

Adoption Status (Performance)

State	Number of SAA			Percentage of SAA		
	with Professional Social Worker	that prepares Child Study Report	that prepare Medical Examination Report	with Professional Social Worker	that prepares Child Study Report	that prepare Medical Examination Report
Bihar	8	8	9	88.9	88.9	100
Chandigarh	0	0	0	0	0	0
Chhattisgarh	3	2	5	27.3	18.2	45.5
Delhi	8	8	8	100	100	100
Goa	0	0	0	0	0	0
Gujarat	15	16	16	88.2	94.1	94.1
Haryana	0	1	1	0	100	100
Jharkhand	1	1	1	20	20	20
Karnataka	23	21	20	92	84	80
Kerala	12	12	11	48	48	44
Madhya Pradesh	23	26	26	74.2	83.9	83.9
Maharashtra	50	46	45	90.9	83.6	81.8
Manipur	6	6	6	100	100	100
Maghalaya	1	0	0	20	0	0
Mizoram	2	2	1	40	40	20
Nagaland	2	5	5	40	100	100
Odisha	12	11	11	85.7	78.6	78.6
Puducherry	3	3	3	75	75	75
Punjab	5	5	5	100	100	100
Rajasthan	5	4	4	27.8	22.2	22.2
Sikkim	0	0	0	0	0	0
Tamil Nadu	7	7	7	58.3	58.3	58.3
Telangana	7	8	8	70.0	80	80
Tripura	4	4	4	50	50	50
Uttarakhand	0	0	0	0	0	0
West Bengal	22	22	21	88	88	84
Total	233	230	229	69.4	68.5	68.2

9.17 The provision of professional social worker, preparation of CSR and MER has a wide variation ranging from nil to 100% in SAAs across different States/UTs. The national average with respect to these three aspects of SAAs is more than 65%. It shows that preparation of the CSR and

MER, very crucial documents vital for the adoption process, have not been undertaken in about one third of SAAs in the country. This is bound to raise questions regarding diligence exercised for the adoption process.

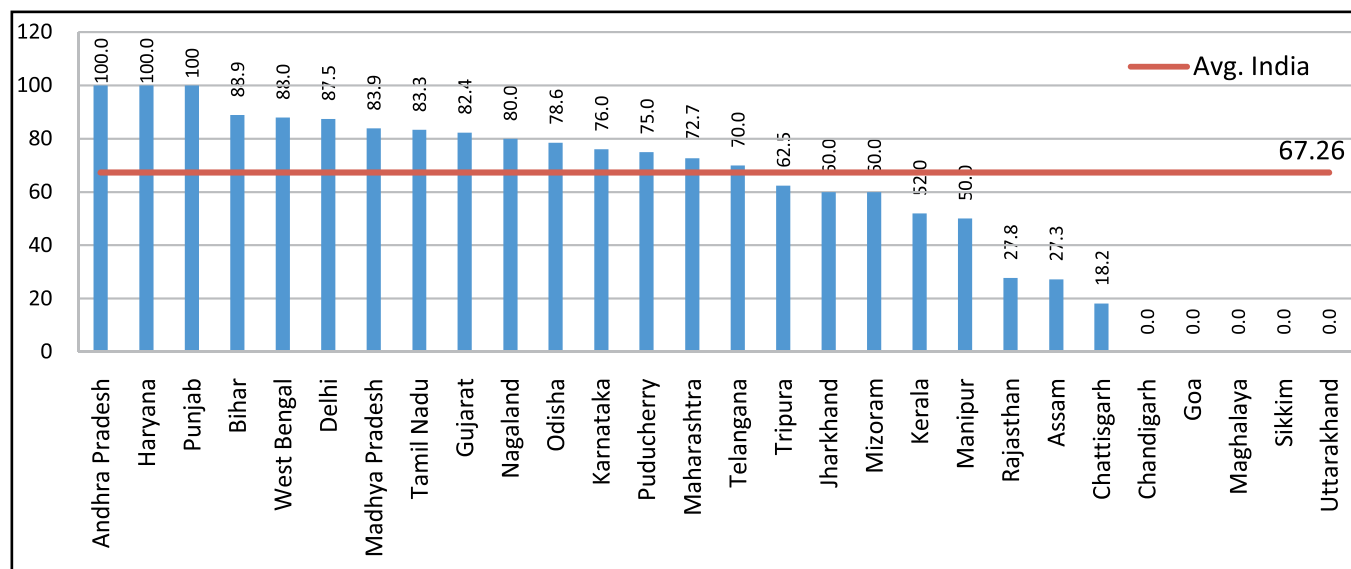
V. Adoption Performance

A. Home Study Report (HSR) and Adoption

9.18 This section deals with the uploading of Home Study Report (HSR) that includes two aspects, Child Study Report and Medical Examination Report. As per the adoption regulations framed by CARA, the Child Study Report and Medical Examination Report of an orphan, abandoned or surrendered child must be prepared in the prescribed format and posted in the Child Adoption Resource Information and Guidance System by the Specialized Adoption Agency maximum within ten days from the date the child is declared legally free for adoption by the CWC and the details shall be updated on Child Adoption Resource Information and Guidance System in every six months or whenever appreciable physical changes are observed in the child.

9.19 The graph 9.4 below reflects the percentage of agencies that expeditiously upload the Home Study Report (HSR) that includes CSR and MER as soon as children become legally free for adoption.

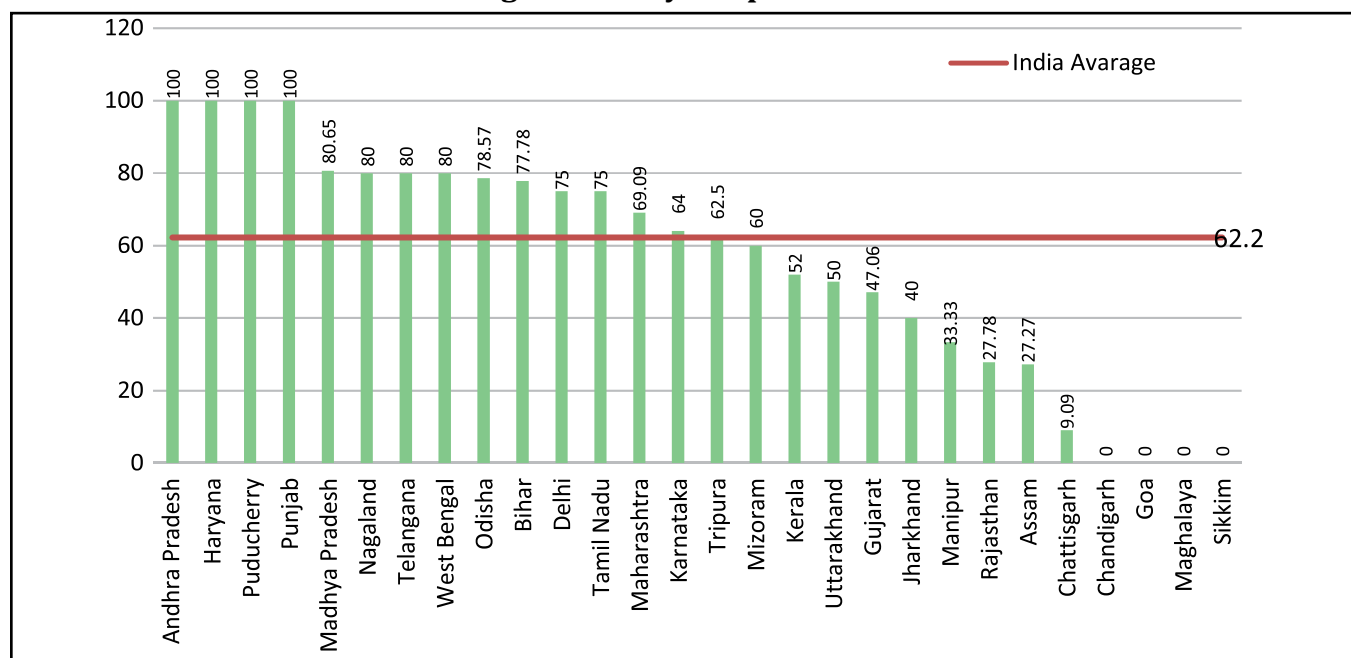
Graph 9.4 Percentage of SAAs that expeditiously upload CSR and MER



9.20 Among all the States/UTs, CCIs/Homes of Haryana Punjab and Andhra Pradesh reported adherence to uploading of HSR completely followed by Bihar at 88.89%, whereas SAAs of Chandigarh, Goa, Meghalaya, Sikkim and Uttarakhand do not adhere to this at all (and are thus out of the graph) and do not upload the reports. Chhattisgarh is lowest at 18.2% in this regard.

ii. Decision of referral and matching

Graph 9.5 Percentage of SAAs where decision of referral and matching is taken by Adoption Committee



9.21 The graph 9.5 shows the percentage of SAA where the decision for referral and matching of each child is taken by the Adoption Committee (AC). The national figures for SAAs where the decisions are taken by AC are 209 out of the 336 SAAs.

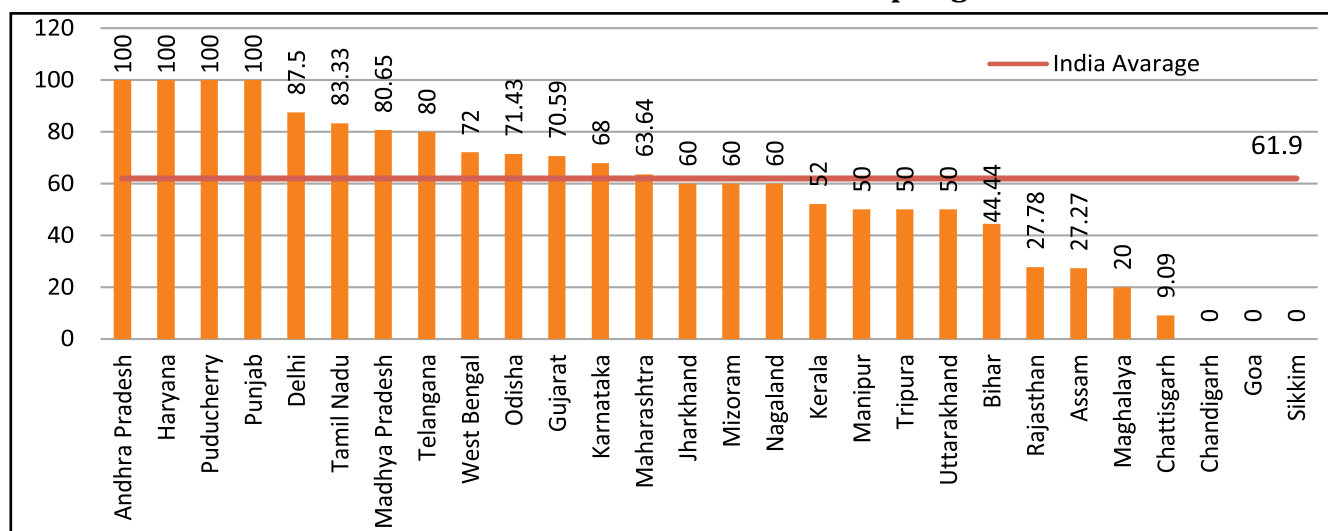
9.22 In all the SAA of Andhra Pradesh, Haryana, Puducherry and Punjab, the decision for referral and matching of each child is taken by the Adoption Committee. This is followed by Madhya Pradesh at 80.65% whereas SAA of Chandigarh, Goa, Meghalaya and Sikkim record 0% in this regard. Chhattisgarh is at 9.1% that is the lowest positive response with respect to whether the decision for referral and matching of each child has been taken by the Adoption Committee.

iii. Encouragement and Assistance to Domestic PAPs

9.23 Under the CARA guidelines the Specialized Adoption Agency shall make best efforts to assign a child as per required description given by the PAP(s), if any. After matching the child, the Specialized Adoption Agency shall advise PAP(s) to see the child physically before they give their acceptance. The PAP(s) shall be shown the matched child or children only at the premises of Specialized Adoption Agency.

9.24 The graph 9.6 below shows whether domestic PAPs are encouraged supplied necessary information and rendered all sort of assistance for taking decision to accept a referral. The national figures for SAAs where PAPs are encouraged are 208 out of the 336 SAAs.

Graph 9.6 Percentage of SAAs encouraging domestic PAPs and supplying them with all assistance and information to decide on accepting a referral



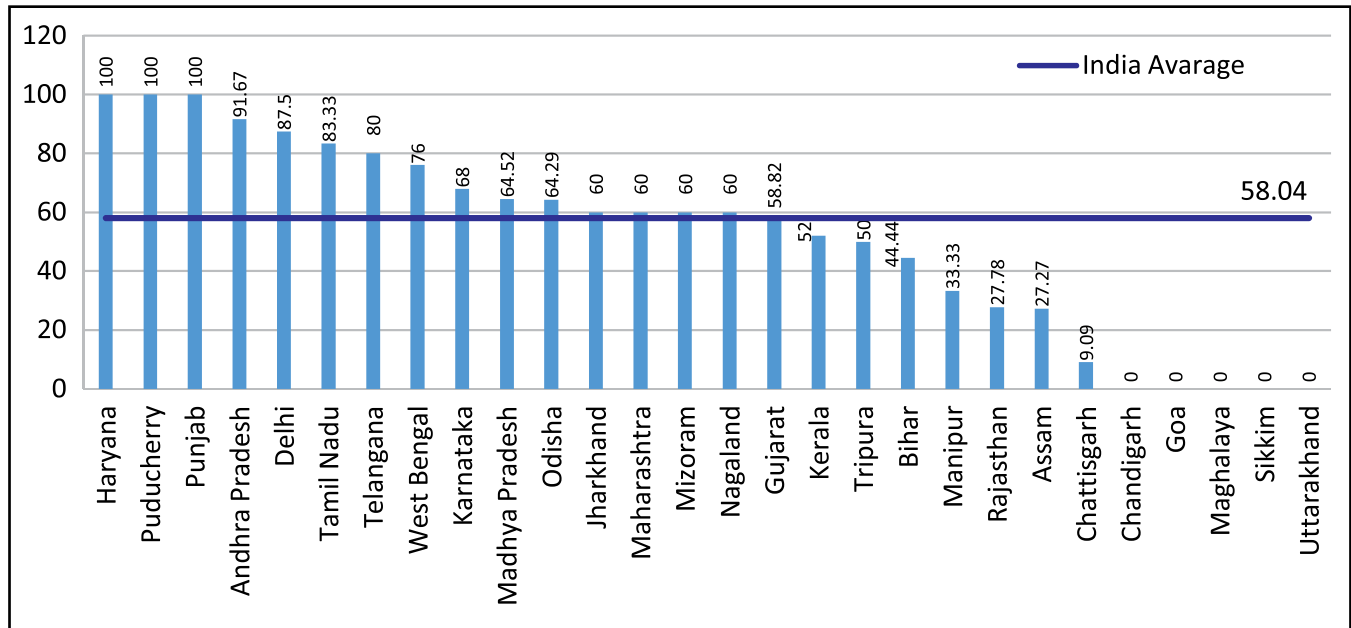
9.25 In Andhra Pradesh, Haryana, Puducherry and Punjab, all SAAs follow this procedure with Delhi next at 87.5.3% whereas no SAAs of Chandigarh, Goa and Sikkim are found to adhered to this; low positive response for this is obtained from the SAAs of with Chhattisgarh, which is just 9.1%.

iv. Psychological Preparation of the Adoptable Child

9.26 The roles played by the SAA are many; not only do they have to help the PAPs with the entire adoption process, they also have to mentally and emotionally prepare children (who are fit

for adoption) for their new life with their new prospective parents and new families. At a national level, it is observed that 195 SAAs out of 336 SAAs prepared every adoptable child psychologically.

Graph 9.7 Percentage of SAAs that reported to prepare the adoptable child psychologically



9.27 The graph 9.7 shows that all the SAAs in Haryana, Puducherry and Punjab prepare every adoptable child psychologically for his or her assimilation with the adoptive family; whereas 91.67% of SAAs in Andhra Pradesh followed by 87.5% SAAs in Delhi are found to prepare the child for the process of adoption. However, the SAAs of Chandigarh, Goa, Meghalaya, Uttarakhand, and Sikkim do not seem to prepare the adoptable child psychologically for assimilation. Chhattisgarh with 9.1% response is also on the lower side.

9.28 This process is majorly carried out by the primary caregiver of the child in the institution and starts at the time the child is a toddler. This process is absolutely essential to ensure that the child can adjust with his or her new parents into a new lifestyle without any major psychological problem or emotional trauma.

v. Development of Publicity Materials Regarding Adoption Process

9.29 The table 9.4 below shows the percentage of SAAs that develop publicity materials on adoption process and the amount of contribution made to CCC.

Table 9.4 Number of SAAs that develop publicity materials mentioning adoption process and amount of contribution to CCC

States/UTs	SAA developed leaflets/pamphlets/ literature/any other publicity materials		SAA where the amount of contribution to CCC for adoption is clearly mentioned in such publicity material		Total
	Number	Percentage	Number	Percentage	
Andhra Pradesh	8	66.7	8	66.7	12
Assam	3	27.3	3	27.3	11
Bihar	6	66.7	6	66.7	9
Chandigarh	0	0	0	0	1
Chhattisgarh	2	18.2	2	18.2	11
Delhi	4	50	4	50.0	8
Goa	0	0	0	0	4
Gujarat	3	17.7	3	17.6	17
Haryana	1	100	1	100	1
Jharkhand	2	40	2	40	5
Karnataka	11	44	7	28	25
Kerala	11	44	6	24	25
Madhya Pradesh	22	71.0	14	45.2	31
Maharashtra	24	43.6	14	25.5	55
Manipur	3	50	3	50	6
Meghalaya	0	0	0	0	5
Mizoram	1	20	1	20	5
Nagaland	0	0	0	0	5
Odisha	6	42.9	6	42.9	14
Puducherry	3	75	3	75	4
Punjab	3	60	3	60	5
Rajasthan	3	16.7	3	16.7	18
Sikkim	0	0	0	0	2

States/UTs	SAA developed leaflets/pamphlets/ literature/any other publicity materials		SAA where the amount of contribution to CCC for adoption is clearly mentioned in such publicity material		Total
	Number	Percentage	Number	Percentage	
Tamil Nadu	7	58.3	7	58.3	12
Telangana	4	40	4	40	10
Tripura	1	12.5	1	12.5	8
Uttarakhand	0	0	0	0	2
West Bengal	14	56	14	56	25
Total	142	42.3	115	34.2	336

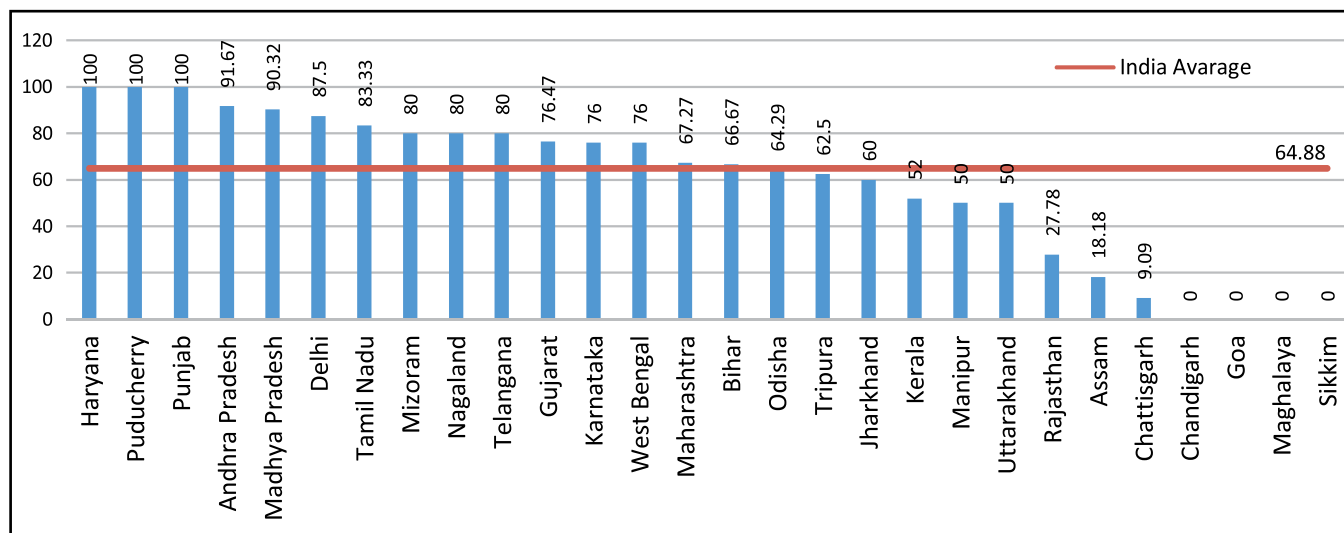
9.30 The table 9.4 above represents that all the SAAs in Haryana develop publicity materials depicting process of adoption followed by Puducherry at 75% whereas SAAs of Chandigarh, Goa, Meghalaya, Uttarakhand, Nagaland and Sikkim do not adhere to this. Only 12.5% SAAs of Tripura gave positive response in this regard. Additionally the table shows that all SAAs of Haryana followed by 75 percent SAAs of Puducherry gave high percentages of positive response with respect development of publicity material where the amount of contribution to CCC for adoption is clearly mentioned. Only 12.5 % SAAs of Tripura have given positive response in this regard.

9.31 The publicity material must have all the relevant information required by PAPs to easily understand the entire process of adoption in detail with list of important websites and numbers, FAQs, etc. This should be done to spread awareness among general public, clear doubts and answer the questions. The material must also give a breakup of amount that is contributed towards the CCC (Child Care Corpus) i.e. the corpus fund maintained by the Specialized Adoption Agency into which child care and adoption related expenses are contributed by the adoptive parents. The adoption agencies shall utilize the amounts available in the Child Care Corpus only for welfare of the children in the Home and maintenance of the Home. The amount shall also cover all expenses incurred to finalize the adoption. Therefore, publicity material, in all forms, plays an important role and must not be neglected by agencies. The poor performing agencies must take inspiration from the model agencies while formulating and designing their material so as to increase and improve their overall performance and adoption rate.

vi. Maintenance of adoption files and registers

9.32 The graph 9.8 shows percentage of SAAs where adoption register is maintained & complete adoption file of each child placed in adoption is available.

Graph 9.8 Percentage of SAAs that maintain adoption file and register



9.33 In States/UTs like Haryana, Puducherry and Punjab, all SAAs maintain adoption register and complete adoption file of each child placed in adoption is available. In Andhra Pradesh, 91.67% of SAAs followed this practice. None of the SAAs in Chandigarh, Goa, Meghalaya and Sikkim are found to have maintained adoption file and register implying that such procedures are not followed; only 9.1% of the SAAs in Chhattisgarh follow this practice.

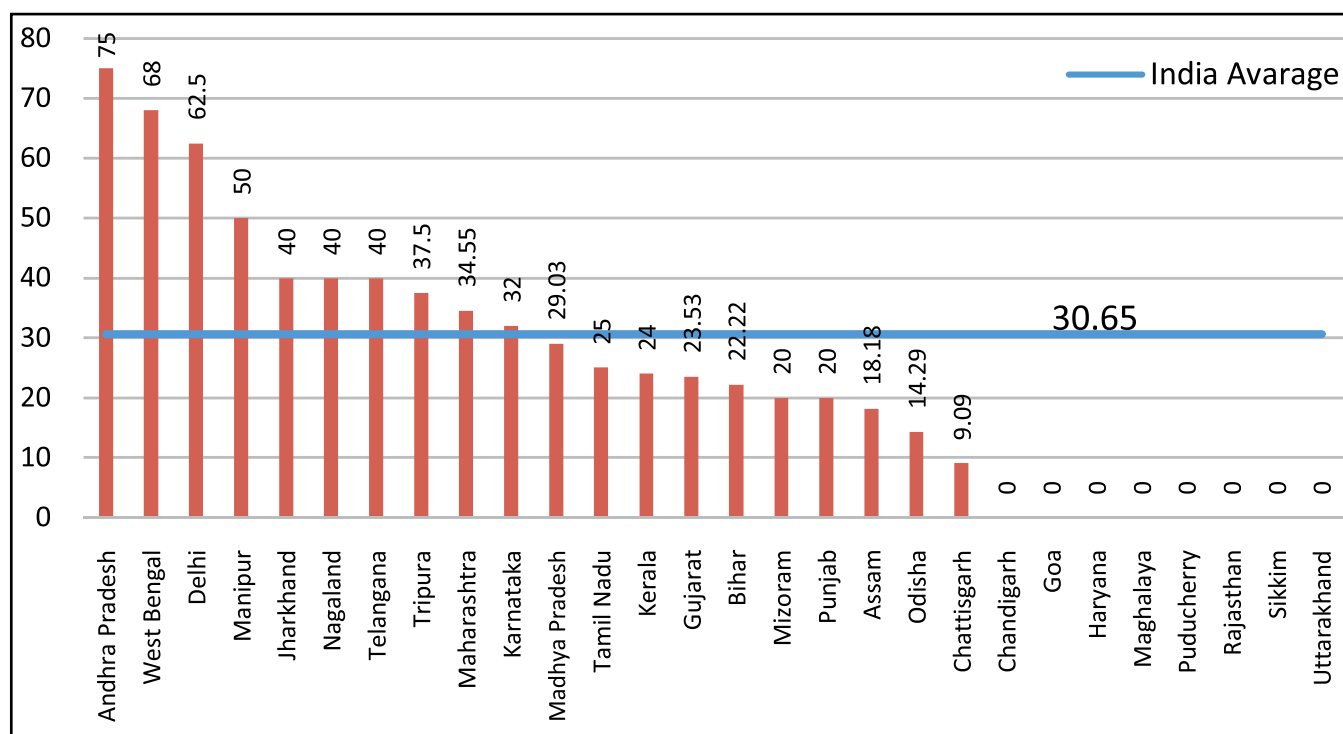
9.34 Every Agency has to maintain a number of records, documents such as registers pertaining to administration and the adoption process including register of adopted children with details of adoptive parents (date of registration, date of Home Study Report, date(s) of referral of child or children, date of court order, date of handing over of the child to prospective adoptive parents, etc.). The complete adoption file of child must also be updated and preserved for follow ups and in the event of root searches.

vii. Lodging of complaints against illegal adoption

9.35 The role and duty of agencies do not stop at facilitating adoptions but they have a responsibility to report and complaint against the illegal adoptions or connected activities which would also include illegal sourcing of children carried out by nursing Homes, hospitals or persons that can put the life and limb of an adopted child at risk. Though reporting does take place in many CCIs/Homes, the analysis reveals that in a number of States/UTs none of the SAAs adhere to this. Many others have a very low percentage of reporting which is a cause of concern. Failure to report illegal activities must be taken seriously by SARA and CARA.

9.36 The graph 9.9 reveals that whether the agency lodges complaints with SARA, CARA, CWC and police authorities if Nursing Homes or Hospitals or any other person(s) are found involved in illegal adoptions. Across the country, 103 out of the 336 SAAs have lodged complaints with authorities and this is 30.65 % of the total SAAs.

Graph 9.9 Percentage of SAAs that lodge complaints against illegal adoption

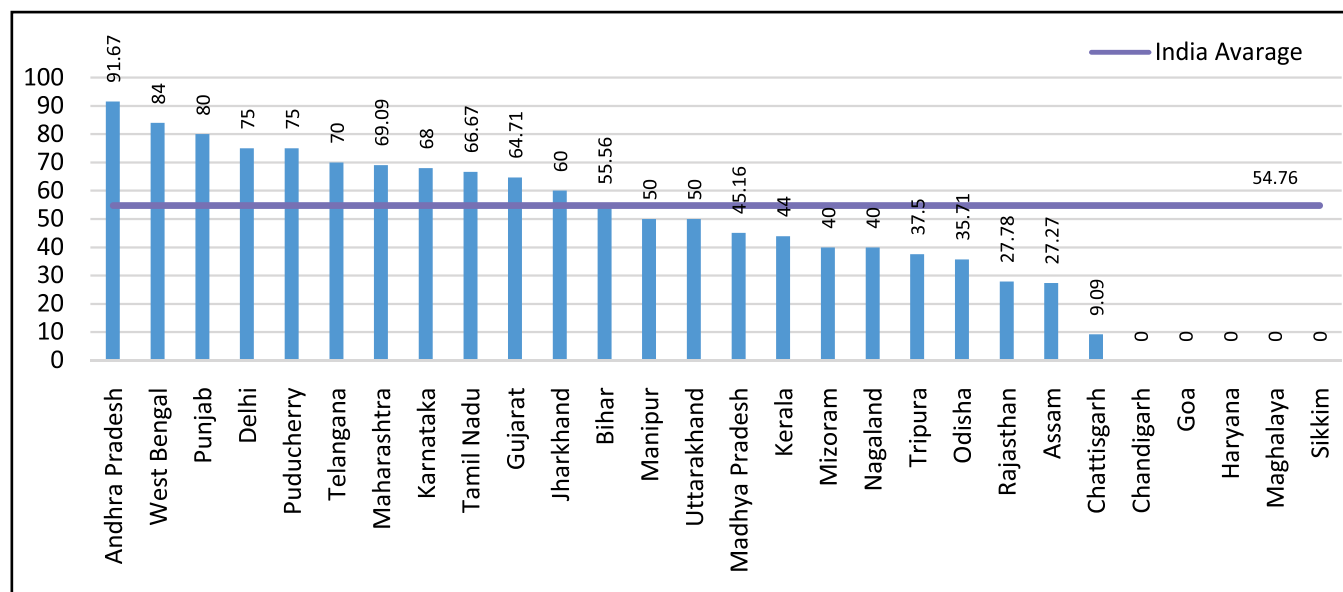


9.37 The highest percentage of SAAs registering complaints against illegal adoption is from the States/UTs of Andhra Pradesh at 75% followed by West Bengal at 68% and Delhi at 62.5%. SAAs of Chandigarh, Goa, Haryana, Meghalaya Puducherry, Rajasthan, Uttarakhand, and Sikkim are found to have not filed any complaints in this regard; only 9.1% of the SAAs of Chhattisgarh are found to have lodged such complaints showing that reporting of illegal adoptions is not being done which is a serious cause of concern.

viii. Filing of adoption petitions for cases of pre-adoption foster care

9.38 The graph 9.10 below gives a picture of filing of adoption petitions for cases of pre-adoption foster care by SAAs.

Graph 9.10 Percentage of SAAs that have filed adoption petitions for cases of pre adoption foster care



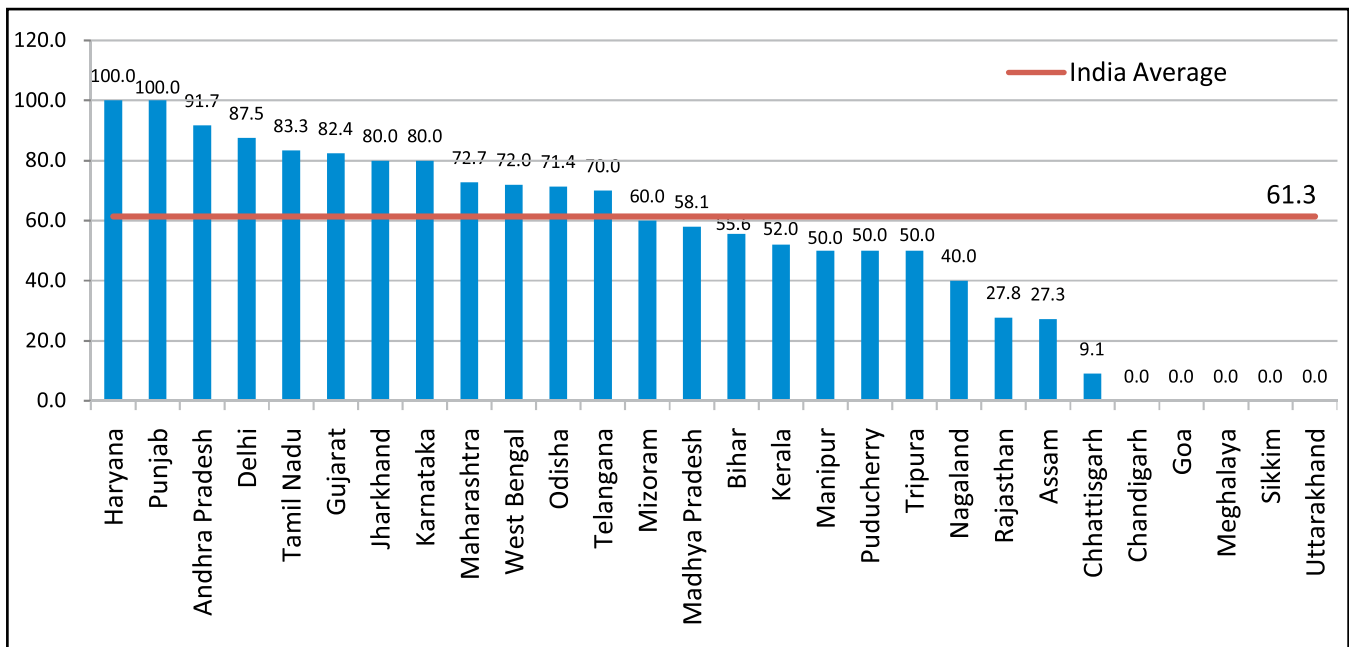
9.39 The national figures for SAAs who have filled petition in the Court in cases of children placed under pre adoption foster care are 184 out of the 336 SAAs. Among the States/UTs, 92% SAAs of Andhra Pradesh have filed petitions in the Court in cases of children placed under pre adoption foster care followed by West Bengal at 84% whereas none of the SAAs of Chandigarh, Goa, Haryana, Meghalaya and Sikkim are found to have filed such petitions. Only 9.1% of SAAs in Chhattisgarh have positively responded to filing of such petitions.

ix. Post-Adoption Follow-up

9.40 The Specialized Adoption Agency has to carry out half yearly follow-up visits of the child from the time the child has been placed in pre-adoption foster care till a period of two years after the legal adoption. The copies of the follow-up reports of the children shall be submitted by the Specialized Adoption Agency to SARA. This is the only way to track the progress and understand how children have been placed in adoption or in non-institutional care are coping with their new life, understanding how the PAPs are adjusting with the child.

9.41 The graph 9.11 presented below shows the percentage of SAAs that monitor wellbeing of adopted children through post-adoption follow-up. Nationally, out of the 336 SAAs, 206 SAAs are monitoring adopted children for two years from placement date.

Graph 9.11 Percentage of SAAs that monitor well-being of adopted children through post- adoption follow-up



9.42 From the graph 9.11, it can be seen that in states like Haryana and Punjab all SAAs are monitoring adopted children for two years from placement date and follow the procedure. This is followed by Andhra Pradesh at 91.7% whereas the lowest percentage could be found in Chhattisgarh at 9.1%. SAAs in Chandigarh, Goa, Meghalaya, Sikkim and Uttarakhand are not found to be monitoring

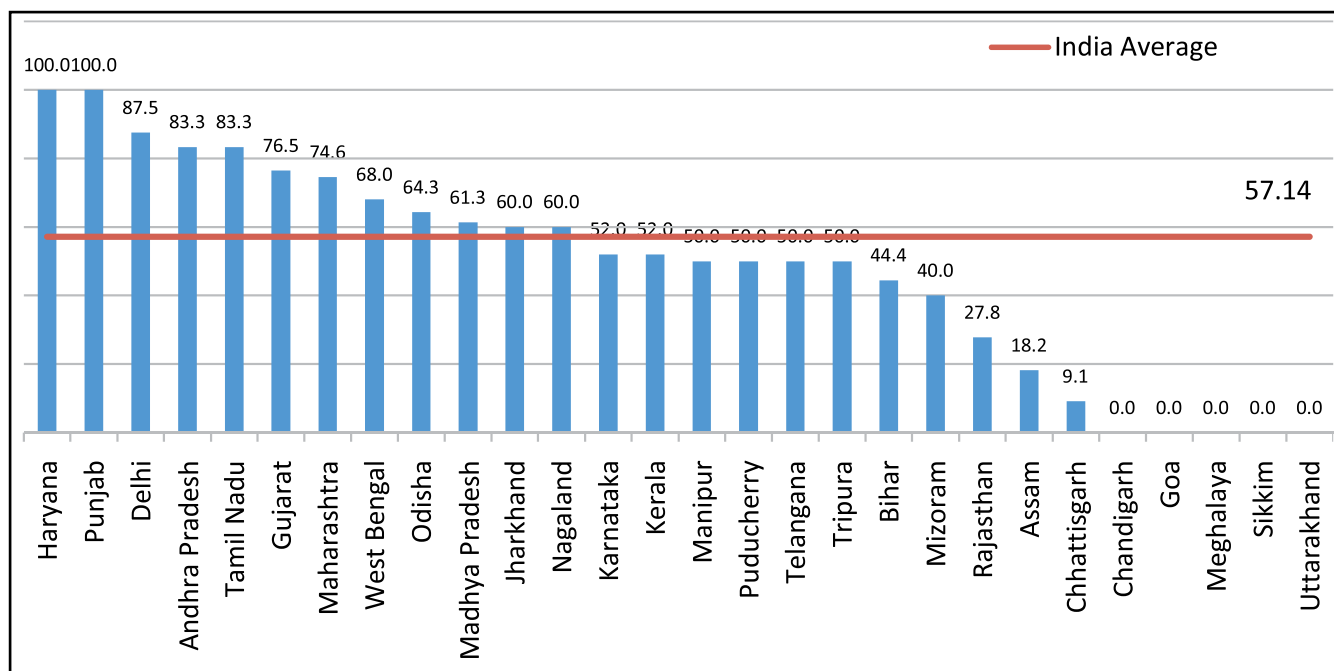
the well-being of adopted children through post-adoption follow-up.

x. Keeping of all post-adoption records inaccessible to public

9.43 The CARA Regulations state that all agencies or authorities involved in the adoption process shall ensure that confidentiality of adoption records is maintained, except as permitted under any other law for the time being in force and for such purpose, the adoption court order may not be displayed in any public portal.

9.44 The national figures for SAAs that keep the mandatory post adoption records are 192 out of the 336 SAAs. The data varies across the country with average percent being 57.14 out of the 336 SAAs.

Graph 9.12 Percentage of SAAs that keep all post-adoption records inaccessible to public



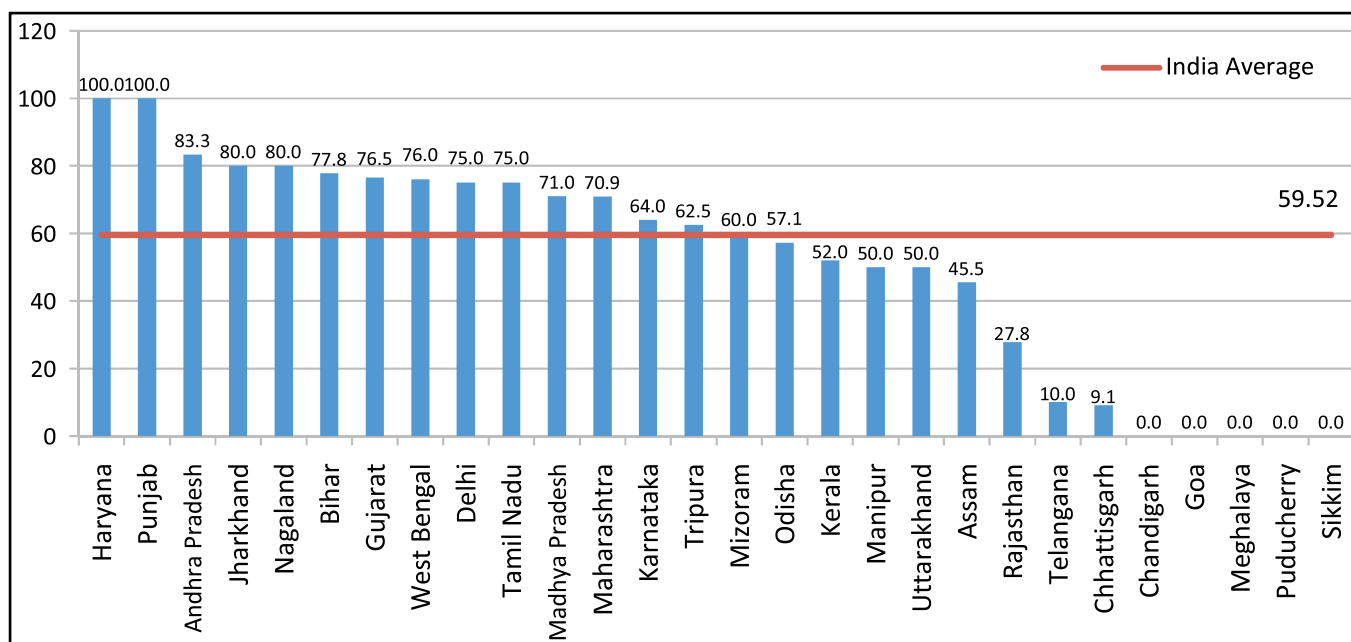
9.45 The Graph 9.12 shows that there are some States/UTs where no such efforts are being made, these States/UTs are Chandigarh, Goa, Meghalaya, Sikkim and Uttarakhand. All SAAs in Haryana and Punjab are keeping all post-adoption records inaccessible to public; these states are followed by Delhi at 87.5% and Tamil Nadu at 83.3%. Only 9.1% SAAs in Chhattisgarh are keeping all post-adoption records inaccessible to public.

xi. Root Search

9.46 The specialized adoption agencies must keep information, documents and belongings of the child in safe custody. This needs to be done to enable easy access to information and items when required. It is also helpful in the event of a possible root search in the future. Hence a safe and efficient system must be in place, incidents of misplacing documents, or mix up of documents and belongings must be avoided at all costs.

9.47 The graph 9.13 below shows the percentage of SAAs that maintains records of the children. The national figures of SAAs that keep all the information and documents as well as belongings of the child in safe custody are 200 out of the 336 SAAs. The data varies across the country with average 59.5 of SAAs keeping these records.

Graph 9.13 Percentage of SAAs that keep records of child, etc. in safe custody



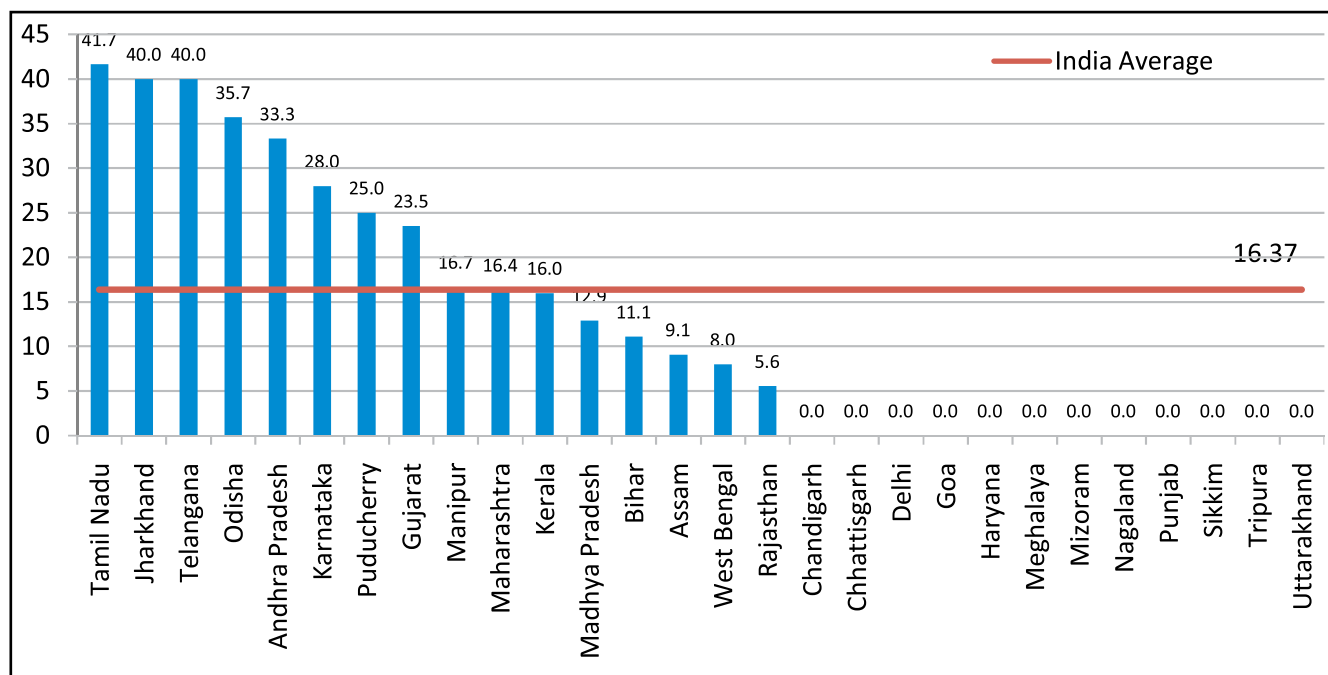
9.48 The graph 9.13 above highlights that there are some States/UTs where none of the SAAs are found to have kept such records; these States/UTs are Chandigarh, Goa, Meghalaya, Puducherry and Sikkim. All SAAs in Haryana and Punjab are following the norms. This is followed by Andhra Pradesh and Jharkhand at 83.3% and at 80%. In Chhattisgarh, only 9.1% of its SAAs are keeping the records.

xii. Disruption and Repatriation

9.49 Under the CARA guidelines, in cases of disruption of adoption (post-adoption), the Specialized Adoption Agency shall make efforts for alternate rehabilitation of the child. In case of disruption during pre-adoption foster care, the child will be taken back by the adoption agency and a suitable rehabilitation plan for the child shall be worked out in consultation with SARA. In case of disruption after final court order, it shall be the responsibility of the concerned adoption agency to take suitable steps, including seeking order from the competent court, for rehabilitation of the child in consultation with SARA.

9.50 From the graph 9.14 below, it can be observed that the national figures for SAAs where disruptions occurred in in-country adoption are 55 out of the 336 SAAs. On an average, 16.37% of SAAs reported to have faced disruptions in in-country adoption. The data, however, varies across the country.

Graph 9.14 Percentage of SAAs where disruption occurred in in-country adoption

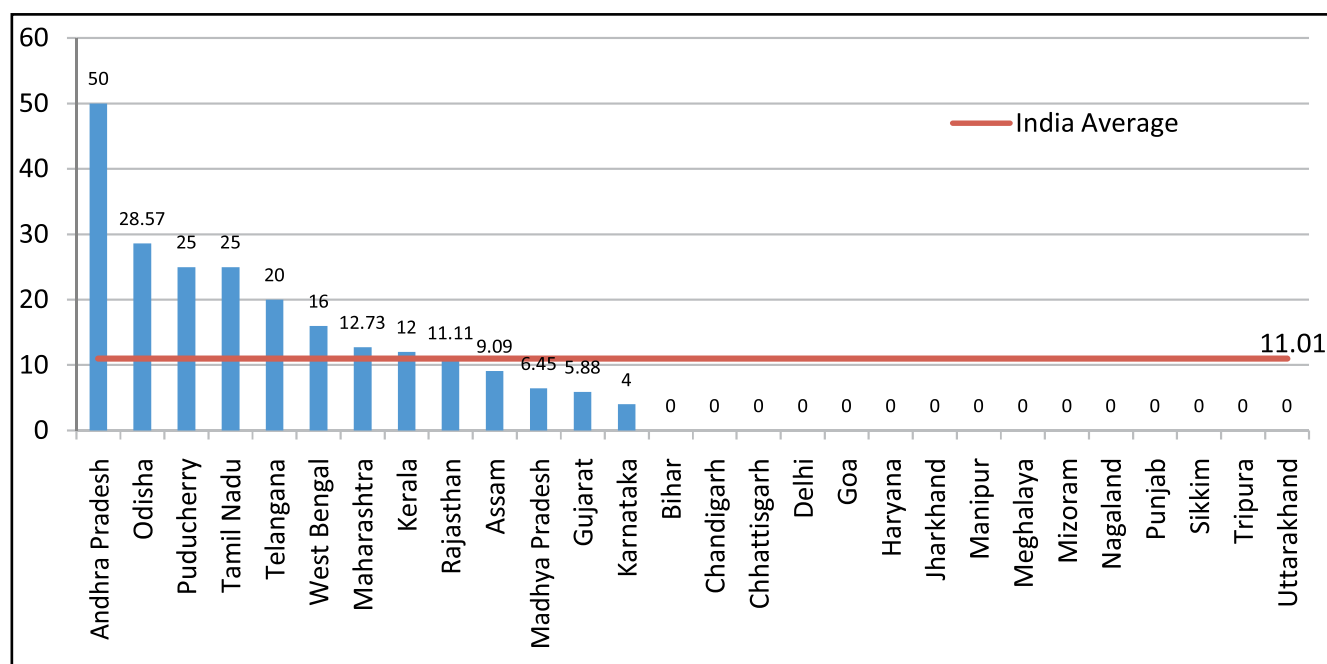


9.51 It is seen from the graph that 41.7% of the SAAs in Tamil Nadu, which is the highest percentage, reported to have suffered such disruptions followed closely by both Jharkhand and

Telangana at 40% each. SAAs in Chandigarh, Chhattisgarh, Delhi, Haryana, Goa, Meghalaya, Mizoram, Nagaland, Punjab Sikkim, Tripura and Uttarakhand have not faced disruptions regarding in-country adoption. Agencies from rest of the States/UTs are found to have experienced instances of such cases in large or small numbers.

9.52 The graph 9.15 below shows the percentage of SAAs where disruption occurred in inter-country adoption.

Graph 9.15 Percentage of SAAs where disruption occurred in inter-country adoption



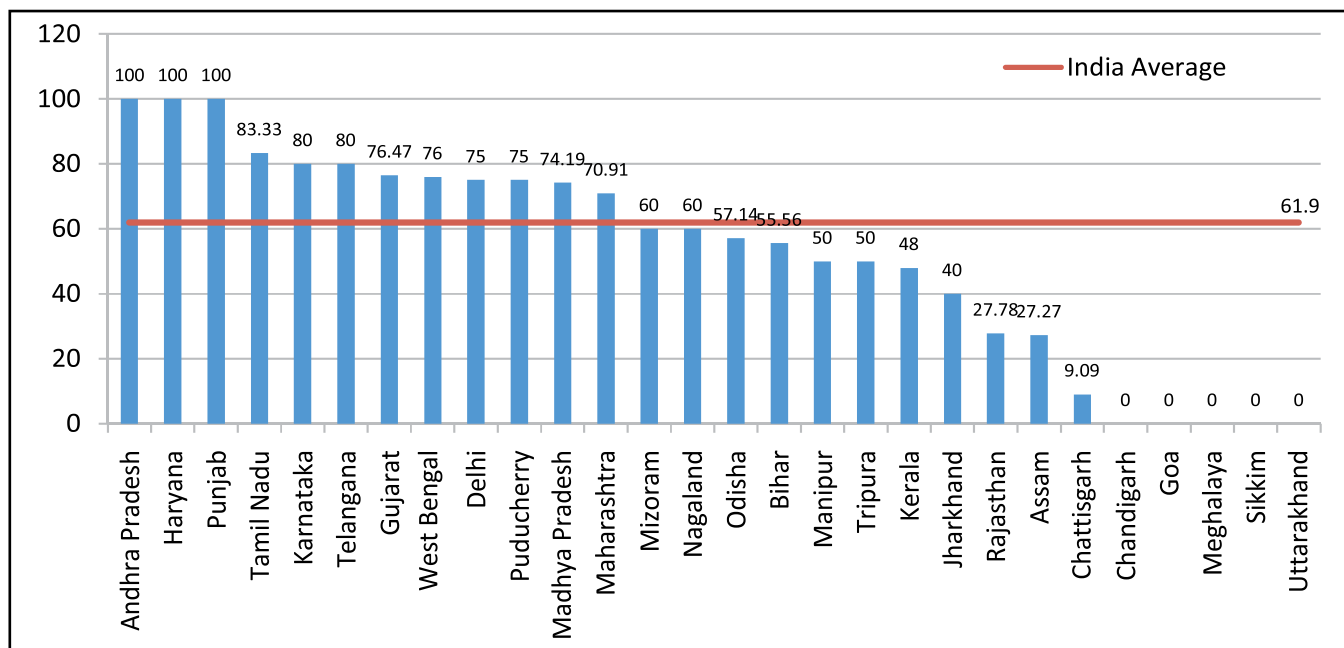
9.53 The national figures for SAAs where disruptions occurred in inter-country adoption are 37 out of the 336 SAAs. The data varies across the country with average percent being 11.01 out of the 336 SAAs. The highest percentage was seen in SAAs of Andhra Pradesh at 50% followed closely by Orissa at 28.6% and both Puducherry and Tamil Nadu at 25% each.

9.54 As seen from the data, many agencies across India have to deal with such cases, with significant number are found in Andhra Pradesh, the percentage of which is 50%. Reasons of the same must be looked into to understand whether issues are at the matching and referral level, inadequate counseling and psychological help to the child and adoptive parents, etc.

xiii. PAP(s) & Biological Parent (s)

9.55 The national figures for SAAs which places child in pre-adoption foster care are 208 out of the 336 SAAs. The data varies across the country with average percent being 61.9 out of the 336 SAAs.

Graph 9.16 Percentage of SAAs that place children in pre-adoption foster care



9.56 The graph 9.16 above shows that all SAAs in Andhra Pradesh, Haryana and Punjab place children in pre-foster adoption after completing the necessary procedures as laid down in the CARA Guidelines. This is followed by Tamil Nadu at 83.33%. None of SAAs in Chandigarh, Goa, Meghalaya, Sikkim and Uttarakhand place child in the pre-adoption foster care. Only 9.1% SAAs in Chhattisgarh, which is the lowest, follow this procedure.

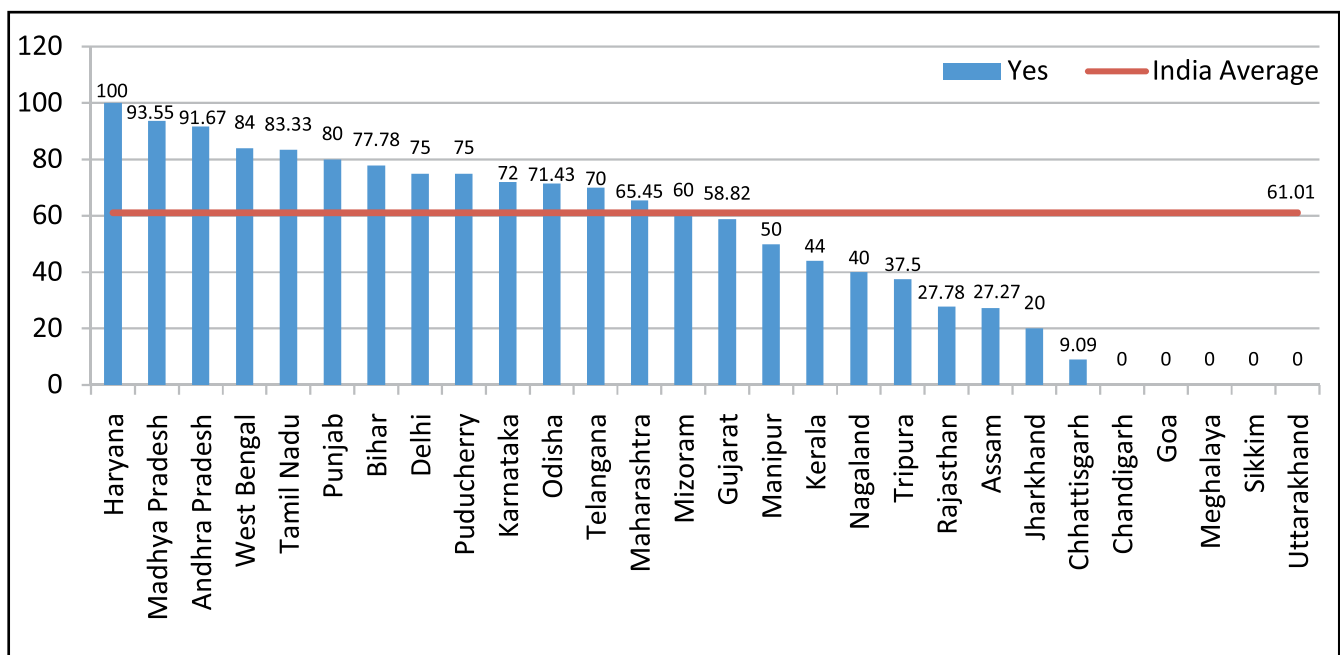
9.57 Pre-adoption foster care means a stage when the custody of a child is given to prospective adoptive parents (PAPs) with a view to adopt. The CARA Guidelines have clearly listed out the procedure to be followed with respect to both in-country and inter-country adoptions.

9.58 This is a very important step before the final and permanent custody of the child is handed over to the PAPs. This is the period when the relation between child and adoptive parents can

be observed, a strong bond can be created, issues or problems can be resolved with the help of counseling. The very fact that this step has been specified in the guidelines means that it cannot be ignored and must be followed by all agencies. The data shows that there is a lot of scope for improvement with regard to pre-adoption placement and that it is not being practiced as a norm. The agencies that do not follow this procedure must be identified and necessary intervention must be undertaken.

9.59 The graph 9.17 below presents the percentage of SAAs that seek contribution from PAPs towards CCC.

Graph 9.17 Percentage of SAAs that seek contribution from PAPs towards CCC



9.60 The national figures for SAAs which seek contribution from PAPs towards CCC (Child Care Corpus) are 205 out of the 336 SAAs. The data varies across the country with the national average percentage being 61% out of the 336 SAAs. In Haryana, all SAAs receive the appropriate fee from the PAPs towards the CCC with at Madhya Pradesh 93.6% and Andhra Pradesh at 91.7%. Only 9.1% of the SAAs in Chhattisgarh stated to have sought such contributions.

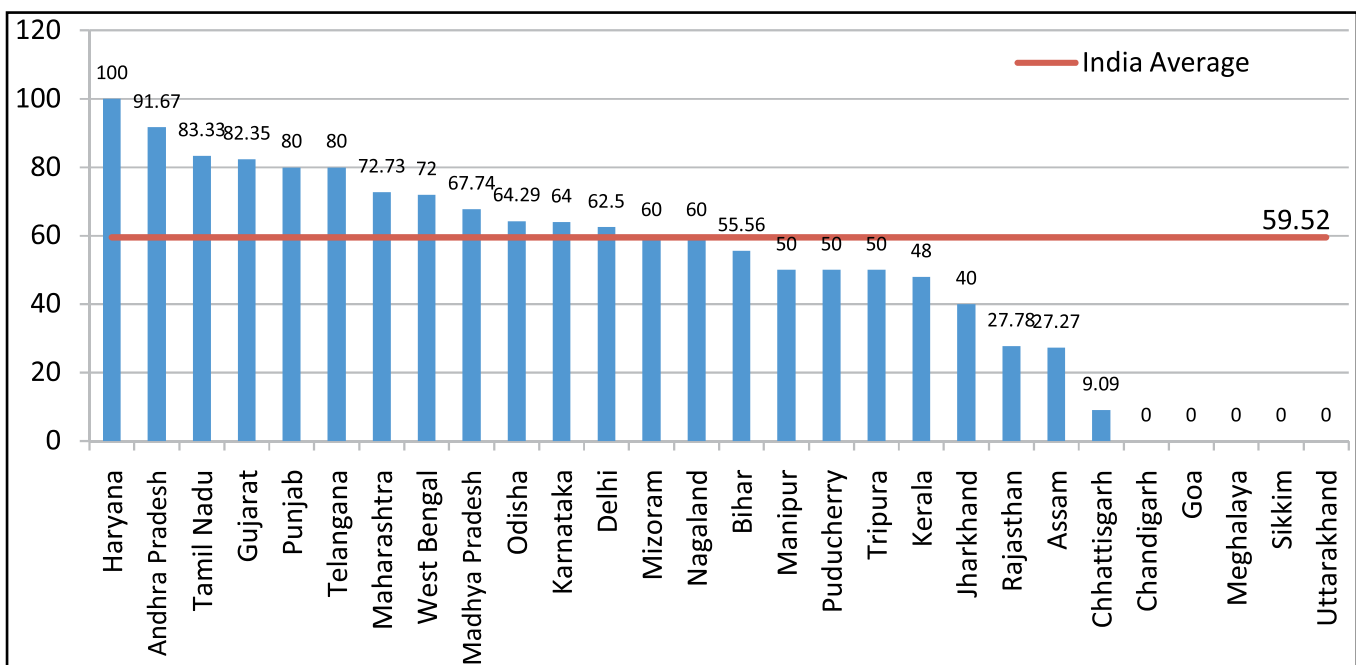
9.61 The CARA Guidelines have prescribed amounts with the relevant details that must be paid towards the CCC and this amount must be paid by the PAPs to the agency and the same will be utilized for the various purposes intended under the guidelines.

xiv. Responsibility towards biological parents

9.62 Before the surrender of a child by his/her biological parents, it is required that information from the parents is sought by the SAAs. The graph 9.20 presented below shows that the national figures for SAAs which obtains information from natural parents before surrendering of the child are 200 out of the 336 SAAs. This turns out to be an average of 59.5%.

9.63 Parents or one parent may wish to surrender their child at the SAA for various reasons; it is the duty of the agency to counsel the parents not to do so. However, in the event that they still wish to do so, the agency must provide all cooperation and assistance in ensuring the process takes place smoothly. The agency must take down all the relevant details and information from the birth parents concerning the child such as (a) The details of the biological mother and father, including:- (i) The social and psychological background;(ii) The proof of address and identity ;(iii) Known medical history of both biological parents and(iv) Details of close relatives, if available. (b) The details of the child being surrendered, including:-- (i) Social and psychological background;(ii) Details of sibling(s), if any;(iii) Known medical history; (vi) Date and place of birth along with birth certificate, if available.

Graph 9.18 Percentage of SAAs that obtain information from birth parents before surrender of the child



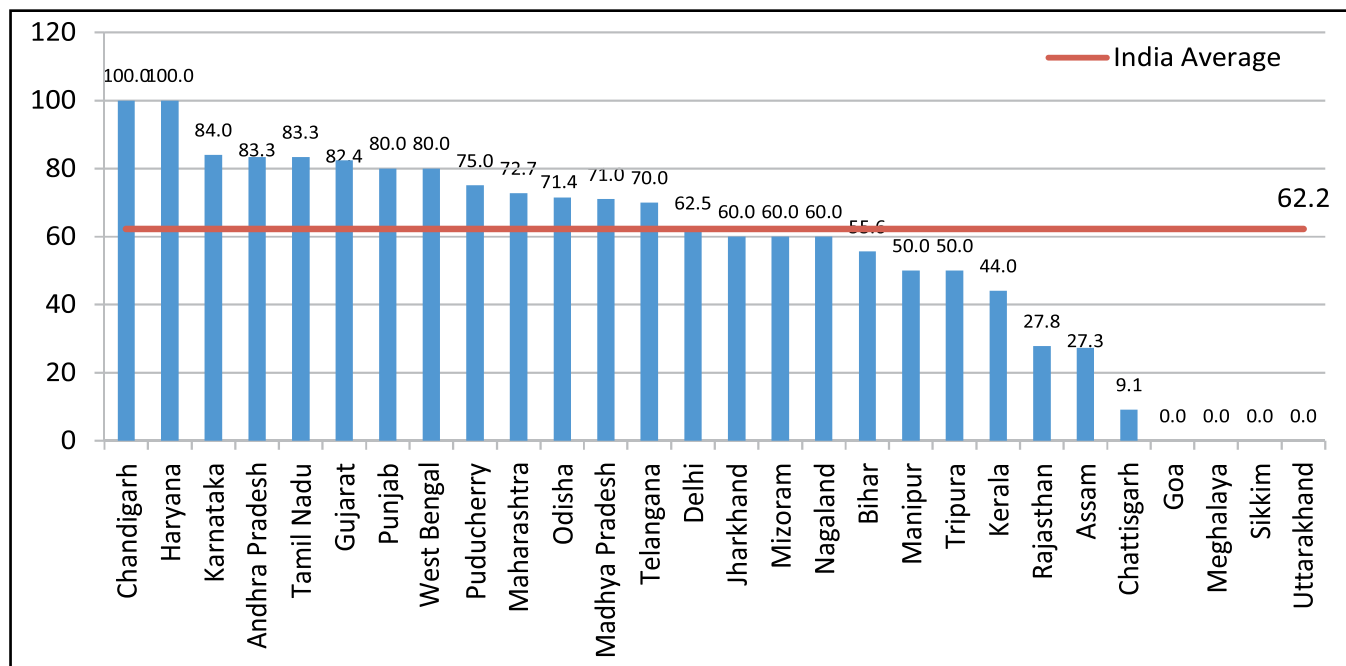
9.64 The graph 9.18 reveals whether the agency obtains appropriate information from birth parent(s) before surrender of the child. As per the data, all the SAAs in Haryana obtain the said information followed by Andhra Pradesh at 91.67% and Tamil Nadu at 83.3%. Only 9.1% SAAs in Chhattisgarh obtain such information from biological parents.

9.65 The agency must encourage the biological parents surrendering a child to provide maximum information such as name of the child (if any), likes, dislikes, habits, illness or disabilities if any, etc., information about the background and development of the child as well as their own health. This is vital so that the PAPs can make an informed choice before adopting. The study is limited in scope as it does not provide reasons in the case of agencies that do not follow this or the methods that they follow instead.

9.66 Under the CARA Regulations, a parent or guardian wishing to surrender a child under subsection (1) of section 35 of the Act, shall apply to the Child Welfare Committee in the Form 23 of Juvenile Justice (Care and Protection of Children) Model Rules, 2016. For parents or guardians who are unable to give an application, due to illiteracy or any other reason, the Child Welfare Committee shall facilitate the same through the legal aid counsel provided by the Legal Services Authority. The Deed of Surrender shall be executed as per Schedule wherein the Deed has to be executed in the presence of the CWC. Hence all agencies must do so.

9.67 The graph 9.19 below highlights the percentage of SAAs that get the surrender deed executed before the CWC.

Graph 9.19 Percentage of SAAs that get the surrender deed executed before CWC



9.68 The national figures for SAAs which ensures that the surrendered deed is executed only in presence of the CWC are 209 out of the 336 SAAs. This turns out to be an average of 62.2% in the country. The graph shows all the SAAs in Haryana and Chandigarh get the surrender deed executed only in the presence of CWC. This practice is also highly seen in SAAs of Karnataka (84%). Only 9.1% SAAs of Chhattisgarh execute the surrender deed.

9.69 The CARA guidelines clearly state that the Specialized Adoption Agency and the Child Welfare Committee shall ensure that the surrendering parents or the legal guardian is made aware that they can reconsider the surrender and reclaim the surrendered child only within a period of sixty days from the date of such surrender. The Specialized Adoption Agency or the CWC shall ensure that a copy of the Surrender Deed is retained by the surrendering parents or legal guardian, as the case may be, for reconsideration of their decision to surrender the child; lastly, that the Committee shall declare the surrendered child legally free for adoption after the expiry of a reconsideration period of sixty days.

9.70 The table 9.5 presented below reflects the percentage of SAAs that engages in restoration of the child to biological parents after reconsideration period is over (if claimed by parents) as well as the percentage of SAAs that inform the time frame of 60 days to the birth parents for reconsideration. The national figures for SAAs which have actually restored back the child are 122 out of the 336 SAAs. This turns out to be an average of 36.3% across the country.

Table 9.5 Restoration of child and informing time frame to birth parents for reconsideration

States/UTs	SAAs that restores the child to the biological parent(s) if claimed after the reconsideration period		SAA that informs the parent(s) of the surrendered child about 60 days of reconsideration period.		Total
	Yes	Percentage	Yes	Percentage	
Andhra Pradesh	10	83.33	11	91.67	12
Assam	1	9.09	3	27.27	11
Bihar	2	22.22	2	22.22	9
Chandigarh	0	0	1	100	1
Chhattisgarh	1	9.09	1	9.09	11
Delhi	5	62.5	6	75	8
Goa	0	0	0	0	4
Gujarat	6	35.29	14	82.35	17
Haryana	1	100	1	100	1
Jharkhand	1	20	2	40	5
Karnataka	10	40	21	84	25
Kerala	7	28	13	52	25
Madhya Pradesh	10	32.26	22	70.97	31
Maharashtra	28	50.91	39	70.91	55
Manipur	2	33.33	3	50	6
Meghalaya	0	0	0	0	5
Mizoram	2	40	3	60	5

Adoption Status (Performance)

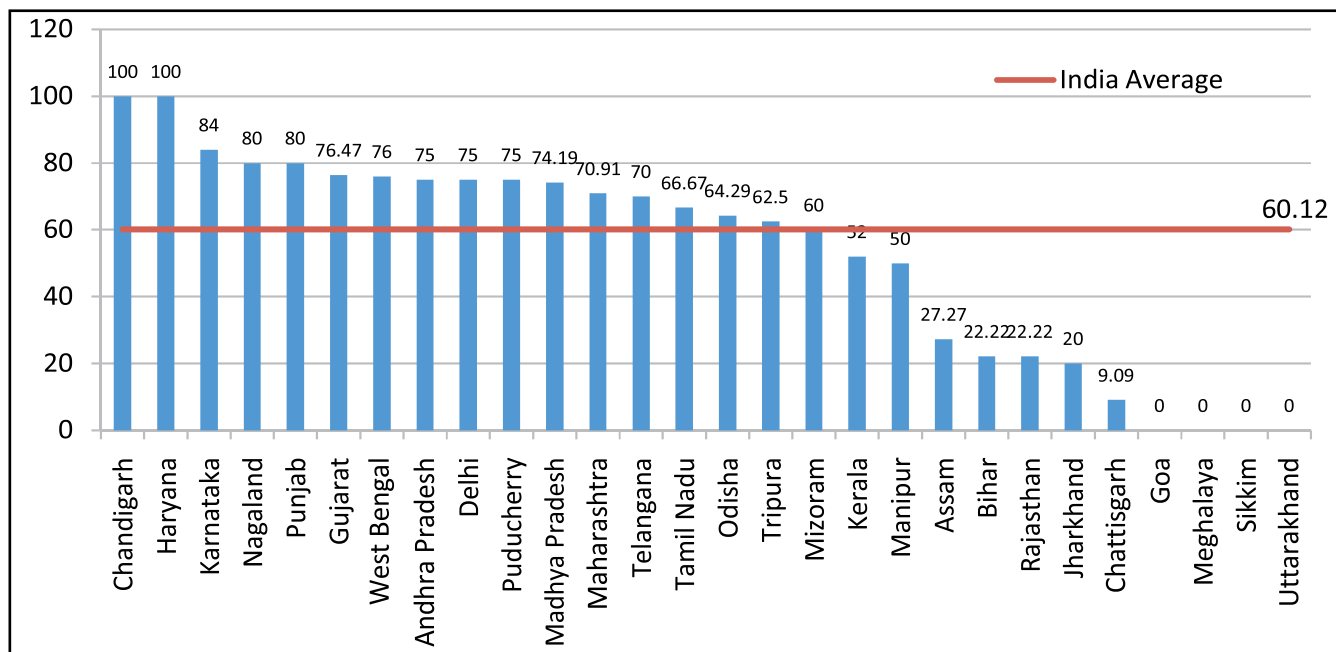
States/UTs	SAAs that restores the child to the biological parent(s) if claimed after the reconsideration period		SAA that informs the parent(s) of the surrendered child about 60 days of reconsideration period.		Total
	Yes	Percentage	Yes	Percentage	
Nagaland	2	40	3	60	5
Odisha	6	42.86	10	71.43	14
Puducherry	0	0	3	75	4
Punjab	2	40	4	80	5
Rajasthan	0	0	5	27.78	18
Sikkim	0	0	0	0	2
Tamil Nadu	8	66.67	10	83.33	12
Telangana	4	40	6	60	10
Tripura	1	12.5	4	50	8
Uttarakhand	0	0	0	0	2
West Bengal	13	52	17	68	25
India	122	36.31	204	60.71	336

9.71 As per the data, all the SAAs in Haryana follow this system and 83.3% in Andhra Pradesh do so. No SAAs in Chandigarh, Goa, Meghalaya, Puducherry, Rajasthan, Sikkim and Uttarakhand follow this system; while 9.1% of SAAs in Assam and Chhattisgarh follow it.

9.72 For the second criteria, all the SAAs in Chandigarh and Haryana inform the parent(s) that from the date of surrender they would get a reconsideration period of sixty days during which they can take back the child. In this case, 91.7% of SAAs in Andhra Pradesh followed 84% of SAAs in Karnataka informed the parents whereas none of the SAAs in Goa, Sikkim, Meghalaya and Uttarakhand were found to follow this. Only 9.1% of the SAAs in Chhattisgarh abide by this.

9.73 The graph 9.20 below highlights the percentage of SAAs that maintain confidentiality of unwed mothers and biological parents.

Graph 9.20 Percentage of SAAs that maintain confidentiality of unwed mothers and biological parents



9.74 The national figures for SAAs which maintains confidentiality of unwed mothers and biological parents are 202 out of the 336 SAAs. The data varies across the country with average percent being 60.1 out of the 336 SAAs. As per the data, all SAAs in Haryana and Chandigarh maintain the confidentiality of the unwed mother and the biological parent(s) followed by Karnataka at 84% and, Nagaland and Punjab at 80% each whereas none of the SAAs in Goa, Meghalaya, Sikkim and Uttarakhand are found to adhere to this. In Chhattisgarh only 9.1% of SAAs maintain this norm.

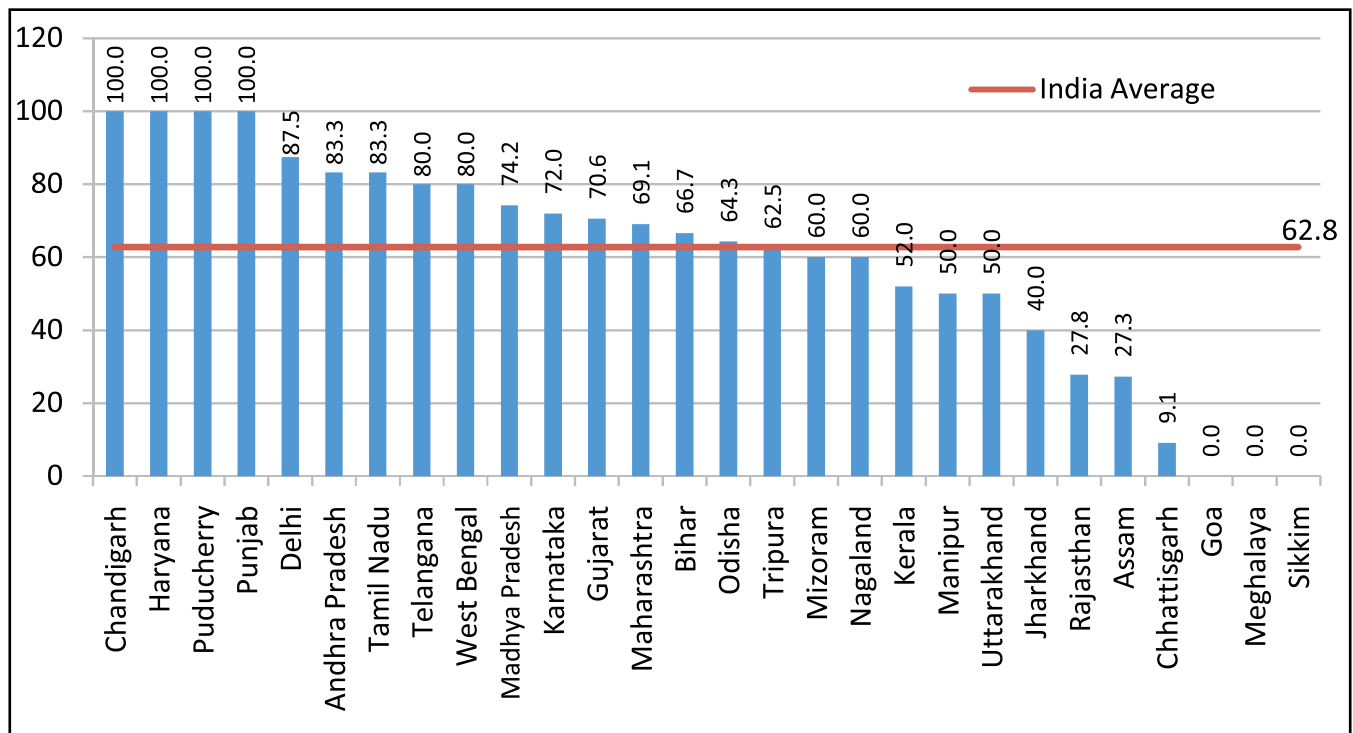
9.75 The CARA guidelines and regulations clearly state that in all cases of surrender, confidentiality of unmarried mother and biological parents shall be maintained by the authorities and agencies involved in the process.

xv. Counseling Services

9.76 Across the country, 211 SAAs out of the total of 336 SAAs provide counseling services to PAPs. The data varies across the country with average percent being 62.8 out of the 336 SAAs.

9.77 As per the data in the graph 9.21 above, all SAAs in Haryana, Chandigarh, Puducherry and Punjab reportedly provide counseling services to PAP(s) and children as and when required by them. About 87.5% SAAs in Delhi stated that they do so. It is seen that only 9.1% of the SAAs in Chhattisgarh provided such services to PAPs and children.

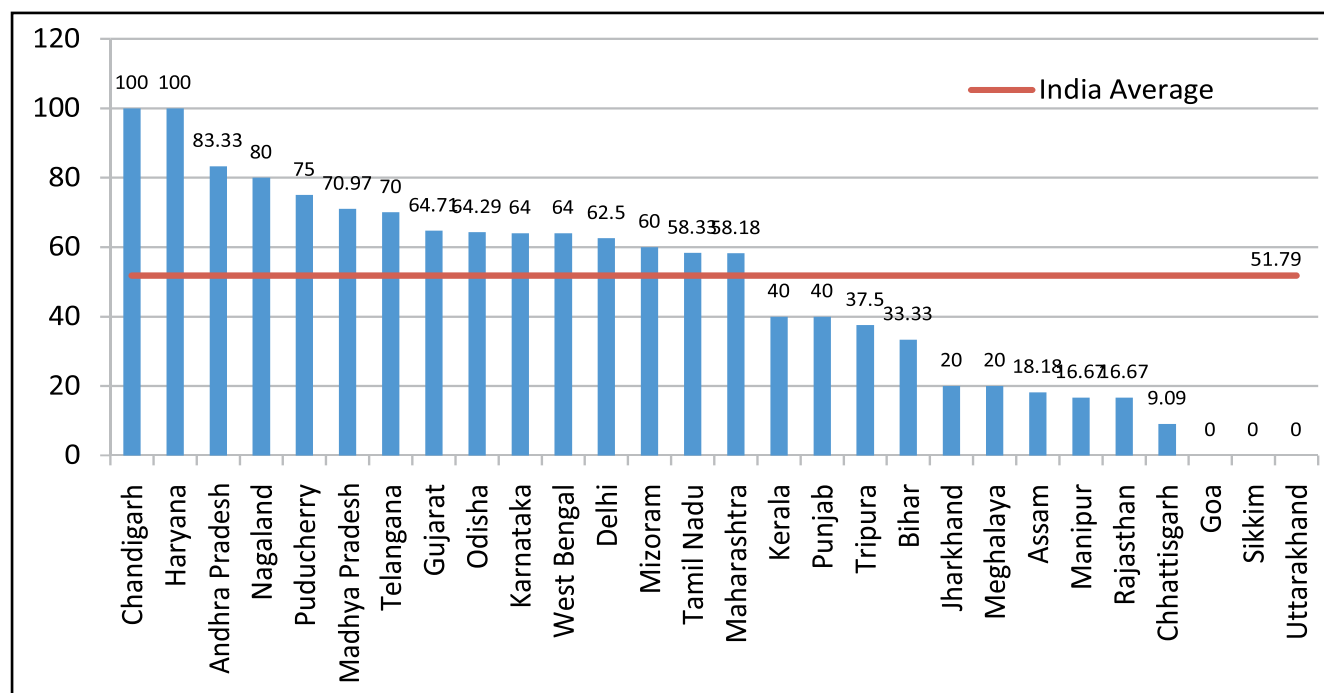
Graph 9.21 Percentage of SAAs that provide counseling services to PAPs and children



9.78 Counseling services would include both pre-adoption and post-adoption services. With respect to pre-adoption counseling, in order to facilitate the PAPs to take appropriate decision, the concerned Specialized Adoption Agency shall provide pre-adoption counseling to them. Such agency shall also prepare the PAP(s) for the adoption and related process by providing them with all relevant information and also counseling of older children before and during adoption.

9.79 The graph 9.22 provided below shows the percentage of SAAs that assist, counsel and inform surrendering parents of possible future contact by the child.

Graph 9.22 Percentage of SAAs that assist, counsel and inform surrendering parents of possible future contact by the child



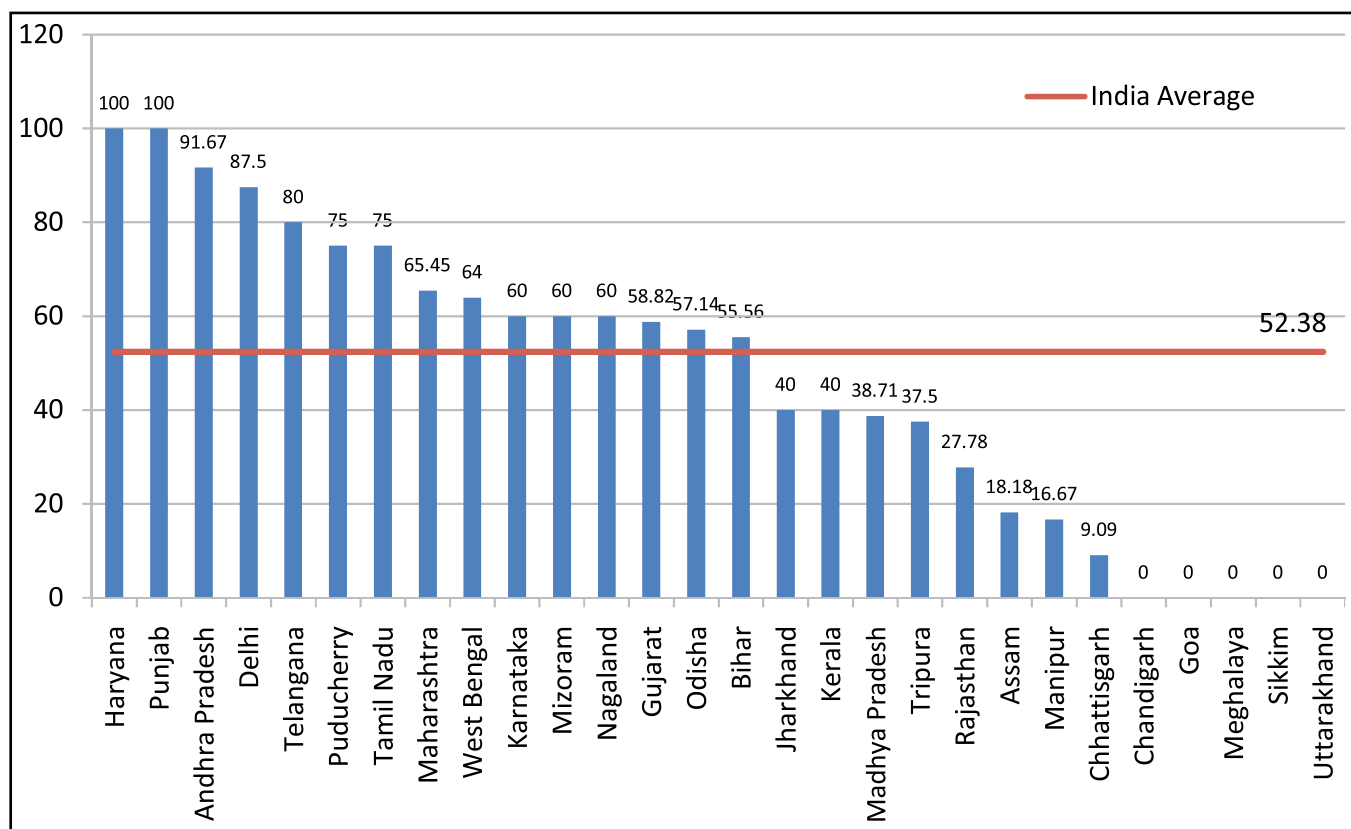
9.80 The national figures for SAAs which assists surrendering parents' possible for future contacts are 174 out of the 336 SAAs i.e 51.8% out of the 336 SAAs across country.

9.81 The graph 9.22 above also shows that all SAAs in Haryana and Chandigarh counsel and assist surrendering parents and ensure that they are informed about the possibility of a future contact by their children in the event of a search for their roots. This is followed by Andhra Pradesh at 83.3 and Nagaland at 80%. Only 9% of SAAs in Chhattisgarh follow this.

9.82 An important function that the agency has towards biological parents is to counsel the surrendering parents and inform them about a possible root search, in future, by their child. They must be made mentally and emotionally ready to answer all types of questions that may be raised by their child which may lead to emotional breakdowns, frustration and anger on the part of the child.

9.83 The graph 9.23 below presents the percentage of SAAs that encourage PAPs to contact the adoptive parents association, adoptive families and older adoptees to understand the entire process of adoption.

Graph 9.23 Percentage of SAAs that encourage PAPs to contact the Adoptive Parents Association, etc.



9.84 In India, out of the total of 336 SAAs, 176 SAAs encourages PAPs to contact adoptive parents association. The data varies across the country with average percentage being 52.38 out of the 336 SAAs. The graph represents that all the SAAs in Haryana and Punjab advice / encourage PAP(s) to contact Adoptive Parents Associations, adoptive families and older adoptees to understand the entire process of adoption. SAAs of Andhra Pradesh at 91.7% and Delhi at 87.5% are also active in this regard. Only 9.1% SAAs of Chhattisgarh are reported to advice or encourage PAPs in this regard.

9.85 It is extremely beneficial for PAP's to contact Adoptive Parents Associations and meet adoptive families and older adoptees so that they are able to understand the entire process of adoption, the impact on the lives of the adoptive parents as well as the children, challenges faced by them and means to overcome the same. It will give them a sense of belonging as the association works as a support system to share fears, apprehensions and reservations of PAPs if they have any.

VI. Highlights

9.86 **Administrative role of the SAA:** For successful adoptions to take place, the Child Study Report and the Medical Examination Report with relevant details of the child must be uploaded and updated online by the SAA. The data shows that though States/UTs such as Haryana, Punjab and Andhra Pradesh have been doing good and expeditious work in this regard, there are some states like Goa, Meghalaya, Sikkim and Uttarakhand which do not upload the information as soon as a child is free for adoption which may lead to fewer chances of children getting adopted.

9.87 Maintaining an adoption register and updating adoption file of child is an important function that helps the authorities concerned in various ways. It is also beneficial in the event of a root search. Ensuring privacy of post adoption data and providing all relevant information and assistance to PAPs are other important functions of the agency. Data available shows that these functions are not being diligently carried out by many agencies. Reporting of illegal adoptions and procurement of children is a critical issue that must not be ignored. Though some SAAs are proactively reporting such cases, majority of CCIs/Homes are not going beyond the scope of their basic duties by not reporting such instances. The study does not cover the role of the SARA and CARA in such situations.

9.88 **Role of the SAA towards the child and PAPs:** Another aspect is the role of the SAA in not only mentally and psychologically preparing the child for adoption but also preparing the PAPs with the process of adoption and informing them about the impact of adopting a child. Counseling services and assistance must be made available to them at every step of the way both before and after adoption take place. This is a very important function that all agencies must carry out. However, the data shows that Chandigarh, Goa, Meghalaya, Uttarakhand, and Sikkim do not perform this role diligently. The performance of such SAAs with respect to the number of adoptions and the rate of successful adoptions, the number of disruptions, etc. needs to be looked into.

9.89 The responsibility of the SAAs goes beyond the mere process of ensuring a successful adoption; it also includes following up with the child and the PAP after adoption on a regular basis for a period of two years. This is crucial as it helps track the progress made by the child and the

PAP as one unit. Timely intervention and counseling can help avoid a disruption; also the wellbeing of the child can be monitored. This is applicable not only for adoptions in the country but also in cases of inter-country adoption. Proper interventions and monitoring can be done through the post placement progress reports. Therefore, the SAAs have to be a proactive and vigilant body. Unfortunately, the data shows that a number of CCIs/Homes are failing to carry out this important post adoption check which can lead to a number of problems with respect to clarity on disruptions if any, safety and well-being of the child, coping by both the child and PAPs, in case of an older child, information on whether the child is determined to carry out a root search, etc.

9.90 The PAPs must be assessed through HSR. They must also undergo the pre-adoption Foster Care process, and on completion of assigning and referral, they must pay the necessary fee to SAA who in turn has the responsibility to ensure that the process takes place at the right time. However, the ground reality, as observed from the data, is that many CCIs/Homes are not undertaking these important exercises which may lead to an unsuccessful adoption. There is a lot of room for improvement in this regard.

9.91 Root search is a reality that many families with an adopted child experience, as the child has questions with respect to his biological parents and life before adoption. The SAA must prepare the PAPs for such a situation. They must also be equipped with all the relevant details pertaining to the child and must preserve all the belongings and documents for dealing with such a situation. The child must be given the required mental and emotional help during this time. However, there has to be a balance between the wishes of the biological/ surrendering parents who may not want their identities revealed and the questions that the child has. There must be counsellors to help all parties involved. The data shows that though many CCIs/Homes are equipped with the necessary resources for the same, there are also a large number of CCIs/Homes that do not have any such resources or systems to deal with this situation.

9.92 **Responsibility towards biological parents:** The SAAs have an important function with respect to maintaining confidentiality of the surrendering or biological parents. It is important that these agencies acquire all necessary background details of the surrendering/biological parents and,

more importantly, inform them of the implications of surrendering a child; SAAs must also counsel and inform them that the time frame of changing their decision to surrender a child is limited to sixty days. At the same time, they must keep the surrender details confidential and also take into consideration the wishes related to the religious upbringing of the child by the PAP. The data shows that there a number of SAAs that take these functions very seriously which is a positive trend. However, there are also many erring SAAs in some States/UTs who do not provide the necessary assistance to the parents of the child; this situation needs to be rectified at the earliest as the process of surrender and adoption is one that must be dealt with sensitivity.

Chapter 10

Financial Transparency



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Chapter 10 : Financial Transparency

10.1 This chapter deals with all aspects of financial transparency that every CCI/Home must follow, like details of the sources of funding, amount received (individual, government, NGO and foreign), details of donors; whether SARA or the State Government receives a copy of the audited accounts with the audit report and the annual report of the organisation; whether accounts are audited annually by an authorized Chartered Accountant; whether copies of Audited Statement of Accounts and FC Returns for last 2 years are submitted to the competent authority; and, whether government grants are received as per norm and timeline.

10.2 Under Rule 21 of the JJ Rules, 2016 dealing with procedure for Registration of Child Care Institutions (CCIs), the State Government while taking a decision on the application for registration may consider the financial position of the organization and documents maintained along with audited statement of accounts for the previous three years. Therefore, financial transparency is an important factor that is considered for registration of a CCI. Regular inspection ensures that all norms and procedures are adhered to and contravention of any of these can result in cancellation of registration.

Table 10.1 Percentage distribution of CCIs/Homes on the basis of source of funding

States	Provided Details of Receiving Funds from			
	Individual donation	Government Grant	Non-government Grant	Foreign Grant
A&N	76.5	29.4	0.0	11.8
Andhra Pradesh	50.7	19.6	14.8	46.1
Arunachal Pradesh	75.0	25.0	12.5	0.0
Assam	37.4	45.0	17.6	9.9
Bihar	39.3	48.8	19.0	19.0
Chandigarh	12.5	75.0	0.0	0.0
Chhattisgarh	43.4	50.8	9.0	5.7
Delhi	65.6	29.6	28.8	43.2

States	Provided Details of Receiving Funds from			
	Individual donation	Government Grant	Non-government Grant	Foreign Grant
Goa	72.9	42.9	14.3	24.3
Gujarat	53.3	54.4	8.9	20.7
Haryana	74.7	41.8	40.5	27.8
Himachal Pradesh	47.8	60.9	13.0	10.9
Jammu and Kashmir	89.8	13.0	6.9	6.4
Jharkhand	51.2	37.8	18.9	13.4
Karnataka	58.8	41.1	15.5	19.4
Kerala	74.7	53.3	8.8	14.8
Madhya Pradesh	41.1	61.0	10.3	11.0
Maharashtra	40.1	76.0	9.7	15.2
Manipur	29.0	53.2	1.6	1.6
Meghalaya	38.1	66.7	9.5	7.1
Mizoram	69.6	91.3	28.3	15.2
Nagaland	50.7	3.0	3.0	1.5
Odisha	49.9	26.7	33.0	41.9
Puducherry	37.4	39.6	33.0	31.9
Punjab	75.3	28.8	6.8	9.6
Rajasthan	36.1	61.7	15.5	13.7
Sikkim	39.1	52.2	8.7	0.0
Tamil Nadu	57.3	26.7	15.6	33.6
Telangana	69.0	18.2	13.2	27.3
Tripura	43.2	52.3	2.3	2.3
Uttar Pradesh	47.6	32.4	21.8	23.5
Uttarakhand	48.2	41.1	16.1	25.0
West Bengal	71.9	58.1	32.7	29.4
All India	56.8	42.3	14.8	23.4

10.3 Out of the 9589 CCIs/Homes in the country, 56.8% reported that they have been receiving funds through individual donation; 42.3 % receive funds through government grants; 14.8% get funds from non-government grants; and 23.4% of CCIs/Homes receive funds from foreign sources.

The table reflects the sources of funding of CCIs/Homes (and its parent organization) in the past 3 years. In the table 10.1 CCIs might have received funds through various sources; it may happen that a CCI/Home has received funds from Government, Non-Government or other sources.

10.4 Percentage of CCIs/Homes receiving individual donations was found to be the highest in Jammu & Kashmir at 89.8% followed by Andaman & Nicobar at 76.5%, Punjab at 75.3% and Arunachal Pradesh being close behind at 75%. The data shows that homes irrespective of them being Government run, NGO run, registered or unregistered, receive individual donations.

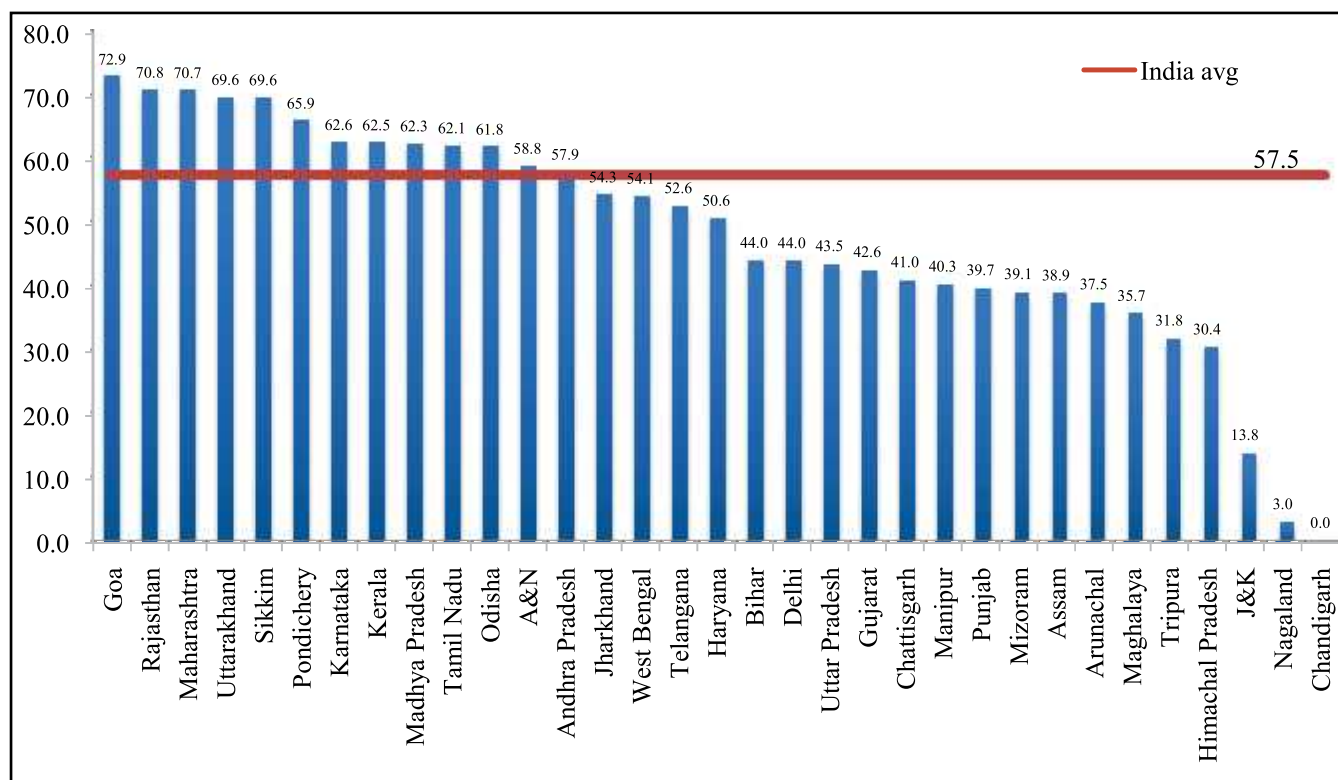
10.5 Table further reflects that across the country, 42.3% of CCIs/Homes (and its parent organization) have received Government grant in the last 3 years. Among the States, the highest percentage was found in Mizoram at 91.3%, followed by Maharashtra at 76% and Chandigarh at 75%.

10.6 The national average of the CCIs/Homes that received non-governmental grant in the last three years is below 15%; States with higher percentage are Haryana at 40.5% followed by Odisha and Pondicherry at 33% each.

10.7 Similar to non-governmental grants, the percentage of CCIs/Homes receiving funds from foreign sources in the past 3 years is less than 25%, which is much less than the percentage of CCIs/Homes receiving government grants. The top three states with the highest percentage of CCIs/Homes receiving funds from foreign sources are Andhra Pradesh at 46.1%, followed by Delhi at 43.2% and Odisha at 41.9%.

10.8 The graph 10.1 presents the percentage of CCIs/Homes that submit a copy of audited accounts of the organization along with their audit report and the annual report within six months from the date of closing of the financial year to the SARA or the State Government, as the case may be. The highest percentage of CCIs/Homes submitting these documents were found in Goa at 72.9% followed by Rajasthan at 70.8% and Maharashtra close behind at 70.7%, while Jammu & Kashmir is at 13%.

Graph 10.1 Percentage of CCIs/Homes that submit copy of audited accounts and annual report to SARA or the State Government



10.9 Further, the graph suggests that many States/UTs have less than 50 percent of CCIs/Homes that abide by the rule regarding submission of financial documents to the appropriate authorities. In the state of Nagaland, the percentage of such CCIs/ Homes is as low as 3%; while in Chandigarh, no CCIs/Homes were found to submit financial documents. There is a long way to go before financial accountability becomes a norm.

Table 10.2 Percentage and number of CCIs/Homes that maintain audited accounts by certified Chartered Accountant

States	Total No. of CCIs	No. that reported compliance	% that reported compliance
A&N	17	14	82.4
Andhra Pradesh	762	590	77.4
Arunachal	8	1	12.5
Assam	131	69	52.7
Bihar	84	52	61.9
Chandigarh	16	2	12.5

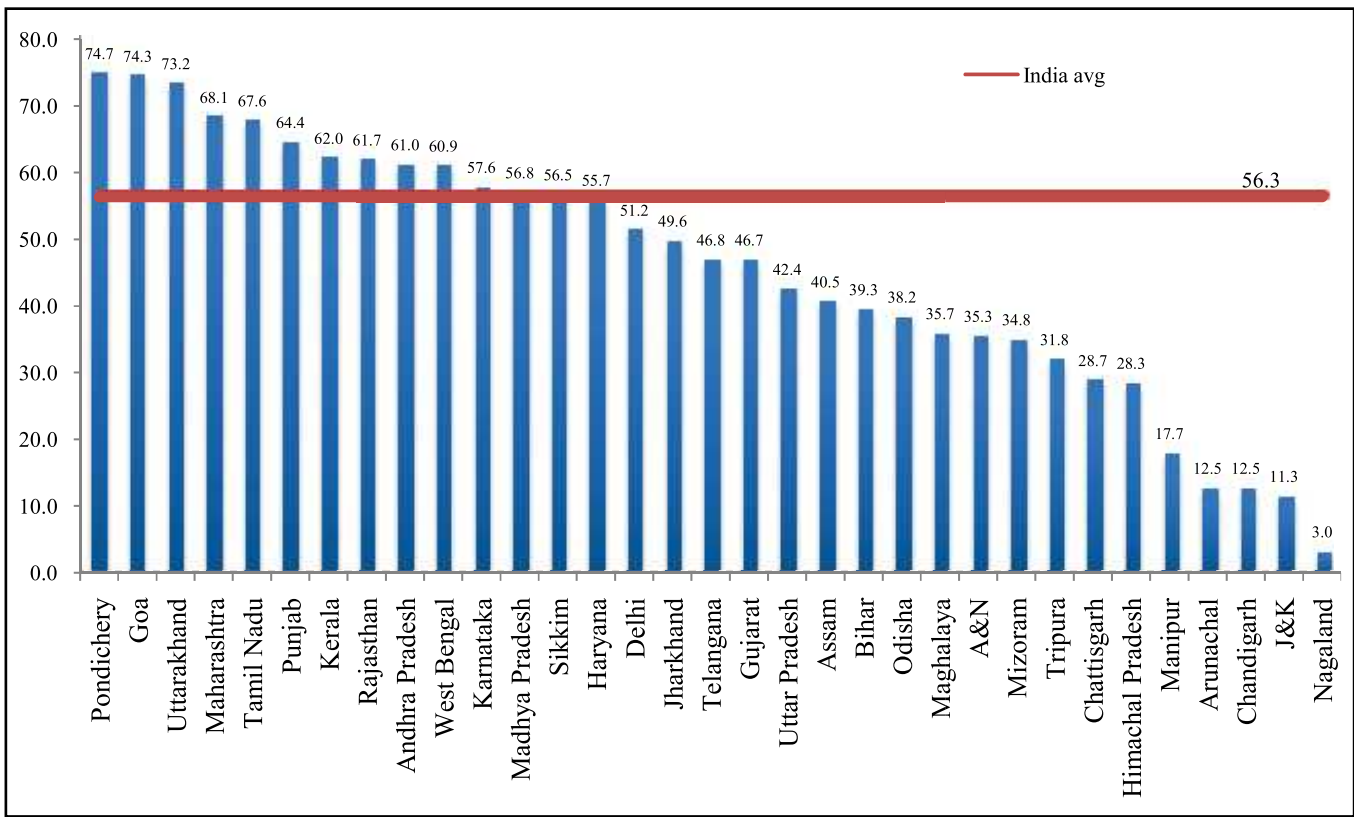
Financial Transparency

States	Total No. of CCIs	No. that reported compliance	% that reported compliance
Chattisgarh	122	69	56.6
Delhi	125	69	55.2
Goa	70	65	92.9
Gujarat	169	102	60.4
Haryana	79	54	68.4
Himachal Pradesh	46	25	54.3
J&K	362	69	19.1
Jharkhand	127	81	63.8
Karnataka	911	681	74.8
Kerala	1242	1078	86.8
Madhya Pradesh	146	99	67.8
Maharashtra	1284	1140	88.8
Manipur	62	27	43.5
Maghalaya	84	39	46.4
Mizoram	46	18	39.1
Nagaland	67	5	7.5
Odisha	427	240	56.2
Puducherry	91	72	79.1
Punjab	73	51	69.9
Rajasthan	277	208	75.1
Sikkim	23	18	78.3
Tamil Nadu	1647	1450	88.0
Telangana	494	340	68.8
Tripura	44	20	45.5
Uttar Pradesh	170	100	58.8
Uttarakhand	56	42	75.0
West Bengal	327	259	79.2
All India	9589	7149	74.6

10.10 As per the data received from all CCIs/Homes in the country, none of the States/UTs have cent percent of institutions being audited annually by an authorised Chartered Accountant (C.A). The study shows that majority of CCIs/Homes (74.6%) across the country are maintaining accounts audited by a C.A. However, progress in this regard is needed, so that all CCIs/Homes follow their financial duties and abide by the laws.

10.11 The data reflects that the highest percentage of CCIs/Homes maintaining the audited accounts were found in Goa at 92.9% followed by Maharashtra 88.8% and Tamil Nadu close behind at 88%.

Graph 10.2 Percentage of CCIs/Homes providing audited Statement of Accounts & FC Returns to the competent authority



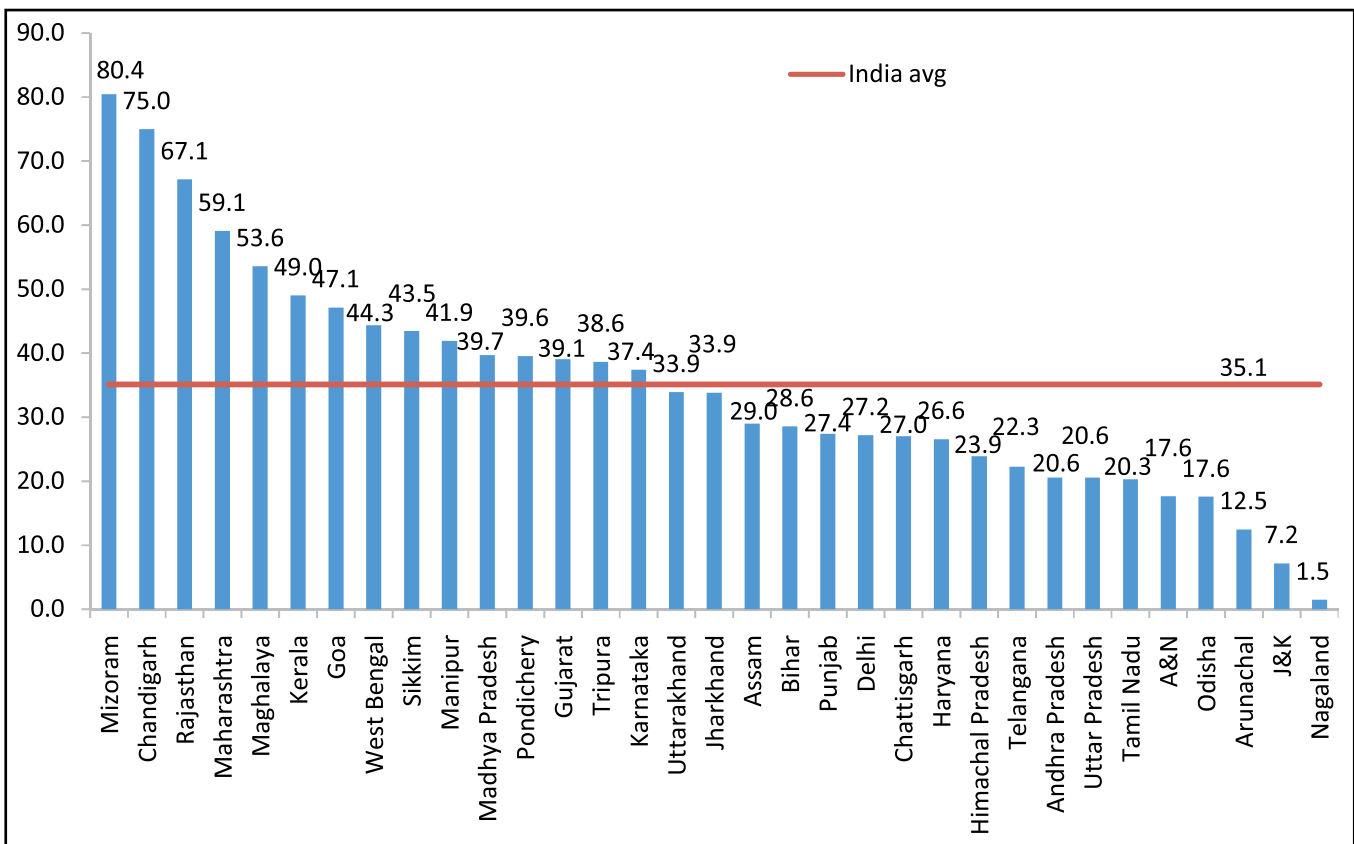
10.12 The graph 10.2 shows the percentage of home/agency that provided copies of Audited Statement of Accounts & FC Returns for last 2 years to the competent authority. The data shows that the percentage of CCIs/Homes following the norm was highest in Pondicherry (74.7%) while Goa ranks second with 74.3% of CCIs/Homes.

10.13 Across India, only 56.3% of CCIs/Homes provided Audited Statement of Accounts & FC Returns to the competent authority. This shows that the overall performance is poor in this regard. It is essential that the copies of Audited Statement of Accounts and FC Returns for last 2 years is provided to the competent authority, which could be the department concerned, so as to keep them informed about the financial status of the CCIs/Homes. The practice will ensure financial

transparency of the CCIs/Homes and increase accountability too and enable timely intervention by the competent authority to improve things. However, as per the data, the existing scenario can be better improved, especially in Nagaland, Chandigarh, Jammu & Kashmir, Arunachal Pradesh and Manipur, where less than 20% CCIs/Homes follow the norm. Systems must be set up to ensure that defaulters are taken to task. Repeated defaulters must be given a show cause notice to explain their actions. This will help bring about accountability and honesty.

10.14 The graph 10.3 below depicts percentage of CCIs/Homes receiving government grants as per norms; the highest percentage was found in Mizoram at 80.4% followed by Chandigarh at 75% and Rajasthan at 67.1%.

Graph 10.3 Percentage of CCIs/Homes that received government grants as per norm



10.15 The data shows that on an average 35.1% of CCIs/Homes received government grants as per norms while the 46.8% CCIs/Homes did not receive grants from the government as per the prescribed timelines and norms in past three years. The implications of this could mean that the

CCIs/Homes are suffering on many fronts: day-to-day administration and running of the CCIs, infrastructure, provisions and facilities for not only the staff and management but more importantly the children who are dependent on institution for their overall growth, well-being, development and care.

I. Highlights

10.16 Although many CCIs and SAAs are up to date with all financial records and accounts, a majority of them do not have the necessary systems in place. Funds not properly used, collection of donations, incorrect or lack of financial records are major concerns across CCIs in the country. It is important to regularise finances, monitor transactions and bring about transparency in the system. This may require independent State level intervention by the respective governments or some other mechanisms as appropriate. The ultimate goal is for children to be the beneficiaries and this is possible only if there is maximum utilization of funds. In cases where there is a shortage of funds, generating the same through awareness will be advantageous. Moreover, utilisation of financial resources in right manner is important for PAPs to get the right child introduced to them, and for each child to be legally free for adoption. Donations and advertising or acceptance of money in exchange for a child must not take place under any circumstance; and the PAPs may ask for the financial records so that they are not misguided.

10.17 The detailed information on the above mentioned aspects has been sought for, with the response either 'yes' or 'no'. This binary response could not answer all question related to financial transparency. Besides knowing whether a certain criteria is followed or not, there is no information on the details, which would have enriched the study. From the limited information received it can be seen that financial transparency and accountability is an issue that needs to be looked into seriously, as, many CCIs/Homes have no audit records, proper financial records or book of accounts. Without questioning the integrity and quality of work undertaken by these CCIs/Homes, there are no answers to the reasons for the lack of financial transparency and accountability, the account books not being reviewed by professionals and records not being in place. Hesitation on the part of the CCIs/Homes to disclose the funds/donations received and the utilization of the funds also leaves questions of financial transparency unanswered.

Chapter 11

Inspection and Audit



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Chapter 11 : Inspection and Audit

11.1 Transparency and accountability of the CCIs/Homes can be maintained only through regular inspection and follow up. The cornerstone of every CCIs/Homes must be upholding and practicing transparency and accountability in all spheres – financial, management and staff, infrastructure, standard of care provided to the children, networking with individuals and agencies, adherence to the JJ Act and its Rules among others. The JJ Act and its Rules need to be respected and followed by all child care institutions, and to ensure the same, the Inspection Committee, Child Welfare Committee, Department of WCD/SARA, JJ Committee of the High Court, Commissions for Protection of Child rights (National / State) are expected to undertake regular inspection of the CCI. Therefore, the onus of ensuring child welfare and protection is not only on the CCI but more on the aforementioned institutions who must diligently carry out their responsibilities to monitor the premises, make suggestions and follow up to see that the suggestions and recommendations are acted upon with a corresponding action report.

11.2 Therefore, the inspection and review is a very important task that must be consistently conducted for maintaining quality in CCIs/Homes. There is a possibility of CCIs/Homes flouting norms and standard of care if they are not subject to scrutiny. This will only result in sub-standard care for the children living in the CCIs/Homes.

11.3 The JJ Act, 2015 under Rule 91 deals with monitoring of CCIs/Homes by National Commission for Protection of Child Rights and State Commissions for Protection of Child Rights. In addition to the functions specified under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), National Commission or State Commission for Protection of Child Rights may also perform function such as reviewing of setting up of institutions created under the JJ Act. Regular inspections of the CCIs/Homes must be conducted by them to ensure smooth implementation of the JJ Act. Moreover, the National Commission or, as the case may be, the State Commission are also required to include its activities under this section in the annual report referred to in Section 16 of the Commissions for Protection of Child Rights Act, 2005.

Table 11.1 Percentage of CCIs/Homes being inspected by various statutory authorities

States/UTs	Inspection Committee	Child Welfare Committee	Department of WCD/SARA committee	High Court JJ Committee	Commissions for protection of Child Rights(National/state)
A&N	76.5	47.1	11.8	58.8	17.6
Andhra Pradesh	16.8	23.6	53.7	2.9	5.0
Arunachal Pradesh	50.0	25.0	0.0	0.0	12.5
Assam	25.2	32.8	9.9	6.1	14.5
Bihar	33.3	48.8	27.4	22.6	21.4
Chandigarh	93.8	62.5	12.5	0.0	62.5
Chhattisgarh	68.0	35.2	57.4	9.0	8.2
Delhi	21.6	69.6	58.4	1.6	24.0
Goa	51.4	61.4	47.1	28.6	17.1
Gujarat	68.0	39.1	20.1	26.0	33.7
Haryana	58.2	77.2	67.1	48.1	25.3
Himachal Pradesh	39.1	54.3	71.7	54.3	28.3
J&K	30.1	0.6	2.2	0.0	0.0
Jharkhand	38.6	39.4	15.7	11.8	17.3
Karnataka	21.1	32.8	33.0	8.1	10.1
Kerala	39.3	15.1	30.8	2.1	10.6
Madhya Pradesh	10.3	40.4	63.0	39.7	13.7
Maharashtra	54.6	52.5	62.1	23.8	12.4
Manipur	0.0	35.5	38.7	25.8	21.0
Meghalaya	46.4	47.6	20.2	8.3	15.5
Mizoram	89.1	45.7	19.6	23.9	8.7
Nagaland	83.6	6.0	4.5	0.0	1.5
Odisha	64.6	56.9	34.0	8.7	18.7
Puducherry	3.3	53.8	4.4	2.2	4.4
Punjab	82.2	27.4	60.3	20.5	12.3
Rajasthan	62.1	53.1	39.4	45.1	18.8
Sikkim	34.8	4.3	34.8	8.7	21.7
Tamil Nadu	47.1	51.8	4.1	6.5	2.4
Telangana	21.1	33.8	42.7	6.5	5.3
Tripura	9.1	45.5	2.3	29.5	13.6
Uttar Pradesh	32.4	30.0	34.1	18.2	13.5
Uttarakhand	39.3	28.6	17.9	14.3	8.9
West Bengal	37.9	41.0	29.4	20.2	18.7
All India	40.0	38.3	32.9	12.0	10.4

11.4 Across the country, out of the 9589 CCIs/Homes, Inspection Committee inspected 40% of the CCI/Homes in the last 3 years. Similarly, 38.3% CCIs/Homes have been inspected by Child Welfare Committees (CWCs), 32.9% by the department of WCD / SARA, 12% by High Court JJ Committee and another 10.4% has been inspected by the National / State Commissions for Protection of Child Rights.

11.5 The survey reveals that the highest percentage of CCIs/Homes inspected by the Inspection Committee during the last three years (up to the survey period) is from Chandigarh (93.8%), followed by Mizoram (89.1%) and Nagaland (83.6%), whereas, the bottom three are Puducherry at 3.3%, and Tripura at 9.1%, while no inspection was found to be done by the Inspection Committee in Manipur.

11.6 Table 11.1 also highlights the status of inspection of CCIs/Homes by CWCs. The highest percentage of CWC inspections were recorded in the CCIs/Homes of Haryana, where 77.2% CCIs/Homes reported these inspections. This was followed by Delhi at 69.6% and Chandigarh at 62.5%. The lowest percentage of response indicating such visits were observed in the state of Jammu & Kashmir which is just 0.6% followed by Sikkim at 4.3% and Nagaland at 6% CCIs/Homes.

11.7 It is found that 71.7% of the CCIs/Homes in Himachal Pradesh have been inspected by the Department of WCD / SARA Committee. In Haryana 67.1% and Madhya Pradesh 63% CCIs/Homes have been inspected. There was no such inspection in Arunachal Pradesh; and such inspections were conducted in Jammu & Kashmir only in 2.2% and in Tripura only in 2.3% CCIs/Homes.

11.8 Information was also collected regarding any inspection done in the CCIs/Homes by the High Court Juvenile Justice Committee during the last 3 years. 58.8% of CCIs/Homes in Andaman & Nicobar responded that inspections have been carried out by the body, followed by 54.3% of such responses in Himachal Pradesh and 48.1% in Haryana. The lowest percentage of positive responses were received in Arunachal Pradesh, Jammu & Kashmir and Chandigarh. It is found that the CCIs/Homes of Nagaland, Chandigarh and Arunachal Pradesh have not undergone any inspection done by High Court Juvenile Justice Committee during the last three years.

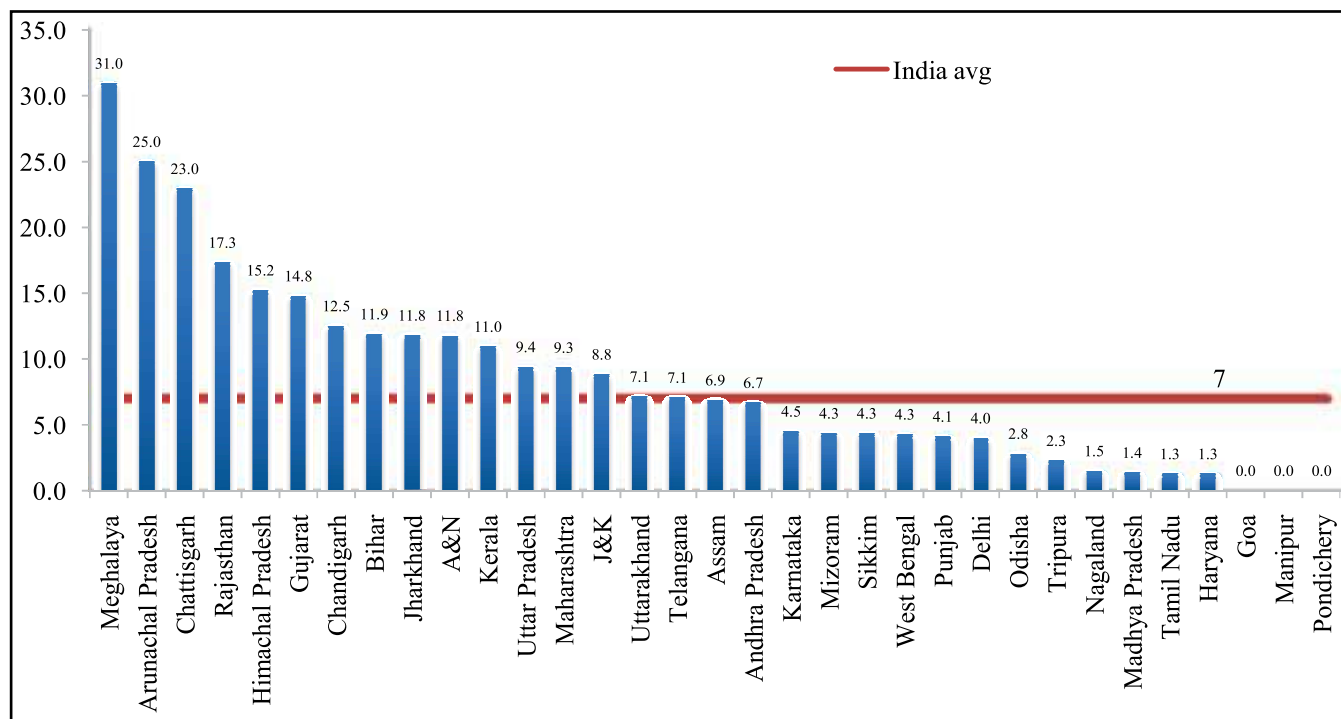
11.9 The data further shows whether the CCIs/Homes have been inspected in the last 3 years by Commissions for Protection of Child rights (National/State). 62.5% of the CCIs/Homes in Chandigarh are found to have undergone these inspections followed by Gujarat at 33.7% and Himachal Pradesh at 28.3%. The lowest positive responses were received in Jammu and Kashmir followed by Nagaland at 1.5% and Tamil Nadu at 2.4%.

I. Social Audit

11.10 The JJ Act, 2015, States/UTs that Central Government or State Government may monitor and evaluate the functioning of the Children’s homes at such period and through such persons and institutions as may be specified by that Government. It has been stressed also by the Supreme Court that there is a need for a social audit of all child-care institutions in the country to ensure accountability and transparency in the effective implementation of the Juvenile Justice Act. Moreover, the Integrated Child Protection Scheme also encourages the need of conducting social audits.

11.11 The information provided in the graph 11.1 below reflects whether any social audit has been conducted in the CCIs/Homes in the last 3 years.

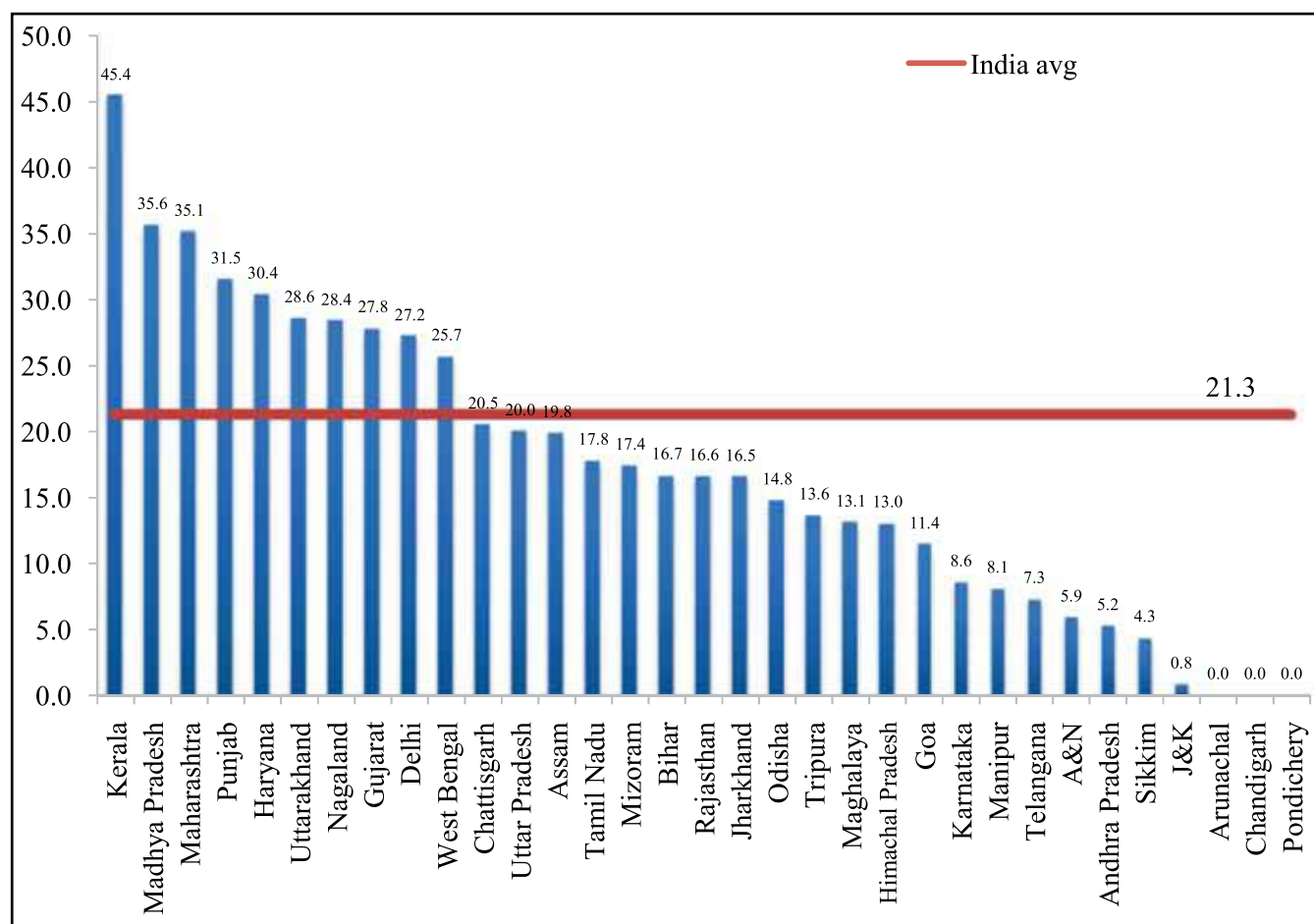
Graph 11.1 Percentage of CCIs/Homes where Social Audit has been conducted



11.12 Social Audit has been conducted in only 672 CCIs/Homes out of 9589 CCIs/Homes in India. The highest percentage of such CCIs/Homes/Homes, where social audit has been conducted, belong to the state of Meghalaya (31%). Arunachal Pradesh and Chhattisgarh, where 25% and 23% CCIs/Homes have undergone social audit hold second and third place respectively.

11.13 During the mapping exercise, as part of the social audit, an attempt was made to ascertain if the CCIs/Homes have a copy of inspection recommendations and record of action taken thereafter. It is important that CCIs/Homes are provided with the copies of the inspection recommendations by the inspection team so that they can adhere to the recommendations to improve their overall functioning and service quality.

Graph 11.2 Percentage of CCIs/Homes that have a copy of inspection recommendations and record of action taken thereafter



11.14 The above graph 11.2 shows that 45.5% of CCIs/Homes in Kerala, which is the highest among all States/UTs, reported having these records. CCIs/Homes of Madhya Pradesh (35.6%) and Maharashtra (35.1%) come second and third in this regard. 31.5% of CCIs/Homes in Punjab also stated that they had these records. The National average of CCIs/Homes having copies of inspection recommendations and record of action taken thereafter is only 21.3%. On the other hand, 78.7% CCIs/Homes do not have any inspection report or record of action taken thereafter. This low percentage reflects that there is a lack of transparency in information sharing between the inspection team and CCI/Homes that have been visited. CCIs/Homes which are not provided with the inspection recommendations cannot take any corrective action.

II. Highlights

11.15 This Chapter highlighted the inspection and audit functions of Inspection Committee, Child Welfare Committee, Department of WCD/SARA, JJ Committee of the High Court, and State and National level Commissions for Protection of Child Rights for ascertaining the quality of services provided by the CCIs/Homes. The following important points have emerged from the analysis:

- i. It has been observed that even though there are many systems and mechanisms in place to guarantee smooth functioning of the CCIs/Homes and child welfare and protection, the systems are either failing or not performing their tasks efficiently. CCIs/Homes in the States/UTs of Chandigarh, Haryana, and Himachal Pradesh are found to have given more positive responses on the inspection and audit functions/duties performed by these inspection bodies during the last three years as compared to CCIs/Homes of rest of the States/UTs. However there is still a long way to go before an ideal figure is achieved. As reflected from the lower percentages of positive response of the CCIs/Homes in this regard, it is seen that inspecting agencies in the States/UTs of Puducherry, Jammu and Kashmir, Manipur, Madhya Pradesh and Tamil Nadu are not doing inspection regularly/properly.
- ii. With respect to social audit too, the responses received were not very encouraging. However, 31% of the CCIs/Homes of Meghalaya, which is the highest figure in this regard, reported to have undergone social audit done by the inspecting bodies. However, as stated above, in-

spection of the CCIs/Homes is just one aspect, whereas, more important is that CCIs/Homes implement / act upon the suggestions, recommendations and concerns offered/raised by these bodies. To act in this regard, it is necessary that CCIs/Homes are provided the copies of the inspection recommendations. However, data reveals that only 21.3% of the total CCIs/Homes in India have a copy of the inspection recommendations and record of action taken thereafter. This implies three possibilities; firstly, that majority of the CCIs/Homes across India do not have a copy of the recommendations and the record of action taken, secondly, that no inspection has been carried out, and lastly, that inspection has been carried out but no record of the action taken exists. Clarity on the same can be received only if a secondary investigation is carried out. Nevertheless, on the face of it, what can be observed is that among the majority of the CCIs/Homes in India, inspection and consequential action is not taking place. The onus here is on the stakeholders and authorities to undertake inspections as mandated, monitor progress on implementation of the recommendations made so that service quality and care for children is not compromised.

Chapter 12

Linkages and Coordination



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Chapter 12 : Linkages and Coordination

12.1 The JJ Act and the Rules have stressed on the fact that the CCIs/Homes must make all efforts to ensure the best interest of the child for his/her overall growth and development. For this purpose, the existing facilities in a CCIs/Homes may not be sufficient which calls for networking, coordinating and linking with various professionals, institutions and community based organizations who are well-versed and experts in the concerned areas. The services required may include:- (a) mental health services for children, parents & staff (including one to one & group counseling, need based therapy, regular consultation & supervision by a psychiatrist & staff personal growth & supervision sessions, (b) education (including Montessori, supplementary, bridge & special education), (c) Vocational training, (d) Life Skills and other issue based workshops, (e) Recreational activities including sports, (f) Health including speech/physiotherapy, (g) Legal aid services, (h) De-addiction services, (i) Music, Movement, Art, Dance and Drama therapy and Occupational therapy, (j) After-care, (k) Community service, (l) appropriate authorities for birth registration, identity proof & reserved / special category certificate.

12.2 This chapter presents information on whether the CCIs/Homes across India have effectively created systems of networking and linkages with external organizations/professionals to create better outcomes for the children in the CCIs/Homes.

Table 12.1 Percentage of CCIs/Homes having linkages with external professionals/ institutions / community based organizations for various services

States/UTs	Mental health services for children, parents and staff	Education	Vocational training	Life skills & issue based workshops	Recreational activity	Health including speech / Physiotherapy	Legal aid services	De-addiction services
A&N	0	0	11.8	5.88	11.8	5.9	0.0	0.0
Andhra Pradesh	30.2	45.5	26.0	25.33	57.7	22.7	7.9	2.1
Arunachal Pradesh	12.5	25.0	25.0	25.00	37.5	12.5	12.5	0.0
Assam	25.2	31.3	24.4	12.21	22.1	21.4	17.6	8.4
Bihar	9.5	15.5	4.8	3.57	10.7	9.5	13.1	6.0

Linkages and Coordination

States/UTs	Mental health services for children, parents and staff	Education	Vocational training	Life skills & issue based workshops	Recreational activity	Health including speech / Physiotherapy	Legal aid services	De-addiction services
Chandigarh	93.8	93.8	75.0	6.25	75.0	93.8	75.0	50.0
Chhattisgarh	27.9	25.4	23.8	18.85	30.3	11.5	9.8	4.9
Delhi	64.0	69.6	44.8	57.60	64.0	63.2	60.8	18.4
Goa	72.9	75.7	65.7	74.29	85.7	47.1	27.1	12.9
Gujarat	37.9	45.6	42.0	32.54	56.2	35.5	29.0	26.0
Haryana	77.2	63.3	58.2	74.68	81.0	72.2	54.4	19.0
Himachal Pradesh	17.4	13.0	13.0	10.87	17.4	19.6	8.7	10.9
J&K	20.2	12.4	6.9	7.46	15.2	6.1	19.1	22.7
Jharkhand	21.3	36.2	26.0	22.83	29.9	17.3	19.7	9.4
Karnataka	36.0	37.1	30.3	38.75	57.8	26.5	17.9	7.6
Kerala	32.9	33.6	23.6	31.72	47.8	14.0	9.0	3.7
Madhya Pradesh	41.8	45.2	25.3	22.60	49.3	21.2	11.6	6.2
Maharashtra	25.6	28.9	24.0	24.69	38.0	13.2	17.4	6.1
Manipur	6.5	19.4	33.9	11.29	37.1	8.1	9.7	6.5
Meghalaya	32.1	20.2	31.0	46.43	69.0	19.0	35.7	11.9
Mizoram	65.2	54.3	28.3	50.00	84.8	47.8	21.7	10.9
Nagaland	4.5	14.9	26.9	47.76	55.2	1.5	7.5	1.5
Odisha	22.7	24.6	30.7	26.46	43.6	19.7	11.9	10.1
Puducherry	79.1	89.0	11.0	54.95	70.3	17.6	4.4	1.1
Punjab	67.1	67.1	35.6	23.29	52.1	68.5	47.9	12.3
Rajasthan	45.1	46.9	48.4	36.10	70.4	41.9	25.6	10.8
Sikkim	34.8	73.9	13.0	21.74	69.6	52.2	34.8	13.0
Tamil Nadu	36.6	43.5	25.4	30.12	57.4	24.7	16.0	11.2
Telangana	22.3	27.3	21.1	25.91	30.4	16.0	10.9	4.7
Tripura	40.9	36.4	36.4	29.55	56.8	9.1	34.1	15.9
Uttar Pradesh	45.3	50.6	34.1	33.53	53.5	38.2	27.6	10.6
Uttarakhand	48.2	44.6	37.5	41.07	26.8	35.7	1.8	10.7
West Bengal	38.2	74.6	57.5	24.46	74.6	35.2	24.2	5.5
Total	33.2	38.3	27.8	29.39	49.4	22.4	16.7	8.3

12.3 At the national level, statistics highlight that linkages of CCIs/Homes with external professionals/ institutions / community based organizations are not that encouraging. Linkages developed reflect the expertise of CCIs/Homes to garner support of services required for the care and protection of children; at the same time, it also reflects the issue of non-availability of such services. Having proper linkages with professional institutions benefits the children significantly while lack of linkages deprives them of such benefits. The situations of linkages at the national level show the following picture:

Table 12.2 Percentage of CCIs/Homes that provide Key Services on their own or through external linkages

Services	Percentages
Mental health services for children, parents and staff	33.2%
Education	38.3%
Vocational training	27.8%
Life skills & issue based workshops	29.3%
Recreational activity	49.4%
Health including speech / physiotherapy	22.4%
Legal aid services	16.7%
De-addiction services	8.3%

12.4 The data shows that across the States/UTs in India, with respect to **Mental Health Services** for children, the highest percentage of CCIs/Homes where parents and staff were reportedly being called in, was seen in Chandigarh at 93.8% followed by Pondicherry at 79.1% and Haryana at 77.2%.

12.5 The overall health and well-being of children living in the child care institutions is extremely important and this includes not only physical health but mental health as well. In order to ensure the happiness, growth and development of children in CCIs/Homes, timely assessments and

interventions is necessary. There is no clarity on whether the CCIs/Homes are themselves equipped with the required personnel or they are hiring these services from outside. The role of the CWC and other concerned authorities must also be reviewed to find out whether recommendations have been made to the CCI/Home within its jurisdiction to this effect.

12.6 Rule 36 of the JJ Rules, 2016 deals with education and states that every institution shall provide education to all children according to the age and ability, both inside the institution or outside, as per requirement. There shall be a range of educational opportunities including, mainstream inclusive schools, bridge school, open schooling, non-formal education and learning where needed. Learning disorders shall be identified, assessed and reported in the Individual Care Plan. Further assistance shall be given to the child by trained professionals.

12.7 From the CCIs/Homes across the States/UTs in India, CCIs/Homes that provided **Education** services on their own or relies on external linkages, the highest percentage was seen in CCIs/Homes of Chandigarh at 93.8% followed by Pondicherry at 89% and Goa at 75.7% whereas the lowest percentage was found in Andaman and Nicobar followed by Jammu and Kashmir at 12.4% and Himachal Pradesh at 13%.

12.8 There must be linkages and networking with professional individuals and organizations. Vocational training shall include occupational therapy, skill and interest based training, aimed at suitable placement at the end of the course. In case of training through any linkage, the institute, preferably government recognized, providing vocational training shall give a certificate, on the completion of the course. Where vocational training is offered outside the premises of the Child Care Institution, children shall be escorted for such programmes with proper security planning and services, particularly for children who are at risk. A record shall be maintained for all children attending the programmes and the progress made by each child shall be reviewed.

12.9 With respect to linkage for **Vocational training** in the CCIs/Homes, the highest percentage was seen in the CCIs/Homes of Chandigarh at 75% followed by Goa at 65.7% and Haryana at 58.2%. The least percentage of vocational training service in CCIs/Homes is found in the states of Bihar (4.8%), Jammu & Kashmir (6.9%), Pondicherry (11%) and Sikkim (13%).

12.10 The data in Table 12.1 reflects that at National level, only 27.8% CCI/Homes either provide vocational training facilities on their own or through external linkages, highlighting that vocational training is not something that is stressed upon. Providing vocational training to children can equip them with the skill and aptitude required to gain employment and become productive individuals for life outside the CCI/Homes. However, the lack of such resources being provided in majority of the CCI/Homes shows a negative trend that needs immediate intervention.

12.11 The data further shows that with respect to providing of **Life skills and issue based workshops** in the CCI/Homes, the highest percentage of CCI/Homes either offering the service on their own or through external linkage was seen in Haryana at 74.68% followed by Goa at 74.29% and Delhi at 57.6%.

12.12 Linkage to **Recreational Activity** or provision of such service has been found to be the highest in the CCI/Homes of Goa which is 85.7% followed by Mizoram at 84.8% and Haryana at 81%. Rule 38 of the JJ Rules, 2016 dealing with recreational facilities states that these may include indoor and outdoor games, yoga and meditation, music, dance, television, picnic and outings, cultural programmes, gardening, library, etc.

12.13 The data presents that among the CCI/Homes that have **Health including speech and physiotherapy** service either offered through linkage or through own in-house trained staff, the highest percentage is seen in Chandigarh at 93.8% followed by Haryana at 72.2% and Punjab at 68.5%. Networking and working in close association with doctors, medically trained professional, therapists and institutions is essential as the CCI/Homes may not be equipped with in-house trained staff especially specialists dealing with speech therapy and physiotherapy. Therefore, in such a case, making arrangements for the right professional to visit the CCI/Homes or provisions to send the child to the right institution is important for the child to cope with and overcome his/her disability. Moreover, networking and coordinating with hospitals too is essential to ensure the health of the child both in times of emergency and otherwise.

12.14 Educating the management and staff on law and how to deal with legal proceedings is a task that must be taken up with seriousness. Regular legal training and workshops for CCI/Homes, CWC and other personnel involved with implementation of the JJ Act must be conducted. Assessment on

what procedure is followed by the CCIs/Homes when a child is involved in a legal proceeding must be done on a national scale.

12.15 With respect to **legal aid services**, the highest percentage of CCIs/Homes providing the service on their own or through external linkages was seen in Chandigarh at 75% followed by Delhi at 60.8% and Haryana at 54.4%. Very often children in need of care and protection require court intervention especially in cases of abuse, child marriage and trafficking. Here, the judiciary lends assistance to the CWC and passes the necessary orders to give justice to the child (victim). In situations when legal recourse is to be taken, lawyers are to be appointed to provide legal aid to the victims to handle all court proceedings. Also in matters of adoption, the assistance of a lawyer becomes important. It is for the CCIs/Homes with the support of the CWC to help the children and their families with legal aid. The CCIs/Homes can either ask for para-legal volunteers, lawyers and NGOs to help in this regard or may be equipped with its own legal aid cell within the institution to provide legal assistance and guidance to the children and their families.

12.16 As per the JJ Rules, within two days of the receipt of the child, if required, he may be examined by a panel of doctors to understand his physical, medical, psychological state and his state of addiction, if any, for assessment of his personality and requirements to assist in the rehabilitation plan to be prepared for him. Every child care institution must refer such children who require specialized drug de-addiction and rehabilitation programme, to an appropriate Centre administered by qualified persons where these programmes shall be adopted to the age, gender and other specifications of the child concerned.

12.17 With respect to provision of **De-addiction services** or linkage with such service providers, it is found that the 50% of the CCIs/Homes in Chandigarh (which is the highest percentage), either have these services or provide it through external agencies. Chandigarh is followed by Gujarat at 26% and Jammu and Kashmir at 22.7% with respect to providing De-addiction services.

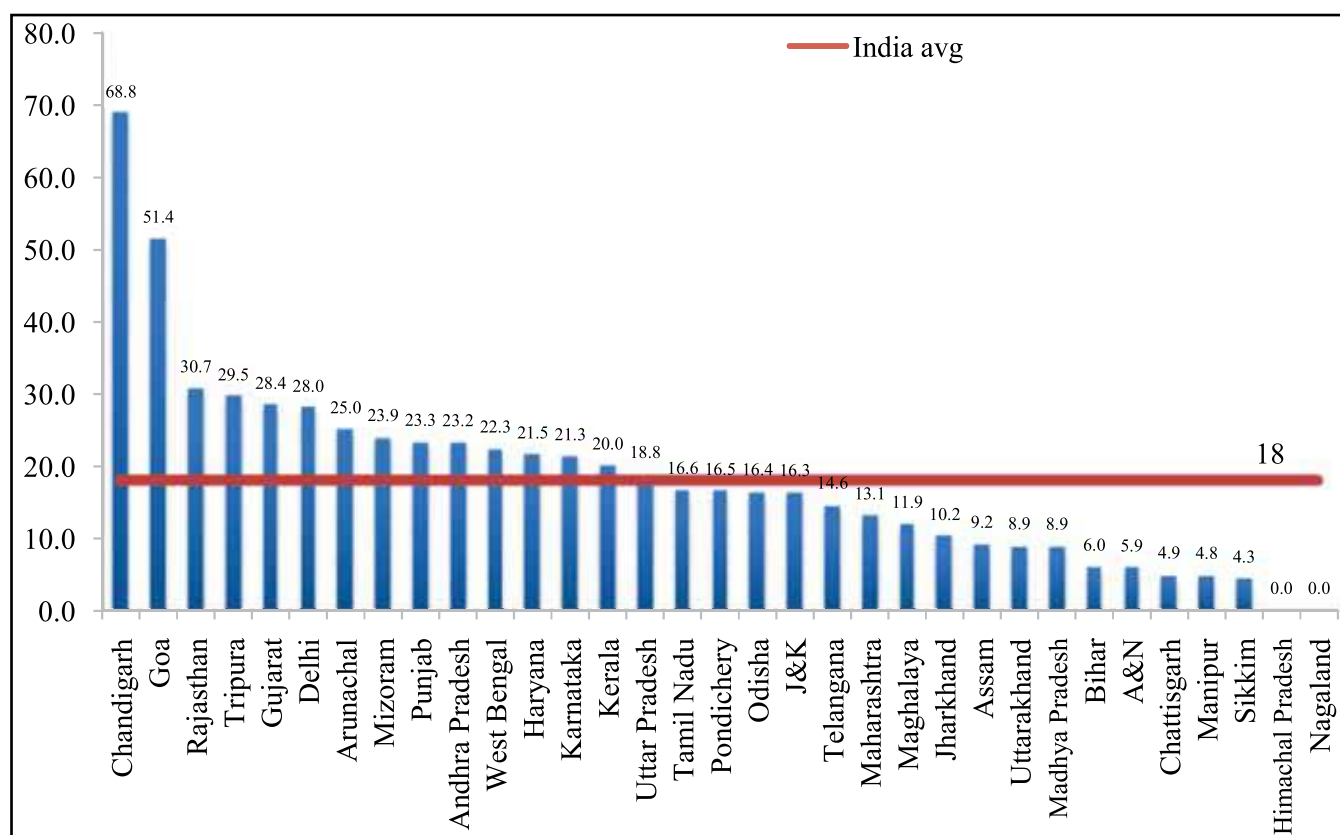
I. After-Care Service

12.18 After care services are integral to the continuum of care given at the institutions. These are support services that support the work that has already been done by staff, trainers, etc. It builds on

the health, skills and capacity of the children to make them ready to take care on their own before they leave the institution on attaining the age of eighteen.

12.19 Rule No. 25 of the JJ Rules, 2016 states that the State Government shall prepare a programme for children who have to leave Child Care Institutions on attaining eighteen years of age by providing for their education, giving them employable skills and placement as well as providing them places for stay to facilitate their re-integration into the mainstream of society.

Graph 12.1 Percentage of CCIs/Homes having linkages with external professionals/ institutions / community based organizations for After Care



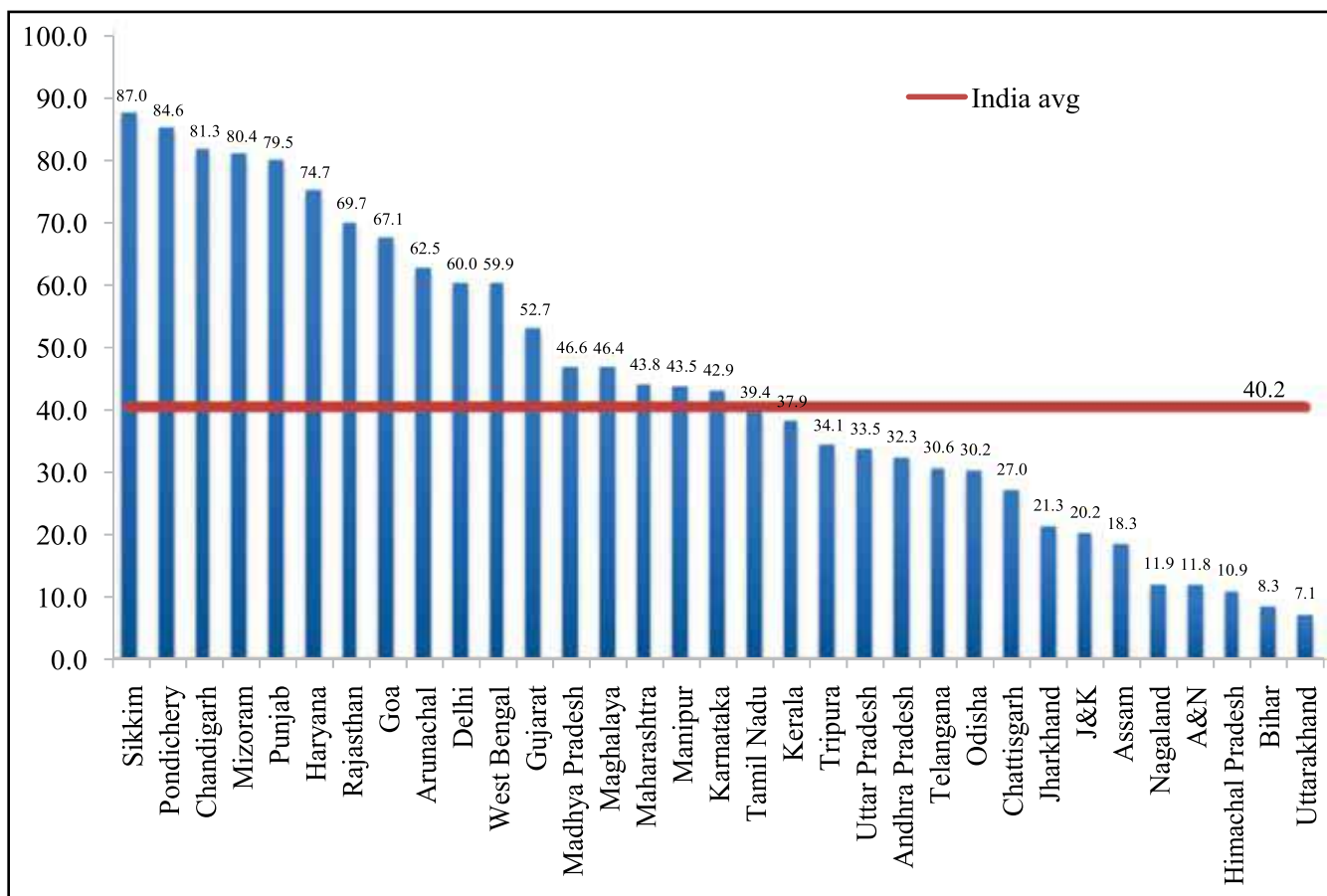
12.20 According to the Graph 12.1, the highest percentage i.e. 68.8% of CCIs/Homes that have provision or linkages for after-care services can be seen in the CCIs/Homes of Chandigarh, followed by Goa at 51.4%, Gujarat at 28.4% and Delhi at 28%. 10 States/UTs have reported less than 10% CCIs/Homes with some linkage in this regard, 2 of the having no such CCIs/Homes at all.

II. Birth registration, identity proof & reserved / special category certificate Services

12.21 A Child Study Report contains details about the child, such as his date of birth and social background; and the same must be completed for every child who enters into the child care institution. This information must be entered into the register of the CCIs/Homes with the help of trained staff. Effective coordination with the concerned government departments must be established in this regard. However, assistance from NGO or volunteers can also be utilized for this task.

12.22 The highest percentage of linkage with external agencies for birth registration, identity proof, etc. can be seen among the CCIs/Homes of Sikkim, which stand at 87% followed by Pondicherry at 84.6% and Chandigarh at 81.3%.

Graph 12.2 Percentage of CCIs/Homes having linkages with external professionals/ institutions / community based organizations for birth registration, identity proof & reserved / special category certificate

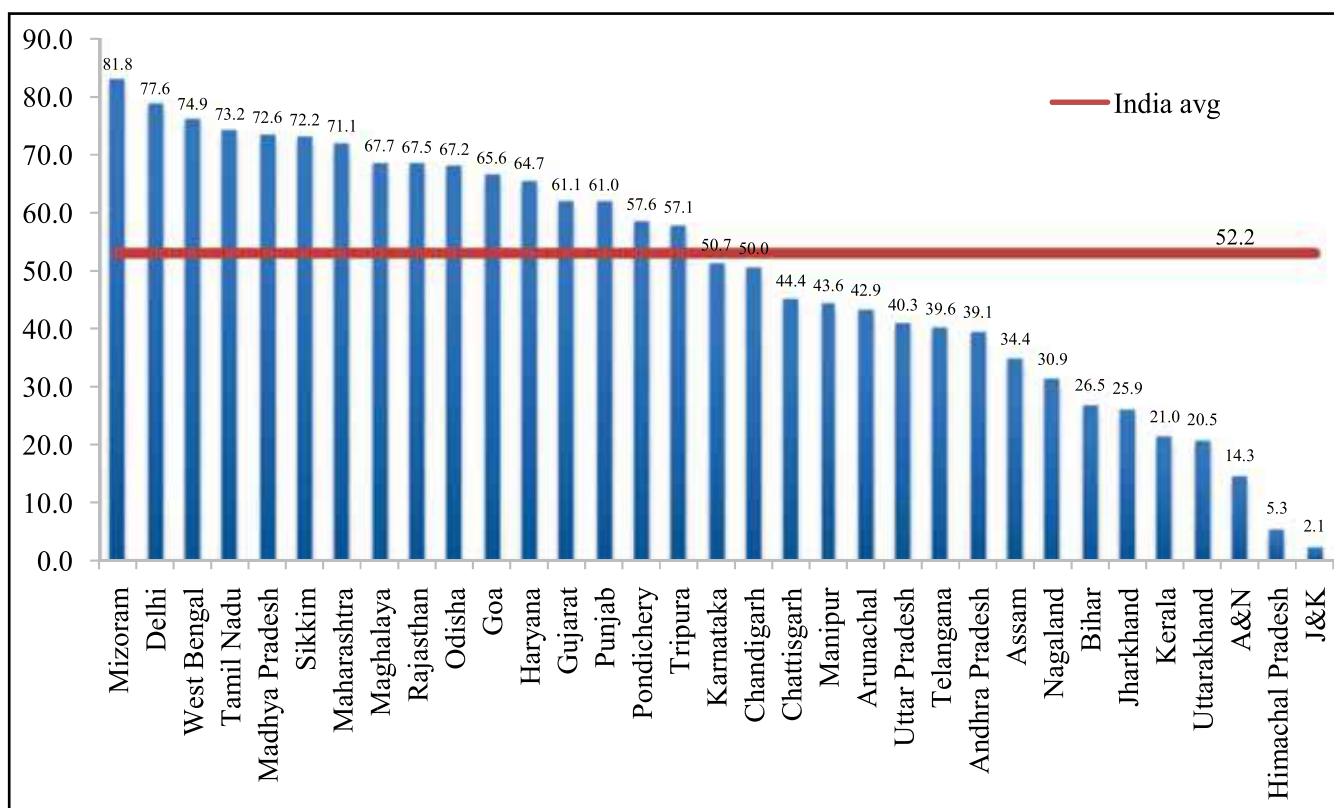


III. Restoration and rehabilitation of children

12.23 Establishing linkage with bodies like CWC, JJB CHILDLINE, DCPU, DSFAC is very much crucial for restoration & rehabilitation of children, especially for those institutions that are run by NGOs.

12.24 Restoration and Rehabilitation is the prime objective of the JJ Act. Under Rule 21 of the JJ Rules, 2016, the State Government, while taking a decision on the application for registration of Child Care Institutions, may consider the details of linkages and networking with other governmental, non-governmental, corporate and other community based agencies on providing need-based services to children.

Graph 12.3 Percentage of NGO run CCIs/Homes having linkages with external professionals/ institutions / community based organizations for restoration and rehabilitation of children



12.25 The Graph above reflects that above 75% of CCIs/Homes run by NGOs in the Delhi, Mizoram and West Bengal have linkages with important bodies like CWC, JJB, Childline, DCPU, DSFAC, etc. The lowest percentage of linkage is among the CCIs/Homes of Jammu & Kashmir (2%) followed by Himachal Pradesh (5%).

IV. Highlights

12.26 Linkage and connection of CCIs/Homes with important and skilled service providers of mental health, education, vocational training, life skills, legal aid services, aftercare services, de-addiction services, services for registration of birth, etc. is crucial to ensure that the children residing in the institutions are guaranteed care, welfare and protection. However, it is observed that major percentage of CCIs/Homes across the country either lack the linkage to these services or do not have any provision of their own. This could have the following implications - (i) the CCIs/Homes have not given emphasis on the criteria mentioned above and so do not collaborate even if they have the resources to do so, (ii) there is a lack of awareness among the CCIs/Homes on agencies and individuals who are qualified to carry out the abovementioned services, and (iii) there are insufficient funds for the same.

Chapter 13

Conclusion and Recommendations



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Chapter 13 : Conclusion and Recommendations

13.1 The principles of Juvenile Justice (Care and Protection of Children) Act, 2015 recognize family as the best place for nurturing children, and institutionalization care as the last possible resort for safety and shelter. It also views stay in an institution as the least desirable for long term or permanent placement of any child. In India, however, there are a large number of children who find themselves housed in various CCIs/Homes after facing several harsh realities like homelessness, abandonment, abuse, exploitation, trafficking, violence, etc. or coming in conflict with the law. Such children are in urgent need of care and protection.

13.2 It is important to ensure that institutional care of children, where necessary, is available and the quality of such care and protection is ensured so that it does not become detrimental to their mental, behavioural, emotional and social development. Over a period of time, several issues of concern for children in institutional care have been raised. There is evidence that suggests that children in institutional care experience delayed physical, behavioural and cognitive development. The lack of one-to-one human contact, play facilities, wholesome nutrition, adequate space, proper medical care and family upbringing are commonly observed problems amongst children who spend long spans of time in CCIs/Homes.

13.3 This chapter is a reflection of key finding of the analysis that has been done on the data collected through the study conducted in 9589 CCI/Homes across the country. The National mapping exercise has attempted to cover all the homes, barring 34 homes in Uttar Pradesh where Social Audit was recently conducted. Out of the 678 districts, the District Administration confirmed that 98 districts did not have CCI/Homes. Also 3 UTs Lakshadweep, Dadra and Nagar Haveli and Daman & Diu that there are no CCIs/Homes functioning there

13.4 The mapping exercise also cover 295 Swadhar and Ujjawala Homes (the remaining from the list of 308 provided by MWCD were found to be closed/non-operational) for the limited purpose

of ascertaining whether children housed there were being connected to the JJ System for Services. Standards of Care were not to be checked. These homes fall under the large categories of responses labeled N.A (not applicable). Therefore though 9589 CCIs/Homes were visited only 9294 qualify to be categories as CCIs under the JJ Act. However the children staying in Swadhar and Ujjawala Homes (1985) undoubtedly are children in need of care and protection even though they are not provided services under the JJ System.

13.5 Below are the key findings on some of the important indicators of the study:

I. Child Care Institutions

13.6 The study revealed that the 'Children Homes' are the highest numbering 6368, amongst all the categories of CCIs/Homes available. Amongst the 9589 CCIs/Homes mapped, 3071 numbers (32.03%) have been found to be registered under the JJ Act. It means that a very high majority of the CCIs/Homes continue to operate outside the purview of the JJ Act.

13.7 The total number of Government CCIs/Homes is 845, whereas Non-Government Homes are 8744. The Government CCIs/Homes include 211 Observation Homes, 40 Special Homes, 3 Places of Safety, 436 Children Homes, and 40 Shelter Homes.

13.8 The Non-Government CCIs/Homes include 67 Observation Homes, 12 Special Homes, 5 Places of Safety, 5932 Children Homes, 333 Shelter Homes and 295 Swadhar and Ujjawala Homes. Out of the 33 State/UTs Covered in the study only 21 States/UTs have Special Home, while 7 have Place of Safety.

13.9 As far as accessibility of Homes is concerned, majority of the Homes/CCIs in most of the States/UTs are easily accessible.

13.10 Three thirty-six Specialized Adoption Agencies covered in this study, are in existence in all States/UTs except Andaman and Nicobar, Arunachal Pradesh, Jammu and Kashmir and Himachal Pradesh.

II. Details of Children

13.11 A total number of 3,77,649 children were found to be residing in 9589 CCIs/Homes across the country including 7422 Children in Conflict with Law (CCL) and 370227 Children in Need of Care and Protection (CNCP). Under the CCL category 5671 boys and 1805 girls were reported in CCIs/Homes whereas the total number of CNCP included 1,99,760 boys and 1,70,375 girls.

13.12 The total number of orphans residing in CCIs/Homes across India is 41,730, including 22,264 boys and 19,427 girls. The number of abandoned children were found to be 3,498 boys and 4,178 girls, while surrendered children in the CCIs/Homes numbered 3,471 boys and 3,306 girls.

13.13 In the age-group of 0-6 years, 2,599 orphans, 1,763 abandoned and 1,209 surrendered children were found. Whereas, of the age group of 7-18 years, 38765 orphan, 5914 abandoned and 5584 surrendered children were staying in the CCIs/Homes across the country.

13.14 Children with single parent residing in CCIs/Homes across the Country is around 1,20,118 in numbers.

13.15 Children across the country who have been victims of sexual abuse and child pornography, and are housed in the CCIs/Homes number 1,575 and 189 respectively.

13.16 In total 857 children were found under the category 'children trafficked for domestic work', 1827 number under the category 'children trafficked for labor', and 489 children were categorized under 'children trafficked for commercial sexual exploitation'.

13.17 There are in total 469 children staying in CCIs/Homes who were victims of child marriage, among whom 29 are boys and 440 are girls. Among different age groups, there are 13 children in the age below 11 years, 149 in the age group of 12-16 years and 307 in the age group of 16-18 years who are victims of child marriage.

13.18 It has been seen that the effects of man-made disasters and conflicts are particularly significant on children as they often bring with them abandonment by, or separation from, families.

These event also make the affected families, especially children, vulnerable to trafficking and unsafe migration.

III. Standard of Care

13.19 The national average of CCIs/Homes that segregated children on the basis of age-groups and gender is only about 65%. Therefore, key issues pertaining to the safety and privacy of children are not sufficiently being addressed in large numbers of CCIs/Home.

13.20 In terms of adequate children-care givers ratio, the percentage of CCIs/Homes with adequate (numbers) care givers per child is 46.7%, showing an inadequacy in this aspect in large numbers of CCIs/Home. This is bound to affect the individual attention and care that every child needs.

13.21 As far as adopting a written 'Child Protection Policy' is concerned and training related to it, it is seen that the national average is only 23.6%.

13.22 The collected data shows that awareness regarding CHILDLINE 1098 is present only in 29.5% of CCIs/Homes across the country indicating a major lacunae as awareness amongst children in CCIs/Homes regarding child protection mechanisms available, such as the 1098 helpline is minimal.

13.23 All States/UTs have CCIs/Homes that use some form of discipline enforcement measure which is against the norms stated in the JJ Act and Rules.

IV. Human Resource

13.24 As per norm, about 8 personnel are required for a CCI/Home housing 50 children.

13.25 A large number of vacancies exist in CCIs/Homes; for instance, in Tamil Nadu 3178 full time and 1083 part time vacancies were reported.

13.26 The data shows that superintendent/ Person-in-charge were reported to be residential in 6998 CCIs/Homes, leaving a large number of CCIs/Homes relatively unsupervised at night.

V. Physical Infrastructure

13.27 The overall findings show that across all the States/UTs, major improvements are required with respect to the physical infrastructure of CCIs/Homes so that norms can be ensured. It is seen that the most common room available in the largest number of CCIs/Homes is a dormitory, the national percentage of availability of which is 83.4%. However even for this category of dedicated room, there are a number of States with larger number of CCIs/Homes which do not have dormitories

13.28 Infrastructure facilities for education, safety and privacy of children have also been looked into and the overall picture shows that there is a lot of room for improvement. The availability of running water, drinking water, proper drainage and garbage disposal facilities is not adequate in over 15% CCIs/Homes.

VI. Adherence to Juvenile Justice (Act and Rules) Procedure

13.29 With respect to adherence to the norm of producing children before the CWC /JJB initially in the CCIs/Homes, it is seen that only 49.9 percent homes are following the norm. Though this figure can easily be explained with the large number of unregistered CCIs/Home under the JJ Act, however the safety of children who are not being supervised by the CWC/JJB is a huge cause of concern.

13.30 The national average for percentage of CCIs/Homes which submit Social Investigation Report (SIR) of Children before CWC/JJB within the stipulated time period is only 31.2% and 19.3% respectively. Mizoram has highest percentage of CCIs/Homes at 78.3% followed by Chandigarh at 68.7% and Delhi at 67.2% where SIR of each child has been submitted before CWC/JJB within stipulated time period as directed by CWC/JJB.

13.31 The analysis shows that the highest percentage of CCIs/Homes where Individual Care Plan has been prepared for every child within 30 days of child's admission was found to be 76% in Mizoram, followed closely by Chandigarh at 75% and Punjab at 66%. The lowest percentage of such CCIs/Homes is found in Andaman and Nicobar at 6%, followed by Kerala at 8% and Nagaland at 9%. Reasons for Kerala having such a low percentage is easily explained by the fact that in Kerala, a large number of CCIs/Homes are unregistered under the JJ Act and registered under 'Any Other' category instead.

13.32 Documentation and Record keeping is not taken very seriously in most CCIs/Homes. However, ascertaining reasons for non-maintenance and updation of the relevant documents and online systems, or use of alternative systems, if any, is beyond the scope of the study. The data available shows the Chandigarh, Mizoram and Haryana are among the better performing States/UT.

VII. Adoption Performance

13.33 In the adoption scenario it is seen that children in the 0-6 years of age group are adopted more readily than the older age-group. It is important therefore that all such children who have been identified via this mapping exercise and have been declared legally free for adoption are linked expeditiously to the adoption process. This is desirable as it is easier to make an infant or very young child adjust to the culture and lifestyle of the adopting family.

13.34 SAA have responsibilities towards children, biological parents and the PAPs and a key function here is providing counselling services and assistance at all times to help in the various stages of adoption that include surrendering, helping adjust to a new life, avoid disruptions, deal with root searches etc. However, the data shows that this is not being done diligently by over 40% of SAAs.

13.35 Out of 336 SAAs covered (excluding SAAs in Uttar Pradesh), 20.2% are Government and 79.8% are non-government. Maximum numbers of SAAs are in Maharashtra (55) and Madhya Pradesh (31) followed by Karnataka, Kerala and West Bengal with 25 each. States/UTs like Chandigarh and Haryana have only 1 SAA, whereas no SAAs exist in Andaman and Nicobar, Jammu and Kashmir, Arunachal Pradesh and Himachal Pradesh. Uttar Pradesh also has one SAA but that was not covered by the exercise. As the number of SAAs are so few, there is a possibility of the existing SAAs taking on additional burden which needs to be addressed.

VIII. Financial Transparency

13.36 Information collected shows that financial transparency and accountability is an issue that needs to be looked into immediately and seriously, as, many CCIs/Homes do not have audit records or records of compliance with FCRA norms. Only 56.3% CCIs/Homes reported that they had

provided copies of Audited Statement of Accounts & FCRA compliance reports for last 2 years to the competent authority.

13.37 Across the country, percentage of CCIs/Homes that have annual audits being carried out by a CA is 74.6%. Less than 50 percent of CCIs/Homes submit a copy of audited accounts of the organisation with its audit report and Annual Report within six months from the date of closing of the financial year, to the SARA or State Government as the case may be.

IX. Inspection and Audit

13.38 Although mechanisms for monitoring and assessing the performance of the CCIs/Homes exist through Inspection Committee, Child Welfare Committee, Department of WCD/SARA, JJ Committee of the High Court, Commissions for Protection of Child rights (National / State) etc. The analysis reveals that adherence to norms of regular inspections by the said authorities is low in many States/UTs.

13.39 The national average percentage of CCIs/Homes where social audit is being conducted is also not encouraging at 7%, with the highest percentage reported being 31% in Meghalaya.

13.40 It is important that corrective actions are taken by the CCIs/Homes, based on the suggestions and recommendations made by various inspecting authorities. However, the utility of inspection is much reduced if CCIs/Homes do not receive the copy of the recommendations thereby limiting their follow up and remedial actions. The national average of the percentage of CCIs/ Homes that have a copy of inspection recommendations and record of action taken thereafter is only 21.3% which is a huge area of concern.

X. Linkages and Coordination

13.41 Analysis shows that only 33.2 % of CCIs/Homes have linkages for mental health services for children, parents and staff amongst which Chandigarh shows the highest percentage at 93.8%, followed by Puducherry at 79.1% and Haryana at 77.2%. Similarly, for speech and physiotherapy, the national average is only 22.4% CCIs/Homes and with respect to de-addiction services, the national

average percentage is only 8.3%. As each of these services play a critical role in the rehabilitation of children these low figures reflect the need for immediate improvement in this respect.

13.42 With regard to linkages for the purpose of education, the highest percentage of CCIs/Homes was observed in Chandigarh at 93.8%, Puducherry at 89% and Goa at 75.7%, whereas Andaman and Nicobar, Jammu and Kashmir and Himachal Pradesh are among the lowest.

13.43 Above 75% of CCIs/Homes run by NGOs in the Delhi, Mizoram and West Bengal have linkages with important bodies like CWC, JJB, CHILDLINE, DCPU, DSFAC, etc. The lowest percentage of linkage is among the CCIs/Homes of Jammu & Kashmir (2%) followed by Himachal Pradesh (5%). However, the national average in this regard, being 52.2% only draws our attention to the need for more coordination and convergence between stakeholders in the JJ System to ensure that the child is provided the care and protection that is required.

XI. Recommendations

The following recommendations are being made based on the key findings of the mapping exercise:

i. General Recommendations:

13.44 **Establishment of adequate number of CCIs/Homes based on mapping of child vulnerability/situational analysis of each district:** Each State/UT has to ensure that an exhaustive district based analysis is done including identification of key child protection concerns and number of children vulnerable thereby. Based on this need analysis, CCIs/Homes are to be set up as per the norm of the JJ Act and the Child Protection Services (CPS), so that children of various categories children in difficult circumstances are provided with adequate care, protection and services. These district based assessments need to be conducted from time to time and the emerging need addressed by the authorities concerned.

13.45 **Registration:** The analysis shows that the majority of CCIs/Homes are yet to be registered under the JJ Act making monitoring of standards impossible. Necessary actions need to be taken in mission mode and in a time bound manner by States/UTs to ensure 100% compliance with the norms of the JJ Act. CCIs/Homes need to keep constraints of space and available resource in mind

when applying for the registration and State/UT administration can draw up guidelines to help facilitate processes for the same. Use of technology for this purpose needs to be pursued to promote transparency and facilitate speedy registration.

13.46 Rationalisation of availability of CCIs: The data has shown an imbalance in the number of CCIs/Homes (within different categories) as well as the spread of CCIs/Homes across different States/UTs. Rationalising the number of CCIs/Homes is imperative keeping district based need and occupancy in mind. This too may be conducted along with registration in mission mode with strict timelines.

13.47 Assessment of CCIs/Homes not under the JJ Act: It is imperative that all children in need of care and protection are housed in the CCIs/Homes under the JJ Act. Therefore, procedures have to be developed to ensure that children staying in Swadhar Homes with their mother are linked to the JJ System for services. Standalone homes for special categories of Children such as Ujjwala Homes also need to be registered as CCIs and brought under the purview of the JJ System. A large category of '*Any Other homes*' have been identified through this exercise which house children in need of care and protection and therefore there is a need to bring all these CCIs/Homes under the ambit of JJ Act.

13.48 Ease of Accessibility to CCIs/Homes: Data with regard to the accessibility of CCIs is encouraging for many States/UTs such as Andaman & Nicobar, Chandigarh, Manipur, Mizoram, Pondicherry, Punjab etc. However, for States/UTs where CCIs/ Homes are not easily accessible, it is recommended that all key facilities are made available within the CCI/Home premise.

13.49 Provision of Place of Safety: A Place of Safety and a dedicated shelter home for de-addiction services is imperative in each State/UTs and availability of other mandatory institutions should also be ensured in each district so as to provide care and protection as required.

13.50 Child Protection Policy (CPP): It is essential that existence of a written CPP is made mandatory for every CCI/Home to ensure safety and security of children. Additionally, sensitisation of all staff, from guards and cooks to Persons-in-charge, also must be a norm. Basic templates for the same can be developed at the Central and the State-level with participation of all stakeholder

concerned. Good practices adopted by some of the States/UTs may be studied for the same including effective rehabilitation programmes centred on mental health initiatives for children and caregivers.

13.51 Policy reorientation for Financial and Technical Support: It has been seen that many CCIs/Homes are affected by delays in receipt of funds and in the amount of resources available. This, in all probability, affects the quality of standards and services provided by the CCIs/Homes to the children residing there. A relook is required by the Ministry of Women and Child Development at the amount available as well as the process of fund disbursement, for CCIs/Homes.

13.52 Emphasis on Constitution of Statutory Committees: The existence of Home Management and children committees ensure in-depth supervision as well as participation in the management of the CCIs/Home. Many CCIs/Homes have failed to constitute Home Management Committee and Children's Committee, possibly due to the lack of awareness on the JJ Act. Hence, training on the same is recommended. It is also suggested that constitution of functional committees should be looked at as an essential parameter for fund provision as well as renewal of registration.

13.53 Separation of Different Types of Homes: Combination CCIs/Homes are not in accordance with the mandate of JJ Act, 2015. States/UTs Must ensure that the norms related to segregation of different gender, age and categories of children as well as Homes are strictly maintained and registration is not provided to any such Combination Home. CWC and JJBs may be trained to identify and streamline such CCIs/Homes.

13.54 Guidelines for Transgender Children: Data collected shows that CCIs/Homes only in a few States housed transgender children. Thus guidelines need to be issued to increase accommodation of transgender children in CCIs/Homes.

13.55 CCTV Cameras: These are one of the possible safety measures, and need to be placed in all the CCIs/Homes as per available guidelines.

13.56 Presence of Medical Personals: In CCIs/Homes that cater to children with medical issues/special needs children and presence of at least one trained medical professional is recommended at all times in the campus. Other staffs and nurses must also be adequately trained to provide care to such children.

13.57 **Emphasis on Child Safety and Privacy:** Safety, privacy, comfort and protection of the children must be the driving force for the management. However, the findings suggest that many CCIs/Homes are lacking in this regard and need immediate attention. This can include awareness on CHILDLINE 1098, constitution of other grievance redressal mechanisms as well as the strict adherence to methods of dealing with difficult child behaviour as prescribed under the JJ Act and Rule. Separate facilities for boys and girls and segregating them from the staff are essential requirements of the JJ Act.

ii. Staff :

13.58 **Availability of Trained Personnel and Provision of on-job Skilling:** Rule 89 of JJ Rules, 2016 specifies that a comprehensive training should be imparted to all functionaries of CCIs for minimum 15 days from a recognized institution. The staff (permanent, temporary, full time and part time) in the CCIs/Homes need to be appropriately trained to deal sensitively and efficiently with issues, needs, problems, concerns and safety of children. However, the findings revealed that a majority of functionaries of CCIs have not undergone any training yet. Therefore, sensitisation of CCI Staffs is required on an urgent basis. The State Government may identify one or two institutions at State Level to impart training to staff of CCIs/Homes.

13.59 **Filling-up Vacant Positions:** Vacant positions must be filled on an immediate basis and extra staff must be employed if required. Appropriate substitutes must be designated among senior staff members to take charge in the absence of the superintendent or person-in-charge in all CCIs/Homes.

13.60 **Consistency of Tenure:** Frequent transfer of staff creates a vacuum in coordination and affects smooth running of the government CCIs/Homes. Having a fixed tenure can help to bridge this gap and create consistency in work.

13.61 **Screening and background check:** A thorough screening and background check of staff at all levels must be carried out as a matter of practice. The CPP of the CCIs/Homes needs to include procedures for this.

iii. Monitoring and Inspections:

13.62 **Regular Inspection of amenities:** A very disturbing trend was observed, wherein CCIs lacking basic amenities were running childcare facilities possibly leading to child rights violations. In order to correct the situation recommendation on the basis of regular inspections by appropriate authorities like SCPS, DCPU, CWC, JJB, High Level Committee and District Inspection Committee should be made; CCIs/ Homes not complying should be appropriately dealt with. Reports and recommendation of the inspecting authorities need to be shared with the CCIs/Homes so that corrective measures can be taken.

13.63 **Monitoring for ensuring legal adoption:** Periodic monitoring of SAAs by the SARA and DCPU is essential. SAA-CCI linkage must be established so that the children eligible for adoption can be linked to the adoption process. This linkage needs to be facilitated through an integrated and digitised real-time MIS containing end to end details of all children found in the JJ System.

13.64 **Evaluation to Bridge Implementation Gaps:** State-wise third party evaluation of the child related schemes and services especially, functioning of CCIs/Homes by the respective governments may be carried out with the help of external agencies to find out the gap in implementation and bring about transparency in the system.

iv. Record Keeping and Documentation:

13.65 Lack of proper documentations and maintenance of files/records was observed in most of the CCIs/Homes. Essential documents related to the CCIs/Homes must be available in the premises for scrutiny by any competent authority when required. Basic training to the Officer-in-Charge and staff of CCIs on how to maintain and update various registers and accounts is recommended. Additionally, regular status updates must be sent to the DCPU, CWC, SARA.

v. Networking and Coordinating:

13.66 **Linkages with Experts:** Linkages with external agencies and individuals experts in various areas of child care must be encouraged and made mandatory (where applicable). DCPU must have

an updated database of CCIs/Homes, details of children in CCIs and details of experts whose services can be utilized.

13.67 Convergence of CCIs/ Homes with following institutions should be encouraged:

- a) SSA for basic primary education,
- b) NSDC & ITI for vocational training,
- c) Health department for health check-ups and
- d) DLSA for free legal aid.
- e) Mental Health institutions such as NIMHANS

13.68 Inter-ministerial coordination may be established to facilitate speedy repatriation process of children to their home countries.

13.69 Corporate tie-ups to provide quality services, especially in the areas of skill development, vocation, recreation and after-care programme for children is recommended.

vi. Funding and Transparency:

13.70 For vocational education, provision of separate funds should be provided under ICPS.

13.71 Release of funds by State government should be prioritised as they provide a substantial part of the funding to CCIs/Homes.

13.72 To improve financial transparency, CCIs/Homes must maintain accounts with themselves; instances were found where accounts were not maintained by CCIs/Homes administration but with the parent NGO/organisation.

vii. Miscellaneous:

13.73 Some of the best practices adopted/ developed by specific CCIs/Homes should be identified and shared with others, so that they are encouraged to adopt. Innovation should be encouraged to find solutions and it should also be rewarded in appropriate ways- there can be awards for the best managed CCIs/Homes. Participation of children should be encouraged in all possible manner. Attempts should be made to encourage development of model CCIs/Home.

13.74 To overcome infrastructural and security shortcoming, CCIs/Homes can seek financial support of donors, voluntary organizations, communities and even corporates to make the necessary improvements. However, government need to take appropriate responsibility on this ground.

13.75 Use of sustainable sources of energy (biogas and solar), rain water harvesting, composting, kitchen/terrace garden must be encouraged. This will not only be beneficial for the CCIs/Homes but will also be an additional source of learning for children. Hence adequate training need to be imparted.

13.76 Awards should be instituted to encourage innovative practices for addressing the needs and concerns of children and adopting best management practices that are child friendly by the CCIs/Homes. This would incentivise improvement as well as encourage reporting and sharing practices by CCIs/Homes and States.

Annexure -I

Evolution of Child Care Institutions: A Brief History



नए समाज की ओर
Towards a new dawn

Evolution of Child Care Institutions: A Brief History

There is a long history of legislations regarding regulations of CCIs/Homes¹ for children. During the pre-independence era, the Apprentices Act, 1850; the Reformatory Schools Act, 1897; and the Children Act, 1908. The present legislation JJ Act, 2015 requires all CCIs/Homes to get registered is an effort to streamline the existing ambiguity in concern to the CCIs / Homes in India.

Orphanages existed in various parts of India for many decades, and some even more than a century. The few known orphanages such as San Thome Orphanage in Tamil Nadu was established between 1820 and 1830, Bachchon Ka Ghar—the oldest orphanage of Delhi was built in 1891, Arya Orphanage was started in Delhi in 1918 and SOS Children’s Villages of India set up its first Children’s Village in Haryana in 1964². These institutions were charity driven with least State regulations. However as time passed the mushrooming of unregulated children homes across the country became a concern due to reports of abuse of children, quality of care issues, and trafficking, illegal adoptions among others.

The Apprentices Act, 1850, was passed for better enabling children in the age group of 10-18 convicted by courts, and specially orphans and poor children brought up by public charity, to learn trades, crafts when they reach 18 years of age, they may be able to gain a livelihood. The Act attempted for the first time to help juvenile delinquents by keeping those who committed petty offences out of the prison and rehabilitating them.

The Reformatory Schools Act 1897 which was passed on all India level provided for the establishment of Reformatory schools, where juvenile delinquents under sixteen years of age were detained for a term extending from two to seven years instead of being sent to jail. The Children Act was passed in 1908 recognized the need of care, protection, and reformation of juvenile delinquents. The act was brought about through Liberal reform in Britain to protect children from adults who would seek to

¹<http://childlineindia.org.in/child-in-india.htm>

²Ratified by India on 11 December 1992

³<http://www.udayancare.org/Standards%20of%20care%20in%20child%20care%20institutions.pdf>

exploit them⁵.

The Indian Jail committee appointed in April 1919 submitted a report in May 1920 here it brought to the fore, the vital need for speedy trial and treatment of young offenders. The recommendations made in the report prompted the enactment of the Borstal Acts, Children Act and Probation Acts. The Children Acts concerning Madras, Bengal and Bombay were extensively amended between 1948 and 1959. Borstals were established in 1929 as correctional institutes for young offenders, with an emphasis on education and rehabilitation⁷. In 1933, the Children and Young Person Act was passed and it collated all existing child protection legislation into one act.

Post-Independence in 1947, adoption of the Constitution on 26 November 1949 guarantees fundamental rights of children under various Articles which ensured increasing legislative focus on children's issues. The Children Act, 1960 was one of the earliest enactments created to provide for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union territories. The Act provided for Special schools for the reception of delinquent children under this Act which not only provided the child with accommodation, maintenance and facilities for education but also provided them with facilities for the development of their character and abilities and give them necessary training for their reformation along with other functions to ensure all round growth and development of their personality. The Act also provided after-care organizations for the purpose of taking care of children after they leave children's homes or special schools and for the purpose of enabling them to lead an honest, industrious and useful life.

In some States along with the JJ Act there are provisions for licensing under the Orphanages and Charitable Homes Act, 1960 in States, such as Kerala and Tamil Nadu and in Maharashtra; institutions continue to be licensed under the Women and Children Licensing Act. However, their existence became questionable after the JJ Act, 2015 which mandated all homes / CCI to be registered under the uniform system, nationally.

Over the years, the focus of care of children has been slowly shifting from institutionalized care to community/family based care. This is reflected in the National Policy for Children which says: 'To secure the rights of children temporarily or permanently deprived of parental care, the State

shall endeavour to ensure family and community-based care arrangements including sponsorship, kinship, foster care and adoption, with institutionalization as a measure of last resort, with due regard to the best interests of the child and guaranteeing quality standards of care and protection”².

he rights of children, quality of services and restoring back to families are priorities of the Juvenile Justice system. The integration and regularization of all kinds of homes are necessary to ensure tracking of children and for their rehabilitation. Besides, Section 41 of the JJ Act, 2015, provides for the Registration of child care institutions (CCI). The law makes it compulsory for “all institutions” whether run by a State government or by voluntary or non-governmental organizations, which are meant, either wholly or partially, for housing children in need of care and protection or children in conflict with law, shall, be registered under this Act in such manner as maybe prescribed, within a period of six months from the date of commencement of this act, regardless of whether they are receiving grants from the central government or, as the case maybe, the state government or not.

⁴<http://www.intriguing-history.com/childrens-act/>

⁵ <http://www.vakilno1.com/bareacts/juvenilejusticeact/juvenilejusticeact.html>

⁶<https://mumbaimirror.indiatimes.com/others/sunday-read/children-housed-at-borstals-meant-for-prisoners-over-18/articleshow/50249330.cms>

Annexure -II

Methodology and Design of the Study



नए समाज की ओर
Towards a new dawn

Methodology and Design Of The Survey:

Methodology

The National study in India involves Union and State governments, district administration and non-governmental organizations to map all the existing CCIs /Homes across all the districts of the country. The methodology was similarly complex and several parallel activities were worked upon to ensure the completion of mammoth task in an effective and timely manner. The review of homes was a mammoth task while it got initiated in December 2015, the actual review of homes started from 19 January 2016 in Maharashtra and the last home to be reviewed was on 30 September 2016 in Tamil Nadu.

CIF National Outreach

The task of anchoring the study was entrusted to CHILDLINE India Foundation (CIF) through and a structure was created to aid and advise the whole process. The existing structure and partners of CIF was instrumental in creating a support and national outreach for the study.

Study Coordination Structure

Based on mandate NCPCR and CHILDLINE India Foundation (CIF) developed a detailed action plan and structure to undertake the National survey of Child Care Institutions. The survey process involved the following:

- i. National Advisory Committee [consisting of Executive Director CIF (chair), NCPCR representative, Deputy Director CIF, Head Services]; supervised the survey process from time to time as prescribed
- ii. CHILDLINE India Foundation (CIF) through its NCT and SCA's coordinated, monitored to ensure that:
 - a. Survey teams were constituted and trained;

- b. Surveys were conducted as per norms and within time frame agreed upon
- c. Reports were submitted in the prescribed format to the Commission on weekly basis;
- iii. National Coordinating Unit/Team with its Operational team of a National coordinator and four regional coordinators were based in CIF's Northern Regional Resource Centre. The NCU was put in place in December 2015.
- iv. CIF's already existing Regional Resource Centre (RRCs) Heads, 4 – Nodal persons for the zone were critical to the process as they directly linked with SCA partners
- v. State Coordinating Agencies (SCA), CHILDLINE partners (primarily Nodal and / or academic institutions) were responsible for appointment of the survey teams, collection and entry of data. *There were 64 SCAs altogether; however, some of them had been allotted districts in more than one State, thus making the total work areas 76, across all States/UTs).* The Selection of SCA was completed by December 2015.
- vi. Survey or review teams were constituted for a district/cluster of districts (3-5 districts per team or as required) by the SCA to conduct the survey; there were approximately 726 persons were engaged as part of the Review Teams. These teams included mandatorily a DC/DM nominee and members who had adequate years of experience of working with children and/or a research background and knowledge of child protection legislation.

Research Design

Cross sectional research design was adopted for putting together a database of CCLs/ Homes in the country and also to assess the information from the population working closely and ensure care and protection to the children and also from the number of children who legally benefited through the services at same time about the condition of homes and the condition of children living in, whether these identified CCLs/ Homes care institutions were following some basis standards to provide protection and care to the children.

Area of Study

The National study was an all India mapping exercise to review all homes (registered / unregistered) in all the 678 districts in 29 States and 7 Union Territories. There were reasons for not reviewing homes or districts, namely

- a. In Uttar Pradesh, out of the 260 Homes only 170 homes were visited during the mapping; remaining 90 homes where Social Audit was conducted recently were kept out of the review mapping, because of the decision of the State Government.
- b. 98 districts had no homes for children was confirmed by the district administration

Tools and method of data collection

The main quantitative tool used in the study was a structured schedule (Mapping and review process format) which included the following;

- Structured Interview Schedule (Questionnaire for Home Management)
- Focused Group Discussions for children
- Observation checklist for facilities and standards
- Verification checklist for financial and infrastructural information was for collecting corroborative documents during the visit.

Structured interview with the Home management was used to extract data concerning existing mechanisms and procedures in the home. The information was collected vis-a-vis the Home, such as the legal status, staffing, facilities, support systems, funding and financial management, adherence to norms and standards among others. These interviews aimed at obtaining an all-round perspective with regards to child protection and all related issues regarding the Home, district mechanism and the children. The list of CCLs/ Homes existing in a district was collected through Central government, State government and district base administration.

Data Collection: Process followed and norms adhered

The process of data collection for the national mapping exercise was a complex one, with individuals involved at multiple levels, and so required various preparations to minimise the limitations.

Desk Review & Finalisation of key documents was completed by December, 2016.

- a. Terms of Reference (TOR) for SCAs for Mapping & Review
- b. Work plan format for SCAs
- c. Format for Mapping & Review of Child Care Institutions under the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act) & Other Homes
- d. Facilitators Guideline for filling of format
- e. Financial Guideline and formats
- f. Training Content for Review team
- g. Format for District Report
- h. Master Sheet for Home / CCI Data and Districts Data
- i. Data entry format (Coded MIS) was prepared to be used by SCA for each CCI.

Orientation Program on Tools and Facilitators' guideline for all the 64 State Coordinating Agencies (SCAs) across the country was completed by January 2016 through seven orientation trainings. The SCAs were oriented on their roles and responsibilities, procedure to be followed in the mapping and the review process, format prepared for data collection, financials and the budget allocation, and the terms and condition to be maintained during and after the exercise is completed.

Team selection: Selection of Review Team by SCAs initiated from December and was over by March 2016.

Review Team Training: The SCAs undertook training of their field researchers team and oriented them on the tools and methods of data collection

The participation of State Governments was a critical component of the research methodology. The State government were requested by the MWCD to ensure the following:

- a. Mandatory participation of a DC/DM representative in every Review Team as well as visit to the CCIs/Homes
- b. Provide authentic data at the district level in terms of availability of homes/CCI and in case of districts devoid of such facilities, a letter stating the same.
- c. Provide list of registered / unregistered homes / CCIs in the district.
- d. Provide inputs to the visiting review teams as to the district and state reports.

Primary Data Collection was undertaken at the CCIs / Homes and the team ensured that they met the following stakeholders and performed the following tasks to the extent possible:

- a. Home Management team
- b. Staff working as full time and part time
- c. Group of children
- d. Verification of collected information through FGD, maintained documents/papers and records of observation methods
- e. Verification of collected information together with district nominee and home in-charge
- f. Meetings were even held with the allied system to identify homes/CCIs where children are sheltered

District official as representative of DC / DM as a part of the review team was a mandatory condition. Every mapping questionnaire was closed with the approval and signature of the district representative.

The Mapping and review process was conducted with a team of minimum three members including a DM/DC representative after the letter of permission was received. One team member, preferably a women member interacted separately with the children to obtain their views;

The team was expected to do the following:

- a. Fill authentic information in the prescribed format and get duly verified documents signed/ attested by the Home In-charge;
- b. Post the mapping and review process- the team prepared the review process report;
- c. The team visit was made to the institution between 10:00 am to 4:00 pm;
- d. In case the team received any information about any offence committed against any child, they were supposed to report the same to the concerned authority for immediate intervention;
- e. The team submitted the district report to the SCA concerned along with relevant documents within 15 days at the maximum, from the initiation of the Mapping and review process in a district.

Respondents Profile

During the study the following stakeholders were engaged with for the purposes of data collection across all the states and UTs

No. of Respondent in CCIs

State	No. of CCIs	Senior Management	Full Time Staff	Part Time Staff	Children
A&N	17	16	48	14	214
AndhraPradesh	762	967	4667	991	30298
Arunachal	8	16	44	5	61
Assam	131	301	726	164	2067
Bihar	84	101	496	67	1716
Chandigarh	16	16	81	15	78
Chhattisgarh	122	287	665	173	3449

State	No. of CCIs	Senior Management	Full Time Staff	Part Time Staff	Children
Delhi	125	184	725	137	2091
Goa	70	123	415	85	2660
Gujarat	169	203	712	385	3968
Haryana	79	210	775	170	2751
Himachal Pradesh	46	45	185	48	812
J&K	362	987	2145	331	19827
Jharkhand	127	432	849	290	3632
Karnataka	911	3667	5045	1180	30066
Kerala	1,242	2444	3804	736	23630
Madhya Pradesh	146	176	773	218	2747
Maharashtra	1,284	1271	7384	893	62002
Manipur	62	56	210	1	385
Maghalaya	84	82	560	115	1863
Mizoram	46	43	281	30	694
Nagaland	67	55	176	6	869
Odisha	427	600	1771	478	10381
Pondicherry	91	120	568	211	2670
Punjab	73	273	411	89	1442
Rajasthan	277	354	2116	973	7966
Sikkim	23	47	73	7	383
Tamil Nadu	1,647	2949	10820	2362	89206
Telangana	494	656	2168	458	11718
Tripura	44	368	299	120	818
Uttar Pradesh	170	421	783	255	3148
Uttarakhand	56	54	175	53	622
West Bengal	327	433	677	255	2001
India	9,589	17957	50627	11315	326235

Data Entry, Compilation and Analysis

The collected quantitative data was entered by the respective SCAs as per the predesigned data entry format. The data entry format was prepared with the assistance from Praxis Institute of Participatory Practices, New Delhi. The data was further removed and imported to SPSS and through frequency and cross tabulation, tabulated data has been extracted. This was followed by findings and key analysis of data.

The Report

A committee was constituted by the Ministry for analysing data of mapping and review exercise of child care institutions under Juvenile Justice (Care and Protection of Children) Act, 2015 and other homes. The committee had the following members;

1.	Ms. Ratna Anjan Jena, Statistical Adviser, Ministry of Women and Child Development, Government of India	Chairperson
2.	Ms. Sanghamitra Barik, Deputy Director, National Institute of Public Cooperation and Child Development	Member Secretary
3.	Dr. Anjaiah Pandiri, Executive Director, Childline India Foundation	Member
4.	Professor Dolly Arora, Indian Institute of Public Administration (IIPA)	Member
5.	Two members with research background on child rights	Members

The Committee has also taken the help of *Independent Thought* a non-governmental organization, for the development of the report under its supervision.

Letter from the U.P Govt.

ई-मेल/स्पीड पोस्ट

प्रेषक,
निदेशक,
महिला कल्याण,
उत्तर प्रदेश।
सेवा में,
समस्त जिलाधिकारी,
उत्तर प्रदेश।

संख्या 21.2908/निदे0म0क0/प्रोबे0/2015-16,

दिनांक: लखनऊ : 19 फरवरी 2016

विषय:-किशोर न्याय (बालकों की देखरेख और संरक्षण) अधिनियम, 2015 द्वारा संचालित गृहों तथा उज्जवला एवं स्वाधार गृहों की मैपिंग के सम्बन्ध में।

महोदय,

उपर्युक्त विषयक शासन के पत्र संख्या-12 भा0स0/60-1-2016, दिनांक 09-02-2016 द्वारा यह अवगत कराते हुए कि भारत सरकार के पत्र संख्या-225 /2015-सी0डब्ल्यू-2, दिनांक 17-11-2015 द्वारा राजकीय बाल अधिकार संरक्षण आयोग एवं चाइल्ड लाईन इण्डिया फाउण्डेशन, नई दिल्ली द्वारा संयुक्त रूप से किशोर न्याय (बालकों की देखरेख और संरक्षण) अधिनियम, 2015 द्वारा संचालित गृहों तथा उज्जवला एवं स्वाधार गृहों की मैपिंग प्रदेश स्तर पर किए जाने की सूचना दी गयी है जिसके द्वारा मा0 उच्चतम न्यायालय नियोजित रिट याचिका संख्या-473/2005 सम्पूर्णा बेहुरा बनाम भारत सरकार व अन्य में पारित आदेश दिनांक 10-04-2015 हेतु प्रदेश में संचालित गैर पंजीकृत गृहों की मैपिंग कर किशोर न्याय अधिनियम-2015 अथवा अन्य सम्बन्धित अधिनियमों में उक्त गृहों का पंजीकरण कराया जा सके।

उल्लेखनीय है कि मैपिंग की कार्यवाही किए जाने हेतु भारत सरकार द्वारा चाइल्ड लाइन इण्डिया फाउण्डेशन के माध्यम से चाइल्ड लाइन एजेंसियों को चिन्हित किया गया है, जिनकी सूची संलग्न है। इन एजेंसियों के प्रतिनिधि आपके जनपद में संचालित संस्थाओं की मैपिंग का कार्य जिला प्रोबेशन अधिकारी के समन्वय से सुनिश्चित करेंगे।

इस सम्बन्ध में यह भी अवगत कराना है कि महिला एवं बाल विकास विभाग, उत्तर प्रदेश द्वारा प्रथम चरण में किशोर न्याय (बालकों की देखरेख और संरक्षण) अधिनियम-2015 द्वारा स्वैच्छिक संगठनों के माध्यम से संचालित गृहों का सोशल आडिट महिला एवं बाल विकास मंत्रालय भारत सरकार द्वारा जारी सोशल आडिट प्रपत्रों के अनुरूप डा0 राम मनोहर लोहिया राष्ट्रीय विधि विश्वविद्यालय, लखनऊ के माध्यम से कराया गया है। उन गृहों को जिनका सोशल आडिट कराया जा चुका है को मैपिंग की प्रक्रिया में सम्मिलित नहीं किया जाना है। विभाग से पंजीकृत गृहों तथा उज्जवला एवं स्वाधार की सूची तथा जिन संस्थाओं का सोशल आडिट कराया गया है उसकी सूची पत्र के साथ संलग्न है।

अतः मा0 सर्वोच्च न्यायालय में प्रचलित उक्त याचिका संख्या-473/2005 में पारित आदेश दिनांक 10-04-2015 का पूर्णतया अनुपालन किए जाने के दृष्टिगत आपसे अनुरोध

है कि आप जनपद स्तर के सक्षम अधिकारियों को अपने स्तर से चिन्हित चाइल्ड लाइन्स को मैपिंग कार्य में अपेक्षित सहयोग प्रदान किए जाने हेतु निर्देशित करने का कष्ट करें।
संलग्नक:-यथोक्त !

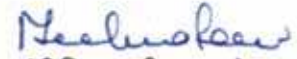
भवदीय,

(नीलिमा श्रीवास्तव)
निदेशक।

पृष्ठांकन संख्या व दिनांक यथोक्त !

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1- प्रमुख सचिव, उत्तर प्रदेश शासन, महिला एवं बाल विकास विभाग को शासन के पत्र संख्या-12 भा0स0/60-1-2016, दिनांक 09 फरवरी 2016 के अनुपालन में।
- 2- उप निदेशक, चाइल्ड लाइन इण्डिया फाउण्डेशन, नई दिल्ली।
- 3- प्रतिनिधि, सोशल एण्ड डेवलेपमेण्ट रिसर्च एण्ड एक्शन ग्रुप/एहसास/जन मित्र न्यास/डेवलेपमेण्टल एसोशिएसन फॉर ह्यूमन एडवान्समेण्ट एवं शक्ति वाहिनी।
- 4- समस्त जिला प्रोवेशन अधिकारी, उत्तर प्रदेश को इस निर्देश के साथ कि मैपिंग की प्रक्रिया के समय वह अनिवार्य रूप से उपस्थित रहेंगे।


(नीलिमा श्रीवास्तव)
निदेशक।

Social Audited.

किशोर न्याय अधिनियम, 2000 की धारा-34(3) के अन्तर्गत स्वैच्छिक संगठनों द्वारा संचालित पंजीकृत गृहों की सूची जिनका सोशल आडिट किया गया ।						
क्रम सं०	स्वैच्छिक संस्था का नाम	संचालित गृह का नाम	पता	जनपद का नाम जहाँ संस्था संचालित है	स्वीकृत क्षमता	पंजीकरण संख्या व दिनांक
1	2	3	4	5	6	7
बाल गृह(बालक)						
1	माघी सेवा निकेतन, 316, निराला नगर, रायबरेली	बाल गृह(बालक)	माघी सेवा निकेतन, औद्योगिक क्षेत्र-ए, अगांवा रोड, रायबरेली	रायबरेली	50	0107, 24.12.2013
2	मा काली सेवा संस्थान, गोला मोर्कणनाथ, लखीमपुर खीरी	बाल गृह(बालक)	मोर्कणनाथ, शंकरजी मन्दिर के पास गोला, लखीमपुर, खीरी	लखीमपुर खीरी	50	0117, 15.05.2015
3	उमा महिला उत्थान समिति, मिश्रिख तीर्थ, सीतापुर	बाल गृह(बालक)	कृष्णा नगर, हरदोई रोड, सीतापुर	सीतापुर	50	0114, 25.03.2015
4	देवराज ग्रामीण ग्रामोद्योग सेवा संस्थान, रदूदूक, वैयना, सागरपाली, बलिया	बाल गृह(बालक)	गौजा-पहिया, पोस्ट-फेफना, बलिया	बलिया	50	0123, 16.07.2015
5	स्व० प० गिरिजा प्रसाद सामाजिक सेवा एवं शिक्षा संस्थान, c/o डॉ० आर०आर० ओझा, निकट छपका ब्लाक, छपका, सबर्दसगंज, सोनभद्र	बाल गृह(बालक)	पाण्डेयपुर, प्रतापगढ़	प्रतापगढ़	50	0120, 25.05.2015
6	स्व० प० गिरिजा प्रसाद सामाजिक सेवा एवं शिक्षा संस्थान, c/o डॉ० आर०आर० ओझा, निकट छपका ब्लाक, छपका, सबर्दसगंज, सोनभद्र	बाल गृह(बालक)	आवारा विकास कॉलोनी, सबर्दसगंज, सोनभद्र	सोनभद्र	50	0119, 25.05.2015
7	एहसारा, 4/482, विकास नगर, लखनऊ	धरौदा, बाल गृह(बालक)	एफ-2 विराट खण्ड, निकट महाराजा अग्रसेन पब्लिक स्कूल, गोमती नगर, लखनऊ	लखनऊ	50	0198, 19.06.12
8	समाज सुधार समिति, नगला चौटा, कारागंज	बाल गृह(बालक)	कबीर नगर धाम, नगला चौटा,	कारागंज	50	0206, 30.08.12
बाल गृह (बालिका)						
9	मा विनयवासिनी महिला प्रशिक्षण एवं समाज सेवा संस्थान, भटनी, देवरिया	बाल गृह(बालिका)	गठना-205, रौनीहारी, स्टेशन रोड, कोतवाली, देवरिया	देवरिया	50	0163, 13.05.09
10	माघी सेवा निकेतन, 316, निराला नगर, रायबरेली	बाल गृह(बालिका)	माघी सेवा निकेतन, औद्योगिक क्षेत्र-II, अगांवा रोड, रायबरेली	रायबरेली	50	0108, 24.12.2013
11	स्व० शिवपूजन पाठक उ०भा० शिशुसमिति, हसनपुर, सैदपुर, गाजीपुर	स्व० शिवपूजन पाठक बाल गृह(बालिका)	स्व० शिवपूजन पाठक, रस्तीपुर, सैदपुर, गाजीपुर	गाजीपुर	50	0106, 24.12.2013
12	उमा महिला उत्थान समिति, मिश्रिख तीर्थ, सीतापुर	बाल गृह(बालिका)	मुप्ता कॉलोनी, तशीनपुर, सीतापुर	सीतापुर	50	0115, 25.03.2015

वज्र

Annexure –II : Methodology and Design of the Study

13	अव्वा ग्रामीण विकास संस्थान, घग्गीर, सुल्तानपुर	प्रियदर्शनी बाल गृह (बालिका)	33/2, मंडी रोड, गोरावारिक, सुल्तानपुर	सुल्तानपुर	50	0112, 04.12.2014
14	पूर्ववासी ग्रामीण उत्थान विकास सेवा समिति, नसेइया (पण्डितपुर), छान्ने, गीरजापुर	बाल गृह(बालिका)	ब्रह्मनगर, राबर्टसगंज, सोनभद्र	सोनभद्र	50	0118, 28.05.2015
15	श्रीमती प्रभावती देवी बालिका विद्यालय समिति, बतुरागीटी, गोण्डा	बाल गृह(बालिका)	बयारा चौराहा, सिद्धार्थ नगर	सिद्धार्थ नगर	50	0180, 25.10.10
16	राजसी डेवलपमेंट एण्ड रिसर्च संस्थान, मुम्माइस कैम्प, सहारनपुर	बाल गृह(बालिका)	पुष्पाजलि विहार, निकट-ककहरेटी, सहारनपुर	सहारनपुर	50	0223, 01.01.13
बाल गृह(शिशु)					50	
17	इण्डियन हेल्थ आर्गनाइजेशन वेलफेयर सोसायटी, शुक्लाहा चौराहा, गीरजापुर	बाल गृह(बालिका) (0-10 वर्ष की आयुवर्ग)	शुक्लाहा चौराहा, गीरजापुर	गीरजापुर	50	0105, 26.09.2013
18	मानसी, 14/5 इन्दिरा नगर, लखनऊ	वरदान शिशु गृह	14/5, इन्दिरा नगर, लखनऊ	लखनऊ	50	0127, 31.12.07
19	विजय लक्ष्मी महिला उत्थान समिति, सेनपुरा, लहुसबीर, वाराणसी	लक्ष्मी बाल गृह(शिशु)(0-06 वर्ष तक की आयु)	सी-22/2, मेनरोड, कबीर चौरा,	वाराणसी	50	0111, 08.07.2014
20	उज्ज्वल बाल कल्याण परिषद, मोतीमहल, लखनऊ	एडापशन सेन्टर	परिसर, लीलावती गुरी निराश्रित बाल गृह, मोतीनगर, लखनऊ	लखनऊ	50	0113, 17.03.2015
21	मिशनरीज आफ चैरिटी, शिशु भवन, 50 बी, टार्नर रोड, कानपुर नगर	एडापशन सेन्टर	शिशु भवन, 50 बी, टार्नर रोड, कानपुर नगर	कानपुर नगर	50	0175, 30.04.10
22	शान्ती देवी मेमोरियल ग्राम विकास शिक्षा संस्थान, हसनपुर, रावतपुर, कानपुर देहात	बाल गृह(शिशु)	रंगिया, नेशनल हाइवे, केसरवल रोड, रमाबाईनगर	कानपुर देहात	50	0185, 17.03.11
23	द्वारिका समाज कल्याण समिति, गाम व पो 0 बधरावां, महाराजगंज, रायबरेली	बाल गृह (बालक/बालिका) (0 से 10 वर्ष आयु वर्ग)	महाराजगंज, रायबरेली	रायबरेली	50	0189, 26.07.11
24	माँ काली सेवा संस्थान, निकट श्रीराम मंदिर गोला मोकणनाथ, लखीमपुर खीरी	बाल गृह (शिशु)	गाँव बहादुर नगर, लखीमपुर	लखीमपुर खीरी	50	0202, 09.08.12
25	40 जवाहरलाल नेहरू स्मारक महिला एवं बाल कल्याण समिति, 84/2, कनवारी बाजार, फैजाबाद	शिशु गृह,	कनवारी बाजार, फैजाबाद	फैजाबाद	50	0207, 30.08.12
26	गौतम बुद्ध सेवा समिति, गाँव बरहुली, पो 0 जसो की मंडई(मुगलसराय), बन्दीली	बाल गृह(शिशु),	शकर मोड रोड, वार्ड -10-10, नगर पंचायत, बन्दीली	बन्दीली	50	0209, 21.09.12
27	ग्रामीण विकास समिति, ग्राम व पोस्ट, वारु, मनकापुर, गोण्डा	बाल गृह(शिशु),	सिविल लाइन, कचेहरी रोड, गोण्डा	गोण्डा	50	0210, 05.10.12

व्यापक

Annexure -III

WRIT PETITION (CRIMINAL) NO. 102 OF 2007



नए समाज की ओर
Towards a new dawn

**IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION**

WRIT PETITION (CRIMINAL) NO. 102 OF 2007

Re: Exploitation of Children in Orphanages

in the State of Tamil Nadu

....Petitioner versus

Union of India & Ors.

....Respondents

J U D G M E N T

Madan B. Lokur, J.

1. This writ petition was taken up on the basis of an article published in the Hindi newspaper "Hindustan" (Lucknow Edition) on 4th July, 2007. The article was written by Ms. Anjali Sinha and the translated caption of the article is "Orphanage or Places for Child Abuse". The article was forwarded to this Court by one A.S. Choudhury along with a letter and that is the genesis of this petition which was registered as a Public Interest Litigation (PIL) on 10th September, 2007. Ms. Aparna Bhat was appointed as *Amicus Curiae* to assist this Court.

At the outset we must and do acknowledge the unstinting and excellent

efforts put in by Ms. Aparna Bhat over the last 10 years in rendering assistance in this matter.

2. Broadly, the article written by Ms. Anjali Sinha mentions that orphanages in Mahabalipuram in Tamil Nadu, run by NGOs as well as government institutions were reportedly involved in systematic sexual abuse of children. A sting operation indicated that sexual services of children were being provided to foreigners as well as Indian tourists and that the rates of children whose sexual services were being taken were fixed over telephone or in a meeting at the orphanage.

3. It is further stated that in a program organized by the State Commission for Women in Tamil Nadu, representatives of the National Commission for Women participated and it was acknowledged that government schools have become unsafe for girl students due to sexual abuse. The incident of an eight year old girl who was harassed by her Principal was mentioned and it was noted that the Principal was only transferred out by way of punishment. Another incident was mentioned where the school teacher misbehaved with students in the presence of other students in a closed room.

4. The then Ministry of Family and Child Welfare along with UNICEF brought out a report on the condition of children in which it was reported that 53% of children suffered from sexual abuse. Children were reported to be the subject of institutional abuse as well as by relatives.

5. On these broad facts Ms. Anjali Sinha suggested that the problem of sexual abuse of children especially in government institutions has become a serious problem and requires immediate redressal. She made some suggestions including a Counseling Cell in each school where children are taught how to recognize abuse and providing a complaint mechanism accessible to children in case of any such incident.

Proceedings in this Court

6. Over the years, this Court passed several orders and also mentioned that certain other issues such as trafficking of children, schools being occupied by Central Para Military Forces and the right to education guaranteed to children require consideration. In other words, this Court sought to expand the scope of this PIL to include the rights of children in general.

7. In an order passed on 7th February, 2013 the learned Additional Solicitor General and the learned *Amicus* submitted that the main reason for this Court issuing various orders is to ensure

that the provisions for the rights of children as well as provisions for proper facilities to children in education as also health are implemented. It was submitted that obviously the rights of children can be adequately secured only if the monitoring and controlling provisions contained in statutes relating to children such as The Commissions for Protection of Child Rights Act, 2005, The Right of Children to Free and Compulsory Education Act, 2009, The Protection of Children from Sexual Offences Act, 2012 and The Juvenile Justice (Care and Protection of Children) Act, 2000 are fully implemented.

8. A detailed order was passed by this Court on 16th December, 2013 lamenting that despite the directions issued, little or no progress was made by the States in protecting the rights of children. As far as the Commissions for the Protection of Child Rights are concerned, they exist only on paper since in some cases the Chairperson had not been appointed or the Members had not been appointed or no rules and regulations had been framed. This Court observed that the lackadaisical manner in which the States and the Union Territories had responded to the rights of children made it necessary to draw attention to the constitutional rights guaranteed to children. It was observed that the inaction of the States was in the teeth of the directions given by this Court and additionally the States and Union Territories ought to realize that they have to operate in accordance with the provisions of the Constitution of India.

9. Accordingly, specific information was sought from each State and Union Territory regarding efforts made by the respective governments. Affidavits were filed by the States and Union Territories from time to time as an attempt to respond to the questions raised by this Court regarding action taken by the concerned governments in protecting the rights of children as well as implementation of the statutes mentioned above. The responses were disheartening then and the situation has not changed substantially even after almost a decade since this Court took cognizance of the matter. Progress, if any, has been marginal. Unfortunately, it appears that the governments of some of the States and Union Territories have little remedial or pro-active concern for children.

10. On 20th March, 2015 this Court raised the need for a social audit in terms of Rule 64 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 and the utilization of funds given to the States and Union Territories under the Integrated Child Protection Scheme.

11. On 17th April, 2015 this Court raised the issue of a concurrent monitoring audit under the Integrated Child Protection Scheme as well as the establishment of Juvenile Justice Boards, Child Welfare Committees, Special Juvenile Police Units, functioning of Child Care Institutions and functioning of adoption agencies.

12. On 31st July, 2015 at the instance of the learned *Amicus*, the issue of formulating Child Care Plans was discussed in addition to laying down a policy for conducting social audits. On 28th August, 2015, the issue of vacancies in the National Commission for the Protection of Child Rights was raised by this Court. On 30th October, 2015 the format for social audits was discussed, in the context of finalizing something workable and pragmatic.

13. Since it appeared that there was a lack of seriousness and more tragically a lack of empathy towards the well being and welfare of children amongst some of the States and Union Territories and complete apathy with respect to the disturbingly increasing instances of child sexual abuse, often by someone in a position of authority and ineffective implementation of the laws passed by Parliament virtually making parliamentary legislation irrelevant, we heard detailed submissions of all the parties with the intention of passing appropriate directions so as to ensure the meaningful implementation of the statutes already enacted by Parliament. It must be appreciated that the Juvenile Justice (Care and Protection of Children) Act, 2015 is a medium for the State to honour the Directive Principles of State Policy particularly under Article 39(f) of the Constitution by giving opportunities to children to develop in a healthy manner and in conditions of freedom and dignity. Indeed, though the Directive Principles of State Policy are fundamental to the governance of the country, they are not enforceable. However, as held in ***Bandhua Mukti Morcha v. Union of India***, once a directive principle is enforced through law the State must be obligated to enforce the statute to uphold its constitutional obligation.¹

14. In this context, it is pertinent to note that India acceded to the Convention on the Rights of the Child (CRC) on the 11th December, 1992. Article 19 of the CRC obligates the State Parties to “take all appropriate legislative, administrative, social and educational measures to protect the

¹(1984) 3 SCC 161

child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse....”

15. Keeping all this in mind, the learned *Amicus* focused on three principal issues namely (1) Children in need of care and protection; (2) Trafficked children (3) Street children. We do not propose to consider the plight of trafficked or street children, since that would mean losing focus on the issues raised by Ms. Anjali Sinha. We leave open the issues of trafficked children and street children for consideration in an appropriate case.

16. On the rights of children in need of care and protection it was submitted that issues relating to child care institutions whether managed by the State Government or by NGOs or other voluntary organizations need to follow certain minimum standards of care and in addition, rehabilitation of such children must be a priority.

Children in need of care and protection

17. Who is a child in need of care and protection? The provisions of the Protection of Children from Sexual Offences Act, 2012 (for short the ‘POCSO Act’) do not provide any definition of a child in need of care and protection. But no one can deny that a child victim of sexual abuse or sexual assault or sexual harassment is a child in need of care and protection. Similarly in a given case, a child accused of an offence and brought before the Juvenile Justice Board or any other authority might also be a child in need of care and protection.

18. Even though a child in need of care and protection is defined in Section 2(14) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the JJ Act) the definition does not specifically include some categories of children. Consequently, we are of the view that since the JJ Act is intended for the benefit of children and is intended to protect and foster their rights, the definition of a child in need of care and protection must be given a broad interpretation. It would be unfortunate if certain categories of children are left out of the definition, even though they need as much care and protection as categories of children specifically enlisted in the definition. Beneficial legislations of the kind that we are dealing with demand an expansive view to be taken by the Courts and all concerned.

19. In **Workmen v. Management of American Express International Banking Corporation**² this Court held in paragraph 4 of the Report that:

“The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and human rights’ legislation are not to be put in Procrustean beds or shrunk to Liliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognised and reduced.”

20. A similar view was expressed in **Regional Director, ESI Corporation. v. Francis De Costa**³ when it was observed that “It is settled law that to prevent injustice or to promote justice and to effectuate the object and purpose of the welfare legislation, broad interpretation should be given, even if it requires a departure from literal construction.”

21. The necessity of giving a purposeful interpretation to a provision in a statute was recognized in **MSR Leathers v. S. Palaniappan**⁴ when this Court observed that:

“.....one of the salutary principles of interpretation of statutes is to adopt an interpretation which promotes and advances the object sought to be achieved by the legislation, in preference to an interpretation which defeats such object. This Court has in a long line of decisions recognised purposive interpretation as a sound principle for the courts to adopt while interpreting statutory provisions.”

A similar view was expressed, though in a different context, in **Badshah v. Urmila Badshah Godse**.⁵ A far more detailed discussion on the subject is to be found in the Constitution Bench decision of this Court in **Abhiram Singh v. C.D. Commachen**.⁶

²(1985) 4 SCC 71

³1993 Supp (4) SCC 100

⁴(2013) 1 SCC 177

⁵(2014) 1 SCC 188

⁶(2017) 2 SCC 629

22. Read in this light, the definition of a child in need of care and protection given in Section 2(14) of the JJ Act should be given a broad and purposeful interpretation – it ought not to be treated as exhaustive but illustrative and furthering the requirements of social justice. This understanding would also be in consonance with Article 40 of the CRC which stipulates that the “State Parties shall recognize rights of every child accused of an offence and treatment of such a child shall be in a manner consistent with promotion of the child’s dignity and worth”.

23. Learned *Amicus* drew our attention to decisions rendered by some High Courts which have taken a broad based approach to the meaning of a child in need of care and protection and some other High Courts that have adopted a comparatively narrow interpretation. These decisions were rendered in the context of the Juvenile Justice (Care and Protection) Act, 2000 and would not really be applicable insofar as the JJ Act is concerned. However, this does not detract from her submission that a child in need of care and protection must be given a wider meaning and in addition to some children in conflict with law as discussed above, it must also include victims of sexual abuse or sexual assault or sexual harassment under the POCSO Act as also victims of child trafficking. Such children must also be given protection under the provisions of the JJ Act being victims of crime under the POCSO Act and the Immoral Traffic (Prevention) Act, 1956.

Child care institutions

24. Children in need of care and protection are given shelter in homes that are managed by the State Government or by NGOs or by voluntary organizations. In this context, it is necessary to draw attention to Section 41 of the JJ Act which mandates, notwithstanding anything contained in any other law for the time being in force, that all institutions, whether run by a State Government or by voluntary organizations or NGOs which are meant, either wholly or partially, for housing children in need of care and protection shall be registered under the JJ Act in such manner as may be prescribed within six months of the commencement of the said Act. The JJ Act came into force on 15th January, 2016 but we were informed that the process of registration is underway and not yet complete.

25. In this day and age when high quality technology is available and there is no shortage of manpower in the country we are unable to appreciate why the provisions of Section 41 of JJ Act have not yet been fully implemented particularly as regards registration of child care institutions.

It is virtually impossible to find out what is going on within its four walls. The article by Ms. Anjali Sinha is a prime example of what can happen in child care institutions. It is not clear from the article whether all the institutions referred to were registered or not, but surely the government run institutions must have been registered or licensed. Therefore, if activities of the nature mentioned by Ms. Anjali Sinha in her article are carried out in government run institutions, one can only imagine what possibly can go wrong in unregistered institutions, which are managed beyond the law.

26. Apart from their registration, the statute requires quite a few salutary actions to be taken by such institutions including recording the residential capacity and purpose of the child care institution. Rule 21 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 (hereinafter referred to as the Model Rules) specifies the manner of registration of child care institutions and provides, *inter alia*, the availability of the bye-laws and memorandum of association, office bearers etc. of such institutions. The State Government is obligated to consider an application for registration of a child care institution (in Form 27) in light of aspects like whether provision exists for the care and protection of children, their health, education, boarding and lodging facilities, vocational studies and rehabilitation (among others things). It is only then that a certificate of registration can be issued. The State Government is also obligated to conduct an inspection of an applicant institution and it appears to us that if such an inspection is faithfully and sincerely carried out, it will reveal the dark underbelly, if any, of a dubious child care institution such as those referred to by Ms. Anjali Sinha. The strict implementation of the provisions of the JJ Act will go a long way in making the life of children in such child care institutions safer and far more comfortable than it has been and also reduce the possibility of crimes such as trafficking, sexual abuse or sexual assault or sexual harassment of children. If the registration of child care institutions is not complete, their management obviously cannot be supervised. Therefore, a misstep in the very first stage could have a chain reaction and perhaps disastrous consequences in some cases as is evident from the incidents of child abuse in institutions as brought out by Ms. Anjali Sinha.

Minimum Standards of care

27. Article 3 of the CRC mandates that all actions concerning children undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies shall

have the best interest of the children as a primary consideration. Article 3(3) of the CRC specifically obligates the State Parties to ensure that institutions responsible for care and protection of children shall conform to standards laid down by competent authorities, particularly in areas of safety, health, staff and supervision. However, the minimum standards of care prescribed for institutions cannot be ensured if the child care institution is not identified and registered.

28. In this regard it is necessary to draw attention to the provisions of Chapter VI of the Model Rules particularly the series of rules starting from Rule 26 onwards. Amongst other things, these Rules deal with the staffing pattern of child care institutions, physical infrastructure, clothing, bedding, toiletries and other articles, sanitation and hygiene, daily routine, nutrition and diet scale, medical health, mental health, education, vocational and recreational facilities and genuine efforts in the rehabilitation and re-integration of such children into society. All these requirements are rendered unenforceable in the absence of registration of child care institutions.

29. The Integrated Child Protection Scheme, which also concerns itself with the minimum standards of care in child care institutions, refers to several of these requirements and also draws attention to the rehabilitation programme of children and their recreation. The minimum standards of care prescribed for child care institutions must be adhered to in letter and spirit and not only on paper.

30. We have been given to understand by the learned *Amicus* that unfortunately, even in registered child care institutions, many of the statutory facilities and requirements are missing. If that be so, we can only imagine the living conditions of children in unregistered institutions.

31. In a given case, failure to maintain a basic or minimum standard of care can be actionable as negligence. In ***Jacob Mathew v. State of Punjab***⁷ this Court cited *Charlesworth & Percy on Negligence*⁸ and held that the essential components of negligence are: (1) the existence of a duty to take care, which is owed by the defendant to the complainant; (2) the failure to attain that standard of care, prescribed by the law, thereby committing a breach of such duty; and (3) damage, which is both causally connected with such breach and recognized by the law, has been suffered by the

⁷(2005) 6 SCC 1

⁸10th Edition (2001)

complainant. Effectively therefore, if the officers of the State do not ensure that minimum standards of care are followed in the child care institutions, they could well be guilty of negligence. Since ours is a welfare State it would be difficult for uncaring officers to absolve themselves of a charge of negligence and also perhaps of a violation of the human rights of children.

Utilization of grants

32. During the course of hearing, we found that many of the Model Rules though workable and beneficial, exist only on paper and there has been no serious attempt to implement the provisions or the requirements under the Integrated Child Protection Scheme. One of the concerns that kept coming up as an excuse for non-implementation of the Rules was a so-called shortage of funds. We are surprised that such an excuse was advanced even though a large amount allocated towards child welfare is lying unspent.

33. Really therefore, the problem is not a lack of funds but the absence of a will to gainfully utilize the available grants. In this context, learned *Amicus* brought to our notice by way of an example, the statement of expenditure under the Integrated Child Protection Scheme for the year 2013-14. This indicates that the unspent grant is over Rs.3000 lakhs. (This figure does not include unspent amounts by the State of Andhra Pradesh and the State of Uttarakhand). Therefore, it cannot be said that there is a shortage of funds. The chart brought on record is as follows:-

Year-wise details of unspent grants

Sl. No.	Name of the State	Unspent (Amount in Lakhs) 2013-14
1	Andhra Pradesh	2999.28*
2	Arunachal Pradesh	147.05
3	Assam	148.47
4	Bihar	442.14
5	Chhattisgarh	0.00
6	Goa	-
7	Gujarat	545.23

Sl. No.	Name of the State	Unspent (Amount in Lakhs) 2013-14
8	Haryana	238.92
9	Himachal Pradesh	138.10
10	Jammu & Kashmir	-
11	Jharkhand	147.21
12	Karnataka	57.94
13	Kerala	291.52
14	Madhya Pradesh	1084.67
15	Maharashtra	0.00
16	Manipur	473.13
17	Meghalaya	0.00
18	Mizoram	0.00
19	Nagaland	0.00
20	Orissa	2.63
21	Punjab	749.37
22	Rajasthan	253.33
23	Sikkim	50.36
24	Tamil Nadu	589.22
25	Tripura	0.00
26	Uttar Pradesh	99.92
27	Uttarakhand	333.92*
28	West Bengal	268.95
29	Andaman & Nicobar Island	-
30	Chandigarh	25.17

Sl. No.	Name of the State	Unspent (Amount in Lakhs) 2013-14
31	Dadra & Nagar Haveli	9.63
32	Daman & Diu	58.63
33	Delhi	676.68
34	Lakshadweep	-
35	Puducherry	-
	Total	6498.27

*States have not submitted their Statement of Expenditure (SOE)

We are told that the same situation continued for subsequent years as well.

34. No doubt, it is the constitutional obligation of the State to ensure that for safeguarding and fostering the rights of children, adequate funds are available particularly for children who are in need of care and protection. The State cannot conflate non-availability of funds to shirk their obligations with inefficient utilization of grants. We are pained that such an excuse is being trotted out.

National and State Commissions

35. Parliament has, of course, appreciated the need for protecting the rights of children in many of the ways that we have mentioned above and that is why the Commissions for Protection of Child Rights Act, 2005 was enacted. In fact the Preamble to the said Act is extremely significant and brings into focus not only the necessity of protecting the rights of children generally but also as a part of our obligations to the international community. The Preamble to the Commissions for Protection of Child Rights Act, 2005 (hereinafter referred to as 'the CPR Act') reads as follows:

"An Act to provide for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto.

WHEREAS India participated in the United Nations (UN) General Assembly Summit in 1990, which adopted a Declaration on Survival, Protection and Development of Children;

AND WHEREAS India has also acceded to the Convention on the Rights of the Child (CRC) on the 11th December, 1992;

AND WHEREAS CRC is an international treaty that makes it incumbent upon the signatory States to take all necessary steps to protect children's rights enumerated in the Convention;

AND WHEREAS in order to ensure protection of rights of children one of the recent initiatives that the Government have taken for Children is the adoption of National Charter for Children, 2003;

AND WHEREAS the UN General Assembly Special Session on Children held in May 2002 adopted an Outcome Document titled "A World Fit for Children" containing the goals, objectives, strategies and activities to be undertaken by the member countries for the current decade;

AND WHEREAS it is expedient to enact a law relating to children to give effect to the policies adopted by the Government in this regard, standards prescribed in the CRC, and all other relevant international instruments;"

36. To fulfill the obligations to children, the CPCR Act provides for the constitution of a National Commission for Protection of Child Rights (for short 'the NCPCR') and for the constitution of State Commissions for Protection of Child Rights (for short 'the SCPCR'). These Commissions are intended to function under the provisions of the CPCR Act and their vast range of functions has been delineated in Section 13 as well as in Section 24 of the CPCR Act.

37. It was pointed out by the learned *Amicus* that the NCPCR and the SCPCR can play a very crucial role in fostering child rights. This deserves to be recognized, but is unfortunately overlooked both by the Union Government as well as by the State Governments. She pointed out that there are a large number of vacancies in many of these bodies and in fact the NCPCR was, at one time, without any Chairperson for more than a year. Some of the State Governments have also not bothered to fill up the vacancies in the SCPCR and some others have used the SCPCR as a sinecure for some

favourites. This again, as pointed out, is nothing but providing lip service to the provisions of a parliamentary legislation and not giving serious attention to the constitutional rights of children. This is certainly not acceptable.

38. Similarly, in the implementation of the POCSO Act, the NCPCR and the SCPCR have a vital role to play. As mentioned above, issues of sexual abuse or sexual assault or sexual harassment complained of by Ms. Anjali Sinha need attention and Section 44 of the POCSO Act places a great burden on the shoulders of the NCPCR and the SCPCRs. These authorities have an obligation to monitor the implementation of the POCSO Act as is evident from Section 44 thereof which reads as follows:

“44. Monitoring of implementation of Act - (1) *The National Commission for Protection of Child Rights constituted under Section 3, or as the case may be, the State Commission for Protection of Child Rights constituted under Section 17, of the Commissions for Protection of Child Rights Act, 2005 (4 of*

(2) 2006), shall, in addition to the functions assigned to them under that Act, also monitor the implementation of the provisions of this Act in such manner as may be prescribed. The National Commission or, as the case may be, the State Commission, referred to in sub-section (1), shall, while inquiring into any matter relating to any offence under this Act, have the same powers as are vested in it under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006).

(3) The National Commission or, as the case may be, the State Commission, referred to in sub-section (1), shall, also include, its activities under this section, in the annual report referred to in Section 16 of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006).”

39. In our opinion, it is imperative that the NCPCR and the SCPCR be allowed to function in terms of the CPCr Act and the POCSO Act and only for the benefit of children. These Commissions are under an obligation to take action wherever necessary including approaching the Constitutional Courts wherever necessary. These Commissions are under an obligation to prepare annual reports and if necessary special reports but it has been pointed out that this requirement has hardly been implemented mainly because of a lack of interest that these Commissions have shown in functioning

under the statute and also partly because of the large number of vacancies in these Commissions.

40. This is not to suggest that the NCPCR or the SCPCRs are not doing a good job. On the contrary, the NCPCR has of late begun taking its statutory obligations quite seriously and there are a few SCPCRs that are also faithfully performing their functions under the relevant statutes. On the other hand, there are some SCPCRs that are not performing well at all or are defunct and headless. It is difficult to appreciate how, under these circumstances, the JJ Act or the POCSO Act can at all be implemented, let alone implemented effectively.

41. Needless to say, it is obligatory on the part of the Union Government as well as of the State Governments to ensure that the provisions of laws enacted by Parliament are faithfully and sincerely implemented and the statutory Commissions constituted under the provisions of the CPCr Act must be allowed to function as independent statutory bodies under the provisions of the said Act, the POCSO Act as well as the JJ Act.

42. The rule of law includes adherence to parliamentary legislation by all concerned including State Governments and the Union Government and it would be extremely unfortunate if the concerned governments voluntarily and knowingly flout the provisions of law solemnly enacted by Parliament. We need say nothing more on this subject, except that laws solemnly enacted by Parliament cannot be insulted by putting hurdles in the effective functioning of these Commissions, such as by not appointing the Chairperson or Members.

Rehabilitation and social re-integration

43. With regard to the future of children in need of care and protection, the JJ Act contains obligatory provisions such as Section 53 which deals with rehabilitation and social re-integration services in child care institutions. This provision requires the State to take care of the basic requirements of children in such institutions including children with special needs, legal aid where required and more importantly assistance in obtaining proof of identity. There have been instances brought to our notice where children; particularly in the case of abandoned children, are unable to give any information about their parentage or permanent address etc. In such cases, proof of identify is crucial for the welfare of the child, otherwise he or she is reduced to a mere statistic.

44. The provision for rehabilitation and re-integration services has several facets and cannot be read in isolation but must be read, *inter alia*, in conjunction with Section 54 of the JJ Act which requires the inspection of child care institutions registered under the said Act. Inspection Committees are required to be set up which shall mandatorily visit all facilities housing children in the area allocated, at least once in three months in a team of not less than three members, of whom at least one shall be a woman and one shall be a medical officer. Their Inspection Reports are required to be furnished to the District Child Protection Unit or the State Government, as the case may be, for further action. Form 46 of the Model Rules prepared under Rule 41 thereof is quite exhaustive and if the Form is filled up with due seriousness it will go a long way in improving the living conditions of children in child care institutions.

45. The importance of rehabilitation and social re-integration clearly stands out if we appreciate the objective of the JJ Act which is to foster restorative justice. There cannot be any meaningful rehabilitation, particularly of a child in conflict with law who is also a child in need of care and protection unless the basic elements and principles of restorative justice are recognized and practised.

46. Unfortunately, one of the problems faced in introducing restorative justice is that a child in a child care institution is treated as a number and no effort is made to introduce any individual child care plan postulated by Rule 19 of the Model Rules read with Form 7. Learned *Amicus* informed us that the Form is very rarely filled up (if at all) and little or no attention is paid to the needs of each child including a child in conflict with law. She submitted that specific directions should be given for the preparation of individual child care plans in every child care institution since that is really the heart of rehabilitation and social re-integration of a child in need of care and protection. Of course, some expertise is involved in this exercise but as we had mentioned earlier, there is no shortage of manpower in our country and it is only the will of the State Governments, Union Territories and the Union Government which is coming in the way of the effective implementation of the provisions of the JJ Act, Model Rules and filling up various Forms and their analysis.

Training of personnel

47. One of the more important issues raised by the learned *Amicus* in the context of rehabilitation and social re-integration is to be found in Rule 89 of the Model Rules which concerns itself with training of personnel dealing with children. This rule provides for a minimum period of 15 days training to various categories of personnel under the JJ Act including the staff of Children's Courts, Principal Magistrates and Members of Juvenile Justice Boards, Chairpersons and Members of Child Welfare Committees, Police Officers including persons in charge of child care institutions etc. Rule 89 of the Model Rules also postulates that the Judicial Academy and the Police Academy in the States as well as the State Legal Services Authorities prepare appropriate training modules, training manuals and provide training to personnel. It was pointed out by the learned *Amicus* that this rule is being followed more in the breach and there is hardly any Judicial Academy or Police Academy or State Legal Services Authority which conducts 15 days training programmes. This is quite unfortunate to say the least.

48. The importance of quality training can best be understood by giving a negative example, which is that unless proper training is imparted to the concerned personnel, it is quite possible that strange practices and procedures may evolve due to the absence of proper guidance. It has been brought to our notice in cases of adoption of children some extremely unusual and impracticable orders have been passed by the concerned Courts. It is high time that the High Courts exercise their supervisory jurisdiction and intervene and take appropriate remedial steps. It is also high time that training of personnel be given due importance. We may note here that it was brought to our attention by the learned *Amicus* that untrained or inadequately trained personnel can unwittingly play havoc with the lives of victims of sexual abuse or sexual assault or sexual harassment.

De-institutionalization

49. In the context of rehabilitation and social re-integration, it was submitted before us that institutionalization of children is not necessarily the only available option. This submission of the learned *Amicus* also finds support in Article 20 of the CRC. The Article obligates the State Parties to provide special protection and assistance to children temporarily or permanently deprived of family

environment. The Article illustrates alternate care in the form of foster placement, adoption “or if necessary placement in suitable institution”. It is clear that the first option exercised by the authorities should not be institutionalization of a child in need of care and protection and the same is a measure of the last resort. Article 40(4) of the CRC pertaining to children accused of violating the law also states that the State Parties shall ensure “care, guidance, supervision, counseling, probation, foster care, education and vocational training and other alternatives to institutional care”. Indeed, in keeping with the spirit of the CRC, the JJ Act itself encourages alternatives to institutionalization such as adoption (Chapter VIII), foster care (Section 44) and Sponsorship (Section 45). This too needs some serious thought, as submitted by the learned *Amicus*.

50. The learned Additional Solicitor General brought to our notice that the Union Government has since framed the Adoption Regulations, 2017 as well as the Model Guidelines for Foster Care, 2016. These need to be implemented by all concerned including the Courts, particularly those dealing with issues of adoption. However, as mentioned above, training in the understanding and appreciation of the JJ Act, the Model Rules, Regulations and Guidelines is imperative and merely handing over copies of these documents to the concerned personnel even if they are judicial officers or police officers or government functionaries is not enough. Some sort of training is absolutely necessary so that the aims and objects of the various statutory provisions enacted for the benefit of children and to foster their rights are implemented in letter and spirit.

51. We must emphasize, at this stage that it is absolutely necessary for all stakeholders having interest in the welfare of children to work together towards a common goal. This teamwork would include not only the government machinery but also the police, civil society and the judiciary.

Juvenile Justice Committee

52. That the judiciary is not far behind in fulfilling its constitutional responsibilities is obvious from the fact that the rather slack implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 even after four years of its enactment, compelled the Chief Justice of India to request all the High Courts to set up a Juvenile Justice Committee to ensure effective implementation of the said Act and monitor the activities under the said Act. The High Courts have a constitutional obligation to ensure that the rights of all citizens, including children, as guaranteed under the

Constitution are preserved, protected and respected. With this in mind, all the High Courts have since set up a Juvenile Justice Committee consisting of Judges of the High Court and these Committees ensure that the provisions of the Act are implemented in letter and spirit. For better co-ordination on issues relating to children, some High Courts have also provided a Secretariat for the Juvenile Justice Committee.

53. With the passage of time, it has been realized that the importance of the Juvenile Justice Committee in the High Court cannot be overemphasized. It is time for all of us to now realize that judges are no longer required to remain in an ivory tower. Judges of all the Courts including the Constitutional Courts have non-judicial duties and obligations to perform so that the fundamental rights of the people are respected. It is this realization that led the Constitutional Courts to exercise jurisdiction in social justice issues through Public Interest Litigation and it is this that requires judges of the Courts to ensure access to justice under the Legal Services Authorities Act, 1986 to indigent people and those who cannot afford legal services due to financial or other constraints. It is very much in keeping with this constitutional obligation and goals that the concern and involvement of each Juvenile Justice Committee in the effective implementation of the Act is an absolute necessity. It is equally the obligation of the concerned officials of the State, including the police, to render all assistance to each Juvenile Justice Committee to ensure that the goals envisaged by the JJ Act and the constitutional vision are successfully achieved in the shortest possible time.

Social audit

54. For the purposes of ensuring that the implementation of the JJ Act is proceeding in the right direction, it is necessary that a social audit be conducted every year. Social audits give reasons for introspection as well as for improvement in the services.

55. Social audit has gained relevance as a tool of public accountability. It has been defined as “an assessment of a department’s non financial objectives through systematic and regular monitoring on the basis of the views of its stakeholders.”⁹ A social audit is considered novel as it is supposed to serve as a supplement to a conventional Government Audit, often done in 12 month cycles generating

⁹Social Audit: A Toolkit, A Guide for Performance Improvement and Outcome Measurement available at <https://cgg.gov.in/publicationdownloads2a/Social%20Audit%20Toolkit%20Final.pdf>.

an audit report every time.¹⁰ In fact, in the Report of the Task Group on Social Audit by the Office of the Comptroller and Auditor General, it was opined that social audit be brought into the mainstream of auditing by the Indian Audit and Accounts Department as an essential process and tool in all the performance audits of social sector programmes as they afford an opportunity to strengthen the micro level scrutiny of the programme planning, implementation and monitoring.¹¹

56. The requirement of a social audit is necessary not only for purposes of introspection but also transparency and accountability in the effective implementation of the JJ Act. There cannot be any reason to avoid conducting social audits, more particularly since they have been encouraged by the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 as well as by the Integrated Child Protection Scheme, by the Comptroller and Auditor General of India and the National Food Security Act, 2013. The impression given to us is that for some inexplicable reason the Union Government is shying away from social audits.

57. In the hearing on 17th April, 2015, the learned Additional Solicitor General informed us that no social audit was carried out despite the rule being notified in 2007. The Union of India was then directed to finalize a policy for conducting social audits. In the hearing on 30th October, 2015 we were informed that the formats for social audit have been more or less finalized. In its affidavit filed sometime in November 2015, the Union of India has annexed copies of Model Social Audit Formats for Child Welfare Committees, Juvenile Justice Boards, Special Juvenile Police Units, Children Homes, Specialized Adoption Agencies, Open Shelter/Shelter Homes, Observation Homes and Special Homes. It is stated in the affidavit that these formats will be circulated for pilot testing by selected States as mentioned in an earlier affidavit dated 29th October, 2015.

58. We have not been informed whether any steps have been taken to conduct social audits in terms of the Model Formats prepared by the Union of India or the result of the pilot testing, if any. It is therefore necessary to ensure that these formats are tested out with urgency so that the implementation of the JJ Act is made more meaningful.

¹⁰Ibid

¹¹Report of the Task Group on Social Audit, Office of the Comptroller and Auditor General of India, (2010) at pg 5

Technology and computers

59. We have been given to understand that there is no data base of all the child care institutions in the country. State Governments have not even validated the available data or undertaken the mapping of child care institutions in collaboration with the Union Government. This is an essential first step since it is difficult to imagine how children in child care institutions can be cared for if there is no record of the number of institutions, number of children in such institutions, relevant information regarding the children etc. Therefore technology can be put to good use for collection, revision and access of records of children in need of care and protection and the child care institutions.

60. It is imperative for the Union Government as well as the State Governments to make out a complete list of all child care institutions along with their addresses and the person in charge or the principal officer as well as full details of the children residing in these child care institutions. Learned *Amicus* submitted that all these details, though necessary, are not available with the Union Government or the NCPDR. Availability of all this information is possible only with the use of technology and a massive computerization program.

61. Similarly, for the effective functioning of the Juvenile Justice Boards as well as the Child Welfare Committees, it is necessary that they should be equipped with computers and printers along with uninterrupted power supply units so that their day to day functioning can be taken care of. Learned *Amicus* pointed out that perhaps this may be asking for too much since she has received complaints to the effect that very often stationery is not available with the Child Welfare Committees or the Juvenile Justice Boards and an appropriate requisition has to be made to the State Government or the local authority, which is leisurely processed. In our opinion if this submission were to be accepted it would indicate a very sorry state of affairs in which the Juvenile Justice Boards and the Child Welfare Committees are made to function. This step-child attitude cannot be permitted to continue since these statutory bodies are vital for having necessary supervision over child care institutions within their jurisdiction.

Directions

62. In view of the above discussion, the following directions are issued:
1. The definition of the expression “child in need of care and protection” under Section 2(14) of the JJ Act should not be interpreted as an exhaustive definition. The definition is illustrative and the benefits envisaged for children in need of care and protection should be extended to all such children in fact requiring State care and protection.
 2. The Union Government and the governments of the States and Union Territories must ensure that the process of registration of all child care institutions is completed positively by 31st December, 2017 with the entire data being confirmed and validated. The information should be available with all the concerned officials. The registration process should also include a data base of all children in need of care and protection which should be updated every month. While maintaining the database, issues of confidentiality and privacy must be kept in mind by the concerned authorities.
 3. The Union Government and the governments of the States and Union Territories are directed to enforce the minimum standards of care as required by and in terms of the JJ Act and the Model Rules positively on or before 31st December, 2017.
 4. The governments of the States and Union Territories should draw up plans for full and proper utilization of grants (along with expenditure statements) given by the Union Government under the Integrated Child Protection Scheme. Returning the grants as unspent or casual utilization of the grants will not ensure anybody’s benefit and is effectively wasteful expenditure.
 5. It is imperative that the Union Government and the governments of the States and Union Territories must concentrate on rehabilitation and social re-integration of children in need of care and protection. There are several schemes of the Government of India including skill development, vocational training etc which must be taken advantage of keeping in mind the need to rehabilitate such children.

6. The governments of the States and Union Territories are directed to set up Inspection Committees as required by the JJ Act and the Model Rules to conduct regular inspections of child care institutions and to prepare reports of such inspections so that the living conditions of children in these institutions undergo positive changes. These Inspection Committees should be constituted on or before 31st July, 2017 and they should conduct the first inspection of the child care institutions in their jurisdiction and submit a report to the concerned government of the States and Union Territories on or before 31st December, 2017.
7. The preparation of individual child care plans is extremely important and all governments of the States and Union Territories must ensure that there is a child care plan in place for every child in each child care institution. While this process may appear to be long drawn and cumbersome, its necessity cannot be underestimated in any circumstances. The process of preparing individual child care plans is a continuing process and must be initiated immediately and an individual child care plan must be prepared for each child in each child care institutions on or before 31st December, 2017.
8. Wherever the State Commission for Protection of Child Rights has not been established or though established is not fully functional in the absence of a Chairperson or any one or more Members, the governments of the States and Union Territories must ensure that all vacancies are filled up with dedicated persons on or before 31st December, 2017. The SCPCRs so constituted must publish an Annual Report so that everyone is aware of their activities and can contribute individually or collectively for the benefit of children in need of care and protection.
9. The training of personnel as required by the JJ Act and the Model Rules is essential. There are an adequate number of academies that can take up this task including police academies and judicial academies in the States. There are also national level bodies that can assist in this process of training including bodies like the Bureau of Police Research and Training, the National Judicial Academy and others including established NGOs. Wherever possible training modules should be prepared at the earliest.

10. It is time that the governments of the States and Union Territories consider de-institutionalization as a viable alternative. It is not necessary that every child in need of care and protection must be placed in a child care institutions. Alternatives such as adoption and foster care need to be seriously considered by the concerned authorities.
11. The importance of social audits cannot be over-emphasized. The necessity of having a social audit has been felt in some statutes which have been mentioned above and also by the Comptroller and Auditor General of India. That being the position, it is imperative that the process of conducting a social audit must be taken up in right earnestness by the National Commission for the Protection of Child Rights as well as by each State Commission for the Protection of Child Rights. This is perhaps the best possible method by which transparency and accountability in the management and functioning of child care institutions and other bodies under the JJ Act and Model Rules can be monitored and supervised.
12. While the Juvenile Justice Committee in each High Court is performing its role in ensuring the implementation of the JJ Act and Model Rules, there is no doubt that each Committee will require a small Secretariat by way of assistance. We request each Juvenile Justice Committee to seriously consider establishing a Secretariat for its assistance and we direct each State Government and Union Territory to render assistance to the Juvenile Justice Committee of each High Court and to cooperate and collaborate with the Juvenile Justice Committee in this regard.
13. We acknowledge the contribution made by Ms. AparnaBhat in taking keen interest in the issues raised in this PIL and for rendering effective assistance to this Court at all times. The Supreme Court Legal Services Committee will give an honorarium of Rs. 2 lakhs to Ms. Aparna Bhat out of the funds available for juvenile justice issues.
14. While there may be some other issues specifically concerning children in need of care and protection we leave these issues open for consideration and grant liberty to the learned *Amicus* to move an appropriate application in this regard including any application for modification or clarification of the directions given above.

15. The Union of India is directed to communicate our directions to the concerned Ministry or Department of each State and Union Territory for implementation and to collate necessary information regarding the implementation of these directions with the assistance of the National Commission for the Protection of Child Rights and the State Commission for the Protection of Child Rights. A status report in this regard should be filed in this Court on or before 15th January, 2018. The Registry will list this case immediately thereafter.

.....J

(Madan B. Lokur)

.....J

(Deepak Gupta)

May 5 , 2017

New Delhi;



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