



CHILD PROTECTION BULLETIN

STATE CHILD
PROTECTION
SOCIETY, ASSAM

MONTHLY BULLETIN OF ACTIVITIES CONCERNING CHILD PROTECTION IN ASSAM

EDITORIAL

Every child deserves to flourish in an environment safe from all abuse. Child protection is said to be everybody's business, therefore, it entails a system where families, communities, NGOs and government work together and in a coordinated manner to anticipate, prevent and respond to child protection violations. The system must act guided by policy and law and supported by infrastructure, services and skilled human resources to best serve the interests of children.

We are aware that communities, governments and ordinary people have different perspectives on the safety of children. Our goals and strategies should be focused on shaping and developing preventive measures and systems, and on creating a culture of shared responsibility for protecting children.

The recent Juvenile Justice (Care and Protection of Children) Act, 2015 in fact looks for a consorted approach in dealing with children. The Act is the hinge on which the entire child protection system rests. Therefore, the knowledge of the proper procedure in dealing with children is a must for every child protection activist.

*Editorial Board,
State Child Protection Society, Assam*

Procedure in dealing with CCL

The Juvenile Justice (Care and Protection of Children) Act 2015 has introduced a new era for juvenile justice in India by provision of transfer of 16-18 years old children alleged to have committed a heinous offence. The Juvenile Justice Board have been given the onerous responsibilities of determining age, determining whether the offence is heinous, conduct a preliminary assessment, and then take a decision whether to transfer or not to transfer the child to the Children's Court. The Children's Court then is required to reassess if the child so transferred, should be tried as a child or as an adult.

The process with regard to Children in Conflict with Law, as laid down under the Juvenile Justice (Care and Protection of Children) Act 2015 are as follows-

The juvenile justice board continues to have the responsibility of adjudicating matters relating to CCL, Section 6 clearly laid down that if a person who has crossed the age of 18 years is apprehended for an offence committed prior to the age of 18 years, is to be treated as a child and their cases are to be disposed under the provisions of this Act. When a CCL is produced before the JJB, if it is obvious from the appearance of the child that it is so, it may note the age and proceed with inquiry. In other cases, the age is to be determined by adducing evidence. In order of preference, age is to be determined by reference to "(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof, (ii) the birth certificate given by a corporation or a municipal authority or a panchayat; (iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board".

For the purposes of disposal of cases of CCL, the JJA 2015 has categorized the offences in three categories, namely, petty offences, serious offences, and heinous offences. The JJB has to dispose of all cases of children below the age of 16 years committing any offence, and cases of children

between the ages of 16-18 years if they have committed a petty or serious offence. In these instances the JJB is free to choose any of the following orders for any offence on the basis of the social investigation report and suitability of the order in the best interest of the child:

- allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;
- direct the child to participate in group counselling and similar activities;
- order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;
- order the child or parents or the guardian of the child to pay fine:

Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;

- direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child's well-being for any period not exceeding three years;
- direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child's well-being for any period not exceeding three years;
- direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home:

Provided that if the conduct and behaviour of the child has been such that, it would not be in the child's

interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.

In addition to the above orders the JJB may also direct the child to:

- attend school;
- attend a vocational training centre; or
- attend a therapeutic centre; or
- prohibit the child from visiting, frequenting or appearing at a specified place; or
- undergo a de-addiction programme.

In case of a 16-18 year old child alleged to have committed a heinous offence, the JJB has to "conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence" taking the help of

experienced psychologists or psycho-social workers or other experts. After this assessment, the JJB may choose to dispose of the case itself or may decide to transfer the case to the Children's Court.

On receipt of preliminary assessment from the JJB, the Children's Court has the discretion to decide whether to try the child as an adult or to deal with her/him as child and pass appropriate orders accordingly. Progress of children sent for stay for terms beyond the age of 21 years need to be reviewed annually. On their attaining the age of 21 years, another assessment is to be done to see if the child has reformed and is ready to be released in society, the Children's Court may direct their release under the supervision of the monitoring committee for the remainder of the period of stay initially ordered.

Any aggrieved person may file an appeal against any orders by the JJB or the Children's court.

HEINOS OFFENCES PUNISHABLE WITH MINIMUM SEVEN YEARS OF IMPRISONMENT UNDER S. 2(33) JJA 2015

Sl. No.	Law	Description	Punishment
A. The Indian Penal Code 1860			
1.	s. 121	Waging or attempting or abetting to wage war against Government of India	Death or Imprisonment for Life
2.	s.195 IPC	195. Giving or fabricating false evidence with intent to procure conviction of offense with imprisonment for life or imprisonment.	Punishment same as the person convicted for that offense would be liable to be punished - min 7 years
3.	s. 195A	Threatening any person to give false evidence - If any innocent person is convicted and sentenced in consequence of such false evidence with death or imprisonment for more than seven years	Punishment same as the sentence received by innocent person
4.	s. 302	Punishment for Murder	Death or Imprisonment for Life
5.	s. 304B	Dowry Death	Minimum 7 years and can extend to life
6.	s. 311	Punishment for thugs	Imprisonment for Life
7.	s. 326A	Acid Attack causing permanent or partial damage/deformity	Min 10 years and upto life
8.	S.364A	Kidnapping for Ransom	Death or life imprisonment
9.	s. 370(2)	Trafficking	Min 7 years and upto 10 years
10.	s. 370(3)	Trafficking of more than one person	Min 10 years upto life
11.	s. 370(4)	Trafficking of minor	Min 10 years upto life
12.	s. 370(5)	Trafficking of more than one minor	Min 14 years upto life
13.	s. 370(6)	Trafficking of minor on more than one occasion	Imprisonment for life - remainder of that persons' natural life
14.	s. 370(7)	Trafficking by public servant or police officer	Imprisonment for life - remainder of that persons' natural life
15.	s. 376(1)	Punishment for Rape	Min 7 years upto life
16.	s.376(2)	Custodial Rape, rape on minor or pregnant women, etc.	Min 10 years and upto life
17.	s.376A	Rape resulting in death or permanent vegetative state of women	Min 20 years or remainder of persons' natural life or death
18.	s. 376D	Gang Rape	Min 20 years or remainder of persons' natural life
19.	s. 376E	Repeat of s.376, 376A or 376D	Imprisonment for remainder of persons' natural life or death Neither of these can be given to child as per S.20 JJA 2015
20.	s. 392 /394 r/w S. 397	Robbery, or dacoity, with attempt to cause death or grievous hurt	Min 7 years,
21.	s. 393 / 395 r/w S. 398	Attempt to commit robbery or dacoity when armed with deadly weapon	Min 7 years

Sl. No.	Law	Description	Punishment
B. The Commission of Sati (Prevention) Act, 1987			
22.	s.4(1)	Abetment of Sati when sati committed	Imprisonment for Life or death
23.	s.4(2)	Abetment of sati - when sati attempted	Imprisonment for Life
C. The Narcotic Drugs and Psychotropic Substances Act, 1985			
24.	s.15(c)	Punishment for contravention in relation to poppy straw involving commercial quantity	Min 10 years and upto 20 years
25.	s.17(c)	Punishment for contravention in relation to prepared opium involving commercial quantity	Min 10 years and upto 20 years
26.	s.18(b)	Punishment for contravention in relation to opium poppy and opium involving commercial quantity	Min 10 years and upto 20 years
27.	s.19	Punishment for embezzlement of opium by cultivator	Min 10 years and upto 20 years
28.	s.20C	Punishment for contravention in relation to cannabis plant and cannabis involving commercial quantity	Min 10 years and upto 20 years
29.	s.21(c)	Punishment for contravention in relation to manufactured drugs and preparations involving commercial quantity	Min 10 years and upto 20 years
30.	s.22(c)	Punishment for contravention in relation to psychotropic substances involving commercial quantity	Min 10 years and upto 20 years
31.	s.23(c)	Punishment for illegal import into India, export from India or transhipment of narcotic drugs and psychotropic substances involving commercial quantity	Min 10 years and upto 20 years
32.	s.24	Punishment for external dealings in narcotic drugs and psychotropic substances	Min 10 years and upto 20 years
33.	s.25	Punishment for allowing premises, etc., to be used for commission of an offence.	As much as the punishment for that offense
34.	s.27A	Punishment for financing illicit traffic and harbouring offenders.	As much as the punishment for that offense
35.	s.29	Punishment for abetment and criminal conspiracy	As much as the punishment for that offense
36.	s.31A	Repetition by persons convicted of commission, attempt, abetment, conspiracy of offenses under s.19, 24, 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance who are subsequently convicted of the commission, attempt, abetment, criminal conspiracy of an offence in relation to	Death

Prepared by the Centre for Child and the Law, National Law School of India University, Bangalore. For more information contact ccl@nls.ac.in

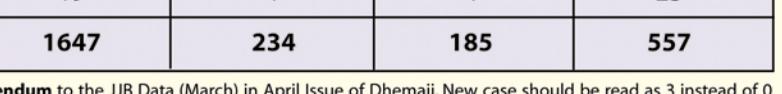


Juvenile Justice Monitoring Committee of Hon'ble Gauhati High Court in association with State Child Protection Society, Assam with support from UNICEF, Assam Field Office Organised a Two day State Level Conclave on Juvenile Justice (Care and Protection of Children) Act, 2015 on 7th and 8th May, 2016 at Assam Administrative Staff College, Khanapara, Guwahati – 22.

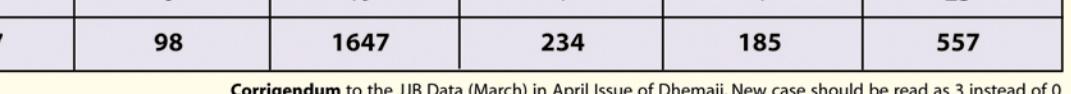
The main objective of the conclave was to: i) Disseminate the final report of the Study on the Pendency of Cases, ii) To take a stock of the progress made by Assam, Arunachal Pradesh, Mizoram and Nagaland in implementation of JJ Act and ICPS in their respective states. iii) To deliberate upon the critical changes made in the new Juvenile Justice (Care and Protection of Children) Act, 2015 and to finalize the way forward.

The conclave was attended by more than 200 participants from the following cohorts:

- Hon'ble Judges including Chief Justice of Gauhati High Court
- Officials from Social Welfare Department from four states
- Judicial Officers including Principal Magistrates and District and Session Judges from four states
- Member Secretaries of State Legal Services Authorities from four states
- Police Officials from all the districts of Assam
- Members of Juvenile Justice Boards from Assam and
- Legal cum Probation Officers from 27 DCPPUs of Assam



Mr. Ashok Sharma, Programme Manager, Child Protection of State Child Protection Society is seen presenting a cheque of Rs. 50,000.00 to the parents of the child who has been living with AIDS due to the negligence of GMCH



For any feedback, write to:
Chairperson, Editorial Board,
State Child Protection Society, Assam

46, Survey Bus Stop, Beltoha, Guwahati-781028, Phone: 0361-2229275, Email: scpsassam@gmail.com, Website: assam-scps.com/termsofuse.php

Source: MIS Cell, SCPS, Assam

Corrigendum to the JJB Data (March) in April Issue of Dhemaji, New case should be read as 3 instead of 0 and Pending Case 42 instead of 39. In the total New Cases should be 87 and Pending cases should be 1635.

Prepared by the Centre for Child and the Law, National Law School of India University, Bangalore. For more information contact ccl@nls.ac.in

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