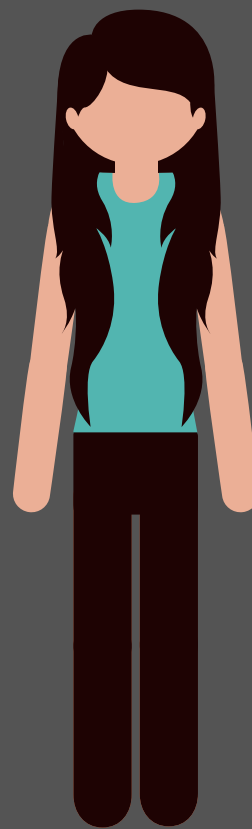
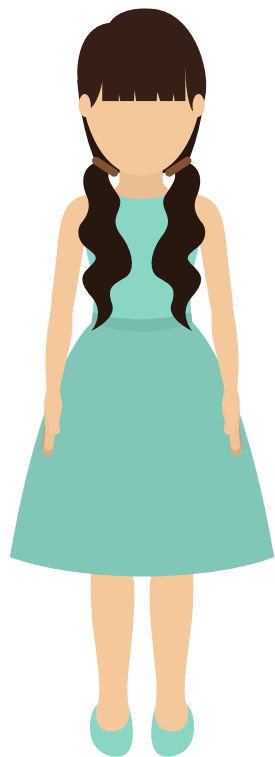


Ascertaining the age of a rescued victim



Prerana's
Anti Trafficking Center



Ritu (*name changed*) is a victim of commercial sexual exploitation, rescued from a dance bar by the Social Service Branch of Mumbai Police. Upon rescue, it was found that Ritu did not have any valid documentary proof of age on her. She was presumed to be minor and was placed in a Child Care Institution (CCI). Subsequently, as per Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 her age verification medical examination (AVM) was conducted, which declared her age to be between 17 and 18 years.



(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining – (i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof; (ii) the birth certificate given by a corporation or a municipal authority or a panchayat; (iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.

Prerana was directed by the concerned Child Welfare Committee (CWC) to submit a Social Investigation Report (SIR) in the case. Prerana's Post Rescue Operations (PRO) Team duly submitted it after interacting with the child and visiting her residence in Mumbai. In the meanwhile, Ritu's parents applied to the CWC seeking Ritu's custody. The custody was denied pending an inquiry. Ritu's parents submitted Ritu's Birth Certificate that stated her age to be 21 years. Since the discrepancy of 4 years is not usually observed between the age verification medical examination and the document certifying the age of the child, the CWC directed the concerned police station to verify the Birth Certificate produced by the parents. In our experience, often the documents produced by the claimants are either forged, or inauthentic since it is a common belief among the claimants (often the traffickers themselves) that once the child is declared to be an adult, it would be *handed over* to their immediate claimants.

The concerned police station submitted a verification report before the CWC. The CWC found the verification report inconclusive, as mentioned in the final Order (*Final Order passed by the CWC is the equivalent of a judgment passed by a Court of Law. It is a document that states the outcome/conclusion of the case after an inquiry is conducted by the CWC and records the reasons for reaching the said outcome.*) The reasons for finding the report inconclusive as stated in the Final Order were:

- The verification was conducted by obtaining documents from Ritu's mother (the claimant), and that the Investigating Officer (IO) had not verified the documents from the issuing authority.

(Here, it is important to understand that the verification of documents should not result in the investigating authority 'verifying' these documents through the claimants who are producing these documents. Verification in this sense should mean that the documents should be verified from the source, i.e. the issuing authority like UIDAI in case of an Aadhar card, the school itself in case of a School Leaving Certificate, etc. If the verification is conducted through the claimant, there is no scope for an investigation into the origin of the document - something that is only possible if it is verified at the source.)

- There was no report by the IO stating that the verification was conducted by personally visiting the district.

The CWC found the document verification report submitted by the police to be inconclusive as its authenticity was found questionable. Thus, the CWC, after applying its judicial mind rejected the evidence of age presented before it in the form of the verification report. Subsequently, the CWC deemed the age stated in the age verification medical certificate to be Ritu's true age and directed the child to be placed in a CCI till November 2019 to further her rehabilitation. An Order was passed for Prerana to maintain regular follow-up with the child and assist in the process of her rehabilitation.

Re-verification of Age-related documents

In an attempt to further solidify the evidence of age determination documents, the CWC wrote an application to the zonal Dy. Commissioner of Police (DCP) requesting a different investigating authority to conduct the verification of the birth certificate to find conclusive evidence of its veracity. Prerana assisted in this and also assisted the CWC by sending reminder notices to the DCP to initiate the process. After a month of following up with the DCP office, the DCP directed a different police station to conduct the re-verification, and the Investigating Officer of the said police station personally visited the district where Ritu was born.

The re-verification report submitted by the Investigating Officer (IO) consisted of a report by the Deputy Registrar (Birth and Death, Municipal Corporation) of the district where Ritu was born stating that the serial number mentioned in Ritu's birth certificate did not have a corresponding entry in the register maintained by the Birth and Death Registrar of that district. This indicated that the documents provided by the parents were fabricated or fake. The entries in the Birth and Death Registrar against that serial number belonged to a child - whose name and age did not match with that of Ritu.

The case challenging the decision of the Child Welfare Committee

Meanwhile, Ritu's parents filed an Appeal in the Sessions Court against the CWC's decision to place Ritu in a CCI. A social worker of Prerana assisted the CWC and even accompanied the CWC member to the District Sessions Court for the hearing. The appeal by Ritu's parents was filed after the expiry of the period of appeal as stated in the Juvenile Justice (Care and Protection of Children) Act, 2015, however, the delay was condoned by the Sessions Court. At present, the case is in the process of being assigned before the appropriate courtroom. A social worker from Prerana is assisting the CWC in drafting its response in the matter.

Prerana social workers came to know that prior to filing an appeal in the Sessions Court, the lawyers hired by the claimants had directly approached the Bombay High Court to challenge the decision of the CWC. The claimant's lawyers realized the error in their approach and moved a petition in the High Court seeking dismissal of the petition, and prayed for permission to seek relief before the appropriate authority i.e. the Sessions Court (as per Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015).



Section 101(1) Subject to the provisions of this Act, any person aggrieved by an order made by the Committee or the Board under this Act may, within thirty days from the date of such order, prefer an appeal to the Children's Court, except for decisions by the Committee related to Foster Care and Sponsorship After Care for which the appeal shall lie with the District Magistrate: Provided that the Court of Sessions, or the District Magistrate, as the case may be, may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time and such appeal shall be decided within a period of thirty days. Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.

Prerana has encountered similar cases in the past, of girls rescued from a dance bar where the age verification medical examination (AVM) would contradict the documents submitted by the family. The AVM exam would suggest the girls to be minors, but the

¹ "Children's Court" means a court established under the Commissions for Protection of Child Rights Act, 2005 or a Special Court under the Protection of Children from Sexual Offences Act, 2012, wherever existing and where such courts have not been designated, the Court of Sessions having jurisdiction to try offences under the Act;

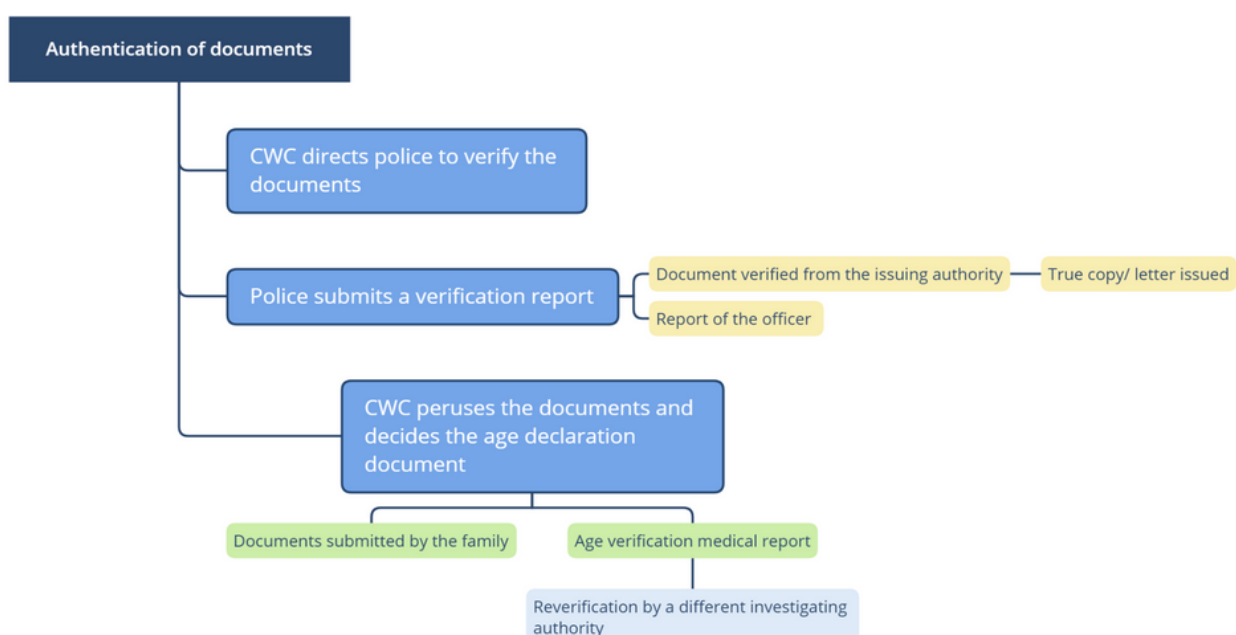
documents that the claimants would produce before the CWC showed them to be above the age of 18 years. The attempt to prove that a child is actually an adult (above 18 years) has been consistently observed to be an established tactic adopted by most claimants. Once a child is proven to be over 18 years of age, the matter goes beyond the purview of the CWC since as per the Juvenile Justice (Care and Protection of Children) Act 2015 the victim is no longer a child. Ideally, the case is expected to be transferred to the appropriate Magistrate.

It is generally believed that it is easier to ‘free’ the girls if it is proved that they have attained the age of majority. Thus, the documents submitted by the family as evidence to prove the children are actually major, ought to be thoroughly verified to ensure that the CWC has all the facts backed by the proof to determine the age.

Documents have been verified in the past as well by the CWCs, in similar rescue cases but the documents submitted by the police officers were not scrutinized thoroughly. In one case, the police had asked the parents themselves to get the documents verified, instead of verifying them personally. Since the documents proved the age of the girls to be over 18, it was transferred to the Magistrate’s court where the custody of the girls was granted to the parents. Prerana is, to date, trying to establish contact with the girls, but all of them have been untraceable and probably re-trafficked.

Prerana tried to internalize the learnings from its past experiences and its casework. Constant follow-up was maintained with the CWC regarding the verification and subsequently, the re-verification process. The thorough examination of the verification report, and not accepting it at the face value led to the process of re-verification which revealed the fabrication of the age proof that had been submitted.

From such ‘on the ground’ practices, we offer below a diagrammatic representation of best practices with regards to verification of age related documents produced by the claimants.



**Derived from on-ground experiences*

P.S. We are sure that most of you must be doing such data gathering and analyzing exercises at your end too. If you are, please do share the same with us. We shall be more than happy to share it on our website

www.fighttrafficking.org

*Your trusted knowledge partner in the fight against
human trafficking*

Prerana ATC Team

Pravin Patkar, Priti Patkar, Kashina Kareem
Aaheli Gupta, Megha Gupta, Jyoti Jangir,
Debopama Bandyopadhyay, Vaishali Choudhary,
Priya Ahluwali and Shriya Shrivastava

Design

Azra Qaisar

Our mailing address is:

fighttraffickingindia@gmail.com