendra Saxena, Member of the JJB, Bhopal were interviewed on 6 March 2012. The post of one member i.e. female social worker was lying vacant for the last 18 months.

ACHR was informed that the JJB met two days in a week and conducted its sitting in the premise of the Observation Home, Bhopal. Principal Magistrate Ms. Preety Singh informed that majority of the cases were solved within four months except in certain cases in which delay occurred due to non-appearance of witnesses on the date of proceeding before the Board.

On being asked about the reasons for crime by children, the Principal Magistrate and the Member stated that the main cause leading to juvenile delinquency was due to bad company which encourages a juvenile to get involve into illegal activities. They also stated that poverty alone was not the reason for juveniles to get involved in crimes as children from wealthy family also got involved in crime.

The Principal Magistrate informed that the Board arranged counselling for the juveniles and the parents and that when the Board conducted inquiry it relied on the birth certificate or medical opinion with respect to juvenile's age and physical and mental condition. ACHR researcher was also told by the Principal Magistrate that when a child is produced first before the Board, the Board immediately determined whether the child could be released on bail. If the child could be released on bail, then the Board released the child either to a lawful guardian or to a fit person/institution or on personal bond. ACHR was also informed that while conducting inquiry information was collected regarding the child's family and situation under which the child was forced to do such offence.

The Principal Magistrate stated that financial assistance was provided to the juveniles after they were released. In some cases the Board helped the juveniles in the continuation of their study and helped them to get jobs.

Under Rule 14 of the Central Juvenile Justice Rules of 2007, the Legal Officer of the District Child Protection Unit and the State Legal Authority are under obligation to provide free legal services to all the juveniles in conflict with law as sought by the JJBs and in the event of shortfall in the State Legal Aid Services support, the JJBs shall be responsible for seeking legal services from recognized voluntary legal services organisations or the university legal services clinics. During the interview it was learnt that Samvedana, an NGO based in Bhopal, provided legal aid to the juveniles through the permission of the JJB, Bhopal.

ii. Interview with Probation Officer of JJB, Bhopal

During the visit, ACHR researcher interviewed Ms. Chandra Prabha Chaturvedi (53), Probation Officer (PO) of the Juvenile Justice Board, Bhopal on 6 March 2012. Ms. Chaturvedi was delegated to the post in 2003. She was also holding the additional charge of PO of JJB, Sehore district.

The PO stated that she was aware of the UN Convention on the Rights of Child and United Nations Standard Minimum Rules for the Administration of Juvenile Justice. She has also undergone training on child welfare.

According to the PO, broken families, lack of parental control on children, low family income and financial problems are reasons for juvenile delinquency. She informed that the juveniles are being treated as problem in the society which needs to be changed. She stated that the best way to tackle the juvenile delinquency is to advice them about the evils of crime and create awareness. Further, the PO suggested that the mindset of the people against the juveniles should be changed by not treating them as problem but to understand the reason behind children getting involved in crimes.

iii. Interview with Superintendent of Observation Home for Boys, Bhopal

Mr. Ramesh Gohiya (59 years), Superintendent of the Observation Home for Boys, Bhopal was interviewed by ACHR researcher on 7 March 2012. Mr. Gohiya holds Masters in Economics and was appointed to the post through departmental promotion on 17 January 2007.

Mr. Gohiya informed that the Observation Home caters to juveniles from four districts namely Raisen, Rajgarh, Vidisha and Sehore apart from Bhopal. Majority of the juveniles were from Bhopal district. ACHR researcher was informed that the numbers of juveniles varied from month to month but there was no overcrowding. The juveniles were kept separately on the basis of their age.

The Home has facilities such as fans, coolers etc. Free medical checkup and free medicines are provided to them in the Observation Home and there is a separate room for the children suffering from communicable diseases. The psychologist visits the Home on request.

The parents/guardians of the juveniles are allowed to visit any day of a week except on Sundays.

iv. Interview with parents

During the visit on 7 March 2012 to the Observation Home, Bhopal, ACHR researcher witnessed a number of parents/guardians standing outside the Home who had come to see their wards whose cases were to be heard by the JJB on the day. The parents/guardians were hesitant to talk to ACHR researcher.

ACHR researcher managed to convince Ms. Gita (40), a mother of one juvenile who was kept in the Observation Home, Bhopal. She hails from Chhattisgarh and belongs to a poor family. She informed that her son dropped out of school and was arrested in connection with a murder case. She added that her son had no previous criminal record.

The mother told the researcher that she was present in all the hearings in the JJB. The behavior of Board members and the police towards her son was good. However, she was informed about the apprehension of his son only after one week of arrest.

The mother stated that counseling was given but through phone. Even the Probation Officer contacted them through phone while conducting the social investigation report.

v. Interviews with juveniles kept in Observation Home, Bhopal

ACHR researcher interviewed three juveniles, Sunil, Raju and Manish (name changed) aged between 16 and 17 years, of Observation Home for Boys, Bhopal on 7 March 2012. Sunil was a school drop-out, Raju never went to school and Manish was a regular student. Sunil and Raju come from poor background, while Manish's father works in a government bank.

Sunil and Raju stated that their experience with the police was bad. Sunil stated that the police handcuffed and beaten him before being produced before the Juvenile Justice Board, Bhopal. Raju stated that he was arrested from Shivnagar, Bhopal and taken to M P Nagar police station where he was detained for four days. Raju further alleged that he was forced to confess the crime and subjected to beating. Manish stated that he was treated properly by the police.

All the three juveniles stated that they were treated in a friendly manner by the JJB members. They also stated that they faced no problems in the Observation Home, Bhopal. The staffs were friendly and they were provided with facilities which includes education, vocational training, recreation, medical, game and sport etc. Meal was served three times a day and quality of the food was good. They stated that the rooms were cleaned once every day by a sweeper who came in the morning. Overall, all the three juveniles appeared satisfied with the facilities available in the Home.

B. Findings of the Indore field visit

i. Interview with Principal Magistrate and Member, JJB, Indore

On 17 April 2012, ACHR researcher visited the Juvenile Justice Board, Indore and interviewed Principal Magistrate Mr Rajen Kumar Srivas and Member Ms. Meghmala Khawilkar. Mr Srivas has been the Principal Magistrate for last two years. The JJB, Indore has only one member apart from the Principal Magistrate. The post of another Member was vacant for the last two years.

ACHR researcher was informed that the Board meets two days in a week. The sittings are conducted in the Observation Home, Indore. The Principal Magistrate and the Member had given a number of reasons for juvenile delinquency. Among others, these included lack of parental control and encouragement by parents to do such kind of acts in some cases, financial problems and some of them are forced and threatened by local mafia to do unlawful activities.

The JJB members appeared to be not fully aware of the international standards on juveniles justice including the UN Convention on the Rights of Child, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985, United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guideline) 1990, and United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (JDLS) 1990.

The Board Members informed ACHR researcher that most of the juveniles brought before the Board were apprehended by the police and later handed over to the Probation Officer of the Juvenile Board. However, the researcher found that a juvenile was brought to the JJB by a policeman in uniform. The PO conducts the Social Investigation Report (SIR) and other basic necessities. On the basis of the PO's SIR the Board decides the cases of the juveniles.

The Principal Magistrate stated that in maximum cases the Board released the juveniles on bail except in heinous cases such as murder, rape, etc due to safety and security reasons.

ACHR researcher was informed that non appearance of witnesses on the date of proceedings and lack of evidence in the cases were among the major causes of the cases getting delayed. The Principal Magistrate stated that the witnesses often did not appear despite repeated summons.

Rule 8 of the Madhya Pradesh Juvenile Justice Rules, 2003 (amended in 2008) provides that the Social Worker Members of the Board shall be paid such travels and sitting allowance as the State Government may determine but it shall not be less than Rs 500/- per sitting. But, Member of JJB, Indore informed that contrary to the provision they were being provided with only Rs.120/-.

ii. Interview with Probation Officer, JJB, Indore

On 17 April 2012, ACHR researcher interviewed Mr Omesh Singh Yadav (31 years), Probation Officer delegated to Juvenile Justice Board, Indore. Mr Yadav has been holding this post for last seven years. He holds a Bachelor Degree in Science.

The Probation Officer stated that he had not undergone any training with regard to child rights and he appeared unaware of the UN Convention on the Rights of the Child, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), 1985, United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), 1990.

Mr Yadav stated he prepare the Social Investigation Report (SIR) of the juveniles when asked by the JJB, Indore. ACHR researcher was informed that while preparing the SIR information relating not only to the nature of offence, family background and economic status of the family of the juvenile are collected but also the circumstances that deviated the juvenile from the normal path as well as the impact of the above mentioned things on the juvenile's psychology etc.

The PO stated that majority of the juveniles were illiterate and they committed the offences as they were unaware of nature and consequence of the offences.

iii. Interview with Superintendent of Observation Home, Indore

On 17 April 2012, ACHR researcher interviewed Mr. Ashish Kumar Singh (33), Superintendent of the Observation Home, Indore. Mr. Singh holds a Masters Degree in Sociology. He was appointed as the Superintendent after clearing the Madhya Pradesh Public Service Examination. At the time of visit, Mr Singh completed one year in office.

The Superintendent stated that most of the juveniles in the Home were quite aware of the nature and consequence of the offences which they had committed.

Mr Singh stated that segregation was done only on the basis of age and not on the nature of offences. However, Mr Singh informed that they have separate beds to sleep. Medical facility is available. Doctor visits the Home every alternative day. Mr Singh stated that doctor's duty is fixed by the Collector. However, there is no separate sick room in the Home.

ACHR researcher was informed that the juveniles were provided with two main meals, breakfast in morning and snacks in the evening. The inmates were provided two pairs of pants and kurtas. Hair oil, soap, sleepers and other necessary items are given. Recreation facilities are provided such as indoor games like ludo, carom and chess. The Home is equipped with a LCD TV attached with DTH connection. Non-formal education is provided. But, there is no separate room for teaching. One hall is used as teaching and recreation room. No vocational training is available.

Mr. Singh informed that no legal aid is provided to the juveniles in the Observation Home.

ACHR researcher found the condition of the Observation Home, Indore below the standard as required under the JJ Act.

iv. Interview with juveniles of Observation Home, Indore

ACHR researcher interviewed two juveniles Satish and Anuj (names changed) of Observation Home, Indore on 17 April 2012. Both Satish (17) and Anuj (13) were school drop out after 3rd and 5th standard respectively. Both of them were in the Observation Home since two months.

Satish stated that he had surrendered to Indore police station, while Anuj was apprehended by the police. Satish alleged that the police forced him to confess to the crime and subjected to beating by the police before being produced before JJB, Indore. Anuj stated that his experience with the police was good, but alleged that the police behaved badly immediately after apprehending him.

However, both the juveniles stated that they were treated well in the JJB and Observation Home.

3.2 State of the statutory structures for administration of juvenile justice

A. Juvenile Justice Boards

Section 4, sub section (1) of the JJ(C&PC) Act 2000 (as amended in 2006) states as under:

“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.”

Madhya Pradesh has 50 districts. There were 48 JJBs as on 8 March 2010.³⁰ On 23 September

30. D.O. letter No./210/CS/JJA/2010 dated 8.3.2010 obtained under the RTI Act, 2005 by Suhas Chakma, Director of Asian Centre for Human Rights

2012, the Madhya Pradesh State government informed the PAB, IPCS, Ministry of Women and Child Development that CWCs and JJBs have been constituted in all the 50 districts. It was also informed by the State that the computers were being provided and the Data Entry Operators would join by end of October 2012.³¹

There should be at least one probation officer/case worker with professional on a full-time basis to each JJB for rendering effective assistance in timely completion of profiles of children and statutory inquiries as required under the JJ(C&PC) Act. As envisaged under the ICPS the state government is required to provide all the infrastructure, manpower and financial support to the JJBs.

The Madhya Pradesh government in a letter dated 8 March 2010 to the National Commission for Protection of Child Rights (NCPCR) while submitting the status report of implementation of the JJ(C&PC) ACT stated that 45 Probation Officers/Case Workers/Social Workers/Counselors were attached to the JJBs.³²

Rule 7 of the Madhya Pradesh Juvenile Justice (Care and Protection of Children) Rules, 2003 states that “(1) Board shall hold sittings in the premises of an observation home. The Board shall meet on two working days of a week on Wednesday and Friday from 11.00 a.m. to 5.00 p.m.” However, only 18 out of the 50 JJBs in the state were sitting in the premises of the Observation Homes as on 22 November 2011. The rest were functioning in rented buildings.³³ Therefore the effective implementation of the Juvenile Justice Act remained questionable as majority of the JJBs were functioning from rented buildings.

The JJB members lacked training on the role, relevant legislation and policies and the manner in which they are expected to discharge their responsibilities. The state government admitted on 22 November 2011 during the PAB meeting that “training is required for all members of JJBs” in the state.³⁴

i. Lack of review of cases pending before the JJBs

As per Section 14(2) of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 “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”.

During the 29th Meeting of the Project Approval Board (PAB) of the Ministry of Women and Child Development, Government of India under Integrated Child Protection Scheme (ICPS) held on 22 November 2011, the state government informed that more than 5,000 cases were pending before the Juvenile Justice Boards in the state. However, at the intervention of the State’s High Court several cases were disposed off through Lok Adalats. The state government also requested the High Court to increase the number of sittings of the JJBs to reduce the pendency.³⁵

However, the cases continue to pile up at an alarming rate. The Project Approval Board, Ministry of Women & Child Development during its 51st meeting held on 18 September 2012 expressed concern at the high pendency of cases in the Juvenile Justice Boards of the State. The PAB noted that there were 14,000 cases pending disposal in the JJBs.³⁶ During the 29th Meeting of the PAB held on 22 November 2011 the Madhya

31. Minutes of 51st PAB Meeting under ICPS held on 18th September 2012 to discuss the financial proposal of Madhya Pradesh available at [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%202012%20MP\(1\).pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%202012%20MP(1).pdf)

32. D.O. letter No./210/CS/JJA/2010 dated 8.3.2010 obtained under the RTI Act, 2005 by Suhas Chakma, Director of Asian Centre for Human Rights

33. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

34. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

35. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

36. Minutes of 51st PAB Meeting under ICPS held on 18th September 2012 to discuss the financial proposal of Madhya Pradesh, available at: [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%202012%20MP\(1\).pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%202012%20MP(1).pdf)

Pradesh State Government informed that more than 5,000 cases were pending before the Juvenile Justice Boards in the state.³⁷ This means that 9,000 cases increased in a span of one year.

As per the NCRB, an average of more than 2000 cases remains pending disposal every year. The NCRB reported that 2170 cases were pending disposal at the end of 2011, 2033 cases were pending disposal in 2010, 2154 cases were pending in 2009, 2480 cases were pending in 2008,³⁸ 2068 cases were pending disposal in 2007, 3361 cases were pending in 2006 and 2595 cases were pending in 2005.³⁹

The high pendency of cases in the Juvenile Justice Boards makes amply clear that the two days sittings per week conducted by the JJBs are grossly inadequate to contain the pendency. There is an urgent need to increase the number of sitting or to conduct sitting on daily basis. Further, the failure to dispose the cases indicates that the state government failed to provide the manpower and financial support to the JJBs as envisaged under the ICPS. As per the JJ(C&PC) Act, there should be at least one probation officer/case worker with professional on a full-time basis to each JJB for rendering effective assistance in timely completion of profiles of children and statutory inquiries.

The lack of seriousness of the State Government is further established by the fact the state government failed to spend Rs. 12.55 lakhs out of the amount released during 2011-12 under ICPS as on 1 April 2012.⁴⁰ During 2011-12, the Ministry released Rs. 2,40,31,000 under ICPS as Central Share.⁴¹

There were no overcrowding in the Government run Observation Homes and Special Homes. This was claimed by the State Government of Madhya Pradesh during the 51st meeting of the Project Approval Board held on 18 September 2012.

The state government claimed that 379 juveniles in conflict with law were lodged in the 18 Observation Homes of the state as on 1 April 2012. The detail is given in the following table:⁴²

Sl No.	Names of Observation Homes/ Districts	Sanctioned capacity	Actual No of inmates as on 1.4.2012
1	OH for Boys, Bhopal	50	32
2	OH for Girls, Vidisha	50	7
3	OH for Boys, Betul	50	17
4	OH for Boys, Indore	50	45
5	OH for Boys, Jhabua	50	10
6	OH for Boys, Khandwa	50	21
7	OH for Boys, Ujjain	50	20
8	OH for Boys, Ratlam	50	20
9	OH for Boys, Gwalior	50	14
10	OH for Boys, Guna	50	35
11	OH for Boys, Morena	50	10
12	OH for Boys, Sagar	50	40
13	OH for Boys, Chatarpur	50	24
14	OH for Boys, Rewa	50	46
15	OH for Girls, Shadol	50	5
16	OH for Boys, Jabalpur	50	28
17	OH for Boys, Narsinghpur	50	10
18	OH for Boys, Seoni	50	15
	Total	900	379

37. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

38. Chapter 10, Table 10.13, Crime in India 2010, National Crime Records Bureau, available at: <http://ncrb.nic.in/CI2010/cii-2010/Table%2010.13.pdf>

39. Crime in India, 2005 to 2011, NCRB, available at: <http://ncrb.nic.in/>

40. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

41. Sanction Letter dated 28 December 2011, available at: <http://wcd.nic.in/icpsmon/pdf/sanctions/mpdtd14022012.pdf>

42. Minutes of 51st PAB Meeting under ICPS held on 18th September 2012 to discuss the financial proposal of Madhya Pradesh, available at: [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%202012%20MP\(1\).pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%202012%20MP(1).pdf)

B. Child Welfare Committees

Section 29 (1) of the JJ(C&PC) Act 2000 (as amended in 2006) states that *“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.”*

According to the information available with the website of the Women and Child Development, CWCs have been constituted in all the 50 districts of the state.⁴³ Earlier, Madhya Pradesh government in a letter dated 8 March 2010 informed the NCPCR that 48 out of 50 CWCs were functional in the state.⁴⁴ It is not known whether or not all the 50 CWCs are functional as of date.

i. Lack of review of pending cases before the CWCs

Section 33(3) of the JJ(C&PC) Act, 2000 as amended in 2006 provides as under:

“The State Government shall review the pendency of cases of the Committee at every six months, and shall direct the Committee to increase the frequency of its sittings or may cause the constitution of additional Committees.”

The number of pendency of cases in the CWCs is reportedly less in Madhya Pradesh. However, there seems to be lack of review of the existing pending cases in the CWCs as many members did not attend the meetings at all.

The National Commission for Protection of Child Rights (NCPCR) during its visit to Satna district from 25 to 27 March 2011 found that the CWC was sitting twice a week but most of the stakeholders,

who deal with children, were not aware of the CWC and its functions. In its recommendations, the NCPCR stated as under⁴⁵:

“a. A Circular is to be issued to different Departments, e.g., WCD, Health, Education and Police by District Authority about role and responsibility of Child Welfare Committee along with details of address, sitting time and contact details of Chairperson and member of CWCs.

b. Capacity building of the members of the Child Welfare Committee of the District to make them more child-friendly to deal with the children in need of care and protection. Ensure that CWC meets regularly.

c. The District Magistrate should ensure that a direct interface between CWC and member of civil society organisation are organised at earliest through DWCD.”

During the 29th Meeting of the Project Approval Board under ICPS held on 22 November 2011, the state government of Madhya Pradesh informed that the number of pending cases in the CWCs was very less, but admitted that there were instances of CWC members not attending the meetings at all. The PAB advised the state government to review the existing cases and to replace the defaulting CWC members.⁴⁶

In addition, proper procedures were not followed by the CWCs. On 22 November 2011, the state government informed during the PAB meeting that a CWC had given one child in foster care without following due procedures. The PAB advised the state government to closely monitor such cases and to follow proper procedures in the future.⁴⁷

43. List of JJBs and CWCs, Women and Child Development, Madhya Pradesh, available at: <http://www.mpwcd.nic.in/icps/ListofKishoreNyayaBoard.pdf>

44. D.O. letter No./210/CS/JJA/2010 dated 8.3.2010 obtained under the RTI Act, 2005 by Suhas Chakma, Director of Asian Centre for Human Rights

45. Report dated 10 May 2011 of NCPCR's visit to Satna district of Madhya Pradesh between 25-27 March 2011, available at: [http://www.ncpcr.gov.in/Reports/Recommendation%20Made%20After%20Visit%20to%20Satna%20District%20\(MP\).pdf](http://www.ncpcr.gov.in/Reports/Recommendation%20Made%20After%20Visit%20to%20Satna%20District%20(MP).pdf)

46. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

47. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

The failure to attend the meetings by the CWC members questions the very functioning of the existing CWCs in the state. Mere setting up of CWCs and appointing the members are not adequate. It is imperative on the government to appoint the right persons and to provide training on the JJ (C&PC) Act to the appointed CWC members.⁴⁸

The PAB in its 51st meeting under ICPS held on 18th September 2012 to discuss the financial proposal of Madhya Pradesh “noted that the CWCs are sitting for only two days in a week i.e. 8 sittings in a month. It was suggested that the State, through training, impress upon the Members that they are required to perform other functions such as inspections, follow up of individual care plans etc and it is important for the CWCs to increase the number of sittings to 12 per month as prescribed under the Scheme.”⁴⁹

C. Inspection Committees

Section 35 of JJ(C&PC) Act states as under:

“(1) The State Government may appoint inspection committees for the children’s homes (hereinafter referred to as the inspection committees) for the State, a district and city, as the case may be, for such period and for such purposes as may be prescribed.

(2) 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 as may be prescribed.”

The Madhya Pradesh government in a letter dated 8 March 2010 informed the NCPCR that

26 Inspection Committees were functional in the state.⁵⁰ At district level, the District Collector and Department officials from the district form part of the Committee as stated by the state government on 22 November 2011 during the PAB meeting.⁵¹

As per Rule 63 of the Juvenile Justice (Care and Protection of Children) Rules, 2007, the Inspection Committees are required to visit and oversee the conditions in the institutions and appropriateness of the processes for safety, well being and 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. Further, the inspection shall be carried out at least once in every three months.

On 22 November 2011, the state government informed during the PAB meeting that 70 Child Care Institutes (CCIs) were identified in the state and many of them were functioning without registration.⁵² Given that many of the CCIs were functioning without registration it becomes important to conduct inspections at regular intervals.

D. Special Juvenile Police Units

Under section 63(2) of the JJ(C&PC) Act in every police station at least one officer is to be designated as the “Juvenile or Child Welfare Officer” who will handle the juvenile or child in co-ordination with the police. Similarly, under section 63(3) of the Act, “Special Juvenile Police Unit” of which all Juvenile or Child Welfare Officers shall be members, shall be set up in every district “to co-ordinate and to upgrade the police treatment of the juveniles and the children”.

48. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

49. Minutes of 51st PAB Meeting under ICPS held on 18th September 2012 to discuss the financial proposal of Madhya Pradesh available at [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP\(1\).pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP(1).pdf)

50. D.O. letter No./210/CS/JJA/2010 dated 8.3.2010 obtained under the RTI Act, 2005 by Suhas Chakma, Director of Asian Centre for Human Rights

51. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

52. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

The Madhya Pradesh government in a letter dated 8 March 2010 informed the NCPCR that Special Juvenile Police Units (SJPU) have been set up in all the 50 districts of the state. But Madhya Pradesh government also claimed that only 836 Juvenile or Child Welfare Officers were trained⁵³ which implies that a maximum of 836 police stations had at least one trained Juvenile or Child Welfare Officer. However, as per the Bureau of Police Research and Development, there were 941 police stations in the State as on 1 January 2010 and this implies that about 105 police stations did not have either any Juvenile/Child Welfare Officer or trained Juvenile/Child Welfare Officer to handle the juveniles or children under the JJ(C&PC) Act.⁵⁴ Nonetheless the claim of the State Government is false as the first Special Juvenile Police Unit was launched in the state as late as in November 2010.⁵⁵

This is confirmed by the NCCPR which during a visit to Satna District of Madhya Pradesh on 25-27 March 2011 found that no Special Juvenile Police Unit was set up in Satna district.⁵⁶ This means that the claim of the state government that it had constituted SJPU in all the 50 district remains suspect. Further, the illegal detention of juveniles at the police stations and delay in producing the juveniles in the JJBs support this.

In its recommendation, the NCPCR stated “Special Juvenile Police Unit (SJPU) must be formed as per the provisions of the JJ Act without further delay and organise sensitization and training programme for the members of the SJPU.”⁵⁷

53. D.O. letter No./210/CS/JJA/2010 dated 8.3.2010 obtained under the RTI Act, 2005 by Suhas Chakma, Director of Asian Centre for Human Rights

54. Data on Police Organisation in India as on 1 January 2010, BPRD, available at: <http://bprd.nic.in/writereaddata/linkimages/1243588636-Data%20on%20Police%20Organization%202010.pdf>

55. MP gets first special juvenile police unit, Zee News, 14 November 2010, available at: http://zeenews.india.com/news/madhya-pradesh/mp-gets-first-special-juvenile-police-unit_668091.html

56. Report dated 10 May 2011 of NCPCR's visit to Satna district of Madhya Pradesh between 25-27 March 2011, available at: [http://www.ncpcr.gov.in/Reports/Recommendation%20Made%20After%20Visit%20to%20Satna%20District%20\(MP\).pdf](http://www.ncpcr.gov.in/Reports/Recommendation%20Made%20After%20Visit%20to%20Satna%20District%20(MP).pdf)

57. Report dated 10 May 2011 of NCPCR's visit to Satna district of Madhya Pradesh between 25-27 March 2011, available at: [http://www.ncpcr.gov.in/Reports/Recommendation%20Made%20After%20Visit%20to%20Satna%20District%20\(MP\).pdf](http://www.ncpcr.gov.in/Reports/Recommendation%20Made%20After%20Visit%20to%20Satna%20District%20(MP).pdf)

3.3 State of the institutions providing institutional care

A. Observation Homes

Sub sections of (1) and (2) of Section 8 of the JJ(C&PC) Act 2000 provide for establishment of “Observation Homes” in every district or a group of district or certify any institutions as “Fit Institutions” for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under the Act.

According to the Women and Child Development Department, Madhya Pradesh, there are 18 Government Observations Homes in the state situated in the districts of Bhopal, Vidisha, Betul, Indore, Jhabua, Khandwa, Ujjain, Ratlam, Gwalior, Guna, Morena, Sagar, Chattarpur, Rewa, Shahdol, Jabalpur, Narsingpur and Seoni.⁵⁸ Out of these 18 Observation Homes, 16 are for boys and two for girls (Vidisha and Shahdol).⁵⁹ There are no Observation Homes run by NGOs/Voluntary Organizations in the state.⁶⁰

The 18 Observation Homes are far from adequate given the rise in juvenile delinquency in the state. According to NCRB, an average of about 5,000 cases of juvenile crimes under the IPC is reported in the state every year. While more than 5000 juveniles are apprehended every year on various charges under the IPC.⁶¹ According to the NCRB, Madhya Pradesh topped the list of juvenile crimes under the Indian Penal Code (IPC) with 4,997 crimes in 2011, while 5495 juveniles were apprehended for these crimes.⁶² Yet, despite rise in crimes by the juveniles, there are no Observation Homes in the rest 32 districts.

58. List of Govt. Observation Homes, Women and Child Development Department, Madhya Pradesh, available at: <http://www.mpwcd.nic.in/icps/GovtInstitution.pdf>

59. Affidavit Submitted to Hon'ble Supreme Court in the Matter of W.P (CIVIL) NO.473 Of 2005 by NCPCR, available at: <http://www.ncpcr.gov.in/juvenilejustice.htm>

60. Information available at the website of Women and Child Development Department, Madhya Pradesh, <http://www.mpwcd.nic.in/ICPS.html>

61. Crime in India, 2005 and 2011, NCRB, available at: <http://ncrb.nic.in/>

62. Crime in India, 2005 and 2011, NCRB, available at: <http://ncrb.nic.in/>

Further, the existing Observations Homes were underutilized in the state. During the 29th Meeting of the Project Approval Board (PAB) of the Ministry of Women and Child Development, Government of India under Integrated Child Protection Scheme (ICPS) held on 22 November 2011, the PAB noted that 15 out of the 18 Observation Homes were underutilized. The PAB advised the state government to rationalize the number of Observation Homes in term of capacity and manpower and to use cluster approach for Homes.

The PAB highlighted another problem and recommended that *“The State should ensure that only those children who are found guilty by JJBs after enquiry should be sent to Special Home and children in need of care and protection should not be kept in these Homes.”*⁶³

This suggests that children in conflict with law and in need of care and protection were kept in the Observation Homes. As a result, the implementation of the provisions of the JJ(C&PC) Act in letter and spirit in the state remained questionable.

*i. Conditions of Observation Homes Govt. Observation Home, Seoni*⁶⁴

The Government Observation Home, Seoni has been functioning since 5 October 1993. Both the Observation Home and Special Home, Seoni are located in the same premise. Apart from juveniles in conflict with law from Seoni district, juveniles from Balaghat district were also accommodated in the Observation Home.

The infrastructure of the Home included five bathrooms, five toilets, one recreation Hall, two learning Room and training hall, one kitchen, two big bedrooms, one Sick room, one JJB/CWC room with office and one room for the Superintendent.

The sanctioned capacity of the Observation Home is 50. There were only 5 (five) inmates as on 9 May 2012. The month-wise number of inmates lodged at the Home from 2010 till 9 May 2012 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	17	11	12	11	09	07	08	06	07	10	17	16
2011	13	14	18	14	10	17	14	08	14	19	21	14
2012	13	10	13	09	05							

No staff has been appointed for the Observation Home, Seoni. In the absence of provision of separate staff in the Home, the inmates are kept at the Special Home, Seoni. The inmates are separately housed on the basis of their age group (12-14; 14-16; and 16-18) in the Special Home.

Education and vocational training are being provided to the inmates by the educator and a trainer respectively at the Special Home.

The Observation Home, Seoni was inspected 8 (eight) times from 2010 to 9 May 2012. The last three inspections were carried out in March 2012 which were conducted by the Collector, Seoni (1 March), Principal Magistrate, Juvenile Justice Board, Seoni (14 March); and District Programme Officer, Women and Child Development Department, Seoni (on 29 March 2012).

In the absence of separate staff, the existence of the Observation Home is only on paper. Despite the inspections, there has been no indication to provide staff for the Observation Home.

Govt. Observation Home, Chatarpur⁶⁵

The Government Observation Home, Chatarpur was established during fiscal year 1981-82. It started functioning from November 1981. The sanctioned capacity of the Home is 50. The month

63. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

64. RTI reply dated 9 May 2012 received from the Superintendent, Govt. Special Home, Seoni, Madhya Pradesh

65. RTI reply dated 17 May 2012 received from the Superintendent, Observation Home, Chatarpur, Madhya Pradesh

wise number of inmates lodged in the Home from 2010 till 17 May 2012 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	05	03	14	11	14	15	17	09	10	10	10	14
2011	06	08	07	16	10	13	17	14	25	08	04	09
2012	12	05	06	10	02							

The total sanctioned staff of the Home is 12. However, out of these the posts of the Case Worker, Security Guard and Probation Officer were vacant as on 17 May 2012. There is no educator posted in the Home as the state government has not sanctioned for the same. The Superintendent of the Home states that the juveniles are lodged at the Home only for few months and education is being provided to the inmates by the trainer/instructor as per their qualifications. The inmates are also being provided vocational training in the Home.

The Home was built in an area of 70 x 200 square feet. The infrastructure includes 11 rooms, one courtyard, one kitchen, sleeping room has attached latrine and bathroom, separate entertainment room and separate vocational training room. There are two separate bathrooms and latrines in another side of the building. The Home has boundary walls in all the four sides. There is a playground inside the boundary walls. The beautification of the Home was underway as on 17 May 2012.

There is segregation of inmates on the basis of age and nature of crimes as required under the JJ(C&PC) ACT. The inmates in the age groups of 07-12; 13-16; and 16 and above are separately housed.

The District Collector inspects the Home every year. However, no inspection was carried out from 2011 till 17 May 2012. The last inspection was conducted on 3 September 2010.

Govt Observation Home, Indore⁶⁶

The Government Observation Home, Indore was established in 1972. This Observation Home has

to accommodate juveniles from six other districts – namely Barwani, Burhanpur, Dhar, Jhabua, Khandwa and Khargone.

The sanctioned capacity of inmates in the Home is 50. There was no overcrowding. The number of inmates lodged was 29 in April 2012. The month-wise number of inmates lodged at the Home from 2012 to April 2010 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	18	10	24	24	24	40	27	31	18	13	18	21
2011	12	26	33	20	21	25	25	30	37	19	24	13
2012	32	26	11	29	02							

The sanctioned number of staff is 16. These include – Superintendent, Accountant, Matron, Vocational Trainer, House Master, Assistant Grade-3, three Peons, two Caretakers, Cook and Watchman. However, only 13 staff were posted in the Home as on 24 May 2012. There are no Case Worker, Probation Officer and educator in the Home.⁶⁷ The post of the Probation Officer was lying vacant from 31 March 2011.⁶⁸

In the absence of educator, a Vocational Trainer posted in the Home has to teach the inmates apart from providing vocational training.

The Observation Home is functioning from independent building. There are three bathrooms, four toilets and one Recreation Centre in the Observation Home.

The inmates are segregated on the basis of age i.e. 8-12 years, 12-16 years and 16-18 years.

In his RTI reply, the Superintendent of the Home informed ACHR that inspections are conducted as per roster. However, the Superintendent did not mention as to the number of inspections conducted in the Home since 2010.

66. RTI reply dated 24 May 2012 received from Superintendent of Observation Home, Indore (Madhya Pradesh)

67. RTI reply dated 24 May 2012 received from Superintendent of Observation Home, Indore (Madhya Pradesh)

68. RTI reply dated 23 April 2012 received from Public Information Officer, Women and Child Development Department, Madhya Pradesh

Currently no child in need of care and protection was kept in the Observation Home, Indore. However, children in need of care and protection were kept in the Home till September 2007.

Govt. Observation Home for Boys, Bhopal⁶⁹

The Government Observation Home, Bhopal was set up in 1979 and it started functioning from 1 September 1979. The sanctioned capacity of the Home is 50 inmates. There is no overcrowding. As per information obtained by Asian Centre for Human Rights under the RTI Act, 40 juveniles in conflict with law were lodged in the Observation Home in the month of April 2012. The month-wise number of inmates lodged at the Home from 2010 till April 2012 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	40	29	27	24	17	25	23	27	25	17	24	17
2011	28	20	20	25	41	23	29	31	29	29	28	40
2012	25	12	18	40	02							

The sanctioned staff in the Home is 16. These includes – Superintendent, Probation Officer, Vocational Trainer, Matron, House Master, Accountant, Assistant Grade-3, two Peons, Caretaker, two Watchmen (Chowkidar), Cook, Gardener, Sweeper and one Doctor (voluntary). The post of the Superintendent was lying vacant as on 24 May 2012 who seemed to have retired following the field visit of ACHR. The Vocational Instructor/Trainer of the Home was given the charge of the Superintendent. In addition, the Vocational Instructor/Trainer was also given the charge of the Probation Officer. The post of the Probation Officer is sanctioned but not filled up as on 23 April 2012. RTI information obtained from the Public Information Officer, Women and Child Development Department, Madhya Pradesh revealed that the post of the Probation Officer has been lying vacant since 2003.

The post of educator is not sanctioned in the Home, therefore no education is provided to the inmates. The RTI information received by ACHR claimed that vocational training is provided to the inmates by the Vocational Trainer/Instructor posted in the Home. However, it is doubtful whether the only Vocational Trainer/Instructor posted in the Home, who was given the additional charges of Superintendent and Probation Officer, is able to provide vocational training.

Infrastructure includes five bathrooms, six toilets, one recreation and study room and one training room.

The inmates are segregated on the basis of age groups i.e. 6-10 years, 11-14 years and 15-18 years. The inmates are also kept separately on the basis of the nature of offences.

The Acting Superintendent of the Observation Home informed ACHR that inspections are conducted every year.

Govt. Observation Home for Boys, Guna⁷⁰

The Government Observation Home for Boys, Guna was set up in 1980. The sanctioned capacity of inmates in the Home is 50. As per RTI information received by ACHR, 392 inmates were admitted at the Home from 2010 till 23 May 2012. 16 inmates were kept in the Home in April 2012. The superintendent of the Observation Home did not provide the month-wise members of the inmates in the Home.

There are eight sanctioned staff in the Home, including the Superintendent, House Master, Accountant, Assistant Grade-3, Peon, two Cooks (on daily wage basis) and one Sweeper (voluntary). There is no probation officer in the Home.

No educator is posted in the Home. As per the RTI information, primary education is being provided to the inmates by the staff of the Home.

69. RTI reply dated 23 April 2012 received from Public Information Officer, Women and Child Development Department, Madhya Pradesh

70. RTI reply dated 23 May 2012 received from the Superintendent of the Government Observation Home, Guna (Madhya Pradesh)

No vocational training could be provided to the inmates in the absence of a vocational trainer in the Home.

The infrastructure of the Home includes – two rooms for the inmates, one office of the Juvenile Justice Board cum Child Welfare Committee, one dining hall, one kitchen, one medical room, one store room, one workshop room, one entertainment room, four toilets, three bathrooms and two other rooms.

From 2010 till 23 May 2012, only one inspection was conducted by CEO, District Panchayat, Guna on 25 May 2011.

Govt. Observation Home for Boys, Jabalpur⁷¹

The Government Observation Home for Boys, Jabalpur was set up on 15 October 1971. The total sanctioned capacity of inmates in the Home is 50. There is no overcrowding. As per RTI information received from the Observation Home, 25 inmates were lodged in the month of July 2012 (till 8.8.2012). The month-wise number of inmates lodged at the Home from 2010 till July 2012 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	17	20	16	20	34	10	30	23	21	9	19	34
2011	17	28	15	15	17	18	15	15	33	16	15	18
2012	12	22	11	20	24	10	25					

The sanctioned staff in the Home is 14 including two attendants. However, three important posts namely Superintendent, Probation Officer and teacher were lying vacant as on 8 August 2012. No new Superintendent was appointed after the death of the Superintendent on 10 February 2012. While both the posts of Probationary Officer and teacher were lying vacant from January 2011.

The inmates could not be provided education due to non availability of teacher. In addition, no vocational training is imparted to the children.

The infrastructure includes – three sleeping rooms, one teaching room, one entertainment room, one kitchen, one store room, four toilets, three bathrooms, two office rooms. There is also one Court room in the Observation Home.

Segregation of inmates is done on the basis of age i.e. below 12 years, 12 to 16 years and 16 to 18 years. This also means that there is no segregation on the basis of degree of offence.

Inspections are conducted at regular intervals. Since 2010 till 8 August 2012, 11 inspections were conducted, including once by the judge of the High Court, Jabalpur, in the Home.

Govt. Observation Home for Boys, Khandwa⁷²

The sanctioned capacity of the Government Observation Home for Boys, Khandwa is 50 inmates. As on 23 July 2012, 25 inmates were lodged in the Home. The month-wise admission of inmates in the Home from 2010 till June 2012 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	12	14	6	6	5	6	9	3	2	6	5	9
2011	4	6	9	4	2	6	14	4	10	19	15	10
2012	7	21	11	16	16	11	25					

The total staff strength is nine, which includes Superintendent, Probationary Officer, Accountant, Matron, Housemaster, Instructor/vocational trainer, Assistant Grade-3 and two Assistants (one each posted at the Home and Probation Unit). However, the post of the Superintendent was lying vacant as on 23 July 2012. The matron was also posted at the Directorate, Bhopal.

71. RTI reply dated 8 August 2012 received from the Office of the Superintendent, Government Observation Home, Jabalpur, Madhya Pradesh

72. RTI reply dated 23 July 2012 received from the Officer of the Superintendent, Government Observation Home, Khandwa, Madhya Pradesh

The inmates were given primary education and vocational training such as computer education, drawing and music.

The RTI information states that facilities such as bathrooms, toilets, clothes, food, etc are sufficiently available.

The inmates are kept in separate rooms on the basis of both age and degree of offence. Inspections are conducted as per the roster. However, no information was provided on the number of inspections conducted.

B. Special Homes

Under Sub section (1) of Section 9 of the JJ Act, 2000, the state government may set up, either by itself or under an agreement with voluntary organisations, “Special Homes” in every district or a group of districts for reception and rehabilitation of juvenile in conflict with law under this Act. Sub-section (2) states that the state government may certificate any other institutions as Special Home if it finds them “fit” for the reception of juvenile in conflict with law.

According to the Women and Child Development Department, Madhya Pradesh, there are only three government-run Special Homes in the state⁷³ i.e. the Govt. Special Home for Girls, Indore built in 1971, the Govt. Special Home for Boys, Indore built in 1972 and the Govt. Special Home, Seoni built in December 1988. There are no certified fit institutions for the reception of juvenile in conflict with law. The State government of informed Madhya Pradesh in a letter dated 8 March 2010 to the NCPCR that there was no Special Home run by NGOs/VOs.⁷⁴

The Special Homes have sanctioned capacity of 200 inmates with the Govt. Special Home for

Girls having capacity of 50 inmates, the Govt. Special Home for Boys, Indore having capacity of 50 inmates and the Govt. Special Home, Seoni having capacity of 150 inmates.

However, as per the NCRB, during 2011, 127 juveniles were placed under the care of Fit Institutions and 450 juveniles were sent to Special Homes.⁷⁵ If there is no certified Fit Institution where have the juveniles been sent? Further, the three existing Special Homes have a sanctioned capacity of 200 inmates while as many as 450 children in conflict with law have been sent to the Special Homes in 2011. On the other hand, the month-wise statistics provided by the Special Homes for the year 2011 only add upto only 398 with 115 at the Govt Special Home, Seoni, 250 at the Government Special Home for Boys at Indore and 33 at the Govt Special Homes for Girls in Indore. Further, the month-wise statistics of inmates do not necessarily indicate the number of admission in a particular home. The discrepancy on the number of inmates requires clarifications even though the PAB of the Ministry of Women and Child Development noted in March 2012 that “*The State should ensure that only those children who are found guilty by JJBs after enquiry should be sent to Special Home and children in need of care and protection should not be kept in these Homes.*”⁷⁶

i. Conditions of the Special Homes

*Govt. Special Home, Seoni*⁷⁷

The Government Special Home, Seoni was established on 26 December 1988. Total capacity of the Home is 100.

The Home appears to be underutilized. As per information obtained under the Right to Information Act, 2005 the total number of inmates in the Home never touch the figure of 24 since 2010. The maximum inmates kept in the

73. List of Special Homes, Women and Child Development, Madhya Pradesh, available at: <http://www.mpwcd.nic.in/icps/GovtInstitution.pdf>

74. D.O. letter No./210/CS/JJA/2010 dated 8.3.2010 obtained under the RTI Act, 2005 by Suhas Chakma, Director of Asian Centre for Human Rights

75. Crime in India 2011, NCRB, available at: <http://ncrb.nic.in/>

76. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

77. RTI reply dated 9 May 2012 received from the Superintendent, Govt. Special Home, Seoni, Madhya Pradesh

Home were 23 in January 2010. There were only 5 inmates in May 2012. Month-wise number of inmates lodged in the Home since 2010 to 9 May 2012 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	23	21	19	16	15	14	16	17	15	15	16	16
2011	15	14	16	13	11	11	09	09	09	07	05	05
2012	05	04	05	05	05	11	25					

Surprisingly, the sanctioned number of staff in the Home is 61. Out of these, 32 were posted as on 9 May 2012 while 29 posts were lying vacant. Ideally, the staffing pattern for an institution with a capacity of 100 juveniles or children should be 25. The current filled up posts of 32 staff is also more than the suggested staffing pattern. What is more surprising is that the Home has a sanctioned post of 22 security guards. Of these, only 2 (two) posts were vacant as on 9 May 2012.

The unusual staffing pattern of the Home suggests that there is something fishy in particular with respect to hiring of large number of security guards.

Vocational training and education are provided to the inmates with one teacher each. However, the post of the Probation Officer was lying vacant.

The infrastructure includes 4 (four) bathrooms, 7 (seven) toilets, 1 (one) recreation hall, 2 (two) learning room and training hall, 1 (one) kitchen, 2 (two) big bedrooms and 3 (three) classrooms.

There is segregation of inmates on the basis of age in the Home as required under the JJ(C&PC) ACT. The inmates in the age groups of 12-14; 14-16; and 16-18 are separately housed.

The Special Home, Seoni was inspected 8 (eight) times from 2010 to 9 May 2012. The last three inspections were carried out in March 2012 which were conducted by the Collector, Seoni (1 March), Principal Magistrate, Juvenile Justice Board, Seoni (14 March); and District Programme Officer,

Women and Child Development Department, Seoni (on 29 March 2012).

Govt. Special Home for Boys, Indore⁷⁸

The Government Special Home for Boys at Pardeshipura, Indore was established in 1972. The sanctioned capacity of inmates of the Home is 50. The month-wise number of inmates lodged at the Home from 2010 till 16 May 2012 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	05	06	06	07	07	06	05	09	18	19	20	18
2011	17	15	15	21	19	17	22	21	29	25	24	25
2012	25	27	27	27	27							

The sanctioned number of staff is 14. However, only 10 posts were filled up as on 16 May 2012. Four posts including that of Matron was vacant. The post of the Matron was lying vacant since 31 July 2011. No Probation Officer is posted in the Home.

Both education and vocational training is provided to the inmates. There is one educator and two vocational trainers. Two kind of vocational training is given namely carpentry and stitching.

The infrastructure of the Special Home, Indore includes – six bathrooms, seven toilets, three entertainment rooms, one study room and two training rooms.

The inmates are segregated only on the basis of their age groups – 8-12 years, 12-16 years and 16 and above years.

Five inspections were conducted in the Home from 2010 till 16 May 2012.

78. RTI reply dated 18 May 2012 received from Superintendent, Govt. Special Home, Indore District, Madhya Pradesh

Govt Special Home for Girls, Indore⁷⁹

Since 1978, the Government Special Home for Girls, Indore was run by the Panchayat and Social Welfare Department under the Children Act of 1960. Currently, the Special Home is being run by Women and Child Development Department under the Juvenile Justice Act, 2000.

The total sanctioned capacity of inmates in the Home is 50. As per information obtained under the RTI Act, the number of month-wise inmates admitted in the Home from April 2010 to April 2012 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010				03	02	05	00	00	00	01	01	03
2011	06	04	04	02	03	02	00	03	03	04	01	01
2012	02	03	00	00	27							

The sanctioned staff in the Special Home is 10 including the Superintendent, one Matron, one Educator, one Accountant, one Cook, one Peon, two Caretakers and one Doctor (Voluntary basis). As per information provided by Superintendent of the Home to ACHR, all the posts except the cook were lying vacant as on 9 May 2012. No information is provided as to who cooks for about 30 inmates in the absence of the cook.

Education is provided to the inmates by the educator posted at the Home. The inmates are also admitted to outside schools and encouraged to participate in cultural knowledge and National language Hindi examinations. One inmate had also appeared for the Pre-Medical Test.

No vocational trainer is posted in the Home. However, vocational training is provided to the inmates through the cooperation of social organisations. Drawing, painting, bag and artificial jewelry making, sewing, cooking, etc are imparted to the inmates. Further, 13 inmates were given 3-month training course on modern

readymade stitching conducted by Apparel Training and Design Centre. Computer education such as basic, MS word, Tally etc is also provided to the inmates.

Infrastructure of the Home includes – Superintendent's Office, one Library and Learning cum Computer Training room, two bedrooms, one Education and training room, one kitchen, one store room, one temporary Superintendent's house, six bathrooms and six toilets. There is also a play ground/garden in the Home.

RTI information obtained from the Special Home revealed that children in need of care and protection and juveniles whose petitions/cases are pending are also kept temporarily in the Home on the order of the Child Welfare Committee/courts in the absence of Children Home in the district. These children are separately kept from the juveniles in conflict with law. The RTI information states that 15 children (girls) in need of care and protection were lodged in the Home as on 9 May 2012. While 22 juvenile girls whose trials were pending were lodged at the Home from April 2010 till February 2012.

Inspections are conducted by the District officials as per the roster every year. In addition, inspections are carried out by State's Child Rights and Women Commissions, among others.

C. Children Homes

Section 34 (1) of the JJ Act, 2000 states that "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."

According to information available with the website of the Women and Child Development, Madhya Pradesh, there are six government-run Children Homes in the state. Of these, one Children

79. RTI reply dated 9 May 2012 received from Superintendent, Govt. Special Home, Indore, Madhya Pradesh

Home is for girls.⁸⁰ Earlier, there were only three government Children Homes.

In addition, there are 34 Children Homes, including five Shelter Homes, run by NGOs/VOs which are recognized by the state government.⁸¹ There were only four functional NGO-run Children Homes in the state as on 8 March 2010.⁸²

The constitution of Children Homes and recognition of more NGO-run Children Homes is a welcome step. However, these Children Homes are in no way adequate. More Children Homes run by NGOs/VOs are required considering the size of the state. Further, there are many homes run by NGOs/VOs which are not recognized by the state government. On 22 November 2011, the PAB advised the state government to conduct a survey to identify the actual number of Child Care Institutes (CCIs) in the state and register them all under the Juvenile Justice Act, 2000.⁸³

i. Conditions of the Children Homes

Govt. Children Home for Girls, Bhopal⁸⁴

The Government Children Home for Girls, Nehru Nagar Bhopal was established in May 1989. The total sanctioned strength of the Home is 100. As in April 2012, 82 inmates were lodged in the Home. The month-wise admission of inmates in the Home from April 2010 till April 2012 is given below:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010				17	07	07	11	14	03	03	12	07
2011	04	06	15	10	23	10	08	20	07	12	05	11
2012	17	14	09	07	27							

80. List of Govt. Children Homes, Women and Child Development, Madhya Pradesh, available at: <http://www.mpwcd.nic.in/icps/GovtInstitution.pdf>

81. List of Govt. Recognised Children Homes, Women and Child Development, Madhya Pradesh, available at: <http://www.mpwcd.nic.in/icps/BaalGrah.pdf>

82. D.O. letter No./210/CS/JJA/2010 dated 8.3.2010 obtained under the RTI Act, 2005 by Suhas Chakma, Director of Asian Centre for Human Rights

83. Minutes of the 29th PAB Meeting under ICPS, available at: <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

84. RTI reply dated 16 May 2012 received from the Superintendent, Govt. Children Home for Girls, Nehru Nagar, Bhopal (Madhya Pradesh)

The sanctioned number of staff in the Home is 22 including two Educators, two Vocational Trainers and three Caretakers. However, six posts were lying vacant as in April 2012. These included Probation Officer, Case Worker, one Vocational Trainer, Matron and Accountant. Instead of filling up the post of the Case Worker, the Vocational Trainer is acting as the Case Worker as per the order of the higher authority.

Education is provided to the inmates by the two educators posted in the Home. As in April 2012, 47 out of 82 inmates were attending schools from KG to Class 12. The rest were provided education at the Home. Vocational training such as stitching, weaving, embroidery, painting and computer training is also provided to the inmates. However, only one vocational trainer is posted currently out of the two sanctioned posts. Moreover, the only vocational trainer posted in the Home has to perform dual functions of case worker and vocational trainer.

The infrastructure includes three halls, seven rooms, one kitchen, six toilets and bathrooms. In addition, there is one education room, one vocational training room and one entertainment room.

The inmates are segregated on the basis of age groups – 6-12 years, 12-16 years and 16-18 years.

Five inspections were carried out in the Home since 2010 till April 2012.

Govt. Children Home for Boys (Nagziri), Ujjain⁸⁵

The Government Children Home for Boys at Nagziri in Ujjain district was established on 15 August 1994. The sanctioned capacity of the Home is 100. The month-wise number of inmates admitted in the Home from April 2010 to April 2012 is given below:

85. RTI reply dated 16 May 2012 obtained from the Superintendent of Children Home for Boys, Ujjain (Madhya Pradesh)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010				12	08	10	11	08	07	04	01	05
2011	06	06	13	12	09	08	19	10	07	10	08	12
2012	17	07	08	09								

The table above shows that an average of 7 inmates were admitted in the Home every month.

The total sanctioned staff is 21 including the Superintendent. However, only 18 posts were filled up as in April 2012. The posts of Probation Officer, Chief Caretaker and Matron were vacant.

Education is provided to the inmates and two educators were posted in the Home. The inmates were also provided vocational training by two trainers.

The infrastructure includes – 12 bathrooms, 12 toilets, 1 entertainment room, 3 study rooms and one training room.

The inmates were segregated on the basis of age and kept in separate rooms.

Ten inspections were conducted in the Children Home, Ujjain from 2010 till April 2012. The last inspection was conducted by City Magistrate/ Deputy Collector on 10 February 2012.

Govt. Child Protection Home (Children Home for Boys), Ujjain⁸⁶

The Government Child Protection Home (Children Home), Ujjain was established on 2 October 1971. The sanctioned capacity of inmates in the Home is 50. In her RTI reply dated 25 May 2012 to Asian Centre for Human Rights, Ms Abha Sharma, Superintendent of the Children Home did not provide the month-wise number of inmates lodged in the Home. The RTI reply only mentioned that 50 children were admitted during July 2010-2011 and 50 were admitted during July 2011-2012.

The total sanctioned staff of the Home is eight including the post of Superintendent. There was no vacancy as on 16 May 2012. No educator is posted in the Home. The inmates were admitted to schools outside the Home. There is no vocational trainer and no such training is provided to the inmates.

The infrastructure of the Home includes – two buildings, one study room, one training room, one entertainment room, six bathrooms and 10 toilets.

The children were segregated on the basis of their age. The Children Home was inspected eight times from 2010 till 16 May 2012. The last inspection was carried out on 11 March 2012.

86. RTI reply dated 25 May 2012 received from the Superintendent of Child Protection Home (Children Home), Ujjain, Madhya Pradesh

Annexure – I: Existing homes run by the Government as per information submitted to the Ministry of Women and Child Development for the project approval Board meeting on 23 September 2012

LIST A

INSTITUTIONAL SERVICES - EXISTING HOMES RUN BY GOVT.

NAME AND ADDRESS OF HOME	DISTRICT	TYPE OF HOME*	CAP ACI TY		ACTUAL NO. OF CHILDREN AS ON 1ST APRIL (YEAR)		NO. OF CHILDREN WITH SPECIAL NEEDS (IF ANY)	
			GIRLS	BOYS	GIRLS	BOYS	GIRLS	BOYS
C.I Colony Plot No 1 Jehangirabad Bhopal	Bhopal	Observation Home	--	50		32	--	--
In front of Gramin Police Station Vidisha	Vidisha	Observation Home	50	--	7		--	--
Subash Ward Hamalpur Betul	Betul	Observation Home	--	50	--	17	--	--
Pardesipura Samaj Kalyan Parisar Indore	Indore	Observation Home	--	50	--	45	--	--
Near District Office Jhabua	Jhabua	Observation Home	--	50	--	10	--	--
Near Nahalda Ratagarh Prathamik School Khandwa	Khandwa	Observation Home	--	50	--	21	--	--
Behind Central School Malanwasa Ujjain	Ujjain	Observation Home	--	50	--	20	--	--
Beeryakhedi Road Ratlam	Ratlam	Observation Home	--	50	--	20	--	--
Gram Aahutpur Pahadi Mehalgaon Gwalior	Gwalior	Observation Home	--	50	--	14	--	--
Behind Sisodya Colony Telephone Exchange, Guna	Guna	Observation Home	--	50	--	35	--	--
Near Peepelwali Mata, Morena	Morena	Observation Home	--	50	--	10	--	--
6, Civil Lines Indira Colony Sagar	Sagar	Observation Home	--	50	--	40	--	--
Nazarbagh, Chatarpur	Chatarpur	Observation Home	--	50	--	24	--	--
P.T.S Square, Pandith Shivprasad Marg Rewa	Rewa	Observation Home	--	50	--	46	--	--
Near District Jail Infront of Narmada Gas Agency, Shadol	Shadol	Observation Home	50	--	50		--	--

Gokulpur, Jabalpur	Jabalpur	Observation Home	--	50	--	28	--	--
Tilak Ward, Narsinghpur	,Narsinghpur	Observation Home	--	50	--	10	--	--
Old Jail Premises Seoni	Seoni	Observation Home	--	50	--	15	--	--
Kotra Sultanabad Near Police Ground, Bhopal	Bhopal	Children's Home (Girls)	100	--	80		--	--
Naaghiri Dewas Road, Behind Saify Petrol Pump, Ujjain	Ujjain	Children's Home (Boys)	--	100	--	108	--	--
Gokulpur, Jabalpur	Jabalpur	Children's Home (Boys)	--	100	--	71	--	--
Pardesipura Samaj Kalyan Premises Indore	Indore	Special home	50	--	30		--	--
Pardesipura Samaj Kalyan Premises Indore	Indore	Special home	--	50	--	30	--	--
Old Jail Premises Seoni	Seoni	Special home	--	100	--	12	--	--

LIST A1**INSTITUTIONAL SERVICES - ADDITIONAL HOMES RUN BY GOVT.**

NAME AND ADDRESS OF HOME	DISTRICT	TYPE OF HOME*	CAP ACI TY		ACTUAL NO. OF CHILDREN AS ON 1ST APRIL (YEAR)		NO. OF CHILDREN WITH SPECIAL NEEDS (IF ANY)	
			GIRLS	BOYS	GIRLS	BOYS	GIRLS	BOYS
Bedi Nagar Gurudev Colony Jabalpur	Jabalpur	After care	50	--	--	8	--	--
Harshvardhan Nagar LIG 83 Near Mosk Bhopal	Bhopal	After care	--	50	15		--	--

**INSTITUTIONAL SERVICES - HOMES RUN BY NGOS BEING FUNDED
EARLIER BY GOVT.**

NAME AND ADDRESS OF HOME	NAME AND ADDRESS OF NGO	DISTRICT	TYPE OF HOME*	RECOGNISED/NOTIFIED UNDER JJACT. YES/NO	CAPACITY		ACTUAL NO. OF CHILDREN AS ON 1ST APRIL (YEAR)		NO. OF CHILDREN WITH SPECIAL NEEDS (IF ANY)	
					GIRLS	BOYS	GIRLS	BOYS	GIRLS	BOYS
Sagar	Sagar Mahila avem Bal Vias Samiti. Sanjivini Bal Asghram Near Jyoti Cold Store	Sagar	Children's Home	Yes	50		49		--	--
Bhopal	SOS Bharti Balgram Piplani Khajuri road Bhopal	Bhopal	Children's Home	Yes	200		242		--	--
Katni	Asha Kiran Railway Colony running room ke paas Katni	Katni	Children's Home	Yes	50		52		--	--
Katni	Little star foundation Jhanda Bazar	Katni	Children's Home	Yes	50		25		--	--
Raajgrah	Ankur PragatiSheel Mahila Kendra, Raajgrah	Raajgrah	Children's Home	Yes	50		20			
Sidhi	Adarsh Mahila vikas avem Vyavasayi Siksha Samiti Seedhi	Sidhi	Children's Home	Yes	50		20		--	--
Bhopal	Aarmbh. Siksh avem Samudayik Society 52-C Inderpuri Bhel Bhopal	Bhopal	Children's Home	Yes	50		18		--	--
Hosangabad	Jeevodaya Society Itashri Hosangabad	Hosangabad	Children's Home	Yes	50		64		--	--
Dewas	Geeta Devi Lok Kalyan Samithi	dewas	Children's Home	Yes	50		10		--	--
Ratlam	Dev Prakash Seva Sanstha Samithi	Ratam	Children's Home	Yes	50		5		--	--
Khandwa	Naav Jeevan Children's Home, Ganesh Talai,	Khandwa	Children's Home	Yes	50		20		--	--
Narsinghpur	Prani Mitra Samithi, Narsinghpur	Narsinghpur	Children's Home	Yes	50		20		--	--
Ashok Nagar	Rao Madhav Sewa Samiti. Tayde Colony By pass road Ashok Nagar MP	Ashok Nagar	Observation home	Yes	50		10		--	--

Bhopal	Nithya Sewa Society, Bhopal	Bhopal	Shelter Home	Yes	200	200	--	--
Neemuch	Bharti Red Cross Society, Neemuch	Neemuch	Shelter Home	Yes	50	12	--	--
Moorena	Vivekanand Yuva Mandal, Moorena	Moorena	Shelter Home	Yes	50	15	--	--
Chatharpur	Chitra Gupt Mahila Kalyan Samithi, Chatharpur	Chatharpur	Shelter Home	Yes	50	15	--	--
Narsinghpur	Raajradha Mahila Mandla, Narsinghpur	Narsinghpur	Shelter Home	Yes	50	15	--	--

Annexure – II: The Madhya Pradesh Juvenile Justice (Care and Protection of Children) Rules 2003

PREAMBLE

In exercise of the power conferred by section 68 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (No. 56 of 2000), the State Government of Madhya Pradesh is hereby pleased to make the following rules, namely:

CHAPTER I

PRELIMINARY

1. Short title, extend and commencement.--

(1) These rules may be called as the Madhya Pradesh Juvenile Justice (Care and Protection of Children) Rules, 2003.

These rules shall extend to the whole of the Madhya Pradesh.

(2) They shall come into force on the date of their publication in the “Madhya Pradesh Gazette.”

2. Definitions

In these rules, unless the context otherwise requires:

- (a) “Act” means the Juvenile Justice (Care and Protection of Children) Act, 2003;
- (b) “Adoption” means taking into custody and responsibility permanently of a child covered under the Act and the child shall have all the rights and privileges of a natural born child.
- (c) “Child with special needs” Child with special needs is a child for whom specialized services or interventions are necessary to facilitate proper care and rehabilitation.
- (d) “Place of safety” means any place or institution (not being a police lock up or jail) the person in charge of which is willing to temporarily receive and take care of the child and which, in the opinion of the Competent Authority, may be a place of safety for the child.
- (e) “Foster Care” means placement of a child with a nuclear family or group foster home.
- (f) “Pre-adoptive Foster Care” means placement of a child in a family temporarily till the child can be rehabilitated in a permanent home.
- (g) “Foster child” means a child placed with a foster parent or foster family.
- (h) “Foster Parent/s” means the person/s who is not the parent(s) of the child, but is willing to undertake the responsibility for care and maintenance of the child as his or her parent/s without necessarily legal rights of property, etc.
- (i) “Extended family” means relatives of the child with whom he/she can be placed in foster care.
- (j) “Group Foster Care” means care of a group of children in one family or a group foster home run by a Non-Government Organisation.
- (k) “Social workers” means social workers duly recognized and empanelled by the Competent Authority, who are professionals or specially trained to provide Social Work expertise in areas such as counselling, adoption, Community Service, foster care, Sponsorship and any other such service.
- (l) “Form” means the form annexed to these rules;
- (m) “Institution” for the purpose of these rules, means an observation home or a special home or a children’s home or a shelter home set up under sections 8, 9, 34 and 37 of the Act;
- (n) “Office-in-Charge” means a person appointed for the control and management of institution certified or recognised as such under the Act.
- (o) “Government” means the Government of Madhya Pradesh;

- (p) “Secondary Victimization” means and refers to behaviours and attitude of authorities and personnel in the child justice system towards children within the system, which further traumatize victims.
- (q) “Sexual abuse” occurs when any adult for sexual pleasure. Sexual abuse can be physical, verbal or emotional and includes:
- (i) Sexual touching and fondling.
 - (ii) Exposing Children to adult sexual activity or pornographic movies and photographs,
 - (iii) Having children pose, undress or perform in a sexual fashion on film or in person.
 - (iv) Rape or attempted rape.
 - (v) Forcing, tricking, bribing, threatening or pressuring a child into sexual awareness or activity.
- (r) “Take responsibility” means being responsible for the physical, mental, emotional and overall health and safety of the child;
- (s) “CARA Guidelines”, means the guidelines issued by the Central Adoption Resource Agency from time-to-time to regulate matters relating to adoption of Indian Children.

CHAPTER II

JUVENILE IN CONFLICT WITH LAW

3. Juvenile Justice Board

- (1) The Juvenile Justice 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.
- (2) Every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974).
- (3) A Magistrate with special knowledge/training in child psychology or child welfare shall be appointed as a Principal Magistrate of the Juvenile Justice Board.

(4) In case the Principal Magistrate with such special knowledge and training is not available, then the State Governments shall provide for such short-term training.

(5) The two social workers, of whom at least one shall be a woman, shall be appointed by the State Government.

4. Selection of the members of Juvenile Justice Board.

(1) The selection of the social worker members of the Board shall be made by a selection committee consisting of the following persons namely:

- (a) District and Sessions Judge
- (b) District Collector
- (c) Commissioner of Police/District Superintendent of Police.

(2) There shall be panel of not more than five names identified from willing and competent persons in the district chosen by the committee.

(3) The Government shall appoint social worker members to the Board, only from the persons recommended by the selection committee. No persons shall be eligible for appointment unless he is recommended by the selection committee.

5. Qualification of Social Worker

(1) The social worker to be appointed as a member of the Board shall be a person, who

- (a) has been actively engaged in planning, implementing and administering health, education or other welfare activities pertaining to child rights issues for at least five years.
- (b) a graduate from a recognised University.
- (c) a teacher, a doctor, retired public servant or a professional who is involved in the work concerning juveniles or
- (d) a social worker who has been directly engaged in child welfare.

(2) No practising lawyer shall be appointed a Chairman, or member of the Board.

(3) The appointment of Member may be terminated by the State Government in accordance with the provisions of sub-section (5) of section 5 of the Act.

(4) A member may at any time resign by giving, one month notice in writing to the State Government.

(5) A casual vacancy among the members may be filled by appointment of other members for the remaining period of tenure of the member in whose place the appointment is made.

6. Term of the Member of the Board

The term of the Member of the Board shall be five years from the date of his appointment provided that a social worker member of the Board shall be eligible for appointment for a maximum of two terms one shall not be more than 65 years of age.

7. Time and place of sitting of the Juvenile Board

(1) Board shall hold sittings in the premises of an observation home. The Board shall meet on two working days of a week on Wednesday and Friday from 11.00 a.m. to 5.00 p.m.

(2) The final disposition of the enquiry shall be passed by at least two members of whom one shall be the Principal Magistrate.

(3) In case of difference of opinion in the process of disposition or interim order if any to be made, the opinion of the majority shall prevail, but, where there is no such majority, the opinion of the Principal Magistrate shall prevail. In such cases, the Principal Magistrate shall record in writing the circumstances that led to him to take the final decision.

8. Honorarium

The social worker members of the Juvenile Justice Board shall be paid an Honorarium as the State Government may determine from time-to-time.

9. Procedure through which a child may be produced before the Board.--

(1) Persons through whom a child alleged to be in conflict with law may be produced before the Board.

- (a) The officers of the Special Juvenile Police Unit.
- (b) Any Police Officer,
- (c) The Child herself/himself
- (d) Any recognized voluntary organization willing to take responsibility.

(2) Wherever possible, all such persons shall, except at the time of arrest, only wear civil clothes and not a uniform unless specific circumstances require the said officer to wear a Police Uniform in the interest of the child. However, they shall at all times have their identification card that shall be produced on demand.

(3) The concerned Police Officer shall perform the role of friend of the child. He/She shall perform all the specific roles and responsibilities required by Police with regard to children alleged to be in conflict with law He/She shall work in close co-ordination with the Social Workers in the Special Juvenile Police Unit and perform only specialized roles expected by the Police. All Police Officers are ultimately responsible for the care and protection of the children.

(4) The social worker at the Special Juvenile Police Unit shall be the caseworker in relation to the children alleged to be in conflict with law and shall also perform on the role of friend of the child. He/she shall receive the child in a sensitive and friendly manner and enables him or her to feel at ease during the entire process of First Contract and preliminary inquiry.

(5) As soon as a child in conflict with the law is apprehended by the Police, the Police shall place the child under the charge of the special Juvenile Police unit or the designated police officer. In case a recognized voluntary organization takes a

child to the Juvenile Justice Board, the Voluntary Organization shall also inform the concerned Police Station.

(6) The special juvenile police unit or any other producing agent shall produce the child before the Magistrate or a Member or the Board within 24 hours of his apprehension (excluding the time taken to bring the child from the Police Station/ place of safety to the Board). In case of delay in production before the Magistrate/Board, the details of not doing so are recorded in the Police Diary/ General Diary. Preliminary inquiries should be completed as soon as possible and care shall be taken not because any stress to the child for purpose of extracting information for this assessment or the initial reports.

(7) The child shall be informed promptly and directly of the charges against her/him in a language and manner that she/he understands so as to ensure full comprehension of the same.

(8) On arrest the child be given all possible assistance to enable her/him to fulfil her/ his right to call any person of her/his choice over the phone or otherwise.

(9) The child shall not be compelled to confess or give testimony. No form of torture or harassment shall be used in order to extract information from the child.

(10) On arrest, the child not kept in the lock up of the police station or jail in order to conduct the preliminary inquiries. Instead, in the shortest possible time not exceeding eight hours, she/he shall be taken to a place of safety such as the Special Juvenile Police Unit or other such organization wherever such organization is present. When a child is kept in a place other than the Special Juvenile Police Unit or other such organization wherever such organization is present. When a child is kept in a place other than the special juvenile police unit, the officer-in-charge of the said place shall immediately inform the Special Juvenile Police unit of that jurisdiction and shall as far as possible

work in coordination. All such places shall be child friendly places with an environment, services and facilities which respect the children as persons and enable them to relax, play express their opinions, participate in decisions concerning them and have access to caring and responsible adults. The Police/recognized voluntary organisation shall be responsible to ensure the safety of the children apprehended or kept under their charge.

(11) The child alleged to be in conflict with law shall be provided with nurturing care as well as other services deemed necessary at that time, such as immediate medical attention, basic needs, counselling, etc.

(12) The special juvenile police unit to which the child is brought shall inform the concerned Probation Officer of such apprehension in Form IX to obtain information regarding the antecedents and family background of the child and other material circumstances likely to be useful for assistance to the Board for making the inquiry.

(13) The Designated Child Welfare or officers from the special juvenile police unit shall in the shortest possible time, inform the parents or legal guardian about arrest of the child in Form X. During any further questioning of the child, they shall ensure the presence of the parent or legal guardian. The concerned officer may also make a connected attempt to identify someone as "fit person"-preferably a social worker who knows and is willing to take responsibility of the child. The Officer along with the fit person shall consult the child and determine together, whether it is in her/his interest to inform the parent/legal guardian, taking into account the cases where the parents/legal guardians allegedly exploit or abuse children.

(14) The social worker of the special juvenile police unit or the Senior Social Worker in case of the recognized voluntary organization, shall as far as possible make a visit to the home of the child as well as to the place of the alleged crime and prepare a social investigation report narrating

the circumstances of apprehension and offence committed, with the description on the possible reasons why the child has allegedly committed the crime.

(15) The producing agent may make a report with recommendations to the Board. Such recommendations may include immediate release after admonition or reconciliation to be facilitated by the Child Welfare Officer at the special juvenile police unit itself. Whenever appropriate and possible, children alleged to have committed petty offences may be released from the special Juvenile Police unit itself, when one member or the Bench of the Board accepts such recommendations within the maximum 24 hours period for preliminary inquiry. If the Board ratifies such a recommendation, the said child be released from the place of safety itself. If the Board decides not to take this recommendation into account, then the said child may be transferred to Observation Home and physically produced before the Board.

10. Procedure to be followed by a Juvenile Justice Board in holding inquiries.

(1) In every case in connection with a child, the Board shall obtain a birth certificate or medical opinion regarding his age and his physical and mental condition.

(2) The Board shall satisfy itself either from the declaration of police in writing or otherwise that the child was not kept in Police lock up or jail prior to the production of the child before the Board and that he/she was produced within 24 hours of taking charge. The Board shall also satisfy that the child has not been subjected to ill treatment or harassment either by the Police or by any other person from the time of taking charge. The Board shall also ensure that no girl was taken into charge by police between sunset and sunrise, provided if the circumstances warrant, that she was kept under the care of a woman in a place of safety or in an Observation Home.

(3) No juvenile or the child shall be handcuffed under the provisions of the Act and the rules made thereunder.

(4) When the child is presented first time before the Board, the Board shall immediately determine whether the child can be released on bail. If the child can be released on bail, then the Court shall release the child either to a parent, guardian and fit person/institution or on personal bond by the child.

(5) When the child is presented before, the Board shall communicate to the child in a child friendly manner in a home like environment, and in a manner that the child can understand the substance of the charge against him/her. The child shall be asked whether he/she committed the offence of which he or she is accused.

(6) If the child accepts that he/she committed the offence of which he or she is accused, then the Board records the acceptance and issue the appropriate order. If offence is not serious, the Board shall wherever possible issue a reprimand and release the child.

(7) When witnesses are produced for examination, the Board shall exercise the power conferred on it by section 165 of the Indian Evidence Act, 1872 so as to question them as to bring out any point which may go in favour of the child.

(8) If the child does not accept the substance of the charge, then the Board shall proceed to hear the prosecution and take all evidence produced by the prosecution and also hear the accused and take all evidence as he/she produces in his/her defence.

(9) The Board may if it thinks fit on the application of the prosecution side or the child, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) The Board shall address its inquiry with the question that why the child committed the offence and how best to redress the causative factors. In accordance with sub-section (2) of section 10, the Board shall also order in Form I to a Probation Officer, or otherwise to conduct a social investigation, reporting on the character and

antecedents of the child with a view to assessing the best possible mode for placement, such as, with the family, an institution or otherwise permissible under the Act.

(11) The Order to be issued by the Board shall take into account:

- (a) the views of the child.
- (b) the best interest of the child
- (c) the fact that detention should be a last resort and for the shortest possible period of time. Only in the case of serious offences or chronic repeaters the Board shall order detention.

(12) The State Government shall recognize registered voluntary organization to supervise and submit periodical reports and directed by the Board regarding the orders passed under clauses (b) and (c) of sub-section (1) of section 15 of the Act.

(13) When a child is placed under the care of a parent or a guardian and if the Juvenile Justice Board deems it expedient to place the child under the supervision of a probation officer, it shall issue a supervision order in Form II.

(14) The Competent Authority may while making an order placing a juvenile under the care of a parent, guardian or fit person, as the case may be, direct such parent, guardian or fit person to execute a bond with or without sureties in Form IV.

(15) Whenever the Juvenile Justice Board orders a child to be kept in an institution, it shall, forward to the Officer-in-Charge of such institution a copy of its order in Form III with particulars of the home and parents or guardian and previous record.

(16) All children shall be kept in such a home which is nearest to where he/she belongs, unless it is not in his/her interest to do so, such as in situations of conflict/ disaster.

(17) The Officer-in-Charge of an institution certified as special home under subsection (2) of section 9 of the Act shall be informed in advance by the Board before any child is committed to it.

(18) The Officer-in-Charge of an institution may on receipt of the information intimate in writing objections, if any, to the committal of the child and the objections shall be fully taken into consideration by the Board before the child is committed to the said institution.

(19) In case the Board orders in Form VIII to the parent of the child or the child to pay a fine, the amount realized will be deposited in the Government treasury.

(20) When a child is produced before an individual member of the Board, the order given by the member shall be ratified in the next meeting of the Board.

(21) The Board shall initiate action against any media for publishing any matters relating to children in need of care and protection, if such material leads to the identification of the child.

11. Procedure in respect of sections 23, 24, 25 and 26 of the Act.

The offences against the juvenile or 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 Act, 1973 (2 of 1974) and the provisions of bail or otherwise shall apply on the police, the Board and the concerned accordingly.

CHAPTER III

CHILD IN NEED OF CARE AND PROTECTION

12. Child Welfare Committee.

(1) The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman, and another an expert on matters concerning children.

(2) The Committee shall function as a Bench of Magistrate and shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or a Judicial Magistrate.

13. Selection of the Chairperson and Members of Child Welfare Committee.

(1) The selection of Chairperson and members of Child Welfare Committee shall be made by a Committee consisting of the following persons:

- (1) District and Sessions Judge
- (2) District Collector
- (3) Commissioner of Police/District Superintendent of Police.

(2) There shall be a panel of not less than ten names identified from willing and competent persons in the district chosen by the Selection Committee.

(3) The Government shall appoint Chairperson/ Members of the committee only from the list of persons recommended by the Selection Committee.

(4) No persons shall be eligible for appointment unless he is recommended by the Selection Committee.

14. Qualification of Chairperson and Member of Child Welfare Committee.

(1) A person to be selected as a Chairperson/ member of the Child Welfare Committee shall have either of the following qualification, with five years' experience in their respective field:

- (a) A graduate from a recognized university.
- (b) Respectable, well educated citizen with the background of special knowledge of social work, child psychology, Education, Sociology or Home Science.
- (c) A teacher or a doctor or a senior retired public servant who has been involved in work concerning child welfare, or
- (d) A Social Worker of repute who has been directly engaged in work on child rights.

(2) No practising Lawyer shall be appointed.

(3) The appointment of Chairperson/Member may be terminated by the State Government at any time in accordance with the provisions of sub-section (4) of section 29 of the Act.

(4) Any Chairperson/Member may at time resign by giving one month's notice in writing to the State Government.

(5) Any vacancy may be filled by appointment of another Social Worker for remaining period of the term of the member in whose place he is appointed.

15. Tenure of the Committee.

The tenure of the Chairperson and the members of the Committee shall be five years provided a member of the Committee shall be eligible for appointment for a maximum of two terms and shall not be more than 65 years.

Toc

16. Time and place of sitting of the Child Welfare Committee.--

(1) The Committee shall hold its sittings in the premises of a children's Home or any other place as may be determined by the Government from time-to-time and the Committee meet at least two days in a week on Monday and Thursday from 11.00 a.m. to 5.00 p.m. However, the Chairperson may extend the sitting time in case any important business is to be transacted.

(2) The quorum for the meeting shall be three members which may include the Chairperson.

(3) Any decision taken by an individual member, when the committee is not sitting shall require rectification by the committee in its next sitting.

(4) The final disposal of cases relating to children in need of care and protection shall take place in the office of the committee, by the order of at least two members.

17. Honorarium.

Members of the committee shall be paid honorarium as the State Government may determine from time-to-time.

18. Procedure of the Child Welfare Committee.--

(1) When any person/organisation authorised under the Act receives a child in need of care and protection, he/she/they may also produce the child before the Committee with the social investigation report of the circumstances in Form XIII under which the child came to their notice. They may also be encouraged to assist in efforts to trace the family.

(2) If the child has been received by a police person other than officers of the Special Juvenile Police Unit, she/he, shall, as far as possible transfer the case of the child to the Special Juvenile Police Unit, or any other appropriate non-police person under section 32 of the Act.

(3) In case the Committee is not sitting, the child shall not be kept in the police station or jail, but shall be taken to a place of safety such as a designated Shelter Home run by a recognized or authorised non-governmental organization and if not then to a child help line or such organization, wherever such organization is available. Such authorities shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of such detention pending inquiry, which itself should be a measure of last resort.

(4) The child shall be admitted at any time and the Officer-in-Charge of the Children's Home/ Reception Unit shall receive the child irrespective of the time. A child brought during the night shall be produced before the Committee at its next sitting for obtaining order.

(5) The child's access to caring responsible adults and provision of other basic needs shall be ensured during this period of institutionalisation. A medical check-up shall be done if it is found that the child

requires it or if the child/specifically requests for the same. Special attention shall be given to girls and other children requiring specialized care.

(6) (i) The producing agent on his own or with the assistance of any other persons shall immediately inform the parents or guardian. The producing agent shall ensure that the parents/guardian of the child is present at the time of preliminary enquiry. An exception may be made when it is considered by the case worker/ Probation Officer in consultation with the child who has specifically expressed his/her right not to inform the parents/ Guardian, that it is against the best interest of the child to do so. Reasons for these exceptions shall be expressed in writing.

(ii) Where a child's parents or guardian cannot be contacted earlier, or as mentioned in clause (1), if the child specifically wishes that they not be contacted, any other fit person accepted by the child and considered appropriate by the case worker/probation officer, shall be informed of the child's desire to seek assistance under the Act so that he or she can attend the preliminary inquiry.

(7) A preliminary inquiry shall be completed as soon as possible, Care shall be taken not to cause any stress to the child for purposes of extracting information for the assessment /initial reports, keeping in mind that many children are not ready to share information at this initial stage. Every possible effort be made to engage the child through making a positive relationship of trust. The person handling the child's case shall make every attempt to trace and associate the family in the inquiry, unless such procedure is believed to cause undue stress to the child or such an interaction is not in his/her best interest. Assistance of the police recognized voluntary organization/child line may also be taken. The Social Worker/Probation Officer of the institution/organization in which

the child is admitted at the initial stage shall as far as possible make a visit to the home of the child and prepare a social investigation report which is to be recorded.

(8) In case, the child is found to be lost or missing detailed inquiries shall be made as provided in sub-rule (7) of rule 18.

(9) Children who are more than two years of age, shall be produced before the Committee within twenty-four hours after the reception of the child excluding the journey time by the organization. For children under two years of age, the organization shall send a written report along with the photograph, within 48 hours of admission, excluding the journey time.

19. Persons through whom a child may be produced before the Committee.

Any child in need of care and protection shall be produced before the committee by the following persons:

- (a) Any Police Officer of 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) Any Social worker or a public spirited citizen authorized by the State Government; or
- (e) By the child himself.

20. Procedure for detailed inquiry after producing the child before the Committee.

(1) When a child is brought before the committee, the committee shall assign the case to a Probation Officer/Social Worker/Case worker child/Welfare Officer/ Officer-in-Charge, as the case may be, of the home or any appropriate recognized agencies for conducting a detailed inquiry. The producing agent shall be encouraged to participate in the detailed inquiry, so as to avoid multiple inquiries.

(2) The Committee shall direct the concerned person/Organization the details/ particulars to be enquired into for suitable rehabilitation. The direction for the inquiry under section 33 of the Act must be in Form I. The Committee shall also maintain a list of experts in the field of psychology, counselling, etc., in consultation with the Department of Social Welfare, who are willing to provide such services. The Committee may direct such professionals to furnish a special report about the child in need of care and protection.

(3) The detailed inquiry must be completed within 4 months unless special circumstances do not permit to do so in the interest of the child. Under such circumstances written extension must be taken by the Inquiring Officer/agency under section 33(2) of the Act.

(4) Medical Check-up/assistance may be done/ given if the personnel concerned think fit or if the child specifically requests for the same. Care shall be taken to ensure that such medical examination is conducted in a sensitive manner.

(5) Where a child's parents or guardian cannot be contacted earlier, or as mentioned in sub-rule (6) of rule 18 and if the child specifically wishes that they not be contacted, the Probation Officer shall make a concerted effort to identify any other fit person accepted and considered appropriate by the child and shall inform him or her of the child's desire to seek assistance under the Act so that he or she can attend the inquiry.

(6) The committee shall make arrangement to send the child to the designated place of safety. Or the children's home having appropriate facilities, regarding age and sex during the pending detailed inquiry, children should as far as possible be lodged in a home closest to where they belong, unless it is not in their interest such as in situations of disaster/ conflict.

(7) The Committee may refuse temporary custody of the child to parent/guardians if the release is found likely to be against the best interests of the

child. Such reasons shall be recorded in writing and further detailed inquiries shall be made for suitable placement.

(8) The child may be escorted by a representative of a voluntary organization or a Police Officer, or by any other arrangement deemed appropriate by the Committee. Escort by Police shall be a measure of last resort. The preference shall be given to designated Police Officers or those attached to a Special Juvenile Police Unit.

(9) After completion of the inquiry, if the child is ordered to continue in the children's home the Committee shall carry out an annual review of the progress of the child in the home

(10) 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 its order in Form III with particulars of the Home and parent's or guardian and previous record.

(11) The competent authority may while making an order placing a child under the care of a parent, guardian or fit person as the case may be direct such parent, guardian or fit person to enter into a bond in Form IV with or without sureties.

CHAPTER IV

ESTABLISHMENT OF INSTITUTIONS UNDER THE ACT

21. Observation Home.

(1) The State Government may establish and maintain Observation Home either by itself or under an agreement with voluntary organization in every district or a group of districts as may be required or the temporary reception of any child alleged to be in conflict with law during the pendency of any inquiry regarding them under the Act.

(2) Separate institution shall be maintained for boys and girls.

(3) Inmates of the institution shall be classified and separated in accordance with their degree of offence and their age as follows:

Age group up to 12 years.

Age group of 12 to 16 years.

Age group of 16 to 18 years.

(4) The State Government may also certify or recognises any institution as observation home for the purpose of this Act.

22. Objective of the Observation Home.--

(1) Opportunities to pursue education shall be offered through the provision of creative non-formal classes that enable the child to sustain his/her interest in formal education especially if the child has attended such school.

(2) Special counselling sessions may be conducted by trained persons to enable children alleged to be in conflict with law to deal with their feeling and fears about their situation and to offer them legal aid.

(3) In any case, children shall be offered opportunities to make constructive use of their time even during this short period of observation.

23. Management of Observation Home.

Management of Observation Home shall be maintained by an Officer-in-Charge specifically appointed to hold office as superintendent of the institution who is under the control and supervision of the Commissioner/Director of Social Welfare. The custody of children in conflict with law in the observation home shall be judicial custody.

24. Admission of a child.

(1) Admission of child in the observation home shall be made round-the-clock and the Officer Incharge of observation home is bound to receive the child irrespective of the time.

(2) Admission of child in the observation home or a place of safety shall be made by the Juvenile Justice Board by issuing a placement order duly signed and

seal affixed. No child other than a child in conflict with law shall be kept in an observation home.

(3) The Officer-in-Charge shall be authorised to detain in the observation home a child brought during the night he is produced before the Juvenile Justice Board, the next day for obtaining an order.

(4) The Officer-in-Charge shall refuse admission of a child whose age, identification marks and offence for which he is charged, etc., has not been mentioned specifically:

Provided further admission can also be refused if the placement order is not signed duly or corrections not attested properly or brought without any seal affixed.

(5) The Superintendent/Officer-in-Charge will be personally responsible to see that no child is admitted unauthorised. He will keep a proper check when a child admitted at odd hours.

25. Special Homes.

(1) The State Government may establish and maintain Special Home either by itself or under an agreement with voluntary organization in every district or a group of districts as may be required for the reception, care, treatment and rehabilitation of children in conflict with law who have been directed to undergo institutional training for his activities against law.

(2) Separate institutions shall be maintained for boys and girls.

(3) Inmates of the institutions shall be classified and separated in accordance with their degree of offence and their age as follows:

Age group of 12 years

Age group of 12 to 16 years

Age group of 16 to 18 years.

(4) The State Government may also certify or recognise any institution as Special Home for the purpose of this Act.

26. Objectives of Special Home.--

The objectives of the Special Homes shall be:

- (1) (a) to receive a juvenile on conflict with law who has been ordered by Juvenile Justice Board;
- (b) to provide opportunities to receive emotional and psychological support;
- (c) to facilitate the child to receive proper health care education, vocational training, behaviour modification programmes, etc;
- (d) to ensure the child to be protected from secondary victimization and assist the child for development and growth;
- (e) to ensure the child for reintegration within the community as a changed person;
- (f) Special Programmes; Programmes may be to:
 - (i) Assist the child to accept rather than to avoid responsibility for his/her action.
 - (ii) Help the child to focus on helping to resolve problems identified as contributing to their offending behaviour;
 - (iii) Assist the child to develop practical alternative ways of coping with stressors;
 - (iv) Involve wherever possible, families of offenders to work on family issues likely to reduce offending.
 - (v) Remediating educational deficits in basic skills to raise social competence;
 - (vi) Help to develop market place work skills, which can lead to further training opportunities, qualifications and real jobs;
 - (vii) Assist the child in establishing and strengthening relationships with significant others who can

then become mentors and role models.

- (viii) Involve the child in empowering experiences of assessing their own needs and planning and monitoring their own case plans.
- (ix) Help the child to develop skills and confidence to assert positive leadership and self-discipline.

(2) Efforts may be made to develop a Victim Offender Reconciliation Programme (Concept taken from Victim Offender Reconciliation Programme, www.vorp.com) with such experts involving interested and competent Non-Government Organizations. The objective of such programmes may be to offer avenues for communication, responsibility reconciliation and restitution.

(3) A programme for group counselling and other such services shall be evolved with the help of experts in the field.

(4) A programme to offer and monitor meaningful and effective community service to children in conflict with law, who are ordered to undergo for the same, may be evolved with the help of competent and sensitive Non-Government Organizations/experts. The objective of such community service shall be to enable the child to move towards becoming an adjusted member of the community and it shall in no way further stigmatize the child or violate his rights.

27. Management of Special Home.

Management of Special Home shall be maintained by an Officer-in-Charge specifically appointed to hold office as superintendent of the institution, who is under the control and supervision of the Commissioner/Director of Social Welfare.

28. Admission of Child.

(1) A child in conflict with law shall be admitted on a written placement order issued and duly signed

by the Juvenile Justice Board for the purpose of receiving institutional programme.

(2) No child shall be admitted or kept in the special home without any valid placement order issued by the Juvenile Justice Board or any other Competent Authority exercising the powers of the Juvenile Justice Board.

(3) No child shall be kept in the Special Home beyond the date up to which the child can be kept as per orders of Juvenile Justice Board.

(4) If a child is to be kept in special home beyond the date up to which the child was ordered to be kept in the institutions, the form; order of the Juvenile Justice Board shall be obtained in advance to complete the academic or vocational training till the closure of the academic year.

29. Children Home.

(1) The State Government may establish and maintain Children Home either by itself or under an agreement with voluntary organization in every district or a group of districts as may be required for children in need of care and protection.

(2) Separate institution shall be maintained for boys and girls.

(3) Inmates of the institutions shall be classified and separated in accordance with their age as follows:
Age group up to 12 years.
Age group of 12 to 16 years.
Age group of 16 to 18 years.

(4) The State Government may also certify or recognized any institution as Children Home for the purpose of this Act.

(5) Each children home should be a Comprehensive Child Care Centre.

30. Objective of the Children Home.

The objection of the Children Home shall be:

- (a) To receive a child in need of care and protection.

- (b) To facilities the child to receive educational and vocational training, behaviour modifications programmes for personal growth and developments.
- (c) To ensure that the child develops positive attitude towards family and creates a linkage with the family.

31. Management of Children Homes.

Management of Children Home shall be maintained by an officer-in-charge specifically appointed to hold office as superintendent of the institution, who is under the control and supervision of the Commissioner/Director of Social Welfare.

32. Admission of child.

- (1) Children who are in need of care and protection shall be admitted in the children's home as per the orders of the Child Welfare Committee.
- (2) Children in conflict with law cannot be admitted in children home under any circumstances.

33. Reception Unit.

- (1) There shall be a Reception unit in every children home which shall take care of children during the pendency of enquiries by the Child Welfare Committee.
- (2) Admission of children in the children's home shall be made by the order of the Child Welfare Committee. No children shall be admitted in the institution without a formal order from the Child Welfare Committee.
- (3) The Officer-in-charge of the institution shall not discharge the admitted child from the institution in any manner without the consent of the Child Welfare Committee.
- (4) No girl child, during admission, shall be subjected to scrutiny and checkup by any male staff of the institution.
- (5) Every girl child shall be subjected to medical examination within 24 hours of

her admission by a lady Medical Officer either by the Government doctor or by the panel of approved lady doctors maintained in the institution. Every child on admission shall be kept in the reception unit till such time the enquiry related to the child is completed by the Child Welfare Committee.

34. Disposition of Children from Reception Unit.

Children in the Reception Unit shall be discharged from the Reception Unit on the order of the Child Welfare Committee. The Child Welfare Committees may order that:

- (a) The child shall be restored to the care of parents or relatives as per the orders of the Child Welfare Committee; or
- (b) The child shall be transferred to a similar children home or a shelter home or the fit institution or under the care of fit person, or
- (c) The child shall be transferred to a similar children home or a shelter home or a fit institution or under the care of fit person, or
- (d) If a child belongs to some other State/District the child shall be transferred to the respective Child Welfare Committee for further enquiry and disposition.

35. Transfer/Escorts.

- (1) The transfer of a child to any of the children home or shelter home in other State shall be made within a week of the orders of the Child Welfare Committee and the cases related to transfer of another State shall be completed within 30 days by arranging proper escorts.
- (2) The transfer of children shall be given effect by a travel document issued by the Officer-in-charge of the institution.
- (3) Girl child shall be escorted by female staff accompanied by a male staff.

36. After-care homes.

(1) After-care homes may be set up to take care of children after they leave special homes and children's home. These after-care services shall be offered to all children/youth between the ages of 18 and 20 years in order to empower them and facilitate their smooth transition from institution life into the community.

(2) Objective of these homes would be to enable such children to learn life skills; which will enable them to adapt to society. During their stay in these homes these children should be encouraged to move away from an institution based life to normal one.

(3) Target groups shall include who have either left special homes or children's home.

(4) The key components of the model may include setting-up of temporary homes for a group of youth, who can be encouraged to learn a trade and contribute towards the rent as well as the running of the home. There should also be provision for a peer counsellor. The counsellor may be in regular contact with these youths to discuss their rehabilitation plans and provide creative outlets for their energy, to tide over crisis periods in their life.

(5) The programmes under the scheme of After-care Programme shall include

- (a) facilitating employment generation for these youth. When a youth has saved a sufficient amount, she/he can be encouraged to stay in a place of his/her, own and move out of the group home, or the youth must continue staying in the home. The youth who are learning a vocational trade could be given a stipend. This shall be stopped when the youth gets a job.
- (b) Loans to these youth to set up entrepreneurial activities would also be arranged.
- (c) Micro-craft and entrepreneurship training as well as income generation programmes should be offered.

(d) Girls especially shall be encouraged to take up further education and take admission in other Government Hostels. Though may be financially and otherwise supported in case they opt to be married, such an option shall not be the only one offered to them as a reintegration strategy, when on discharge from the After-care Home, youth who has absolutely no parent or guardian or mentor, youth shall be referred to appropriate recognized agencies or non-governmental Organizations for further training or apprenticeship or other such rehabilitative measure.

(e) A peer counsellor would also be available for youth at these homes. Since at this stage of life they can be turned into crime or drug dependence and such other habits or deviant behaviour, hence the need for a counsellor.

(f) As far as possible, these after-care homes shall be located within the community in areas that enable the youth to come in contact with a healthy social and community life. Each home would house 6-8 youths who could opt to stay together. One peer counsellor can be incharge of a cluster of 5 homes.

(g) Where possible, the State Government may make efforts to dovetail the After-care Home Programme with other State and Central Government Schemes that may enable the youth to take advantage of opportunities to secure a better future on his or her own.

37. Shelter Home.--

(1) For the children in urgent need of care and protection, such as destitute, street children, run away children, etc., the State Government shall support creation of the requisite number and not less than one shelter homes through voluntary organizations. Local Authority Children with special needs from Children's Homes may also be referred to these Shelter Homes for special care, if such special care is available.

(2) The Shelter Homes may be run in a manner, which facilitates following two stages of

intervention during the period of initial contact with children:

- (a) First contact. The first stage of intervention shall be made through initiating first contact intervention similar to street contact centres located on Railway Stations or other areas of high density of children at risk.
- (b) Transit care. The second stage shall be to facilitate a more settled setting for children in crisis who require transit care prior to long-term placement.

(3) Infrastructure. The first contact centres of the shelter home shall have a fairly large physical space for reception of children along with attached bathing and toilet facilities. The shelter homes for transit care shall have the minimum facilities of boarding and lodging besides the provision for fulfilment of basic needs on terms of clothing, food, health care and nutrition, etc., as well as additional facilities for education, vocational training and recreation. Both these centres of the shelter home shall be managed in such a way as to provide child centered community based reception centres for children.

(4) The Child Welfare Committee, Special Juvenile Police Units, Public Servants, Child lines, Voluntary Organisations, Social Workers and the children themselves may refer a child to such facilities.

(5) The legal requirements of investigation and disposal shall not apply in cases of children residing in the shelter home, except giving information to the committee and the police about the missing or homeless children besides initiating legal action in the interest of the child in terms of Act or other child related laws.

(6) Duration of stay in the shelter homes. The staff of the shelter homes shall make a case plan for each child and work with the child to try and find a suitable placement as soon as possible. No child shall ordinarily stay in the transit care shelter home for more than 3 to 6 months, in case of Government funding all children who have not

been placed in such home shall be referred to other Non-Governmental Organization for further follow up. A list of such Non-Government Organization shall maintain an effective liaison and networking initiated to facilitate such referrals.

(7) Management. The shelter home shall be run by recognized or authorized voluntary organization having a minimum of one year in dealing with children in especially difficult circumstances. The shelter home shall to the extent possible, be managed by taking in account the principles and standards outlined in the rules listed in the Chapter VII on Institutional management in accordance with the needs of the child.

38. Objectives of the Shelter Home.--

(1) There shall be following objectives of the shelter homes:

- (a) Identify and receive children who are at risk and in need of urgent care and protection as well as those who specifically seek help in that jurisdiction.
- (b) Build up a friendly relationship with the child so as to enable him/her to understand and share the reasons for his/her present situation as well as to participate in a decision regarding his/her placement.
- (c) Offer quick assessment services and referrals to detailed assessment and other services.
- (d) Offer services of counselling, recreation, medical non-formal education and temporary, open and freely accessible 24-hour shelter.
- (e) Directly link up with competent authorities and institutions under that jurisdiction as well as network with the Child Help Line of the area all other recognized fit persons. Voluntary organizations and fit persons willing to assist in the Shelter Home.

(2) Location The shelter home shall preferably be located in areas of high density of children in difficult circumstances such as railway station, market places and other commercial areas.

(3) Jurisdiction. The State Government shall encourage for setting up at least one shelter Home in every district.

(4) Affiliation to the Jurisdictional Police Station. Every shelter home shall be affiliated to the Jurisdictional Police Station and to the Child Help Line for any specific assistance.

(5) Staffing pattern. The staffing pattern of the home may be as under:

- (a) One Senior Social Worker who is qualified or has special training or experience in working with children in especially difficult circumstances.
- (b) One Junior para professional with special training or experience in working with children in especially difficult circumstances.
- (c) One helper
- (d) Two youth peer counsellors performing the role of friends of children.

(6) Shelter Homes for Children with Special Needs: Such as Mentally Challenged Children.

The State Government may run Children's Homes for mentally challenged children and children with multiple disabilities as per needs. All Rules of Chapter VII of these Rules shall be applicable in these Homes.

39. Children affected by displacement, disaster and conflict.

Children affected by displacement, disaster and conflict shall be dealt with as children in need of care and protection under these rules. However, certain additional principles and rules to provide for special care shall be observed as stated below:

(1) Special Provisions for children affected by displacement, disaster and conflict:

- (a) Children shall be informed of their own situation as well as the details of their family if known, the progress in resettlement

and any other issue that may be relevant to the child.

- (b) There shall be no discrimination based on caste, language, ethnic origin, gender, or any other status by either staff or other children. Due consideration shall be given to the dynamics associated with conflict or other such situation.
- (c) Respect for cultural needs: Keeping in mind that the child may be from a diverse cultural background every effort shall be made to be sensitive of the child's cultural and social needs. Such effort may be to cook food familiar the child, identify persons who speak the language of the child to interact with the child and make the child comfortable and secure so as to reduce the stress of being in an alien environment. The child shall be allowed to follow his or her own religion, rituals and festivals.
- (d) Family and community based reintegration shall be given priority. However, with due regard to the root cause and special circumstances of the case, exceptions may be made with reasons recorded in writing,
- (e) The competent authorities shall respect and ensure respect for relevant rules of international humanitarian law applicable in situations of armed conflict.

(2) Reporting: Only a trained social worker, child psychologist or child psychiatrist shall assess the situation of the child and prepare the report. Personnel shall make every effort to understand, report and respond to the Tourism Officer deep psychological impact on such children and shall strive to receive and deal with the child sensitively. In preparation of the report and during all other procedures, every effort shall be made to avoid secondary victimization.

(3) Procedure. Need Assessment of child shall be done by a child psychologist trained social worker within four days of arrival of the child in

the contact. All other procedures may be such as prescribed in Chapter III of these rules.

(4) Non-institutional care: As far as possible, the child shall not be institutionalized in a State Institution but kept in a foster home under the foster care scheme by foster parents who are specially oriented and trained to care for such children. The foster home shall serve as a home for interim care. During the child's stay in the interim home a basic standard of care that will meet with the child's physical, emotional, developmental and other needs shall be ensured.

(5) Counselling and trauma care Children who have been sexually abused mentally disturbed or traumatized due to such disaster conflict or displacement, etc., or who have particular needs such as those arising from having a HIV positive status shall, wherever possible be attended to by a child psychologist a trained social worker or a psychiatrist and given immediate medical attention and counselling. Regular counselling sessions with children (not less frequently than once a week) with trained personnel shall be facilitated.

(6) Education. As far as possible education that facilitates the continuation of the child's previous education, must be imparted to the child during stay in foster home or any other further long-term placement during the interim period. Such education may also be facilitated through non-formal methods.

(7) Legal protection and assistance. Special care shall be taken to ensure that the legal rights of such children are respected and action taken under the relevant laws.

(8) Family Tracing. For a child who has been found and who has not been admitted through voluntary procedures, the immediate task shall be to trace the family or the nearest known relative. This task shall be completed within the shortest appropriate period of time as under:

- (a) Every effort must be made to trace the family/ex tended family and understand the history of the child before placing the child in any long-term care. Community based initiatives that are found to be sustainable and in the interest of children may be identified and available of after due consideration. If children are orphaned and have no extended family then keeping in mind the principle of best interest of the child, alternative effort or adoptive families may be identified preferably from within the child's community.
 - (b) When it has come to the notice of the competent authorities that there is a cause connected with the children especially girls are being abused, exploited during such situations such children shall be identified and referred to recognized Non-Governmental Organisations, civil society organisations, fit persons or other State run Institutions for long-term care and the adult offenders dealt with under the relevant laws. Special care shall be taken to prevent such children from being arbitrarily transferred or placed with persons who do not have the best interest of the child at heart such as those who arrange the marriage of such children for their suppose protection during such time of disturbance.
- (9) Follow-up. Probation Officer or any other recognized voluntary organization or civil society organization that will follow up on the child must be identified. This organization must communicate within a month of resettlement about the well being of the child. The following issues shall be addressed at time of re-settlement:
- (a) Condition in home State and a report on the desirability of the child continuing to stay in the home State considering the present condition of disaster, conflict or other such reason for displacement.
 - (b) Situation of family or other persons who have been caring for the child prior to displacement.

(c) Care plan for reintegration and rehabilitation taking into account the feelings and opinion of the child about placement.

(10) Sponsorship. If the family is unable to take care of the child for financial reasons, sponsorship support for the family shall be considered.

(11) Alternate arrangement of the child is not placed back to his/her home State or placed in foster care or adoption, he or she may be referred to a Shelter Home for special care.

40. Referral Services for Children with Special Needs.

(1) The competent authority shall identify the recognized institutions providing specialized services to children with special needs and refer the children to these institutions so that their particular needs are met.

(2) Such services shall be provided for physically challenged children, street children, sexually abused children, street children, sexually abused children, children with HIV/ AIDS, children of prisoners, child prostitutes, children addicted to substances, terminally/ chronically ill children and any other such type of children.

(3) Children with special needs, referred to other specialized services or institutions run by recognized voluntary organization, shall be covered under the sponsorship scheme under this Act so that the child is covered with costs on referral.

CHAPTER V

JUVENILE POLICE UNIT

41. Special Juvenile Police Unit

(1) The State Government shall create a minimum one Special Juvenile Police Unit at the district which shall operate as a Centre for Comprehensive First Contact Care for Children under the Act.

(2) Objective of the Special Juvenile Police Unit. The objective of the Special Juvenile Police Unit shall be as under:

(a) To identify receive children at the point of first contact, undertake outreach work in the jurisdiction to identify children at risk and conduct home visits of children.

(b) To build up a friendly relationship with the child so as to enable her/him to understand and share reasons for her/his present situation as well as to participate in a decision regarding proceedings concerning her/him.

(c) To conduct an individualized quick assessment and inquiry and offer counselling, medical attention, recreation, services as well as referral to detailed assessment and other services.

(d) To provide child help line and emergency outreach services through 1098.

(e) To network with the child help line of the area and all other recognized fit person/institution and voluntary organization willing to assist in the work of the SJPU as well as directly link up with competent authorities and institutions under the Act coming under that jurisdiction.

(f) To take on the role of the Child Friendly First Intervention Centres and perform the function of a Community Based Reception Unit of the Observation Home/Children's Home to receive, undertake preliminary inquiries, provide timely counselling and early intervention by operationalising the principal of diversion.

(g) To co-ordinate and upgrade the police treatment towards children.

(h) To operate a mobile Special Juvenile Police Unit which may be called upon by the concerned police station whenever a child is either apprehended or received under the Act.

(i) To function as a place of safety for children.

(j) Any other tasks which the unit shall have to perform in the course of their ordinary duties in a child centered manner.

(3) Location of Special Juvenile Police Unit. The Special Juvenile Police Unit shall not be located

within the precincts of a Police Station, but it shall be located within the premises of a space being utilized by recognized voluntary organization or a public educational institution or any such place. In addition mobile unit of the Special Juvenile Police Unit may be set up, which shall liaison with the respective jurisdictional Special Juvenile Police Unit.

(4) Jurisdiction.

- (a) The Special Juvenile Police Unit shall have the jurisdiction on a number of Police Stations in a particular zone as identified as necessary by the SJPU for taking into account the density of children at risk in the area by the Special Juvenile Police Unit. Every District shall have a minimum of one Special Juvenile Police Unit.
- (b) Affiliation to Jurisdictional Police Station. Every Special Juvenile Police Unit shall be affiliated to the nearest police station for documentation and for any specific assistance.

(5) Staff of the Special Juvenile Police Unit.

- (a) A Child Welfare Officer shall be designated in term of section 63 of the Act not below the rank of Inspector or Sub-Inspector of Police.
- (b) The Juvenile Police Unit at the district level shall function under the supervision of a Child Welfare Officer and two Voluntary Social Workers of whom one shall be a woman and another preferably child expert or having relevant experience.
- (c) One Junior Social Worker who is qualified or experienced as a para professional with a minimum of one year experience in dealing directly with children in especially difficult circumstances. (One of these two Social Workers shall be a woman.)
- (d) A minimum of one Police Constable who shall be a woman.
- (e) One helper.

(f) Two youth counsellors taking on the role of friends of children who come to the Special Juvenile Police Unit.

(g) One Police Officer.

(h) Clothing to be worn by persons designated to deal with children under the Act. Wherever possible, all such persons shall, except at the time of arrest only wear civil clothes and not a uniform unless specific circumstances require the said Officer to wear a Police uniform in the interest of the child. However, they shall at all time have on their person, an identification that shall be produced on demand.

(6) Management.

- (a) Every Special Juvenile Police Unit may network by a recognized voluntary organization having experience and or training in directly working with children in especially difficult circumstances.
- (b) All Special Juvenile Police Unit's shall report directly to the Commissioner/ Superintendent of Police.

(7) Procedure.

- (a) The staff of the Special Juvenile Police Unit shall receive the child who has been identified as needing the services provided under the Act according to the principles outlined in these rules and proceed to conduct preliminary and offer services that the child may need at this point of initial contact.
- (b) Special investigations and reports that are required to be undertaken by the police shall be made in addition to which social investigation reports may also be made by the social workers of the Special Juvenile Police Unit. The social investigation report of the social worker attached to the Special Juvenile Police Unit may be considered.
- (c) Every police station shall display the main feature of Juvenile Justice Act on the board in the entrance of the police station.

(8) Missing Children's Bureau.

- (a) The State Government shall set up a Missing Children's Bureau for documentation and publishing information relating to Missing Children. Computerized software shall be put in place to facilitate such a service. Attempt shall be made to network with all other similar facilities set up around the country so as to facilitate speedy scanning and transmission of information about such children around the country. This shall also serve as a data base of missing children.
- (b) The Missing Children's Bureau shall be linked up to the child Help Line wherever available as well as to all major Police Stations in each District.
- (c) All citizens found to be directly related to or otherwise authorized to access this information shall be allowed free access to this data base. Persons found to be abusing this data base against the interests of children shall be investigated and the necessary action shall be taken.

CHAPTER VI**RECOGNITION AND CERTIFICATION OF INSTITUTIONS****42. Recognition of fit person or fit institution.**

(1) Any suitable individual, body of individuals, any association, place or institution, the occupier or manager of which is willing temporarily to receive a child in need of care, protection or treatment for so long a period as may be necessary and to bring or to give facilities for bringing up any child entrusted to its care in conformity with the religion of his birth may be recognized by the competent authority as fit person or fit institution.

(2) A list of names and the addresses of fit persons and fit institutions approved by the competent authority shall be kept in the office of the Board/Committee and shall be used when necessary.

Efforts shall be made to identify and recognize institutions, which meet the needs of children requiring specialized intervention and services.

(3) After committal of a child by the competent authority to an institution recognized as a fit institution with collateral branches, the manager of such institution may send the child to any of the branches of such institution after giving an intimation to the Competent Authority under whose orders the child was committed.

(4) Before declaring any person/institution as fit person/fit institution, the Competent Authority shall hold due enquiry and only on satisfaction shall give recognition as such.

(5) Children shall be referred to these institutions/individuals based on the child's need and the stated objectives, competence or ability of the recognized fit institution/person to meet the needs of the child. Prior to such placement, the Competent Authority shall consult with the head of the institution and after receiving his/her consent transfer the child to the said facility.

43. Certification/recognition and transfer of Institution.

(1) If the management of any organization desires that its organization may be certified or recognized under the Act, the same shall make a written application in Form XIX together with a copy each of the rules, bye-laws, articles of association, list of members of the society/association running the organization, office bearers and a statement showing the states and past record of social or public service of the organization and the society running the organization to the competent authority. Competent Authority shall recommend the application to State Government through District Advisory Board.

(2) The State Government shall, after verifying the provision made in the organization for the boarding and lodging, general health, education, vocational training and treatment service may grant certification/recognition under sections 8, 9, 34,

37 and 44 of the Act, as the case may be this shall be on the condition that the organization comply with the standards and offer services as laid down under the Act and these rules and agrees to ensure an all round growth and development of children placed under its charge.

(3) The State Government may transfer the management of any State run institution under this Act to a voluntary organization of repute that has the capacity to run such an institution and certify that said voluntary organization as a fit institution to own the requisite responsibilities.

44. Joint Management.

(1) State run institutions may also be managed by Non-Government Organizations. Roles and responsibilities as well as other details of management may be finalized after specific and individualized consultation with the said organization and these may be agreed on through a Memorandum of Understanding for a specified period of time.

The Memorandum of Understanding shall be signed by the parties in the following manner, namely:

- (a) The roles and responsibilities of each party.
- (b) The areas in which financial/Programmatic inputs will be made by the collaborating agency.
- (c) Mechanisms for the review of the joint management.
- (d) Space for the participation of the children.
- (e) The roles and responsibilities of the staff/volunteers who come into these institutions as part of the joint management efforts.
- (f) Any other matter relevant to the particular situation at the time.

(2) The institution and the infrastructure already available with the State Government as under the Juvenile Justice Act, 1986 shall be suitably used for implementing the Act.

(3) The State Government, if dissatisfied with the conditions, rules or management of the organization certified or recognized under the Act, may at any time, giving two months 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. From the said date the organization shall cease to be an organization certified or recognized under section 8, section 9, section 34, section 37 or section 44 of the Act, as the case may be.

(4) The decision to withdraw or to restore the certificate or recognition of the organization may be taken on basis of a thorough investigation by a specially constituted Advisory Board under section 62 of the Act. On the report of the Advisory Board, the Officer-in-Charge of the home shall be asked to show cause to give an explanation within 30 days.

(5) When an organization ceases to be an organization certified or recognized under section 8, section 9, section 34, section 37 or section 44 of the Act, the children kept therein shall under the Designated Officer empowered in this behalf by the State Government be either:

- (a) Discharged absolutely on such conditions as the Officer may impose; or
- (b) Transferred to some other institution established, certified or recognized under section 8, section 9, section 34, section 37 or section 44 of the Act, in accordance with the provisions of the Act and rules relating to discharge and transfer. Intimation of such discharge or transfer shall be given to the Board or Committee, as the case may be.

45. Grant-in-aid to certified or recognized organization.

(1) An organization certified or recognized under sections 8, 9, 34, 37 or 44 of the Act may, while the period of certification or recognition is in force, apply for grant-in-aid to aid to the

State Government for maintenance of children received by them and or the provisions of the Act and for expenses incurred on their education, treatment, vocational training, development and rehabilitation. The grant-in-aid may be granted by the State Government at such rates, which shall be able to meet the prescribed norms in such manner and subject to such conditions as may be mutually agreed by both parties.

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

CHAPTER VII

INSTITUTIONAL MANAGEMENT

46. (1) Protection of the rights of the more vulnerable children within institutions.

- (a) All authorities, officers and personnel shall, at all times be sensitive to the needs of children who are vulnerable because of age, sex, gender, sexual orientation, HIV status serious illness or any other reason. Affirmative action shall be encouraged.
- (b) The State Government/voluntary organization shall set up separate institutions for boys and girls. Separate facilities shall be set up for girls who are above the age of 10 years and below the age of 10 years. With respect to institutions for boys, separate facilities for the age groups up to 12 years, 12-16 and 16-18 years shall be set-up. Separate facilities shall be set up for children in the age group up to 0-5 years with appropriate facilities for the infants.

(2) Reception of the child.

- (a) The placement of children in institutions shall only take place under conditions that take full account of their particular needs

and special requirements according to their age, personality, sex and type of offence if applicable, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations.

- (b) The principal criterion for the separation of different categories of children, shall be the best suited care to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.
- (c) The child shall be received in a caring manner by personnel who have been trained and sensitized to the special needs and feelings of children being institutionalized. The child shall be administered a haircut, if necessary and given a bath in manner that protects and affirms the dignity of the child. Lice lotion shall be used whenever possible as an alternative to shaving.
- (d) The child shall be allotted a locker to store his or her personal belongings and other valuables.
- (e) The immediate needs and apprehensions of the child such as the need for urgent medical care and the need to contact parents shall be attended to in a prompt, efficient and nurturing manner.
- (f) The Officer-in-Charge shall verify the order of the Juvenile Justice Board before receiving the child.
- (g) A copy of the rules governing the observation/special home/children home and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints such as Child Line, Child Welfare Committee, Juvenile Justice Board, neighbourhood committees, District level committees as well as the address of public or private agencies and organizations which provide legal assistance shall be provided to the child at the time of reception. The child shall have access to these at any time on request.

For those children who are illiterate or who cannot understand the language in the written form or in any other way need assistance, the information should be conveyed in a manner enabling full comprehension.

- (h) The child shall be oriented to understand the regulations governing the internal organization of the institution, the goals and methodology of the care provided, the disciplinary requirements and procedures, other authorised methods of seeking information and of making complaints, and all such other matters as are necessary to enable him/her to understand fully their rights and obligations during the period of institutionalization.

47. Maintenance of Registers.

(1) The Officer-in-Charge shall maintain the office such registers and forms as may be prescribed by the Act and these rules.

(2) Case file. The case file shall contain the following particulars

- (a) All reports, including social investigation report, legal records, medical and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, shall be placed in a confidential individual file. These files shall be kept up-to-date, accessible only to authorised persons including the child himself or herself and classified in such a way as to be easily understood.
- (b) Where possible, every child shall have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, any person shall be allowed who is authorised by the Juvenile Justice Board or the Child Welfare Committee to have access to and to consult the file on request. Upon release, the records of children shall be sealed, and, at an appropriate time shall be destroyed.

(c) The case file of each child shall be maintained in the institution containing the following information as applicable:

- (i) Central index number
- (ii) Annual photograph
- (iii) Report of the person/agency who produced the child before the Competent Authority; (same as the format of the Social Investigation Report)
- (iv) Probation Officer's report (also in the format of the Social Investigation Report)
- (v) Information from previous institution
- (vi) Observation reports from staff members relating to the child's progress in education, health, report of menstruation (in case of girls), emotional status, social history
- (vii) Summary Report by Officer-in-Charge
- (viii) Reports from Medical Officer, I.Q. testing, aptitude testing, educational/vocational tests;
- (ix) Initial classification sheet and care plan of the child.
- (x) Special precaution to be taken, including those relating to diet, allergies, allergic reactions to any medicine, details of persons who may not be provided access to the child, etc.
- (xi) Leave and other privileges granted;
- (xii) Quarterly progress report from various sections;
- (xiii) Review sheet including violation of rules, regulations
- (xiv) Pre-release programme
- (xv) Final progress report; (records of education/vocational training, health and other progress reports may be included here with a conclusion summarizing all of the above)

- (xvi) Leave of absence/release on licence.
 - (xvii) Final discharge (shall include the pre-release report and final decision that has been made on the recommendations of that report)
 - (xviii) Remarks.
- (3) Care and Rehabilitation Plan. The care and rehabilitation plan shall be prepared in the following manner:
- (a) The incharge, counsellor, wherever available, along with the Probation Officer, case worker or social worker shall after consultation, prepare a care plan for every child in the home. The care plan shall be based on a case history of the child admitted to an institution which shall be maintained on a Quarterly basis. This information may be collected through all possible and available sources, including home, parents or guardians, employer, school, friends and community and interview with the child himself or herself. The report shall also identify psychological and social factors relevant to the specific type and level of care and programme required by the child.
 - (b) The educational level and vocational aptitude shall be assessed on the basis of test and interview conducted by the teacher, the vocational trainer and other technical staff. Wherever possible.
 - (c) The care plan shall be reviewed from time-to-time for appropriate development and rehabilitation including options for restoration to family/ foster care/adoption and review shall not be delayed beyond a year. Shall be consulted while determining their care plan. When special rehabilitative treatment is required, and the length of stay in the institution permits, trained functionaries of the institution shall prepare a written, individualized treatment plan specifying treatment objectives and time frame and the means, stages and delays with which the objectives shall be approached.
 - (d) Based on the above care plan the appropriate images be established with outside specialists and community-based welfare agencies, psychologists, psychiatrists, child guidance clinic, hospital and local doctors, open school, etc., so as to access the best appropriate care for each child.
 - (e) This report together with the report prepared by a Medical Officer who has examined the child upon admission, shall be forwarded to the 'Monitoring and Evaluation Committee' of each Home for purposes of determining the most appropriate for the child within the institution and the specific type and level of care and programme required to be pursued.
- 48. Participation of children.**
- (1) The Voluntary organisation related to the welfare activities of children shall be involved in planning of programmes, reception children, management of the homes and grievance redressal. Wherever possible the voluntary organisations shall be facilitated experts or functionaries trained in mobilizing participatory processes with children. The voluntary organizations shall work in close coordination with the Monitoring and Evaluation Committee.
 - (2) Children who are unable to play their role effectively in the interests of all the children in the institution may be asked by the children to step down through a suitable process. Whenever possible involvement of parents in the running of the institution shall be facilitated.
- 49. Identity.**
- No child who is received into the institution shall have his or her name changed by the personnel. The authorities shall respect each child's religious, cultural and social identity.
- 50. Daily activities.**
- (1) Each institution shall have a well-planned daily schedule, which endeavour to fulfil the basic needs and rights of the child.

(2) The schedule shall be arrived at in consultation with the inmates Non-Government organizations working in the area of child rights, neighbourhood committee, District Level Committee specially those partnering with the institution shall to the greatest extent possible facilitate this planning of the schedule.

(3) The institution shall involve the outside community including students, NGOs, clubs and societies in planning and conducting various activities including games, music, education, excursions, etc.

(4) Special programmes may be organized for Sundays and holidays.

51. Nutrition.

(1) Every Officer-in-charge shall ensure that every child has the right to adequate and appropriate nutrition. Residents shall receive food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygienic and health and as far as possible, religious and cultural requirements. Clean drinking water should be available to every child at any time.

(2) The State Government shall prepare a Diet Scale for children in consultation with nutrition experts so that the diet becomes balanced, nutritious and varied. Special diet may be provided on holidays and festivals and to the sick children as required. The suggested dietary scale could be as follows:

Article	Recommended Dietary Allowance
Flour	300 gms. per head per day
Rice	300 gms. per head per day
Vegetables	250 gms. per head per day
Pulses	125 gms. per head per day
Sugar	40 gms. per head per day
Vegetable oil/fats	40 gms. per head per day

Article	Recommended Dietary Allowance
Milk/curd	300 gms. per head per day without adding water
Breakfast (Ground nuts, chana, Poha)	50 gms. per head per day
Tea leaves	4 gms. per head per day
Fruits	45 gms. per head per day (Three times a week)
Spices	10 gms. per head per day Mixed as per regional requirements
Salt	15 gms. per head per day
Other Items	50 gms. per month
Tooth Powder	100 gms. per month
Hair oil	1 per month
Bath Soap	2 Nos. per month
Soap (for washing clothes)	

Note. The suggested dietary scale could be modified according to the local needs. Where on LPG gas available, firewood/fuel scale will apply during the period of non-availability of gas also.

52. Clothing, bedding and other articles.

(1) To the extent possible children shall have the right to use their own clothing other than uniform. Institutions shall ensure that each child has personal clothing suitable for the climate and adequate to ensure good health, and which in no manner is degrading or humiliating. Children removed from or leaving an institution for any purpose shall be allowed to wear clothing. They shall not wear uniforms, taking into account that such procedure tends to label and stigmatize children.

(2) Each child shall be provided with clothing and bedding including customary under garments, towels, jersey for winter, school uniform for children attending outside schools, durri, bed-sheets, blanket, pillow, chappal or shoes, utensils as required; and tooth powder, soap, oil, comb, etc.,

as per the scale laid down by the State Government from time-to-time. The minimum suggested scale for clothing and bedding could be as follows:

Article		Norms (per resident)		
		Non-School going children		Mentally Challenged children
Shirts		3 Terricot/cotton year	shirts per	5 Terricot/cotton shirts per year
Nickers/Pyjama/Skirt		3 Terricot/cotton	half pant	5 Terricot/cotton half pant
		per year up to 12 years 3 Terricot/cotton trousers		per year
		per year above 12 years		
Kachha		4 per year		6 per year
Banian		4 per year		4 per year
Brassiers for girls above 13 years		4 per year		4 per year
Towels		2 per year		2 per year
Scarf/Chunni for girls only above 12 years of age		2 per year		2 per year for girls
Leather Shoes		1 per year		1 canvas shoe per year
Chappal to girls		1 per year		1 per year
Handkerchiefs				
Canvas PT shoes		1 per year		
Half sleeves sweater	1 in 2 years		1 per year	
Woollen Jersey		1 in 2 years		1 per year
Sanitary pads for as needed above	girls 13 years			as needed
Socks Nylon		2 per year		2 per year
Durries cotton		1 in 3 years		1 in 2 years
Bed Sheets		2 per year		4 per year
Khes		1 in 3 years		1 in 1 year
Blankets		3 in 3 years		4 in 2 years
Raja is				
Pillows		1 per head		
Pillow covers		2 per head		
Gadda				

Note. Additional one set of all these articles shall be kept as reserved stock @ 20% of the strength of the children. School going children shall be provided all sets of school uniforms on time. The suggested clothing and bedding scale could be modified according to the local needs.

53. Service, which conform to requirements of the health and dignity of the child.

(1) Children deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.

(2) The design of the institutions and the physical environment to the extent possible, shall be in keeping with the rehabilitative aim of residential treatment, with due regard to the need of the child for privacy, sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure time activities. Though existing infrastructure available with the State Government may be utilized, a concerted effort shall be made to re-organize the decor of all State institutions so that they project the image of child centered Homes and not that a Jail or government office. Coloured paint for walls and furniture, posters, and exhibition boards shall be made available to children themselves who may use the same to decorate their home.

(3) The design and structure of the home shall be such as to minimize the risk of fire and to ensure safe evacuation from the premises. There shall be an effective alarm system in case of fire, as well as formal and drilled procedures to ensure the safety of the children. Facilities shall not be located in areas where there are known health or other hazards or risks.

(4) Sleeping accommodation shall normally consist of small group dormitories, while bearing in mind local standards. During sleeping hours there should be regular, unobtrusive supervision of all sleeping areas and group dormitories, in order to ensure the protection of each child. Every child shall be provided with separate and sufficient bedding, which shall be clean when issued, kept in good order and changed often enough to ensure cleanliness.

(5) Sanitary installations should be so located and of a sufficient standard to enable child to comply, as required, with their physical needs in privacy and in a clean and decent manner. Children shall not be made to clean the toilets.

(6) Sanitation and Hygiene. Each institution shall have the following facilities:

(a) Sufficient and treated drinking water;

- (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;
- (f) Sufficient number of latrines in the proportion of at least one latrine for seven children;
- (g) Sufficient number of bathrooms in the proportion of at least one bathroom for ten children;
- (h) Sufficient space for washing;
- (i) Cleanliness in the kitchen;
- (j) Fly-proof kitchen;
- (k) Sunning of bedding and clothing;
- (l) Availability of medical facility.

(7) Accommodation. The minimum standard of accommodation shall be as follows to the extent possible:

Dormitory	:	40 square feet per juvenile
Classroom	:	Sufficient accommodation
Workshop	:	Sufficient work space.

Play ground. Sufficient playground area should be provided in each institution according to the total number of children in the institution and all children/children allowed to play for at least two hours in a day in the playground.

(8) The dormitories, classrooms and workshop shall have sufficient cross ventilation and light.

54. Education and vocational training.

(1) Education shall be provided outside the institution wherever possible in formal schools run by the State/State Aided Institutions/ Institutions recognized by the State. Such education shall be provided by qualified teachers through programs integrated with the education system of the country so that, after release, children may continue their education without difficulty.

(2) Every child of compulsory school age in any facility including the observation home has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Special methodologies based on Minimum Levels of learning as prescribed by the National Council of Educational Research and Training, as far as possible be incorporated into the educational system within correctional institutions to meet the special learning needs of children such as street children, etc. Special attention shall be given by the administration of the facilities to the education of children with particular cultural or ethnic needs or any other special needs. Children who are illiterate or have cognitive or learning difficulties shall have the right to special education.

(3) Children above compulsory school age who wish to continue their education shall be permitted and encouraged to do so, and every effort shall be made to provide them with access to appropriate educational programme.

(4) Diplomas or educational certificate awarded to children while under the Act shall not indicate in any way that the child has been institutionalized in such institution.

(5) Every institution should provide access to a library that is adequately stocked with both instructional and recreational books and periodicals suitable for the children who should be encouraged and enabled to make full use of it.

(6) Every child, except those in temporary care in the Observation Home, above the age of compulsory school education shall have the right to receive vocational training in occupations likely to prepare him or her for future employment.

(7) Each home, except the Observation Home, shall facilitate suitable vocational training under the guidance of trained instructors. The home shall develop networking with Institute of Technical Instruction (ITI), Government and Private Organization/ Enterprises, Agencies/Non-Governmental Organizations with expertise and placement agencies.

(8) With due regard to proper vocational selection and to the requirements of institutional administration, children should be encouraged to choose the type of work they wish to perform.

(9) Children shall be provided, where possible and in accordance with the Child Labour Act, with opportunities to pursue work, with remuneration and continue education or training, but shall not be required to do so. Work, education or training shall not cause the continuation of the child's stay within the institution;

(10) Wherever possible, children shall be provided with the opportunity to perform remunerated labour, if possible within the local community, as a compliment to the vocational training provided in order to enhance the possibility finding suitable employment when they return to their communities. The type of work shall be such as to provide appropriate training that will be of benefit to the children following release. The organization and methods of work offered in facilities shall resemble as closely as possible those of similar work in the community so as to prepare children for the conditions of normal occupational life.

(11) Earnings. Every child who perform work have the right to an equitable remuneration if such work is remunerative. The interests of the children and of their vocational training shall not be subordinated to the purpose of making a profit for the juvenile justice institution or a third party. Part of the earnings of a child may be set aside to constitute a savings fund to be handed over to the child on release. The child may have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offence or to send it to his or her family or other persons outside the institution.

(12) Reward. Rewards to the children as may be fixed by the management of the home from time-to-time may be granted by the Officer-in-Charge as an encouragement to steady work and good behaviour. These rewards shall be presented to

the child within a period of two months of his earning it after obtaining a proper receipt from the child.

(13) The religious beliefs of children shall be duly respected and no classes shall be conducted which attempt to proselytize in the name of education.

(14) Inspection of academic and vocational training. The monitoring and Evaluation Committees shall report to the Inspection Committee or to any other relevant specialized inspection Committee set up in the State having special jurisdiction on the issue of education, such as the District Educational Officer, Director of Technical Education or any recognized Education Consultants.

55. Medical Care.

(1) Every child shall receive adequate medical care preventive and remedial, including dental, ophthalmologic and mental health care, etc., as well as pharmaceutical products and special diets as medically indicated. All such medical care shall, where possible, be provided to children through the appropriate health facilities and services of the community in which the institution is located, in order to prevent stigmatization of the child and promote self-respect and integration into the community.

(2) Each institution shall provide for the necessary medical facilities to ensure that:

- (a) Regular facilities are available for the medical treatment.
- (b) Arrangements are made for the immunization coverage.
- (c) A system is evolved for referral of serious cases to the nearest civil hospital or treatment centres.
- (d) That sick children shall be constantly under medical supervision.
- (e) In the event of break out of contagious/infectious diseases, segregation must be ensured.

(3) Each child admitted in any home shall be medically examined by the Medical Officer within

24 hours and also at time of transfer/release/lease of the child to a special home or in case of children in need of care and protection before any family community placement, within a similar period transfer and further at any other time that may be considered necessary by the Medical Officer or the Officer-in-Charge. The child shall be oriented to the need for such an examination. Such medical examination shall be conducted by trained and sensitized medical professionals in a manner that protects the dignity and rights of the child.

(4) No surgical treatment shall be carried out on any child without the previous consent of his parent or guardian, unless either the parent or guardian cannot be found and the condition of the child is such that any delay would, in the opinion of the Medical Officer, involve unnecessary suffering or injury to the health of the juvenile. Proper direction to this effect must be obtained from the Juvenile Justice Board or the Child Welfare Committee at the earliest.

(5) A health record of each child in the institution shall be maintained in Form XXII on the basis of quarterly medical check-up. The medical record of each child shall be meticulously maintained in the file of the child. The record shall also include weight and height record, any sickness and treatment and other physical/mental problem if any.

(6) Any medical officer who has reason to believe that the physical or mental health of a child, has been or will be injuriously affected or any other condition, should report this fact immediately to the superintendent in question and to the concerned authority for safeguarding the well-being of the child.

(7) A child, who is suffering from mental illness, should be treated in specialized institution under independent medical management. Steps should be taken, by arrangement with appropriate agencies to ensure any necessary continuation of mental health care after release.

(8) Observation/Special homes/Children's homes shall refer such children who require specialized

drug abuse prevention and rehabilitation programs to an approved place administered by qualified functionaries. These programs shall be adapted to the age, sex and other requirements of the children concerned.

(9) Medicines should be administered only for necessary treatment on medical grounds and, when possible, after having obtained the informed consent of the child concerned. In particular, they must not be administered with a view to eliciting information or a confession, as a punishment or as a means of restraint. Children shall never be tested in the experimental use of drugs and treatment. The administration of any drug should always be authorised and carried out by qualified medical functionaries.

(10) Each home shall as far as possible, have the services of a trained counsellor according to the counsellor or child ratio prescribed. Services of Child Guidance Centres, Psychology and Psychiatric Departments or similar Agencies may also be availed.

(11) The family or guardian of a child and any other person designated by the child have the right to inquire about the state of health of the child the family or guardian shall be informed.

(12) The superintendent of the juvenile justice institution should immediately notify the family or guardian of the child concerned, or other designated person, in case of death, illness requiring transfer of the child to an outside medical institution or a condition requiring clinical care within the home for more than 48 hours. Notice shall also be given to the authorities of the State of which a child is a resident.

56. Mode of dealing with child suffering from contagious diseases or mental complaint.--

(1) When a child kept in a home under the provision of the Act or placed under the care of a fit person or a fit institution is found to be suffering from a disease requiring prolonged

medical treatment or physical or mental complaint that will respond to treatment or is found addicted to a narcotic drug or psychotropic substance, the child may be shifted by an order of the authority empowered in this behalf to an approved place set up for such purpose for the remainder of the term for which he has to be kept in custody under the order of the competent authority or for such period as may be certified by Medical Officer to be necessary for the proper treatment of the child.

(2) Where it appears to the authority ordering the shifting of the child under sub-rule (1) that the child is cured of the disease or physical or mental complaint he may, if the child is still liable to be kept in custody, order the person having charge, send child to the home or fit person from which or from whom he was shifted or the child is no longer liable to be kept in home order him to be discharged.

(3) Where it is found that the child has been institutionalized because his or her partner in marriage or parent or guardian is suffering from a contagious disease, support through the sponsorship scheme shall be given to the said person to enable the child to be restored to the family as soon as possible. The best interest of the child shall be the paramount consideration. As far as possible, all new cases coming for voluntary admission to the Child Welfare Committee shall be screened and appropriate non-institutional options explored.

(4) If there is no organization either within the jurisdiction of the competent authority or nearby State for sending the child suffering from contagious diseases as required in section 58 of the Act, necessary organization shall be set up by the State Government at such places as may be deemed fit by it.

(5) Institutional authorities shall also provide children and institutional staff with access to HIV related prevention information and education. Facilities for voluntary testing and counselling,

means of prevention treatment and care shall be provided in a phased manner, confidentiality should be assured and mandatory testing. Segregation and denial of access to facilities and privileges prohibited. Compassionate early release or referred of residents living with AIDS shall be considered.

57. Recreation.

(1) Every child shall have the right to at least two hours for daily free exercise, in the open air whenever weather permits, during which time appropriate recreational and physical training shall normally be provided. Adequate space, installations and equipment shall be provided for these activities.

(2) Every child shall have additional time for daily leisure activities, part of which should be devoted, if the child so wishes, to arts and crafts skill development.

(3) The institution shall ensure that each child is physically able to participate in the available programs of physical education. Remedial physical education and therapy shall be offered, under medical supervision, to children needing it.

58. Religion.

Every child shall be allowed to satisfy the needs of his or her religious and spiritual life by performing/attending the services or prayers provided in the institution or by conducting his or her own prayers and having possession of the necessary books or items of religious observation and instruction of his or her religion.

59. Visits and outside communication.--

(1) Every child shall have the right to receive regular and frequent visits, particularly once a week and not less than once a month, in circumstances that respect the need of the child for privacy, contact and unrestricted communication with the family and wherever applicable the defence counsel.

(2) Every means shall be provided to ensure that children have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential to the preparation of children for their return to society.

(3) Children, shall be allowed to communication with their families, friends and other persons or representatives of reputable outside organizations, to leave the home for a visit to their home and family and to receive special permission to leave the home for educational, vocational, or other important reason. The time spent outside the institution shall be counted as part of the period of sentence.

(4) The receipt of letters by the 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. Wherever the probation officers are of the opinion that it would be in the child's best interest to communicate with his or her parents, the children should be encouraged to keep their links to the family alive by writing at least one letter a month for which the postage shall be provided.

(5) Every child shall have the right to make local telephone calls at least twice a week to his Parents/Guardian/close relatives, etc., and shall be assisted a necessary order effective to enjoy this right. The cost of the call may be borne by the child herself or himself. For children who do not have savings or any other such financial support the institution may support the child to contact his or her parents or guardian over the phone for immediate communication. The institution may offer such assistance if possible. Every child shall have the right to receive telephone calls. Every child shall have the right to contact the Child Helpline at least once a week and anytime during an emergency.

(6) Children shall have the opportunity to keep themselves informed regularly of the news by reading newspapers, periodicals and other publications, through access to radio and television programs and motion pictures and through the

visits of the representatives of any association, youth society, club or organization in which the child is interested.

60. Privacy.

(1) The possession of personal effects is a basic element of the right to privacy and essential to the psychological well being of the child. The right of every child to possess personal effects and to have adequate storage facilities for them shall be fully recognized and respected.

(2) Every institution shall have a locker for each child where he or she can store his or her personal belongings.

(3) In every institution, a register of money, valuables and other articles which the child wishes to entrust for safekeeping shall be maintained which may be called the "Personal Belonging Register". The entries relating to each child shall be read over to child in the presence of a witness whose signature shall be obtained in token of the correctness of such entries. All such entries shall be counter-signed by the Officer-in-Charge.

(4) The money, valuable and other articles shall be kept with the Officer-in-Charge in safe custody.

(5) When such child is transferred from one institution to another, all his property valuable, shall be sent along with the child to Officer-in-Charge of the institution to which he has been transferred together with a full and correct statement to the description and estimated value thereof.

(6) At the time of the release of such juvenile, the property or valuable kept in safe custody and the money deposited in the name of child shall be handed over to the child and an entry made in that behalf in the register. Such entry shall be signed by the Officer-in-Charge.

(7) When a child of an institution dies, therein, the property left by the deceased and the money deposited in the name of the child shall be handed

over by the Officer-in-Charge to any person who established his claim thereto and executes an indemnity bond. A receipt shall be obtained from such person for having received such property and the amount. If no claimant appears within a period of six months from the date of death/ escape of such juvenile, the property and amount shall be disposed of as per the decision taken by the monitoring and Evaluation Committee.

(8) Prohibited Articles. No person shall bring into institution the following prohibited articles.

- (a) Fire-arms or other weapons whether requiring licence or not (like lathi, spears, swords, etc.)
- (b) Alcohol and spirit of every description,
- (c) Bhang, ganja, opium and other narcotic/ psychotropic substances,
- (d) Tobacco, or
- (e) Any other article specified in this behalf by the State Government by general or special order.

61. Leave of the child.--

(1) A child shall be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and shall be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative.

(2) The child from any institution, may be allowed to go on leave of absence/or released on licence and stay with his family during examination, emergencies or special occasions like marriage in the family, etc.

(3) The leave of absence for short period not exceeding seven days excluding the journey time may be recommended by the Officer-in-Charge but such leave shall be granted by the Board in Form VII.

(4) The parents or guardian of the child shall submit an application to the Superintendent requesting for

release of the child on leave, stating clearly the purpose for the leave and the period of leave.

(5) If the Superintendent considers that granting of such leave is for the reasons mentioned above or otherwise in the interest of the child, he shall call for a report of the Probation Officer on the advisability or otherwise and forward the case to the Board.

(6) The parent or guardian shall arrange to escort the child from and to the institution and bear the travelling expenses, in exceptional cases or during any emergency, the Officer-in-Charge may arrange to escort the child to the place of the family and back.

(7) If the child runs away from family during the leave period, the parent or guardian are required to inform the Officer-in-Charge of the institution immediately and try to trace the child and if found send the child to the institution.

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

(9) The period of such leave shall be deemed to be part of the period of stay in the institution. Only in the case of children in conflict with the law, the time which elapses after the failure of a child to return to the institution within the stipulated period shall be excluded in computing the period of his detention in the institution.

(10) Well-rounded programme of pre-release planning and follow-up to cases discharged from special homes shall be organized in all institutions in close collaboration with existing Governmental and Voluntary Welfare Organizations.

62. Procedure for sending a child outside the jurisdiction of the Competent Authority.

(1) In the case of child whose ordinary place of residence lies outside the jurisdiction of the

competent authority and if the competent authority deems it necessary to take action under section 50 it shall direct a Probation Officer to make enquiries as to the fitness and willingness of the relative or other person to receive the child at the ordinary place of residence and whether such relative or other fit person can exercise proper care and control over the child.

(2) Any child who is a foreign national and who has lost contact with the family shall also be entitled for protection. The child shall be repatriated, at the earliest, to the country in co-ordination with the Ministry of External Affairs and respective Embassy or High Commission.

(3) On being satisfied on the report of the probation officer/case worker/Child Welfare Officer, as the case may be, the competent authority may send the child, if necessary on execution of a bond in Form V by the child to the said relative or fit person or giving an undertaking by the said relative or fit person in Form VI.

(4) A copy of the order passed by the competent authority under section 50 shall be sent to:

- (a) The Probation Officer who was directed to submit a report under sub-rule (1),
- (b) The Probation Officer, if any, having jurisdiction over the place where the child is to be sent.
- (c) The Competent Authority having jurisdiction over the place where the child is to be sent, and
- (d) The relative or the persons who is to receive the child.

(5) Any breach of a bond or undertaking or of both given under sub-rule (3) above shall render the child liable to be brought before the competent authority who may make an order directing the child to be sent to home.

(6) During the pendency of the orders under sub-rule (33), the child shall be sent by the competent authority to an observation home/children home.

(7) In the case of a child where the competent authority deems it expedient to send the child back to his ordinary place of residence under section 50, the competent authority shall inform the relative or the fit person to come to the home to take charge of the child on such date as may be specified by the competent authority.

(8) The competent authority inviting the said relative or fit person under sub-rule (6) 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 the appropriate class and the child's journey from the home to his ordinary place of residence, at the time of sending the child.

(9) If the relative of the fit person fails to come to take charge of the child on the specified date the child shall be taken to his ordinary place of residence by the escort of the home under the Act. In the case of a girl at least one escort shall be a female.

63. Transfer.

(1) The transport of children shall be carried out at the expense of the administration in conveyances with adequate ventilation and light, in conditions that in no way subject them to hardship or indignity. Children shall not be transferred from one institution to another arbitrarily.

(2) During the enquiry, if it is found that the child hails from the place outside the jurisdiction of the competent authority the competent authority shall order the transfer of the child to the competent authority having jurisdiction over the place of residence of the child.

(3) The Juvenile in an institution by the Commissioner/Director of Social Welfare Department, the proposal for transfer of juvenile shall be made by the Superintendent with proper justification.

(4) No transfer shall or ordinarily be proposed on the ground that the child has created problems

or is difficult to be managed in the existing institution.

(5) The proposed transfer would bring the juvenile near his family and would help him in his rehabilitation.

(6) Any other reason of which the transfer would be in the interest of the welfare of the juvenile.

(7) No child shall be transferred out of the district/city for the purpose of adoption without the concurrence of the Child Welfare Committee or the Juvenile Justice Board.

(8) On receipt of transfer order, the Superintendent shall arrange to escort the child at the Government cost to the place/person as specified in the order. The child case file and records shall be sent along with the child.

64. Release.

(1) The Officer-in-Charge shall maintain a roaster of the cases to be released on the expiry of the period of stay as ordered by the Board. Each case shall be placed before the Monitoring and Evaluation Committee to ensure that there is a smooth transitive back to society. With regard to those extreme cases in which the child is kept for the maximum period, action may be initiated six months before they attain the age of 18 years.

(2) Timely information of the release of a child and of the probable date of release shall be given to the parent or guardian and the parent or the guardian shall be invited to come to the institution to take charge of the child on the date. Parent shall be informed six months prior to release and the child is prepared for release through a formal counselling session with the counsellor. The child, family and counsellor in co-ordination with each other shall make the rehabilitation plan. If necessary, the actual expenses of the parent 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. If the parents or guardian as the case may be, fail to come to take charge of the child on the appointed date, the escort of the institution shall take the child. A female escort shall escort girls.

(3) At the time of release or discharge from Special Home and Juvenile Home the Officer-in-Charge shall provide a set for summer/winter clothing, as the case may be, and pocket money of Rs. 50 to the child along with any other savings.

(4) If the child has no parent or guardian and all placement options with Non-Government Organizations has failed then he may be sent to an after-care organization.

(5) The Officer-in-Charge of a girls' institution shall in consultation with girls generate suitable life options for the girls and if the girls are so inclined consider getting them married in accordance with the procedure laid down by the competent authority.

(6) The Officer-in-Charge shall order the discharge of any juvenile, the period of whose detention has expired and inform the competent authority within 7 days of the action taken. If the date of release falls on a Sunday or another public holiday, the child may be released on the preceding day, entry to that effect being made in the register of discharge. The Officer-in-Charge shall in all cases, order the payment of an allowance, which shall take care of living and travel expense.

(7) In appropriate cases, the Officer-in-Charge may provide the child with such necessary financial aid through the sponsorship programme under the provision of Act or through a sponsor identified, provide small tools as may be necessary, to start a business subject to such maximum cost as may be fixed and also identify organizations where the children who cannot start businesses can work as apprentices.

(8) The Officer-in-Charge may, subject to the approval of the competent authority allow at their

own request such girl or boys as have no place to go to stay in the institution/or foster homes identified after the period of their detention has expired, till some other suitable arrangements are made.

65. Escape.

(1) The Officer-in-Charge shall immediately send the guards in search of the child at places like railway stations, bus stands and other places where the child is likely to go.

(2) The parents or guardian shall be informed immediately about such escape if known;

(3) A report shall be sent to the area Police Station along with the details/description of the juvenile, with identification marks and a photograph, with copy to Juvenile Justice Board and the authorities concerned;

(4) The Superintendent shall hold an inquiry about each escape and send his report to the concerned competent authority.

(5) In the event of child leaving the home without permission, the information shall be sent to the police and the family, if known. The detailed report along with the efforts to trace the child shall be sent to the committee for information in the subsequent sitting of the committee.

66. Disciplinary Procedures.

(1) Disciplinary measures and procedures in all institutions under the Act shall maintain the interest of safety and in order of community life. It shall be consistent with the upholding of the inherent dignity of the child and the fundamental objective of institution are namely, installing a sense of justice, self-respect and respect of basic rights of every person.

(2) All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited. These shall include corporal punishment such as beating the child, placement in a dark cell, dosed or solitary confinement or any other

punishment that may compromise the physical or mental health or access to education of the child concerned. The reduction of diet and the restriction or denial of contact with family members shall be prohibited for any purpose. Labour shall always be viewed as an educational tool and a means of promoting the self-respect of the child in preparing him or her for return to community and shall not be imposed as a punishment. No child shall be punished more than once for the same offence. Collective or mass punishments shall be prohibited.

(3) Recourse to instruments of restraint or force for any purpose shall be prohibited. Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorised and specified by law and regulation. They should not cause humiliation or degradation and shall be used destructively and only for the shortest possible period of time. By order of the Superintendent of the administration, such instruments might be resorted to in order to prevent the child from inflicting self-injuries to others or serious destruction of property. In such instances, the Superintendent should at once consult medical and other relevant functionaries and report to the competent authority.

(4) The general unauthorized carrying and use of weapons or any other instruments of violence such as canes, stick, chains, belts, ropes and whips by functionaries shall be prohibited in all institutions established under the Act.

(5) The concerned Probation Officer/Case Worker or the Superintendent shall be the only persons competent to impose punishments. All other functionaries as well as children shall not be competent to impose punishments.

(6) A report of misconduct should be presented promptly to competent authority, which should decide on it without undue delay. The concerned competent authority should conduct a thorough examination of the case.

(7) No child shall be punished except in strict accordance with the terms with these rules. No child shall be punished unless he or she has been informed of the alleged offence in a manner appropriate to the full understanding of the juvenile, and given a proper opportunity of presenting his or her defence, including the right of appeal to the concerned competent authority or the Inspection Committee. Complete records should be kept of all disciplinary proceedings.

(8) No children shall be responsible for disciplinary functions except in the supervision of specified social, educational or sports activities or in self-Government programs.

67. Procedure on the death of child.

On the occurrence of any case of death or suicide the following procedure shall be adopted:

- (a) If a child dies within 24 hours of his admission to the institution an inquest and post-mortem examination shall be held.
- (b) Wherever a sudden or violent death from suicide or accident takes place, immediate information shall be given to the Officer-in-Charge and the Medical Officer. The Officer-in-Charge and the Medical Officer should examine and inspect the dead body. In case a child dies due to causes other than natural causes or if the cause of death is not known or if the death has occurred due to suicide or violence or accident or whenever there is any doubt or complaint or question concerning the cause of death of any child, the Officer-in-Charge shall inform the Officer-in-Charge of the Police Station having jurisdiction. The Officer-in-Charge shall also immediately give intimation to nearest Magistrate empowered to hold inquests.
- (c) Upon the death of a child during the period of stay in the institution, the nearest relative shall have the right to inspect the death certificate, see the body and determine the method of disposal of the body. In such circumstances, there shall be an independent inquiry by a sub-

committee by the Inspection Committee to inquire into the causes of death, the report of which shall be made accessible to the nearest relative. This inquiry should also be made when the death of a child occurs within six months from the date of his or her release from the institution and there is reason to believe that the death is related to the period of detention.

- (d) The Medical Officer shall report to the Officer-in-Charge about the happening of the natural death of a child and see that the body is decently removed to the mortuary.
- (e) In case of natural death or due to illness of child of an observation home or special home the Officer-in-Charge shall obtain a report of the Medical Officer stating the cause of death. A written intimation about the death shall be given immediately to the nearest Police Station, Juvenile Justice Board, National Human Right Commission and the authority concerned.
- (f) The parents or guardians of the deceased child shall be contacted and the Officer-in-Charge shall wait for 24 hours for the arrival of relatives. After the inquest is held, the body should be disposed of in accordance with the known religion of the juvenile.

68. Procedure in the event of custodial rape or sexual abuse.

- (1) In the event of custodial rape and/or sexual abuse, the action shall be taken as follows:
 - (a) In case any resident or any other person has observed, knows or has reason to suspect that sexual abuse has occurred and makes a complaint to the Superintendent or through the grievance box or through Child Line or through any other means or it comes to the notice of the Medical Officer or other staff that one or more of the following general behaviour changes has been observed in a child, a report shall be made to the Juvenile Justice Board or the Child Welfare Committee for a special investigation into the possibility

of sexual abuse. It shall be the responsibility of all functionaries to report such suspicions immediately. The report shall be based on observation of sudden onset of behaviour changes such as

- (i) Copying adult sexual behaviour.
- (ii) Persistent sexual play with other children, themselves, toys or pets,
- (iii) A sudden increase in sexual knowledge, through language or behaviour that is beyond what is normal for their age and circumstances.
- (iv) Unexplained pain, swelling, bleeding or irritation of the mouth, genital or anal area: urinary infections; sexually transmitted diseases.
- (v) Hints, indirect comments or statements about the abuse.

(2) The Juvenile Justice Board shall direct the Special Juvenile Police Unit in the local police station, wherever present to register case against the accused person under the relevant section of the IPC. The Special Juvenile Police Unit will conduct necessary investigations under the supervision of specialized agencies wherever possible. If a functionary of the institution is suspected to be involved the functionaries concerned shall be immediately suspended during pending further inquiry.

(3) If the person suspected of sexually abusing a child is himself or herself a child then the child shall be referred to a specialized institution or any other such agency, for consultation/counselling who shall prescribe the appropriate course of action.

(4) If the child reports sexual abuse/rape after leaving the institution to any person, the person shall bring the same to the notice to the Juvenile Justice Board or Child Welfare Committee who will then institute an inquiry.

(5) In the event of any other crime committed in respect of residents, the Juvenile Justice Board

will take cognizance and arrange for necessary investigation to be carried out by Special Juvenile Police Unit under the supervision of specialized agencies wherever possible.

(6) Care shall be taken to ensure that the victimized child receives proper care and physical and psychological treatment and that due care is taken to avoid secondary victimization during the investigation.

69. Monitoring and Evaluation Committee.

(1) There shall be a Monitoring and Evaluation Committee constituted in each institution and programme under the Act. Which shall meet periodically to ensure that the procedures laid down above are complied with so as to ensure that the right of children are guaranteed. They shall meet at least once a month to review on the basis of Form XIV and make recommendations on all cases within the institution. They shall also fulfil responsibilities associated with decision making on placement an assessment of the care provided to the child during stay in the institution.

(2) The Monitoring and Evaluation Committee shall be constituted in each institution consisting of the following functionaries:

Officer-in-Charge/ Superintendent	Chairperson
Probation Officer/Psychologist	Member/Secretary
Medical Officer	Member
House Master/Metron	Member
Instructor/Vocational Teacher	Member
Counsellor, if any	Member
Representative of the Children residing in the institution	Member
Representative of Neighbourhood Committee, if any	Member

(3) There shall be a Mess Committee in each institution consisting of Metron, Cook and two representatives of inmates to finalise the menu of Breakfast/Lunch/Dinner to ensure that the children

can have the food according to their taste, liking and interest accordingly.

(4) A grievance-box, which is freely accessible to children to deposit anonymous complaints shall be maintained by each institution established under the Act. Children shall not be subjected to any punishment for having accessed these grievance redressal systems. Appropriate guidance may be given by the counsellor/probation officer of each institution as to the responsible use of the same.

CHAPTER VIII

FUNCTIONARIES UNDER THE ACT

70. General duties of functionaries.

(1) The State Government shall ensure that the qualifications, knowledge, attitudes and skills expected from each functionary are in line with basic standards. The administration section along with persons responsible for social audit inspection, monitoring and evaluation shall specifically listen to, monitor and address the issues emerging out of monthly staff meetings and children groups meetings in each institution under the Act.

(2) All functionaries under the Act shall be deemed to be public servants, and hence be legally accountable for the performance of the duties assigned to them. Further all voluntary organizations, social workers and others volunteering under this Act shall be accountable to the competent authorities and the Inspection Committees/Social Audit.

(3) In the performance of their duties, functionaries of residential facilities shall respect and protect the human dignity and fundamental human rights of all children, in particular, as follows:

(a) No member of the institution or institutional functionaries shall inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstances whatsoever;

- (b) All functionaries shall rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;
- (c) All functionaries shall function under these rules, functionaries who have reason to believe that a serious violation of these rules has occurred or is about to occur should report the matter to their superior authorities vested with reviewing or remedial power;
- (d) All functionaries should ensure the full protection of the physical and mental health of children, including protection from physical sexual and emotional abuse and exploitation, and shall take immediate action to secure medical attention whenever required;
- (e) All functionaries should respect the right of the child to privacy, and in particular should safeguard all confidential matters concerning children or their families learned as a result of their professional capacity;
- (f) All functionaries should seek to minimize any differences between life inside and outside the institution which tend to lessen due respect for the dignity of children as human beings.
- (e) Maintaining minimum standards in the Home;
- (f) Monitoring of children, training and treatment programmes and correctional activities;
- (g) Allocation of duties to functionaries;
- (h) Attending to functionaries welfare and staff discipline;
- (i) Preparation of budget and control over financial matters;
- (j) Proper storage and inspection of food stuff;
- (k) Standby arrangement for water storage, emergency lighting, etc;
- (l) Careful handling of plant and equipment;
- (m) Accident and fire prevention measures;
- (n) Supervision over office administration;
- (o) Monthly office inspection and maintaining of order book. This book shall record and display orders of the Superintendent as well as any follow-up details;
- (p) Daily inspections and round of institution;
- (q) Inspections and tasting food prepared for child from the main vessel in the kitchen itself and managing the menu to ensure that the basic principles of good nutrition such as colour, texture, taste, smell and variety are complied with,

71. Duties of the Superintendent.

The Superintendent shall be responsible for the following.

- (1) The general duties, function and responsibilities of the Officer-in-Charge will be as follows:
 - (a) Ensuring that the rights of the child are protected and all procedures, laid down in the rules are complied with;
 - (b) Providing homely atmosphere of love, affection, care, development and welfare of children;
 - (c) Planning implementation and co-ordinating all institutional activities; programmes and operations;
 - (d) Handling discipline problems keeping in mind the right of the child as well as the procedure laid down;
 - (r) Taking prompt action to meet emergencies;
 - (s) Taking appropriate rehabilitation measure;
 - (t) Conducting staff meetings every month during which he/she shall elicit and respond to problems relating to staff, children and other matters relating to the institution. A minute book shall be maintained for this purpose and every resolution or discussion shall be given due consideration and process;
- (2) The Superintendent shall ensure the maintenance of reports and case files of children. The case file of each child shall be maintained in the institution containing the following information as applicable:

- (a) Report of the person/agency who produced the child before the Board;
- (b) Probation Officer's report;
- (c) Information from previous institution;
- (d) Initial interview material, information from family members, relatives, community, friends and miscellaneous information;
- (e) Source of further information;
- (f) Observation reports from staff members;
- (g) Report from Medical Officer, I.Q. testing, aptitude testing, education/ vocational tests;
- (h) Social history;
- (i) Summary and analysis by Officer-in-Charge;
- (j) Initial Classification-sheet;
- (k) Instruction regarding training and treatment programme and about special precaution to be taken;
- (l) Leave and other privileges granted;
- (m) Violation of the rules, regulation, special achievements (to be recorded in review report and not in this report)
- (n) Quarterly progress report from various sections;
- (o) Review-sheet;
- (p) Menstruation report (in case of girls);
- (q) Pre-release programme;
- (r) Final progress report; (records of educational/ vocational training, health and other progress reports may be included here with a conclusion of all the above);
- (s) Leave of absence/release on licence;
- (t) Final discharges (shall include the pre-release report and final decision that has been made on the recommendations of the report);
- (u) Follow-up reports;
- (v) Central index number;
- (w) Annual photograph;
- (x) Remarks.

(3) All the case files maintained by the Institutions and the Juvenile Justice Board shall be computerized and networked so that the data is centrally available.

All data relating to missing children shall be disseminated as widely as possible, data relating to missing or lost children shall be specially computerized and networked locally and centrally by the setting up of Missing Children's Bureaus which shall facilitate the scanning of children's photographs along with their basic identifying information.

72. Duties of the Probation Officer.

(1) On receipt of information from the Officer-in-Charge, the Special Juvenile Police unit clause (b) of section 13, the probation officer shall inquire into the antecedents and family history of the child and such other material circumstances, as may be necessary and submit a social investigation report in Form XI as early as possible to the Board.

(2) Every Probation Officer shall carry out all directions given by a Board/Committee or concerned authority and shall perform the following duties:

- (a) To make inquiries regarding the home and school conditions, conduct, character and health of juvenile/child under their supervision;
- (b) To attend regularly the proceeding of Juvenile Justice Board or the Child Welfare Committee and submit reports;
- (c) To maintain diary case file and such register as may be prescribed from time-to-time;
- (d) To visit regularly the residence of juvenile/child under their supervision and also places of employment or school attended by such children and to submit regularly reports in Form XII;
- (e) To accompany children wherever possible, from the office of the Board to observation home, special home, children's home or fit person, as the case may be;

- (f) To bring before the Board/Committee, immediately children who have not been of good behaviour during the period of supervision;
 - (g) Follow up of children after their release from the organization and extending help and guidance to them;
 - (h) Establishing linkages with voluntary workers and organizations to facilitate rehabilitation and social reintegration of children and to ensure the necessary follow-up;
 - (i) Enquiring from each child under his/her care as to whether his/her need of food and clothing are met as per standard;
 - (j) inquiring from each child under his/her care as to whether the cleanliness of the premises and maintenance of physical infrastructure including provisions of water and electricity, etc., have been complied with.
 - (k) Doing a social investigation of the child through personal interview and from the family, social agencies and other sources.
 - (l) Ensuring that the rights of the child are protected and all procedures laid down in the rules are complied with.
 - (m) Facilitating the orientation, monitoring, education, vocational and rehabilitation programmes.
 - (n) Facilitating the pre-release programme and helping the child to establish contacts, which can provide emotional and social support to the child after their release.
 - (o) To prepare follow-up reports in Form XXI about the Juvenile who is released on licence. The Probation Officer shall not employ children under their supervision for their own purpose or take any private service from them.
- (4) To augment the existing probation service, Probation Officers may be appointed from the voluntary organization and social workers found

fit for the purpose by the Competent Authority. Similarly honorary and voluntary probation services may also be co-opted into implementation machinery by the orders of the competent authority.

73. Duties of the Case Worker.

The general duties, functions and responsibilities of case worker or Child Welfare Officer shall be as follows:

- (a) Making social investigation/case history of the Juvenile or the child through personal interview and from the family social agencies and other sources in Form XXIII.
- (b) Clarifying problems of the juvenile or the child and dealing with their difficulties in institutional life.
- (c) Participating in orientation, monitoring, education, vocational and rehabilitation programmes.
- (d) Establishing co-operation and understanding between the juvenile or the child and the Officer-in-Charge.
- (e) Assist the juvenile or the child to develop contacts with family and also providing assistance to family members.
- (f) Participating in the pre-release-programme and helping the juvenile or the child to establish contact which can provide emotional and social support to juvenile or child after their release.
- (g) Ensuring that the children's need of food and cloth are met as per the specified standard. Ensure the cleanliness of the premises and maintenance of physical infrastructure including provisions of water and electricity.

74. Key duties of House Master/Matron.

The general duties, functions and responsibilities of the House Master/Matron shall be as follows:

- (a) Ensuring that the rights of the child are protected and all procedures laid down in the rules are complied with.

- (b) He shall perform the role of parent, friend, mentor and guide to the children under his/her care. In this capacity he/she shall play with the children, nature them as persons, listen to and within their means, respond to their individual needs.
- (c) Handling discipline problems keeping in mind the rights of the child as well as the procedures laid down.
- (d) Maintenance, sanitation and hygiene.
- (e) Implementing daily routine in an effective manner and ensuring children's participation through the Children Group.
- (f) Escorting children whenever they go out of the home.

75. Recognition of Honorary Probation Officers.

The State Government shall recognize the services of a panel or trained voluntary personnel who may be also attached to a recognized voluntary organization to serve as honorary Probation Officer, in addition to the list of honorary Probation Officers. This procedure may be undertaken to reduce the number of inquiries for each case.

76. Training of functionaries.--

The Directorate of Panchayat and Social Welfare shall provide for training of functionaries of each of category of staff in keeping with their statutory responsibilities, and specific job requirements. The training programme shall include:

- (a) Orientation and Training of the newly-recruited staff.
- (b) Refresher training courses for every staff member at least once in three years.
- (c) Staff conferences, seminars, workshops. Along with the various components/functionaries of Juvenile Justice System, government, etc., at various levels of the functionaries organization.

77. Organization of functionaries.

(1) The strength of functionaries per home shall be determined according to the duty, posts, hours of duty per day as the base for each category of staff. The institution organization set up shall be fixed in accordance with the size of the home, the capacity, workload, distribution of functions and requirements of programmes.

(2) The whole-time staff in home may consist of Superintendent, Probation Officer (in case of Observation Home/Special Home), Case Workers (in case of children's home/ shelter home/after-care organization), Child Welfare Officers, Counsellor, Educator, Vocational Training Instructor, Medical Staff, Administrative Staff, Care Takers, house master/metron, store-keeper, cook, helper, washerman, cleaners, gardeners as required.

(3) The part-time staff, may include qualified doctor Psychiatrist, Psychologist, occupational therapist and other professionals as may be required by time-to-time.

(4) The staff of the home shall be subject to the overall supervision of the Superintendent 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. The duties and responsibilities of the staff under him shall be fixed in keeping with the statutory requirements of the Act. The Superintendent and such other staff who may be required, shall live in the quarters provided for them within the premises of the home.

(5) The number of posts in each category of staff shall be fixed on the basis of capacity of the institution. The staff shall be appointed in accordance with the educational qualification, training, experience, etc., required for each category. The suggested staffing pattern for an institution with a capacity of 100 children could be as mentioned below:

S.No.	Designation	No. of Posts
1.	Superintendent	1
2.	Counsellor	2
3.	Case Worker/Probation Officer	3
4.	House Master/Metron	4
5.	Educator	2
Voluntary/Part-Time		
6.	Vocational Instructor	1
7.	Doctor	1 (part-time)
8.	Paramedical staff	1
9.	Store Keeper cum Accountant	1
10.	Driver	1
11.	Cook	2
12.	Helper	2
13.	Sweeper	2
14.	Art and Craft-cum-Music Teacher	1 (part-time)
15.	Total	25

The number of posts, in the category of counsellor, Case Worker/Probation Officer, House Master/Metron, educator and vocational instructor shall proportionally increase with the increase in the capacity of the institution.

CHAPTER IX

REHABILITATION AND SOCIAL REINTEGRATION

78. Adoption.

As the family is the best option to provide care and protection for children, adoption shall be the first alternative for rehabilitation and social reintegration of children who are orphaned, abandoned, neglected and abused.

(1) Adoption Agencies.

(a) The State Government shall recognise children's home or State-run Government

homes for orphans as adoption agencies both for scrutiny and placement of such children within the country.

- (b) The process of scrutiny and placement of children on adoption shall be done by probation officer.
- (c) Any Government-run hospitals or private nursing homes, etc., which find an infant as abandoned within the premises shall report to recognised adoption agency.
- (d) The agency which receive a child or an infant should report to the nearest police station and also the Child Welfare Committee at the earliest within six hours. Police on receipt of such reports shall make an entry register and an intimation shall be sent to the Juvenile Police Unit for appropriate enquiry. The Police should file a status file, a status report to Child Welfare Committee within a week.
- (e) Any child who is eligible for adoption and residing in an unrecognised home shall for the purpose of adoption be transferred to a recognised home.

(2) Procedure in the case of abandoned children.

- (a) An abandoned child can be given in adoption only when the Committee declares such a child to be legally free for adoption, an order to that effect is signed by at least two members of the committee of which one shall be a Chairperson.
- (b) Before declaring the child as abandoned and certifying him as legally free for adoption, the committee shall institute a process of enquiry, which shall include:
- (i) A thorough enquiry shall be conducted by the Probation Officer or case worker or Special Juvenile Police Unit as the case may be, and a report in Form XVI containing finding submitted within a maximum period of 1 month.
- (ii) Declaration by the placement agency, stating that there has been no claimant for

the child even after making notification in at least one leading news paper, television and radio announcement and after waiting for a period for one month the time which shall run concurrently to the inquiry to be conducted and report submitted under clause (a).

- (iii) The Committee shall make a release order declaring the child legally free for adoption within the period of six weeks from the date of application in the case of children below the age of two years and three months in the case of children above two years: Provided that no child above seven years who can understand and express his opinion shall be placed in adoption without his consent.

(3) Procedure in the case of surrender of child. The following procedure shall be adopted in the case of surrendered child who has parents or guardian. Any parent who voluntarily surrenders his/her over the child/children in various circumstances the following guidelines shall be adopted by the agency concerned:

- (a) The social worker of the concerned agency shall counsel the parents explaining the consequences of adoption and explore the possibility of parents retaining the child.
- (b) If the surrender is inevitable a deed of surrender document shall be executed in a non-judicial stamp paper in the presence of Child Welfare Committee.
- (c) Such a surrendered deed shall explain the reason for surrender and other relevant information of the child. It shall be written in the regional language. The document shall contain the information that parent has a right to revoke the surrendered-deed within two months from the date of execution of the said deed.
- (d) If both the parents are living, both of them, should execute the deed.
- (e) If a surrender deed is executed by any one of the parent, in such case the person who execute

deed should declare the present position of the second parent. In case of the death of any one parent, the death, certification shall be produced. In such circumstances the report of the Probation Officers shall be called by the Child Welfare Committee and the procedure relating to the abandoned children shall be followed.

(4) Role of licensed or recognised Government and non-Government agencies for adoption

- (a) In the case of an abandoned child the recognized agency shall within 48 hours report to the Committee along with the copy of the report file with the Police Station in whose jurisdiction the child was found abandoned.
- (b) The adoption agencies may initiate the process of clearance at the earliest, in the case of abandoned children for the purpose of adoption within a period of two months and for placing application before the committee for declaring the child legally free for adoption.
- (c) In case of a child surrendered by his biological parent or parents by executing a document of surrender, the adoption agency shall make an application directly to the Board for giving the child in adoption.
- (d) The adoption agencies shall wait for completion of reconsideration time of two months given to the parent or parents.
- (e) Serious efforts shall be made for counselling the parents so as to persuade them to retain the child and if the parents are still unwilling to retain then such children shall be kept initially in foster care or arranged for their sponsorship.
- (f) In the case of a surrendered or abandoned child who is legally free for adoption the licensed agency shall have the discretion to place the child in pre-adoption foster care under intimation to the Board, within one week of its placement pending the final order.

(5) Role of Children homes/State-run orphanages as placement agencies. The recognised children home and State-run orphanages recognised by

the State Government as placement agencies, shall perform the following duties and responsibilities:

- (a) Receiving of application, screening and identification of prospective adoptive parents.
 - (b) Conduct a home study report of the prospective adoptive parents upon identification.
 - (c) Matching a child with the prospective adoptive parents and place the child on temporary Foster Care for the maximum period of six months.
 - (d) Regular follow-up during foster care period and report preparations.
 - (e) Process the adoption procedure in the Child Welfare Committee and Juvenile Justice Board.
 - (f) Co-ordination with voluntary co-ordinating agency.
 - (g) Maintenance of records relating to adoption.
 - (h) Profile of children.
 - (i) Follow-up for at least three years after adoption.
- (6) Guidelines for the preparation of home study report. The following shall be the criteria for the preparation of home study report:
- (a) Social status and family background.
 - (b) Description of homes.
 - (c) Standard of living as it appears in the home.
 - (d) Current relationship between husband and wife.
 - (e) Current relationship between the parents and children (if any children).
 - (f) Development of already adopted children (if any).
 - (g) Current relationship between the couple and the members of each other's family.
 - (h) Employment status of the couple.
 - (i) Health details such as clinical tests, health conditions, past illness, etc.
- (j) Economic status of the couple.
 - (k) Accommodation for the child.
 - (l) Schooling facilities.
 - (m) Amenities in the home.
 - (n) Reason for wanting to adopt a child.
 - (o) Attitude of grandparent and relatives towards adoption.
 - (p) Anticipated plans for the adoptive child.
 - (q) Legal status of the prospective parents.
- (7) Follow-up. The follow-up of child placed within the country will be as follows:
- (a) If any replacement (foster care) is effected there should be a regular monitoring and evaluation of the foster care. A professionally trained social worker should visit the family regularly.
 - (b) The follow-up format should be completed and forwarded by the recognised placement agency to voluntary co-ordinating agency and the Director/ Commissioner Social Welfare once in six months.
 - (c) The agency should see that legal adoption is effected at the earliest thereby safeguarding the interest of the child.
 - (d) Even after legal adoption the agency should keep in touch with the family for a period of three years.
 - (e) Post-adoptive counselling should be provided by the agency to the adoptive parent.
- (8) Records. The following records and registers shall be maintained by every recognized Children Home and State-run Orphanages.
- (a) Admission register.
 - (b) A separate file on each child in the prescribed format giving full details/ history. Relevant legal documents of every adoption and child's background/history should be maintained at least for a period of 18 years for future reference.

- (c) Register for prospective adoptive parents with details.
- (9) Disruption proceedings.
- (a) Adopted Children or Adoptive Parents or Probation Officers or Social Workers of accredited Children's Home shall have the right to make complaints or initiate disruption processes by writing to the Child Welfare Committee/ Juvenile Justice Board.
- (b) After the Child Welfare Committee has consented to disruption, the child shall be returned to be Children's Home wherefrom he or she was taken. A report of the circumstances under which this decision was taken and the efforts made to sort out any problems shall be recorded and submitted to the Child Welfare Committee, the Department of Social Welfare and the Voluntary Co-ordinating Agency.
- (c) The child may be removed and placed in an alternate home/transit home whenever there is serious mal-adjustment, after obtaining the consent of the Child Welfare Committee.
- (d) Upon disruption of a placement the Committee shall recommend alternate placement of the child with adequate provision for counselling and care.
- (10) Juvenile Justice Board in Adoption. Children who had been dealt with under the various provisions of Juvenile Justice (Care and Protection of Children) Act, 2000 shall be placed in Adoption. The Juvenile Justice Board is the competent authority to place such children in adoption. In addition to the guideline issued by the Government, the guideline on adoption issued by the Central Adoption Resource Agency and the Supreme Court Judgment issued from time-to-time shall apply
- (a) In the case of surrendered child it shall be the duty of the Juvenile Justice Board to ascertain from the parents about the authenticity of the declaration given by the biological parents. While doing so the parents can be informed that their declaration can be used against them as witness.
- (b) The Board shall ensure that the child is placed on adoption within the country and licensed agency alone can approach the Juvenile Justice Board for adoption.
- (c) The list of approved agencies should be kept in every Juvenile Justice Board.
- (11) Juvenile Justice Board and Adoption Procedure. The Juvenile Justice Board shall ensure the following process for declaring adoption of children:
- (i) The licensed agency shall furnish the following documents with their application for adoption order.
- (a) Licensed certificate issued by the Government.
- (b) Re-registration Certificate,
- (c) Surrender-deed, if any,
- (d) Abandonment certificate issued by the Child Welfare Committee (if any),
- (e) Authorisation letter from the authorised signatory of the agency, authorising the social worker to file the application before the Juvenile Justice Board.
- (f) Child study report and medical report,
- (g) Home study report about the prospective parents done by a social worker, voluntary co-ordinating agency or any other licensed adoption agency,
- (h) Income certificate of the prospective adoptive parents.
- (i) Property certificate of the prospective adoptive parents,
- (j) Job certificate of the prospective adoptive parents,
- (k) Health certificate of the prospective adoptive parents,
- (l) Marriage certificate or evidence of marriage of the prospective adoptive parents,
- (m) Three referral letters from the respectable people of the society,
- (n) A letter of consent for adoption,

- (o) Photos of the child and the adoptive parents duly attested by competent person.
 - (ii) The prospective adoptive parents along with the placement agency shall file a joint petition before the Juvenile Justice Board with all the relevant documents. In case of single parent the person shall alone file a petition.
 - (iii) The concerned institution or agency which offer the child for adoption shall be the co-respondent.
 - (iv) On admission of an application from a recognised agency for adoption the Board shall call for independent enquiry by recognised scrutinising agency and the scrutiny report shall be submitted within a period of two weeks.
 - (v) The Board shall undertake a process of enquiry which will include interviewing the prospective parents, verifying the documents and the report for the scrutinising agency. If the Board is satisfied that the placement is in the best interest of the child, it will pass a final order giving permanent custody to the adoptive parent/parents and order of adoption shall be signed by the principal Magistrate besides at least any one of the two members of the Board.
 - (vi) The Board shall fix the date of birth on the report of the medical experts. The Juvenile Justice Board shall direct appropriate authority to insure a birth certificate incorporating the date of birth, date of adoption and the names of adoptive parents.
 - (vii) As far as possible the time taken for passing an adoption order shall not exceed 3 months of the date of filing. The order shall also include provision for a periodic follow-up report either by the Probation Officer/Case Worker or adoption agency to ensure the well beings of the child. The period of such follow-up shall be not less than 3 years and such other period as the Juvenile Justice Board may direct. The follow-up shall be made once in 6 months.
- (12) Child Welfare Committee and Adoption Procedure. The Child Welfare Committee shall ensure the following process for declaring a child who is legally free for adoption.
 - (A) The licensed or approved Agency should furnish the following documents with petition in duplicate for declaring a child who is legally free for adoption:
 - (a) photograph of the child be affixed on both the petitions,
 - (b) Fit Institution Certification Copy,
 - (c) Licence Certification issued by the Government,
 - (d) Discharge Summary and Hospital Records in case the child was abandoned in the hospital,
 - (e) Any orders of the Government authorising the Institution to take custody of the children who are abandoned in hospitals or public places,
 - (f) A copy of the temporary custody order,
 - (g) Registration Certificate,
 - (h) Surrender Deed (if any),
 - (i) Authorisation letter from the authorised signatory of the agency authorising Social Worker to file the petitions before the Child Welfare Committee,
 - (j) Publication of the photograph and other details of the child,
 - (k) Photo of child being taken at the time of admission and the recent photo of the child with a declaration that both the photos relate to the same child,
 - (l) Copy of the report sent to nearest Police Station together with acknowledgement received from the Police Station,
 - (m) Health status of the child with probable age,
 - (n) Descriptive marks of the child duly certified,

- (o) Declaration by the Agency that it has furnished all the information available then and they are bona fide to the best of their knowledge.
- (B) If the application form of the agency shall be rejected if any of the documents is missing and agency has to file a fresh petition subsequently,
- (C) If the application is filed along with relevant documents as specified in clauses (a) to (o) above the application shall be admitted by Committee. On admission of an application the committee shall call for a report of Probation Officer.
- (D) The Child Welfare Committee shall determine the date of birth in the interest of the child based on the report of the medical expert.
- (E) As far as possible the time taken for passing an order shall not exceed 6 weeks in respect of a child who is below 2 years of age in respect of child above 2 years of age within 3 months from the date of filing.
- (F) The Child Welfare Committee shall ensure that no child is kept unauthorisedly in any of the organization which is not recognized under the provisions of the Act, either as a fit institution or as Children's Home or as licensed for adoption.
- (4) Older children may be encouraged to live in peer group homes under the foster care of persons willing to supervise such arrangements.
- (5) Foster care, though temporary in nature, may continue, if necessary until adulthood, but should not preclude either prior return to child's own parents or adoption.
- (6) In all matters of foster family care, the prospective foster parents, the appropriate child and his or her own shall adequately be participated. The Child Welfare Committee shall be responsible for supervision to ensure the welfare of the child.
- (7) Twins and siblings shall not be separated by a foster placement except under extraordinary circumstances. If for some reason they have been, separate arrangement shall be made for them to remain in contact.
- (8) The wishes of the child concerning the proposed fostering shall be taken into account before placement.

80. Short-term/temporary foster care.

- (1) The temporary foster care refers to physical custody/care of the child till he/she is able to return to the biological family as soon as the family circumstances improve. Temporary short-term foster care shall not exceed four months and temporary long-term foster care shall not exceed five years. After five years if the child cannot return to the biological family, the foster care period may be extended or the child placed in a group foster home. The procedure for placements shall be as prescribed by the Central Adoption Resources Agency Guidelines.
 - (2) The temporary foster care shall be carried out by the probation officer/care worker/social worker, as the case may be, under the supervision of the competent authority. The total period of temporary foster care shall not exceed five years.
- 79. Foster Care.**
- (1) As far as possible younger children who have been relinquished or destitute shall be referred to adoption rather than foster care in the interest of continued care.
 - (2) Younger children who are not placed in adoption shall preferably be placed with a couple in individual foster care/group foster care till the child is able to return home whenever family circumstances are considered conducive.
 - (3) Pre-adolescents may be referred to group foster homes.

(3) Persons competent to be foster parents. The following persons may apply to be foster parents:

- (a) A single parent
- (b) Couple
- (c) Members of the extended family of the child.
- (d) Non-Governmental Organisation or other recognized persons or agency willing to take responsibility of a child/children in individual or group foster care.

(4) Procedure for foster care.

(A) Procedure for selection of parents.

(a) An application to foster a child shall be given to the competent authority in Form XVIII through a Probation Officer, case worker or to the person in charge of the approved residential home who shall forward the application to the Department of Social Welfare/the Child Welfare Committee.

(b) If the application is prime facie satisfactory then the Child Welfare Committee shall authorize the Probation Officer to undertake the following steps:

- (i) Probation Officer/Case Worker to interview the prospective foster parent/s and assess that he/she is suitable to foster a child. In particular the Probation Officer shall investigate the motivations of the prospective foster parents so as to ensure that the intention is not to employ the child as domestic help.
- (ii) To visit the home of the prospective foster parent/s and confirm that it is likely to meet the requirements of the particular child and that the conditions in it are satisfactory. The family home should provide adequate rooms based on the number of children with bath-

room and kitchen and provide a safe environment with adequate sanitary and living conditions to promote health and well-being of the child. The Home study report of Foster family shall be given in Form XVII to the Child Welfare Committee.

- (iii) To ensure that at least two persons who have known the foster parent/s well can vouch for his/her good character and suitability to care for the child;
- (iv) To establish the person-in-charge of any Government medical unit in the area that no person in the household of the prospective foster parent/s is suffering from any physical or mental illness likely to affect the child adversely;
- (v) To establish from the local authorities or from the Officer-in-Charge of the Police Station in the area that no person in home has a police record or has been convicted of serious criminal offence rendering it undesirable for the child to associate with that person;
- (vi) To ensure that the foster parent/parents have a stable emotional environment within the family;
- (vii) To ensure that the foster parent/parents have minimum income to meet their needs and not be dependent on the foster care maintenance payment;
- (viii) To ensure that the foster care family is willing to follow rules laid down including regular visits to paediatrician, maintenance of child health, etc;
- (ix) To ensure that family shall be willing to sign and agreement

to return the child to the agency under specified circumstances like disruption, abuse and neglect of the child and where the child has been unable to adjust to the foster family;

- (x) The ensure that foster parent is willing to attend training/ orientation programmes prior to placement and thereafter when found necessary;
- (xi) To ensure that case of employed parents; adequate child care arrangements are made after school hours;
- (xii) To ensure that the members of the immediate family living in the same house give their consent to the placement of the foster child.

(B) Procedure for placement of the child.

- (a) The committee shall ensure that the child is examined by a qualified medical practitioner who shall report in writing on the child's physical and mental condition prior to placement. However, in the case of an emergency the medical report shall be made within four weeks after the placement.
- (b) Ensure that efforts have been made to trace the family before the child is placed.
- (c) Ensure that the child has been through a preliminary assessment including:
 - (i) Mental/Development Assessment. Suggested reference by the Denver Development Scale or any other suitable instrument.
 - (ii) Educational Assessment. As per the Minimum Levels of Learning Schedule.
 - (iii) Temperament Assessment. An assessment of the Child's

temperament needs to be made based on emotionally, level of activity, attention and concentration ability, sociability levels, aggression, rhythm of food and sleep, child's motivations, dependability, adaptability.

- (d) Ensure that the child has been introduced to the couple and has had a minimum of three interactions and two home visits as well as the requisite number of counselling sessions with the concerned Social Welfare Officer/Probation Officer.
- (e) On completion of the above process the Probation Officer shall prepare a Home Study Report in Form XVII.
- (f) If the Home Study Report is approved by the Child Welfare Committee, then the foster parents shall enter into a foster care agreement in Form XX, which includes the rights and responsibilities of the foster parents. Each foster parent shall be given a copy of the agreement. A copy of the undertaking shall also be sent to the concerned Probation Officer/Case worker and the Commissioner/Director of Social Welfare Department.
- (g) The child shall then be placed with the couple/single parent/Group home.

(C) Target Group

- (a) The children from dysfunctional state families or from institutions or the children whose biological parents are either incapacitated or in a state of crises and unable to provide the care and protection to the child.
- (b) Foster care is a boon to children without roots growing up in orphanages and child welfare institutions to find an opportunity to lead a family life.
- (c) Children who cannot be placed on adoption due to various reasons can be considered for foster care.

- (d) Foster care can be either short-term or long-term depending upon the needs.
- (e) De-institutionalization of children and placing them in Foster Care can be made with the concurrence of Child Welfare Committee,
- (D) Programme Implementation. The foster care shall be implemented in each district or for a group of districts through Non-Governmental Organisation which are recognised as fit institutions by Child Welfare Committee/Juvenile Justice Board on the advice of the Commissioner/Director of Social Welfare specifically for this purpose.
- (E) Follow-Up.
- (a) There shall be regular visits carried out by the Probation Officer/Child Welfare Officer/Social Case Worker, as the case may be, so as to protect the best interest of the child.
- (b) Review of the placement report to be made every six months by the Monitoring and Evaluation Committee. These reports shall be submitted to the Child Welfare Committee and the Department of Social Welfare.
- (c) In case of victimization of the child in the foster home, appropriate action shall be taken against the parents.
- (d) When the foster placement begins the person placing the child shall submit to the foster parent a list of immunizations carried out in respect of the child and indicate to the foster parent the list of the other immunization required to be effected in respect of the child and foster parent shall ensure that those immunization are carried out. The foster parents and the district probation and social welfare officer shall at all times keep a record of the immunization in respect of the child.
- (e) Where the child placed with a foster parent is under five years of age, the child shall be medically examined by a Competent Medical Officer.
- (i) Within one month after the date of placement, and
- (ii) Thereafter once every six months.
- (f) Where a child placed with foster parent is above the age of five years, the child shall be medically examined by Medical functionaries once in a year.
- (g) The Probation Officer/Case Worker concerned shall, so far as possible assist the foster parent in ensuring the carrying out requirements.
- (F) Disruption:
- (a) If the Probation Officer/Case Worker feels that it is in the best interest of the child, he/she may make a report regarding the necessity for disruption and submit it to the Child Welfare Committee.
- (b) The Probation Officer/Case Worker shall also produce before the Child Welfare Committee the record of efforts put in to remedy the maladjustment;
- (c) The child may be removed and placed in an alternative home/transit home wherever mal-adjustment occurs, after obtaining the consent of the Child Welfare Committee and giving the foster parents an opportunity to be heard;
- (d) In the case of emergency the child may be removed based on the discretion of the Probation Officer/Case Worker in consultation with the Superintendent and other staff of the children's home, according to conditions such as physical, or sexual abuse, or exploitation;
- (e) Upon disruption of a placement the Child Welfare Committee shall recommend alternate placement of the child with adequate provisions for counselling and care.

- (G) In case of sickness/death of the child or death of the foster parent.
- (a) If a child is seriously ill the foster parent shall as soon as possible inform to the concerned Probation Officer/Case Worker who shall inform the parents/ guardians and the Child Welfare Committee;
 - (b) If the foster child dies, the foster parent shall make every effort to obtain a medical certificate of death and post-mortem report within 24 hours;
 - (c) He or she shall also immediately inform the Probation Officer/Case Worker concerned, who shall inform the parents/guardians, Department of Social Welfare and the Child Welfare Committee.
 - (d) In the case where the child has been placed with a single foster parent who has died the child shall be returned to the approved home from where the child was received:
- (H) Responsibilities of Child Welfare Committee/ Placement Agencies/Children's Home:
- (a) Foster care placements shall be made only through recognized/accredited bodies and Probation Officer/Case Workers by the Child Welfare Committee;
 - (b) The Child Welfare Committee shall develop, maintain update and employ a written policy and procedures manual;
 - (c) The placement agencies/Children's Home shall satisfy itself that all alternatives to keep the child in his/her family have been explored and that foster care is the optimal choice of care for the child;
 - (d) The placement agency/children's home shall identify, screen orient and provide training to the foster families.
 - (e) The placement agencies/children's home along with the Child Welfare Committee shall device a system to;
 - (i) assess the needs of the child and the foster family;
 - (ii) match the needs of the child with the abilities and resources of the foster family.
 - (iii) prepare both the child and the foster family for the placement.
 - (f) The Child Welfare Committee/Placement Agencies/Children's Home Competent Authority or agency shall support the child's contact with the biological family whenever possible and when conducive to the child's best interest.
 - (g) The Placement Agencies/Children's Home along with the Child Welfare Committee shall begin permanency planning for the child soon after the placement.
 - (h) The Child Welfare Committee along with the placement agencies/Children's home shall develop a procedure for a participation with the foster family in a periodic mutual review. This review will evaluate the strengths and needs of the foster family for caring for the child and the relationship between the competent authority or agency and the foster family.
 - (i) The Child Welfare Committee along with placement agencies/children's home shall develop a plan to recognize the positive contributions made by foster families to the field of child welfare.
 - (j) The Child Welfare Committee shall develop written policies and procedure for the closure of foster homes under the different circumstances. This will include voluntary withdrawal of service by foster families as well. The procedure shall provide foster parent/parents an opportunity to be heard before the decision to withdraw the service is arrived at.
 - (k) The placement agency/children's home shall develop individual case records which shall include periodic narrative reports relating to the child's and the biological family's involvement with foster care.

81. Sponsorship.

(1) Sponsorship services shall be considered to supplement the resources of the child and his or her parent or guardian so as to support efforts to reintegrate the child into the community and finance his or her education, vocational training, health care, etc., or to supplement the family income to encourage parent or guardian to fulfil their responsibility to the child.

(2) The State shall provide for the sponsorship of children based on need and availability of resources when they are discharged from the reception units/shelter home/children's home/special home/after-care institution.

(3) The State Government may allow individuals, institutions, corporate sectors financial institutions, industries, etc., to sponsor or support the following without expecting any gain in return:

- (i) Any child or his family shall be supported under sponsorship to withdraw children from child labour/bonded labour for higher education.
- (ii) Any activities pertaining to improve the behaviour of children, through personality development programme.
- (iii) Cultural programmes, picnics, holiday camps, medical assistance, immunisation programmes, special medical assistance, etc., inter-school sports activities, creative arts and competition seminars for children involving eminent personalities etc.
- (iv) Any activities pertaining to the job oriented training programmes, establishment of vocational rehabilitation centres, community college, etc. (v) Establishment of libraries, sports activities, horticulture/sericulture, creative arts and competitions, etc., or any other development programme.
- (vi) Improving infrastructure and amenities, construction or alteration of building etc.

(4) Management.

- (a) The financial assistance under the sponsorship programme shall be administered by the District Advisory Board. The Board shall process application for sponsorship put up as per provisions on a case by case basis and then accord sanction for the same.
- (b) The payment shall be made through the institution from where the child was discharged.
- (c) The agency/institution receiving sponsorship shall maintain proper and separate accounts of all the receipts and payments for the programme.

(5) Criteria for Selection of children for sponsorship. The children shall be eligible for sponsorship on the following conditions:

- (a) Children reinstated with single parent/biological families who are under/ below poverty line.
- (b) Disabled and other special needs children requiring specialized intervention/ treatment and referred from any institution or programme under this Act.
- (c) Children reinstated into the family, where the parent is disabled or chronically ill but willing and able to take care of the child.
- (d) Where the child requires sponsorship to complete his/her ongoing education/vocational training after discharge from the institution, up to a maximum period of two years.
- (e) Any other cases after due consideration.

(6) Duration of the Sponsorship. The duration of the sponsorship support shall be decided by District Advisory Board on a case by case basis, based on the recommendations of the Probation Officer/ Case Worker which has been endorsed by the Monitoring and Evaluation Committee. However the support shall be renewed every year and shall not exceed three years unless under exceptional circumstances.

(7) Procedure for sponsorship support.

- (a) The Probation Officer/Case Worker and Social Worker of the respective reception unit/shelter home/children's home/after-care institution shall visit the home of the child and verify that the child fulfils the criteria mentioned in clause (5) of rule 82.
- (b) Each institution availing of the sponsorship support under the Act, shall accord the responsibility of undertaking all assessments, home visits, documentation, review and follow-up of sponsored children to the qualified Probation Officer/Case Worker and Social Worker.
- (c) Appropriate proof or record of deathV/ divorce/separation/disability/illness/ income of parent or child shall be verified and attached to the case file and a report shall be prepared and submitted to the District Advisory Board by the Probation Officer /Case Worker and Social Worker.
- (d) Follow-up of the child once in six months to get an update on the family situation shall be made and a report shall be submitted to the District Advisory Board. Care shall be taken to ensure that the child is getting adequate education, nutrition and health care and the child is free from abuse and exploitation.
- (e) All sponsored children shall regularly attend formal schooling/skill training/ vocational training unless under special instances of disability or illness of the child, which shall be verified by the case worker.
- (f) In the event of death of parents at any time the child has to be institutionalized and the sponsorship shall be discontinued. But institutionalisation shall be the last resort.
- (g) The child shall not receive sponsorship support from any other source.
- (h) Wherever possible, the child shall be referred to other existing education schemes and services.

- (i) Appropriate action shall be taken against persons found to be deliberately misusing the sponsorship support.
- (j) There shall be a yearly evaluation of the rehabilitation outcomes for children as far as possible and independent consultants shall be employed.
- (k) The Department of Social Welfare shall work out the additional modalities of the sponsorship programme through a suitable scheme.

CHAPTER X**MONITORING OF JUVENILE JUSTICE SYSTEM****82. Inspection.**

(1) The Director/Commissioner Social Welfare Department and any other officer authorised by him shall inspect such organization. The programme development monitoring and evaluation cell. The District Advisory Committee, Local Government Authority shall inspect, monitor and evaluate the institutional and non-institutional programmes on Juvenile Justice Administration.

(2) The inspection should not be a fault finding mechanism rather it should be constructive. The Inspecting Officer shall furnish a report to the Director/Commissioner Social Welfare for necessary follow-up.

(3) The team may visit the home either by prior intimation or by surprise.

83. Reporting.

(1) After completing the inspection, the Committee shall be required to submit a report on the findings within the shortest possible time not exceeding fifteen days. The report should include the suggestion, request or complaint as made by the concerned person, an objective evaluation of the compliance of the facilities with the relevant provisions of these rules.

(2) Opinion of other relevant persons including those directly responsible for or named in the complaints shall also be noted and their reasons and explanations noted verbatim.

(3) The Inspection Committee shall finally make any recommendations regarding any steps considered necessary to ensure compliance.

(4) Any facts discovered by the Inspection Committee which indicate the violation of legal provisions concerning the rights of children or the operation of a juvenile justice institution has occurred shall be communicated to the competent authorities for investigation and prosecution.

84. Follow-up action.

The findings of the inspection and the suggestion of the children shall be taken into consideration by all concerned authorities.

85. Openness and Transparency.

(1) All Homes shall be open to visitors with the permission of the superintendent particularly for the representatives of Local Self-Government, voluntary organisations, social workers, researchers, medicos, academicians, prominent personalities, media and any other person as the Superintendent considers appropriate keeping in view the security, welfare and the interest and child.

(2) The superintendent 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 institutional want to contribute through their expertise.

(3) The superintendent shall maintain a visitors' book. The remarks of the visitors given in visitors' book shall be considered by the Advisory Inspecting Authority.

(4) While visiting an institution, the visitors shall not say or do anything that undermines the authority of the superintendent, is in contravention of the Act or rules or impinges on the dignity of the child.

86. Social Auditing.

The State Government shall maintain professional research-based Social audit to monitor and evaluate the functioning of the Homes and programmes/schemes under the Act on an annual basis. This shall be done with the help of leading organizations working with the children, besides Autonomous bodies like National Institute of Public Co-operation and Child Development Indian Council for Child Welfare, Indian Council for Social Welfare, Indian Social Institute, Childline India Foundation, National Institute of Social Defence, Central and State Level Social Welfare Boards, School of Social Work, etc.

87. Monitoring and Evaluation.

(1) Children in need of care and protection are being taken care not only by institutions either run by Government on its own or by a supporting non-Governmental Organisation financially but also by voluntary organisation on its own resources. All actions concerning children whether undertaken by Government or administrative bodies or court or by voluntary organisation the best interest of the children shall be the prime consideration.

(2) In each district there shall be a child protection committee being represented by non-governmental organisation, media academicians, philanthropists, Government representatives to monitor and evaluate the child care programmes with the objective of not only to prevent child abuse, illegal trafficking, child prostitution, etc., but also to ensure qualitative services to children and intervene in all issues concerning children.

(3) The State Government shall ensure to facilitate the optimum usage of community resources to ensure child protection, to monitor and evaluate child.

(4) The member specified in serial numbers (3) to (6) of sub-rule (3) shall be nominated by the State Government.

(5) The committee shall meet once in six months and review the issue concerning the children related

programmes and intervene all matters concerning children. The Chairperson and members shall visit any child care institution whether run by Government on its own or by voluntary organization with or without financial support from Government.

(6) The term of the committee shall be three years and shall be reconstituted by the District Collector after three years.

Protection there shall be authority Committee consisting of the following persons:

- | | |
|---|------------------|
| 1. District Collector | Chairperson |
| 2. Superintendent/
Commissioner of Police | Member |
| 3. Vice-Chancellor, Principal
or Professor or Reader of
an academic institution,
specialized in Psychology,
Criminology, Social Works,
Home Sciences, Rural
Development, etc. | Two
members |
| 4. Media Personnel | Two
members |
| 5. Non-Governmental
Organisations | Three
Members |
| 6. Corporate personnel | Three
Members |
| 7. Joint-Director/Deputy-
Director, Panchayat and
Social Welfare | Member |

88. State Advisory Board.

(1) The State Government shall constitute an Advisory Board as required under section 62 of the Act, consisting of the following:

- | | |
|---------------------------|----------|
| Minister, Social Welfare | Chairman |
| Secretary, Social Welfare | Member |
| Secretary, Education | Member |
| Secretary, Health | Member |
| Secretary, Home | Member |
| Secretary, Law /Judicial | Member |

- | | |
|--|----------------------|
| Secretary, Labour and Employment | Member |
| Secretary, Cottage & Small Scale
Industries | Member |
| Secretary, Technical Education | Member |
| Secretary, Industries | Member |
| Secretary, Finance | Member |
| Director-General of Police | Member |
| A representative of UNICEF | Member |
| An Industrialist | Member |
| A Journalist | Member |
| A representative of Press Council | Member |
| Two Social Workers/
Representatives of Voluntary
Organisations | Member |
| Commissioner/Director Social
Welfare | Member-
Secretary |

(2) The Advisory Board may advice to the State Government in the following matters namely:

- (a) development of Juvenile Justice Services through various official and Community based welfare agencies.
- (b) the ways and means of mobilising human and material resources to ensure social justice to the juveniles of both categories.
- (c) the development of facilities for educational, vocational training and rehabilitation for various categories of juveniles coming within the purview of the Juvenile Justice System.
- (d) the co-ordination between various sectors of child development in dealing with the problems of juvenile processed through the law.

(3) The non-official members of the Advisory Board shall be nominated by the State Government on the recommendation of the Director/Commissioner Social Welfare Department. The non-official members shall hold office for a term of 3 years from the date of nomination and shall be eligible for re-nomination. The non-official member may be terminated by the State Government after giving reasonable opportunity. Any casual vacancy among

non-official members shall be filled by appointment of another non-official who shall hold office so long as the person in whose place he is appointed would have held it if vacancy had not occurred. The procedure for the meetings of the Advisory Board shall be laid down by the State Government.

89. District Advisory Board.--

(1) The State Government shall constitute a District Advisory Board which shall also perform the role of inspecting the programmes and activities for the effective implementation of the Act.

The District Advisory Board shall consist of the following:

1. Collector	Chairperson
2. Superintendent of Police	Member
3. Representative of Zila Panchayat	Member
4. Chief Medical Officer	Member
5. Deputy Director, Education	Member
6. Secretary Red-Cross	Member
7. Chairperson Rotary/Lions Club	Member
8. Two Social Workers	Members
9. Two members of Neighbourhood Committee	Member
10. Businessman	Member
11. Two Donors	Members
12. Deputy-Director, Panchayat and Social Welfare	Member
13. Superintendent of concerning Home	Member

(2) Objective The Director, Advisory Board shall review the activities relating to the Administration of Juvenile Justice in the District on the following lines:

(a) Review the Administration and activities of institution established under the provisions of the Act.

(b) Inspect the institutions established under the provisions of the Act and report to the Director/Commissioner of Social Welfare Department.

(c) Propose suitable programmes for the upgradation and development of the homes.

(d) Review the probation work in the district and propose suitable suggestions for effective implementation.

(e) To give support to the programme for the rehabilitation of inmates in the society.

(f) To generate financial support to the inmates for their entire development and rehabilitation.

(g) To create linkages between various agencies working in the field of social welfare of co-ordination and cooperation. To bring the inmates in the main stream of the society.

(h) To review the minimum standards ensured in the institutions set up under the Act.

(i) To review the non-institutional services like Probation, Foster Care, Adoption, Sponsorship Programmes, etc.

(j) To review the inter co-ordination between the various departments, community based programmes, etc., and suggest the suitable remedial measures for effective functioning.

(k) To propose suggestions to improve the quality of institutional and non-institutional services effectively.

(3) Nomination of non-official members:

(a) Nomination of the non-official members of District Advisory Board shall be made by the concerning Collector of the district.

(b) The tenure of the non-official members shall be for a period of three years. The non-official member may be terminated by the Collector after giving reasonable opportunity.

(4) Meetings The District Advisory Board shall meet once in 3 months.

CHAPTER XI

MISCELLANEOUS

90. Juvenile Justice Board.--

(1) The State Government shall create a fund at State-level under section 61 of the Act to be called the Juvenile Justice Fund (hereinafter in this rule referred to as fund) for the welfare and rehabilitation of the child dealt with under the provisions of the Act, besides voluntary donation.

(2) The fund shall be used

- (a) to secure the rights and implement programmes for the welfare and rehabilitation of children;
- (b) to pay grant-in-aid to non-official organisation;
- (c) to meet the expenses of State Advisory Board and its purpose;
- (d) to do all other things that are incidental and conducive to the above purposes.

(3) The fund shall be managed and administered by the State Advisory Board.

(4) The assets of the fund shall include all such grant and contributions, recurring or non-recurring, from the Central and State Governments or any other statutory or nonstatutory bodies set up by the Central or State Government as well as the voluntary donations from any individual or organisation.

(5) Withdrawals shall be made by cheques or requisitions, as the case may be, of the State Advisory Board in the case of amount not exceeding Rs. 10,000 (Rupees ten thousand) shall be duly signed by the Secretary and the Member of the Board of Management to be nominated by State Advisory Board.

(6) Regular accounts shall be maintained of all money and properties and all incomes and expenditure of the Fund and shall be audited by notified firm of Chartered Accountants or any other recognised authorities as may be appointed by the Board. The auditors shall also certify that the expenditure from the funds shall be maintained

by the Secretary. All contracts and other assurances shall be in the name of the Board of the management and signed on their behalf by the Secretary and one Member of the Board of a management authorised by it for the purpose.

(7) The Advisory Board may delegate to one or more of the members such of its powers, which in its opinion are merely a procedural arrangement

91. Disposal of records/documents.

The records/documents in respect of children should be kept in a safe place for a period of seven years and thereafter be destroyed by the order of the Juvenile Justice Board/Child Welfare Committee.

92. Data Bases.

(1) All the case files maintained by the institutions, the Child Welfare Committee and the Juvenile Justice Board should be computerised and networked so that the data is centrally available.

(2) Data relating to missing or lost children shall be specially computerised and networked locally and centrally through the setting up to Missing Children's Bureaus, which shall facilitate the scanning of children's photographs along with their basic identified information. All data relating to missing children shall be disseminated as widely as possible.

(3) Names and addresses of all recognised Children's Home, fit institutions and other data bases of organisations, Voluntary Probation Officers, other support services shall be maintained and updated regularly by the competent authorities. Age and sex, appropriate facilities as prescribed under section 34 of the Act shall also be mentioned in the list.

93. Repeal and Saving.

The Madhya Pradesh Juvenile Justice Rules, 1988 shall stand repealed immediately after the commencement of these rules:

Provided that any action taken, order made under the provisions of the rules so repealed shall be deemed to have been taken or made under the corresponding provisions of the rules.

Asian Centre for Human Rights is dedicated to promotion and protection of human rights and fundamental freedoms in the Asian region by:

- **providing accurate and timely information and complaints to the National Human Rights Institutions, the United Nations bodies and mechanisms as appropriate;**
- **conducting investigation, research, campaigning and lobbying on country situations or individual cases;**
- **increasing the capacity of human rights defenders and civil society groups through relevant trainings on the use of national and international human rights procedures;**
- **providing input into international standard setting processes on human rights;**
- **providing legal, political and practical advice according to the needs of human rights defenders and civil society groups; and**
- **by securing the economic, social and cultural rights through rights-based approaches to development.**



ASIAN CENTRE FOR HUMAN RIGHTS

C-3/441-C, Janakpuri, New Delhi 110058 INDIA

Phone/Fax: +91 11 25620583, 25503624

Website: www.achrweb.org

Email: suhaschakma@achrweb.org