

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019



Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

CHALLENGES FACED BY CHILD CARE INSTITUTIONS AND THE ROAD AHEAD

AUTHORED BY - GAURAV KUMAR¹ & RAGHAV DHANDA²

ABSTRACT

Child care institutions on India are establishments where care is provided to the children who do not have parents or are not able to live with their families due to any unfortunate reason and children who are either in need of care and protection from the state or in conflict with the law. The primary objective of these institutions is to enable a safe and caring environment for the children where they may receive healthcare, emotional support and education.

This paper seeks to conduct an in-depth evaluation of Childcare Institutions within the confines of the Juvenile Justice System. The reintegration into society are significantly supported by CCIs. The importance of the Childcare Institutions within the confines of the juvenile justice system, the challenges the institutions encounter, the legislative framework which governs their operation, and suggestions for their improvement is discussed in this paper.

We will delve in detail into the various types of childcare institutions established for children in different situations and the role these institutions play in the care and protection of these children. The purpose of the CCIs will be discussed along with the several facilities they provide. An important question which would be raised is whether these facilities are effective in the successful rehabilitation of children back to society and if they are not successful, what remedies can be adopted for the better care and well-being of the children in these institutions.

KEYWORDS: *Juvenile Justice, Childcare Institutions, Children, Rehabilitation, Reintegration*

¹ Assistant Professor, School of Law, IILM University, Greater Noida Email – gaurav.kumar@iilm.edu

² L.L.M Student, School of Law, IILM University, Greater Noida Email – dhanda.raghav499@gmail.com

INTRODUCTION

“There can be no keener revelation of a society’s soul than the way in which it treats its children” – Nelson Mandela

The Juvenile Justice Act has provided for the establishment of “institutional care structures” for children. These institutions are divided into two separate categories. One category is for the children in need of care and protection and the other category is for children in conflict with law. The JJ act has in its provision, various options for residential care for different categories of children. These categories be placed under two sections broadly:

- Homes – Observation Homes, Special Homes and Places of Safety for Children in Conflict with Law and Children’s Homes for Children in Need of Care and Protection.
- Open Shelter, Fit Facilities who are to give community-based residential care to children. These are distinct from adoption, foster care etc. which come under the non-institutional care.³

As per Section 2(21) of the JJ Act, 2015, “Child Care Institution comprises Children Home, Open Shelter, Observation home Special Home, Place of Safety, Specialized Adoption Agency and a fit facility recognized under the act for giving care and protection to children, who are in need of such services.”⁴

The setting up of Child Care Institutions was primarily done to act as safety net for children in vulnerable situations. Institutional care was recognized as one of the best methods of meeting the requirements of the children. The children who were not in parental care for any reason and needed a safe place and care could be kept at the institutions for a short or a long period depending on the situation. The institutions gave a sense of company and comfort to the children and helped them in connecting with somebody who had similar experiences.⁵

Every young person deserves to live in a protective and caring environment that contributes to their development. Children with inadequate parental care are at risk of being denied such a supportive environment. Where the child’s family is not able to provide for adequate support for the child, the State comes into action and has the responsibility for protecting the rights of

³ UNICEF, Child Care Institutions (CCIs) under JJ Act, *available at* https://prachicp.com/tarunya/sharelink/Child_Protection_Smart_kit/CHILDPROTECTIONMATERIALS/ENGLISH/1.%20Final%20English%20Modules/Module%206_CCI.pdf

⁴ The Juvenile Justice (Care and Protection of Children) Act, 2015

⁵ Evergreat Wanglar, Child care institutions in India: Investigating issues and challenges in children’s rehabilitation and social integration, *available at* <https://www.sciencedirect.com/science/article/abs/pii/S0190740920323379>

the child.

The issue to be noted is that Child Care institutions are ridden with huge flaws which include restricted oversight and facilities which are not registered, as they are probably the last option for lakhs of children. Child care, a prominent part of child protection and wellbeing faces a difficult challenge in India. Where there is no active foster care system and other family-based options, CCI's remain the only sustainable option for child protection in the country.⁶

Child care institutions were established with the purpose to provide a healthy mind and healthy body to children but they are failing to do so as a survey titled 'Mapping and Review Exercise of CCI's' was done by the Ministry of Women and Child Development which concluded that only 46.7% homes were having adequate personnel to take care of the children and an astounding number of more than thousand homes were not able to provide dormitories to children.⁷

There are not adequate regulations in place to figure the proper qualification of care takers in CCI's which can hamper the nurturing of children placed in such homes. Further, the sanctions given in the Act are not adequate to stop corruption from taking place at the plight of these innocent children. As a matter of fact, there are several institutions today which are only functioning on paper but in reality, there is not even a brick in place kept on the ground in their name.⁸ These inadequacies have been studied thoroughly in this paper with the aid of case studies and ministry reports. The aim of this paper is not to highlight only the negative aspects of Childcare Institutions in the country but also to give recommendations on how to improve the current situation in CCI's which would be favorable to the coming generations of children. A qualitative survey across nine child care institutions in Delhi brought forth some interesting results. It found the structural resources within the Child Care Institutions to be of protective value, rather than focusing on individual level characteristics. The survey found that by removing some of the primary troubles from children's lives, such as worrying about access to basic amenities, safety from outside threats and having to support one's family, CCI's had the

⁶ Rachna Mishra, Child Care Institutions in India: A critical Wake-Up Call for Reform Amidst Crisis, *available at* <https://www.flame.edu.in/in-the-media/child-care-institutions-in-india-a-critical-wake-up-call-for-reform-amidst-crisis>

⁷ Jolly Singh, Kanika Tariyal, Critical Analysis of Childcare Institutions in India, *available at* Journal of Positive School Psychology, 2022, Vol.6, No.4, 11668-11674

⁸ *ibid*

opportunity and could cater to more constructive aspects of these children's lives.⁹ These kinds of surveys bring to light the existing conditions in today's Child Care Institutions and we shall be looking at more of them further in this research paper.

The reformatory institutions i.e. observation homes and special homes have been tasked with the most significant assignment of reforming and rehabilitating the juvenile in conflict with the law. In the absence of the correct functioning of these reformatory institutions, the justice system would be deemed to have not succeeded in its aim.¹⁰

Addressing such challenges needs a multifaceted approach involving sufficient funding, capacity building, staff training, policy reforms and infrastructure strengthening which would ultimately strengthen the Juvenile Justice System and ensure the efficient implementation of the JJ Act.¹¹

CHALLENGES

Child Care Institutions in our country face multiple obstacles in giving quality protection to vulnerable children and children at risk. The lack of resources and underqualified staff can contribute negatively to the development of the children.

One serious problem faced by CCIs is the lack of resources. Most of these CCIs are very underfunded, which leads to shortage in adequate food, sanitation and healthcare facilities for children. Malnutrition is a ubiquitous problem in these institutions. Inadequate supply of food can lead to problems in growth and a variety of health conditions. Moreover, lack of healthcare facilities can lead to very serious health complications from which the individual might not recover if not given due care attention.

Another very urgent obstacle faced by CCIs is the presence of underqualified staff. A lot of these institutions are operated by untrained employees who do not have the required skills to care for vulnerable children. This in turn leads to children getting neglected and face abuse at times. In some situations, the child may even be compelled to do household chores or work on

⁹ Supra note 4

¹⁰ Rekha Parmar, Implementation of the Juvenile Justice Act, 2015: A Study of Observation Home in Faridabad, available at <https://lc2.du.ac.in/DJCL2/11.%20Rekha%20Parmar.pdf>

¹¹ Basavanagowda B P, Observation Homes : Nurturing Juvenile Rehabilitation under the JJ Act, available at <https://www.ijcrt.org/papers/IJCRT2301613.pdf>

the streets, which has an adverse impact on their education and overall growth.

To add to these obstacles, there is a major lack of oversight and regulation of CCIs in our country. Even while there is legislation in place to ensure the care and protection of children in these institutions, these laws are often not enforced. The lack of regulation means that the CCIs operate without any accountability for their actions. This is the reason cases of abuse and exploitation go unreported or are swept under the rug.

CCIs are inevitably an integral part of the Juvenile Justice system but sadly, the conditions and functioning of these institutions is below par and suboptimal, with major concerns regarding basic amenities and regulation. The provision of high-quality care to juveniles is a huge challenge for child care institutions in India and the emotional and physical development of a child is adversely affected due to lack of funding and untrained staff.¹²

The Childcare Institutions which are operated by voluntary organization and NGOs have strong determination and will but do not have the required expertise and trained personnel. In a social audit project commissioned by NCPCR, it was found that out of 7,163 CCIs, 28.5 % of these were not registered with the state government. Only 52 percent of CCIs have the required number of counselors and about 49 percent are having critical first line care givers. Out of 7,163 CCIs, only 1,883 had the requisite number of welfare officers and case managers.¹³

Coming to the JJ Act, it mainly lays down provisions for setting up of observation homes and safety homes but fails to specify their regulation. Due to the absence of these regulations, the actual number and qualification of caretakers in these homes is still not known or recorded which ultimately hampers the development of children in such homes.

When children reach the age of eighteen, they become adults which means that they must leave the institutions. Most young individuals have little guidance or assistance after that stage and face major difficulties. Aftercare is not provided in many of these institutions and it serves as a big drawback for young individuals.

¹² Saptaparni Majumdar, Dr. Rupaali Andaluri, A Critical Review of the Conditions and Workings of Child Care Institutions in India *available at* <https://www.questjournals.org/jrhss/papers/vol11-issue8/1108199203.pdf>

¹³ Supra note 5

The Integrated Child Protection scheme provides for sufficient funding for childcare facilities. In reality, however, the implementation differs from state to state and funding can be inconsistent. Even though the Child Welfare Committee and District Protection Unit are supposed to oversee childcare institutions, they do not have the present data of the children and thus rely on infrequent inspections.

A report by the Asian Centre for Human Rights in 2013 stated that the JJ Homes in India have become hell holes where the children residing are subjected to exploitation and systematic abuse. The study goes on to elaborate cases of 39 minors in juvenile facilities including open shelters and children's homes where the children were being assaulted repeatedly.¹⁴

There is also the problem of delay in legal proceedings of juveniles which can lead to frustration and uncertainty in many situations. Juveniles in CCIs may also be at the receiving end of stigma and social exclusion upon their release which might be an obstacle to their reintegration into society. Negative preconceptions about delinquency can cause societal stigma and thwart efforts to protect the rights and dignity of young individuals.

4.1 GAPS WITHIN THE CCIs

An institution which was established to care for, protect children and contribute to their overall nurturing has unfortunately turned into abysmal place. An unprecedented decline in the running of such childcare institutions has been discovered lately and this information has reached higher officials as well as the apex court.

In the case of Sampurna Behrua vs Unions of India & Ors (writ petition (c) No. 473 of 2005, accusations were aimed at state governments for not being compliant with the Juvenile Justice Act, 2015 and the case focused on the shocking situation at CCIs in Bihar and Maharashtra.

In an address to Lok Sabha, Minister Smriti Irani highlighted the latest report of the NCPCR, which had mentioned 49 sexual exploitation and harassment cases in CCIs in the years between 2016-2020. Also, it was cited that Uttar Pradesh had the highest number of cases reported.¹⁵

¹⁴ NCPCR Report : India (Key Findings at a Glance) available at https://ncpcr.gov.in/uploads/167145198563a05551c7b75_national-report--social-audit-of-ccis.pdf

¹⁵ Supra note 5

In another case, two childcare homes namely 'Umeed Aman Ghar' and 'Khushi Rainbow Home' located in south Delhi were called out by the police for financial inconsistencies, cheating and falsification. In a prior case, they were booked for sexual abuse cases for escorting the children to the CAA protest rallies at a prominent area in Delhi.

The JJ Act, 200 was repealed and the 2015 act was brought forth to fill the inconsistency left out in the previous act but what still seems to be missing is the strict implementation and stronger provisions to ensure that all provisions are followed strictly without any area for exploitation.

RECOMMENDATIONS

On the basis of the challenges highlighted above and the review of the case studies of different CCIs, there are several recommendations which can be made to improve the present functioning and workings of CCIs in India.

Firstly, bettering the situation in CCIs by ensuring basic amenities such as clean water, adequate nutrition and healthcare facilities. CCIs need to be equipped with reasonable heating and cooling facilities. Another important aspect is to ensure there are qualified and suitable trained staff members and personnel to deal with vulnerable children. The ratio of staff to child should come down to at least an appropriate level of 1:5. Focusing on the frequent regulation and monitoring of CCIs by making it compulsory that all these institutions are registered with the government. The institutions should be made more aware of the regulations and legislations governing their day-to-day operations. The Integrated Child Protection Scheme funding also needs to be increased so that CCIs can access the required resources to provide appropriate care for the children in their protection. The scheme also needs to cover a larger area to include more remote and rural localities.

Alternative Care options such as adoption and foster care to give children access to a more family like environment should be promoted and developed. This would in turn lesser the dependence on CCIs and provide a more nurturing environment to children.

- Child care institutions have to be adequately funded. The government should allocate additional funding to the institutions so that they can provide food, clothing and medical facilities for the children. The funds can then also be used to give training to the

personnel in these institutions. Additionally, the funds need to be utilized to hire more qualified staff to operate these institutions.

- There is a requirement for more efficient regulation and monitoring of CCIs. The government should establish a comprehensive regulatory framework for these institutions and ensure that they follow the legislations in place for the care and rehabilitation of the children. There should be regular inspections of the institutions to make sure that they abide by the required standards of care. There should also be a system for reporting of cases of abuse and exploitation in these institutions. This is necessary to promptly address the issues of neglect and abuse and ensure that the perpetrators are brought to justice.¹⁶
- Child Care institutions should provide a wide range of service for the growth and nurturing of children. The ICPS is great initiative in this respect. The scheme allows for measures such as establishing child helplines, setting up of child protection committees and granting financial support to CCIs. It is for the government to ensure that the ICPS is implemented in a successful manner so that these services are accessible and of good quality.
- The main objective of Child care institutions should be of working towards the rehabilitation of children. The JJ Act outlines legal guidelines for the reintegration of these children. It is the duty of the CCIs to work jointly with other stakeholders like the judiciary and police to ensure that children are given adequate support to become functioning members of society.
- Child care institutions should aim at providing a protective and nurturing environment for vulnerable children. The personnel at these institutions should be properly trained to give emotional support to children. There should be opportunities for the children's recreation and leisure. Also, their cultural and religious views deserve to be respected. The children should also be provided vocational training to assist them in becoming productive members of the society.
- Lastly, CCIs should strive towards promoting family-based care for vulnerable children. Institutions should be regarded as a last resort for children without parents or children who are not able to live with their families due to a multitude of reasons. The government should support families who are having difficulty in caring for their

¹⁶ Evergreat Wanglar, Child Care Insitutions in Manipur: Services and Facilities available at https://www.researchgate.net/publication/348606483_Child_Care_Institutions_in_Manipur_Services_and_Facilities

children. This can include providing financial support, training and counselling sessions. There should be proper system established for foster care and adoption so that children have a chance to live with loving and nurturing families.¹⁷

SUGGESTIONS FOR BETTER EFFICACY IN CCI'S

CCI's have a major role to play in the rehabilitation and reintegration of children back into society. To ensure the effectiveness of these institutions, a number of areas need to be bettered and improved. Some important issues that must be resolved for the effective functioning of CCI's have been listed pointwise hereinafter.

Improving Infrastructure and Facilities

The shortage of adequate infrastructure is one of the primary issues CCI's deal with. The rehabilitation process is hampered by issues such as poor living conditions, lack of basic amenities and overcrowding. To provide a safe and supportive environment to the children, it is imperative to prioritize infrastructure and facility improvements.

In the case of *Sampurna Behrua v Union of India*, the apex court emphasized the importance of providing decent infrastructure in CCI's. To ensure the overall development of children, the court observed that CCI's are required to have sufficient room, adequate sanitation facilities, educational facilities and vocational training. Thus, it can be noted that it is crucial to set aside funds for building, remodelling and upkeep of CCI's. The planning of the infrastructure should be done in such a manner as to meet the unique requirements of children living in the institutions. There should be a certain standard these institutions adhere to which is in consonance with the prevailing laws and international regulations.

Access to Education and Skill Development

To successfully reintegrate young children back into society, education and skill development are a must. Access to quality education which satisfies the requirements of children needs to be a high priority for CCI's. The education framework should be implemented so as to fill any learning gaps and give the students the basic information and abilities they require.¹⁸

¹⁷ Supra note 5

¹⁸ K Maria Yoshitha, *Observation Homes under Juvenile Justice System*, available at <https://legalvidhya.com/observation-homes-under-juvenile-justice-system/>

The Supreme Court recognized education as a fundamental right under Article 21 of the Constitution in the case of *Mohini Jain v. State of Karnataka* 1992. To guarantee a child's holistic development, the court focused on the necessity of providing free education to all children, including juvenile offenders.

Moreover, there should be availability of vocational training programmes to improve the employability of children after release from these institutions. Children gain confidence in themselves and improve their odds of finding employment by learning skills like plumbing, carpentry and computer skills. By ensuring CCIs have a comprehensive skill development curriculum, the chances of successful reintegration into society are improved.

Mental Health and Rehabilitation Needs

Many children in CCIs come from tough situations and difficult backgrounds and therefore need specialized mental health services. Their mental health needs to be given utmost priority and regular access to therapy and counselling should be made available.

In the case of *M. Selvam v. State of Tamil Nadu*, the Madras High Court noted the need for observation homes to offer counselling services to take care of the mental health needs of the juvenile offenders. Efforts should be made in this regard by collaborating with mental health professionals and organizations in the CCIs. This will lessen the stigma in these institutions and foster a caring environment.

Community Engagement and Collaboration

Community involvement can be used as an essential tool in the successful reintegration of juveniles back into the society. CCIs should seek to actively engage the neighbourhood in the rehabilitation process by creating an environment which promotes the inclusion of young children and offenders.

The apex court emphasized the importance of community involvement in the justice system in the case of *Pt. Parmananad Katara v. Union of India* 1989. To ensure efficient rehabilitation of offenders, the court focused on the need of coordination between NGOs, police and social welfare organizations. By facilitating a network of support, easing the child's reintegration into society, these partnerships can majorly benefit the children. To improve the eventual outcome of children in CCIs, efforts need to be made in the direction of adhering to international

standards and strengthening cooperation between stakeholders.¹⁹

Policy and Legal Reforms

CCIs function in accordance with a broader set of regulations and legislations governing juvenile justice. It is imperative to continuously review and change current laws for keeping up with the present happenings and to guarantee effective operation of CCIs. To find inconsistencies, gaps and aspects which need improvement, a thorough analysis of the current laws governing CCIs is essential. For better compliance with the best practices, the review of legislation must take into consideration international conventions, constitutional provisions and pertinent case laws. To strengthen the provisions relating to CCIs, the reforms might bring changes and amendments to important laws such as the Juvenile Justice (Care and Protection of Children) Act, 2015. Clearer guidelines and instructions for infrastructure, appropriate standards for staff and training, provisions to address overcrowding and incorporation of international standards are some of the reforms which can be proposed.

Within CCIs, monitoring mechanisms and framework are needed to ensure that policies are being followed consistently and that legal standards are being adhered to. To encourage transparency, accountability and stop exploitation of children, these mechanisms must be strengthened. Frequent inspections and evaluations can be made easier with the introduction of an independent monitoring body, as recommended by the UNCRC. This can improve reporting and can result in quick action and corrections when required. A detailed study of global practices and reporting mechanisms with regard to juvenile justice systems can be found in literature like 'Juvenile Justice in Global Perspective' by Franklin E. Zimring. Technology is another alternative method which can be beneficial for monitoring the development of young children in the CCIs. Electronic monitoring systems can deliver data in real-time and allow for quick redressal.

To sum up, law and policy reforms are necessary to address flaws in the current juvenile justice system prevailing in CCIs. The efficient functioning of CCIs and betterment of the conditions of children can be achieved through regular reviews, legislative reforms and strengthening the accountability and monitoring framework.²⁰

¹⁹ ibid

²⁰ ibid

JUSTICE CHANDRU COMMITTEE RECOMMENDATIONS

The committee led by retired judge K Chandru, which was formed by the government to conduct a thorough analysis of the functioning of the CCIs in Tamil Nadu put forth various recommendations in its 490-page report. The recommendations ranged from inmate management to the overall regulation of the homes. Justice Chandru visited several juvenile homes and got feedback from the stakeholders in these homes such as the staff, inmates and management.²¹

We shall delve into the recommendations suggested by the committee in its final report. The recommendations made are listed as follows: -

- There was a recommendation for the “immediate bifurcation of the Directorate of Social Defence”. While the CCIs meant for the care and protection of children would continue to have the Directorate of Social Defence for governance, the CCIs established for the children in conflict with law would be “governed by a new directorate termed as Department of Special Services”.
- The functioning of the CCIs were to be observed on a day-to-day basis by setting up a separate observation room.
- The exercise of employing ex-inmates as staff was strongly opposed, and it was suggested only adequately trained persons should be employed in accordance with the set standards.
- The recruited employees were to go through adequate training. A training academy was suggested to be established to give training to the employees recruited to run the homes meant for children in conflict with the law. Special curriculum was to be created and personnel were to be sent for training every now and then to keep be abreast of the updates in the law and juvenile justice system.
- Another recommendation was to establish at a minimum one home for every district.
- Every home was to have a “Superintendent, an Assistant Superintendent and a medical doctor”.
- It was suggested to start a position for a full-time therapist for each home and appointing professional counsellors on a frequent basis instead of occasionally.

²¹ Azeefa Fathima, TN: Justice Chandru committee on JJ Act recommends major changes in juvenile homes available at <https://www.thenewsminute.com/tamil-nadu/tn-justice-chandru-committee-on-jj-act-recommends-major-changes-in-juvenile-homes>

- The posting of the Tamil Nadu Special Armed Police was to be done at the homes instead of the existing guards. The policemen were not to keep any arms and were to be in normal clothing. The police also were directed to undergo an orientation programme to familiarize themselves with the existing legislations and the JJ Act.
- The admission of juvenile offenders was to be done after a medical examination
- There was to be a strict division of children inside the homes into 2 groups: thirteen to sixteen year age group children as one age group and sixteen to eighteen year age group children as another age group.
- There was a recommendation of prevention of drug abuse services managed by trained staff, and medicines to be given for required treatment.
- There was to be a de-addiction centre for every Home for children with drug-related problems.
- The food supply and nutrition in the home was to be monitored.
- The children were to be given adequate bedding for sleeping, as well as a clean mattress and pillows. The mosquito menace in the CCIs was to be managed effectively.
- Potable water was to be available to the children
- There was a suggestion for providing a washing machine to wash the children's clothes
- Lastly, the children were to be given appropriate leisure and recreational facilities and were not to be kept in their room for a 27 * 7 hours period. They were to be given permission to play in an open or closed ground.²²

THE WAY FORWARD

There has been a major shift in the objective of national policies which now seek to promote alternative methods of family strengthening and rehabilitation programmes for children. At times, there may be situations where there are no other viable options for children other than institutional care. Existing CCIs should therefore be improved so as to provide quality standards of care and protect the rights of the child. Significant measures should be taken for assistance to families at risk, so as to support them in their child rearing responsibilities on the basis of articles 18 and 27 of the UN Convention on the Rights of the Child.

Short term care in CCIs can be considered while other alternatives are being explored. Big institutions should give way to small "Group Homes" which are more personal and provide a

²² ibid

caring family like environment. There needs to be a shift from “Institutional Care” to “Non-Institutional Alternative Care”. The UN Alternative Care Guidelines apply in situations of formal care (foster care, residential care and kinship) and are also suggested for care in other situations (centres for children with disabilities and boarding schools etc.) However, these do not apply in cases of children deprived of liberty and informal arrangements.²³

CONCLUSION

The best place for a child and his/her growth and development is at home and with the family. There are many negative effects attached to institutional care and various studies have shown it to be the last resort to be used. The present thesis reveals several shortcomings and challenges of childcare institutions, so the author would like to suggest for a non-institutional care to be implemented efficiently. However, due to the inadequacy of non-institutional care till date, child care institutions turn to be the most viable place for protecting children who are in vulnerable and difficult situations. Though institutional care can have negative effects, changes can be made in making the child care institutions a safe haven for children by providing them with a safe and loving environment. Further, quality education and other life skills can be provided to give the children a better future.

The critical analysis of childcare institutions in India reveals a complex landscape marked by both progress and persistent challenges. While legislative frameworks such as the Juvenile Justice Act and the Integrated Child Protection Scheme have laid important groundwork, the actual implementation often falls short due to systemic issues like inadequate funding, lack of trained personnel, and inconsistent monitoring. The efficacy of these institutions is further undermined by a predominant focus on custodial care rather than holistic development, rehabilitation, and reintegration into society.

It is evident that while childcare institutions play a crucial role in the protection and care of vulnerable children, they cannot operate in isolation. A shift towards a more child-centric approach that emphasizes individualized care, psychological support, education, and community-based alternatives is urgently needed. Strengthening oversight mechanisms, enhancing staff training, and involving civil society and families in the process can significantly

²³ UNICEF, Child Care Institutions (CCIs) under JJ Act, available at https://prachicp.com/tarunya/sharelink/Child_Protection_Smart_kit/CHILDPROTECTIONMATERIA LS/ENGLISH/1.%20Final%20English%20Modules/Module%206_CCI.pdf

improve outcomes for children.

Ultimately, the efficacy of childcare institutions in India must be measured not just by the number of children housed, but by their long-term well-being, empowerment, and ability to lead dignified, independent lives. A reimagined, rights-based approach that treats every child as a stakeholder in their own future is essential for meaningful reform.

