

# STATE OF JUVENILE JUSTICE IN MIZORAM



# State of Juvenile Justice in Mizoram



ASIAN CENTRE FOR HUMAN RIGHTS



## **State of Juvenile Justice in Mizoram**

*Photo:* News report about Lalnunpuia being beaten to death by the officials at the Herald for Christ's Children Home, a government recognized Children Home at Lungleng

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# 1. EXECUTIVE SUMMARY

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Children constitute 17.34 per cent of Mizoram's total population.<sup>1</sup> Mizoram may be a small state in terms of population and area, but the percentage of both child abuse and crimes committed by juveniles is quite high. The Ministry of Women and Child Development, Government of India in its "*Study on Child Abuse: INDIA 2007*" ranked Mizoram second in child abuse amongst the 13 states<sup>2</sup> of India covered under the study. The study found that "*in four of these states, the percentage of physical abuse was alarmingly high, above 80%. These states were Assam (84.65%), Mizoram (84.64%), Delhi (83.12%) and Uttar Pradesh (82.77%).*"<sup>3</sup>

A "Study of Child Abuse in Mizoram" prepared by the Social Welfare Department and Aizawl-based NGO, Human Rights & Law Network (HLRN) on 27 October 2012 revealed that children are not safe anywhere in the state as most cases of child sexual abuse were committed by relatives, friends and teachers of the victims. The study revealed that Mizoram recorded 630 cases of child sexual abuse during the period of 2003 to 2009. Of these, 248 cases were registered by the Criminal Investigation Department of Mizoram Police, 240 cases by district police stations, 124 cases by the Child Welfare Committees (CWCs) and 18 cases by the Mizo Hmeichhe Insuihkhawm Pawl, Mizoram's apex women body.<sup>4</sup>

Juvenile delinquency equally remains high. During the last decade from 2002 to 2011,

the National Crime Records Bureau under the Ministry of Home Affairs recorded a total of 1,699 cases of "juvenile delinquency" in Mizoram. These include 1,258 cases registered under the Indian Penal Code (IPC) and 441 cases under the Special and Local Laws (SLL) in Mizoram.<sup>5</sup>

According to official records, 89 cases of child abuse and 35 cases of juvenile crimes were registered in the state during January to March 2012. This included 76 cases of physical abuse and 13 cases of sexual abuse against minors registered by the Social Welfare Department, and 35 cases of juvenile crimes recorded by the Juvenile Justice Boards.<sup>6</sup>

Yet, Mizoram has failed to show interest in the proper implementation of the Juvenile Justice (Care and Protection of Children) Act of 2000 (amended in 2006) [hereinafter referred to as "JJ (C&PC) Act"]. Although the JJ(C&PC) Act has been enacted more than a decade ago, the statutory support services namely the Juvenile Justice Boards and the Child Welfare Committees in Mizoram have been set up in all the eight districts only during 2010-11.

## **Lack of special homes and overcrowding in the existing ones with poor facilities**

Mizoram has failed miserably in providing institutional care. There are eight districts i.e. Aizawl, Champhai, Kolasib, Lawngtlai, Lunglei, Mamit, Saiha and Serchip but so far only two "Observation Home-cum-Special Homes" at Aizawl and Lunglei respectively have been set up. Yet, surprisingly the Ministry of Women and Child Development sanctioned Rs 4.77

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1. Child sexual abuse alarming in Mizoram, The Seven Sisters Post, 28 October 2012

2. The 13 states covered under "Study on Child Abuse: India 2007" are Andhra Pradesh, Assam, Bihar, Delhi, Goa, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Mizoram, Rajasthan, Uttar Pradesh and West Bengal

3. "Study on Child Abuse: India 2007", P 45

4. Child sexual abuse alarming in Mizoram, The Seven Sisters Post, 28 October 2012

5. National Crime Records Bureau (NCRB), "Crime In India" Annual Reports from 2002-2011

6. Mizoram sees rise in child abuse, juvenile crime, The Seven Sisters Post, 23 May 2012

lakhs as Central share for “Maintenance of 4 existing [2 Observation Homes and 2 Special Homes] being run by State Government [for 225 children]” during 2010-11<sup>7</sup> and Rs 67.07 lakhs for the same purpose during 2011-12.<sup>8</sup> The Mizoram government itself admitted at the 39<sup>th</sup> Projects Approval Board (PAB) Meeting under Integrated Child Protection Scheme (ICPS) held on 15<sup>th</sup> March 2012 that “the four government-run Homes, two Homes cum Special Homes at Aizawl and Lunglei are run under one roof, without separate infrastructure and staff.” Therefore, the sanctioning for four Homes (2 Observation Homes and 2 Special Homes) is a mis-representation of facts.

The “Observation Home-cum-Special Homes” are crowded. As per the RTI reply dated 28 November 2011 received from the Social Welfare Department, Mizoram, the sanctioned capacity at Observation Home-cum-Special Home at Lunglei is 75.<sup>9</sup> But ACHR during field visit found that the Home has a capacity to house only 10 inmates, boys only. The Officer in Charge took the initiative of adding 4 extra beds for the inmates as sometimes number of inmate increases beyond the capacity. However, many a times the inmates exceeded 14 and in such situations the inmates had to sleep on the floor.<sup>10</sup> At the 39<sup>th</sup> PAB Meeting under ICPS held on 15<sup>th</sup> March 2012, a Member of National Commission for Protection of Child Rights stated that “there is space crunch in the present homes and children had to sleep on floor as there is no space for cots. There are no separate facilities for boys and girls and the

buildings are old and in depleting conditions Hence, new buildings need to be constructed for which grants were requested.”<sup>11</sup>

#### *Non-utilization of Central funds*

Ironically, Mizoram government has failed to utilize the grants under ICPS provided by the Ministry of Women and Child Development. The Ministry of Women and Child Development sanctioned Rs 1,95,35,750 (Rupees One Crore Ninety Five Lakh Thirty Five Thousand Seven Hundred and Fifty only) for the financial year 2010-11<sup>12</sup> and Rs 2,25,46,000 (Rupees Two Crore Twenty Five Lakhs Forty Six Thousand only) as the Central share for the financial year 2011-12<sup>13</sup> under the Integrated Child Protection Scheme (ICPS). On 6 July 2012, Mizoram informed the PAB that Rs 75.25 lakhs was lying unspent from the grants of 2001-12! Further, the State government informed that it had received construction grant for 2 Government Homes in 2011 but this grant was still unutilized.<sup>14</sup>

#### *Lack of education and vocational training*

The Observation Home-cum-Special Home at Lunglei has one educational instructor and one craft instructor but ACHR has found that there is no school or formal education being provided at the Home.<sup>15</sup>

The state government of Mizoram admitted before the PAB on 6th July 2012 that no vocational training was being provided to children in the Homes. The PAB advised the State government to develop linkages with the Corporate Social Responsibility programs as well as vocational training institutes providing

7. Ministry of Women and Child Development Vide letter No. 14-18/2009-CW-II dated 28<sup>th</sup> September 2010

8. Ministry of Women and Child Development Vide letter No. 14-18/2009-CW-II dated 29<sup>th</sup> March 2012

9. RTI reply from Vanlalnghaka Zote, Deputy Director (T) cum State Public Information Officer, Social Welfare Department, Mizoram, Aizawl vide No. C.31012/2/06-DTE(SW) dated 28 November 2011

10. Information obtained from officials during ACHR researchers field visit to Lunglei Observation Home-Cum-Special Home on 29 September 2012

11. Minutes of the 39<sup>th</sup> PAB Meeting under ICPS held on 15<sup>th</sup> March 2012 to discuss the financial proposal of Mizoram

12. Ministry of Women and Child Development Vide letter No. 14-18/2009-CW-II dated 28<sup>th</sup> September 2010

13. Ministry of Women and Child Development Vide letter No. 14-18/2009-CW-II dated 29<sup>th</sup> March 2012

14. Minutes of the 43<sup>rd</sup> PAB Meeting under ICPS held on 6<sup>th</sup> July 2012 to discuss the financial proposal of Mizoram

15. Information obtained from officials during ACHR's field visit



training, through the Labour Department and other Government Departments such as Tribal Affairs, so that market driven training followed by a certificate can be provided.<sup>16</sup>

#### *Lack of segregation of juveniles*

At Observation Home-cum-Special Home at Lunglei there is no segregation of the juveniles on the basis of age and nature of offences as provided under the JJ (C&PC) Act.<sup>17</sup>

#### *Shortage of staff*

The post of Warden at the Observation Home-Cum-Special Home at Aizawl has been lying vacant for the last 2 years.<sup>18</sup>

At Shelter Home at Aizawl out of the 14 sanctioned staff, only six staffs viz. Superintendent, Case Worker, Counsellor, Home Father, Cook and Educator have been appointed. At the Shelter Home at Mamit, out of 14 sanctioned posts only two staff i.e. the Superintendent and cook have been appointed. The Shelter Home at Champhai is being managed by the governing body as only one out of 14 sanctioned posts has been filled. All these three Shelter Homes are funded by the Ministry of Women and Child Development through ICPS.

#### **Status of the JJBs and CWCs**

Mizoram has established JJBs and CWCs in all eight districts. At the 43<sup>rd</sup> PAB Meeting under ICPS held on 6 July 2012, the state government informed that pendency at the JJBs was high and number of sittings needed to be increased. Mizoram also reported that there were 19 cases pending in the CWCs at the last day of the

quarter in 2011-12.<sup>19</sup> It is alleged that CWC members hardly attend training programmes organized by the government. Moreover, all members are busy workers and do not have time for the CWCs.

#### **Lack of inspections**

ACHR has found that in a number of juvenile justice homes, there is hardly any inspection. The State Inspection Team has conducted only one inspection at Government Observation Home-Cum-Special Home at Aizawl since its establishment in 1986 and no inspection has been done by the State Inspection Team at Government Observation Home-Cum-Special Home at Lunglei since its inception in 2008. There has not been any inspection by the State Inspection Team or Mizoram State Child Protection Society (MSCPS)/ District Child Protection Society (DCPS) officials at the three newly established Government-funded Shelter Homes at Aizawl, Mamit and Champhai. At the 43<sup>rd</sup> PAB Meeting under ICPS held on 6th July 2012, the state government of Mizoram informed that only 31 inspections have been undertaken since 2007 when seven out of the eight inspection committees were formed. The PAB advised Mizoram to activate the inspection committees as per the JJ(C&PC) Act and State Juvenile Justice Rules and regular inspections, including surprise visits, should be undertaken.<sup>20</sup>

16. Minutes of the 43rd PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram

17. Information obtained from officials during ACHR researchers' field visit to Observation Home-Cum-Special Home at Lunglei on 29 September 2012

18. Information obtained from officials during ACHR researchers' field visit to Observation Home-Cum-Special Home at Aizawl on 5 October 2012

19. Minutes of the 43rd PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram

20. Minutes of the 43rd PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram

## 2. STATE OF JUVENILE JUSTICE IN MIZORAM

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### 2.1 State of juvenile delinquency

During the last decade from 2002 to 2011, the National Crime Records Bureau under the Ministry of Home Affairs recorded a total of 1,699 cases of “juvenile delinquency” in Mizoram, which include 1,258 cases registered under the Indian Penal Code (IPC) and 441 cases under the Special and Local Laws (SLL). The year-wise number of cases of juvenile delinquency registered under the IPC are 54 cases during 2011, 63 cases during 2010, 19 cases during 2009, 52 cases during 2008, 18 cases during 2007, 83 cases during 2006, 297 cases during 2005, 607 cases during 2004, 39 cases during 2003, 26 cases during 2002. Further, the year-wise number of cases of juvenile delinquency registered under SLL are 51 cases during 2011, 38 cases during 2010; one case during 2009, 11 cases during 2008, 11 cases during 2007, six cases during 2006, 79 cases during 2005, 211 cases during 2004, 22 cases during 2003, and 11 cases during 2002.<sup>21</sup> In 2011, the NCRB recorded 54 cases under IPC, including three cases of rape, 12 cases of burglary, 18 cases of theft, one case of arson, eight case of hurt, three cases of molestation and nine cases of “other IPC crimes”, and 51 cases under SLL including one case under Prohibition Act, 14 cases under the Foreigners Act, two cases under Indian Passport Act, and 34 under “other SLL crimes”.<sup>22</sup>

### 2.2 Violations of rights of the child

Children constitute 17.34 per cent of Mizoram’s total population.<sup>23</sup> Mizoram may be a small

state in terms of population and area, but the percentage of both child abuse and crimes committed by juveniles is quite high.

#### Child sexual abuse:

The Ministry of Women and Child Development, Government of India in its “*Study on Child Abuse: INDIA 2007*” ranked Mizoram second in child abuse amongst the 13 states<sup>24</sup> of India covered under the study. The study found that “*in four of these states, the percentage of physical abuse was alarmingly high, above 80%. These states were Assam (84.65%), Mizoram (84.64%), Delhi (83.12%) and Uttar Pradesh (82.77%).*”<sup>25</sup>

Further, the study revealed startling facts about Mizoram:

*“Analysis of incidence of physical abuse among different age groups of child respondents revealed that a majority (48.29%) of younger children in the age group of 5-12 years were being physically abused followed by children in the age group 13-14 years (26.69%) and adolescents in the age group 15-18 years (25.01%). Among younger children in six states the percentage of physical abuse was 50% or above, the highest being in Bihar (59.73%). The highest percentage of physical abuse in children (13-14 years) was reported from Uttar Pradesh (37.42%) followed by Mizoram (30.74%). Among adolescent respondents in the age group 15-18 years, the highest percentage of physical abuse was reported from Mizoram (35.43%) followed by Assam (33.29%). Although in the overall*

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21. National Crime Records Bureau (NCRB), “Crime In India” Annual Reports from 2002 to 2011

22. National Crime Records Bureau (NCRB), “Crime In India 2011”

23. Child sexual abuse alarming in Mizoram, The Seven Sisters Post, 28 October 2012

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24. The 13 states covered under “Study on Child Abuse: India 2007” are Andhra Pradesh, Assam, Bihar, Delhi, Goa, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Mizoram, Rajasthan, Uttar Pradesh and West Bengal

25. “Study on Child Abuse: India 2007” , P 45



*percentage of physical abuse among various age groups of child respondents, Mizoram reported higher percentage of physical abuse compared to other states in the categories of children (13-14 years) and adolescents (15-18 years), the state reported lowest percentage of physical abuse amongst younger children (33.83%). This percentage of physical abuse was the lowest in the younger children category across the states.*<sup>26</sup>

There is an alarming increase in child abuse and crimes committed by the juveniles in Mizoram. According to official records, 89 cases of child abuse and 35 cases of children in conflict with law were registered in the state during January to March 2012. This included 76 cases of physical abuse and 13 cases of sexual abuse against minors registered by the Child Welfare Department, and 35 cases of children in conflict with law recorded by the Juvenile Justice Boards.<sup>27</sup>

Another shocking reality is the presence of a large number of children who are drug addicts. Human rights activists and officials agree that there could be around 10,000 to 30,000 child drug addicts in the state. According to Mizoram Social Defence & Rehabilitation Board Chief Executive Officer Lalpawmawii, a survey had

been conducted in 15 selected High Schools in Aizawl in which 470 students, including 227 girls, responded to the questionnaires and the survey found that drug abuse was rampant among the students.<sup>28</sup>

A recent “Study of Child Abuse in Mizoram,” prepared by the Social Welfare Department and Aizawl-based NGO, Human Rights & Law Network (HLRN), has revealed that children are not safe anywhere in the state as most cases

of child sexual abuse were committed by relatives, friends and teachers of the victims. The study released in Aizawl on 27 October 2012 revealed that Mizoram recorded 630 cases of child sexual abuse during the period of 2003 to 2009, and these included 12 cases of sexual abuse of boys. Of these, 248 cases were registered by the Criminal Investigation Department of Mizoram Police, 240 cases by district police stations, 124 cases by the Child Welfare Committee (CWC) and 18 cases by Mizo Hmeichhe Insuihkhawm Pawl, Mizoram’s apex women body. Questionnaires distributed to 595 children aged between 5

and 18 years during the survey revealed that 30 girls and 156 boys were subjected to at least one form of sexual molestations, including kissing, exhibition and fondling of private parts.

### Methodology

ACHR researchers filed a number of applications under the RTI Act with the State Government of Mizoram and obtained necessary information/data to assess the problems of the juvenile justice institutions in Mizoram. Based on the information received from the authorities, ACHR prepared a background report on the status of juvenile justice in the state.

Thereafter, ACHR researchers visited two Observation Home-Cum-Special Homes at Lunglei and Aizawl on 29 September 2012 and 5 October 2012 respectively. The researchers also interviewed officials of the Mizoram State Child Protection Society apart from telephonic interviews with officials of Shelter Homes and Children Homes.

26. “Study on Child Abuse: India 2007”, P 45

27. Mizoram sees rise in child abuse, juvenile crime, The Seven Sisters Post, 23 May 2012

28. Drug abuse prevalent among Mizo children, The Seven Sisters Post, 17 October 2012

Response to the questionnaires revealed that 55.56 per cent who had been sexually molested did not disclose it to anyone. In 141 out of 240 cases reported to the police stations, the accused and the victim belonged to the same locality or village. In the cases recorded by CWC, only five cases of child sexual abuse were committed by strangers. Seven such acts were committed by the victims' biological fathers, 13 by steps fathers, four by guardians, eight by brothers or cousins, 26 by teachers and 68 by neighbours. Those molested by fathers, step-fathers or relatives were usually re-victimised. Most of the victims were aged between 6 and 12 years.<sup>29</sup>

### **Torture:**

There are also cases of torture and other inhuman and degrading treatment of children in Children Homes.

On 13 July 2009, a 13-year-old child identified as Lalnunpuia, son of Rinsanga of Chaltlang Lily in Aizawl, was beaten to death by the officials at the Herald for Christ's Children Home, a government recognized Children Home at Lungleng, about 15 kms north of Aizawl.

The child was beaten up for alleged disobedience. He was so mercilessly beaten up that he died on the same day in the evening. The photographs published in a local newspaper "*The Aizawl Post*" indicated brutal torture on the deceased. Initially, the authorities of the Herald for Christ's Children Home tried to cover up the incident by stating that the deceased child had died of bronchitis and heart problem. But the deceased's parents claimed that their son was brutally tortured to death. They stated that they found torture marks on the back, buttocks and the thighs of the child.

On 3 August 2009, ACHR filed a complaint before the NHRC (Case No. 7/16/1/09-10). After a notice from the NHRC, the Superintendent of Police, Aizawl, submitted a report dated 27 August 2009 which revealed that several injuries on the dead body of the child had been observed at the time of burial and therefore, a criminal case No. 91/09 u/s 302 IPC was registered at Kulikawn police station. During the investigation of the said case, eight persons were arrested and they were chargesheeted for murder of the child. At the direction of the NHRC, the Social Welfare Department of Mizoram paid a compensation of Rs 300,000 to the mother of the deceased.

29. Child sexual abuse alarming in Mizoram, *The Seven Sisters Post*, 28 October 2012

### 3. STATE OF THE INSTITUTIONS PROVIDING INSTITUTIONAL CARE

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The state of institutions providing institutional care remain deplorable while the State Government of Mizoram also failed to even utilise the funds given by the Ministry of Women and Child Development under the Integrated Child Protection Scheme to improve the situations of the institutions.

#### 3.1 Status of the Juvenile Justice Homes

The JJ (C&PC) Act provides for establishment of separate Observation Homes under Section 8 of the Act and Special Homes under Section 9 of the Act in each district or group of districts.

Mizoram has failed miserably in providing institutional care. There are eight districts i.e. Aizawl, Champai, Kolasib, Lawngtlai, Lunglei, Mamit, Saiha and Serchip but so far only two “Observation Home-cum-Special Homes” at Aizawl and Lunglei respectively have been set up. Further, facility for girls is only available at Aizawl Observation Home-Cum-Special Home but not at Lunglei. On 28 November 2011, the Mizoram government replied to ACHR that due to fund constraints, proposal for construction of new Homes in different districts was submitted under the Integrated Child Protection Scheme (ICPS) and approval was awaited.<sup>30</sup>

The Ministry of Women and Child Development, however, sanctioned Rs 4.77 lakhs as Central share for “Maintenance of 4 existing [2 Observation Homes and 2 Special Homes] being run by State Government [for

225 children]” during 2010-11<sup>31</sup> and Rs 67.07 lakhs for the same purpose during 2011-12.<sup>32</sup> Field visits by ACHR found that no separate function of Special Home was available in both Observation Home-cum-Special Homes at Aizawl and Lunglei. The Mizoram government itself admitted at the 39<sup>th</sup> PAB Meeting under ICPS held on 15<sup>th</sup> March 2012 that “the four government-run Homes, two Homes cum Special Homes at Aizawl and Lunglei are run under one roof, without separate infrastructure and staff.” At this very meeting, a Member of National Commission for Protection of Child Rights stated that “there is space crunch in the present homes and children had to sleep on floor as there is no space for cots. There are no separate facilities for boys and girls and the buildings are old and in depleting conditions. Hence, new buildings need to be constructed for which grants were requested.”

Ironically, the Mizoram government has failed to utilize the grants provided by the Ministry of Women and Child Development. The Ministry of Women and Child Development sanctioned Rs 1,95,35,750 (Rupees One Crore Ninety Five Lakh Thirty Five Thousand Seven Hundred and Fifty only) for the financial year 2010-11<sup>33</sup> and Rs 2,25,46,000 (Rupees Two Crore Twenty Five Lakhs Forty Six Thousand only) as Central share for the financial year 2011-12<sup>34</sup> under the Integrated Child Protection Scheme (ICPS). At the 43<sup>rd</sup> Project Approval Board (PAB) Meeting under ICPS held on 6<sup>th</sup>

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30. RTI reply from Vanlalnghaka Zote, Deputy Director (T) cum State Public Information Officer, Social Welfare Department, Mizoram, Aizawl vide No. C.31012/2/06-DTE(SW) dated 28 November 2011

31. Ministry of Women and Child Development Vide letter No. 14-18/2009-CW-II dated 28<sup>th</sup> September 2010

32. Ministry of Women and Child Development Vide letter No. 14-18/2009-CW-II dated 29<sup>th</sup> March 2012

33. Ministry of Women and Child Development Vide letter No. 14-18/2009-CW-II dated 28<sup>th</sup> September 2010

34. Ministry of Women and Child Development Vide letter No. 14-18/2009-CW-II dated 29<sup>th</sup> March 2012

July 2012 to discuss the financial proposal for release of grants for 2012-13 under ICPS, the state government of Mizoram informed that Rs 150 lakhs were spent from the grant received in the financial year 2011-12 but did not spend Rs 75.25 lakhs! Further, the State government informed that it had received construction grant for 2 Government Homes in 2011 but this grant was still unutilized.<sup>35</sup> This is despite the deplorable situation of the Observation Home-Cum-Special Homes at Aizawl and Lunglei, and the Children Homes across the state.

At the 43rd PAB Meeting under ICPS held on 6th July 2012, the State government also requested a sum of Rs 22.06 lakhs as non recurring grant for research and documentation for completing the need assessment exercise for which they had received funds last year. But the PAB was informed by the state government that “earlier grant has been spent in making copies of the Performa for need assessment and TA and DA of the staff involved.” The Ministry refused to approve separate fund for research and documentation as the same had already been included under the recurring grant for SCPS.<sup>36</sup>

### **I. Functioning of Observation Home-cum-Special Home at Aizawl**

The Observation Home-cum-Special Home at Aizawl is run by the Social Welfare Department, Government of Mizoram. It was established during 1986-87, presently located in the outskirts of Aizawl at Durtlang. This home covers a group of districts which include Aizawl, Kolasib, Champhai, Mamit and Serchhip.<sup>37</sup>

There is inconsistency in the official statement of the total capacity of inmates at the Observation Home-Cum-Special Home at Aizawl. As per

35. Minutes of the 43rd PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram

36. Minutes of the 43rd PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram

37. Information obtained from officials during ACHR's field visit

the RTI reply dated 28 November 2011 received from the Social Welfare Department, Mizoram, the sanctioned capacity of the Observation Home-Cum-Special Home at Aizawl is 225. The month-wise number of inmates lodged in this Home during October 2010 to September 2011 was as follows: 40 in October 2010, 45 in November 2010, 47 in December 2010, 33 in January 2011, 33 in February 2011, 36 in March 2011, 43 in April 2011, 42 in May 2011, 41 in June 2011, 35 in July 2011, 35 in August 2011, and 28 in September 2011.<sup>38</sup>

However, the Mizoram government has claimed before the Projects Approval Board that the capacity of the Aizawl Observation Home/Special Home was 50 and there were 9 girls and 40 boys as on 1<sup>st</sup> January 2012.<sup>39</sup>

On the other hand, during the field visit on 5 October 2012 ACHR found that the Aizawl Observation Home-Cum-Special Home has a total capacity for 35 boys and 15 girls only. Boys and girls are kept at separate places which are both surrounded by high walls. Section 40 (a) (ii) of the Mizoram JJ Rules provides that there should be a classification and segregation of juveniles according to their age group preferably 7-10 years, 11-5 years and 16-18 years, giving due consideration to physical and mental status and the nature of the offence committed. There are two rooms where two groups of inmates are classified and kept according to their age group i.e. below 7-15 years and 15-18 years. The physical structure and mental status of the inmates are also considered in their placement.<sup>40</sup>

The field visit by ACHR found that the Home has a school run under Sarva Siksha Abhiyan

38. RTI reply from Vanlalnghaka Zote, Deputy Director (T) cum State Public Information Officer, Social Welfare Department, Mizoram, Aizawl vide No. C.31012/2/06-DTE(SW) dated 28 November 2011

39. Ministry of Women and Child Development, Sanction Letter No. 14-18/2009-CW-II dated 29<sup>th</sup> March 2012

40. Information obtained from officials during visit of ACHR researchers on 5 October 2012



(SSA), vocational training centre, church etc. Its staff comprises of one Superintendent, one case worker, two Upper Division Clerks (UDCs), one Staff nurse, one educational instructor (ICPS), five SSA teachers, two vocational instructors, one Part Time Educator (ICPS), one physical instructor, one Lower Division Clerk (LDC), one driver, one computer operator (ICPS), Ten IV grade employees (Security Guards), one visiting doctor, one home father (ICPS), one helper (ICPS) and one cook (ICPS). Significantly, the post of the Warden has been vacant for over 2 years.<sup>41</sup>

There are 10 security guards who work in shift (designated as IV grade employees). No training on security measures is given to them, despite escape of many inmates from the home. Moreover, from all the workers dealing with children, the Caseworker and Superintendent are the only trained persons qualified to work with children. No other staff was given any training on child rights.<sup>42</sup>

A management committee was set up but no meeting has been conducted since the establishment of the Home in 1986-87 violating Section 6 (a) of the Mizoram JJ Rules. No Children's Committee has been formed, thereby denying children participation in any home administration and management violating Section 58 of the Mizoram JJ Rules.

## II. Functioning of Observation Home-cum-Special Home at Lunglei

The Observation Home-cum-Special Home at Lunglei is run by the Social Welfare Department, Government of Mizoram. It was set up in 2008 and located within Lunglei town at Ramthar. This home covers a group of three districts which include Lunglei, Lawngtlai and Saiha.<sup>43</sup>

41. Information obtained from officials during visit of ACHR researchers on 5 October 2012

42. Information obtained from officials during visit of ACHR researchers on 5 October 2012

43. Information obtained from officials during the visit of ACHR

There is inconsistency in the official statement of the total capacity of inmates at the Observation Home-Cum-Special Home at Aizawl. As per the RTI reply dated 28 November 2011 received from the Social Welfare Department, Mizoram, the sanctioned capacity of this Home is 75. The month-wise number of inmates lodged in the Home during October 2010 to September 2011 was as follows: 11 in October 2010, 10 in November 2010, 9 in December 2010, 5 in January 2011, 2 in February 2011, 8 in March 2011, 8 in April 2011, 10 in May 2011, 9 in June 2011, 12 in July 2011, 13 in August 2011, and 9 in September 2011.<sup>44</sup>

However, the Mizoram government has claimed before the Projects Approval Board that the capacity of the Lunglei Observation Home/Special Home was 30 and there were 5 girls and 16 boys as on 1<sup>st</sup> January 2012.<sup>45</sup>

On the other hand, ACHR researchers during field visit on 29 September 2012 found that the Home has a capacity to house only 10 inmates, that too for boys only. ACHR also found that the Officer in Charge took the initiative of adding up 4 beds for the inmates as sometimes number of inmate increases. However, on many occasions, the inmates exceeded 14 and in such situations the inmates had to sleep on the floor. The home provides accommodation, food, recreational facilities, vocational training, counseling, religious and moral guidance.<sup>46</sup>

The Home is placed under the in-charge of one Superintendent and nine other workers viz. one educational instructor, seven IV grade employees, and one craft instructor. There is

researchers on 29 September 2012

44. RTI reply from Vanlalnghaka Zote, Deputy Director (T) cum State Public Information Officer, Social Welfare Department, Mizoram, Aizawl vide No. C.31012/2/06-DTE(SW) dated 28 November 2011

45. Ministry of Women and Child Development, Sanction Letter No. 14-18/2009-CW-II dated 29<sup>th</sup> March 2012

46. Information obtained from officials during the visit of ACHR researchers on 29 September 2012

no school or formal education at the Home. The IV grade were designated a cook and as security guards in the Home.

There is no separation of inmates, which is gross violation of Section 40 (a) (ii) of the Mizoram JJ Rules. Further, no Children's Committee has been formed restricting the participation of children in any home administration and management violating Section 58 of the Mizoram JJ Rules.<sup>47</sup>

### 3.2 Functioning of the Children Homes

There are 28 recognized Children Homes in Mizoram (see Table 1). Almost all the Children Homes are either privately owned or run by faith based organizations. The Department of Social Welfare, Govt of Mizoram informed ACHR that "Most of them function in rented buildings, and only a handful has their own lands for constructions. They have no fixed yearly allocation of funds from the State Govt and are only given meager amounts in the form of Grants-in-aid from time to time. As they are not Govt owned, they have the final say on engagement and termination of their staff. However, inspections of the Homes are carried out at regular intervals by the Department of Social Welfare to look into their functioning and to see if they maintain the minimum standards of care as laid down by the Juvenile Justice (Care & Protection of Children) Act, 2006."<sup>48</sup>

As majority of the Children Homes (private and faith based) are run through charity and children are admitted without the consent of the CWCs, thereby increasing the population of children in the Children Homes. The lack of properly administration and supervision by the state government are responsible for poor

conditions of the Homes. Moreover, their financial independence from the government could also another reason of their non-cooperation with the government institutions. One important example is the Thutak Nunpuitu In (TNT) home which is the biggest and the most popular Children Home in Mizoram receiving a large amount of contribution from the people. Their communication with the authority is poor and the DCPS officials claimed that they have received monthly reports only twice since January 2012 from the TNT Children Home.

The First Step Children Home is also poorly cared and maintained. The Children Home's compound is inhospitable for small children. The home authorities also have the intention to close down the Home. But the CWC has not taken a decision regarding the First Step Children Home.

At the 43<sup>rd</sup> PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal for release of grants for 2012-13 under ICPS, the state government of Mizoram requested grants for 17 NGO-run Children Homes where need assessment has been completed. The PAB suggested that the State should provide the details of the incremental improvement that is planned from grants under ICPS, in each Home. The State should also list the accountability and monitoring systems for these NGO run Homes. It should also be ensured that all these Homes are registered under the JJ(C&PC) Act. Once these details are provided, the proposal for release of grants will be separately examined in the Ministry.<sup>49</sup>

The state government of Mizoram admitted before the PAB on 6th July 2012 that no vocational training was being provided to children in the Homes. The PAB advised the

47. Information obtained from officials during ACHR's field visit

48. RTI reply from Vanlalnghaka Zote, Deputy Director (T) cum State Public Information Officer, Social Welfare Department, Mizoram, Aizawl vide No. C.31012/2/06-DTE(SW) dated 28 November 2011

49. Minutes of the 43rd PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram



Table 1: Government Recognized Children Homes of Mizoram and their details

Sl. No	Name of Home & Address	District	Age- Group	Capacity	Total no. Of Children. as of September 2012	No. of Staff	Nature of Home	Nature of Building	Nature of Ownership
1	Adullam Centre, West Phaileng , Pin- 796431	Mamit	No age Limit	15	5	7	Private	Semi-Pucca	Owned
2	Ferrando Children's Training Centre, Model Veng, Lengpui (near Laldenga Fishing Farm), Pin- 796401	Mamit	4-10	-	10	2	N.G.O	Pucca	Owned
3.	Missionaries of Charity Convent Road, Catholic Campus, Venglai, Kolasib, Pin - 796081	Kolasib	No age Limit	20	1		Church-Based	Pucca	Owned
4.	Audrene Scism, Khuangpuilam, near Petrol Pump, Kolasib, Pin - 796081	Kolasib	6 months- 5years till 18.	40	40	2	Church-Based	Pucca	Owned
5.	Enna In, Orphanage Boys Home, ICAR Road, Vengthar, Kolasib, Pin – 796081	Kolasib	6-18	25	23		Church-Based	Semi-Pucca	Owned
6.	Davida Home Khuangpuilam, Kolasib Pin – 796081	Kolasib	0-18	30	23		Private	Semi-Pucca	Owned
7.	Omega Centre, Zophai, Bairabi, Pin – 796081	Kolasib	0-18	40	20		Private	Semi-Pucca	Owned
8.	Gan Sabra Zonuam, Aizawl – 796001	Aizawl	6-14	20	20	3	N.G.O	Pucca	Owned
9.	Muanna In Muapui, Aizawl – 796001	Aizawl	6-18	30	30		N.G.O	Pucca	Owned
10.	Bethani Children's Home Society Sihhmui, Aizawl – 796001	Aizawl	6-14	25	22	3	Church-Based	Pucca	Owned
11.	Thutak Nunpuitu In (T.N.T), Muanna Veng, Zuangtui, Aizawl - 796001	Aizawl	0-18 above	-	421		Private	Semi-Pucca	Owned
12.	Synod Hmangaihna In, Durtlang, Aizawl- 796001	Aizawl	0-6	50	26	3	Church- Based	Pucca	Owned
13.	Abundant Life Home, M.F.C, Durtlang, Aizawl- 796001	Aizawl	6-14	20	24	2	Church-Based	Semi-Pucca	Owned
14.	Centre for Peace and Development, CPD-cum-Transitional Home, Dawrpui Vengthar (near Police Station), Aizawl	Aizawl	6-14	16	9	2	Private	Semi-Pucca	Owned

Sl. No	Name of Home & Address	District	Age- Group	Capacity	Total no. of Children. as of September 2012	No. of Staff	Nature of Home	Nature of Building	Nature of Ownership
15.	First Step Children's Home, Edenthlar, Aizawl	Aizawl	6-10	-	5	2	Private	Pucca	Owned
16.	Hermon Children's Home, Durtlang, Aizawl- 796001	Aizawl	0-18 above	-	89	7	N.G.O	Pucca	Owned
17.	Motherless Babies Home, Khatla (near Industries Office), Aizawl – 796001	Aizawl	0-6	20	19		N.G.O	Pucca	Owned
18.	Motherless Babies Home, Tuikual South, Aizawl – 796001	Aizawl	0-6	40	36	4	N.G.O	Pucca	Owned
19.	Hlimna In (Girl's Home), Saitual Venglai, Aizawl-796261	Aizawl	6-18	50	50	7	N.G.O	Pucca	Owned
20.	Genesareth Gospel Home, New Champhai, Champhai – 796321	Champhai	0-18	100	91	15	N.G.O	Semi-Pucca	Owned
21.	Laichhungkua Orphanage Home, Hmar Veng, Serchhip-796181	Serchhip	18	30	15	2	Church-Based	Semi-Pucca	Owned
22.	Zoar Urban Deprived Children's Home, Farm Veng, Dinthar, Serchhip-796181	Serchhip	-	-	-	2	N.G.O	Semi-Pucca	Owned
23.	Kawikhuma Boys Home, Chanmari-II, Lunglei- 796701	Lunglei	6-18 (m)	30	28	5	Church-based	Semi-Pucca	Owned
24.	Baptist Church Orphanage, Ramzotlang, Serkawn, P.O Christian Hospital, Serkawn, Lunglei - 796701	Lunglei (06)	0-5 (m/f)	50	18	8	Church-based	Semi-Pucca	Owned
25.	Bethel Centre, Chhumliamkawn, Sazaikawn, Lunglei- 796701	Lunglei (06)	0-18 (m/f)	150	105	12	Private	Semi-Pucca	Owned
26.	Lairam Motherless Home, College Veng, Lawngtlai -796891	Lawngtlai (07)	0-3	30	17	10	Private	Pucca	Owned
27.	Motherless Babies Home, Education Veng, Saiha – 796901	Saiha (08)	0-5	30	16	7	Church-based	Pucca	Owned
28.	Orphanage Boys Home, ECM Veng, Saiha – 796901	Saiha	0-18	18	14	4	Church-based	Semi-Pucca	Owned

Source : MSCPS (September 2012)

State to develop linkages with the Corporate Social Responsibility programs as well as vocational training institutes providing training, through the Labour Department and other Government Departments such as Tribal Affairs, so that market driven training followed by a certificate can be provided.<sup>50</sup>

### 3.3 Functioning of the Shelter Homes

Shelter Homes have been established in only three districts i.e. Aizawl, Mamit and Champhai despite the necessity in all the eight districts. There is no Shelter Home in other five districts namely Kolasib, Lawngtlai, Lunglei, Saiha and Serchip (see Table 2).

The Shelter Home at Aizawl started functioning in April, 2012 and it has given shelter to 21 children since its inception till October 2012. Out of the 14 children staff sanctioned, only six staffs viz. Superintendent, Case Worker, Counsellor, Home Father, Cook, and Educator have been recruited.

in October 2012. It has only two staff namely the Superintendent and the cook out of 14 sanctioned posts. There is no child admitted at the home since 15<sup>th</sup> October 2012.

The Shelter Home at Champhai started functioning in September 2012. Only one staff has been recruited out of 14 sanctioned staff. The Home has given shelter to one child in September 2012 and six in October 2012 (till 15<sup>th</sup> October). This Shelter Home is being managed by the governing body.

All the three abovementioned Shelter Homes are funded by the Ministry of Women and Child Development through ICPS. They have received the non-recurring funds but as they do not receive recurring funds, this has created problems in their functioning.

**Table 2: List of Shelter Homes and their details**

Sl. No	Name of Home and Address	District	Capacity	Total no. Of Children. as of September 2012	Nature of Home	Nature of Building	Nature of Ownership
1	Shelter Home, Ch. Chhunga building, Saron Veng Aizawl, Mizoram 796001	Aizawl	50	9	Govt.	Pucca	Rented
2	Shelter Home, Lungsir, Mamit 796431	Mamit	50	0	Govt.	Pucca	Rented
3	Shelter Home, Vengthlang, Champhai – 796321	Champhai	50	1	Govt.	Pucca	Rented

*Source: MSCPS (September. 2012)*

### The Shelter Home at Mamit started functioning

50. Minutes of the 43rd PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram

## 4. STATE OF THE STATUTORY STRUCTURES FOR ADMINISTRATION OF JUVENILE JUSTICE

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Among the institutions providing access to juvenile justice, the functioning of the Child Welfare Committees requires substantive improvement.

### 4.1 Status of the Juvenile Justice Boards

Section 4, sub section (1) of the JJ (C&PC) Act (as amended in 2006) provides that Juvenile Justice Boards (JJBs) should be constituted in every district within a period of one year from the date of commencement of the JJ (C&PC) Amendment Act, 2006, by notification in the Official Gazette. But Mizoram government was able to establish JJBs in all the eight districts only in 2010-2011, with the inception of ICPS in Mizoram. Before 2010, the JJB at Lunglei used to cover three districts namely Lunglei, Saiha and Lawngtlai district.

The JJBs sit regularly once every week and also sit according to the number of case availability.

At the 39<sup>th</sup> PAB meeting held on 15 March 2012 to discuss the financial proposal for release of grants for 2011-12 under ICPS for Mizoram, the PAB noted that only 79 cases have been taken up by JJBs during 2011 and two sittings per week of JJBs may not be required. The State Government reported that it reviewed the functioning of JJBs itself.<sup>51</sup>

At the 43<sup>rd</sup> PAB Meeting under ICPS held on 6th July 2012, the state government of Mizoram informed that pendency at the JJBs was high and number of sittings needed to be increased.

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51. Minutes of the 39<sup>th</sup> PAB Meeting under ICPS held on 15th March 2012 to discuss the financial proposal of Mizoram

### 4.2 Status of the Child Welfare Committees

With the inception of ICPS in Mizoram, the Child Welfare Committees (CWCs) were established in all the eight districts of the State since 2010-11. However, before 2010, the CWC at Aizawl used to cover five districts including Aizawl, Champhai, Kolasib, Serchhip, and Mamit while the CWC at Lunglei used to cover three districts including Lunglei, Saiha and Lawngtlai.

At the 43<sup>rd</sup> PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal for release of grants for 2012-13 under ICPS for Mizoram, the state government of Mizoram informed that CWCs and JJBs have been constituted and trained in all the 8 districts. The data entry operators have been appointed in all CWCs and JJBs from January this year. All the CWCs and JJBs have been provided with necessary furniture and equipments.<sup>52</sup>

The State government reported that the CWCs sit for two days a week. There were 19 cases pending at the last day of the quarter in 2011-12.<sup>53</sup>

It is alleged that although the CWCs have been established in all districts of the State, it is found that the CWC members hardly attend training programmes organized by the government. Moreover, they are busy workers and do not have time for the CWCs.

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52. Minutes of the 43<sup>rd</sup> PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram

53. Minutes of the 43<sup>rd</sup> PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram

### 4.3 Inspection Committees

At the 43<sup>rd</sup> PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal for release of grants for 2012-13 under ICPS for Mizoram, the state government of Mizoram informed that only 31 inspections have been undertaken since 2007 when seven out of the eight inspection committees were formed. The State government informed that CWCs were carrying out frequent inspections of the Homes. The PAB advised Mizoram to activate the inspection committees as per the JJ(C&PC) Act and State JJ Rules and regular inspections, including surprise visits, should be undertaken. The State was also advised to form Management Committees for each Child care Institution to oversee the day to day management of the Homes.<sup>54</sup>

But ACHR has found that in a number of juvenile justice homes, there is hardly any inspection. The State Inspection Team has conducted only one inspection at Government Observation Home-Cum-Special Home at Aizawl since its establishment in 1986 and no inspection has been done by the State Inspection Team at Government Observation Home-Cum-Special Home at Lunglei since its inception in 2008. There has not been any inspection from the State Inspection Team or Mizoram State Child Protection Society (MSCPS)/ District Child Protection Society (DCPS) officials at the three new established government-funded Shelter Homes at Aizawl, Mamit and Champhai.

### 4.4 Special Juvenile Police Units

At the 43<sup>rd</sup> PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal for release of grants for 2012-13 under ICPS for Mizoram, the state government of Mizoram informed that Special Juvenile Police Units have been set up in all eight districts and each district has a designated Juvenile/Child Welfare Officer. The PAB suggested that the State should also provide lists of Juvenile/Child Welfare Officers, fit institutions, and educational/vocational training institutes to the CWCs and JJBs.

Section 75 of the Mizoram JJ Rules 2010 stipulates that while dealing with a juvenile or a child under the provisions of the Act and the rules made thereunder, except at the time of arrest, the police officials shall wear plain clothes and not the police uniform. But this is rarely followed in Mizoram.

Moreover, the Juvenile/Child Welfare Officers are hardly given training on child rights and JJ (C&PC) Act. All the designated Juvenile/Child Welfare Officers are police officers who receive training from the District Child Protection Society. However, in reality the police personnel who handled the juveniles are non-officers who did not receive training. Moreover, the designated Juvenile/Child Welfare Officers are often transferred to different posts, and a fresh training has to be given to the newly appointed Juvenile/Child Welfare Officers.

54. Minutes of the 43<sup>rd</sup> PAB Meeting under ICPS held on 6th July 2012 to discuss the financial proposal of Mizoram

## 5. CONCLUSIONS AND RECOMMENDATIONS

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Considering high incidents of abuse of children including in the statutory homes, Asian Centre for Human Rights recommends the following to the State government of Mizoram

- Establish the new Special and Observation Homes sanctioned by the Ministry of Women and Child Development in the districts not having such homes;
- Separate the Observation Homes and Special Homes at Aizawl and Lunglei;
- Ensure judicial utilization of funds within the financial year;
- Implement the recommendations made by the PAB to establish shelter homes by 17 NGOs in order to reduce overcrowding by setting up more Observation Homes, Special Homes, Children Homes, and Shelter Homes and improve facilities at the Homes;
- Ensure segregation of juveniles and children as per age and nature of offences;
- Provide educational and vocational training facilities both within and outside the Homes and tie up with vocational training institutes;
- Appoint adequate number of staff, including the Warden at the Observation Home-Cum-Special Home at Aizawl, and staff at three Shelter Homes at Aizawl, Mamit and Champhai
- Improve the functioning of the JJBs and CWCs through proper selection of the members and imparting adequate training;
- Reduce the number of pendency cases both at JJBs and CWCs by increasing the number of sittings; and
- Ensure regular inspections including surprise visits to all the juvenile justice and care institutions, whether run by government or private entities.



## ANNEXURE-I

**The Mizoram Juvenile Justice (Care and Protection of Children)  
Amendment Rules, 2010**

**NOTIFICATION**

**No. B. 12019/2/92-SWD, the 7<sup>th</sup> October, 2010.**

WHEREAS the Constitution has, in several provisions, including clause (3) of article 15, article 21, article 21A, clauses (1) and (2) of article 22, article 23 and 24, clauses (e) and (f) of article 39, article 39 A, articles 45, 47 and 51 A (k), impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic rights are fully protected;

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

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

AND WHEREAS, the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and all other relevant international instruments focus on the prevention of juvenile delinquency and provide guidelines for it;

AND WHEREAS, to give effect to the provisions of the Constitution and relevant

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

NOW, THEREFORE, with a view to provide for better implementation and administration of the provisions of the said Act in its true spirit and substance, the Governor of Mizoram in pursuance of the above said provisions and in exercise of the powers conferred by section 68 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) as amended under the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 (33 of 2006) and in conformity with the rules framed by the Central Government under Notification No. G.S.R. 679 (E), New Delhi, the 26<sup>th</sup> October, 2007, hereby makes the following rules and lays down the fundamental principles to be applied in administration of juvenile justice in the state of Mizoram, namely:-

**CHAPTER – I****PRELIMINARY****1.Short title and commencement.**

(1) These rules may be called the Mizoram Juvenile Justice (Care and Protection of Children) Amendment Rules, 2010

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

**2. Definition** – in these rules, unless the context otherwise requires –

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

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

## CHAPTER – II

### FUNDAMENTAL PRINCIPLES OF JUVENILE JUSTICE AND PROTECTION OF CHILDREN

#### 3. Fundamental principles to be followed in administration of these rules.

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

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

#### I. Principle of presumption of innocence:

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

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

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

*(i) Age of innocence*

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

*(ii) Procedural protection of innocence*

All procedural safeguards that are guaranteed by the Constitution and other status to the adults and that go in to strengthen the juvenile’s or child’s right to presumption of innocence shall be guaranteed

to juveniles or the children or juveniles in conflict with law.

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

Juveniles in conflict with law have a right to be informed about the accusations against them and a right to be legally represented.

**II. Principle of dignity and worth:**

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

**III. Principle of Right to be heard:**

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

own lives and providing opportunities for discussion and debate.

#### **IV. Principle of Best Interest:**

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

#### **V. Principle of family responsibility:**

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

custody under the Act, unless the best interest measures or mandates dictate otherwise.

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

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

#### **VII. Positive measures:**

- (a) Provisions must be made to enable positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other mainstream community institutions or processes, for the purpose of promoting the well-being of the juvenile or child through individual care plans carefully worked out.
- (b) The positive measures shall aim at reducing vulnerabilities and reducing the need for intervention under the law, as well as effective, fair and humane dealing of the juvenile or child.



- (c) The positive measures shall include avenues for health, education, relationships, livelihoods, leisure, creativity and play.
- (d) Such positive measures must facilitate the development of identity for the child and provide them with an inclusive and enabling environment.

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

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

**IX. Principle of non-waiver of rights:**

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

**X. Principle of equality and non-discrimination:**

- (a) There shall be no discrimination against a child or juvenile in conflict with law on the basis of age, sex, place of birth, disability, health, status, race, ethnicity, religion, caste, cultural practices, work, activity or behavior of the juvenile or child or that of his parents or guardians, or the civil and political status of the juvenile or child.

- (b) Equality of access, equality of opportunity, equality in treatment under the Act shall be guaranteed to every child or juvenile in conflict with law.

**XI. Principle of right to privacy and confidentiality:**

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

**XII. Principle of last resort:**

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

**XIII. Principle of repatriation and restoration:**

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

**XIV. Principle of Fresh Start:**

- (a) The principle of fresh start promotes new beginning for the child or juvenile



in conflict with law by ensuring erasure of his past records.

- (b) The Government shall seek to promote measures for dealing with children alleged or recognized as having impinged the penal law, without resorting to judicial proceedings.

## CHAPTER - III

### JUVENILE IN CONFLICT WITH LAW

#### 4. Juvenile Justice Boards.

There shall be Juvenile Justice Boards in every district or as the Government may deem fit and proper, which shall be constituted by the Government as per section 4 of the Act.

#### 5. Composition of the Juvenile Justice Board.

(1) The Board shall consist of a Judicial Magistrate of the first class who shall be the Principal Magistrate and two social workers of whom at least shall be a woman, forming a bench:

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

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

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

(ii) In case the Principal Magistrate with such special knowledge or training is not available, then, the Government

shall provide for such short-term training in child psychology or child welfare as it considers necessary.

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

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

#### 6. Tenure of the Board.

(1) The Board shall have a tenure of three years and the appointment of members shall be co-terminus with the tenure of the Board.

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

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

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

(5) Any vacancy in the Board may be filled by appointment of another person from the panel

of names prepared by the Selection Committee, and shall hold office for the remaining term of the Board.

### **7. Qualifications for Members of the Board.**

(1) The social worker to be appointed as a member of the Board shall be a person not less than 35 years of age, who has a post-graduate degree in social work, health, education, psychology or child development, where such a person is not available, a person with at least a graduate degree in such discipline and who has been actively involved and engaged in planning, implementing and administering measures relating to child welfare for at least five years.

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

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

### **8. Sitting and conveyance allowances.**

The social worker members of the Board shall be paid such travel and sitting Allowance, as the Government may determine, but it shall not be less than rupees five hundred per sitting.

### **9. Sittings of the Board.**

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

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

(3) The Board shall meet at least once a week, unless the case pendency is less in a particular District and concerned authority issues an order in this regard.

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

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

### **10. Functions of the Board.**

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

- (a) Adjudicate and dispose cases of juveniles in conflict law;
- (b) Take cognizance of crimes committed under section 23 to 28 of the Act;
- (c) Monitoring institutions for juveniles in conflict with law and seeking compliance from them in cases of any noticeable lapses and improvement based on suggestions of the Board.
- (d) Deal with non-compliance on the part of concerned government functionaries or functionaries of voluntary organizations, as the case may be, in accordance with due process of law;

- (e) Pass necessary direction to the district authority and police to create or provide necessary infrastructure or facilities so that minimum standards of justice and treatment are maintained in the spirit of the Act;
- (f) Maintain liaison with the Committee in respect of cases needing care and protection;
- (g) liaison with Boards in other districts to facilitate speedy inquiry and disposal of cases through due process of law;
- (h) Take suitable action for dealing with unforeseen situations that may arise in the implementation of the Act and remove such difficulties in the best interest of the juvenile;
- (i) Send monthly information about juveniles in conflict with law produced before them, to the District/ State Child Protection Unit/the State Government and also to the Chief Judicial Magistrate or Chief Metropolitan Magistrate for review under sub-section (2) of section 14 of the Act;
- (j) Any other function assigned by the Government from time to time relating with juveniles in conflict with law.

### **11. Pre and Post-Production action of police and other agencies.**

- (1) As soon as a juvenile alleged to be in conflict with law is apprehended by the police, the concerned police officer shall inform :
  - (a) the designated Juvenile or the Child Welfare Officer in the nearest police station to take charge of the matter;
  - (b) the parents or guardian of the Juvenile alleged to be in conflict with law about the apprehension of the juvenile, about the address of the Board where the

juvenile will be produced and the time when the parents or guardian need to be present before the Board;

- (c) the concerned probation officer, of such apprehension to enable him to obtain information regarding social background of the juvenile and other material circumstances likely to be of assistance to the Board for conducting the inquiry.

(2) Soon after apprehension, the juvenile shall be placed under the charge of the Juvenile or Child Welfare Officer from the nearest police station, who shall produce the juvenile before the Board within twenty four hours as per sub-section (1) of section 10 of the Act and where such Juvenile or the Child Welfare Officer has not been designated as per provisions laid down under sub-section (2) of section 63 of the Act or is not available for some official reasons, the police officer who had apprehended the juvenile shall produce him before the Board.

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

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

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

(6) The police or the Juvenile or the Child Welfare Officer from the nearest police station, shall also record the social background of the

Juvenile and circumstances of apprehension and offence alleged to have been committed in the case diary of each juvenile, which shall be forwarded to the Board forthwith.

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

(8) In such cases where apprehension apparently seems to be in the interest of the juvenile, the police or the Juvenile or the Child Welfare Officer from the nearest police station, shall rather treat the juvenile as a child in need of care and protection and produce him before the Board, clearly explaining the juveniles need for care and protection in its report and seek appropriate orders from the Board under rule 13 (1) (b) of these rules

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

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

(11) In dealing with cases of juveniles in conflict with law the Police or the Child

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

(12) The Government shall recognize only such voluntary organizations that are in a position to provide the services of probation, counseling, case work, a safe place and also associate with the Police or the Juvenile or the Child Welfare Officer from the Special Juvenile Police Unit, and have the capacity, facilities and expertise to do so as protection agencies that may assist the Police or the Juvenile or the Child Welfare Officer from the police at the time of apprehension, in preparation of the report containing social background of the juvenile until production before the Board, and in actual production of the juvenile before the Board within twenty-four hours.

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

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

## 12. Procedure to be followed in determination of Age.

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

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

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

- (a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;
- (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;
- (iii) the birth certificate given by a corporation or a municipal authority or a panchayat;
- (b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, Which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board

or, as the case may be; the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year, and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

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

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

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



### 13. Post-production processes by the Board.

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

- (a) dispose off the case, if the evidence of his conflict with law appears to be unfounded or where the juvenile is involved in trivial law breaking;
- (b) transfer to the Committee, matters concerning juveniles clearly stated to be in need of care and protection in the police report submitted to the Board at the time of production of the juvenile;
- (c) release the juvenile in the supervision or custody of fit persons or fit institutions or probation officers as the case may be, through an order in **Form-I**, with a direction to appear or present a juvenile for an inquiry on a next date;
- (d) detain the juvenile in an Observation Home or fit institution pending inquiry, only in cases of juvenile's involvement in serious offences as per an order in **Form-II**;
- (e) in all cases of release pending inquiry, the Board shall notify the next date of hearing, not later than 15 days of the first summary enquiry and also seek social investigation report from the concerned Probation Officer through an order in **Form-III**;

(2) The Board shall take the following steps to ensure fair and speedy inquiry, namely:-

- (a) At the time of initiating the inquiry, the Board shall satisfy itself that the juvenile in Conflict with law has not been subjected to any ill-treatment by the police or by any other person, including a lawyer or probation officer and take corrective steps in case of such ill-treatment;
  - (b) in all cases under the Act the proceedings shall be conducted in as simple a manner as possible and care shall be taken to ensure that the juvenile, against whom the proceedings have been instituted, is given child-friendly atmosphere during the proceedings;
  - (c) every juvenile brought before the Board shall be given the opportunity to be heard and participate in his inquiry;
  - (d) cases of petty offences, if not disposed off the Special Juvenile Police Unit or at the police station itself, may be disposed off by the Board through summary proceedings or inquiry, While in cases of heinous offences entailing punishment of 7 years or more, due process of inquiry in detail may follow;
  - (e) even in cases of inquiry pertaining to serious offences the Board shall follow the procedure of trial in summons cases.
- (3) When witnesses are produced for examination in inquiry relating to a juvenile in conflict with law, the Board shall keep in mind that the inquiry is not to be conducted in the spirit of strict adversarial proceedings and it shall use the powers conferred by section 165 of the Indian Evidence Act, 1872 (1 of 1872) so as to question the juvenile and proceed with the presumptions that favour the juvenile's right to be restored.
- (4) While examining a juvenile in conflict with law and recording his statement, the Board shall address the juvenile in a child-friendly manner in order to put the juvenile at ease

and to encourage him to state the facts and circumstances without any fear, not only in respect of the offence of which the juvenile is accused, but also in respect of the home and social surroundings and the influence to which the juvenile might have been subjected.

(5) The Board may take into account the report of the police containing circumstances of apprehension and offence alleged to have been committed and the social investigation report in Form-IV prepared by the Probation Officer or the voluntary organization on the orders of the Board as per Form-III, along with the evidence produced by the parties for arriving at a conclusion about the juvenile.

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

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

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

#### **14. Legal Aid.**

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

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

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

(4) In the event of shortfall in the State Legal Aid Services support, the Board shall be Responsible for seeking legal services from recognized voluntary legal services organizations or the university legal services clinics.

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

#### **15. Completion of inquiry and Dispositional Alternatives.**

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

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

(3) All dispositional orders passed by the Board shall necessarily include an individual care plan for the concerned juvenile in conflict with law, prepared by a probation officer or voluntary

organization on the basis of interaction with the juvenile and his family Where possible.

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

(5) Where the Board decides to release the juvenile in conflict with law on probation and place him under the care of the parent or guardian or fit person, the person in whose custody the juvenile is released may be required to submit a written undertaking in Form-V for the good behavior and well-being of the juvenile for a maximum period of three years.

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

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

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

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

before the nearest Committee for suitable care, protection and rehabilitation.

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

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

(12) The Government shall make arrangement for complying with the detention of special category of juveniles in conflict with law in place of safety other than the special home.

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

#### **16. Institutions for juveniles in conflict with law.**

(1) The Government or the voluntary organization recognized by the Government may set up separate observation homes or special homes for boys and girls.

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

(3) Every institution shall keep a copy of the Act, these rules, for use by both staff, juveniles and children residing therein.

(4) The Government in collaboration with available civil society shall develop and

make available simplified and child friendly versions of the Act and the rules in regional languages.

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

### 17. Release.

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

(2) Each case shall be placed before the Management Committee set up under rule 55 of these rules by the concerned probation officer or child welfare officer or case worker for ensuring proper release and social mainstreaming of the juvenile post-release.

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

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

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

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

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

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

(9) The Officer-in-charge of a girl's institution may, subject to the consent of the girl and the approval of the competent authority, help the girl with her social re-integration by way of sending a girl above the age of eighteen years to an aftercare programme or, helping her with some vocation or gainful employment or, helping her settle into family life according to the procedure laid down by the competent authority from time to time.

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

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

(12) In deserving cases, the Officer-in-charge may provide the juvenile with such small tools,

as may be reasonable, to start a work or business subject to such maximum cost as may be fixed by the institution which shall also form part of the post-release plan.

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

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

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

- (a) The Board shall take cognizance of such violation by print or electronic media and shall initiate necessary inquiry and pass appropriate orders as per provisions contained in subsection (2) of section 21 of the Act; and
- (b) Where the National or the State Commission for Protection of Child Rights takes suo motu cognizance of violation under section 21 of the Act, it shall inform the concerned District Child Protection Unit or the State Child Protection Unit directing them to initiate necessary action through the Board.

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

- (a) The Officer-in-Charge of any institution shall immediately send a report to the area Police Station or Special Juvenile Police Unit along with the details and description of the juvenile or child, with identification marks and a photograph, with a copy to the Board, District Child

Protection Unit and other authorities concerned as it may seem fit and proper;

- (b) The Officer-in-Charge of institutions other than shelter homes or drop-in-centre shall send to guards or concerned staff in search of the juvenile, at places like bus stations, sumo or taxi/Auto-rickshaw stands and other places where the juvenile is likely to go;
  - (c) The parents or guardians shall be informed immediately about such escape; and
  - (d) The Officer-in-charge of an institution other than a shelter home or drop-in-centre shall hold an inquiry about such escape and send his report to the Board or Committee and the authorities concerned and the report shall be placed before the Management Committee set up under rule 55 of these rules in the next meeting for review.
- (3) The offences against a juvenile in conflict with law or a child specified in sections 23, 24, 25 and 26 shall be either bailable or non-bailable besides being cognizable under the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) and the procedures shall apply on the Police, the Board and the concerned authorities and functionaries accordingly.

## CHAPTER IV

### CHILD IN NEED OF CARE AND PROTECTION

#### 19. Child Welfare Committee.

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



## 20. Composition of the Child Welfare Committee.

(1) The Committee shall consist of a Chairperson and four other members, of whom at least one shall be a woman.

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

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

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

## 21. Tenure of the Committee.

(1) The Committee shall have a tenure of three years and the tenure of Chairperson and Members shall be co-terminus with the tenure of the Committee.

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

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

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

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

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

## 22. Qualifications for Chairperson and Members of the Committee.

(1) A person to be selected as a Chairperson or Member of the Committee shall have either of the following qualifications, in addition to a minimum of five years experience in their respective field.

- (i) a person with postgraduate degree in social work, psychology, child development, education, law, criminology and, where such a person is not available, a person with at least a graduate degree in any of the stated social science disciplines.
- (ii) a teacher, doctor or a social worker of repute who has been involved in work concerning children.

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

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

- (i) has previous criminal conviction record;
- (ii) has been involved in any immoral act or in an act of child abuse or employment of child labour;
- (iii) is holding such full-time occupation that may not allow him to give necessary time and attention to the work of the

Committee as per the Act and these rules;

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

### 23. Sitting and conveyance allowances.

The Chairperson and Members of the Committee shall be paid such travel and sitting allowance, as the Government may determine, but it shall not be less than rupees five hundred per sitting per member.

### 24. Sitting of the Committee.

(1) The Committee shall hold its sittings in the premises of the children's home or, at a place in proximity to the children's home or, at a suitable premise in any institution run under the Act.

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

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

(4) The Committee shall meet **at least once a week**, which may be extended by the Government depending on case and pendency of work.

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

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

(7) Every member of the Committee shall attend a minimum of four hours per sittings.

### 25. Functions and Powers of the Committee.

The Committee shall perform the following functions to achieve the objectives of the Act, namely :-

- (a) take cognizance of and receive children produced before the Committee;
- (b) decide on the matters brought before the Committee;
- (c) reach out to such children in need of care and protection who are not in a position to be produced before the Committee, being in difficult circumstances, with support from the District Child Protection Unit or State Child Protection Unit or the Government;
- (d) conduct necessary inquiry on all issues relating to and affecting the safety and well being of the child;
- (e) direct the Child Welfare Officers or Probation Officers or non-governmental organizations to conduct social inquiry and submit a report to the Committee;
- (f) ensure necessary care and protection, including immediate shelter;
- (g) ensure appropriate rehabilitation and restoration, including passing necessary directions to parents or guardians or fit persons or fit institutions in this regard, in addition to follow-up and coordination with District

- Child Protection Unit or State Adoption Resource Agency and other concerned agencies;
- (h) direct the Officer-in-charge of children's homes to receive children requiring shelter and care;
  - (i) document and maintain detailed case record along with a case summary of every case dealt by the Committee;
  - (j) provide a child-friendly environment for children;
  - ((k) recommend 'fit institutions' to the Government for the care and protection of children;
  - (l) declare 'fit persons';
  - (m) declare a child legally free for adoption;
  - (n) keep information about and take necessary follow-up action in respect of missing children in their jurisdiction;
  - (o) maintain liaison with the Board in respect of cases needing care and protection;
  - (p) visit each institution where children are sent for care and protection or adoption at least once in three months to review the condition of children in institutions, with support of the Government and suggest necessary action;
  - (q) monitor associations and agencies within their jurisdiction that deal with children in order to check on the exploitation and abuse of children;
  - (r) co-ordinate with the Police, Labour and Employment Department and other agencies involved in the care and protection of children with the support of District Child Protection Unit or State Child Protection Unit or Government;
  - (s) liaison and network with the corporate sector and non-governmental organizations for any of the above, including for social inquiry, restriction and rehabilitation, as and when required; and
  - (t) maintain a suggestion box to encourage inputs from children and adults alike and take necessary action;
- 26. Procedure in relation to Committee.**
- (1) The quorum for the meeting shall be three members attending, which may include the Chairperson.
  - (2) Any decision taken by an individual member, when the Committee is not sitting, shall require ratification by the Committee in its next sitting.
  - (3) The Committee shall take into consideration the age, developmental stage, physical and mental health, opinion of the child and the recommendation of the child welfare officer or caseworker, prior to disposal of cases.
  - (4) For final disposal of a case, the order of the Committee shall be signed at least two members, including the Chairperson.
- 27. Production of a child before the Committee.**
- (1) A child in need of care and protection shall be produced before the Committee within twenty-four hours, excluding journey time, by one of the following persons –
    - (a) any police or Special Juvenile Police Unit or a designated police officer;
    - (b) any public servant;
    - (c) childline, a registered voluntary organization or by such other voluntary organization or an agency as may be recognized by the Government;
    - (d) social worker;
    - (e) any public spirited citizen;

- (f) by the child himself;
- (g) parent (s); or
- (h) guardian.

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

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

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

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

(6) The concerned institution shall inform the Chairperson or a member of the Committee about such child and produce the child before the Committee within twenty four hours and in such cases, it may not be necessary for the person who brings a child in need of care and

protection to an institution to be present at the time of production of the child before the Committee.

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

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

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

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

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

(12) The Committee shall have an empanelled list of lawyers, social workers and mental health expert duly designated by the State Govt. who may assist the Committee in dealing with cases of abused children and who may also interface with the Public Prosecutor or Additional Public Prosecutor or Assistant Public Prosecutor to facilitate legal services to the abused children,

when the cases relating to such children are taken up in regular criminal courts.

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

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

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

(16) A list of all recognized child care institutions along with their capacity and appropriate facilities as prescribed under section 34 of the Act, a list of all child related resource services and a list of contact details of all Child Welfare Committee across the country shall be provided to the Committee by the District Child Protection Unit or Government.

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

(18) Whenever the Committee orders a child to be kept in an institution, it shall forward to the Officer-in-charge of such institution a copy of the order of short term placement pending

inquiry, in **Form-X** with particulars of the home and parents or guardian and previous record.

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

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

## **28. Procedure for inquiry.**

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

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

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

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

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



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

## 29. Children's Homes.

(1) The Government itself or in association with voluntary organizations, shall set up separate homes for children in need of care and protection, in the manner specified below –

- (a) all children's homes shall be registered as child care institutions under sub-section (3) of section 34 of the Act and rule 71 of these rules;
  - (b) all children's homes shall be certified as per the procedure laid down in rule, 70;
  - (c) all children's homes shall report to the concerned Committee about every child in need of care and protection received by them;
  - (d) children's of both sexes below ten years may be kept in the same home but separate facilities shall be maintained for boys and girls in the age group 7 to 10 years;
  - (e) every children's home shall include separate facilities for children in the age group of 0-6 years with appropriate facilities for the infants;
  - (f) separate children's homes shall be set up for boys and girls in the age group 11 to 18 years;
  - (g) children in the age group of **11 to 18 years** shall be further segregated into two groups of **11 to 15 years and 16 to 18 years**.
- (2) Each children home shall be a comprehensive child care center with the primary objective to promote an integrated approach to child care by involving the community and local Non-Governmental Organizations through the Management Committee set up under rule 55 of these rules and the District Child Protection Unit or State Child Protection Unit or the Government shall make an annual performance review of functioning of the children's homes.
  - (3) The activities of such centre shall focus on :
    - (a) preparing and following individual care plans for every child, with rights based approach, specifically addressing the child's physical and mental health, emotional needs, education, skill development, protection and special needs if any;
    - (b) family based non-institutional services, such as, foster family care, adoption and sponsorship;
    - (c) specialized services in situations of conflict or disaster and for juvenile or children affected by terminal or incurable diseases to prevent neglect by providing family counseling, nutrition, health interventions, psycho-social interventions and sponsorship;
    - (d) emergency outreach service through child-line (Toll free Help Line No. 1098);
    - (e) linkages with Integrated Child Development Services to cater to the needs of children below six years;
    - (f) linkages with organizations and individuals who can provide support services to children; and
    - (g) opportunities to volunteers willing to provide various services for children.

### 30. Shelter Homes.

(1) For children in urgent need of care and protection, such as street children and run-away children, the Government shall support creation of requisite number for shelter homes or drop-in-centres through the voluntary organizations.

(2) Shelter homes shall include:

- (a) short-stay homes for children needing temporary shelter, care and protection for a maximum period of one year,
- (b) transitional homes providing immediate care and protection to a child for a maximum period of four months,
- (c) 24 hour drop-in-centres for children needing day care or night shelter facility.

(3) The shelter homes or drop-in-centres shall have the minimum facilities of boarding and lodging, besides the provision for fulfillment of basic needs in terms of clothing, food, health care and nutrition, safe drinking water and sanitation.

(4) There shall be separate shelter homes for girls and boys as per rule 40(2)(d) of these rules.

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

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

(7) All shelter homes shall submit a report of children using the shelter home facility along with a photograph of the child to the Committee, the missing person(s) bureau or

special juvenile police unit and the District Child Protection Unit or the State Child Protection Unit.

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

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

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

### 31. Guidelines for prevention of sexual/physical/emotional and mental abuse of children.

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

## CHAPTER V

### REHABILITATION AND SOCIAL REINTEGRATION

#### 32. Rehabilitation and Social Reintegration.

The primary aim of rehabilitation and social reintegration is to help children in restoring their dignity and self-worth and mainstream them through rehabilitation within the family

where possible, or otherwise through alternate, care programmes and long-term institutional care shall be of last resort.

### 33. Adoption.

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

(2) For all matters relating to adoption;

(a) The guidelines issued by the Central Adoption Resource Agency and notified by the Central Government under sub-section (3) of section 41 of the Act, shall apply.

(b) The State Government's notification shall apply to all the cases of in-country and inter-country adoptions taken place prior to 1<sup>st</sup> August 2003 and adoptions taking place on or after 1<sup>st</sup> August 2003 have to conform to statutory formalities prescribed in the Juvenile Justice (Care & Protection of Children) Act 2000 and its Amendment Act 2006.

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

(a) Specialized Adoption Agencies shall produce all orphaned and abandoned children who are to be declared legally free for adoption before the Committee within twenty-four hours of receiving such children, excluding the time taken for journey;

(b) A child becomes eligible for adoption when the Committee has completed its inquiry and declares the child legally free for adoption;

(c) Such declaration shall be made in **Form XIV**;

(d) A child must be produced before the Committee at the time of declaring such child legally free for adoption;

(e) Whenever intimation is received by the police about an abandoned infant, the police shall take charge of the infant and arrange to provide immediate medical assistance and care;

(f) Subsequently, the child shall be placed in a specialized adoption agency or recognized and certified children's home or in a pediatric unit of a Government hospital followed by production of the child before the Committee within twenty-four hours;

(g) Procedure for declaring a child abandoned and certifying him legally free for adoption;

(i) In case of an abandoned child, the recognized agency shall within twenty-four hours, report and produce the child before the Committee with the copy of the report filed with the police station in those jurisdiction the child was found abandoned;

(ii) The Committee will institute a process of inquiry, which shall include a thorough inquiry conducted by the Probation Officer or Child Welfare Officer, as the case may be and who shall give report in **Form XIII** to the Committee containing the findings within one month;

(iii) There shall be a declaration by the specialized adoption agency, stating that there has been no claimant for the child even after making notification in at least one leading national newspaper and one regional language newspaper for children below two years of age for children above two years, an additional television or radio announcement and notification to the missing persons squad or bureau shall be made;

- (iv) The steps stated (iii) shall be taken within a period of sixty days from the time when the child is found in case of a child below two years of age and in case of children above two years of age, this period shall be four months;
- (v) The period of notification shall run concurrently with the inquiry to be conducted and report submitted under clause (ii) of this sub-rule;
- (vi) The Committee shall declare that the child legally free for adoption on completion of the process of inquiry, including declaration of the specialized adoption agency made under clause (ii) and (iii) of this sub-rule;
- (vii) No child above seven years who can understand and express his opinion shall be declared free for adoption without his consent.
- (4) In case of surrendered children the following procedure shall apply, namely :-
- (a) A surrendered child is one who had been declared as such after due process of inquiry by the Committee and in order to be declared legally free for adoption, a 'surrendered' child be any of the following:
- (i) Born as a consequence of non-consensual relationship;
- (ii) Born of an unwed mother or out of wedlock;
- (iii) A child in whose case one of the biological parents is dead and the living parent is incapacitated to take care;
- (iv) A child where the parents or guardians are compelled to relinquish him due to physical, emotional and social factors beyond their control;
- (b) Serious efforts shall be made by the Committee for counseling the parents, explaining the consequences of adoption and exploring the possibilities of parents retaining the child and if, the parents are unwilling to retain, then, such children shall be kept initially in foster care or arranged for their sponsorship;
- (c) If the surrender is inevitable, a deed of surrender in **Form XV** shall be executed on a non-judicial stamp paper in the presence of the Committee;
- (d) The adoption agencies shall wait for completion of two months reconsideration time given to the biological parent or parents after surrender;
- (e) In case of a child surrendered by his biological parent or parents, the document of surrender shall be executed by the parent or parents before the Committee;
- (f) After due inquiry, the Committee shall declare the surrendered child legally free for adoption in **Form XIII** as the case may be after a sixty days' reconsideration period as per Central Adoption Resource Agency guidelines.
- (5) For the purposes of section 41 of the Act, 'court' implies a civil court, which has jurisdiction in matters of adoption and guardianship and may include the court of the district judge, family courts and city civil court.

### 34. Foster Care.

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

and the period of foster care shall depend on the need of the child.

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

(3) The Government shall also consult the Boards or Committee, non-governmental organizations, academicians and organizations working on alternative care for children in developing the foster care programme.

### 35. Criteria for selection of families for foster care

(1) In case of the children covered under rule 34 of these rules, the following criteria shall apply for selection of families for foster care, namely :-

- (i) Foster parents should have stable emotional adjustment within the family;
- (ii) Foster parents should have an income in which they are able to meet the needs of the child and are not dependent on the foster care maintenance payment;
- (iii) The monthly family income shall be **adequate (a minimum or Rs. 8000/- per month)** to take care of foster children and **approved by the Committee**;
- (iv) Medical reports of all the members of the of the family residing in the premises should be obtained including checks on Human Immuno **Deficiency Virus (HIV)**, **Tuberculosis (TB)** and Hepatitis B to determine that they are medically fit;
- (v) The foster parents should have experience in child caring and the capacity to provide good child care;
- (vi) The foster parents should be physically, mentally and emotionally stable;

(vii) The home should have adequate space and basic facilities;

(viii) The foster care family should be willing to follow rules laid down including regular visits to pediatrician, maintenance of child health and their records;

(ix) The family should be willing to sign an agreement and to return the child to the specialized adoption agency whenever called to do so;

(x) The foster parents should be willing to attend training or orientation programmes; and

(xi) The foster parents should be willing to take the child for regular (at least once a month in the case of infants) checkups to a pediatrician approved by the agency.

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

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

### 36. Pre-adoption Foster Care.

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

### 37. Sponsorship.

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



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

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

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

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

### **38. After Care Organisation.**

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

(2) After care programmes shall be made available for 17-21 year old persons, who have no place to go to or unable to support themselves, by the District or State Child Protection Units in collaboration with voluntary organizations for the purpose of section 44 of the Act and this rule.

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

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

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

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

(a) Community group housing on a temporary basis for groups of young persons aged 17-21 years;

(b) Encouragement to learn a vocation or gain employment and contribute towards the rent as well as the running of the home;

(c) Encouragement to gradually sustain themselves without state support and move out of the group home to stay in a place of their own after saving sufficient amount through their earnings;

(d) Provision for a peer counselor to stay in regular contact with these groups to discuss their rehabilitation plans and provide creative outlets for their energy and to tide over crisis periods in their life.

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

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

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

### 39. Linkages and co-ordination.

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

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

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

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

## CHAPTER VI STANDARDS OF CARE FOR INSTITUTIONS

### 40. Physical infrastructure.

(1) The homes for juveniles in conflict with law and children in need of care and protection shall function from separate premises.

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

#### (a) Observation Home:

- (i) Separate observation homes for girls and boys;
- (ii) Classification and segregation of juveniles according to their age group preferably 7-10 years, 11-15 years and 16-18 years, giving due consideration to physical and mental status and the nature of the offence committed.

#### (b) Special Home:

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

#### (c) Children's Home:

- (i) While children of both sexes below 10 years can be kept in the same home, separate bathing and sleeping facilities shall be maintained for boys and girls in the age group of 7-10 years;
- (ii) Separate children's homes for boys and girls in the age group of **7-10 and 11-15 years**;
- (iii) Separate facilities for children in the age group of **0-6 years** with appropriate facilities for infants.
- (iv) For matters relating to:
  - a) Minimum standards required to be maintained in Child Care Institution in the State of Mizoram as notified by the State Government from time to time shall apply.

b) Rules and regulations (Children Home Enkawitute Hriat leh Zawm tur kaihhruaina te) to be followed for Child Care Institutions in the State of Mizoram as notified by the State Government of Mizoram from time to time shall apply.

**(d) Shelter Home:**

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

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

- (i) 2 Dormitories each 1000 Sq. ft. for 25 juveniles/children i.e. 2000 Sq. ft.
- (ii) 2 Classrooms 300 Sq. ft. for 25 juveniles/children i.e. 600 Sq. ft.
- (iii) Sickroom/First aid room 75 Sq. ft. per juveniles/children for 10 i.e. 750 Sq. ft.
- (iv) Kitchen 250 Sq. ft.
- (v) Dining Hall 800 Sq. ft.
- (vi) Store 250 Sq. ft.
- (vii) Recreation room 300 Sq. ft.
- (viii) Library 500 Sq. ft.
- (ix) 5 bathrooms 25 Sq. ft. each i.e. 125 Sq. ft.
- (x) 8 toilets/latrines 25 Sq. ft. each i.e. 200 Sq. ft.
- (xi) Office rooms (a) 300 Sq. ft.  
(b) Superintendent's room 200 Sq. ft.
- (xii) Counselling and guidance room 120 Sq. ft.

(xiii) Workshop 1125 Sq. ft for 15 juvenile @ 75 Sq. ft. per trainee

(xiv) Residence for Superintendent  
(a) 2 rooms of 250 Sq. ft. each  
(b) kitchen 75 Sq. ft. (c) bathroom cum Toilet/latrine 50 Sq. ft.

(xv) 2 Rooms for Juvenile Justice Board/Child Welfare Committee 300 Sq. ft. each i.e. 600 Sq. ft.

(xvi) Play ground sufficient area according to the total number of juveniles or children  
**Total 8495 Sq. ft.**

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

(5) (i) the standards of accommodation as per the norms laid down in rule 40(2) shall be observed to the extent possible and shall include a minimum of following facilities:

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

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

- (iii) There shall be adequate lighting, ventilation, heating and cooling arrangements, safe drinking water and clean toilets, in terms of gender, age appropriateness and accessibility.
- (iv) All institutions under the Act shall make provision of first aid kit, fire extinguishers in kitchen, dormitories, store rooms, counseling room, periodic review of electrical installations, proper storage and inspection of articles of food stuffs, stand-by arrangements for water storage and emergency lighting.

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

#### **41. Clothing and Bedding.**

The clothing and bedding shall be as per the scale and climate conditions. The requirements of each juvenile or child and the minimum standards for clothing and bedding are laid down in Schedule-I of these rules.

#### **42. Sanitation and Hygiene.**

Every institution shall have the following facilities, namely:-

- (i) Sufficient treated drinking water, water filters shall be installed;
- (b) Sufficient water for bathing and washing clothes, maintenance and cleanliness of the premises;
- (c) Proper drainage system;
- (d) Arrangements for disposal of garbage;
- (e) Protection from mosquitoes by providing mosquito nets;
- (f) Annual pest control;

- (g) Sufficient number of well lit and airy toilets in the proportion of at least one toilet for seven children;
- (h) Sufficient number of well lit and airy bathrooms in the proportion of at least one bath room for ten children;
- (i) Sufficient space for washing;
- (j) Clean and fly-proof kitchen and separate area for washing utensils;
- (k) Sunning of bedding and clothing;
- (l) Maintenance of cleanliness in the Medical Centre.

#### **43. Daily Routine.**

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

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

#### **44. Nutrition and Diet Scale.**

The following nutrition and diet scale shall be followed by the institutions, namely:-

- (a) The children shall be provided three meals in a day including breakfast;
- (b) The menu shall be prepared with the help of a nutritional expert or doctor to ensure balanced diet and variety in taste as per the minimum nutritional standard and diet scale set out in Schedule II of these rules;
- (c) Every institution under this Act shall as far as possible and subject to availability

in the local market adhere to the minimum nutritional standard and diet scale specified in Schedule II;

- (d) Juveniles or children may be provided special meals on holidays and festivals;
- (e) Infants and sick juveniles or children shall be provided special diet according to the advice of the of the doctor on their dietary requirement.
- (h) Take preventive measures in the event of outbreak of contagious or infectious diseases;
- (i) Set up a system for referral of cases with deteriorating health or serious cases to the nearest civil hospital or recognized treatment centers;
- (j) Keep sick children under constant medical supervision;

#### 45. Medical Care.

Every institution shall:

- (a) Maintain a medical record of each juvenile or child on the basis of monthly medical check-up and provide necessary medical facilities;
- (b) Ensure that the medical record includes weight and height record, any sickness and treatment, and other physical or mental problem;
- (c) Have arrangement for the medical facilities, including a doctor on call available on all working days for regular medical check-ups and treatment of juveniles or children;
- (d) Have sufficient medical equipments to handle minor health problems including first aid kit with stock of emergency medicines and consumables;
- (e) Train all staff in handling first aid;
- (f) Tie-up with local Primary Health Centre, governmental hospital, medical colleges, other hospitals, clinical psychologists and psychiatrists and available mental health institutes for regular visits by their doctors and students and for holding periodic health camps within the institutions;
- (g) Make necessary arrangements made for the immunization coverage;
- (k) Admit a juvenile or child without insisting on a medical certificate at the time of admission;
- (l) Arrange for a medical examination of each juvenile or child admitted in an institution by the Medical Officer within twenty four hours and in special cases or medical emergencies immediately;
- (m) Arrange for a medical examination of the juvenile or child by the Medical Officer at the time of transfer within twenty four hours before transfer;
- (n) Not carry out any surgical treatment on any juvenile or child without the previous consent of his parent or guardian, unless either the parent or guardian cannot be found and the condition of the juvenile or child is such that any delay shall, in the opinion of the medical officer, involve unnecessary suffering or injury to the health of the juvenile or child, or otherwise without obtaining a written consent to this effect from the Officer-in-charge of the institution;
- (o) Provide or arrange for regular counseling of every juvenile or child and ensure specific mental health interventions for those in need of such services, including separate rooms for counseling sessions within the premises of the institution;
- (p) Rrefer such children who require specialized drug abuse prevention



and rehabilitation programme, to an appropriate centre administered by qualified personnel where these programmes shall be adopted to the age, gender and other specifications of the concerned child.

#### **46. Mental Health,**

(1) A mental health record of every juvenile or child shall be maintained by the concerned institutions.

(2) Both milieu based interventions that is creating an enabling environment for children and individual therapy are must for every child and shall be provided in all institutions.

#### ***Explanation:***

For the purpose of this sub-rule, milieu based intervention is a process of recovery, which starts through providing an enabling culture and environment in an institution so as to ensure that each child's abilities are discovered and they have choices and right to take to decisions regarding their life and thus, they develop and identify beyond their negative experiences and such intervention has a critical emotional impact on the child.

(3) The environment in an institution shall be free from abuse, allowing juveniles or children to cope with their situation and regain confidence.

(4) All persons involved in taking care of the juveniles or children in an institution shall participate in facilitating an enabling environment and work in collaboration with the therapists.

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

(6) Every institution shall have the services of trained counselors or collaboration with

external agencies such as child guidance centres, psychology and psychiatric departments or similar government and non-governmental agencies, for specialized and regular individual therapy for every juvenile or child in the institution.

(7) A mental health care plan shall be developed for every juvenile or child by the child welfare officers in consultation with mental health experts associated with the institution and integrated into the individual care plan of the concerned juvenile or child.

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

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

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

#### **47. Education.**

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

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

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

**48. Vocational Training**

- (a) Every institution shall provide gainful vocational training to juveniles or children.
- (b) The institutions shall aim to develop networking with institute of Technical Instruction, Jan Shikshan Sansthan, Government and Private Organization or Enterprises, Agencies or nongovernmental organizations with expertise or placement agencies.

**49. Recreation facilities.**

- (1) A provision of guided recreation shall be made available to all juveniles or children in the institutions.
- (2) It shall include indoor and outdoor games, music, television, picnics and outings, cultural programmes and library.

**50. Institutional Management of juveniles or children.**

- (1) The following procedure shall be followed in respect of the newly admitted juveniles;
  - (a) Receiving and search;
  - (b) Disinfection and storing of juvenile's personal belonging and other valuables;
  - (c) Bath and haircut (unless prohibited by religion);
  - (d) Issued of toiletry items; new set of clothes, bedding and other outfit and equipment (as per scales);
  - (e) Medical examination and treatment where necessary and in case of every juvenile suspected to be suffering from contagious or infectious diseases, mental ailments or addiction;
  - (f) Segregation in specially earmarked dormitories or wards or hospitals in

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

- (g) Attending to immediate and urgent needs of the juveniles like appearing in examinations, interview letter to parents, personal problems and verification by the Officer-in-charge of age of juvenile as per order of the Board.

(2) Every newly admitted juvenile or child shall be allotted a case worker from amongst the probation officers or child welfare officers or social workers or counselors attached to the institutions or voluntary social workers or counselors.

(3) Every newly admitted juvenile shall be familiarized with the institution and its functioning and shall receive orientation in the following areas:

- (a) Personal health, hygiene and sanitation;
- (b) Institutional discipline and standards of behavior, respect for elders and teachers;
- (c) Daily routine, peer interaction, optimum use of developmental opportunities; and
- (d) Rights, responsibilities and obligations within the institution.

(4) The designated officer shall enter the name of the juvenile or child in the Admission Register and allocate appropriate accommodation facility.

(5) The photograph shall also be taken immediately for records and the case worker or probation officer or welfare officer shall begin the investigation and correspondence with the person, the juvenile or child might have names.

(6) The Officer-in-charge shall see that the personal belongings of the juvenile or child received by the institution is kept in safe custody

and recorded in the Personal Belonging Register and the item must be returned to the juvenile or child when he leaves the institution.

(7) The girl juvenile or child shall be searched by a female member of the staff, and with due regard to decency and dignity of the juvenile or child.

(8) The educational level and vocational aptitude of the juvenile admitted, may be assessed on the basis of test and interview conducted by the teacher, the workshop supervisor and other technical staff and necessary linkages may also be established with outside specialists and community-based welfare agencies, psychologist, psychiatrist, child guidance clinic, hospital and local doctors, open school or Jan Sikshan Sansthan.

(9) A case history of the juvenile or the child admitted to an institution shall be maintained as per **Form XX**, which shall contain information regarding his socio-cultural and economic background and these informations may invariably be collected through all possible and available sources, including home, parents or guardians, employer, school, friends and community.

(10) A well conceived programme of pre-release planning and follow up of cases discharged from special home shall be organized in all institutions in close collaboration with existing governmental and voluntary organizations.

(11) In the event of a juvenile or child leaving the institution without permission or committing an offence within the institution, the information shall be sent by the Officer-in-charge of the concerned institution to the police and the family, if known; and the detailed report of circumstances along with the efforts to trace the juvenile or child where the juvenile or child is missing, shall be sent to the Board or Committee, as the case may be.

(12) An individual care plan for every juvenile or child in institutional care shall be developed with the ultimate aim of the child being rehabilitated and re-integrated based on their case history, circumstances and individual needs and the individual care plan shall be based on following guidelines:

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

### **51. Prohibited Articles.**

No person shall bring into the institution the following prohibited articles, namely:-

- (a) Fire-arms or other weapons, whether requiring licenses or not (like knife, blades, lathi, spears and swords);
- (b) Alcohol and spirit of any description;
- (c) Bhang, ganja, opium or other narcotic or psychotropic substances;
- (d) Tobacco; or

- (e) Any other article specified in this behalf by the Government by a general or special order.

## 52. Articles found on search and inspection.

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

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

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

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

## 52. Disposal of articles.

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

- (a) On an order made by the competent authority in respect of any juvenile, directing the juvenile to be sent to an institution, the Officer-in-Charge shall deposit such juvenile's money together with the sale proceeds in the manner laid down from time to time in the name of the juvenile;
- (b) The juvenile's money shall be kept with the Officer-in-Charge and valuables, clothing, bedding and other articles, if any, shall be kept in safe custody;

(c) When such juvenile is transferred from one institution to another, all his money, valuables and other articles, shall be sent along with the juvenile to the Officer-in-Charge of the institution to which he has been transferred together with a full and correct statement of the description and estimated value thereof;

(d) At the time of release of such juvenile, the valuables and other articles kept in safe custody and the money deposited in name of the juvenile shall be handed over to the parent or guardian, as the case may be, with an entry made in this behalf in the register and signed by the Officer-in-Charge;

(e) When a juvenile in an institution dies, the valuable and other articles left by the deceased and the money deposited in the name of the juvenile shall be handed over by the Officer-in-Charge to any person who establishes his claim thereto and executes an indemnity bond;

(f) A receipt shall be obtained from such person for having received such valuables and other articles and the amount;

(g) If no claimant appears within a period of six months from the date of death or escape of such juvenile, the valuables and other articles and amount shall be disposed of as per the decision taken by Management Committee set up under rule 55 of these rules.

## 54. Maintenance of case file.

(1) The case file of each juvenile and child shall be maintained in the institution containing the following information:

- (a) Report of the person or agency who produced the juvenile before the Board;
- (b) Officer-in-charge's, probation officer's or child welfare officer's, counselor's and caseworkers reports;

- (c) Information from previous institution;
- (d) Report of the initial interaction with the juvenile, information from family member, relatives, community, friends and miscellaneous information;
- (e) Source of further information;
- (f) Observation reports from staff members;
- (g) Regular health status reports from Medical Officer, drug de-addiction progress reports, progress reports vis-à-vis psychological counseling or any other mental health intervention, where applicable;
- (h) Intelligence Quotient (I.Q) testing, aptitude testing, educational or vocational tests;
- (i) Social history;
- (j) Summary and analysis by case-worker and Officer-in-charge;
- (k) Instruction regarding training and treatment programme and about special precautions to be taken;
- (l) Leave and other privileges granted;
- (m) Special achievements and violation of rules, if any;
- (n) Quarterly progress report;
- (o) Individual care plan, including pre-release programme, post release plan and follow-up plan as prescribed in **Form XXI**;
- (p) Leave of absence or release under supervision;
- (q) Final discharge;
- (r) Follow-up reports;
- (s) Annual photograph;
- (t) Case history duly filled in prescribed **Form XX**;

(u) Follow-up report of post release cases as per direction of the competent authority if any; and

(v) Remarks.

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

### 55. Management Committee.

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

(2) In order to ensure proper care and treatment as per the individual care plans, a juvenile or child shall be grouped on the basis of age, nature of offence or kind of care required, physical and mental health and length of stay order.

(3) The Management Committee shall consist of the following personnel:

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



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

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

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

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

(ix) Review of progress, adjustment and modification of residential programmes to the needs of the juveniles and children;

(x) Planning post-release or post-restoration rehabilitation programme and follow up for a period of two years in collaboration with aftercare services;

(xi) Pre-release or pre-restoration preparation;

(xii) Release or restoration;

(xiii) Post release or post-restoration follow-up;

(xiv) Minimum standards of care, including infrastructure and services available;

(xv) Daily routine;

(xvi) Community participation and voluntarism in the residential life of children such as education, vocational activities, recreation and hobby;

(xvii) Oversee that all registers as required under the Act and rules are maintained by the institution, check and verify these registers, duly stamped and signed in the monthly review meetings;

(xviii) Matters concerning the Children's Committee;

(xix) Any other matter which the Officer-in-Charge may like to bring up.

(b) The officer-in-charge or child welfare officer shall file a quarterly progress report of every juvenile or child in the case file and send a

copy to the District Child Protection Unit and Board or Committee, as the case may be.

(7) The Management Committee shall set up a complaint and redress mechanism in every institution and a Children's Suggestion Box shall be installed in every institution at a place easily accessible to juveniles and children away from the office set up and closer to the residence or rooms or dormitories of the children.

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

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

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

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

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

(9) A Children's Suggestion Book shall be maintained in every institution where the complaints and action taken by the Management Committee are duly recorded and such action and follow up shall be communicated to the Children's Committee after every monthly meeting of the Management Committee.

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

#### **56. Children's Committees.**

(1) Office-in-Charge of every institution for juveniles or children shall facilities the setting up a Children's Committees for three different age groups or children, viz., 7-10 years, 11-15 years and 16-18 years and these Children's Committees shall be constituted solely by children.

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

(a) Improvement of the condition of the institution;

(b) Reviewing the standards of care being followed;

(c) Preparing daily routine and diet scale;

(d) Developing educational, vocational and recreation plans;

(e) Supporting each other in managing crisis;

- (f) Reporting abuse and exploitation by peers and caregivers;
  - (g) Creative expression of their views through wall papers or newsletters or paintings or music or theater;
  - (h) Management of institution through the Management Committee.
- (3) The Officer-in-Charge shall ensure that the Children's Committees meet every month and maintain a register for recording its activities and proceedings, and place it before the Management Committee in their monthly meetings.
- (4) The Officer-in-Charge shall ensure that the Children's Committees are provided with essential support and materials including stationary, space and guidance for effective functioning.
- (5) The Officer-in-Charge shall, as far as possible, seek assistance from local voluntary organization or child participation experts for the setting up and functioning of the Children's Committees.
- (6) The local voluntary organization or child participation expert shall support the Children's Committees in the following:
- (j) Sselecting their leaders;
  - (k) Conducting the monthly meetings;
  - (l) Developing rules for the functioning of Children's Committees and following it;
  - (m) Maintaining records and Children's Suggestion Book and other relevant documents;
  - (n) Any other innovative activity.
- (7) The Management Committee shall seek a report from the Officer-in-Charge on the setting up and functioning of the Children's

Committees, review these reports in their monthly meetings and take necessary action where required.

### **57. Rewards and Earnings.**

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

### **58. Visits to and communication with juveniles or children.**

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

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

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

(4) The Officer-in-Charge shall, in special circumstances or as per orders of the Board or

Committee, allow a juvenile or child to make telephone communication with his parents or guardians or relatives.

### **59. Death of a juvenile or child.**

On the occurrence of any case of death or suicide in an institution the procedure to be adopted shall be as under:-

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

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

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

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

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

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

(7) The officer-in-charge and the Medical Officer shall make themselves available for any inquiries initiated by the police or the Magistrate concerning the cause of death and other details regarding such juvenile or child.

(8) As soon as the inquest is held, the body shall be handed over to the parents or guardian or relatives or, in the absence of any claimant, the last rituals shall be performed under the supervision of the officer-in-charge in accordance with the known religion of the juvenile or child.

### **60. Abuse and exploitation of the juvenile or child.**

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

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

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

necessary investigation to be carried out by the local police station or Special Juvenile Police Unit;

- (viii) The Board or Committee may consult Children's Committee setup in each institution to enquire into the fact of abuse exploitation as well as seek assistance from relevant voluntary organizations, child rights experts, mental health experts or crisis intervention centers in dealing with matters of abuse and exploitation of juveniles or children in an institution.

### **61. Juvenile or Child suffering from dangerous diseases or mental health problems.**

(1) When a juvenile or a child placed under the care of a fit person or a fit institution under the provisions of the Act, is found to be suffering from a disease or physical or mental health problems requiring prolonged medical treatment, or is found addicted to a narcotic drug or psychotropic substance, the juvenile or the child may be sent by an order of the competent authority to an appropriate place for such period as may be certified by medical officer to be necessary for proper treatment of the juvenile or the child or for the remainder of the term for which he has to stay.

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

(3) The order of restoration of a juvenile or a child suffering from an infectious or contagious disease to his parents or guardian



shall be based on the principle of best interest of the juvenile or child, keeping in mind the risk of stigmatization and discrimination and discontinuation of treatment.

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

## **62. Leave of absence of a juvenile or child.**

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

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

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

(4) While considering the application of leave of absence, the Board or Committee shall hear the juvenile or child or the parents or guardians of the juvenile or child and if the Board or Committee considers that granting of such leave is in the interest of the juvenile or child, appropriate order shall be made and the Board or Committee may call for a report from the probation officer or child welfare officer in case

the preliminary information gathered from the juvenile or child or concerned parent or guardian is not sufficient for the purpose.

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

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

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

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

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

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

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

### **63. Inspection.**

(1) The Government shall constitute State or District level inspection committee on the recommendation of the Selection Committee constituted under rule 91 of these rules.

(2) The inspection committees shall visit and oversee the conditions in the institutions and appropriateness of the processes for safety, well being and permanence, review the standards of care and protection being followed by the institutions, look out for any incidence of violation of child rights, look into the functioning of the Management Committee and Children's Committee set up under rules 55 and 56 of these rules and give appropriate directions.

(3) The team shall also make suggestions for improvement and development of the institution.

(4) The team shall consist of a minimum of five members with representation from the Government, the Board or Committee, the State Commission for the Protection of Child Rights or the State Human Rights Commission whenever constitute in Mizoram, medical and other experts, voluntary organizations and reputed social workers.

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

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

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

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

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

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

(11) Inspection of child care institution will be done according to the prescribed Form.

### *Appendix-II*

### **64. Social Audit.**

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

(2) The social audit shall be carried out with support and involvement of organizations working in the field of mental health, child care and protection and autonomous bodies like the school of Social Work etc.

### **65. Restoration and Follow-up.**

(1) The order for restoration of the juvenile or child shall be made by the Board or Committee on the basis of a fair hearing of the juvenile or child and his parents or guardian, as well

as on the reports of the Probation Officers or Child Welfare Officers or non-governmental organizations directed by the Board or Committee to conduct the home study and any other relevant document or report brought before the Board or Committee for deciding the matter.

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

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

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

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

(6) The expenses incurred on restoration of a juvenile or child, including travel and other incidental expenses, shall be borne by the District Child Protection Unit or Government.

(7) When a juvenile or child expresses his unwillingness to be restored back to the family, the Board or Committee shall make a note of its records in writing and such juvenile or child shall not be coerced or persuaded to go back to the family, particularly if the social investigation report of the child welfare officer or probation officer establishes that restoration to family may not be in the best interest of the juvenile or child or, if the parents or guardians refuse to accept the juvenile or child back.

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

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

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

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

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

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

## **66. Visitor's Book.**

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

(2) The Officer-in-charge shall forward a copy of every such entry to the District Child Protection Unit or Government, with such remarks as he may desire to offer in explanation or otherwise; and thereon, the designated authority shall issue such orders as he may consider necessary.

### 67. Maintenance of Registers.

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

- (a) Admission and discharge register;
- (b) Supervision register;
- (c) Medical file or medical report;
- (d) Nutrition diet file;
- (e) Stock register;
- (f) Log book;
- (g) Order book;
- (h) Meeting book;
- (i) Cash book;
- (j) Budget statement file;
- (k) Inquiry report file;
- (l) Individual case file with individual care plan;
- (m) Children's Suggestion book;
- (n) Visitor's book;
- (o) Staff movement register;
- (p) Personal belongings register;
- (q) Minutes register of Management Committee;
- (r) Minutes register of Children's Committee; and
- (s) Attendance register for staff and juveniles or children.

### 68. Personnel or Staff of a Home.

(1) The personnel strength of a home shall be determined according to the duty, posts, hours of duty per day and category or children that the staff is meant to cater to.

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

(3) The whole-time staff in a home may consist of Officer-in-charge, Probation Officer (in case of Observation home or Special home), Case Workers (in case of Children's home or shelter home or after care organization), Child Welfare Officers, Counselor, Educator, Vocational Training Instructor, Medical Staff, Administrative staff, Care Takers, house father and house mother, child mentors, volunteers, store keeper, cook, helper, washerman, attendant, gardener as required.

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

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

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

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

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

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

Sl. No.	Staff/Personnel	No. of Posts
1	Officer-in-charge (Superintendent)	1
2	Probation Officer or Child Welfare Officer or Case Worker	3
3	House mother or House father	4
4	Counsellor	2
5	Educator	2 (Voluntary/ Part time)
6	Doctor/Medical Officer	1
7	Paramedical Staff	1
8	Store Keeper cum Accountant	1
9	Art & Craft cum Music teacher	1 (Part time)
10	Physical Training Instructor	1 (Part time)
11	Driver	1
12	Cook	2
13	Helper	2
14	Housekeeping	2
15	Gardener	1 (Part time)
16	Total	25

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

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

## CHAPTER VII

### MISCELLANEOUS

#### 69. Recognition of fit or fit institution.

(1) Any individual who is willing temporarily to receive a juvenile or child in need of care, protection or treatment for a period as may be necessary, may be recognized by the competent authority as a fit person due verification of their credentials and reputation.

(2) Any suitable place or institution, the manager of which is willing temporarily to receive a juvenile or child in need of care and protection for a period as may be necessary, may be recognized by the Government as a fit institution on the recommendation of the competent authority.

(3) An institution recognized as a fit institution shall;

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

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

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



(6) Before declaring any person as a fit person or recommending an institution as a fit institution, the competent authority shall hold due enquiry and only on being satisfied, recognition shall be given.

**70. Certification or recognition and transfer of Management of Institutions and after care organizations.**

(1) Any organization desiring certification under the Act shall make an application together with a copy each of the rules, bye-laws articles of association, list of members of the society or the association running the organization, office bearers and a statement showing the status and past record of specialized childcare services provided by the organization, to the Government, who shall after verifying the provisions made in the organization for the boarding and lodging, general health, educational facilities, vocational training and treatment services may grant certification or recognition under sections 8, 9, 34, 41 and 44 of the Act, as the case may be, on the condition that the organization shall comply with the standards or services as laid down under the Act and the rules framed thereunder, from time to time and to ensure an all round growth and development of juvenile or child under its charge.

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

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

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

Provided that the concerned organization shall be given an opportunity of making a representation in writing, within a period of thirty days, against the grounds of withdrawal of certificate or recognition of that organization.

(5) The decision to withdraw or to restore the certificate or recognition of the organization may be taken, on the basis of a thorough investigation by a specially constituted advisory board under section 62 of the Act.

(6) On the report of the advisory board, the Officer-in-charge of the institution shall be asked to show cause so as to give an explanation within thirty days.

(7) When an organization ceases to be an organization, certified or recognized under sections 8, 9, 34, 37, 41 or 44 of the Act, the juvenile or the child kept therein shall, be transferred to some other institution of repute, certified or recognized under sections 8, 9, 34, 37, 41 or 44 of the Act or discharged, in accordance with the provisions of the Act and the rules relating to their discharge and transfer by giving intimation of such discharge or transfer to the Board or the Committee, as the case may be.

**71. Registration under the Act.**

(1) All institutions and organizations running institutional or non-institutional care services for children in need of care and protection, whether run by the government or voluntary

organization, shall get themselves registered under sub-section (3) of section 34 of the Act.

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

#### **72. Grant in aid to certified or recognized organization.**

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

(2) The grants-in-aid may be admissible, at such rates, which shall be sufficient to meet the prescribed norms, in such manner and subject to such conditions as may be mutually agreed to by both the parties.

(3) In case of transfer of management of government run homes under sections 8, 9, 34, subsection (3) of section 34, 37 and 44 of the Act to a voluntary organization, the same budget which the Government was spending on that home, shall be given to the

voluntary organization as grant-in-aid under the Memorandum of Understanding signed between both the parties describing their role and obligations.

#### **73. Admission of outsiders.**

(1) No stranger shall be admitted to the premises of the institution, except with the permission of the Officer-in-charge or on an order from the Board or Committee.

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

#### **74. Identity Photos.**

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

(2) One photograph shall be kept in the case file of the juvenile or the child, one shall be fixed with the index card, a copy shall be kept in an album serially numbered with the negative in another album, and a copy of the photograph shall be sent to the Board or Committee as case may be, as well as to the district or State Child Protection Unit.

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

#### **75. Police Officers to be in plain clothes.**

While dealing with a juvenile or a child under the provisions of the Act and the rules made thereunder, except at the time of arrest, the Police Officer shall wear plain clothes and not the police uniform.

### **76. Prohibition on the use of handcuffs and fetters.**

No child or the juvenile in conflict with law dealt with under the provisions of the Act and the rules made there under shall be handcuffed or fettered.

### **77. Procedure to be followed by a Magistrate not empowered under the Act.**

(1) When any juvenile or child is produced before a Magistrate other than Board or Committee, and the Magistrate is of the opinion that such persons is a juvenile or child, he shall record his reasons and send the juvenile or child to the appropriate competent authority.

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

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

### **78. Transfer.**

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

Provided that:

- (i) Such transfer is in the best interest of the juvenile or child;
- (ii) No child shall be transferred or proposed to be transferred only on the ground that

the child has created problems or, has become difficult to be managed in the existing institution or, is suffering from a chronic or terminal illness or, or account of disability;

(iii) Such transfer shall only take place after the complete of evidence and cross; examination that may be required in a legal proceeding involving a juvenile or child; and

(iv) The reasons for and circumstances of such transfer are reported in writing.

(2) The Government or State or District Child Protection Unit said accordingly.

(i) Send the information of transfer to the appropriate competent authority having jurisdiction over the area where the child is ordered to be transferred by the Board or Committee; and

(ii) Send a copy of the information to the Officer-in-charge of the institution where the child is placed for care and protection at the time of the transfer order.

(3) On receipt of copy of the information from the Government or State or District Child Protection Unit, the Officer-in-charge shall arrange to escort the child government expenses to the place or persons as specified in the order.

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

### **79. Protection for sending a juvenile or child outside the jurisdiction of the competent authority.**

(1) In the case of a juvenile or a child whose ordinary place of residence lies outside the jurisdiction of the competent authority, and if the competent authority considers it necessary to take action under section 50 of the Act, it

shall direct a probation officer or case worker or child welfare officer, as the case may be, to make inquiries as to the fitness and willingness of the relative or other person to receive the juvenile or the child at the ordinary place of residence, and whether such relative or other fit person can exercise proper care and control over the juvenile or the child.

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

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

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

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

(6) The Board or Committee shall keep the Ministry of External Affairs informed about repatriation of every juvenile or child of foreign nationality carried out on the orders of the Board or Committee.

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

(a) The probation officer or child welfare officer who was directed to submit a report under sub-rule (1) of this rule;

(b) The probation officer or child welfare officer, if any, having jurisdiction over the place where the juvenile or the child to be sent;

(c) The competent authority having jurisdiction over the place where the juvenile or the child is to be sent; and

(d) The relative or the person who is to receive the juvenile or the child.

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

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

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

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

**80. State Child Protection Unit.**

The specific functions of the State Child Protection Unit shall include:

- (a) Implementation of the Act and supervision and monitoring of agencies and institutions under the Act;
- (b) Set up, support and monitor the District Child Protection Units;
- (c) Represent State Child Protection Unit as a member in the Selection Committee for appointment of members of Boards or Committee;
- (d) Make necessary funds available to the District Child Protection Units for providing or setting up required facilities to implementation the Act;
- (e) Network and coordinate with all government departments to build inter-sectoral linkages on child protection issues, including Departments of Health & Family Welfare, Education, Social Welfare, Urban Development and Poverty Alleviation or Local Administration as the case may be, Sports & Youth Services, Mizoram Youth Commission, Police, Judiciary, Labour and Employment, State AIDS Control Society, among others;
- (f) Network and coordinate with civil society organizations working for the effective implementation of the Act;
- (g) Training and capacity building of all personnel (Government and Non-government) working under the Act;
- (h) Establish Minimum Standards of Care and ensure its implementation in all institutions set up under the Act;
- (i) Review of the functioning of Committees; and
- (j) All other functions necessary for effective implementation of the Act.

**81. District Child Protection Unit.**

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

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

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



- (h) Supporting State Adoption Resource Agency in implementation of family based non-institutional services at district level;
- (i) Network and coordinate with all government departments to build in-sectoral linkages on child protection issues, including Departments of Health, Education, Social Welfare, Urban Development and Poverty Alleviation or Local Administration as the case may be, Sports and Youth Services, Police, Judiciary, Labour and Employment, State AIDS Control Society, among others;
- (j) Network and coordinate with civil society organizations working under the Act;
- (k) Develop parameters and tools for effective monitoring and supervision of agencies and institutions in the district in consultation with experts in child welfare;
- (l) Supervise and monitor all institutions or agencies providing residential facilities to children in district;
- (m) Train and build capacity of all personnel (Government and Non-government) implementing the Act to provide effective services to children;
- (n) Organize quarterly meeting with all stakeholders at district level including CHILDLINE, Specilized Adoption Agencies, Officer-in charges of homes, non-governmental organizations and members of public to review the progress and implementation of the Act; and
- (o) Liason with the State Child Protection Unit, State Adoption Resource Agency at State level and District Child Protection Units of other districts.

## **82. Setting of the Child Welfare Committee.**

(1) The Government shall set up by notification in the Official Gazette Child Welfare Committees under section 29 of the Act in every district but subject to establishment of Juvenile Justice Board in a district with requisite infrastructure, personnel, and finances for smooth running, as listed below:

- (a) The infrastructure shall consist of a sitting hall, a separate room for the Committee, room for office staff, waiting room for children, waiting room for parents or guardian, room for personal interaction between the child or parents and the Committee, a record room, safe drinking water facility and toilets;
- (b) The Government shall provide necessary human resource support for every Committee, including welfare officer, steno-typist or computer operator, peon, safai karmchari.

(2) The allowances of the Chairperson and Members shall be disbursed by the District Child Protection Unit or Government as per rule 23 of these rules.

## **83. Setting up of Juvenile Justice Board.**

The Government shall set up by notification in Official Gazette, Juvenile Justice Board in every district, with requisite infrastructure, personnel, besides the Principal Magistrate and Members and Finances as listed below:

(1) Infrastructure shall consist of a Board Room, waiting room for children, a room for Principal Magistrate and Members, a record room, room for Probation Officers, waiting room for parents and visitors, safe drinking water facility and toilets.

(2) The Government shall provide necessary human resource support for every Board,

including probation officer, steno-typist or computer operator, peon..

#### **84. Special Juvenile Police Unit.**

(1) The Government shall appoint a Special Juvenile Police Unit at the District level within four months of the notification of these rules and the unit shall consist of a juvenile or child welfare officer of the rank of police inspector and two paid social workers having experience of working in the field of child welfare, of whom one shall be a woman.

(2) The District Child Protection Unit or the State Government shall provide services of its two social workers to the Special Juvenile Police Unit for discharging their duties.

(3) The Juvenile or child welfare officer at the police station shall be a person with aptitude and appropriate training and orientation to handle the cases of juveniles or children in terms of the provisions of the Act.

(4) The transfer and posting of the designated Juvenile or Child Welfare Officer shall be within the Special Juvenile Police Units of other police stations or district unit, unless there is an exceptional case of promotion and in such cases, other police officer must be designated and deputed in the unit so that there is no shortfall.

(5) Special Juvenile Police Unit at district level shall coordinate and function as a watch-dog for providing legal protection against all kinds of cruelty, abuse and exploitation of child or juvenile.

(6) The unit shall take serious cognizance of adult perpetrators of crimes against children and see to it that they are without delay apprehended and booked under the appropriate provisions of the law and for this purpose the district level units shall maintain liaison with other units of police station.

(7) The Special Juvenile Police Units shall seek assistance from the voluntary organizations, village council or municipality as the case may be or Resident Welfare Associations in identifying juveniles in conflict with law as well as reporting cases of violence against children, child neglect and child abuse.

(8) The Special Juvenile Police Units shall particularly seek assistance from voluntary organizations recognized as protection agencies by the State Government for the purpose of assisting Special Juvenile Police Units and local police stations at the time of apprehension, in preparation of necessary reports, for taking charge of juveniles until production and at the time of production before the Board as per rule 11 (12) of these rules.

(9) The Superintendent of Police in a district shall head the Special Juvenile Police Unit and oversee its functioning from time to time.

(10) A Nodal officer from Police not less than the rank of Inspector General of Police shall be designated in each State to coordinate and upgrade role of police on all issues pertaining to care and protection of children or juveniles under Act.

(11) Any police officer found guilty, after due inquiry, of torturing a child, mentally or physical, shall be liable to be removed from service, besides being prosecuted for the offence.

#### **85. Honorary or Voluntary Welfare Officers and Probation Officers.**

To augment the existing probation service, honorary or voluntary welfare officers and probation officers may be appointed from the voluntary organization and social workers found fit for the purpose by the competent authority and their services may also be co-opted into the implementation machinery by the orders of the competent authority.

**86. Duties of the Officer-in-Charge of an institution.**

(1) The Officer-in-charge shall have the primary responsibility of maintaining the institution and shall stay within the institutional premises to be readily available as and when required by the juveniles or children and the staff and in case where an accommodation is not available within the institutional premises, the Officer-in-charge shall stay at a place in close proximity to the institution till such time that such an accommodation is made available within the institution.

(2) The general duties and functions of the Officer-in-charge shall include:

- (a) Compliance with provisions of the Act and the rules and orders made thereunder;
- (b) Compliance with the orders of the Board or Committee;
- (c) Providing homely atmosphere of love, affection, care, development and welfare for juveniles or children;
- (d) Maintaining minimum standards of care in the institution;
- (e) Proper maintenance of buildings and premises;
- (f) Security measures and periodical inspection, including daily inspection and rounds of the institution, proper storage and inspection of food stuffs as well food being served;
- (g) Supervision and monitoring of juveniles' or children's discipline and well being;
- (h) Planning implementation and coordination of all institutional activities, programmes and operations, including training and treatment programmes or correctional activities as the case may be;
- (i) Prompt action to meet emergencies;
- (j) Ensuring accident and fire preventive measures within the institutional premises;
- (k) Stand-by arrangements for water storage, power plant, emergency lighting;
- (l) Careful handling of plants and equipments;
- (m) Segregation of juvenile or child suffering from contagious or infectious diseases;
- (n) Observance and follow-up of daily routine;
- (o) Filing of monthly report of juvenile or child in the case file;
- (p) Organize local and national festivals in the institution;
- (q) Organize trips or excursions or picnics for juveniles or children;
- (r) Preparation of budget and control over financial matters;
- (s) Allocation of duties to personnel;
- (t) Supervision over office administration, including attending to personnel welfare and staff discipline;
- (u) Prompt, firm and considerate handling of all disciplinary matters;
- (v) Organize the meetings of the Management Committee set up under rule 55 of these rules and provide necessary support;
- (w) Maintenance of all records and registers required under the Act and the rules and monthly verification of the same by the Management Committee set up under rule 55 of these rules;
- (x) Liaison, coordination and cooperation with the District Child Protection Unit or State Government as and when required; and

(y) Coordination with the legal officer in the District Child Protection Unit to ensure that every juvenile is legally represented and provided free legal aid and other necessary support or, where the District Child Protection Unit has not been set up, services of the District or State Legal Services Authority shall be made available.

### **87. Duties of a Probation Officer or Child Welfare Officer or Case Worker.**

(1) Every probation officer or child welfare officer or case-worker shall carry out all directions given by the Board or Committee or concerned authority and shall perform the following duties, functions and responsibilities:

- (a) Making social investigation of the juvenile (**Form IV**) or the child (**Form XIII**) through personal interview and form the family, social agencies and other sources;
- (b) Attending the proceedings of the Board or Committee and submitting reports as and when required;
- (c) Clarifying problems of the juvenile or the child and dealing with their difficulties in institutional life;
- (d) Participating in the orientation, monitoring, education, vocational and rehabilitation programmes;
- (e) Establishing co-operation and understanding between the juvenile or the child and the Officer-in-charge;
- (f) Assisting the juvenile or the child to develop contacts with family and also providing assistance to family members;
- (g) Developing a care plan for every child in consultation with the juvenile or child and following up its implementation;

(h) Participating in the pre-release programme and helping the juvenile or the child to establish contacts which can provide emotional and social support to juvenile or child after their release;

(i) Establishing linkages with voluntary workers and organizations to facilitate rehabilitation and social reintegration of juveniles and ensure the necessary follow-up;

(j) Follow-up of juveniles after their release and extending help and guidance to them;

(k) Visiting regularly the residence of the juvenile or child under their supervision and also places of employment or school attended by such juvenile or child and submitting fortnightly reports as prescribed in **Form XXI**;

(l) Accompanying juveniles or children where ever possible, from the office of the Board to observation home, special home, children's home or fit person, as the case may be; and

(m) Maintaining case file and such registers as may be specified from time to time.

(2) On receipt of information from the Police or Juvenile or Child Welfare Officer of the Police under clause (b) of section 13 of the Act, the probation officer shall inquire into the Antecedents and family history of the juvenile or the child and such other material circumstances, as may be necessary and submit a social investigation report as early as possible, in **Form IV or XII**, to the Board.

### **88. Duties of House Father or House Mother.**

(1) The general duties, functions and responsibilities of a house father, house mother and other care takers shall be as follows:

- (a) Handling juvenile or child with love and affection;
- (b) Taking proper care and welfare of juvenile or child;
- (c) Maintaining discipline among the juveniles or children;
- (d) Maintenance, sanitation and hygiene;
- (e) Implementing daily routine in an effective manner and ensuring children's involvement;
- (f) Looking after the security and safety arrangements of the home; and
- (g) Escorting juveniles or children, whenever they go out of the home.

**89. Disqualification for officer-in-charge, probation officer or child welfare officer or case-worker, house father or house mother and other care givers and staff.**

(1) The officer-in-charge, probation officer or child welfare officer or case-worker, house father or house mother and other care givers and staff shall not employ a juvenile or child under their supervision or care and protection for their own purposes or take any private service from them.

(2) Any report of physical, sexual or emotional abuse of a juvenile or a child in an institution or outside, by a caregiver, shall hold them liable for disqualification after due inquiry.

**90. Training of Personnel.**

(1) The Government or the Officer-in-charge shall provide for training of personnel of each category of staff, in keeping with their statutory responsibilities and specific jobs requirements.

(2) The training programme shall include –

- (a) Orientation and induction training of the newly-recruited staff,

- (b) Refresher training course and skill enhancement programme for all care givers once a year, and

- (c) Staff conferences, seminars, workshops.

(3) The Government with the help of the State Child Protection Unit, National Institute of Public Cooperation and Child Development and its Regional Centre shall organize regular training and capacity building of personnel involved in the implementation of the Act and the rules made thereunder.

**91. Selection Committee and its composition.**

The Government shall constitute a Selection Committee by notification in the official gazette, for a period of five years, consisting of the following seven members, namely:

- (a) A retired judge of High Court or a person who is qualified to be a judge in the High Court who shall be the Chairperson;
- (b) Director, Social Welfare Department, Government of Mizoram who shall be the Member Secretary;
- (c) Two representatives from a reputed non-governmental organization, working in the area of child welfare;
- (d) Two representatives from academic bodies concerned with social work, psychology, sociology, child development, education, law, criminology and with experience of working on children's issues; and
- (e) A representative of the State Human Rights Commission whenever constitute in the state of Mizoram or, State Commission for Protection of Child Rights or, State Commission for Women.



**92. Functions of the Selection Committee.**

- (1) (a) In making appointment of members of the Board or Committee, the Selection Committee shall take into consideration the applications received in this regard in response to a public advertisement to this effect by the District or State Child Protection Unit or the Government; and
- (b) The Selection Committee shall select and recommend a panel of names to the State Child Protection Unit or Government for appointment as members of the Board or Committee from amongst the applications received.
- (2) In the event of any complaint against a member of the Board or Committee, the Selection Committee shall hold necessary inquiry and recommend termination of appointment of such member to the State Child Protection Unit or Government, if required.
- (3) (a) The Selection Committee, at the time of recommending names for appointment as member of Board or Committee shall also prepare a panel of names for each Board or Committee to fill in vacancies, which may arise during the tenure of the Board or Committee.
- (b) In the event of a vacancy in the Board or Committee, the District Child Protection Unit shall inform the State Child Protection Unit or Government for filling up such vacancy.
- (c) The State Child Protection Unit or Government shall fill the vacancies on the basis of the panel of names recommended by the Selection Committee.

(4) The Selection Committee shall recommend names for constitution of the State or District or City level Inspection Committees as required under section 35 of the Act.

**93. Advisory Boards.**

- (1) The Government shall constitute Advisory Board at State, District levels for a period of three years.
- (2) The Government shall constitute the State Advisory Board and the District Advisory Board.
- (3) All the Advisory Boards shall hold at least two meetings in a year.
- (4) These Advisory Boards shall inspect the various institutional or non-institutional services in their respective jurisdictions, and the recommendations made by them, shall be acted upon by the Government.
- (8) The Government, through the Selection Committee constituted under rule 91 of these rules, shall set up State and District level Advisory Boards, which shall consist of representatives of the State Government, members of the competent authority, academic institutions, locally respectable and spirited citizens, representatives of non-governmental organizations.
- (9) The District Advisory Board constituted in terms of sub-section (3) of the section 62 of the Act shall also function as the inspection committee under section 35 of the Act.
- (10) The termination, resignation, or other vacancy caused in an advisory board and appointment of new members therein shall be done in the same manner as is done in case of the competent authority.

**94. Openness & Transparency.**

- (1) All Children's homes shall be open to visitors with the permission of the Officer-in-

charge and the Committee or Officer-in-charge as the case may be, may consider appropriate to allow representatives of local self government, voluntary organizations, social workers, researchers, medicos, academicians, prominent personalities, media and any other persons as visitors, as the Officer-in-charge considers appropriate keeping in view the security, welfare and the interest of the children.

(2) The Officer-in-charge of the home shall encourage active involvement of local community in improving the conditions in the homes, if, the members of the community want to serve the institution or want to contribute through their expertise.

(3) The Officer-in-charge shall maintain a visitor book and the remarks of the visitors given therein shall be considered by the advisory inspecting authority.

(4) While visiting an institution, the visitors will not say or do anything that undermines the authority of the Officer-in-charge or is in contravention of the Act or rules or impinges on the dignity of the children.

(5) The visitors may be allowed to visit observation homes and special homes with the permission or the competent authority.

### **95. Juvenile Justice Fund.**

(1) The Government shall create a Fund at the State level under section 61 of the Act to be called the 'Juvenile Justice Fund' (herein under referred to as the Fund) for the welfare and rehabilitation of the juvenile or the child dealt with under the provisions of the Act.

(2) The Fund may be applied to the Central Government:

- (a) To implement programmes for the welfare, rehabilitation and restoration of juveniles or children;

- (b) To pay grant-in-aid to non-governmental organizations;

- (c) To meet the expenses of State Advisory Board and its purpose;

- (d) To do all other things that are incidental and necessary for the above purposes.

(3) The management and administration of the Fund shall be under the control of the State Advisory Board under sub-section (3) of section 61 of the Act.

(4) The assets of the Fund shall include all such grants and contributions, recurring or nonrecurring, from the Central Government and State Government or any other statutory or non-statutory bodies set up by the Central or State Government as well as the voluntary donations from any individual or organization.

(5) All withdrawals shall be made by cheques or requisitions, as the case may be, signed by the secretary-cum-treasure and in the case of amounts exceeding rupees one thousand, they shall be signed duly by the secretary-cum-treasurer and a member of the board of management to be nominated by the State Advisory Board.

(6) The regular accounts shall be kept of all money and properties, and all incomes and expenditure of the Fund and shall be audited by a notified firm of Chartered Accountants, or any other recognized authorities as may be appointed by the Board.

(7) The auditors shall also certify the expenditure from the fund made by the secretary-cum-treasurer.

(8) All contracts and other assurances shall be in the name of the board management and signed on their behalf by the secretary-cum-treasurer and one member of the board of the management authorized by it for the purpose.

(9) The board of management shall invest for the time being the proceeds of sale or other disposal of the property, as well as any money or property not immediately required to be used to serve the objective of the Fund, in any one or more of the modes of investment authorized by law for the investment of trust moneys as the board of management may think proper.

(10) The board of management may delegate to one or more of the members such of its powers, which in its opinion are merely a procedural arrangement.

#### **96. Pending Cases.**

(1) No juvenile in conflict with law or a child shall be denied the benefits of the Act and the rules made thereunder.

(2) All pending cases which have not received a finality shall be dealt with and disposed of in terms of the provisions of the Act and the rules made thereunder.

(3) Any juvenile in conflict with law, or a child shall be given the benefits under sub-rule (1) of this rule, and it is hereby clarified that such benefits shall be made available to all those accused who were juvenile or a child at the time of commission of an offence, even if they cease to be a juvenile or a child during the pendency of any inquiry or trial.

(4) While computing the period of detention or stay or sentence of a juvenile in conflict with law or of a child, all such period which the juvenile or the child has already spent in custody, detention, stay or sentence of imprisonment shall be counted as a part of the period of stay or detention or sentence of imprisonment contained in the final order of the court or the Board.

#### **97. Disposed of cases of juveniles in conflict with law.**

The Government or as the case may be the Board may, either suo motu or on an application made for the purpose, review the case of a person or a juvenile in conflict with law, determine his juvenility in terms of the provisions contained in the Act and rule 12 of these rules and pass an appropriate order in the interest of the juvenile in conflict with law under section 64 of the Act, for the immediate release of the juvenile in conflict with law whose period of detention or imprisonment has exceeded the maximum period provided in section 15 of the said Act.

#### **98. Disposal of records or documents.**

The records or documents in respect of a juvenile or a child or a juvenile in conflict with law shall be kept in a safe place for a period of seven years and no longer, and thereafter be destroyed by the Officer-in-charge or Board or Committee, as the case may be.

#### **99. Repeal and savings.**

The Mizoram Juvenile Justice (Care and Protection or Children) Rules, 2003, notified vide, No. B. 12019/2/92-SWD, dated the 30<sup>th</sup> July, 2001 published in the Mizoram Gazette, Extraordinary, Vol. XXXIII, Sravana 10, 1.8.2003, Issue No. 170 is hereby repealed.

Provided that any appointment made, order issued, action taken or anything whatsoever done under the Mizoram Juvenile Justice (Care and Protection of Children) Rules, 2003 prior to the coming into force of these rules, shall be deemed to have been validity made, issued, taken or done under the corresponding provisions of these rules.

**SCHEDULE - 1****Clothing, bedding, toiletries and other articles (rule 41)**

(1) Juveniles or children shall be provided with the following articles:

Bedding		
Sl. No	Articles	Quantity to be provide per child
1	Towels	2 per year
2	Cotton Bed Sheets	2 per two years
3	Pillow (Cotton stuffed)	1 per two years
4	Pillow covers	2 per two years
5	Woolen blankets	2 per two years
6	Cotton Durry	2 per two years
7	Cotton filled quilt	1 per two years
8	Mattress	1 per two years
9	Mosquito Net	1 per two years

Clothing for Girls		
1	Skirts & Blouse	5 sets per year for girls depending on age
2	Petticoats	6 per year for younger girls
3	Brassiers	6 per year for older girls
4	Panties	6 per year
5	Sanitary Towels	12 packs per year for old girls
6	Woolen Sweaters	2 in two years
7	Woolen Shawls	1 in two years

Clothing for Boys		
1	Shirts	5 sets per year
2	Shorts	5 sets per year for younger boys
3	Pants	5 sets per year for older boys
4	Vest	4 sets per year
5	Underwear	4 sets per year
6	Woolen Jerseys	2 in two years

Miscellaneous Articles		
1	Slippers	1 pair per year
2	Shoes	1 pair per year
3	School Uniform	2 sets per year for children attending outside schools
4	School Shoes	1 pair per year for children attending outside schools
5	School Bag and Stationery	1 set per year for children attending outside schools
6	Handkerchiefs	6 per year

**Note:**

a) In addition to the clothing specified above, each child shall be provided, once in three years, with a suit consisting of one white shirt, one pair of Khaki shorts or pants, one pair of white canvas shoes and one blazer subject to climatic change in a season for use during ceremonial occasions. In the case of girls it shall be one blouse and mizo puan or one white skirt and one white blouse, a pair of white canvas shoes and a blazer.

(2) In every hospital attached to the institution if any where there is provision for in-patient cots, the following scale has to be followed:

	Night clothing & bedding	Scale for supply
1	Mattress	One per bed per 3 years
2	Cotton Bed Sheets	Four per bed per year
3	Pillows	One per bed per two year
4	Pillow Covers	Four per bed per year
5	Woollen blankets	One per bed per 2 years
6	Pyjamas and loose shirts (Hospital type for boys)	3 pairs per child per year
7	Skirts and blouses or salwar kameez for girls	3 pairs per child per year
8	Cotton durry	One per bed per three years

**Note:**

- (i) When a child is admitted as an in-patient in the institution Hospital, the Institution Doctor shall issue the in-patient with the hospital clothing, the clothes on body being preserved, duly washed and handed back, at the time of the child's discharge from the hospital.
- (ii) Each child shall be provided with Kit Box or a Locker, as per convenience and necessity.
- (iii) The Superintendent shall make arrangements for two-tier bed system in place of conventional cots, as per convenience and necessity.

**(3) Toiletry:**

Every resident of the Home shall be issued with oil, soap, and other material for in accordance with the following scales:

Hair oil for grooming the hair	100 mls per month
Toilet soap or carbolic soap	1 large bar per month
Tooth paste and brush	1 Brush per 3 months 50 gms paste per month
Comb	1 per year

**Note:**

- (a) For washing of cloth and towels, bed-sheet etc., the following scale may be followed;
- (i) Washing Soap 1 soap for one month (125 gms)
- (ii) Whitening/bleaching agent to the extent required only for white clothing.

Provided, however, the hospital clothing is not mixed with other clothing at the time of washing and if necessary, the Superintendent can issue the above items separately for washing of hospital clothing.

- (b) The children attending school outside the institution may be issued with one additional bar of washing soap (100 gms) per head per month for washing their school uniform.

(4) The following items shall be provided for maintaining the Homes in a healthy and sanitary condition:

	Item	Scale of supply
1	Broom Stick	25 to 40 Nos per month depending on the area of the institution
2	DDT spray	As per the institution Doctor's advice
3	Effective bugs killing agent	As required
4	Phenyl and cleaning acid (daily)	Depending on the area of lavatories to be cleaned as per institution Doctor's advice

**SCHEDULE – II****Nutrition and Diet Scale (rule 44)**

	Name of the articles of diet	Scale per head per day
1	Rice/Wheat/Ragi/Jowar	600 Gms, (700 Gms for 16-18 yrs age) of which atleast 100 gms to be either Wheat or Ragi or Jowar
2	Dal/Rajma/Chana	120 grams
3	Edible Oil	25 Gms
4	Onion	25 Gms
5	Salt	25 Gms
6	Turmeric	05 Gms
7	Spices	15 Gms
8	Ginger	05 Gms
9	Garlic	05 Gms
10	Milk (at breakfast)	150 ml
11	Vegetables Leafy	100 Gms
	Non-Leafy	130 Gms
12	Curd or Milk	100 Gms/MI
13	Chicken once a week or Eggs 4 days	115 Gms
14	Jaggery & Ground Nut Seeds or Panner (Vegetarian only)	60 Gms each (100 Gms for paneer) once in a week
15	Sugar	40 Gms
<b>Following items for 50 Children per day</b>		
16	Spices and Condiments	200 Gms
<b>On Chicken Day for 10 Kg. of Chicken</b>		
17	Spices	310 Gms
18	Oil	500 Gms
<b>For Sick Children</b>		
19	Bread	500 Gms
20	Milk	500 MI
<b>Other Items</b>		
29	LP Gas for Cooking only	

**Instructions:****(2) Variation in Diet**

- (a) There varieties of dal i.e. Toor (Tuvani), Moong (Green Gram) and Chana (Bengal Gram) may be issued alternatively.
- (b) The Superintendent may also arrange to substitute chicken with fish at his



discretion, provided that there is no extra expenditure to Government.

- (c) On non-vegetarian days, vegetarian children shall be issued with either 60 Gms of Jaggery and 60 Gms of Groundnut seeds per head in the shape of laddus or any other sweet dish or 100 gms paneer.
- (d) Potatoes shall be issued in lieu of vegetables once in a week.
- (e) Leafy vegetables such as Fenugreek (Methi), Spinach (Palak), Sarson (Mustard leaves), Gongura Thotakura or any other saag etc., may also be issued once in a week. If a kitchen garden is attached to any institution leafy vegetables, in addition to drumstick trees, curry leaves trees and coriander leaves, should be grown and issued and the Superintendent should try to issue variety of vegetables and see that the same vegetable is not repeated for at least a period of one week.

### (3) Meal Timing and Menu:

- a) Morning Tea at 6:00 A.M
- b) Morning Meal at 8:00 A.M
- c) Tea and Snacks at 1:00 P.M
- d) Dinner After 5:00 P.M

### (4) Others:

- (a) Depending on the season, the Superintendent shall have the discretion to alter the time for distribution of food.

- (b) On the advice of the Institution Doctor, every sick child who is prevented from taking regular food, on account of his ill-health, may be issued with medical diet, as indicated in diet scale.

- (c) Extra diet for nourishment like milk, eggs, sugar and fruits shall be issued to the children on the advice of the institution Doctor in addition to the regular diet, to pick up weight or for other health reasons and for the purpose of calculation of the daily ration, the sick children shall be excluded from the day's strength.

- (d) On the following national and festival occasions, sweet dishes may be distributed to all the children at the Home at the rate fixed by the Government, from time to time.

1. Republic Day (26<sup>th</sup> January)
2. Ambedkar's Birthday (14<sup>th</sup> April)
3. Independence Day (15<sup>th</sup> August)
4. Mahatma Gandhi's Birth Day (2<sup>nd</sup> October)
5. Children's Day (14<sup>th</sup> November)
6. Child Rights Day (20<sup>th</sup> November)
7. Christmas (25<sup>th</sup> December)
- 8. Chapchar Kut (12<sup>th</sup> March)**
- 9. New Year's Day (1<sup>st</sup> January)**
- 10. State Day (20<sup>th</sup> February)**

Provided that the above may also comply in the same manner on the State holiday's notified by the Government apart from the afore listed holidays and festivals.

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- **providing legal, political and practical advice according to the needs of human rights defenders and civil society groups; and**
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