5.1. Introduction:

The genesis of the present uniform juvenile justice system in India can be attributed to the longstanding and sustained concerns, efforts and drives put forth by the civil society, various acts & enactments, policies and programmes of the Government that came into existence over a period of time under the influence of the international bodies. The initial juvenile justice system of India was informal in nature and was primarily concerned about the child in need of care and protection. However, with the evolving pattern and structure in the society with gradual breaking up of the conventional joint family, the initial juvenile justice system was no longer sufficient to ensure the care and protection of the children. Moreover, in the 19th century the British government promulgated various legislations with protective provisions for the children like The Apprentices Act 1850, The Indian Penal Code 1860 etc. The Indian Jail Committee's report of 1919-20 also played a key role in overhauling of the entire prison system, which was in vogue at that period. As a sprinkling effect, the initial juvenile justice system got a jolt with each province enacting their own children's acts in the pre-independence era itself.

Structural reforms in the children related legislation in the state of West Bengal started gaining ground in 1908 when England enacted its own Children Act. This legislation of England along with the Indian Jail Committee’s report of 1919-20 catapulted the Govt. to accord legislative acknowledgement to the increasing concerns and concepts about the child welfare. As a cascading effect, specific legislation to protect the children from the violation of their rights came into foray in the early 20th century. Different states of British India enacted Children's Acts such as the Madras Children Act (1920), the Bengal Children Act (1922) and the Bombay Children Act (1924). Since the inception of the Bengal Children Act, 1922 the juvenile justice system of Bengal has always remained as an offshoot of the criminal justice system. The institutional approach of Bengal towards the right of children has always been marked by the conflict between the protective and proactive approach of juvenile justice and the traditional and reactive approach of dealing with the crimes.

In compliance of the recommendations of the Jail Committee in 1919-20 and to usher in complete reforms in young offenders, the provincial Government of Bengal was enacted the Bengal Borstal Schools Act, 1928. It was, perhaps, intended by the State Government to cover the lower age group of children under the provisions of Borstal act in
the absence of specific provisions in the Children Act, 1922. The scope of sending a young offender as defined under the Borstal Act, by a court was on the basis of the cardinal principles of the Act. The guiding focus was to recognize the individual identity of the offender, to help him to get rid of the criminal tendency or antisocial behavior and to restrain him from committing further wrongs.

However, in the early years of independent India, the Indian judiciary witnessed severe problems in the process of execution of law pertaining to children. Most of the problems were due to crippling scarcity of child-care infrastructure, lack of a separate judicial process for children and also due to multiple laws governing children that differed across the states coupled with differing religious beliefs and practices. As a result, the Act of 1922 could not position itself as a progressive legislation. Its emphasis was not towards solving the problems of the children completely. The severity of the problem got compounded by the lackadaisical attitude of the union legislature even after a decade of independence, apathy of the law enforcement agencies carrying the baggage of the British colonial legacies, conspicuous absence of any specialized legal framework to deal with the issues of the children among others. Subsequently, the condition was ameliorated by reforming and replacing the Act of 1922 by a modified new legislation and the introduction of the existing institutional set ups as suggested in the modified law.

The Bengal Children Act, 1922 was ultimately repealed and replaced by the West Bengal Children Act, 1959. The new Act attempted to strike a balance between the conflicting interests connected with the past experience of implementation of enforcement of the Act of 1922. The Act also repealed the provisions of the Reformatory Schools Act, 1897 (VIII of 1987), the Bengal Borstal Schools Act, 1928 (Bengal Act 1 of 1928) and the Bengal Vagrancy Act, 1943 (Bengal Act VII of 1943) so far it applies to the neglected children.

Incidentally, the first union legislation on Juvenile Justice was passed by the Parliament of India on 1\textsuperscript{st} December, 1986 thereby providing a uniform legal mechanism on juvenile justice for the entire country except the state of Jammu and Kashmir. It has done away with the different state Children Acts and consequently has removed the anomalies and confusion arising out of the conflicting provisions which in many cases created more problems than ensuring welfare of the juveniles. The Juvenile Justice, 1986 repealed and replaced the West Bengal Children Act, 1959. However, the major irritant in the
enforcement of JJ Act, 1986 remained in the two different age determination system for determining a person as a child: for male it is below 16 years and for female it is below the age of 18 years.

The state of West Bengal has a progressive track record of legislative development and positive Governmental actions in tandem with the national network relating to child right and child protection. Time to time it has implemented the recommendations of the Central Government and has developed and strengthened the system for consolidation. In this context it may be mentioned that the legislative ideas of the state of West Bengal are more advanced and progressive than the union legislation. Before the enactment of the Children Act in 1960 by the Central Government, the state of West Bengal had enacted its own state law in 1959. Though the union legislation JJ Act, 1986 replaced the West Bengal Children Act, 1959 but the union legislature relied upon heavily on the same principles and concepts of the state Act of 1959 in the year 2000 (JJ Act, 2000). Both the state Act of 1959 and the central Act of 2000 hold a person as juvenile until he / she attains the age of eighteenth years irrespective of gender. Moreover, both the Acts are basking in the common ideas on the need for deviating from the primitive criminal trial and sentencing system for the juveniles.

In West Bengal, Child Protection has received due importance and presently it comprises a set of services (DWCDSW Govt. of West Bengal).\(^1\) As per the 2001 Census, West Bengal has 26.68 million children aged 0 to 14 years, signifying 33.28 per cent of the total population. As per the provisional census figures of 2011, the 0-6 years child population in West Bengal is 10,122,599. The programmes, undertaken by the Department of Women and Child Development and Social Welfare, aim to achieve holistic development of children by addressing problems related to (DWCDSW Govt. of West Bengal)\(^2\):

- infant mortality
- health and nutrition issues
- early childhood education
- protection of rights
- prevention of child abuse and exploitation
- child marriage, and

\(^{1}\) Annual Report, 2010-11, Department of Women and Child Development and Social Welfare Government of West Bengal, Writers’ Buildings, Kolkata - 700 001, Page- 18

\(^{2}\) Ibid page - 10
• provision of care and protection to children in need

‘The Department of Women and Child Development and Social Welfare is the Nodal Department entrusted with administration of programmes and statutes relating to Child Development and Child Protection (DWCDSW Govt. of West Bengal).\(^3\) Towards these aims, the Department in West Bengal has implemented Centrally-sponsored programmes for the health and development of children (DWCDSW Govt. of West Bengal).\(^4\) At present alike all other states of India a common Juvenile Justice system is running in the state under due compliance of the mandate of Juvenile Justice Act, 2000.

‘The Department of Women and Child Development and Social Welfare is the Nodal Department entrusted with administration of programmes and statutes relating to Child Development and Child Protection (DWCDSW Govt. of West Bengal).\(^5\) Towards these aims, the Department in West Bengal has implemented Centrally-sponsored programmes for the health and development of children (DWCDSW Govt. of West Bengal).\(^6\) At present alike all other states of India a common Juvenile Justice system is running in the state under due compliance of the mandate of Juvenile Justice Act, 2000.

The chapter is designed to reflect an empirical survey in various rights based field level intervention programmes in West Bengal to deal with the problems of poor enforcement of the law relating to the right of child and to address the legal & structural anomalies and deficiencies of the State Government machineries in the implementation of the JJ Act, 2000. The focus has been paid to highlight the roots of the problems in practice and to suggest a rational strategic legal frame work in view of ‘need for better collaboration among the various agencies' under intervention of the State Government for the welfare based social order to the juveniles.

5.2. Sampling Approach

The sampling design used for the study of this chapter was random sampling in nature. Nineteen case samples have been taken from different cross section to project a fare and balance view of the state – of – affairs of the Juvenile Justice system in West Bengal in reliability. No attempt was made to preferentially select cases from any particular

\(^3\) Ibid 1 page - 7
\(^4\) Ibid 2
\(^5\) Ibid 3
\(^6\) Ibid 2
category of sections. The data was collected from the legal professionals, who have personal
professional knowledge about the proceedings so as to ensure that the information founded
is close to their practical experience. The main field areas for collection of the case samples
were the police stations, Burdwan court and JJ Board Burdwan.

The study involved a method wherein the children were not talked to directly on a
topic which raised fear and a sense of social or psychological uneasiness. In order to avoid
the chances & consequences of the child being identified as a whistle blower, the name,
address, case number and other details of the children were not accessed. Only the facts of
the cases have been taken for the study. The findings of the study have been presented in
this chapter along with statistical data supplied by the West Bengal State Crime Record
Bureau and available in the website of NCRB.
The Bengal Children Act, 1922 followed the method and manner of the Children Act 1908 of the England. The Act was passed to provide for the (Jyotsna Shah):

a) Custody, trial, maintenance, welfare, education and punishment of young offender (Jyotsna Shah), and

b) For the protection of the children and young person, who are destitute, or in moral danger or in need in care and protection (Jyotsna Shah).

It made provisions for juvenile courts, probation services, institutional treatment and places of detention of children to which children were remanded. This Act not only provided remedial measures but also preventive measures and concerned not only the children who are delinquents but also with the children who are in need of care and protection. In Bengal, as far back in 1914 a juvenile court was established along with the house of detention. Thus juvenile court of Bengal was established eight year before the enactment of children Act. It transpires the idea of separate treatment of juvenile delinquents (Jyotsna Shah).

5.3.1. Protection of youth:

According to Section – 3(1) of the Act, a child means, ‘a person under the age of fourteen years, and used in reference to a child sent to industrial school it applies to that child during the whole period of detention, notwithstanding that the child attains the age of fourteen years before the expiration of the period’. Sub – 6 of Section – 3 provides that, a ‘young person’ means a person who is fourteen years of age or upwards and under the age of sixteen years. A “youthful offender” is a person who has been convicted of an offence with transportation or imprisonment, and who at the time of such conviction was under the age of sixteen years. A conjoint reading of all this three sub section of Section – 3 establishes integrated policy of the legislature to reform the juvenile offender within the period of his youth under the constant nourishment of the institutional frame work.

5.3.2. Gender disparity in bail matter:

8 Ibid 7
9 Ibid 7
10 Ibid 7
Another unique feature of the Act is the provision of granting of bail, prescribed under Section – 17. Though the Act, prescribed common mode of determination of youth or juvenility of a person irrespective of gender by fixing common age 14 or 16 years as the case may be, but the section provided the mandatory right to bail in favour of the female under the age of eighteen years, irrespective of the gravity of the offence. But when the person is a male the right to bail is subject to satisfaction of the authority and when the offence is one of culpable homicide or any offence punishable with death or transportation, the right to bail is extinguished. Only one common welfare feature of the bail provision is that consideration of bail basis of age is based on apparent satisfaction of the authority.

Same kind of gender biasness shows Section – 30. The section provides that a court on a complaint preferred by any person may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of the girl in their custody, under the age of sixteen years.

5.3.3. Fixation of concurrent and joint liability of the Government and parent:

The parent has to contribute and liable to pay maintenance during the course of reformation in reformatory school or industrial school under the Act. (Section - 31)

5.3.4. Punishment for offence against children:

If any person having been in charge, care or custody of any child or youth cause cruelty (Section – 40) to said child or young person or encouraging or abating seduction or prostitution of young girl (Section – 41) or takes pawn from a child he shall be liable to punishment.

The Bengal Children Act, 1922 was modified up to the 1st May, 1933 and was in force till the enactment of the Bengal Children Act of 1959. The Act of 1922 was repealed and replaced by the act of 1959. The seeds of idea of child welfare in the mind of legislators through the legislative process in Bengal were burgeoned during British regime and the same principle idea is being carried forward in modern legislation of 2000 also.

5.4. The Bengal Borstal Schools Act, 1928

[Bengal Act I of 1928] [16th February, 1928]

The aim of the Borstal system was to check the antisocial tendency of a child, proved to have committed an offence, through individualized treatment and training. The Bengal
Borstal Schools Act, 1928 has provided a method of correctional training for adolescent convicted of indictable offences for which they might be sentenced to imprisonment. A Borstal sentence should be in keeping with the training and reformation of the young offender having regard to his antecedents and the circumstances under which the offence had been committed. The Act defines ‘Borstal school’ as a corrective institution wherein adolescent offenders, whilst detained in pursuance to the provisions of the Act are given such types industrial trainings and other institutions as are subjected to such disciplinary and moral influences as will conduce to their reformation and the recurrence of crime activities.

The Borstal Schools Act defines an adolescent offender is a person, who has been convicted of any offence punishable with imprisonment and / or who have been ordered to furnish security under the provisions of the Code of Criminal Procedure, and has failed to do so and who at the time of such conviction or failure to furnish security is not bellow the age of 16 years nor more than 21 years of age.

When an adolescent offender is found guilty of commission of any offence and warrants conviction and it appears before the court that he should, by reason of criminal habits or tendencies, or association with persons of bad character, be subjected to detention for such term under such instruction and discipline as appears most conducive to his reformation, the court shall in lieu of passing a sentence of imprisonment, make an order for the detention of the adolescent offender in a Borstal school for a term which shall not be less than two years and shall not exceed three years (Govt. of Bengal).\(^{11}\)

Perhaps, it was, intended by the state Government to cover the lower age group of children under the provision of Borstal School Act in consonance with the Children Act. The institutional programmes were guided by the rules framed by the state government. The Act ceased to remain in force after the enforcement of the West Bengal Children Act 1959. In the line of the definition of the West Bengal Children Act, a child is a person who had not attained the age of eighteen years and a provision was made under that Act itself for inclusion of Borstal institutions to accommodate children of senior groups 14 – 18 years. As a result, adolescent offenders of the age group 18 – 21 had no room other than prisons for the detention in the state. However, the anomaly has been set right when the JJ act 2000 has come into force.

\(^{11}\) Section – 5 sub- Section – 1 of the Bengal Borstal Schools Act, 1928
5.5. The Bengal Children Act, 1959

(West Bengal Act XXX of 1959) (03-Jan-1961)

The Juvenile Court was established for offenders who are 18 years old and younger in order to separate them from adult offenders so that they do not harden into full-fledged criminals. Since juvenile offenders are products of social maladjustment, society is partly at fault for their behavior problems. The court recognizes that children who are not cared for by their parents or guardians and who are left at the mercy of social influences can hardly be expected to remain honest and respectable. Therefore it is involved in the social, educative, and therapeutic functions of readapting young people to the community. Juvenile court Magistrates function within the framework of the West Bengal Children Act (M. Adhikary). 12

5.5.1. Objectives of the Bengal Children Act of 1959:

1) The object of the Act is to reform the children enabling him the chance to rectify him.
2) Prevent the young persons from being associated with hardened Criminals of mature age, by adopting a non institutionalized method.
3) The process to be adopted in consonance with the welfare needs in the line of complete departure from the prevailing system of penology.
4) To afford an opportunity depending on the circumstances of the case, the nature of the offence and the character and antecedents of the offender to reform himself.
5) The object of the Act, as of all methods of treatment is the ultimate reestablishment of the child wrong doer in the community.

5.5.2. Basic features of the Act:

1) Only Juvenile Courts may handle cases involving juveniles (M. Adhikary); 13
2) He State Children’s Board is responsible for the administration of the Act and the management of schools certified under the act (M. Adhikary); 14

13 Ibid 12
14 Ibid 12
3) After-care organizations deal with the welfare, training, and social and economic rehabilitation of children released from special schools and reformatories (M. Adhikary);\textsuperscript{15}

4) Juvenile delinquents may not be sentenced to death, or imprisoned in default of the payment of fines or securities (M. Adhikary);\textsuperscript{16}

5) Serious or deprived offenders may be sent to adult correctional facilities (M. Adhikary);\textsuperscript{17} and

6) Parents or guardians who abuse or sexually exploit children may be required to enter a recognizance bond to exercise due care and supervision (M. Adhikary).\textsuperscript{18}

5.5.3. Principle developments within the ambit of Act, 1959 comparing with the Act of 1922

1) Abolition of the general idea of punishment:
   The general system of punishment to a child has been done away by the Act of 1959. The new legislation brought a common system of adjudication only to reform the children (Govt. of West Bengal).\textsuperscript{19}

2) Extension of the age of childhood:
   The age of childhood has been relaxed and extended by the Act of 1959 by fixing it by the age of a person who has not attained eighteen years (Govt. of West Bengal).\textsuperscript{20}

3) Bringing child and young person under the common age group:
   All the young persons under the age of 18 years are belonged to common age group i.e. the child. Separate system of treatment on basis of age; under the age of sixteen or under eighteen as the case may be has been done away (Govt. of West Bengal).\textsuperscript{21}

4) Bringing common right to bail irrespective of gender:
   All the children irrespective of their gender are entitled to bail within the formula prescribed under Section – 22 of the Act, 1959. The special protection for the girl child and denial of right to the male child has been repealed and replaced by the

\textsuperscript{15} Ibid 12
\textsuperscript{16} Ibid 12
\textsuperscript{17} Ibid 12
\textsuperscript{18} Ibid 12
\textsuperscript{19} Preamble of West Bengal Act XXX of 1959
\textsuperscript{20} Ibid 19 Section – 2(d)
\textsuperscript{21} Ibid 19 Section – 2
idea of common code of consideration. Though consideration of bail remained under discretion of the Court, but the release on bail shall be subject to ultimate benefit of the children in custody. The child shall not be released if it appears that the release is likely to bring the child under the influence of any criminal or expose him to moral danger or defeat the ends of justice (Govt. of West Bengal).\(^{22}\)

5) Determination of age after due enquiry:

The Act of 1922 was based on apparent satisfaction of the authority to enlarge the child under custody on bail. The Act of 1959 is based determination on due enquiry regarding the age of the child before releasing him on bail (Govt. of West Bengal).\(^{23}\)

The ready provision of the right to bail has been done away.

5.6. Child protection programmes under Central Government’s directives

5.6.1. Integrated Child Development Scheme (ICDS) in West Bengal:

ICDS was launched on October 2, 1975 with only 33 experimental projects in the country and with 1 urban and 1 rural project in West Bengal. At present, 414 projects (293 – rural, 74 – urban, 47- tribal projects) are operational (Govt. of West Bengal).\(^{24}\)

In the Child Development sector, the largest programme administered by the Department is the Centrally Sponsored flagship programme of Integrated Child Development Scheme aiming at all round development of children up to 6 years of age and the nutritional needs of expectant women and lactating mothers. After the universalisation of ICDS, the entire surveyed populations of these categories in the catchment areas have become the target groups for ICDS. The State had a total sanction for 416 ICDS Projects in the pre Third Phase period, out of which 414 are operational. Two Projects are pending operationalisation due to Court cases. The additional 160 ICDS Projects which were sanctioned to the State in the Third Phase of ICDS expansion, in December 2009, could not be operationalised due to non-availability of sufficient manpower even in the existing ICDS Projects, due to reasons like protracted Court Cases, etc. Out of the total sanction of 116390 anganwadi centre’s, up to March 2011, 1,11,556 number of centre’s were operationalised.

\(^{22}\) Ibid 19 Section – 22(1)
\(^{23}\) Ibid 19 Section – 40
\(^{24}\) Extracted from wb.gov.in/BanglarMukh/Download?FilePath=/alfresco/ lastly visited on 05.08.2012
offering ICDS services to around 68,55,487 children up to 6 years age and 12,70,712 number of pregnant and lactating women (DWCDSW Govt. of West Bengal).\textsuperscript{25}

5.6.2. Integrated Child Protection Scheme (ICPS):

The new Centrally Sponsored Integrated Child Protection Scheme was also implemented in the State since signing of a MOU with Government of India in December 2009. Among significant components supported under the Scheme, were statutory structures like Child Welfare Committees and Juvenile Justice Boards which were functional in each of the 19 districts in the State, including Kolkata. The State Child Protection Society and the District Child Protection Societies registered in the far end of 2009-10, were functional to a large extent, despite not being fully equipped with contractual staff as per schematic pattern. The recruitment process under ICPS was started but could not be completed during the financial year due to announcement of Assembly elections in the State. A State Adoption Resource Agency (SARA) as also a State Adoption Advisory Committee was notified during the year. SARA started functioning with skeletal contractual personnel from the last quarter of the fiscal (DWCDSW Govt. of West Bengal).\textsuperscript{26}

5.6.3. Pre-School Education:

Non-formal pre-school education is aimed at (DWCDSW Govt. of West Bengal)\textsuperscript{27} the total development of the child in the age group of 3 to 6 years. This education is imparted using the play way method with the following objectives (DWCDSW Govt. of West Bengal).\textsuperscript{28}

\begin{itemize}
  \item to develop a good physique, imaginative creativity, curiosity, attitude of social responsibility and relationship with others
  \item to inculcate human values
  \item to grow emotionally and intellectually
  \item to gain the ability to express and develop clear concepts of things and events
  \item to work and play independently
  \item to acquire good habits of health and personal hygiene
  \item to minimize school dropouts
\end{itemize}

\textsuperscript{25} Ibid 3
\textsuperscript{26} Ibid 3
\textsuperscript{27} Ibid 1 page - 14
\textsuperscript{28} Ibid 1 page - 15
As on 31-03-2011, 34, 70,782 number of children were attending preschool education at the Anganwadi level where 17, 57,664 are boys and 17, 13,118 are girls (DWCDSW Govt. of West Bengal). \(^{29}\)

In West Bengal, Child Protection has received due importance and presently it comprises a set of services as follows (DWCDSW Govt. of West Bengal), \(^{30}\)

a) Programmes related to implementation of the JJ Act (DWCDSW Govt. of West Bengal)\(^ {31}\)

b) Programme related to residential care and Child Protection protection of destitute child (Cottage Scheme) (DWCDSW Govt. of West Bengal)\(^ {32}\)

c) Integrated Program for Street Children (DWCDSW Govt. of West Bengal)\(^ {33}\)

d) Programmes on Adoption (DWCDSW Govt. of West Bengal)\(^ {34}\)

e) Programmes related to Prevention of Trafficking (DWCDSW Govt. of West Bengal)\(^ {35}\)

f) Programmes related to Prohibition of Child Marriage (DWCDSW Govt. of West Bengal)\(^ {36}\)

5.7. Child protection programmes in compliance of JJ Act, 2000

Programmes related to implementation of Juvenile Justice (Care and Protection of Children) Act

The Department of Women and Child Development and Social Welfare implements the Act through a Scheme called A Programme for Juvenile Justice. The objectives of the Programme are (DWCDSW Govt. of West Bengal): \(^ {37}\)

- To support the cost of infrastructure and services developed under the Juvenile Justice Act in order to ensure that a child in conflict with law is not lodged in a regular prison under any circumstances (DWCDSW Govt. of West Bengal)\(^ {38}\)

- To ensure minimum quality of standards in the juvenile justice services (DWCDSW Govt. of West Bengal)\(^ {39}\)

\(^ {29}\) Ibid 28
\(^ {30}\) Ibid 1 page - 18
\(^ {31}\) Ibid 30
\(^ {32}\) Ibid 30
\(^ {33}\) Ibid 1 page - 19
\(^ {34}\) Ibid 33
\(^ {35}\) Ibid 33
\(^ {36}\) Ibid 33
\(^ {37}\) Ibid 33
\(^ {38}\) Ibid 33
\(^ {39}\) Ibid 33
• To provide adequate services for prevention of social maladjustment and rehabilitation of socially maladjusted juveniles (DWCDSW Govt. of West Bengal)\textsuperscript{40}

• Ensure participation of community and other organizations in the care and protection of children in conflict with law who are perhaps more vulnerable than other groups of children. Under the scheme, the Central Government provides 50 per cent assistance to State Governments and Union Territory Administrations for establishment and maintenance of various levels of institutions for juveniles in conflict with law and children in need of care and protection (DWCDSW Govt. of West Bengal)\textsuperscript{41}

• The Government has set up a number of institutions for juveniles in conflict with the law and children in need of care and protection (DWCDSW Govt. of West Bengal)\textsuperscript{42}

• Types of Institutions Observation Home (as per section 8): For the juvenile in conflict with law during the pendency of any enquiry regarding them (DWCDSW Govt. of West Bengal)\textsuperscript{43}

Special Home (as per section 9): For the reception and rehabilitation of juveniles in conflict with law.

Children’s Home (as per section 34): For the reception of children in need of care and protection during the pendency of any enquiry and subsequently for their care, treatment, education, training, development and rehabilitation (DWCDSW Govt. of West Bengal)\textsuperscript{44}

Shelter Home (As per section 37): As drop-in centres for children, brought in by the Child Welfare Committees etc, who need urgent support (DWCDSW Govt. of West Bengal)\textsuperscript{45}

After Care Home (as per section 44): For the purpose of taking care of juveniles or children after they leave Special Homes and Children’s Homes, to enable them to lead an honest, industrious and useful life (DWCDSW Govt. of West Bengal)\textsuperscript{46}
5.7.1. Institutional Care

The Government of West Bengal has registered 18 Government managed Homes and 28 NGO managed Homes under Juvenile Justice (Care and Protection of Children) Amendment Act, 2006. Each of them has also been notified under one or more sections of aforesaid Act so that they may act as Observation Home, Special Home Children Home Shelter Home, etc. The Government has also upgraded the per capita expenditure of Home inmates from `1000 to `1100 per month with effect from December 2010. From this amount, the Central Government bears `250 per month per child because the new ICPS sharing norms could not be implemented (DWCDSW Govt. of West Bengal).\(^67\)

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\(^67\) Ibid 33
5.8. The State Government-run Homes under the JJ Act

(DWCDSW Govt. of West Bengal)

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name and Address</th>
<th>Sanctioned Capacity</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>SMM Home 8 Stark Road, Liluah, Ph – 2655-8872/8776/ 9874632435, Fax: 2655-9990</td>
<td>430</td>
<td>Special Home, Home for rescued girls &amp; children home</td>
</tr>
<tr>
<td>2</td>
<td>Destitute Home Uttarpara, 7, Rajmohan Road, Uttarpara, Hooghly, Ph – 2663-6952/ 9433557733, Fax: 2680-4875 (DPO) 2680-2217 (Home)</td>
<td>150</td>
<td>Children’s home &amp; after-care home for girls.</td>
</tr>
<tr>
<td>3</td>
<td>Vidyasagar Balika Bhyavan, P.O. – Gope, Dist. – Paschim Medinipur, Ph. – 03222-262239/ 275239/ 9830568288</td>
<td>425</td>
<td>Children’s Home &amp; after-care home for girls.</td>
</tr>
<tr>
<td>4</td>
<td>Anandamath, P.O. – Simulia, Dist. – Purulia Ph. – 03252-22752/ 9836924582</td>
<td>195</td>
<td>Children’s Home observation home for girls.</td>
</tr>
<tr>
<td>5</td>
<td>Sahid Bandana Smriti Mahila Abas, P.O. &amp; Dist. – Coch Behar, Ph. – 03582-222352 / 9832086872</td>
<td>150</td>
<td>Children’s Home &amp; special home for girls.</td>
</tr>
<tr>
<td>6</td>
<td>After care home for girls Shilayan, Berhampore Murshidabad, Ph. – 03482254287 Fax – 03482250296</td>
<td>250</td>
<td>Observation children home &amp; aftercare home for girls.</td>
</tr>
<tr>
<td>7</td>
<td>Sukanya BL – AQ, Sector IV &amp; V, Salt Lake, Kolkata – 700094 Ph &amp; Fax: 23673267/ 9432104445</td>
<td>150</td>
<td>Children’s homes after care for girls.</td>
</tr>
<tr>
<td>8</td>
<td>Kishalaya, P.O. – Barasat Dist. – North 24 Parganas Ph – 25521353 / 9430000232 Fax – 25622678</td>
<td>200</td>
<td>Children home for boys.</td>
</tr>
<tr>
<td>9</td>
<td>Korak, Observation &amp; Juvenile home for boys Race Course, Jalpaiguri Ph – 03561230923 / 9434701260 Fax – 03567-222282</td>
<td>50</td>
<td>Children home for boys.</td>
</tr>
<tr>
<td>10</td>
<td>Suvayyan Vill. – Hossierpur, P.O. – Beltalapark, Balurghat, Dist. – Dakshin Dinajpur Ph – 03522- 255053 / 9434420545 Fax – 03522- 255226</td>
<td>100</td>
<td>Children home for boys.</td>
</tr>
<tr>
<td>11</td>
<td>Suryadaya for Deaf &amp; Dumb, Karnojora, P.O. – Raigunj, Uttar Dinajpur, Ph &amp; fax – 03523252670 / 9474442645</td>
<td>50</td>
<td>Children home for boys &amp; girls (25 boys + 25 girls)</td>
</tr>
<tr>
<td>12</td>
<td>Sumangalam (After care), Kharkasali, P.O. – Merar Bispurup, Bankura, Ph – 03242-202764 / 9434403514 Fax – 03244-256244 / 254313</td>
<td>100</td>
<td>After care home for boys.</td>
</tr>
<tr>
<td>13</td>
<td>Ananda Ashram, P.O. – Berhampore, Dist. – Murshidabad Ph – 03482-227252/ 9433524992 Fax – 03482- 255193</td>
<td>200</td>
<td>Observation home (Conflict with law) &amp; special home for boys.</td>
</tr>
<tr>
<td>14</td>
<td>Dhrubashram, 30, Sree Gopal Mullick Road Kolkata – 700057, Ph – 25234968/ 9433258620 Fax – 2553-1940</td>
<td>100</td>
<td>Observation home for (Conflict with law) boys.</td>
</tr>
<tr>
<td>15</td>
<td>Govt. School for the Blind, Meghmandi, P.O. &amp; Dist. – Cochbehar, Ph &amp; Fax – 03582-222602 / 9434080245</td>
<td>50</td>
<td>Juvenile boys home for blind.</td>
</tr>
<tr>
<td>16</td>
<td>Malda District Shelter, Sarbomangala Road, P.O. &amp; Dist. – Malda, Ph – 9434682878</td>
<td>30</td>
<td>Home for women &amp; girls under prevention of Immoral trafficking of women Act / Juvenile Home</td>
</tr>
<tr>
<td>17</td>
<td>Nadia District Shelter, Nagendranagar 3rd Lane P.O. – Krishnanagar, Nadia, Ph – 9236237549</td>
<td>30</td>
<td>Home for women &amp; girls under prevention of Immoral trafficking of women Act / Juvenile Home</td>
</tr>
<tr>
<td>18</td>
<td>Burdwan District Shelter, B.L. Hati Road, West of Dhalbighi, Radhanagar, P.O. &amp; Dist. – Bardwan, Ph – 9434015935</td>
<td>25</td>
<td>Home for women &amp; girls under prevention of Immoral trafficking of women Act / Juvenile Home</td>
</tr>
</tbody>
</table>

Ibid 1 page – 101 & 102
### Name of Homes run by notified NGOs under the JJ Act, 2000 (DWCDSW Govt. of West Bengal)

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Name</th>
<th>Address</th>
<th>Sanctioned Capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ramkrishna Vivekananda Mission (for boys)</td>
<td>Barrackpore, Dist. – North 24 Parganas Ph – 033 25920547 / 930362066</td>
<td>60</td>
</tr>
<tr>
<td>2</td>
<td>New Age Society for All (for M.R. Girls &amp; Boys)</td>
<td>Baghajatin Station Road Kolkata – 700075 Ph – 9836304160 Mamata Gupta (Secy.)</td>
<td>25</td>
</tr>
<tr>
<td>3</td>
<td>Anandaniketan (for M.R. Girls) &amp; Boys</td>
<td>Katwa, Dist. – Burdwan. Ph – 9434743404 / 933610550</td>
<td>150</td>
</tr>
<tr>
<td>4</td>
<td>Haldia Samaj Kalyan Parshad (for M.R. Boys)</td>
<td>Midnapore, Ph – 9434300457</td>
<td>50</td>
</tr>
<tr>
<td>5</td>
<td>Seval &amp; Enthusiast Volunteers Association (SEVAC), (for M.R. Girls)</td>
<td>Block-BK, Sector – II, Salt Lake, Kolkata – 700091, Phone: 0332359125/ 974898092(Not funded by Government)</td>
<td>25</td>
</tr>
<tr>
<td>6</td>
<td>S. O. S. Village (for infant juveniles)</td>
<td>Janasiksha proccnr Kendra, Hooghly, (sex worker’s children, Girls), Ph – 911227263/ 9433097483</td>
<td>25</td>
</tr>
<tr>
<td>7</td>
<td>Baganda Home (for prostitute girls)</td>
<td>Janasiksha proccnr Kendra, Hooghly, (sex worker’s children, Girls), Ph – 911227263/ 9433097483</td>
<td>25</td>
</tr>
<tr>
<td>8</td>
<td>Chiranabin (for M.R. Girls)</td>
<td>Bagnan, Howrah 953214266350/ 9732587186</td>
<td>75</td>
</tr>
<tr>
<td>9</td>
<td>Dakshin Gholeyepukuria Sonali Sangha-opathagar (for M.R. Boys)</td>
<td>P.S. Nandigram – II, Dist. – Purba Midnapore Ph – 973276260 / 03224-219167</td>
<td>25</td>
</tr>
<tr>
<td>10</td>
<td>Prabartak Sevaniketan (for Deaf &amp; Dumb girls)</td>
<td>Chandannagar, Dist. – Hooghly, Ph – 033 26835069/ 9432578969</td>
<td>50</td>
</tr>
<tr>
<td>11</td>
<td>Bodhipeet (for M.R. Boys &amp; Girls)</td>
<td>25</td>
<td>50</td>
</tr>
<tr>
<td>12</td>
<td>Prabartak Sangha Home (for M.R. Boys &amp; Girls)</td>
<td>Salt Lake, Kolkata (nonfunctioning)</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Sanlaap (for trafficked girls)</td>
<td>6/4, Lake East 4th Road, Santoshpur, Kolkata – 75, Ph: 033 24649596/ 9831047769</td>
<td>50</td>
</tr>
<tr>
<td>14</td>
<td>Indian Society for Sponsorship &amp; Adoption (for infant juveniles)</td>
<td>1, Palace Court, 1, Kyd’Street. Kolkata – 16, Ph: 033 2299136/ 9830058718</td>
<td>25</td>
</tr>
<tr>
<td>15</td>
<td>Society for Indian Children’s Welfare (for 25 infant juveniles)</td>
<td>20, Col. Biswas Road, Beckbagan, Kolkata – 19</td>
<td>25</td>
</tr>
<tr>
<td>16</td>
<td>All Bengal Women’s Union (for girls)</td>
<td>89, Elliot Road, Kolkata – 16, Ph: 03322293292/ 9152/ 9830565778</td>
<td>50</td>
</tr>
<tr>
<td>17</td>
<td>Child Care Home (for girls)</td>
<td>Sukantanagar, Sector – IV, Salt Lake, Kolkata., Ph: 033 23356606/ 9830019812</td>
<td>75</td>
</tr>
<tr>
<td>18</td>
<td>Bodhana (M.R. boys)</td>
<td>Chakpachuria, Kolkata – 59, Ph: 033 23503956/ 943332778</td>
<td>50</td>
</tr>
<tr>
<td>19</td>
<td>Khagrabari Rural Energy Development (for girls) (MR)</td>
<td>Kamakhyaguri, Jalpaiguri, Ph: 953654260023/ 9474406411/9434191319</td>
<td>25</td>
</tr>
<tr>
<td>20</td>
<td>Netaji Youth Club &amp; Pathagar (for boys) (MR)</td>
<td>Chhoto Kalitala Rampur, Bankura 9733924157 (Secretary)</td>
<td>25</td>
</tr>
<tr>
<td>21</td>
<td>Nijoloy – Women’s Interlink Foundation (for girls)</td>
<td>Madhymagram, North 24 Parganas, Ph: 033 22815507/ 5508, 9830562845, 9830526246</td>
<td>25</td>
</tr>
<tr>
<td>22</td>
<td>Anubhab (for girls) Mahila Kalyan Sangha,</td>
<td>New Town Jalpaiguri, Ph: 03561 221029/ 9474323730</td>
<td>25</td>
</tr>
<tr>
<td>23</td>
<td>Vivekananda Loksiksha Niketan (for boys) (MR)</td>
<td>Faridpur Dakshin Dauki, Contai – II, Purba Medinipur, Ph: 9474617963</td>
<td>50</td>
</tr>
<tr>
<td>24</td>
<td>Nimtouri Tamluk Unnayan Samiti (MR girls)</td>
<td>Kulbari, Purba Medinipur, Ph: 9434104119</td>
<td>50</td>
</tr>
<tr>
<td>25</td>
<td>Malipukur Samaj Unnayan Samity Panchia,</td>
<td>Juiersa, Dist – Howrah (50 CNCP boys, 50–VI &amp; MI boys), Ph – 9836001231</td>
<td>100</td>
</tr>
</tbody>
</table>
5.10. **After Care Homes (Government / Non-Government), U/s 44 of J J Act, 2000 Destitute Children**

The Department of Women and Child Development and Social Welfare also operates an institutional care services called After care services for (DWCDSW Govt. of West Bengal)\(^ {50} \) rehabilitation of children who crossed the age of 18 years in the aforesaid Homes (DWCDSW Govt. of West Bengal).\(^ {51} \)

5.11. **Child Welfare Committee (CWC)**

The Government of West Bengal has constituted nineteen Child Welfare Committees, one in every district including Kolkata, to deal with children in need of care and protection under the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006. Each of the Child Welfare Committee comprises one Chairperson, and four members. This Committee acts as a board of Magistrates and looks into the cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection and to provide for their basic needs and protection of human rights (DWCDSW Govt. of West Bengal).\(^ {52} \)

5.12. **The list of Child Welfare Committee (CWC) u/s 19 of JJ Act, 2000 (Govt. of West Bengal)\(^ {53} \)**

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Name and address of the Home</th>
<th>Ph. No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sukanya Block-AQ, Sector- IV + V, Salt Lake City, Kolkata-94</td>
<td>2367-3267</td>
</tr>
<tr>
<td>2</td>
<td>Sahid Bandana Smriti Mahila Abas P.O. &amp; Dist. Cooch Behar</td>
<td>03582-222352</td>
</tr>
<tr>
<td>3</td>
<td>Korak, Observation and Juvenile Home for Boys Race Course, Jalpaiguri</td>
<td>03561-30923, (03561-223058)</td>
</tr>
<tr>
<td>4</td>
<td>Ananda Ashram P.O. Baharampur, Dist. Murshidabad</td>
<td>03482-222752</td>
</tr>
<tr>
<td>5</td>
<td>Kishalaya P.O. Barasat, Dist. North 24 Pgs</td>
<td>25521353/25622678</td>
</tr>
</tbody>
</table>

5.13. **District wise constitution of Juvenile Justice Boards (JJB)**

Before May, 2008 there were no separate JJ Board for the districts of West Bengal. During the month of May, 2008 the department of Woman & Child development and Social welfare of the Government of West Bengal by individual notified orders under pleasure of

\(^ {50} \) Ibid 33  
\(^ {51} \) Ibid 1 page – 21  
\(^ {52} \) Ibid 51  
\(^ {53} \) Extracted from: [http://www.wbgov.com/e-gov/English/Departments/CHILDREN_WELFARE.doc](http://www.wbgov.com/e-gov/English/Departments/CHILDREN_WELFARE.doc) on 20.09.12
the Hon’ble Governor of West Bengal constituted separate JJ Board for each district of the State.

5.13.1. Extracts of one Government Order

Government of West Bengal
Department of Woman & Child Development and Social Welfare
Writer’s Buildings’ Kolkata – 700001

No. 2353 – SW
JJA – 15 / 2005 (Pt – I)

NOTIFICATION

May 20, 2008

In exercise of power conferred under Sub – section (1) of Section 4 of the Juvenile Justice (Care & Protection of Children) Act, 2000 (56 of 2000) (hereinafter referred to as the said Act) read with the Section 6 of the Juvenile Justice (Care & Protection of Children) Amendment Act, 2006 (33 of 2006), the Governor is, hereby, pleased to constitute a Juvenile Justice Board (hereinafter referred to as the said Board) for the District of Burdwan for dealing with all cases in relation to Juvenile in conflict with law for the purpose of the said Act.

The said Board shall consist of the following personnel:

1. The Judicial Magistrate, First Court
2. Dr. Bharati Roy
   Gopal math Kamala Kuthi, P.O. Durgapur – 17, Burdwan
3. Abunoor Tahidar Hossein
   Krishnapur Road (near Golapbag More), P.O. Rajbati, Dist. Burdwan

This notification shall have immediate effect until further order.

By Order of the Governor,
B. Ganguly
Joint Secretary to the Govt. of West Bengal

Dated, Kolkata May 20, 2008

Copy forwarded for information and necessary action to:

5. The District Judge, Burdwan, P.O. & Dist. Burdwan.
5.14. **Appointment of prosecuting officer to function as APP for JJ Boards**

After constitution of District label JJ Board for each district, the authority of district administration assigned one APP who is already in service as such under sub Section – 1 of Section – 25 Cr.PC to function as APP JJ Board.

5.14.1. **Extracts of one Government Order**

**Government of West Bengal**  
Office of the Dy. Director of Public Prosecution, Burdwan  
DM’s Administrative building, 3rd Floor, Burdwan

Memo. No. ------------------ / DDPP / Bdn  Dated------------------

**Order**

As approved Sri Souvik Dey, Ld. APP attached to the Judicial Magistrate Court, 1st Class 3rd Court, Burdwan is hereby asked to function as the APP of the Juvenile court at Burdwan until further order and Sri Pradip Chatterjee, Ld. APP will function as such in absence of Sri Dey.

Sd/-
Pradip Chatterjee  
Deputy Director of Public Prosecution,  
Burdwan

Memo No. 20 / 1 (10) / DDPP / Bdn  Dated: 23-2-2009

Copy forwarded for information and taking necessary action to:

1) Sri Souvik Dey, Ld. APP Burdwan Sadar.  
2) Sri Pradip Chatterjee, Ld. APP, Burdwan Sadar  
3) Ld. Judicial Magistrate, 3rd Court Burdwan  
4) C.A. to D.M, Burdwan  
5) C.A. to Director Public Prosecution  
6) Joint Secretary Judicial Deptt. Govt. of West Bengal, Writers’ Buildings, Kolkata  
7) Ld. Public Prosecutor, Burdwan  
8) Ld. Addl. Public Prosecutor, Assansol  
9) Sri Sankar Kr. Das Ld. APP A.C.J.M Court, Durgapur  
10) Office File

Sd/-  
23/2/09  
(Pradip Chatterjee)  
Deputy Director of Public Prosecution,  
Burdwan
Now ‘Nineteen Juvenile Justice Boards (JJB) has also been constituted, one each for every District of the State including Kolkata. A Metropolitan Magistrate or a Judicial Magistrate of the first class and two social workers, of which at least one is a woman, comprises each Juvenile Justice Board. Apart from the stipulated staffing pattern, Government of West Bengal has sanctioned six posts in each of the nineteen JJBs for smooth functioning’ (DWCDSW Govt. of West Bengal).\textsuperscript{54}

Still the same course of practice follows regarding appointment assignment of the officials of JJ Board including Principal Magistrate and APP, excepting for the JJ Board Salt Lake, where in a regular APP from the regular cadre appointed under Section – 25(1) has been posted to function as such.

5.15. \textbf{Programme related to residential care and protection of destitute children (Cottage Scheme)}

In 1975, the centrally sponsored scheme of Cottages for destitute children was introduced in West Bengal by the Ministry of Women and Child Development. As per the scheme, the cost of the programme was shared between the Government of India, the State Government and Non-Government Organizations in the ratio of 45:45:10. In 1992, the onus of the scheme was transferred entirely to the State. Currently, the State Government bears 90 per cent of the cost for the programme and the remaining 10 percent is borne by the NGOs running the cottages. The maintenance rate per child is \textsterling1,100 per month. The objectives of this scheme are (DWCDSW Govt. of West Bengal):\textsuperscript{55}

- To provide institutional services including shelter, food, clothing, education, medical care and recreation\textsuperscript{56}
- To provide education and useful vocational training to aid the rehabilitation and reintegration of destitute children who are six years and older but not above 18 years of age. A destitute child is defined as one (DWCDSW Govt. of West Bengal):\textsuperscript{57}

- Who does not have either parent; or
- Who belongs to a single parent family; or

\begin{itemize}
  \item \bib{54}{Ibid 51}
  \item \bib{55}{Ibid 51}
  \item \bib{56}{Ibid 51}
  \item \bib{57}{Ibid 51}
• Who has lost his father and is living with his widowed mother; or
• Whose mother is a divorcee; or
• Whose mother has been deserted by his father; or
• Whose mother is a sex-worker; or
• Whose father is in jail; or
• Whose parents are unable to look after him due to their physical/mental disability; or
• Whose family has been affected by natural calamities, terrorism, manmade disaster or an accident; or
• Either of whose parents are missing and he belongs to a below poverty line family

The programme is implemented through registered NGOs under the direct control of the Director of Social Welfare, West Bengal. The field level Supervision is done by the District Social Welfare Officer and the Block Welfare Officers (DWCDSW Govt. of West Bengal).  

An organisation is found eligible to run Cottages based on the following criteria (DWCDSW Govt. of West Bengal):

• The Voluntary Organisation should be registered under Law and must have a properly established managing body, whose powers, duties and responsibility are clearly defined and laid down in its Constitution (DWCDSW Govt. of West Bengal)

• It must not work for the profit of an individual or a body of individuals (DWCDSW Govt. of West Bengal)

• It should be licensed under the West Bengal Women’s and Children’s Institution (Licensing) (DWCDSW Govt. of West Bengal) Rules, 1958 (DWCDSW Govt. of West Bengal)

• It must have at least three years experience in Social Welfare, preferably in relation to children (DWCDSW Govt. of West Bengal)

• Its financial position should be sound (DWCDSW Govt. of West Bengal)

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58 Ibid 51
59 Ibid 51
60 Ibid 51
61 Ibid 51
62 Ibid 51
63 Ibid 1 page – 22
64 Ibid 63
65 Ibid 63
A cottage is a unit of an institution with a capacity to accommodate 25 destitute children. An organization may run more than one such cottage in the same premises provided adequate accommodation is available. However, the organization needs to ensure that (DWCDSW Govt. of West Bengal):66

- During his/her stay in the Cottage, each child is provided with food, lodging, education, treatment, clothing, bedding, adequate toilet facilities, vocational training, games, sports and recreation facilities, ensuring his wholesome growth and development (DWCDSW Govt. of West Bengal)67

- Boys and girls in an institution are accommodated in separate cottages with the required facilities, including games and recreation (DWCDSW Govt. of West Bengal)68

5.16. Programmes on Adoption

Adoption is a process through which a child who is permanently separated from biological parents because her/his parents have died, or have abandoned or surrendered her/him, becomes a legitimate child of a new set of parent(s) referred to as adoptive parents with all the rights, privileges and responsibilities that are attached to this relationship (DWCDSW Govt. of West Bengal).69 Adoptions in the State are guided by the Guidelines of the Central Adoption Resource Agency (CARA) issued in 2004 and 2006 and the provisions of (DWCDSW Govt. of West Bengal)70 the Juvenile Justice (Care and Protection of Children) Act, 2000 and its 2006 amendments (DWCDSW Govt. of West Bengal).71

5.17. State Adoption Resource Agency (SARA)

The State Adoption Resource Agency (SARA) as a unit under the State Child Protection Society has started functioning in the state of W.B. to support CARA in respect of promoting in-country adoption and regulating inter-country adoption of Indian abandoned, orphaned and surrendered children in family environments and also to render secretarial and administrative assistance to the state Adoption Advisory Committee (DWCDSW Govt. of West Bengal).72
SARA as a State level Resource Centre is envisaged to perform the following functions (DWCDSW Govt. of West Bengal):\textsuperscript{73}

i) Co-ordinates, monitors and develops the adoption programmes in the state.

ii) Facilitates the setting up of SAAs in each district of the state, and also facilitates to provide legal recognition to SAAs for the placement of Indian Children under in-country adoption.

iii) Maintains a comprehensive list of SAAs in the state.

iv) Takes necessary punitive action when malpractices occur in the adoption programme whether by licensed/recognized adoption agencies or by unrecognized individuals or organization.

5.18. Government decision on Government and NGO partnership for release / repatriation / restoration of Juvenile detenues:

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF SOCIAL WELFARE
SALT LAKE CITY, SECTOR – I, KOLKATA – 700 064

From:- The Director of Social Welfare,
       Government of West Bengal

To:- (i) The Executive Director,
     Socio Legal Aid research & Trg. Centre,
     P – 112, Lake Terrace, Kolkata – 700 029

(ii) The Director,
     Sanlap, 38 – B, Mahanirban Road,
     Kolkata – 700 029

No. 2555 (2) – SWD. Dated, Kolkata, the 25\textsuperscript{th} June, 2004

Subject: Speedy disposal / release / repatriation / family restoration, both within the state and in other States of the detenues of different Homes under JJ (Care & Protection of Children) Act, 2000

\textsuperscript{73} Ibid 70
Apropos of the discussion held in the meeting on 18-06-2004 in the chamber of M.I.C., W & C.D. & Social Welfare, Government of West Bengal, on the subject, the Executive Director, Socio Legal Aid Research and Trg. Centre / The Director Sanlap or his / her nominee lawyers Volunteers are hereby authorized to conduct the cases related to Court / Juvenile Justice Board / Child Welfare Committee in respect of detenues of the Government Homes as delineated below for the purpose of speedy disposal / release / repatriation and family restoration (Both within the State and in other States) of inmates.

Name of NGO Cases of the Court / Board / C.W.C in the district of
A. Socio Legal Aid Research and Training Centre Kolkata, Howrah, Hoogly, North 24 Parganas, South 24 Parganas, Purba Midnapore, Pashchim Midnapore, Coochbehar, Murshibadabad, Purulia, Birbhum, Bankura & Jalpaiguri
B. Sanlap Burdwan, Hoogly, Nadia, Malda, Uttar Dinajpur, Dakshin Dinajpur & Darjeeling

Besides, Sanlap will deal all cases of the girls and woman of trafficking and detenues of other states for restoration to their family transfer to fit institutions and rehabilitation in the mainstream of the society.

Yours faithfully,
Sd/-
The Director of Social Welfare,
Government of West Bengal


dated, Kolkata, the 25th June, 2004

Copy forwarded for information and necessary action to:

1. The M. I. C., W & C. D & Social Welfare Department, Government of West Bengal, Writers’ Building, Kolkata – 1
2. The Principal Secretary, Woman & Child Development and Social Welfare Department, Government of West Bengal, Writers’ Building, Kolkata – 1
3. The Superintendent,

He / She is requested to send district-wise and State-wise list of detenues along with their full case particulars urgently.

This should be given top most priority.

Sd/-
The Director of Social Welfare,
Government of West Bengal
5.19. Other development in the legislation of the State:

Apart from various developmental initiatives, the Government of West Bengal made several attempts to put in place suitable mechanisms in tandem with the union legislation and centrally sponsored programmes to enforce the universal rights of the children within the state. The underlying focus of these efforts were to enhance the capacity and ability of the state to cater to the growing needs of the children in tune with the evolving pattern and changing expectations of the society. For harnessing the plan of action, the state government has developed its own rules and regulations from time to time in consonance with the union legislation. For example, the state government framed the Juvenile Justice (Care and Protection of Children) Rule, 2003. Nonetheless, the said rule has been revoked and replaced by the Juvenile Justice (Care and Protection of Children) Rule, 2009 to be in conformity with the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006. The state government has also prescribed child care leave for the mothers for 730 days in addition to the existing maternity leave entitlement.

In this context it can also be mentioned that for promoting education among the children, the curriculum and syllabuses based basic education were introduced as early as in 1950. After a lapse of about 31 years a new curriculum and syllabi subject-wise were introduced from 1981. In its bid to seek a total development of child, the West Bengal Primary Education Act, 1973 (West Bengal No. 43 of 1973) was enacted. The Act actually started its function from and on the 2nd July, 1990. There were several inhibiting instrumental factors for the delayed implementation of the Act. Firstly; extensive changes were made by the Left Front Government after the assumption of its office. Secondly; the office of the Hon'ble Governor took a long time for giving assent. The assent of the Hon'ble Governor was preceded under the concurrence of His Excellency the President of India and the assent of the Hon'ble President reached after long lapse of several years. For reaching the goal of all the requirements of basic education the School Education Department, formed in 1977. The entire school education system has been bifurcated into a dual control system. The course syllabus and the curriculum as well as the final evaluation are administered by the respective Boards and School recognition and affiliation related issues are looked after by the autonomous bodies under the overall guidance of the School Education Department.
After enactment of the union legislation, the Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE), on 4th August 2009, the West Bengal Right of Children to Free and Compulsory Education Rules, 2012 have been framed. The RTE Rules specify that the state government will have to ensure the availability of a primary school (Classes I to IV) within one kilometer in rural areas and within half a kilometer in the urban areas. Similarly, every child in the rural areas should have access to an upper primary school (Classes IV to VIII) within two km of his / her residence and one km in the urban areas. The said rules propose to set up a Right to Education Protection Authority (REPA) in the state till the government comes up with State Commission for Protection of Child Rights (SCPCR) to supervise the implementation of the Act in West Bengal. It also specifies that the state government, through local authorities like the panchayats and municipalities, will keep a record of all children from 6 years to 14 years to ensure that they are provided with compulsory and free elementary education. Now onward every school will have to ensure special training for children, who have dropped out and must be admitted to a class appropriate to their age. The rules have also provided certain other provisions in tune with the Act like reimbursement of fees of children belonging to economically weaker sections to the school authorities by the state government and withdrawal of recognition to schools if they do not abide by the Act. These are testimonies to the state government’s progressive approach towards bringing in improved child care, child welfare and juvenile justice in the state.
5.20. **Case study**

A number of case studies relating to juvenile justice have been done in this chapter. As the cases are extremely sensitive in nature having larger social implications, the children involved in the cases have purposely not been talked to so as to protect their privacy and not to instill an iota of fear and a sense of social or psychological uneasiness among them. Utmost care has been taken not to preferentially select the cases from any particular category of section or type. The cases have primarily been sourced from the legal professionals, who have personal professional knowledge about the proceedings so as to ensure that the information is close to the practical experience. The main field areas for collection of the case samples were the police stations, Burdwan Court and JJ Board Burdwan. It is also pertinent to mention here that the publication and revelation of the identity of a juvenile in conflict with law or in need of care and protection is also not warranted as per Sec 21 of the JJ Act, 2000. The content of Sec 21 of the JJ Act, 2000 is reproduced below:

5.20.1. **JJ Act, 2000:**

Section – 21. Prohibition of publication of name, etc., of juvenile in conflict with law or child in need of care and protection involved in any proceeding under the Act.-

(1) No report in any newspaper, magazine, newssheet or visual media of any inquiry regarding a juvenile in conflict with law or a child in need of care and protection under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile nor shall any picture of any such juvenile be published:

Provided that for reasons to be recorded in writing the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in interest of the juvenile.

(2) Any person contravenes the provisions of sub-section (1) shall be liable to a penalty which may extend to twenty five thousand rupees.

Hence it is reiterated that in consideration of the larger social implications and in compliance of the Sec 21 of the JJ Act, 2000 to avoid the chances and consequences of the child being identified as a whistle blower, the name, address, case number and other details of the children have not been mentioned here. Only the facts of the cases have been taken for the study.


**Case No. 1**

Name of the Juvenile : Mencetned as ‘A’ herein  
Name of the concerned PS : Durgapur, District - Burdwan  
Penal Section(s) : Section – 379 of the IPC  
Number of JCL : Out of two accused one is JCL

**Preliminary fact:**

A person filed a complaint before Ld. ACJM, Durgapur praying for direction upon the OC Durgapur PS to treat his complaint as FIR as he has been refused successively by Durgapur PS and SDPO Durgapur to take his FIR. The fact of the matter is that when the complainant was working at his office, his motorcycle was stolen by unknown miscreants. On receipt of the direction of the Court, the PS Durgapur registered the case and initiated the investigation through one Sub Inspector of police.

**Arrest and first production:**

On the basis of the source of information, on 03.12.2009 the IO concern arrested two persons on complicity. The IO alleged that the arrested two persons confessed their guilty. Accordingly, both the accused persons have been forwarded to the court of the Ld. ACJM Court Durgapur with a prayer for seven days PC to recover the stolen motor cycle as per the confessional statement of the accused persons. The Ld. Court considered and allowed the prayer for PC for six days.

**Recovery of stolen article and transmission to Ld. Court:**

During the PC period the stolen motorcycle was recovered and seized through seizure list by the IO as per the leading statement of the accused persons and the accused persons were produced before the Ld. Court of ACJM Durgapur on 08.12.2009.

**Issue of Juvenility before Ld. ACJM:**

On return from PC on 8.12.2009, the Ld. Advocate appearing on behalf of one of the accused persons ‘A’ raised the issue of juvenility of the accused on the basis of Transfer Certificate issued by the school and identity card issued by the school sports association, which mentions that his date of birth is 01.06.1993. The Ld. Magistrate relied upon the provision of Section–7 of the JJ Act, 2000 and without any further enquiry into the matter held the concerned accused as a juvenile and forwarded the juvenile to the JJ Board Burdwan. However, the prayer for release of the concerned juvenile preferred by his mother for custody was rejected without appending any explanation in the order for
rejection. The Ld. Court also issued direction upon the Superintendent of Durgapur Correctional Home to hand over the JCL to produce him before the JJ Board Burdwan on 09.12.2009.

Initial proceeding before the JJ Board Burdwan:

On production of JCL along with supplementary case record before the JJ Board Burdwan, on 09.12.2009 the Ld. Principal Magistrate released the JCL in the custody of his father on execution of a P.R. Bond of Rs. 1000. Later, on the same day on consideration of physical appearance the Board, being dissatisfied and expressing doubt regarding sustainability of the claim of juvenility, directed the IO to make necessary arrangements for Ossification Test of the alleged JCL by 04.03.2010.

Determination of age basis of Ossification Test:

The process of completion of the test prolonged. Ultimately on 26.11.2010, the Hon’ble Board on consideration of Ossification Report found that the alleged JCL is aged between 19 years to 21 years and thereby returned the entire case record to the Ld. ACJM Court Durgapur.

Findings:

a) Infirmit y of the system:

Whenever a person is arrested for committing an alleged offence and the person concerned seems to be on the bordering age of majority, according to the JJ Act, 2000, the concerned officer should make a preliminary verification before actual detention and production before any Court or Board. In this case it was lacking. The report of Ossification Test prolonged for about one year to reach the Board.

b) Lack of legal expertise of the Court:

The determination of juvenility does not rest upon simple claim of the alleged JCL. The process of determination of juvenility qualifies after due enquiry by the Court or Board under section–7, 7A read with Section–49 of the JJ Act, 2000 with Rule–12 of the JJ Rule. So the person who claimed to be a juvenile was qualified for the benefit enshrined in the Act only after completion of the prescribed process. In this case, the Court of Ld. ACJM Durgapur erred in holding illegally a person as juvenile and transmitting the case to the JJ Board.
c) **Non compliance of Rule by the Board:**

Rule–12 of the JJ Rule provides preferential legal value of school certificate, birth certificate and ossification test. In this zone of consideration it is mentioned that later shall prevail only in absence of earlier or earlier found not a genuine one. The authenticity of the certificates filed by the JCL has never been verified. The Board acted upon its own discretion to refer and consider the matter through the ossification test.

d) **Reckless loss:**

If the claim of the JCL was found to be genuine according to his school certificate then the accused would have been deprived of his legal entitlement to the benefit of JJ Act, 2000. On the other hand, the state undertook several steps through multiplied proceedings before the Ld. ACIM Court Durgapur and the JJ Board Burdwan by involving its machinery at the cost of public exchequer for the lapses of the authority involved. If the person is not at all a JCL and obtained the bail order beyond his legal entitlement by otherwise means, the investigating agency has been precluded to secure smooth investigation keeping the offender behind the bar.

**Case No. 2**

<table>
<thead>
<tr>
<th>Name of the Juvenile</th>
<th>:</th>
<th>Mentioned as ‘B’ herein</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of the concerned PS</td>
<td>:</td>
<td>Asansol GRPS, District - Burdwan</td>
</tr>
<tr>
<td>Penal Section(s)</td>
<td>:</td>
<td>Section – 379 of Indian Penal Code</td>
</tr>
<tr>
<td>Number of JCL</td>
<td>:</td>
<td>One female JCL</td>
</tr>
</tbody>
</table>

**Preliminary fact:**

On a complaint filed by one person on 07.12.2003 alleging theft of ornaments and cash of Rs. 40,000/- from the purse of his wife having during the course of train journey, the OC GRPS Assansol started the case against a unknown female miscreant aged about 16 years and endorsed the same to one SI of Police for investigation.

**Arrest and first production:**

Subsequently on 16.01.2004, on receipt of information from a source, the IO of the case arrested and forwarded a female JCL aged about 14 years (as per arrest memo) before the Ld. Court of SDJM Assansol with a prayer for TI Parade. The Ld. SDJM directed for
production of the JCL on the next day before the Hon’ble Juvenile Court at Salt Lake. Ld. The magistrate referred the word Juvenile Court instead of Board. There was no specification in the order relating to place of detention of the JCL from the order of detention to actual production before the Hon’ble JJ Board Salt Lake.

Recovery of stolen article and transmission to Ld. Court:
Nothing was recovered during the course of investigation.

Production before the Board:
In compliance of the order of the Ld. Court, the JCL was produced on 17.01.2004 before the Hon’ble Board and as per direction he has been taken to Lilua Home. In accordance with the order of the Board, the Probationary Officer and guardian have been intimated.

Issue of Juvenility before Ld. ACJM Court or Board:
In the case the question of determination of juvenility before the Ld. ACJM or Board was never been an issue for consideration. The age of juvenility was an admitted position.

Initial proceeding before the JJ Board Salt Lake:
On different dates in compliance of the Hon’ble Board’s order, the JCL was produced before the Board from the Home on 03.01.2004, 13.02.2004, 26.02.2004, 18.03.2004, 24.03.2004, 07.04.04 and lastly on 21.04.2004. In addition to the earlier intimation, the father of the JCL was once again intimated by the order of the court dated 18.03.2004 through RTM. On 21.04.2004, on completion of the statutory period, the Hon’ble Board at his own motion was pleased to enlarge the JCL on bail on execution of a bail bond of Rs. 400/- with one surety like amount id to the home. Later, on the same day the bail bond was furnished by one registered surety and was found fit and accepted and the JCL got released. On 07.08.09, the JCL appeared and the APP took part in the proceeding. But the PO was on leave as such the case was adjourned. On 10.11.04, the JCL was present before the Hon’ble Board on call with parents. The EO submitted the copy of FIR, CS etc. and accordingly the cognizance was taken by the Hon’ble Board.

From and on 07.01.05 the JCL disappeared. The proceeding prolonged for want of execution of warrant against the JCL and the hearings were adjourned on 03.03.05, 02.05.05, 13.07.05, 03.09.05, 07.11.05, 23.12.05, 15.03.06, 20.11.06, 12.06.06, 01.08.06, 14.09.06, 10.11.06, 03.01.07, 31.01.07, 27.11.07, 02.02.08 and lastly on 16.03.09 after on
receipt of information by the JJ Board Burdwan the case record was transferred & transmitted to the District JJ Board Burdwan.

Procedures before the JJ Board Burdwan:

On the first date on 16.07.2009 before the JJB Burdwan, no ER of warrant was received, hence the matter was adjourned. On the next day on 09.09.2009, no ER of WA and as the office has failed to comply with the previous order, the Board directed the office to comply with its earlier order and accordingly the order was carried on by issuing formal WA. On 10.12 2009 for the first time the Court took notice that so far there was no case against the JCL. The IO submitted the FRT against her. Therefore, the Hon’ble Board issued notice to the DC asking him to appear to hear him on the matter of acceptance of the FRT. Until 29.11.2010, there has been no positive action taken by the DC. Ultimately on 29.11.2010 the Hon’ble Pr. Magistrate alone has been pleased to drop the proceedings on the basis of CS.

Findings:

a) Infirmity of the system:
Whenever a person is arrested for committing an alleged offence and the person concerned is apparently a juvenile then according to the JJ Act, 2000, the concerned officer should make a preliminary verification before the actual detention and production before the Court. In this case it was lacking. Though the Probationary Officer has been intimated but he has never taken his legal role in the proceeding. Throughout the proceeding he was absent. Practically there has been no correspondence on the part of the administration with the family of the JCL after the arrest. The prayer for TIP has never become a matter of consideration.

b) Lack of legal expertise of the Court:
The statutory period prescribed in the Code of Criminal Procedure is not at all applicable to a JCL. The JJ Act, 2000 superseded all the existing penal laws in force and related procedures. After promulgation of the JJ Act, 2000 the granting of bail and / or rejection are both guided only under the provisions of Section–12 of the JJ Act, 2000 and nothing else. Nonetheless, the JCL was detained for sixty days in Home. A JCL, being a minor, can’t execute the bail bond and the law court can’t also accept it. It is not prudent to consider that mechanically on basis of the FRT submitted by the IO; the JJ Board can take cognizance against the JCL. This is the
main reason for delay in the matter. Continuation of the proceedings after the lapse of prescribed period of four months or extended period of two months led to conflicting application of the JJ Act. The actions on the part of the JJ Board Salt Lake are against the letter and spirit of the Act and can be construed as something beyond legality.

c) **Non compliance of Act & Rules by the Board:**
   It is mentioned that dropping the proceeding by a single member of the Board suffers from material illegality as per Sub Section 2 of Section–5 of the JJ Act, 2000 read with Rule–11 sub rule–10.

d) **Reckless loss:**
   With references to the outcome of the investigation and the final disposal order, the alleged JCL being an innocent was wrongfully detained in the Home for committing no wrong on her part. On the other hand the state unnecessarily went ahead with multiple proceedings before the Ld. ACJM Court Assansol and the JJ Board Salt Lake & Burdwan by employing its resources at the cost of public exchequer for the lapses on the part of the authority involved.

**Case No. 3**

**Name of the Juveniles**: Mentioned as ‘C’ & ‘D’ here in

**Name of the concerned PS**: RPF / Post / Burdwan, District - Burdwan

**Penal Section(s)**: Secs 147/153 of Railway Amendment Act, 2003

**Number of Juvenile**: Two boys, both are Juveniles

**Preliminary fact:**

On 07.092011 the RPF personnel of RPF / Post / Burdwan, E. Railway, received an official direction of the rail authority and rushed to the spot in between Saktigarh and Palsit railway stations and noticed that two numbers of jumpers were cut with fresh visible mark of cutting. The wrongful act of the miscreants suggests a skillful art. The illegal action disrupted the public service seriously and caused severe obstruction to running of up line trains. By employing reliable sources, the RPF personnel apprehended both the JCLs, when both of them were standing at a nearby place and were wearing school uniforms. Both the JCL boys confessed after apprehension that they committed the theft of signal wares three or four
times before and sold those stolen articles to ‘Pheriwala’ (Hawker) for a price of Rs. 200/- or Rs. 300/-. On the next day one ASI M.K. Roy, RPF / Post / Burdwan, E. Railway forwarded both the JCL boys to the JJ Board Burdwan with a written complaint of the Inspector–in–Charge RPF / Post / Burdwan, E. Railway.

**Arrest and production:**

Both of the JCL boys were apprehended on 07.09.2011 and were directly produced before the Hon’ble JJ Board Burdwan on the next day on 08.09.2011.

**Recovery of stolen article and transmission to Ld. Court:**

No question of recovery arose as the JCL boys could not remove the wares.

**Issue of Juvenility before Ld. ACJM or the Hon’ble Board:**

The question of determination of juvenility before the Board did not arise as the age of juvenility was an admitted position. The memo of arrest of both the JCL boys inferred that their age was 15 years.

**Proceeding before the JJ Board:**

The proceeding has got its end on the very date of production of the JCL boys as both of them pleaded their guilty and sentenced under Section – 15(d) of the JJ Act, 2000, to pay a fine of Rs. 1000/- and discharged by the Board.

**Related matter of proceedings:**

The fathers of both the JCL boys appeared before the JJ Board through their Ld. Advocates and took part in the proceeding with their respective prayer for custody of their sons. The JCL boys themselves also filed two distinct petitions affixed with court fees praying for pleading guilty.

**Findings:**

a) **Infirmity of the system:**

Whenever a person is arrested for committing an alleged offence and the person concerned is apparently a juvenile then according to the JJ Act, 2000, the concerned officer should make a preliminary verification before the actual detention and production before the Court. In this case it was lacking. The main culprits who encouraged the minor boys to recur their offences by way of purchasing stolen articles have never been arrested. The state machineries have forgotten this part of
their legal duties. There is no body to represent the state cases before the Board if
the same is initiated at the instance of the central government agencies. There is no
direction upon the fathers of the JCLs to secure reformation of the culpable mindset
of the JCLs. The order of discharge after sentence on admission has no significance.

b) **Lack of legal expertise of the Court:**
The provision of Section–15 of the JJ Act, 2000 can be applied upon a JCL if the
Board is primarily satisfied on enquiry that the juvenile has committed an offence.
Here no reflection in the order as to the cause of satisfaction of the Board. The
punishment prescribed under Section–15(d) of the JJ Act, 2000 can be imposed only
when the JCL is above the age of fourteen years and earns money. In this case there
is no Evidence before the Board or even mere submission on the part of the fathers
of the JCL boys that the JCL boys are earning. The Board has acted upon
mechanically.

c) **Non compliance of Act & Rules by the Board:**
Non-compliance of the provision of sub Section 3 of Section–15 relating to the
necessity of additional order of supervision under the Probation Officer for the
future wellbeing of the JCL has not been complied with.

d) **Reckless loss:**
In consideration of the outcome of the enquiry along with the final disposal order,
the alleged JCLs being minors have been subjected to manhandling impliedly by the
alleged ‘Pheriwala’ (Hawker) who remained beyond the purview of sanction under
the penal laws. This has resulted to widen his scope to pick & choose another child
for his clandestine business.

**Case No. 4**

<table>
<thead>
<tr>
<th>Name of the Juvenile</th>
<th>Mentioned as ‘E’ herein</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of the concerned PS:</td>
<td>Purbasthali, District: Burdwan</td>
</tr>
<tr>
<td>Nature of Case:</td>
<td>Complain Case filed before Ld. ACM Court Kalna, Burdwan</td>
</tr>
<tr>
<td>Penal Section(s):</td>
<td>Initially the Case has been initiated under Section – 447 / 504 / 323 / 506 of the Indian Penal Code, but after completion of SA Ld. Court has been pleased to take cognizance under Section – 323 and 504 of the IPC.</td>
</tr>
<tr>
<td>Number of JCL:</td>
<td>‘One’ Juvenile out of Seven accused persons</td>
</tr>
</tbody>
</table>
Preliminary fact:

The complainant filed complaint before the Ld. ACJM Court Kalna against seven accused persons under Section – 447 / 323 / 504 / 506 IPC. On examination of three witnesses on SA Ld. Court has been pleased to issue process on 05.04.2005, against all the seven accused persons under Section – 447 and 323 IPC only. All the accused persons on receipt of summons appeared before the Ld. Court on 26.07.2005 and Ld. Court on consideration of the prayer of the accused persons, enlarged them on bail with a bond of Rs. 300/- each with one surity like amount. The accused persons on several dates appeared before the Ld. Court. On 27.12.2006 Ld. Court held that out of seven accused persons one is apparently juvenile within the age of 16 to 17 years and directed to split up the Case record to transmit the same to the Juvenile Court Salt Lake and also directed the complainant to pay a cost of Rs. 200/- required to incur for the preparation of duplicate case record. The process deferred for three days for want of requisite payment and appearance of the JCL. Ultimately the record transmitted to Salt Lake on 21.08.2007 with a direction upon the alleged JCL to appear at Salt Lake on 17.12.2007.

Arrest and first production:

Since the Case is a complaint Case, the question of arrest and production does not arise at all.

Issue of Juvenility before Ld. ACJM or Board:

The question of determination of Juvenility before the Ld. ACJM Kalna or Board, as the case may be, has never been an issue of consideration. The age of Juvenility is an admitted position.

Appearance before the Hon’ble JJ Board Salt Lake:

In compliance of the order of the Ld. Court, the JCL did not appear on the very date fixed. The JCL was appeared on the subsequent date on 21.04.2008, thereafter disappeared. The Complainant also failed to produce witnesses in compliance of successive directions of the Board. On 28.01.2009 in compliance of direction of Hon’ble Court the Case record was transmitted to the JJ Board Burdwan.

Proceeding before the Hon’ble JJ Board Burdwan:

Despite of repeated direction the JCL never turned up before the Hon’ble Board, Burdwan. The complainant also remained absent on every dates. In the mean time the Hon’ble Board obtained report from the concerned PS regarding disappearance of the family of the JCL girl
in the locality of last abode. Ultimately, in absence of JCL girl and the complainant, the Hon’ble Board discharged the JCL girl from the case.

Findings:

a) Infirmity of the system:
Whenever a person alleged to have been committed an offence and appeared before a Court or the Hon’ble Board as the case may be, is apparently a juvenile, according to JJ Act, 2000, the concerned Court or Board should make an enquiry to ascertain the age before furthering the proceeding next (Section – 7, 7A, 49 of the JJ Act, 2000 read with Rule – 12 of the JJ Rules). In this case it is lacking. Even after judicial notice of juvenility by the Ld. Court, the record finally transmitted to the JJ Board Salt Lake after a lapse of about eight months. The time period is much longer than the period prescribed for final disposal of a proceeding against a Juvenile, four months or extended period of six months.

b) Non compliance of Act & Rules by the Board:
Non compliance of Section – 7, 7A, 49 of the JJ Act, 2000 read with Rule – 12 of the JJ Rules. The inquiry to be completed within a period of 4 months after the first summary inquiry unless extended for reasons in writing. [Proviso to Section 14 (1) r/w Rule 13 (6) and Rule 15 (1)]. The JCL continued to undertake legal proceeding in total for the period of 26.07.2005 to 21.04.2008.

c) Reckless loss:
The JCL has suffered irreparable loss by undertaking the proceeding for the long time. The main charges of the alleged offences which have been revealed against the JCL after SA, are non serious in nature. Perhaps the JCL undertaken much more hardship by appearing before the Ld. Court and JJ Board Salt Lake, than she would have to suffer if found guilty of the charges leveled against her, on completion of enquiry.
Case No. 5

Name of the Juvenile :  Mentioned as ‘F’ herein
Name of the concerned PS :  Ketugram, District: Burdwan
Nature of Case :  Complaint filed before Ld. ACJM Court Katwa, Burdwan under Section – 156(3) of the Code of Criminal Procedure, later converted to Police case
Penal Section(s) :  The Case has been started under Section – 363 / 366 / 366A / 368 / 34 of the Indian Penal Code
Number of JCL :  ‘One’ Juvenile out of Eight accused persons

Preliminary fact:
The complainant filed complaint before the Ld. ACJM Katwa against Eight accused persons under Section – 156(3) of the Code of Criminal Procedure leveling allegations under Section – 363 / 366 / 366A / 368 / 34 of the Indian Penal Code. Ld. ACJM was pleased to direct concerned PS to register specific case and in compliance of said direction the PS case has been started.

Gist of allegation:
The JCL along with other seven accused persons in furtherance of their common intention entices away and confined the minor daughter of the complainant aged about 16 years for any unholy or illegal purpose or trafficked for sale or transportation.

Arrest and first production:
The JCL boy was apprehended and produced before Ld. ACJM Katwa, District: Burdwan on 29.11.2009. Ld. ACJM was pleased to reject the bail petition and remanded him to Jail custody.

Recovery:
The girl has been recovered and her statement was recorded.

Raising the issue of Juvenility:
The issue of Juvenility first comes up before the Ld. Addl. Session Judge at Katwa, Burdwan at the time of hearing of petition for bail under Section – 439 Cr.PC. relying upon the documentary proof collected by the IO and referring to page 25 of the CD, Ld. Addl. Session Judge primarily held that the petitioner is a juvenile and left the other zone of consideration to the Ld. ACJM Katwa, to serve the benefits of JJ Act to the alleged
petitioner. In accordance with the direction of Ld. Addl. Session Judge, Ld. ACJM again taken judicial notice in reference to the school certificate collected by the IO of the Case and lying with the CD and thereby ordered to split up the case record and directed to produce the JCL before the Hon’ble JJ Board Burdwan on 24 / 12 / 09. The issue of juvenility primarily verified by the IO, later considered by Ld. Addl. Session Judge and thereafter finally affirmed by Ld. ACJM Katwa. All the process based on Documentary proof school certificate is complete.

On 07/01/2010 the issue of juvenility again reopened by the Pr. Magistrate alone, and referred the JCL for Ossification Test. The Ossification Test accounted the age of JCL at an average 19 years to 22 years. The Pr. Magistrate held the person as major.

Production and proceeding before the Hon’ble JJ Board Burdwan:

The JCL produced before the Hon’ble Board on 07.01.2010 and on the same date released in the custody of his grandfather. The Hon’ble Magistrate referred the JCL for Ossification on the same day. The JCL on three successive dates duly appeared before the Hon’ble Board, but the proceeding deferred for the absence of regular PO. On 11.11.2010 Ld. Principal Magistrate alone without the concurrence of other members, has held that the alleged JCL as a major and transferred the Case record to the Ld. ACJM Court Katwa.

Findings:

a) **Infirmity of the system:**

The proceeding before the Board till the date of retransfer of the Case record to the Court of Ld. ACJM Court Katwa has taken a period more than ten months. The time period is much longer than the period prescribed for final disposal of a proceeding against a Juvenile, four months or extended period of two months.

b) **Lack of legal expertise:**

Whenever a person alleged to have been committed an offence and appeared before a Court or the Hon’ble Board as the case may be, is apparently a juvenile, according to JJ Act, 2000, the concerned Court or Board should make a an enquiry to ascertain the age before furthering the proceeding next (Section – 7, 7A, 49 of the JJ Act, 2000 read with Rule – 12 of the JJ Rules). In this case the process is complete before transmission the Case record to the Board. The Principal Magistrate cannot reopen the issue of juvenility when the issue decided in
accordance with the rule referring to the preferential value of the evidences. Further transmission of the case record to the Court of Ld. ACJM, tantamount to final disposal of the proceeding pending before the Board and Pr. Magistrate alone cannot pass such a decision. In this Case there is gross violation of the Act and Rule in force, by the Pr. Magistrate.

The inquiry to be completed within a period of 4 months after the first summary inquiry unless extended for reasons in writing. [Proviso to Section 14 (1) r/w Rule 13 (6) and Rule 15(1)]. The JCL continued to undertake legal proceeding in total for the period of ten months since appearance before the Hon’ble Board.

c) Reckless loss:

The JCL has suffered irreparable loss by undertaking the proceeding for the long time. The right of the JCL to the benefit of JJ Act, 2000 has totally been denied by the Pr. Magistrate alone. On the other hand the state undertook several steps through multiplied proceedings before the Ld. ACJM Katwa and JJ Board Burdwan, at the cost of public exchequer for the latches of the authority involved. If the person is not at all a JCL and obtained the bail order beyond his legal entitlement by otherwise means, the investigating agency was precluded to secure smooth investigation keeping the offender behind the bar.

**Case No. 6**

Name of the Juvenile : Mentioned as ‘G’ herein
Name of the concerned PS : Burdwan District: Burdwan
Nature of Case : Complain Case filed before Ld. CJM Court Burdwan
Penal Section(s) : The Case has been started under Section – 341 / 323 / 504 / 34 of the Indian Penal Code.
Number of JCL : ‘One’ Juvenile out of two accused persons

**Preliminary fact:**

The complainant filed complaint before the Ld. CJM Burdwan against two accused persons under Section – 341 / 323 / 504 / 34 of the Indian Penal Code. On examination of witnesses on SA Ld. Court has been pleased to issue process against both the two accused persons under Section –341 / 323 / 504 / 34 of the Indian Penal Code.
Both the accused persons in due compliance of summons appeared before the Ld. Court on 15.01.2010 and Ld. Court on consideration of the prayer of the accused persons, allowed bail to major one with a bond of Rs. 200/-.. On consideration of the submission of the Ld. Advocate in respect of the alleged JCL, who is aged about 14 years as alleged, Ld. Court issued direction to produce the JCL before the Hon’ble Board on 02.03.10. Record has also been split up by order.

**Arrest and first production:**

Since the Case is a complaint Case, the question of arrest and production does not arise at all.

**Issue of Juvenility before Ld. ACJM or Board:**

The question of determination of Juvenility before the Ld. ACJM Court or Board, as the case may be, has never been an issue of consideration. The age of Juvenility is an admitted position.

**Appearance and proceeding before the Hon’ble JJ Board Burdwan:**

In compliance of the order of the Ld. Court, the JCL did not appear on the very date fixed and remained absent on two subsequent dates. The JCL was appeared on the subsequent date on 09.07.2010 through his Ld. Advocate and filed a joint petition of compromise with the complainant. The matter adjourned due to the absence of regular PO. Thereafter both the complainant and JCL disappeared and never turned up. Finally on 08.12.2010 the Pr. Magistrate alone acquitted and disposed off the proceeding.

**Findings:**

a) **Infirmity of the system:**

As the Pr. Magistrate was on leave and the Board function continued with requisite quorum, but the quorum of the Board did not proceed with the case. Consequently the proceeding has been delayed for a long time.

The time taken by the Board is much longer than the period prescribed for final disposal of a proceeding against a Juvenile, four months or extended period of six months.

b) **Non compliance of Act & Rules by the Board:**

The inquiry to be completed within a period of 4 months after the first summary inquiry unless extended for reasons in writing. [Proviso to Section 14 (1) r/w Rule 13 (6) and Rule 15 (1)]
c) **Ultimate loss and injury:**

The JCL has suffered irreparable loss by undertaking the proceeding for the long time.

**Case No. 7**

<table>
<thead>
<tr>
<th>Name of the Juvenile</th>
<th>Mentioned as ‘H’ herein</th>
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</thead>
<tbody>
<tr>
<td>Name of the concerned PS</td>
<td>Katwa, District: Burdwan</td>
</tr>
<tr>
<td>Nature of Case: -</td>
<td>Police Case by Complaint filed before the OC Katwa PS, Burdwan</td>
</tr>
<tr>
<td>Penal Section(s):-</td>
<td>The Case was started under Section – 363 / 366 / 120B of the Indian Penal Code.</td>
</tr>
<tr>
<td>Number of JCL: -</td>
<td>‘One’ Juvenile out of Five accused persons</td>
</tr>
</tbody>
</table>

**Preliminary fact:**

The complainant filed complaint before the OC Katwa PS against Five accused and the PS case was started.

**Gist of allegation:**

The JCL girl along with other five accused persons in furtherance of their conspiracy kidnapped and confined the minor daughter of the complainant aged about 16 years 6 months for any unholy or illegal purpose or trafficked for sale or transportation.

**Arrest and first production:**

The JCL girl was apprehended on 06.052008 and produced before Ld. ACJM Katwa, District: Burdwan on 07.05.2008. Ld. ACJM considering the prayer of the mother of the JCL girl along with other circumstances released the JCL in her mother’s custody with a direction to produce the JCL before the JJ Board Salt Lake by 09.05.2008.

**Recovery:**

The victim girl was recovered and her statement was recorded under section – 164 Cr.PC.

**Issue of Juvenility:**

The issue of Juvenility first comes up before the Ld. ACJM Court Katwa, Burdwan on the day of first production. The prosecution story, forwarding report, arrest – cum – inspection memo, school certificate etc. suggested that the age of the alleged JCL girl is under 18 years and Ld. ACJM Court Katwa held that the JCL girl falls within the ambit of the
JJ Act, 2000. The issue has never been challenged or reopened at any subsequent point of
time. The determination of juvenility has got its finality.

Production and proceeding before the Hon’ble JJ Board Salt Lake:

In due compliance of the direction of the Ld. ACJM, the mother produced the JCL
girl before the Hon’ble Board on 09.05.2008 and left under the safe custody of her mother,
on execution of PR Bond of Rs. 500/-. The social investigation report was called for by the Pr.
Magistrate. On 31.05.2008 the JCL girl reported to the Hon’ble Board that she is facing
humiliation in her school. Hon’ble Pr. Magistrate ordered the Probation Officer for
intervention as such the JCL girl can resume her schooling and to furnish report by the next
date. For a long time no report has been submitted by the PO. Subsequently the Case has
been transferred to the JJ Board Burdwan in compliance of Hon’ble High courts direction.

Proceeding before the Hon’ble JJ Board Burdwan:

Since 27.09.2010 the JCL girl regularly appeared before the Hon’ble JJ Board Burdwan till
disposal of the proceeding on 18.03.2011.

Result of the proceeding:

In consideration of materials collected by the IO, the JCL girl has been ‘not sent off’ in the CS
and accordingly basis of information received by the Board regarding no objection by the DC
before the Ld. ACJM Court Katwa, the JCL girl finally discharged from the Case by the Board.

Findings:

a) Infirmity of the system:

The proceeding before the Board since the date of transfer on 09.05.2008 of the
Case record to the JJ Board Salt Lake till disposal on 18.03.2011 by the JJ Board
Burdwan, took a period of about four years. It is much longer than the period
prescribed in the JJ Rule for final disposal of a proceeding against a Juvenile, four
months or extended period of two months. No action was taken for non submission
of social investigation report or report by the Probation Officer.

b) Lack of legal expertise:

The inquiry to be completed within a period of 4 months after the first summary
inquiry unless extended for reasons in writing. [Proviso to Section 14 (1) r/w Rule 13
(6) and Rule 15(1)]. The JCL continued to undertake legal proceeding in total for the
period of ten months since appearance before the Hon’ble Board.
c) **Reckless loss:**

The JCL has suffered irreparable loss by undertaking the proceeding for the long time. The right of the JCL to the benefit of JJ Act, 2000 has totally been denied. On the other hand the state undertook several steps through multiplied proceedings before the Ld. ACJM Court Katwa and the JJ Board Salt Lake & Burdwan, at the cost of public exchequer for the lapses of the authority involved. In this case the girl is the victim of circumstances; she had no role in the commission of the offence. Nevertheless, no compensation was awarded by any of the authority to compensate the girl. Even the rule is not clear how to deal with the issues when a child is subjected to false prosecution.

**Case No. 8**

The name of the Juveniles mentioned as ‘I’

Name of the concerned PS: - RPF / Post / Burnpur, District: Burdwan

Penal Section(s):- Sections – 3(a) of Railway Property (UP) Act, 1966

Number of Juvenile: - ‘One’ boy, Juvenile

**Preliminary fact:**

On 26.01.2003 at about 22-30 to 23-00 hrs the RPF personnel of RPF / Post / Burnpur, on receipt of a source information apprehend the JCL boy and seized some pandal clips, signals relay etc., alleged to be railway property, from the possession of the JCL. The JCL after apprehension confessed that he has committed theft of those railway properties. On the next day one officer of RPF / Post / Burnpur S. Y. Minz IPF / Burnpur, forwarded the JCL boy before the Ld. SDJM Court Raghunathpur, Purulia. Though the arresting officer mentioned the age of the juvenile as 19 years, but on consideration of apparent physical appearance of the boy, Ld. Court held that the boy is aged about 14 years and directed the boy to be produced before the JJ Board Salt Lake on the next day. The seized properties have properly been examined by the expert and the expert opined that the property belongs to railway and not available in the market.

**Arrest and production:**

The JCL boy was apprehended on 26.01.2003 at late night and produced before the SDJM Court Raghunathpur on the next day on 27.01.2003 and thereafter on 28.01.2003 before the Hon’ble JJ Board at Salt Lake.
Recovery of stolen articles:
The recovery of stolen articles made on the spot form the possession of the JCL boy at the very date and time of apprehension. There was no further recovery after arrest.

Issue of Juvenility before Ld. ACJM or the Hon'ble Board:
The age of the JCL has never been determined by the Court or Board in accordance with the rule. Throughout the proceeding the Court and the Boards have acted upon assumption on the basis of first order of Ld. SDJM Raghunathpur.

Proceeding before the JJ Board Salt Lake:
The proceeding before the JJ Board Salt Lake has continued for a long time. From the day of 28.01.2003 till 16.08.2003 and the JCL was kept at Home under the order of the Board. On 16.08.2003 the JCL was released in the custody of his mother on execution of a bail bond of Rs. 2000/- with two surity one thousand each. IO submitted report in final form on that day. In the mean time the Hon'ble JJ Board Salt Lake receipt report from Probation Officer. According to the order of the Board the report of PO revealed the criminal antecedent of all the family members of the JCL; mother, elder brother, elder sister and also speaks that the JCL being on trapped by local criminals committed the offence. At the time of preparation of the report the elder brother of the JCL was in the jail custody for an offence. The report justifies that the release may not be beneficial to the JCL.

After bail the JCL disappeared. Despite of issuance of warrant the Board could not procure the attendance of the JCL. Ultimately on 23.02.2009, the Hon'ble Pr. Magistrate in compliance of direction of Hon'ble High Court vide Memo No. 106A dt. 07/01/09 transferred the case record to the JJ Board Burdwan.

Proceeding before the JJ Board Burdwan:
The Board could not procure the attendance of the JCL from 11.08.2009 to 16.11.2010 and lastly on receipt of report from RPF Post Burnpur that the JCL is not traceable for the last five years in the locality, the Pr. Magistrate by his order dated 16.11.2010 has been pleased to drop the case.

Related information:
First production before the Ld. SDJM Raghunathpur perhaps based on place of arrest and seizure by the Railway Protection Force. The Hon'ble JJ Board Salt Lake transmitted the case to the JJ Board Burdwan on consideration of Place of Occurance.
Findings:

a) Infirmity of the system:

Whenever a person arrested, alleged to have been committed an offence and apparently is a juvenile, according to JJ Act, 2000, the concerned officer should make a preliminary verification before actual detention and production before Court or Board. In this case it is lacking. The main culprits who encouraged the minor boy to commit the offence have never been arrested. The state machineries have forgotten this part of their legal duties. There is no body to represent the state cases before the Board if the same is initiated at the instance of central government agencies.

b) Lack of legal expertise of the Court:

The interesting revelations from the order of the Ld. SDJM Court Raghunathpur is ‘Section – 12 of the JJ Act, 2000 has taken away the power of any Magistrate to hear any bail application in respect of a juvenile and given jurisdiction for consideration of the bail to the Juvenile Board’. The inference of the Ld. Magistrate is not in conformity with the ambit of the section.

c) Non compliance of Act & Rules by the Board:

Non compliance of Section – 7, 7A, 49 of the JJ Act, 2000 read with Rule – 12 of the JJ Rules. The inquiry to be completed within a period of 4 months after the first summary inquiry unless extended for reasons in writing. [Proviso to Section 14 (1) r/w Rule 13 (6) and Rule 15(1)]. The JCL remained in Home for about a period of seven months (28.01.2003 to 16.08.2003) since his date of production before the Hon’ble Board.

d) Ultimate loss and injury:

Not tracing the JCL after bail perhaps justifies concerns revealed from the order based on the report of the Probation Officer. The state mechanism failed to protect the childhood of the JCL. If the JCL disappears forever for attachment with the antisocial elements, it is the state that is responsible for such disappearance. No positive step has ever been taken by the state to serve complete reformation of the JCL.
Case No. 9

Name of the Juveniles: Mentioned as J & K herein

Name of the concerned PS: Pandaveswar, District – Burdwan

Nature of Case: ACJM Court Durgapur, Burdwan under Section–156(3) of the Code of Criminal Procedure, later converted to Police case

Penal Section(s): The Case started under sections – 498A / 406 / 307 / 313 / 34 of the Indian Penal Code. On completion of investigation CS was submitted under sections–498A / 406 / 313 / 34 of the Indian Penal Code

Number of JCLs: Two (one girl & one boy) juveniles out of six accused persons

Preliminary fact:
The complainant filed complaint before the Ld. ACJM Durgapur against six accused persons under Section–156(3) of the Code of Criminal Procedure leveling allegations under Sections–498A / 406 / 307 / 313 / 34 of the Indian Penal Code. The Ld. ACJM directed the concerned PS to register specific case and in compliance of the said direction the PS case was started.

Gist of allegation:
It was alleged that the JCL boy and girl along with other four accused persons in furtherance of their common intention and connivance, committed the offence of cruelty, attempt to murder, causing miscarriage without consent and other offences upon the de facto complainant, the house wife of the family.

Arrest and first production:
The JCLs were not apprehended since they were granted anticipatory bail from the Hon’ble High Court, Calcutta on 06.01.2010. Later both the JCLs surrendered before the Ld. ACJM Durgapur through their mother and as per to the direction of the Ld. ACJM Durgapur they were produced before the Hon’ble JJ Board Burdwan on 15.02.2010 by the mother.

Recovery:
There was no question of recovering anything from the JCL boy and girl.
Issue of Juvenility:

The issue of Juvenility first came up before the Hon’ble High Court, Calcutta on 06.01.2010 at the time of hearing of the petition for anticipatory bail under Section–438 Cr.PC. Relying upon the documents (school certificates) submitted by the petitioners mother representing the JCL boy and girl, the Hon’ble Court held that the petitioners were juveniles and granted anticipatory bail to the JCLs with a direction to surrender before the Hon’ble Magistrate within a period of four weeks and left the other zone of considerations to the Ld. ACJM without being influenced by the order of the Hon’ble Court. In accordance with the direction of the Hon’ble High Court, Calcutta the JCLs surrendered before the Ld. ACJM and the Ld. ACJM again took judicial notice in reference to the school certificate and thereby ordered to split up the case record and directed to produce the JCL before the Hon’ble JJ Board Burdwan on 15.02.2010. The issue of juvenility primarily was considered by the Hon’ble High Court, Calcutta on 06.01.2010 and thereafter affirmed by Ld. ACJM Durgapur. The entire consideration was based on the documentary proof of the school certificate of the juveniles.

Production and proceeding before the Hon’ble JJ Board Burdwan:

In due obedience of the direction of the Ld. ACJM, the mother of the JCL boy and girl produced the JCLs before the Hon’ble Board on 15.02.2010 and on the same day they got released in the custody of their mother. On six subsequent dates the JCLs were represented or produced before the Hon’ble Board. Finally on 11.01.2011, the Hon’ble Board discharged the JCLs on the ground that they were ‘not sent off’ in the CS by the IO.

Related information:

The documents which were furnished before the Hon’ble Courts and the Board suggested that at the time of institution of the proceeding before the Ld. ACJM Durgapur, the JCL girl was aged about 10 years and boy was aged about eight years.

Findings:

a) Infirmity of the system:

At the time of granting an order under Section–156(3), the Ld. ACJM had no scope to verify the age of the accused persons. The IO did not take any adverse action when the outcome of the investigation did not hint any justification of filing a case against the minors in this proceeding. The JJB is supposed to deal with all issues
relating to a juvenile–in–conflict with law as and when the matter comes before the court. But in the similar circumstances of the present proceeding, an alleged JCL had to knock the door of the Hon’ble High Court or the Ld. Session Judge as the case may be, for an order under Section–438 Cr.PC for anticipatory bail. The Board cannot do anything unless the record is transmitted to the Board. This resulted in excessive and exalted burden upon the JCLs more than the major for being accused to have committed an offence.

b) **Lack of legal expertise:**

The inquiry was to be completed within a period of 4 months after the first summary inquiry unless extended for reasons in writing [Proviso to Section 14 (1) r/w Rule 13 (6) and Rule 15(1)]. However, the JCLs bore the brunt of the legal proceedings for the period of around ten months since their appearance before the Hon’ble Board and this was beyond the rules and laws. The Pr. Magistrate alone disposed off the proceeding without concurring with any other member. Moreover, no legal action on the part of the Pr. Magistrate was initiated against the de facto complainant for filing a false complaint against the minors and it was tantamount to cruelty.

c) **Reckless loss:**

The JCLs suffered inexplicable and irreparable loss by bearing the brunt of expensive and anguishing legal proceedings for a longer period. On the other hand, the state delayed the process of justice by undertaking multiple proceedings before the Hon’ble Court, Ld. ACJM Durgapur and JJ Board Burdwan at the cost of the public exchequer for the lapses of the concerned authority.

**Case No. 10**

**Name of the Juvenile** : Mentioned as ‘L’ herein

**Name of the concerned PS** : RPF / East Post / Assansol, District: Burdwan

**Penal Section(s)** : Sections – 3(a) of Railway Property (UP) Act, 1966

**Number of Juvenile** : ‘One’ boy, Juvenile

**Preliminary fact:**

On 28.03.2008 one ASI D. K. Ghosh of RPF / East Post / Assansol, District: Burdwan logged a written complaint before the Inspector of RPF / East Post / Assansol to the effect that on
28.03.008 during the course of his official duty at railway station Assansol with other RPF personnel apprehended one boy carrying a white plastic bag with some iron materials alleged to be the property of railway, accordingly arrested and produced the boy before the RPF / East Post / Assansol with seizure list, seized materials and lodged the written complaint. The JCL after apprehension confessed that he has committed theft of those railway properties. On the next day one officer of RPF / East Post / Assansol forwarded the JCL boy before the JJ Board Salt Lake. The seized properties have properly been examined by the expert and the expert opined that the property belongs to railway and not available in the market.

**Arrest and production:**

The JCL boy was apprehended on 28.03.2008 at 18-10 hrs and directly produced before the JJ Board Salt Lake on the next day on 29.03.2008 and thereafter remanded to Home and produced before the Hon’ble JJ Board at Salt Lake, in every occasion on 11.04.2008, 25.04.2008, 09.05.2008.

**Recovery of stolen articles:**

The recovery of stolen articles made on the spot form the possession of the JCL boy at the date and time of apprehension. There was no further recovery after arrest.

**Issue of Juvenility before Ld. ACJM or the Hon’ble Board:**

The age of the JCL as reported in the memo of arrest is 16 years and the same has never been challenged or reopened by the Board(s).

**Proceeding before the JJ Board Salt Lake:**

On 09.05.2008 the parent of the JCL received the custody of the JCL from the Board. On 31.05.2008 the proceeding has been disposed off under Section – 15 (a) (e) of the JJ Act, 2000 by the Board after admonition on execution of PR Bond for good conduct for one year and released the JCL in the custody of the parent under observation of Probation Officer. In compliance of order of the Hon’ble High Court Calcutta vide memo no. 106A dt. 07.01.2009 the case record has been transferred to the JJ Board Burdwan.

**Proceeding before the JJ Board Burdwan:**

Since the date of transfer of the case record till 21.01.2011 the JCL never appeared before the JJ Board Burdwan. On consideration of the report of the Probation Officer the matter has been closed by the Board on 21.01.2011.
Findings:

a) **Infirmity of the system:**
   As such there is no system caused delay.

b) **Lack of legal expertise of the Court:**
   Nothing to report adverse.

c) **Non compliance of Act & Rules by the Board:**
   Nothing to report adverse.

d) **Reckless loss:**
   Nothing to report adverse.

Note: This is one of the proceedings which perhaps concluded more or less in conformity with the JJ Act and rules framed there under.

**Case No. 11**

Name of the Juvenile: Mentioned as ‘M’ herein

Name of the concerned PS: Assansol GRPS, District: Burdwan

Penal Section(s): Section – 379 of Indian Penal Code

Number of JCL: ‘One’ out of two female miscreants

Preliminary fact:
On a complaint filed by one person on 05.11.2007, alleging theft of money purse from his pants’ pocket having cash of Rs. 1300 and other valuable security and from the purse of his wife having cash of Rs. 1200/- during course of train journey, the OC GRPS Assansol was started the case against two FIR named female miscreants.

Arrest and first production:
The JCL of the case has been caught red handed and brought to the GRPS by the complainant himself and the officer GRPS Assansol arrested the female JCL on 05.11.2007 and forwarded the female JCL aged (as per arrest memo) 12 years, directly before the Hon’ble JJ Board Salt Lake.

Recovery of stolen article and transmission to Ld. Court:
Nothing was recovered during the course of investigation. According to the story of the investigation the theft articles have been handed over to the other FIR named accused person.
Issue of Juvenility:
The question of determination of Juvenility before the Board has never been an issue of consideration. The age of Juvenility is an admitted position.

Initial proceeding before the JJ Board Salt Lake:
On the date of production the JJ Board Salt Lake put the JCL girl to the safe custody of Home. On different dates in compliance of Hon’ble Board’s order the JCL produced before the Board from the Home on 26.11.2007, 10.12.2007, 19.12.2007, 02.01.2008, 16.01.2008, 30.01.2008, and lastly on 13.02.2008. On receipt of intimation from the Board the father of the JCL appeared before the Board on 13.02.2008 and under order of the Board received custody of the JCL on execution of Bond. After release the JCL appeared before the Hon’ble Board on 25.04.2008. Thereafter the JCL never turned up and appeared before the Hon’ble Board. On 19.01.2009 in compliance of Hon’ble High Courts’ order vide Memo No. 106A dt. 07.01.2009, the record has been transferred to the JJ Board Burdwan.

Proceeding before the JJ Board Burdwan:
Despite of issuance of WA, since 20.06.2009 till the disposal of the proceeding on 12.10.2010 the JCL never turned up before the Board. On 12.10.2010 the Hon’ble Board without assigning any reason pleased to drop the proceeding.

Findings:

a) Infirmity of the system:
Non intimation to the parent / guardian about apprehension of the juvenile, address of the Board and date and time of production. [Section – 13(a) read with rule 11(1) (b), and Section – 17 of the JJ Act, 2000]. The state machinery failed to comply with the time to time requisite direction of the Hon’ble Board. The investigating agency failed to procure arrest the co – accused or to recover the stolen articles.

b) Lack of legal expertise of the Court:
Issuance of WA against JCL for non appearance instead of issuing WA against the person who has taken charge of the JCL is conflicting with the principle embodied in Section – 22 of the JJ Act, 2000.

c) Non compliance of Act & Rules by the Board:
Section – 13(a) read with rule 11(1) (b), and Section – 17 of the JJ Act, 2000 and Section – 22 and 60(1) of the JJ Act, 2000
d) **Reckless loss:**

The actual object of the JJ Act, 2000 to reform the JCL has got its end since the JCL disappeared and never turned up before the Board. The right to reformation is based on the best interest of the child has been frustrated.

**Case No. 12**

<table>
<thead>
<tr>
<th>Name of the Juvenile</th>
<th>Mentioned as ‘N’ herein</th>
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</thead>
<tbody>
<tr>
<td>Name of the concerned PS</td>
<td>Raniganj, District: Burdwan</td>
</tr>
<tr>
<td>Nature of Case</td>
<td>Complaint filed before Ld. ACJM Court Assansol, Burdwan under Section – 156(3) of the Code of Criminal Procedure, later converted to Police case</td>
</tr>
<tr>
<td>Penal Section(s)</td>
<td>Initially the case started under Sections – 363 / 366 / 342 / 34 of the Indian Penal Code, later investigation revealed no case and ended in FRT</td>
</tr>
<tr>
<td>Number of Juvenile</td>
<td>‘One’ girl, but not JCL, the girl is the Victim</td>
</tr>
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**Preliminary fact:**

The father of the Victim as Defacto complainant filed a complaint before the Ld. ACJM Assansol on 20.09.2007 against three accused persons under Section – 156(3) of the Code of Criminal Procedure leveling allegations under Section – – 363 / 366 / 342 / 34 of the Indian Penal Code. Ld. ACJM has been pleased to direct concerned PS to register specific case and in compliance of said direction the PS case has been started.

**Gist of allegations:**

The accused persons in connivance with each other kidnapped and confined the minor daughter of the complainant, who was born on 03.01.1991. The principal accused is a notorious criminal. On searching and enquiry the DC came to know that the principal accused married with the minor daughter of the DC and presently residing with the accused persons. The DC denied the marriage as his daughter is under the age of majority and asked the accused persons to return his daughter but the accused persons refused on the pretext of pretended marriage. Thereafter the DC rushed to PS to complain and on refusal from the PS preferred complain before the Ld. Court.
Relevant fact:
Initially the police delayed the matter on the ground that the place of occurrence beyond the territorial jurisdiction of the PS. The problem resolved through the intervention of Ld. ACJM by disposal of applications preferred by Police and counter reference from the end of DC. Finally, IO adhered the conclusion drawn Ld. ACJM, Assansol.

Recovery:
The VG recovered by the IO on 21.01.2008 and produced her before the Ld. ACJM Assansol with a prayer under Section – 164 Cr.PC. The prayer allowed by the Ld. Court and accordingly the statement was recorded.

Arrest and production:
All the accused persons arrested and produced before the Ld. Court and subsequently after a considerable detention released on bail under order of the Court of Law. The proceedings of the case relating to the accused persons are not the subject of discussion herein. Here the Juvenile is the Victim.

Issue of Juvenility:
The age of the Victim girl determined on the basis of Ossification Test under direction of the Ld. Court. The Ossification Test mentioned the age of Victim as above the age of 18 years and bellow the age of 20 years. The age calculation on the basis of Ossification Test has been challenged by the DC, the father of the Victim on the basis of school certificate. Ld. ACJM Assansol required for verification of the documents submitted by the DC. Considering the apathy of the Victim girl towards her parents, Ld. ACJM has been pleased to reject successive applications praying for custody of the VG. On the other hand the prayer for release of the VG on her on PR bond has also been rejected. During the course of verification of the documents by the IO, the DC preferred revision application before the Hon’ble high Court. The issue of juvenility has never got its finality before the subordinate Court. The Hon’ble High Court in his solemn pronouncement held that the Victim girl is a Juvenile – in – need of care and protection and she should be forwarded to the concerned JJB and directed the Ld. ACJM to take necessary action within a week of communication of the order.
The issue has never been reopened. It got its finality since the Hon’ble High Court has decided the issue.
Related facts of the proceeding:

The IO has submitted FRT basis of the statement U/S – 164 Cr.PC where the VG stated she voluntarily went with the accused and married him along with other proof like OT etc. which affirms the age of the VG above 18 years. Since the date of production of the VG before the Ld. Court till the date 05.01.2009 she remained at Lilua Home.

Proceeding before the JJ Board Salt Lake:

The proceeding before the JJ Board Salt Lake has commenced on 05.07.2008 and continued upto 28.01.09. On 28.01.2009 the Hon’ble Board in compliance of the direction of the Hon’ble High Court, Calcutta vide Memo No. 106A dt. 07.01.2009 released and transferred the matter to the JJ Board Burdwan. On 05.01.09 by the order of the Hon’ble Board Salt Lake, the VG got release on execution of PR Bond.

Proceeding before the JJ Board Burdwan:

The proceeding before the JJ Board Burdwan commenced on 28.01.2009 and dropped on 23.11.2009 when the VG has been set free. The proceeding several times deferred for want of original certified copy of case record.

Findings:

This is a unique case to highlight the flaws in the existing laws in India relating to the right of children. Here the VG was subjected to maltreatment and victimization due to conflicting provisions of the laws. The Code of Criminal Procedure does not prescribe any clear formula to deal with a child, who is a victim of an offence and has been produced before a Court of Law. The process of releasing a victim or VG followed by the Indian courts of criminal judicature is based on precedents. For the purpose of Section 375 (IPC), the crucial age of consent is 16 years. So if a woman above the age of 16 years entered into sex voluntarily with a man, then the man has committed no offence. On the contrary, if the woman is above the age of 18 years and enters into sex with a man below the age of 16, the problem has a different dimension. In case of marriage, the age of consent is 18 years, which is also the age of attaining majority for women. However, for men it is 21 years. It is fact that in India the age of eligibility for marriage is different for male and female. Importantly, there is no bar when the custom or customary right sanctions a different age of consent for marriage and it may be below the age of attaining majority as per the law. If the marriage is allowed by the customs of the parties of the marriage, then there is no legal problem. On the other hand
when the guardians of both the parties agree to the marriage, then also there is no problem before the Court of law. Perhaps the different age of marriage for male and female, has been prescribed by the law on basis of physical maturity of the male and female. In the referred case the father of the DC himself created the problem intentionally. According to the Ossification Test report, the girl reached the age of majority. The determination of the age is obviously a prerequisite to establish a charge under the provisions of the law of this case. It is the responsibility of the investigating agency to enquire into the matter.

It has been decided by the Hon’ble Apex Court in case of R. Sarala v. T. S. Vellu\textsuperscript{74} that there is a statutory right on the part of the police to investigate the circumstances of a cognizable crime without requiring any authority from the judicial authorities. Such statutory power cannot be interfered by an exercise of inherent jurisdiction of the Court. On the other hand, according to Section–7 of the JJ Act, 2000, a magistrate is empowered to consider a person as juvenile if the child is produced before the magistrate under the JJ Act and section–7A empowers the magistrate to enquire into the age of the juvenile or child if he is produced before the magistrate for a charge of commission of any offence. The process of due enquiry proceeds through Section–49 read with Rule–12 of the JJ Rule.

In the referred case the VG herein admittedly is not a JCL nor has she been produced before the Ld. ACJM Assansol on any of the provision of the JJ Act, 2000. As such the provisions of the JJ Act are not at all applicable to the VG of this case. So the process adopted by the Ld. Magistrate to determine the age of the girl after filing of FRT by the IO is a conflicting action vis-à-vis the pronouncement of the Hon’ble Apex Court and the provisions of the JJ Act and rules framed there under.

Hence it can be commented that the victim girl could not reap the benefit of the JJ Act, 2000 in the right earnest rather she was subjected repressive position of the girl child in the Indian society by means of the conflicting provisions of the Indian laws. The gradual recast of the societal structure necessitates the unification of laws related to child and review of the age of consent to marriage and personal relations.

\textsuperscript{74} (2000)4 SCC 459
Case No. 13

Name of the Juvenile: Mentioned as ‘O’ herein
Name of the concerned PS: Kulti, District: Burdwan
Nature of the Case: Direct Police Case on complaint filed by an ASI of Police
Penal Section(s): Sections 25(ib) (a) / 27 of the Arms Act
Number of Juvenile: ‘One’ boy

Preliminary fact:

On receipt of source information during course of official duty one ASI of Police of the PS, held raid and arrested the alleged JCL from a place nearby the College bus stand on old GT Road armed with one improvised pipe gun length about 9” having iron butt, trigger, firing pin etc. loaded with one round 8MM ammunition. The arm was recovered and seized with proper seizure list. On return the arresting and seizing officer lodge a written complaint which has treated as FIR.

Arrest and production:

Arrested on 16.03.2011 and produced before Ld. ACJM Court Assansol on 17.03.2011. According to the direction of Ld. ACJM the alleged JCL boy was produced before the Hon’ble JJ Board Burdwan on the next day on 18.03.2011.

Recovery:

At the time of arrest the arresting officer recovered and seized one improvised pipe gun with one round 8MM ammunition from the possession of the alleged JCL.

Issue of Juvenility before Ld. ACJM or the Hon’ble Board:

The memo of arrest of the JCL boy reported the age of the JCL is 21 years. The question of determination of Juvenility arose first at the time of bail hearing before the Ld. ACJM Assansol on 17.03.2011. On 23.06.2011 the Hon’ble JJ Board Burdwan initiated process for the determination of the issue of juvenility and pleased to call for school register from the concerned school and the head master was asked to appear in person along with a certificate specifying the exact date of birth of the alleged JCL. After bail on two successive occasions the JCL remained absent. On 22.09.2011 after careful examination Ld. Court find that the age of the alleged JCL was above eighteen years at the date of commission of the offence and not in conformity with the papers submitted by the alleged JCL in support of his date of birth. The year of alleged date of birth as claimed is 1993 and it differs with the
recorded date of birth in the school register as 1992. The order of the Board speaks that Ld. Advocate for the alleged JCL has no explanation in this regard.

**Proceeding before the JJ Board:**

The proceeding commenced on 31.03.2011 and ended on 22.09.2011. The alleged JCL on the next day of production before the Hon’ble Board released in his father’s custody on execution of PR Bond. Thereafter he has never appeared before the Board. On 31.03.2011 after due enquiry the Hon’ble Board held that the alleged JCL as a major one and thereby, transferred the Case record in absence of the accused with a direction to appear before Ld. ACJM Assansol by 30.09.2011.

**Findings:**

a) **Infirmity of the system:**

Whenever a person arrested, alleged to have been committed an offence and is apparently a juvenile, according to JJ Act, 2000, the concerned officer should make a preliminary verification before actual detention and production before Court or Board. In this case it is lacking. Even when the order of bail has been reached to the IO, he had the opportunity to verify the age, but he did not rather left the duty to the Court. Thereby, he has impliedly facilitated the accused person to enjoy the bail on the ground of juvenility.

b) **Indifference attitude of the Board:**

The Board finally held that the documents submitted by the accused are not in conformity with the school register, but did not initiated any legal proceeding for malfeasance of the accused. The Board simply transferred the case record to the Court of Ld. ACJM Assansol. Needless to mention here that the bail order received by the accused on the ground of his juvenility. Nevertheless, he continued to enjoy the benefit of the bail, even after cessation of his right under the JJ Act, 2000.

c) **Reckless loss:**

In consideration of the result of enquiry conducted by the JJ Board under Section – 7A of the JJ Act, 2000, it may be mentioned here that releasing the accused without cancellation of bail has widen the scope of committing same wrong by another accused as an off chance.
**Suggestion:**
The referred case suggests that the necessity of incorporation of necessary legal provision in the Act, to book the accused who has attempted to reap the benefit of JJ Act, 2000 illegally.

**Case No. 14**

Name of the Juvenile : Mentioned as ‘P’ herein  
Name of the concerned PS : Burdwan District: Burdwan  
Nature of Case : Complain filed before Ld. CJM Court Burdwan Section – 156(3) Cr.P.C, later the same has been converted to PS Case  
Penal Section(s) : The Case was started under Section – 363 / 366 / 365 / 34 of the ....Indian Penal Code.  
Number of JCL : ‘One’ Juvenile out of three accused persons  

**Preliminary fact:**
On 17.08.2009 the complainant has filed a written complaint under Section – 156 (3) Cr.P.C before Ld. CJM Burdwan alleging inter alia that her minor daughter, has been entices away by JCL Petitioner in connivance with other accused persons for some unholy reasons and prayed before the Ld. CJM to send the complaint to O/C Burdwan P.S. treating for the same as FIR. Ld. CJM was pleased to pass direction upon O/C concern to treat the same as FIR. On receipt of said complaint and in compliance of direction of the Ld. Court, the then O/C Burdwan PS has started the instant case. As shown by the police authority the Victim Girl was recovered.

**Arrest and first production:**
The JCL was apprehended on 04.09.2009 and produced before the Ld. ACJM Burdwan and released on guardian’s custody on execution of PR Bond.

**Investigation**
During the course of investigation the IO has recorded the statement of witnesses’ u/s 161 Cr.P.C and the statement of VG u/s 164 Cr.P.C was also recorded. On completion of the investigation the IO has submitted CS against the JCL and prayed for discharge of other two co-accused persons.
**Issue of Juvenility:**

The issue of Juvenility first ventilated by the father of the JCL before the Ld. ACJM Court at the time of bail hearing on the very date of production of the JCL. The age of juvenility was considered by the Ld. CJM Burdwan on the basis of school certificate and date of birth proof submitted by the father of the JCL on 04.09.2009. Accordingly by order the record was split up and was sent to the Hon’ble JJ Board Burdwan.

**Appearance and proceeding before the Hon’ble JJ Board Burdwan:**

In compliance of the order of the Ld. Court, the JCL appeared on the very date fixed with his guardian. The trend of attendance of the JCL before the JJ Board is satisfactory. Later, after laps of about three years, the JCL prayed for discharge from the case and the proceeding is pending for hearing of discharge petition. The prayer for discharge rest mainly on two grounds along with others;

1) The VG herself during her statement u/s 164 Cr.P.C, very categorically stated that she voluntarily out of love affairs with JCL Petitioner, for at least six times departed her parents, only to have a pleasant journey with the JCL Petitioner.

2) Since six months elapsed from the date of initiation, the proceeding has got its end with the efflux of time.

**Findings:**

a) **Infirmity of the system:**

Despite of having confessional statement of the VG, which suggested negative inference against the materials required to establish the allegations of Sections leveled, the IO mechanically has submitted the CS against the JCL.

b) **Non compliance of Act & Rules by the Board:**

The inquiry to be completed within a period of 4 months after the first summary inquiry unless extended for reasons in writing. [Proviso to Section 14 (1) r/w Rule 13 (6) and Rule 15 (1)]. No direction upon the custodian of the JCL to take proper care.

c) **Reckless loss:**

The JCL has suffered irreparable loss by undertaking the proceeding for the long time.
Case No. 15

Name of the Juvenile : Mentioned as ‘Q’ herein
Name of the concerned PS : Kalna, District – Burdwan
Penal Section(s) : Initially the Case was started under Section – 302/201 of the IPC, but CS Section 376 (2) (G) was added
Number of JCL : One out of two accused

Preliminary fact:

The case initially was started u/s 302/201 IPC, by the then OC Kalna PS on the basis of a written complaint filed by the complainant on 15.06.2002 against unknown miscreants. Subsequently the accused persons was arrested by police on 16.06.2002 and produced before the Ld. SDJM Kalna on 17.06.2002. Ld. SDJM was pleased to reject the prayer for bail. On completion of the investigation IO submitted the Charge Sheet u/s 302/201/376 (2) (G) IPC against two accused persons, retaining scope to file supplementary CS after receiving FSL report. After considerable detention both the accused persons were granted by the Court. After bail one accused person disappears and never turned up. Despite of WA attendance of absconder accused could not be procured. Ultimately, the trial proceeded against one accused, keeping aside the trial of the absconder with requisite note against her name as ‘filed for the present’.

Gist of allegation:

The minor daughter of the DC aged about 6 years was missing since 12.06.2002. Subsequently after discovery of the decomposed body of the minor girl the father filed the complaint against unknown miscreant alleging murder of his daughter.

Arrest and first production:

Both the accused persons were arrested on 15.06.2002 and produced before the Ld. SDJM Court Kalna, on 16.06.2002 and remanded to Jail custody.

Recovery:

The dead body of the minor VG was recovered in a plastic bag, before receiving the written complaint by the PS. Later on the body seized by the IO from the Kalna SD Hospital after preparing proper seizure list.
Trial before Court of Ld. Session Judge:

After commitment and on transfer the trial of the case commenced before the Ld. Additional Session Judge, First Truck Court at Kalna. Proceeding before the Ld. Session Judge was commenced on 05.01.2006. Despite of repeated order, requesting letter, show cause and personal appearance of the police personnel the original CD was never produced before the Ld. Session Judge. Therefore, basis of duplicate CD and some other relevant documents Ld. Court on 02.04.2008 framed charge against the contesting accused. Total 9 PWs were examined. By his order dated 01.07.2008 Ld. Addl. Session ordered to transfer the case record to the JJ Board Salt Lake on the point of juvenility. During the continuation of the proceeding before the Addl. Session Judge the accused on various pretext tried to linger the proceeding. It is also the fact that due to the faults on the part of the state authorities regarding non production of case diary before the Addl. Session Judge, the accused was benefited.

Issue of Juvenility:

The age of the alleged JCL as reported in the memo of arrest is 19 years. The issue first came up for determination before the Ld. Addl. Session Judge at the time of examination of PW – 9. It is needed to mention here that the PW – 9 is the father of the alleged JCL. The Ld. Addl. Session Judge for the first time took judicial notice from the deposition of PW – 9, that the alleged JCL was minor at the time of commission of the offence, but did not produce any document in support of the juvenility of the alleged JCL. Ld. Addl. Session Judge thereafter referred the alleged JCL for Ossification Test. In compliance of direction of Ld. Addl. Session Judge Kalna, the concerned authority of the Department of Forensic & State Medicine, Burdwan Medical College, Burdwan, has prepared and submitted the Report on Medical Examination (Male) (‘Ossification Test Report’) dated – 25/06/08, on the basis of examination held on 13.06.2008 at 2-40 pm. with his valuable opinion as “I am of opinion that the accused, identified as **************, is aged round 25 years”. It is needed to mention here that, the ‘stated age’ of the accused ************** noted in the name column of the OT report is 27 twenty seven years. By his order No. 16 dated 01.07.2008 Ld. Addl. Session Judge only on the basis of ossification test report, have given benefit to the accused person by considering his age on lower side within the relaxed margin of two years. Thereafter the case record transferred and transmitted to the Hon’ble JJ Board Salt Lake. The issue of juvenility has got its finality.
Proceeding before the JJ Board Salt Lake:
Custody warrant was received by the JJ Board on 15.07.2008. Till 19.01.2008 the original case record was not received by the JJ Board. In compliance of the solemn order of the Hon’ble High Court, Calcutta, vide memo no. 106A dt. 07.01.09, the case and the custody of the alleged JCL was transferred to the JJ Board Burdwan. During for the period when proceeding was on process before the Hon’ble JJ Board Salt Lake, the alleged JCL was in the JC and Home, respectively.

Proceeding before the JJ Board Burdwan:
Proceeding commenced on 28.01.2009 with the production of the alleged JCL. The proceeding was adjourned and deferred for want of the original case record and original CD for considerable dates. Without CD the accusation was read over and explained to the alleged JCL on 14.07.2009. Several times CD was called for by the Board. Report received from GRO regarding loss of original CD. Under direction of Hon’ble Board advocate was appointed to represent the JCL at the cost of the State. On prayer of the father of the alleged JCL, the Hon’ble Board directed to psychiatric treatment at Home. The alleged JCL was released in his father’s custody on 17.11.2009 on execution of PR Bond. It is perhaps inadvertently again on 08.12.2010; the Hon’ble Board read over and explained the accusation to the JCL under Section – 251 Cr.PC. No witness was examined by the Board. Subsequently, Ld. APP has filed one application praying for reopening and reconsideration of the point of juvenility on the ground that the issue has been decided by the Ld. Addl. Session without proper consideration of the JJ Rule, hence is not binding upon the Board. Now as on March, 2012 the case is pending before the Hon’ble JJ Board Burdwan.

Findings:

a) Infirmity of the system:
Whenever a person is arrested for committing an alleged offence and the person concerned seems to be on the bordering age of majority, according to the JJ Act, 2000, the concerned officer should make a preliminary verification before actual detention and production before any Court or Board. In this case it was lacking. The report of Ossification Test prolonged to reach the Ld. Court. The proceeding prolonged years after year for non production of original CD or non transmission of original record before the JJ Board. Not sending of FSL report in time also deserves
criticism. Spontaneously losing the original CD warrants penal action, but finally no action was taken by the Court.

b) Lack of legal expertise of the Court:

The determination of juvenility does not rest upon simple claim of the alleged JCL. The process of determination of juvenility qualifies after due enquiry by the Court or Board under section–7, 7A read with Section–49 of the JJ Act, 2000 with Rule–12 of the JJ Rule. So the person who claimed to be a juvenile was qualified for the benefit enshrined in the Act only after completion of the prescribed process in accordance with rule. In this case, the Court of Ld. Addl. Session Judge erred in holding a person as juvenile and transmitting the case to the JJ Board by considering his age on the lower side within the enlarged margin of two years, instead of one year. Ld. Addl. Session Judge Kalna did not consider the School registers of the alleged JCL despite of the knowledge derived from the deposition of PW – 9 of the fact that, the alleged JCL studied in a school but discontinued his study.

c) Non compliance of Rule by the Board:

Rule–12 of the JJ Rule provides preferential legal value of school certificate, birth certificate and ossification test. In this zone of consideration it is mentioned that later shall prevail only in absence of earlier or earlier found not a genuine one.

d) Reckless loss:

The state undertook several steps through multiplied proceedings before the Ld. ACJM Court Kalna, Addl. Session Judge Kalna, and the JJ Board Salt Lake & Burdwan by involving its machinery at the cost of public exchequer for the lapses of the authority involved. The state has failed to protect the life of a child, the VG girl herein. On the other hand it is the failure of the total machinery of the state to serve justice to a minor who renounced the world at an infant age. In this referred case there is a palpable misuse of state machinery to reap the benefit of JJ Act to the alleged JCL, whose juvenility yet not determined. On the other hand total system is proved unsuccessful to serve justice not only in the life time of the VG girl but also after her death.
Case No.16

Name of the Juvenile : Mentioned as ‘R’ herein
Name of the concerned PS : Kalna, District - Burdwan
Penal Section(s) : Section – 493 / 376 of the Indian Penal Code
Number of JCL : One

Preliminary fact:

On a complaint filed by the complainant on 17.01.2007 alleging that the accused developed an illicit relationship with the minor daughter of the complainant on a false promise of marriage and had sexual intercourse and continuous sexual relationship for a period of one year, consequently the daughter of the DC got pregnant. There was a village ‘Salish’ under the intervention of village panchayet where the parents of the accused committed to arrange marriage of the daughter of the DC with the accused person. Later the parent of the accused denied executing their commitment given before the village panchayet. When the minor daughter is eight months pregnant, at that time the complaint was filed.

Arrest and first production:

Arrested on 29.01.2007 and produced before the Ld. ACJM Court Kalna with a prayer for medical examination of the accused along with for DNA test.

Investigation & preliminary proceeding:

The VG and accused both were medically examined. The statement of the VG and the accused both were recorded under Section–164 Cr.PC. The accused confessed his guilt before the Magistrate in his 164 statement. The VG at the time of medical examination was pregnant at an advanced stage. After birth of the child the blood samples were sent to the examiner for DNA test. Ossification test of the accused was performed at Kalna SD hospital. The report of the Ossification Test was received by the IO on 22.05.2007. It is needed to mention here that the OT report received long after examination. The alleged JCL was released on bail by the order dated 30.04.2007 of the Ld. ACJM Kalna on completion of the statutory period of 90 days for the offence. During this period the alleged JCL was in jail custody. The OT reveals the age of alleged JCL within the margin of 17 years to 19 years. The case was committed to the Court of Addl. Session Judge Kalna on 25.01.2008. During the charge hearing the Ld. Addl. Session Judge on the basis of OT held that the accused was a
minor at the time of occurrence. Therefore, the case was transferred to the Hon’ble JJ Board Salt Lake.

Proceeding before JJ Board Salt Lake:
The proceeding commenced on 12.01.2009 and in compliance with the order of the Hon’ble High Court, Calcutta vide memo no. 106A dt. 07.01.2009 the record was transferred to the JJ Board Burdwan.

Proceeding before JJ Board Burdwan:
The proceeding commenced on 27.08.2009 and it was pending when this instant case sample was collected in the month of January, 2012. On 19.11.2009 the Hon’ble Board considering the charge which was already framed by the Ld. Addl. Session Judge, fixed next date for evidences and accordingly issued summons against CS W – 1. It is needed to mention here that the Ld. Addl. Session Judge framed the charge under Section – 417 / 376 of the IPC.

Issue of Juvenility before Ld. ACJM Court or Board:
The issue of juvenility was raised firstly on 29.01.2007 at the time of bail petition hearing by the Ld. Advocate before the Ld. ACJM. Thereafter, the OT report once again answered the issue of juvenility in an affirmative way. Finally, the issue was decided by the Ld. Addl. Session Judge on the basis of the OT report. By the process the issue of juvenility of the alleged JCL received its finality.

Other related issues:
The VG has preferred an application before the Ld. ACJM Kalna under Section – 125 Cr.PC in the last part of the year 2011 against the JCL for the maintenance of her son, begotten out of the said love affairs.

Additional facts:
The VG and the alleged JCL both belong to the Muslim community and happen to the cousins. Hence, according to their customs there was no bar to their marriage. Till the end of 2011 no report regarding DNA test was received by the court or the investigating agency.

Findings:
   a) Infirmity of the system:
      Whenever a person is arrested for committing an alleged offence and the person concerned is apparently a juvenile then according to the JJ Act, 2000, the concerned
officer should make a preliminary verification before the actual detention and production before the court. In this case it was lacking. When the issue was brought to the notice by the Ld. Advocate of the JCL then it became the duty of the court to adjudicate the issue before proceeding further with the instant case. However, the court did not pay any heed to it. The inordinate delay in getting the DNA test report (till the end of 2011 it did not reach) acted as a roadblock to the right to paternity of a new born baby.

b) **Lack of legal expertise of the Court:**

Detention of the alleged JCL after the OT, particularly when the OT referred to the age of the JCL between 17 to 19 years, was tantamount to gross illegality. Detention of a JCL in the JC has different and conflicting implications as per the JJ Act. Evidently, the Ld. Addl. Session Judge erred in framing the charges of a JCL as the JJ Act, 2000 does not authorize any court except the JJ Board to try a juvenile. Framing of charges is a part of trial. On the other hand, the JJ Board Burdwan also made the mistake in proceeding with the trial of the JCL on the basis of the charges framed by the Ld. Addl. Session Judge.

c) **Non compliance of Act & Rules by the Board:**

There was non-compliance of Sections–7, 7A, 49 of the JJ Act, 2000 read with Rule – 12 of the JJ Rules. The inquiry was to be completed within a period of 4 months after the first summary inquiry unless extended for reasons in writing [Proviso to Section 14 (1) r/w Rule 13 (6) and Rule 15 (1)]. The JCL continued to face the legal proceedings from 26.07.2005 to 21.04.2008 (about 3 years). It is indicative of palpable violation of the right to bail enshrined under Section–12 of the JJ Act, 2000.

d) **Reckless loss:**

In this referred case, three juveniles had to bear the brunt of the flawed system, inordinate delay and imprudent decision making. There have been trifurcated losses of childhood of:

(1) The JCL, who was detained in the custody even after determination of his juvenility through OT.

(2) The victim girl, who was victimized thrice: firstly for her gullibility and misjudgment at the adolescent age, secondly by deception by the parents with
their false promise to arrange marriage and thirdly by the state machineries which delayed her legal reliefs in conflict with the object of the JJ Act, 2000. It is mentioned herein that the availability of the legal sanctity of marriage in between the cousin according to their customary law, perhaps played the most vital role to frustrate the life of the Victim girl and to further a new generation by an unwed mother.

(3) The new born baby, who is a hapless victim of circumstances having no role in the alleged wrongs. The baby has been subjected to the travails and traumas of the incongruent social and legal systems.

In this case, the child being deprived of his right to paternal identity and recognition is the main victim. Right to paternity is a civil right. Moreover, the proceedings pending before the JJ Board or ACJM Court Kalna are not sufficient to secure his familial identity in the society. It is pertinent to mention here that even the JJ Act, 2000 also does not prescribe any relief to the baby for his social integration through the family of his father.

**Case No. 17**

<table>
<thead>
<tr>
<th>Name of the Juvenile</th>
<th>Mentioned as ‘S’ herein</th>
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<tbody>
<tr>
<td>Name of the concerned PS</td>
<td>Durgapur, District: Burdwan</td>
</tr>
<tr>
<td>Nature of Case</td>
<td>Police case on the basis of written complaint filed before OC Durgapur on 28.10.2005</td>
</tr>
<tr>
<td>Penal Section(s)</td>
<td>Initially the case started under Sections – 379 of the Indian Penal Code, later investigation revealed no case and ended in FRT against JCL</td>
</tr>
<tr>
<td>Number of Juvenile</td>
<td>‘One’ boy out of three accused</td>
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**Preliminary fact:**

The DC filed the complaint before the OC Durgapur PS on 28.10.2005 inter alia stating that when the DC entered into B zone Post office building some unknown miscreant committed theft of his valuable securities including cash of Rs. 30,000/- by breaking open the dickey of his scooter kept within the B zone Post office premises. On receipt of the said complaint the instant case was started. During course of investigation the JCL along with other two persons arrested by the IO on the ground of complicity. Finally, as no case was established against the JCL IO has submitted FRT against the JCL.
Recovery:
No recovery from the JCL.

Arrest and production:

Issue of Juvenility:
The age of the JCL reported in the arrest memo as 9 years. The age of juvenility was an admitted position and never required to reopen for adjudication.

Proceeding before the JJ Board Salt Lake:

The proceeding before the JJ Board Salt Lake has commenced on 17.12.2005 and continued upto 29.01.09. On 29.01.2009 the Hon’ble Board in compliance of the direction of the Hon’ble High Court, Calcutta vide Memo No. 106A dated: 07.01.2009 released and transferred the matter to the JJ Board Burdwan.

On the day of production the Hon’ble Board Salt Lake directed the IO to inform the parents of the JCL and to submit original documents relating to the case by the date fixed. PO was also informed for necessary action to. JCL was remanded to Home. On 19.12.2005 the mother of the JCL by petition prayed for custody of the JCL which after production of the JCL ultimately granted by the Board on 23.12.2005. Till transmission of the Case record on 08.07.2009 to the Hon’ble JJ Board Burdwan by order in compliance of Hon’ble High Court’s order vide memo no. 106A dated 07.01.2009 the JCL never turned up before the JJ Board Salt Lake, instead of issuance of WA.

Proceeding before the JJ Board Burdwan:

The proceeding before the JJ Board Burdwan commenced on 06.03.2009 and dropped on 22.09.2009, by order of discharge, as investigating agency filed FRT against JCL. The JCL also did not turned up before the Hon’ble JJ Board Burdwan.

Related facts:

Hon’ble JJ Board did not receive any report from Probation Officer or Social investigation report.

Findings:

a) Infirmitry of the system:

The proceeding before the Board since the date of production on 17.12.2005 of the JCL to the JJ Board Salt Lake till the date of transfer to the JJ Board Burdwan, on
08.07.2009 has taken a period of about four years. It is much longer than the period prescribed in the JJ Rule for final disposal of a proceeding against a Juvenile, four months or extended period of two months. No action was also taken for non submission of social investigation report or report by the Probation Officer.

b) **Lack of legal expertise:**

The inquiry to be completed within a period of 4 months after the first summary inquiry unless extended for reasons in writing. [Proviso to Section 14 (1) r/w Rule 13 (6) and Rule 15(1)]. The JCL continued to undertake legal proceeding in total for the period of ten months since appearance before the Hon’ble Board.

c) **Reckless loss:**

According to the final report submitted by the IO, the JCL had committed no offence. But notwithstanding that fact, the JCL was detained by the authority in the Home. Nevertheless, no compensation has ever been awarded by any of the authority to compensate the innocent JCL. Even the rule is not clear how to deal with the issues when a child is subjected to false prosecution. Due to latches of the state machinery the JCL remained untraced since after release in the custody of the mother. The question remains untouched who shall be account for the spontaneous disappearance of the JCL.

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**Case No.18**

Name of the Juveniles : Mentioned as ‘T’, ‘U’ & ‘V’ herein

Name of the concerned PS : Andal, District - Burdwan

Penal Section(s) : Section –376 (2) (g) (f) of the Indian Penal Code

Number of JCL : Three JCLs

**Preliminary fact:**

The complainant on 13.03.2007 filed a written complaint before the PS alleging that all the three JCLs committed rape to the minor daughter of the defacto Complainant aged about 9 years on 11.03.2007 and due to forceful sexual intercourse, the minor daughter of the DC sustained bleeding injury in her private parts and medically treated firstly at Andal PHC thereafter at a nursing home. When the VG was under treatment and regained her sense after recovery from her traumatic situation, then the DC came to know the about the incident from the daughter. The matter was firstly informed to neighbors of the DC
thereafter lodge the written complaint to the PS. All the JCLs confessed their guilt before the para people.

Arrest and first production:
All the JCLs were arrested on 13.03.2007 and produced before the Ld. ACJM Court Durgapur on 14.03.2007 with the prayers for medical examination and recording of their statement under Section – 164 Cr.PC.

Investigation & preliminary proceeding:

The prayer for bails was rejected for all the JCLs. Statements of all the JCLs were recorded under Section – 164 Cr.PC. The Ld. ACJM has been pleased to refer all the JCLs for Ossification Test. The Superintendent of Assansol Correctional Home furnished intimation to the Ld. ACJM Court that there is no provision to detain children bellow the age of sixteen years in the custody of correctional home and prayed to the Court passing for necessary order for lodging the JCLs to any juvenile home / safe custody home. After that all the JCLs have been sent to Juvenile Home. The OT received by the Ld. Court of ACJM Durgapur. Therefore the case was transferred to the Hon’ble JJ Board Salt Lake.

Proceeding before JJ Board Salt Lake:

The proceeding commenced on 30.03.2007 and in compliance of the order of the Hon’ble High Court, Calcutta vide memo no. 106A dated: 07.01.2009 the record transferred to the JJ Board Burdwan after final order when all the JCLs were undergoing probation. The Hon’ble Board received information that the DC, the father of the VG passed away. On 01.04.2008 in camera, inside the Board room in presence of VG & mother of the VG all the JCLs pleaded guilty and released on execution of PR Bond of Rs. 1000/- in the custody of fit person on probation and the Board also imposed fine of Rs. 5000/- against each JCL to be paid by the fit person and payable to the Victim as compensation. Subsequently the mother of the VG withdrew the entire compensation amount. Pending the report of the Probation Officer the case record was transferred to the Hon’ble JJ Board Burdwan.

Proceeding before JJ Board Burdwan:

The proceeding commenced on 01.07.2009 and it was disposed off on 11.11.2010 on the satisfaction based on report of Probation Officer.
**Issue of Juvenility before Ld. ACJM Court or Board:**

The report appended in the memo of arrest and the school certificates & birth certificate collected by the IO during investigation suggested that the age of all the JCLs are below 14 years. The report of Ossification Test affirms the ages of the JCLs are 14 to 15 years. Ld. ACJM Durgapur after due enquiry regarding the age of juvenility transferred the case to the Hon’ble JJ Board Salt Lake.

**Other related issues:**

The attendances of all the JCLs were regular & satisfactory. At the time of hearing of accusation all the JCLs pleaded guilty and prayed for mercy.

**Findings:**

a) **Infirmity of the system:**

Whenever the school certificates were available, the order of Ld. ACJM to refer the JCLs for Ossification Test is not in conformity with the rule.

b) **Lack of legal expertise of the Court:**

Detention of the alleged JCL at the jail custody exhibits conflicting application of the principal of the JJ Act, 2000.

c) **Non compliance of Act & Rules by the Board:**

Non compliance of Rule – 12 of the JJ Rule. The inquiry to be completed within a period of 4 months after the first summary inquiry unless extended for reasons in writing. [Proviso to Section 14 (1) r/w Rule 13 (6) and Rule 15 (1)]. The JCL continued to undertake legal proceeding in total for the period of 13.03.2007 to 11.11.2010.

d) **Reckless loss:**

In this referred case though there are some instances of non compliance of the rule, but the overall performance of the authorities shows cordial attempt to foster substantial application of the principle of the JJ Act, 2000.
Case No. 19

Name of the Juvenile : Mentioned as ‘W’ herein
Name of the concerned PS : Durgapur, District: Burdwan
Nature of Case : Police case, started suomoto on 16.06.2007 by a complaint filed by Police officer
Penal Section(s) : Sections – 399 / 402 of the Indian Penal Code
Number of Juvenile : ‘One’ boy

Source of information:
Memo No. 2992 / 1(2) / SWD Dated, Kolkata; the 23rd July, 2007

Fact:

The JCL was produced before the Ld. ACJM, Durgapur and remanded to Dhrubashram (a Govt. run home for the juveniles) on the first day of production. Thereafter, again on 12.07.2007 and 26.07.2007 the Home authority was directed to produce the JCL before the Ld. ACJM, Durgapur. The Hon’ble Director, Directorate of Social Welfare proceeded to rescue the JCL from being detained under the order of the Court of law. On the basis of requesting letter of Hon’ble Director, ultimately the JCL was produced before the JJ Board.

Arrest and production:
JCL arrested on 16.06.2007 and produced before the Ld. ACJM Durgapur, Burdwan.

Issue of Juvenility:
The age of juvenility was an admitted position and never required to reopen for adjudication.
The letter of request is reproduced below:

Government of West Bengal
Directorate of Social Welfare
Salt Lake City, Sector – I, Kolkata – 700 064

From: Sri K. P. Sinha, I.A.S,
       Director of Social Welfare,
       Government of West Bengal

To: The Ld. A.C.J.M.,
    Durgapur,
    Dist. Burdwan

Memo No. 2992 / SWD
Dated, Kolkata; the 23rd July, 2007

Sir,

With reference to C.W. Case No. *** / ** dated ** / * / **** of Durgapur P.S. a J.C.L named **. ** *** was sent to Dhrubashram with a direction to produce to J.C.L. before you on 30-06-2007. Later you have also directed to produce the said J.C.L. on 12.07.2007 & 26.7.2007.

But as per J.J. (Care & Protection) Amendment Act, 2006 “If the court finds a person to be a Juvenile on the date of Commission under Sub-Section (1), it shall forward the Juvenile to the Board for passing appropriate order and the sentence if any, passed by a court shall be deemed to have no effect”.

As per 10(1) (J) of the J.J. Act “As soon as a juvenile in conflict with Law is apprehended by Police, he shall be placed under the charge of the Special Juvenile Police Unit or the designated Police Officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty four hours of his apprehension excluding the time necessary for journey, from place where the juvenile was apprehended to the Board”.

You are therefore requested to take necessary arrangements, so that the next date of the said J.C.L. may be placed before the Juvenile Justice Board Salt Lake, Kolkata – 700 064 in lieu of your Ld. Court for the safe protection of Child’s Right.

Yours faithfully,

Sd/-
Directorate of Social Welfare
Govt. of West Bengal

Memo No. 2992 / 1(2) / SWD
Dated, Kolkata; the 23rd July, 2007

Copy forwarded for information and necessary action to:-

1) The Principal Magistrate, Juvenile Justice Board,
   Salt Lake City, sector – I, Kolkata – 700 064

2) The Superintendent, Dhrubashram, Ariadaha, Kolkata – 700 057
   ....... with reference to his letter no. 425/DA dated 02-7-2007.

Sd/-
Directorate of Social Welfare
Govt. of West Bengal
Findings:

a) **Infirmity of the system:**
   The JCL was detained for a long time under the order of the Ld. Court instead of producing before the JJ Board. The JCL continued to undertake legal proceeding for a long time before the Ld. Court since production instead before the Hon’ble Board, consequently the enquiry delayed.

b) **Lack of legal expertise:**
   Sheer violation of the provisions of the JJ Act due to non production before the JJ Board.

c) **Reckless Loss:**
   The rights to care and protection of the JCL under observation of the JJ Board have got frustrated for a considerable period of time.

**Case No. 20:**

Name of the Juvenile : ‘Z’
Name of the PS : Behala
Case under Section : 498A / 406 IPC dated 15.04.1999
Sub-division : Alipore
District : South 24 Parganas
Nature of the Case : Complain before the Police

**Fact of the Case:**

**First phase:**

The de facto complainant alleged that as a wife she was subjected to physical and mental cruelty at her matrimonial home at Durgapur by her husband, father-in-law and mother-in-law on demand of dowry including one Maruti car etc. During the period the complainant conceived and one female child was born out of wedlock at a nursing home at Behala, Kolkata. Thereafter, the complainant alleged that she attempted to come to the matrimonial home along with her new born daughter but her husband and in-laws refused to give her and the daughter entry and kept all her ‘STRIDHAN’ properties in their custody. Under this compulsive circumstance, the complainant returned to her paternal home at Maya Dasi Road at Kolkata and filed the complaint before the OC Behala PS. On receipt of the complaint the OC recorded the case and endorsed the same to his subordinate SI to
investigate. During the course of investigation, the father-in-law and mother-in-law of the complainant were arrested and produced before the Ld. SDJM Alipore, South 24 Parganas and the Ld. SDJM enlarged them on bail on the very date of production. The IO of the case recovered and seized the ‘STRIDHAN’ properties from the house of the father-in-law of the complainant at Uttarpara and from the quarter of the husband of the complainant at Durgapur through three distinct seizure list dated 05.08.1999 and 08.08.1999. The complainant received the ‘STRIDHAN’ properties by the order of the Ld. Court. The husband surrendered before the Ld. SDJM Alipore and enlarged on bail. The IO on completion of investigation filed the CS under Sections 498A and 406 IPC against all the three FIR named accused persons. In the mean time the matter was amicably settled between the two parties and it was ultimately resolved by a decree of divorce on mutual consent under Section 13B of the Hindu Marriage Act by the order of Ld. District Judge Alipore dated 10.07.2001. In the criminal case filed by the de facto complainant she deposed that she preferred the complaint out of impulse & misunderstanding and the case resulted with an order of acquittal and thereby was disposed off. On the other hand, other two proceedings - one under Section 125 CrPC for maintenance preferred by the complainant and another one under Act VIII for guardianship preferred by the husband - were also withdrawn and were disposed off.

In the divorce proceeding, the husband abstained from his claim of custody of the child. However, according to the mutual arrangement perpetuated as part of the decree of divorce, the husband was to pay Rs. 1200/- (Rupees Twelve Hundred) per month for the maintenance of the child and the complainant petitioner relinquished her right to future maintenance spontaneously. There was no decreed arrangement to visit the child by her father. It was also a part of the decree that the paternal name and surname of the child daughter shall be retained so as to avoid any difference between records. At the time of permanent settlement the child daughter was aged about 3 years.

**Second phase:**

After dissolution of marriage both the complainant and her erstwhile husband went ahead in their next journey of life. The father of the child in due compliance of the decree continued to send the maintenance money through post for more than ten years. The complainant and her parents used to receive regularly the money sent through post by the husband / father. As alleged, in the year 2009 the complainant arranged to have an
interaction of the child through e-mail and also over mobile phone with the child’s father. The interaction continued for a long time. It is alleged by the father that in course of interaction with the daughter, he came to know that the paternal name, surname also identity of the daughter has been changed in the school register as well as in other records. Henceforth, the father asked the complainant to supply a photograph of his daughter and proof in support of retention of paternal name & surname according to the clause of the decree as it is a requisite obligation of the parents to protect the future and social acknowledgement of the daughter. For the reason known to the complainant, the telephonic correspondence and communication through e-mails were terminated abruptly and the contact between the father and daughter again got disconnected.

After this the father opted to take legal recourse through his advocates and sent several legal notices asking for the proof of retention of name and surname of the daughter and to have a pleasant meet with her. The complainant refused to pay heed to the request of the father on various pretext. After the initiation of legal notice the complainant refused to receive the maintenance money sent by the father on successive occasions.

Reckless loss:

In the above case, the actual loss has been caused to the child, who had no role in the infighting of her biological parents. The child has been stripped off her paternal identity and has been denied the access to the family environment of her biological father. On the other hand the alleged change of paternal identity may lead to deprivation of right to automatic inheritance of father’s property of the child. The alleged factual position also reasonably suggests that the complainant to escape from her legal sufferings due to the consequences of violation of the condition of the decree has put the child in the state of psychological danger by falsely maligning her father. The ultimate consequence of the loss of biological paternal identity or the conflicting position, may lead to spoil and ruin the career of the child in future which cannot be compensated by sentencing the wrong doers for the cause of forgery etc. Any attempt on the part of the alleged deprived father or the custodian mother of the girl for securing their individual paternal right shall ultimately cause loss of psychological bonding of the child with the society and family and the law cannot resolve the problem.
5.20.1. **Summary of case study**

From the study of the referred cases, it may thus be seen that over a period of time the trend of delinquency led the legislature and judiciary to ponder over the issue and devise means to curb the increase of delinquency. The cases discussed on the subject vividly bring out the judicial actions which are aptly reflected in the inadequacies of the existing laws and legal system. Nonetheless the circumstances were found to be such which indicate the lack of strong determination and sometimes apathy of the government to effectively enforce the law and provide necessary tools and infrastructure to the authority involved. There are many other crepuscular areas where the focus have not yet been given for prevention of occurrence and recurrence of juvenile delinquencies and also the factors which lead a child to become delinquent. The thrust should be on removal of these factors to prevent worsening of the situations.

The approaches and responses of the authorities to deal with the delinquencies have been generalized and classified into different practical profiles. Sometimes the action of the Board to reopen the issue of juvenility already adjudicated by the court of law or disagreeable inference with the birth proof like school certificate or birth certificate and relying upon Ossification Test has brought a different interpretation of the Act. The mandatory duties to inform parents, prepare social investigation report, prepare case diary in accordance with Rule–11 sub–Rule 6 demonstrate non application of the JJ Act. Lack of sensitivity of the members of the Board as to how to deal with the issues of juvenile and to treat a juvenile in a familiar manner created the system more complex. Disposal of cases on pleading guilty by a juvenile without rational consideration of satisfaction by a sentence of fine, not paying heed to whether the JCL is earning or not and ignorance of further process of complete reformation indicate that the intention of board is to hurriedly discharge its obligations at any cost.

The trend of the Board acting beyond the ambit of the JJ Act and rule, exercising random discretion, acting on the basis of assumption or presumption, applying general rule of criminal justice for juvenile justice had a debilitating impact on the application of the principles of Juvenile justice. Now it has become necessary to revisit the juridical principles, which are the basis of the juvenile justice administration and also to devise a framework for translating these into actions.
A burning issue, which needs to be addressed assertively and immediately, is the right of a so called illegal child to paternity and property. As various articles indicate that one of the grave social concerns in the western countries is the abrupt rise in the number of unwed mothers, many of them are still juveniles. As a trickling impact of the western culture on the Indian culture, the number of unwed mothers in our country is also increasing. Historically there are several instances of unwed mothers in our country in the past. However, in recent times the severity of the problem has got intensified with evolving societal structure. There has been a perceptible change in societal structure in our country where the traditional joint family concept is paving way to nuclear family. In a nuclear family structure, the status, right and condition of the child of the unwed mother are more severely affected as there are no scopes for familial acceptance, accommodation and tolerance. In such a situation, in the absence of a definitive law and rule for upholding the interests of the children of unwed mothers, the situation worsens and gets complicated and may trigger serious tremor in the social fabric in future. Hence there is an urgent need to frame laws and rules in our country to facilitate the children of unwed mothers to assert their rights of declaring their paternity and right of property quickly and confidently.

On the other hand in the similar situations referred in case no. 20 there is a need to have an independent and considerate dispute resolution mechanism particularly when child / juvenile interests are there without resorting to acrimonious and time taking legal process which is in vogue in India.

The case samples have been collected from the jurisdiction of the JJ Board Burdwan. Though the cases have been judiciously selected to reflect a gamut of aspects of juvenile justice, sampling from different JJ Boards of West Bengal would have flashed a broader picture of juvenile justice in West Bengal.
5.20. Analysis of Statistical Data

It has already been mentioned in Chapter 3 that there is no separate classification of offences categorized as offences committed against children or crimes against children for the crimes in which the children are the victims.

The study of this chapter primarily focuses on spotting the trend and broadening the understanding about the crimes against children and juvenile crimes from the statistical data published by the National Crimes Record Bureau. It is pertinent to mention here that as such there is no comprehensive or comparative data available to ascertain the impact of the JJ Act, 2000 on crimes against children and juvenile crimes in the state of West Bengal before and after the promulgation of the JJ Act, 2000. In a bid to understand the ground reality, the field data was collected from a particular periphery of the state and analysis has been carried out on the data as made available by NCRB during the period 2008-2011. The analysis has been carried out on two broad parameters: Crime against Children and Juvenile Delinquency.

A statement showing the comparative position of the crimes against children in West Bengal as well as in India during the period 2008-2011 is given in the following table with graphical representation.

5.20.1. Crime against Children:

<table>
<thead>
<tr>
<th>Year</th>
<th>Position of State of West Bengal</th>
<th>India</th>
<th>Comparative position of State with central</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>position</td>
<td>Number of incidents reported in West Bengal</td>
<td>Variation (In nos.)</td>
<td>% Variation</td>
</tr>
<tr>
<td>2008</td>
<td>513</td>
<td>-----</td>
<td>----</td>
</tr>
<tr>
<td>2009</td>
<td>484</td>
<td>(-) 29</td>
<td>(-) 5.653 %</td>
</tr>
<tr>
<td>2010</td>
<td>880</td>
<td>(+) 396</td>
<td>(+) 45 %</td>
</tr>
<tr>
<td>2011</td>
<td>1450</td>
<td>(+) 570</td>
<td>(+) 39.31%</td>
</tr>
<tr>
<td>Total</td>
<td>3327</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

5.20.1.2. The Chart No. 27 shows that the number of incidents reported in West Bengal during 2008 - 2011 by around 3 times from 513 in 2008 to 1450 in 2011. The linear forecast trend shows the average picture of trend of crime against children during the assessed period is going up.

5.20.1.3. Data Analysis

The table above shows that a total of 513 cases of crimes against children were reported in the state in 2008. In 2009, it was 484 thereby decreasing it by a total number of 29 i.e. by 5.653 % with respect to 2008. In 2010 the number of cases shot up to 880 indicating a steep increase of 45 % over the previous year. The number of cases further increased to 1450 in 2011 registering a growth of 39.296 % with respect to the year 2010. In short, though there was a slight decline in the number of cases in 2009, the total number of incidents of crimes against children in the state of West Bengal has increased from a level of 513 in 2008 to 1450 in 2011 indicating a whopping increase of 182.65%. On the other hand,
the total number of incidents reported in India (except the state of West Bengal) has increased steadily from a level of 21,987 in 2008 to 31,684 in 2011 registering a growth of 44.10% during this period. It signifies that the crimes against children in West Bengal have increased more than proportionately from 2008 to 2011 when compared against the rest of India. This fact is also corroborated by the increasing share of West Bengal in all India incidents albeit a slight dip in 2009 as evident from the column 6 of the table. The analysis reveals that the crimes against children in West Bengal are witnessing relatively higher increase in comparison to the rest of India. It calls for immediate intervention for consolidation and strengthening of the mechanisms to arrest this increasing trend in the state.

5.20.2. Juvenile Delinquency:

There is no comprehensive information/data available relating to the juvenile delinquency in West Bengal. The information provided by the NCRB in its various reports is not sufficient to depict a clear picture of the juvenile delinquency in the state. Sometimes, negotiating through the experience of the professional practitioners at the courts and statistics provided by NCRB to ascertain the state of juvenile delinquency becomes difficult as they are contradictory. For example, it has been reported by the NCRB in 2002 that ‘the percentage of juveniles awaiting trial at the end of 2002 was 39.1%. Sikkim and West Bengal reported cent percent disposal of juveniles arrested’ (NCRB).\(^{75}\) However, relying on my practical experience and exposure in this field, it can be commented that reporting 100% disposal of juveniles arrested in West Bengal cannot reflect the true picture particularly after taking into consideration the mechanisms in vogue and the large populace of the state.

On the other hand in the crime report, 2011 published by NCRB it has been quoted that ‘It is also to be borne in mind that the offences that are analysed in this chapter do not form an exclusive block of offences that are reported in the country’ (NCRB).\(^{76}\) There are many juveniles in conflict with the law who have been mistaken as adults and thrown into adult jails by the police. “Juvenile delinquents are often arrested and sent


to jails. They are sent to juvenile homes only later, but by then their exposure to adult criminals reduce their chances of reform,” (Sonia Sarkar)\(^77\). It shows that a large number of data relating to juvenile delinquency have not been clubbed and classified properly as seen in the Prison Report published by NCRB in 2009 (Table–3.15, Page–58, wherein the number of under-trial prisoners within the age group 16–18 has been reported to be 4 only). It may be the reason for non-availability of any comprehensive state-wise data regarding juvenile delinquency or crime against children.

A statement showing the comparative position of the juvenile delinquency in West Bengal as well as in India in the year 2011 is given in the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of cases in West Bengal</th>
<th>Total number of cases in Indian States &amp; UT</th>
<th>West Bengal’s contribution in % of all India figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>487</td>
<td>25125</td>
<td>1.938 %</td>
</tr>
</tbody>
</table>


The table above clearly shows that West Bengal has only 1.938% share in total number of juvenile delinquency cases in India.

\(^77\) Article ‘CARE AND SYMPATHY’ by Sonia Sarkar published in the Telegraph, Calcutta Wednesday, January 11, 2012
5.20.3. Chart No. 34

Comparative Chart of juvenile crimes in respect of all India incidents and all India incidents except Bengal

When compared against West Bengal’s share of 4.38% in all India reported crime against children vis-à-vis the state’s share of 1.938% in all India juvenile delinquency cases in 2011, it gives a broader picture of the status of juvenile justice in West Bengal. The figures buttress the point that in the just preceding year the crime against children was more pronounced than juvenile delinquency in the state. It is a pointer to the direction of strengthening the system and mechanisms to foster better juvenile in the state. The call for the day is to adopt and intensify efforts and harness legal activism for arresting increasing rate of crime against children in the state.

The data analysis of this chapter has been carried out with limited data. The data have been mainly collected from the publications of the NCRB. As such comprehensive data pertaining to juvenile justice are not available from the known sources. Availability of larger numbers of data pertaining to various factors of child right and juvenile justice in West Bengal would have made the interpretation much more statistically relevant. The trend of variation of crime incidents have been assessed only on the basis of reported & published crime figures, which differ from the actual figures due to several non-reported incidents that take place. While doing the analysis the growth of population of West Bengal in general and child population in particular has not been factored in.
5.21. **Conclusion**

The essence of the Juvenile Justice System lies in protecting people from the harms they may be subjected to, at their vulnerable juvenile age. The objective is to administer a system which focuses on the issues relating to all round protection of the child from holistic societal considerations. The typical Indian childhood and upbringing are characterized by intense parental bonding and affectionate indulgence. However, over the years the dominant function of juvenile justice has moved towards protecting the children from any harm to their childhood with the underlying assumption that it is the duty of the state to do so under the rule of law. The state makes attempts to do so by empowering the law enforcement agencies with mechanisms for undertaking suitable actions in this direction.

In the first part of the twentieth century, the common law world also realized the adverse consequences arising from the inequitable situation, which encouraged the growth of delinquency among children. Successive legislations, which were introduced in the United Kingdom for juvenile justice, influenced the development of the state laws since 1908. Its gradual development took place in sync with the experiences gained by the government functionaries during the course of enforcement of laws related to child. Perceptibly the focus of attention of the system shifted from the old idea of deterrence to reformation of the children, who are in conflict with law. With the passage of time the promulgation of successive laws relating to child right established the credibility of the juvenile justice system in the society. The state started taking the onus to protect the future progeny and to mete out justice equitably and quickly to the child victims of crimes.

To bring in uniformity in the juvenile justice throughout India, the union legislature put in place new processes, methods and strategies to reform the system with suitable modification for effective implementation. This was over and above the schemes, which were already in operation in various states during pre & post independence of India for a fairly long period. The overriding consideration was to reduce social victimization of the children through the principle of facilitation by providing them with equal opportunities. The idea was to ensure that the children should get better opportunity from the system than the adults. With these objectives, the basic problem of strengthening the foundation was resolved by the union legislature by bringing the operations of the uniform juvenile justice system in the country in conformity with the UN Standard Minimum Rules for the Administration of Juvenile Justice; the Parliament of India passed the Juvenile Justice Act
(No. 53 of 1986). It has done away with the then state Children Act. The Act attempted to remove the anomalies and confusion arising out of the conflicting provisions in the state Acts which in many cases created more problems than ensuring welfare of the juveniles. The Juvenile Justice, 1986 repealed and replaced the West Bengal Children Act, 1959.

Though the JJ Act, 1986 has replaced the West Bengal Children Act, 1959 but the union legislature relied heavily upon the same principles and concepts of the state Act of 1959 in the year 2000 (JJ Act, 2000). Both the state Act of 1959 and the central Act of 2000 hold a person as juvenile until he / she attains the age of eighteen years irrespective of gender. Moreover, both the Acts stress upon the need for drifting away from the primitive criminal trial and sentencing system for the juveniles. However, much more needs to be done. There are districts in west Bengal where the government is not yet running its own homes for children and even where the state run homes exists the care being provided is not up to the mark. Instances are aplenty to show that there are many juveniles in conflict with the law have been mistaken as adults and have been detained in adult jails by the police. An article in the Telegraph asserted “Juvenile delinquents are often arrested and sent to jails. They are sent to juvenile homes only later but by then their exposure to adult criminals reduce their chances of reform”. It is corroborated by the state government’s data reported in the prison report published by NCRB in 2009 wherein at table–3.15, page–58 of the report, the number of under trial prisoners within the age group of 16 - 18 years has been to be 4 (four). Perhaps this is one of the cogent reasons for not getting any comprehensive state wise data regarding crime against children.

Where the police is inseparably connected with the system of juvenile justice to arrest, produce or investigate any dispute relating to the right of child it is not given any basic training in child psychology. The Acts related to police administration and the rules to regulate police service and management of its personnel are completely tilted towards maintaining law and order and handling criminals. The concern for handling Juveniles did not find its place in the Police regulation of Bengal. It is a pointer to the shoddy implementation of juvenile justice in the state.

Undoubtedly, there have been several reforms in West Bengal in the arena of juvenile justice through legislative process. The state has shown its progressiveness in juvenile justice in the pre independence era and even after the independence till the JJ Act,
1986 was promulgated. Thereafter, the Govt. of West Bengal lagged behind the union legislature. The state, which was once considered a trendsetter in juvenile justice, framed its rules under JJ Act, 2000 long after its enactment in the year 2003 and thereafter in 2009. In this context it may be mentioned that that the JJ rules of Bengal are nothing but reproduction of the central rule. It is also worthy to mention that the state government also framed its rule for free and compulsory education long after the enactment of the Right to Free and Compulsory Education Act, 2009. In the same way, the child care leave of women which have come in vogue in the rest of the country long ago was notified by the state government just a few months back. It would not be out of place to mention that the real challenge lies in implementing the provisions of these laws, schemes and programmes. In West Bengal, the judiciary along with the police and various government agencies, autonomous bodies, public enterprises and NGOs are involved in the implementation of the laws, schemes and programmes for children. Despite of that the advancement of the child right related issues in the State of West Bengal in the current decades are not impressive. The need of the hour for all of them is to ensure that laws, schemes and programmes for protection and promotion of children’s rights are properly implemented at the ground level in the right perspective.

In the statistics provided in the chapter, the figure of West Bengal’s share in all India reported crime against children vis-à-vis juvenile crime in the state reveal that the crimes against children in recent times are more pronounced than juvenile delinquency in the state. It captures a broader picture of the status of juvenile justice in West Bengal, which largely indicate that the children in the state are more victims of crime than being delinquent themselves. It is a pointer to the direction of strengthening the system and mechanisms to foster better juvenile justice in the state. The need of the hour is to adopt and intensify efforts & practices and harness legal activism for arresting increasing rate of crimes against children in the state. As stated before there is no comprehensive information / data available relating to the juvenile delinquency in West Bengal. Availability of this data will facilitate intensive research on juvenile justice in the state for the betterment of the children at large. With a focus on better child care and juvenile justice in the state in future, there is a need to provide more financial resources to the concerned agencies.
5.20.1. **Issues and suggestions**

There is an urgent need to strengthen the surveillance system to monitor the implementation of Juvenile Justice Act, 2000 in the state of West Bengal. Today the challenges that are there are to act in accordance with the letter and spirit of the JJ Act. JJ Act, 2000 has given us a fantastic platform to ensure better Juvenile Justice. But the problem is becoming for better implementation of the Act with the changes of the mindset of the people, so that the justice be meted out, in accordance with the letter and spirit of the JJ Act, 2000. In order to achieve the target, there is an urgent need to focus on the following key priorities:

i) The present system has been devised more than a decade back and it takes years to adjudicate a dispute regarding delinquencies. Moreover, though contemplated at the beginning the system does not reform a delinquent juvenile. Urgent and consistent efforts are to be made to ensure the finishing a proceeding within the prescribed period under the rule.

ii) There are unreasonable delays in transmission of the case records to the Board when the same is the consequence of a split up by the court of law. The process of transmission causes enormous delay in meting out justice.

iii) In the pre 2000 era, the JJ Board Salt Lake had to deal with all the cases from different districts of the state and it crippled the function of the legislation.

iv) Despite of promulgation of the JJ Act, 2000 the individual district Board began to function from 07/01/2009 only.

v) After promulgation of the JJ Act, 2000 the state government formed JJ Board in every district of the state in accordance with the law. There is no legal conflict in the constitution of the boards. However, the members of the board are being appointed by the state government on temporary basis. The Pr. Magistrate of the Board is appointed by the Hon’ble High Court, Calcutta in accordance with the rules framed, from the members who are already in judicial service. Evidently all the Pr. Magistrates of the Boards are discharging their functions in addition to their normal duties of the courts of their regular assignment. The process of appointment of the members postulates the existence of the Board as a part time functioning institution. The hectic schedules of the judicial officers in their
respective courts of regular assignment put hindrance to smooth discharging of the additional assignment of Pr. Magistrate JJ Board.

vi) Appointments of other staff of the Board are also contractual in nature from the retired government servants and thereby loose the scope to make them accountable.

vii) Assignment of APPs to conduct proceedings before the JJ Board is contradictory to the provisions of Cr.PC as well as the JJ Rule. The person appointed under Section – 25(1) Cr.PC is entitled only to conduct cases on behalf of state before the court of Judicial Magistrate and nothing else. On the other hand the word ‘prosecution’ is prohibited under the provisions enshrined in the clause 8 of the Schedule framed under Rule – 3 of the West Bengal Juvenile Justice (Care and Protection of Children) Rules, 2009. Despite of statutory prohibitions in all the JJ Boards of West Bengal one APP has been assigned to the additional charge to deal with the issues relating to juveniles before the Juvenile Justice Board except JJ Board Salt Lake where an APP is assigned on full time basis. The ongoing process of appointment of APPs to deal with the issues of JJ Board are also in conflict with the sub – Section – 3 of the Section – 15 of the JJ Act, 2000.

viii) Since the JJ Boards are not Court of law, hence the Boards are not guided by the leave schedule fixed by the Hon’ble High Court. But surprisingly all the JJ boards remain closed as per the vacation leave prescribed by the Hon’ble High Court.

ix) Throughout the state in all the JJ Boards of West Bengal the Criminal Rules and Order are followed. The practice is beyond the ambit of JJ Act, 2000.

x) As already mentioned in this chapter, ‘In West Bengal, for example, there is not a single juvenile police unit’. There is an urgent need for a separate juvenile police unit for necessary coordination and assistance to police officer who may require any information.

xi) The police officer enquiring a matter pertaining to a Juvenile carries out his task in addition to his other legal duties. Due to paucity of time and interests, the police officer generally does not go into the details of ascertaining the age of an accused and declaring him as a juvenile.
xii) The cases studied show that there has been no social investigation report during the continuation of proceeding. Sometimes despite repeated direction by the Board, the probation officers show their reluctance to file the report.

xiii) In none of the cases studied, the case diary was prepared in tandem with Rule –11 sub – rule – 6.

xiv) There has been no instance in the state where in a proceeding against a juvenile before the JJ board, the parents were directed to contribute as mentioned under Section – 60 (1) of the JJ Act, 2000 for the safe custody of the JCL.

xv) Issuance of warrant against a JCL when he escaped from custody instead of fixing the custodian liable is not within the statutory ambit of the JJ Act.

xvi) There is no instance where in the absence of Pr. Magistrate the quorum of the Board has taken any substantive decision. The act and actions of the members follow with the decision of the Pr. Magistrate. The actions and existence of other members of the Boards practically exhibit no substantive significance.

xvii) The JJ Act mandates the decoration of the Board room as familiar to a child as possible and in no case the room of the Board shall be decorated as a Court. However, the practice within the state of decorating the rooms of the board similar to a court is clear violation of JJ Rule.

xviii) There is no data Bank in the State. Establishment of data bank, management of data shall assists officials in evaluating the impact of the activities undertaken for the future programming and planning.
5.21. References

5.21.1. Literature Reference:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of the Author</th>
<th>Name of the literature</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Government of West Bengal</td>
<td>Annual Report 2010-11, Department of Women and Child Development and Social Welfare, Government of West Bengal</td>
</tr>
<tr>
<td>3</td>
<td>The Hindu</td>
<td>“Crimes against children on the rise in West Bengal”, published on November 13, 2011</td>
</tr>
<tr>
<td>6</td>
<td>The Telegraph</td>
<td>‘Bengal lags in juvenile justice’ the Telegraph, Calcutta, Monday, June, 20 2011</td>
</tr>
<tr>
<td>7</td>
<td>SAARC</td>
<td>‘India at a Glance-Some social development indicators SAARC Social Charter Implementation Status in India’, 2012</td>
</tr>
<tr>
<td>8</td>
<td>Sarkar, Sonia</td>
<td>Article ‘CARE AND SYMPATHY’, published in the Telegraph, Calcutta Wednesday, January 11, 2012</td>
</tr>
<tr>
<td>10</td>
<td>NCRB</td>
<td>‘Crime in India’ 2011 Compendium</td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Name of the Author</td>
<td>Name of the literature</td>
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<td>12</td>
<td>Parliament of India</td>
<td>The Juvenile Justice (Care and Protection of Children) Act, 2000</td>
</tr>
<tr>
<td>13</td>
<td>Hansaria, Vijay &amp; Jose, P.I.</td>
<td>‘Juvenile Justice System’, 2010, Legal Assistant Forum</td>
</tr>
<tr>
<td>14</td>
<td>Parliament of India</td>
<td>The Indian Penal Code, 1860</td>
</tr>
<tr>
<td>15</td>
<td>Parliament of India</td>
<td>Indian Evidence Act, 1872</td>
</tr>
<tr>
<td>16</td>
<td>Parliament of India</td>
<td>The Code of Criminal Procedure, 1973</td>
</tr>
<tr>
<td>17</td>
<td>Parliament of India</td>
<td>The Child Marriage Restraint Act, 1929</td>
</tr>
<tr>
<td>18</td>
<td>Parliament of India</td>
<td>The Prohibition of Child Marriage Act, 2006</td>
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<tr>
<td>19</td>
<td>Parliament of India</td>
<td>The Hindu Marriage Act, 1955</td>
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<tr>
<td>20</td>
<td>Govt. of India</td>
<td>The Indian Majority Act, 1875</td>
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<tr>
<td>21</td>
<td>Government of India</td>
<td>The Foreigners Act, 1946</td>
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<tr>
<td>22</td>
<td>Government of India</td>
<td>The Foreigners Order, 1948</td>
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<tr>
<td>23</td>
<td>Government of India</td>
<td>The Police Act, 1861 (5 of 1861)</td>
</tr>
<tr>
<td>24</td>
<td>Provincial Govt. of Bengal</td>
<td>The Calcutta Police Act, 1866 (Bengal Act I of 1928) (16th February, 1928)</td>
</tr>
<tr>
<td>26</td>
<td>Provincial Govt. of Bengal</td>
<td>The Bengal Borstal School Act, 1928 (Bengal Act, I of 1928) (16th February, 1928)</td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Name of the Author</td>
<td>Name of the literature</td>
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<tr>
<td>27</td>
<td>W.B. State Legislative Assembly</td>
<td>The West Bengal Police Act, 1952 (WB Act III of 1952) (8&lt;sup&gt;th&lt;/sup&gt; April, 1952)</td>
</tr>
<tr>
<td>28</td>
<td>W.B. State Legislative Assembly</td>
<td>The West Bengal Primary Education Act, 1973 (West Bengal No. 43 of 1973)</td>
</tr>
<tr>
<td>29</td>
<td>W.B. State Legislative Assembly</td>
<td>The West Bengal Correctional services Act, 1992 (No – 32 of 1992) (13&lt;sup&gt;th&lt;/sup&gt; June, 1997)</td>
</tr>
<tr>
<td>30</td>
<td>W.B. State Legislative Assembly</td>
<td>The West Bengal Prohibition of Ragging in Educational Institutions Act, 2000 (WB Act 13 of 2000) (29&lt;sup&gt;th&lt;/sup&gt; May, 2000)</td>
</tr>
<tr>
<td>31</td>
<td>Govt. of West Bengal</td>
<td>The West Bengal Juvenile Justice (Care and Protection of Children) Rule, 2003</td>
</tr>
<tr>
<td>32</td>
<td>Govt. of West Bengal</td>
<td>The West Bengal Juvenile Justice (Care and Protection of Children) Rule, 2009</td>
</tr>
<tr>
<td>33</td>
<td>Govt. of West Bengal</td>
<td>The West Bengal Maternity Benefits Rules, 1965</td>
</tr>
<tr>
<td>34</td>
<td>Govt. of West Bengal</td>
<td>The West Bengal Right of Children to Free and Compulsory Education Rules, 2012</td>
</tr>
<tr>
<td>35</td>
<td>Govt. of West Bengal F.D</td>
<td>‘Child Care Leave’, Government of West Bengal Finance Department Audit Branch No. 1364-F(P) Kolkata, the 15&lt;sup&gt;th&lt;/sup&gt; February, 2012</td>
</tr>
<tr>
<td>36</td>
<td>Hon’ble Justice Khastagir</td>
<td>Criminal Major Act, 2010, Kamal law House, Kolkata</td>
</tr>
<tr>
<td>37</td>
<td>Bhattacharyya, Rabin</td>
<td>Commentaries on Police Regulations of Bengal, 1943 and Court Practices (PRB), 1996</td>
</tr>
<tr>
<td>38</td>
<td>Kelkar, R. V.</td>
<td>Lectures on Criminal Procedure, 2004</td>
</tr>
<tr>
<td>39</td>
<td>Saha, A. N.</td>
<td>Criminal Reference, 2009</td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Name of the Author</td>
<td>Name of the literature</td>
</tr>
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<tr>
<td>40</td>
<td>Mookherjee, Asutosh</td>
<td>‘Juvenile Justice’, 1989</td>
</tr>
<tr>
<td>42</td>
<td>Macmillan</td>
<td>The Modern Prison System of India, London, 1944</td>
</tr>
<tr>
<td>43</td>
<td>Iyer, Krishna V. R</td>
<td>Perspective of Criminology, Law and Social Change, New Delhi, Allied Publishers, 1980</td>
</tr>
<tr>
<td>44</td>
<td>Kaldate, Sudha</td>
<td>Society, Delinquent and Juvenile Court, Ajanta Publications, Delhi, 1982</td>
</tr>
<tr>
<td>45</td>
<td>Mukherjee, S.S.</td>
<td>Administration of Juvenile Correctional Instruction, New Delhi, Sterling Publishers, 1974</td>
</tr>
<tr>
<td>46</td>
<td>Sethna, M.J</td>
<td>Sethna’s Society and the Criminal, 1989, N.M. Tripathi Pvt. Ltd.</td>
</tr>
<tr>
<td>49</td>
<td>Mitra, Nagendra Nath</td>
<td>The Victimisation and Redress thereof, 1990</td>
</tr>
<tr>
<td>50</td>
<td>Nair, P.M.</td>
<td>“Gender Sensitization of Police Officers in dealing with women and children during investigation of cases”, CBI Bulletin, September 1997</td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Name of the Author</td>
<td>Name of the literature</td>
</tr>
<tr>
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<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>52</td>
<td>Kumar, Dr. Ashoke</td>
<td>“Educational status of Girl Child – a situational analysis in rural India”, published in ‘Kurukshetra’ – a journal on rural development, November 2006</td>
</tr>
</tbody>
</table>

5.22.2. Website references

1) [www.childlineindia.org.in](http://www.childlineindia.org.in)
2) [www.hsph.harvard.edu/population/trafficking/india.childmar.07.pdf](http://www.hsph.harvard.edu/population/trafficking/india.childmar.07.pdf)
3) [http://www.wbgov.com/e-gov/English/Departments/CHILDREN_WELFARE.doc](http://www.wbgov.com/e-gov/English/Departments/CHILDREN_WELFARE.doc)
4) [http://jpinstitute.org/jpisc/](http://jpinstitute.org/jpisc/)
6) [www.vakilno1.com/](http://www.vakilno1.com/)
7) [www.bombayhighcourt.nic.in](http://www.bombayhighcourt.nic.in)
8) [www.rapidlibrary.com](http://www.rapidlibrary.com)
9) [http://mospi.nic.in](http://mospi.nic.in)
11) [www.wb.gov.in](http://www.wb.gov.in)
12) [www.righttoeducation.in/legislation-west-bengal](http://www.righttoeducation.in/legislation-west-bengal)
14) [www.bikaspriya.blogspot.com](http://www.bikaspriya.blogspot.com)
15) [www.telegraphindia.com/1120726/jsp/siliguri/story](http://www.telegraphindia.com/1120726/jsp/siliguri/story)
16) [www.thehindu.com/todays-paper/tp-national/article3249017.ece](http://www.thehindu.com/todays-paper/tp-national/article3249017.ece)
Website references

17) www.asianage.com
18) www.apneaap.org
19) www.catwinternational.org
20) www.prosecutionresearch.com
21) www.purulia.gov.in
22) www.advocatekhoj.com
23) www.police.pondicherry.gov.in
24) www.ncpcr.gov.in
25) www.hrln.org
26) www.indiacourts.in
27) www.cidwestbengal.com
28) www.thestatesman.net
29) www.traffickingnews.wordpress.com
30) www.prayaschildren.org
31) www.bengalspider.com
32) www.nerve.in
33) www.nhrc.nic.in