JOURNEY TO THE BLACKHOLE:
CRITICAL ANALYSIS OF CHILD
CARE INSTITUTIONS & IT’S
REGISTRATION FOR JUVENILES IN
INDIA

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ABSTRACT:
Registration of child care institution is a
cognitive factor in determining the scope and
purview of legislations which governs the
Juvenile Justice System. There is no precise
procedure for registration of child care
institution in Treaties, International
Conventions and Regulations but is only
referred to as an obligation for the
Government. The concept of Juvenile justice
system covers a broad meaning which also
includes Institutions set up for the protection
of children who are in need of care and
protection. There are many instances where
the lack of registration of child care
institutions have led to some gruesome
violation of child rights.

There are some shortcomings in the Juvenile
Justice (Care and Protection) Act 2015 in
respect to the registration process including
lacunas in provisional registration system
followed by the State.

This study aims to reach to a conventional
procedure for registration of child care
institutions by establishing a separate
regulatory authority as well as in determining
the safety of these child care institutions by
providing a comparative analysis with the
National mapping exercises conducted by the
Ministry of Women and Child Development.
(herin referred as WCD).

Registration of Child Care Institutions
(CCI’s) play a very crucial role in holistic
development of children and a problem free
Goverance of Institutions established for
child welfare. In this respect, Firstly, it is
essential to mention the history of Juvenile
justice system and characterize the advent
of the concept of registration. Secondly, it is of
primary importance to ensure that whether
the standard of minimum care provided by
these institutions meet the legislative aspect
or not. Thirdly the major concern is that in
case these child care Institutions are not duly
registered they remain unmonitored and stay
beyond the legislative purview which in turn
serves as a danger for the children reinstituted
there.

This research paper profoundly analyses the
need of a separate regulatory authority for
registration control and management of child
care institutions. This paper also provides an
in-depth analysis of the actual situation of
these institutions mandated for child welfare
throughout the country on the basis of the
WCD report on child care institution under JJ
act 2015 and other home.

The last part of this research paper reflects the
opinion of the author and sets some factors
which needs to be considered in establishing
a regulatory authority and changes in the
current system of registration which is
currently deployed by the state.

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

This quote highlights the significance of
children in any economy to flourish and that
they make the greatest asset of any nation.
Children are a gift from god this is a universally followed principle. It is a sacrosanct duty of the State to protect children in all walks of life especially those who are in need of protection.

Right to life and personal liberty is a principle which is deep-rooted in Indian legal system with an aim to preserve and protect life. With such principles the JJ Act 2000 was passed by the parliament with an intention to create laws for children in conflict with law and to provide care to the ones in need of protection. The idea of the act failed as it lacked a definite registration procedure to legalise the institutions which safeguarded children. This led to a torturous situation for children and was capable enough to carry out physical and mental torture. The JJ Act, 2015 aimed to solve this lacuna by introducing provisions regarding Registration\(^1\) and Penalty for Non-registration\(^2\) which would guarantee of safety of children instituted therein.

The act like its predecessor again fails to establish a definite registration procedure as the act makes it mandatory to register child care institutions but on the other hand it also legalises registrations under different laws which makes the process confusing. Further act provides for a system of provisional registration which has to undergo the process of inspection but ironically also grants provisional registration if there is no response to the application of registration in a period of a month. These set of confusions are a roadblock to the good of what the act proposes.

According to the 2011 Census of India\(^3\) the total population is 1.21 billion out of which, the population consisting children in India can be estimated to be roughly around 39%. The Juvenile Justice (Care & Protection) Act, 2015 (herein referred as JJ Act,2015) gives a two-fold definition by categorizing children as Children in Need of Care and Protection (CNCP) \(^4\) and Children in Conflict with Law (CNCL) \(^5\). These children are institutionalized under Child Care Institutions \(^6\) (CCI). Under the present JJ Act,2015, the definition of CCI includes definitions for Children Homes \(^7\), Special Adoption Agency \(^8\), Fit Facility \(^9\), Open Shelters \(^10\) and Observation Homes \(^11\). The definition of Child Care Institution was introduced by means of legislation during the course of the National Mapping Exercise conducted by the Ministry of Women and Child Development Committee in 2016, through the advent of new Juvenile Justice (Care and Protection of Children) Act 2015 which came into force from January 2016.

\(^1\)Section 41 of the Juvenile Justice (Care & Protection) Act,2015
\(^2\)Section 42 of the Juvenile Justice (Care & Protection) Act,2015
\(^3\)The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act,2015 and Other Homes Volume I, Jan. 26 ,2021, 6:00 pm https://wcd.nic.in/node/2190742
\(^4\)Section 2 (21), Juvenile Justice (Care and Protection) Act, 2015
\(^5\)Section 2 (19), Juvenile Justice (Care and Protection) Act, 2015
\(^6\)Section 2 (57), Juvenile Justice (Care and Protection) Act, 2015
\(^7\)Section 2 (27), Juvenile Justice (Care and Protection) Act, 2015
\(^8\)Section 2 (41), Juvenile Justice (Care and Protection) Act, 2015
\(^9\)Section 2 (40), Juvenile Justice (Care and Protection) Act, 2015

PIF 6.242 www.supremoamicus.org
This research paper aims at providing a detailed mechanism for registration of these CCI’s and descriptive analysis of lacunas by State in fulfilling the said norms as mentioned under the act by comparative analysis of data gathered by the WCD committee. After a systematic analysis of the current structural system there arises a need for a new Regulatory authority other than the Juvenile Justice Board and Child Welfare Committee. This Authority shall be solely responsible for the governance, control and management of these CCI’s and will also look after the very core and crux of these institutions that is the Registration Process.

**RESEARCH QUESTIONS:**
1. Whether the Child Care Institutions meet the actual requirements mandated under the legislation?
2. Whether the current system employed by the State is fulfilling the requirements set forth under the Juvenile Justice (Care & Protection) Act, 2015 through Juvenile Justice Boards, CARA and Child Welfare Committee suffice?
3. Whether there is a need for establishment of a new Regulatory Body for the governance of Registration of the Child Care Institutions in India and other related functions of machineries under Juvenile Justice (Care & Protection) Act, 2015?

**OBJECTIVE:**
The primary objective of this paper is to provide an in-depth analysis of the actual situation of Child Care Institutions in India with comparative analysis of the findings of the National Mapping Exercise conducted by Ministry of Women and Child Development Committee constituted on 2nd May,2017. This paper aims at critically analysing the registration process and its implications upon the children rehabilitated therein. The paper ultimately focuses on the formation of a new Regulatory Authority which would govern these established CCI’s and help in proper formation and functioning of machineries under the Juvenile Justice Act, 2015 by bringing them under one umbrella of this Regulatory Authority, through evaluation and inspection of these institutions. This paper is written to bring practical clarity to the concept.

**HYPOTHESIS:**
1. The definition, concept and legal implications of Registration of Child Care Institutions is not fixed or defined properly hence needs to be clarified to avoid ambiguity. Also, providing solutions for revamping the current system deployed by state by analysing various Indian Juvenile Statutes.
2. Three bodied functions of CCI’s that include JJB’s, CWC and CARA have been established for various function, but there is a lack of an Authority that governs the important aspect of Registration and governance of CCI’s.
3. Establishment of a Regulatory Body which will deal solely with the matters related to governance of Child Care Institutions is needed at a grass-root level.

**RESEARCH METHODOLOGY:**
A combined and integrated descriptive-analytical approach is taken to provide a detailed research on the concept of registration. A descriptive analysis is adopted to answer the first question. For answering the second and third question a combination of various research tools such as government reports, analytical reports, conventions, case laws, different acts to give an in-dept analysed understanding of the concept of
registration of CCI’s and highlights need of new regulatory authority by a comparative analysis of the data gathered from National mapping Exercise and carelessness of State. An extensive research has been provided through the following approaches to make this paper useful:

- Comparative study
- Analytical study
- Descriptive approach
- Critical analysis

LITERATURE REVIEW:
1. THE REPORT OF THE COMMITTEE FOR Analyzing data of Mapping & Review Exercise of Child Care Institutions under Juvenile Justice (Care and Protection of Children) Act, 2015 & other homes.¹⁰

The report has been a boon in creating awareness regarding the registration of child care institutions in India. It showcases the experience of engaging with Juvenile justice system, families and community at large has depicted the harsh realities and also shows how the child care Institutions fail to provide the basic care and minimum standard of protection which they are mandated to do under the act. Despite, this institution being in existence from decades no attempt was made to map them or a set the standards provided to the children. It provides data for a state, national & union-territory wise survey which the committee has collected by scheduled interviews, focused group discussed with children in homes, observation checklist, verification checklist for collection of documents that would corroborate the information collected during the visits.

2. KUMAR ASKAND PANDEY, JUVENILE JUSTICE A COMMENTARY (EBC,2019)

This book aims at analysing and understanding the legislation and philosophy behind the policies formulated by the government under the JJ ACT 2015. The author analyses the current structure set forth by the government which mainly comprises of Child Care Institutions and focuses on the importance of the registration of these institutions. The author time and again puts an emphasis on the importance of child rights and child protection as its cynosure and propagate for a better working of these institutions.

EXISTING LEGAL SITUATIONS:
(INDIAN SCENARIO)
The development of Juvenile Justice can be traced back to pre-independence era in India. The history of Juvenile Justice can be divided into 4 phases, which are as follows:

- **Phase I: Before 1919**
  a) **The Apprentice Act,1850**
   It can be considered as the first legislation on Juvenile Justice. The Act empowered the magistrates to control the relationship between children employed between the age of 10 to 18 years (as apprentice) and employers. It also covered children involved in petty offences and destitute.
  b) **The Reformatory School Act, 1876**
   The abovementioned act empowered the local Government to establish reformatory schools. Sentencing courts were empowered to detain boys in such institutions for a period of 2 to 7 years but they cannot be kept in reformatory schools once they attain
majority. The boys over 14 years of age could be licenced out if suitable employment could be found.

- **Phase II: 1919-1985**
  a) **Indian Jail Committee (1919-20)**
  Indian Jail Committee condemned the practice of sending juvenile to jail. Recommended separate machinery for the trial and treatment of juvenile offenders. Recommended establishment of remand homes, certified schools, children courts. Many states made special Acts for juvenile offenders.
  
  b) **The Probation of Offenders Act, 1958**
  Based on sec 562 of Cr.P.C which provided that the first-time offenders who have committed a minor offence punishable up to 2 years of imprisonment, at the discretion of the court may be released on probation. This provision was liberalized in 1923 by the Criminal Procedure (Amendment) Act, 1923 to include the offences punishable up to 7 years imprisonment for women and child below 21 years of age. Release after admonition in trivial offences.
  
  c) **The Children’s Act 1960:**
  The Central Govt. enacted the Central Children Act for the Union territories as a model legislation for other states to deal with the destitute and delinquent children separately through specialized institutions.
  
  d) **Orphanages and Other Charitable Homes (supervision and Control) Act, 1960:**
  The Act provides for the ‘Board of Control’ to supervise and control generally all matters related to the management of orphanages, homes for neglected women and children and other like institution in accordance with the provisions of this Act. No home can run such home without recognition and certificate granted under the Act. The Act fixed the minimum standards for children’s homes and orphanages run by private agencies for boarding, lodging, clothing, sanitation, health, hygiene, education and training. It grants certificate of recognition who fulfils these requirements It observes such homes and revokes certificate if required.
  
  - **Phase III: 1986 onwards**
    a) **The Juvenile Justice Act, 1986:**
    There was lack of similarity in State Acts and many lacunas were there in Children’s Act so a new uniform act was required. JJ ACT, 1986 was enacted to provide for the care, protection, treatment, development and rehabilitation of neglected and delinquent juveniles. In addition to bring JJ system in India in conformity with the UN Standard Minimum Rule for the Administration of Juvenile Justice.
  
  - **Phase IV: 2000 onwards:**
    a) **The Juvenile Justice (Care and Protection of Children) Act, 2000**
    The act aimed to establish a uniform legal system throughout the country to provide and strengthen infrastructure for the care, protection, treatment, development and rehabilitation of children. In addition, it separates children in conflict with law from children in need of protection and care. Also, it socially integrates child victims without resorting to judicial proceedings and Setting up Special Juvenile Police Units.
    
    b) **The Juvenile Justice (Care and Protection of Children) Act, 2015**
    This act aimed to amend the law relating to children alleged and found to be in conflict with Law and children in need of care and protection by catering to the minimum standard of care by fulfilling the basic needs of proper food, health, shelter, creating child-friendly atmosphere, disposal of matters in the child’s best interest and their
rehabilitation through process provided, and institutions and bodies established under the act. It mandates setting up of Juvenile Justice Boards\(^1\) (JJBs) in each district with a metropolitan magistrate and two social workers, including a woman. Child Welfare Committees (CWCs)\(^2\) should be set up in each district with a chairperson and four other members who have experience in dealing with children. One of the four members must be a woman. The Central Adoption Resource Agency (CARA)\(^3\) will frame rules and regulations for adoption of orphaned children.

**CRITICAL ANALYSIS OF LEGISLATIONS:**
With regards to the legislations, this is prima facie seen that all the legislations are in compliance to either Juvenile Felony or Delinquency and the processes in relation to Adoption, arrest, detention, rehabilitation and reintegration of juveniles. It is noteworthy that, since the inception of the concept of Juvenile Justice from the year 1919 when first legislation was enacted till the most recent a couple of decades back in 2015, there were no provisions for Registration of Child Care Institutions.

It is surprising that all the acts governing juvenile justice system comprise of a JJB which is mandated under J.J Act, 2015, the board conducts a preliminary inquiry of a crime committed by a child. It has exclusive power to deal with CCL for the concerned district.\(^4\) The role of CWC is relating to the abandoned or orphaned children and to decide whether to send them to foster care or adoption, and also to additionally select the placement for each child requiring institutional support\(^5\). CARA deals with formulating rules and regulations for adoption of orphaned children.

In spite of having a plethora of legislations none of them are responsible for the following functions and it shows a list of lacunas prevailing within the sphere of Juvenile Justice.

1. There is no authority mandated to look after the Registration of Child Care Institutions. The only requisition is that it has to be government approved followed by some norms under Section 41 and mentioned rules.
2. In spite of making registration compulsory, there were 33% illegal unregistered CCIs found\(^6\), which shows lack of follow up process, inspection and evaluation.
3. A proper system to grant provisional registration certificate, a mere application cannot be made base for it.
4. Inspection\(^7\) and evaluation\(^8\) shall be mandated not in every three years but by an authority established by law occasionally.
5. Funds and grants are not supervised and mostly left unspent.

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1. Section 4, Juvenile Justice (Care and Protection) Act, 2015
2. Section 27, Juvenile Justice (Care and Protection) Act, 2015
3. Section 68, Juvenile Justice (Care and Protection) Act, 2015
4. Section 8, Juvenile Justice (Care and Protection) Act, 2015
5. Section 30, Juvenile Justice (Care and Protection) Act, 2015
6. The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act, 2015 and Other Homes Volume-I, (Jan. 26, 2021, 6:00 pm) https://wcd.nic.in/node/2190742
7. Section 54, Juvenile Justice (Care and Protection) Act, 2015
8. Section 55, Juvenile Justice (Care and Protection) Act, 2015
The scope to the word ‘Juvenile Justice’ is very narrowed down. It is only limited to the extent of delinquency and for restoration of the children who require institutionalization. But amongst this, the scope is not extended to the arena where these children are reinstituted. The term ‘Justice’ shall be dealt in more liberal sense. Therefore, if the State is unable to maintain the required minimum standard of care, it is actionable per se as Negligence.19

19 Jacob Mathew v. State of Punjab, (2005) 6 SCC 1

CHAPTER 1: NATIONAL MAPPING EXCERCISE20 & CHILD CARE INSTITUTIONS

1.1. Executive Summary of National Mapping Exercise:

(Care & protection of Children) Act,2015 and Other Homes Volume-I, (Jan. 26, 2021, 6:00 pm) https://wcd.nic.in/node/2190742

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<th>Table Name</th>
<th>Pg. No.</th>
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<th>supervised activities as required - National Snapshot</th>
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<td>Number of CCIs/Homes having vacant positions</td>
<td>19</td>
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19 Jacob Mathew v. State of Punjab, (2005) 6 SCC 1

20 The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice
The research paper aims to propagate the production of the quantitative and comparative analysis of data gathered during the National Mapping exercise along with the carelessness of the State to take care of its Juveniles.

The National Mapping exercise began in the year 2016, January around the same time the new Juvenile Justice Act came into force on 15th January, 2016. This Act provided detailed provisions on registration of the Child Care institutions and homes along with the punishments for non-registration. Hence it can be said that the Mapping Exercise was conducted during a very crucial time when the act was to be implemented, hence the primary focus of the exercise was to list the legal statues of the CCIs and Homes. It covered all CCIs/Homes except 34 CCIs/Homes in Uttar Pradesh, by the Ministry of Women and Child Development Committee in September 2018. This data refers to the year 2016 during which the Mapping visits were conducted. The facts and findings of this report may vary after 2016. All the details gathered in these statistics were expected to provide appropriate guidance to all required improvements in the policy formation and implementation.

General awareness was created amongst all stakeholders, which included District administration, staff in CCIs, other homes and review teams through the mapping exercise. Other relevant detail includes inter alia information in accordance to the Children victims of sexual abuse housed in CCIs/ Homes, Orphans, abandoned children, surrendered children who need non-institutional care such as foster care, adoption, committees for inspection, infrastructure and staff availability, methods of discipline, etc.

1.2. FOCI:
This part focuses on the analysis of National Mapping Exercise and aims to showcase that the provisions for child welfare, protection and safeguard exist only on paper. More or less no improvement has been made. With the aid of these comparative tools, the paper aims to show the lacunas prevailing within the four walls of these institution which go unnoticed and increases vulnerability of the children residing therein.

1. Erstwhile, to the mapping exercise, data of only 2135 homes were available, which included homes of Swadhar and Ujjawala as well. The study emerged with a data of 9589 CCIs and Homes functioning other than the 34 CCIs of Uttar Pradesh which were not mapped in compliance to the request from the State Government.

<table>
<thead>
<tr>
<th>Table 1.2.1 CCIs/Homes covered under the study - National Snapshot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Mapped</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
</tbody>
</table>

21 *ibid*
1. A list of registered and unregistered child care institutions emerged from the studies with database of 32% (3071) homes registered under the JJ act. 15% (1487) of homes had applied for registration while 16.5% (1585) were registered under any other scheme. 33% CCIs were unregistered.

<table>
<thead>
<tr>
<th>Registration of homes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Number of registered homes under JJ Act</td>
<td>3071</td>
</tr>
<tr>
<td>2 Number of homes applied for registration under JJ Act</td>
<td>1487</td>
</tr>
<tr>
<td>3 Registered under any other Act or scheme</td>
<td>1585</td>
</tr>
<tr>
<td>4 Not legal*</td>
<td>3215</td>
</tr>
</tbody>
</table>

2. Other apposite information included details regarding various profiles of children house in CCIs functioning and management of inspection committees’ children committee.

Table 1.3 | Category-wise Distribution of CCIs/Homes - National Snapshot

<table>
<thead>
<tr>
<th>S. N</th>
<th>Type of CCIs/Homes</th>
<th>Number of CCIs/Homes</th>
<th>Percentage of CCIs/Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Children Home</td>
<td>6368</td>
<td>66.41</td>
</tr>
<tr>
<td>2</td>
<td>Shelter Home</td>
<td>373</td>
<td>3.89</td>
</tr>
<tr>
<td>3</td>
<td>Observation Home</td>
<td>278</td>
<td>2.90</td>
</tr>
<tr>
<td>4</td>
<td>Special Home</td>
<td>52</td>
<td>0.54</td>
</tr>
<tr>
<td>5</td>
<td>Place of Safety</td>
<td>8</td>
<td>0.08</td>
</tr>
<tr>
<td>6</td>
<td>Swadhar Home</td>
<td>185</td>
<td>1.93</td>
</tr>
<tr>
<td>7</td>
<td>Ujjawala Home</td>
<td>110</td>
<td>1.15</td>
</tr>
<tr>
<td>8</td>
<td>SAA</td>
<td>336</td>
<td>3.50</td>
</tr>
</tbody>
</table>

availability of infrastructure staff methods of discipline etc. but also inter alia included in the main purpose of this National mapping exercise.

1.3. PROFILES OF CCIs:
The nationwide figure depicted that among the total 9589 institutions, there are total 66.4% Children Homes, 3.9% Shelter Homes, 2.9% Specialised Adoption Agency, 0.5% Special Homes, 1.9% Swadhar homes, 1% Ujjawala homes, 1% Place of Safety and 0.1% Combination Homes countrywide.

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22 ibid

23 ibid
Under Juvenile justice act there is no provision defining Combination Homes however this category has to be created during the mapping exercise to showcase the existence of CCIs forming separate categories to existing in the same premises in spite of it being violation of law and being illegal. During the mapping it was reflected that in total 10 Combination Homes were visited out of which 4 in Delhi, 1 in Arunachal Pradesh run by NGO. Government run are 1 each in Andaman-Nicobar, Arunachal Pradesh, Kerala, Telangana and West Bengal.

* The numbers do not include 34 Homes of Uttar Pradesh which were not covered by this exercise in accordance with request from the State Government.

The remaining 19.5% were termed as other homes which were to be included in all those Institutions which should have been registered under the JJ act but however were unregistered and were functioning as registered under the Orphanages and Charitable Institutions Act or Women and Child Licensing Act for Cottage homes.

It is noteworthy to have a look on the numbers of Institutions run by Non-governmental organisations which out of the total forms 91% (8744) homes. Ironically only 9% are Government supported homes. The same situation is seen in Specialised Adoption Agencies as well. Where in Government-run SAAs are 20.2% and Non-government run SAAs are 79.8%. Establishing CCI’s and looking after them is the major responsibility of the State. But the statics reflect the vice-versa.

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24 The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act,2015 and Other Homes Volume-I, (Jan. 25, 2021, 1:15 am) https://wcd.nic.in/node/2190742
### Table 1.3.1 Distribution of various kinds of Government & NGO run CCIs/Homes\(^{25}\)

<table>
<thead>
<tr>
<th>Hom es/C CIs types</th>
<th>Non-Governm ent Home/ CCIs</th>
<th>Government Homes/ CCIs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N u m b e r</td>
<td>P e r c e n t age</td>
<td>N u m b e r</td>
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<tr>
<td>Combination Homes</td>
<td>5</td>
<td>50.0</td>
<td>5</td>
</tr>
<tr>
<td>Observation Home</td>
<td>67</td>
<td>24.1</td>
<td>211</td>
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<tr>
<td>Special Home</td>
<td>12</td>
<td>23.1</td>
<td>40</td>
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<tr>
<td>Place of Safety</td>
<td>5</td>
<td>62.5</td>
<td>3</td>
</tr>
<tr>
<td>Children Home</td>
<td>593 2</td>
<td>93.2</td>
<td>436</td>
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<table>
<thead>
<tr>
<th></th>
<th>Shelter Home</th>
<th>Swadhar Home</th>
<th>Ujjawala Home</th>
<th>SAA</th>
<th>Any other</th>
<th>Total</th>
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<tr>
<td></td>
<td>333</td>
<td>183</td>
<td>110</td>
<td>268</td>
<td>14</td>
<td>874</td>
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<td></td>
<td>89.3</td>
<td>98.9</td>
<td>100.0</td>
<td>79.8</td>
<td>97.9</td>
<td>91.2</td>
</tr>
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<td></td>
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<td>2</td>
<td>0</td>
<td>68</td>
<td>40</td>
<td>845</td>
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<tr>
<td></td>
<td>10.7</td>
<td>1.1</td>
<td>0.0</td>
<td>20.2</td>
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<td></td>
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<td>18 5</td>
<td>11 0</td>
<td>33 6</td>
<td>18 69</td>
<td>9 5 89</td>
</tr>
<tr>
<td></td>
<td>3.9</td>
<td>1.9</td>
<td>1.1</td>
<td>3.5</td>
<td>19.5</td>
<td>100</td>
</tr>
</tbody>
</table>

Amongst the 9589 CCI some States/UTs have more than 1000 CCIs, while on the other hand there are some States/UTs which do not even have one home of every kind in the entire state.

Even though registration has been mandatory it was found that only 32 % which are 3071 out of the total CCI across the country are registered under the Juvenile justice act.\(^{26}\)

Which illustrates that majority of these institutions remain outside the purview of the act. Which clearly raises an issue of major concern that the standards of care and protection in such unregistered institution

\(^{25}\) ibid  
\(^{26}\) The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice Act,2015 and Other Homes Volume-I, (Jan. 29 ,2021, 3:45 pm) https://wcd.nic.in/node/2190742
remains unmonitored and increase the risk upon the lives of children instituted there. Moreover, the District Administration has through its representatives in the Review Team, become fully acquainted of the existence, functioning and standards of both, the registered and non-registered CCIs and homes.

1.4. PROFILES OF CHILDREN IN CCIs:
Children residing in CCI are bifurcated into different categories who are orphan, abandoned, surrendered, sexually abused, victim of child pornography, trafficked for domestic work, trafficked for labour/rescued from labour, traffic from commercial sexual exploitation, victims of child marriage, children infected or affected by HIV/AIDS, affected by natural disasters as well as manmade disasters and conflict or homeless or run-away, missing, mentally and physically challenged children.

Table 1.4 Category-wise distribution of Children-National Snapshot

<table>
<thead>
<tr>
<th>Category of children</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Total number of Children (as per records) **</td>
<td>3,77,039</td>
<td></td>
</tr>
<tr>
<td>2 Children of Single Parent</td>
<td>1,20,118</td>
<td>31.81</td>
</tr>
<tr>
<td>3 Orphan</td>
<td>41730</td>
<td>11.0</td>
</tr>
<tr>
<td>4 Abandoned</td>
<td>7677</td>
<td>2.0</td>
</tr>
<tr>
<td>5 Surrendered</td>
<td>6791</td>
<td>1.8</td>
</tr>
<tr>
<td>6 Sexually Abused</td>
<td>1575</td>
<td>0.4</td>
</tr>
<tr>
<td>7 Victim of Child Pornography</td>
<td>189</td>
<td>0.1</td>
</tr>
<tr>
<td>8 Children Trafficked for Domestic Work</td>
<td>857</td>
<td>0.2</td>
</tr>
<tr>
<td>9 Children Trafficked for Labour/Rescued from Labour</td>
<td>1827</td>
<td>0.5</td>
</tr>
<tr>
<td>10 Children Trafficked for Commercial Sexual Exploitation</td>
<td>489</td>
<td>0.1</td>
</tr>
<tr>
<td>11 Victim of Child Marriage</td>
<td>469</td>
<td>0.1</td>
</tr>
<tr>
<td>12 Homeless Children</td>
<td>8573</td>
<td>2.3</td>
</tr>
<tr>
<td>13 Runaway/Missing Children</td>
<td>3780</td>
<td>1.0</td>
</tr>
<tr>
<td>14 Mentally Challenged Children</td>
<td>10794</td>
<td>2.9</td>
</tr>
<tr>
<td>15 Physically Challenged Children</td>
<td>9040</td>
<td>2.4</td>
</tr>
</tbody>
</table>

** Child grouped into more than one category

*231 CCI/Homes replied NA (Not Applicable)

1.1. STANDARD OF CHILDCARE FACILITIES:
A critical analysis has been made regarding the standard of facilities provided to the children residing in these institutions which includes individual bedding, proper nutrition and diet, toys for the children, hygiene and maintenance of CCI, clean and sufficient water facilities, health assessment at the time of admission and regular check-ups. During the exercise it was found that these facility norms were not being adequately satisfied in many CCIs which ultimately resulted in failure to provide even the most basic necessity to the children.
Mentioning the “child caregiver ratio”, it was reflected that CCIs of Chandigarh with 88%, Tamil Nadu with 86%, Andaman Nicobar with 82% are only fulfilling this norm to a high degree while on the other side States/UTs like Nagaland with 7%, Puducherry with 8% and Sikkim with 9% have less than 10% of such CCI facility.

Table 1.5 Percentage of CCIs/Homes having caregivers and supervised activities as required - National Snapshot

<table>
<thead>
<tr>
<th>S.N</th>
<th>Parameters</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Percentage of CCIs/Homes with adequate (numbers) care givers per child</td>
<td>46.7</td>
</tr>
<tr>
<td>2</td>
<td>Percentage of CCIs/Homes where all activities are conducted under staff supervision</td>
<td>77.1</td>
</tr>
</tbody>
</table>

3 Percentage of CCIs/Homes where children who are in emotional distress (due to fear, trauma, or illness) are being actively supervised

4 Percentage of CCIs/Homes where infants/children in emotional distress (due to hunger, fatigue, wet or soiled diapers, fear, teething, or illness) being actively supervised

The situation of Child Protection Policy (CPP) is not ideal across the country. The data with regards to training of staff on child protection policy is also not favourable. The data showcases that Meghalaya has 50% of staff adhering the policy followed by Odisha with 47% and Haryana with 46% being the states with highest of such homes. The non-establishment of various grievance redressal mechanism which includes management and children committees is another area of major concern. This leads to Limit or eliminate available options for children to express their views and concerns about the appropriate authorities which not only increases the vulnerability to abuse but also is against the basic structure of JJ Act.

28 The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act, 2015 and Other Homes Volume-I, (Jan. 27 , 2021, 3:15 pm) https://wcd.nic.in/node/2190742
Table 1.5.1 Percentage of CCIs/Homes having Home Management Committees and Children’s Committees across States/UTs

<table>
<thead>
<tr>
<th>States/UTs</th>
<th>Total CCIs/Homes</th>
<th>HMC</th>
<th>Children’s Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>A&amp;N</td>
<td>17</td>
<td>52.9</td>
<td>23.5</td>
</tr>
<tr>
<td>Andhra Pradesh</td>
<td>762</td>
<td>14.0</td>
<td>18.5</td>
</tr>
<tr>
<td>Arunachal Pradesh</td>
<td>8</td>
<td>12.5</td>
<td>0.0</td>
</tr>
<tr>
<td>Assam</td>
<td>131</td>
<td>37.4</td>
<td>23.7</td>
</tr>
<tr>
<td>Bihar</td>
<td>84</td>
<td>39.3</td>
<td>23.0</td>
</tr>
<tr>
<td>Chandigarh</td>
<td>16</td>
<td>62.5</td>
<td>56.3</td>
</tr>
<tr>
<td>Chhattisgarh</td>
<td>122</td>
<td>55.7</td>
<td>39.3</td>
</tr>
<tr>
<td>Delhi</td>
<td>125</td>
<td>51.2</td>
<td>55.2</td>
</tr>
<tr>
<td>Goa</td>
<td>70</td>
<td>75.7</td>
<td>52.9</td>
</tr>
<tr>
<td>Gujarat</td>
<td>169</td>
<td>60.4</td>
<td>56.2</td>
</tr>
<tr>
<td>Haryana</td>
<td>79</td>
<td>59.5</td>
<td>57.0</td>
</tr>
<tr>
<td>Himachal Pradesh</td>
<td>46</td>
<td>32.6</td>
<td>26.1</td>
</tr>
<tr>
<td>J&amp;K</td>
<td>362</td>
<td>19.3</td>
<td>0.8</td>
</tr>
<tr>
<td>Jharkhand</td>
<td>127</td>
<td>42.5</td>
<td>28.3</td>
</tr>
<tr>
<td>Karnataka</td>
<td>911</td>
<td>36.1</td>
<td>23.1</td>
</tr>
<tr>
<td>Kerala</td>
<td>1242</td>
<td>25.9</td>
<td>10.7</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>146</td>
<td>24.0</td>
<td>29.5</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>1284</td>
<td>64.9</td>
<td>29.4</td>
</tr>
<tr>
<td>Manipur</td>
<td>62</td>
<td>35.5</td>
<td>17.7</td>
</tr>
<tr>
<td>Meghalaya</td>
<td>84</td>
<td>36.9</td>
<td>31.0</td>
</tr>
<tr>
<td>Mizoram</td>
<td>46</td>
<td>82.6</td>
<td>56.5</td>
</tr>
<tr>
<td>Nagaland</td>
<td>67</td>
<td>20.9</td>
<td>22.4</td>
</tr>
<tr>
<td>Odisha</td>
<td>427</td>
<td>51.3</td>
<td>59.5</td>
</tr>
<tr>
<td>Puducherry</td>
<td>91</td>
<td>1.1</td>
<td>13.2</td>
</tr>
<tr>
<td>Punjab</td>
<td>73</td>
<td>47.9</td>
<td>28.8</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>277</td>
<td>48.4</td>
<td>41.2</td>
</tr>
<tr>
<td>Sikkim</td>
<td>23</td>
<td>39.1</td>
<td>56.5</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>1647</td>
<td>64.6</td>
<td>16.9</td>
</tr>
<tr>
<td>Telangana</td>
<td>494</td>
<td>16.2</td>
<td>18.0</td>
</tr>
<tr>
<td>Tripura</td>
<td>44</td>
<td>15.9</td>
<td>0.5</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>170</td>
<td>45.9</td>
<td>27.1</td>
</tr>
<tr>
<td>Uttarakhand</td>
<td>56</td>
<td>42.9</td>
<td>26.8</td>
</tr>
<tr>
<td>West Bengal</td>
<td>327</td>
<td>71.6</td>
<td>38.8</td>
</tr>
<tr>
<td>Total</td>
<td>9,589</td>
<td>43.7</td>
<td>24.8</td>
</tr>
</tbody>
</table>

The methods to deal and tackle within disciplined behaviour has been mentioned in the JJ rules but it is ironically seen that the common practices which the CCI follows can be categorised as corporal punishment. Such practices need to be corrected immediately in accordance to the rules and principle enshrined in the Act. It is to be noted that CCIs in Chandigarh, Andaman Nicobar and Nagaland are employing less Harsh methods of discipline meaning as compared to other states.

*suprimoamicus.org*

29 *ibid*
1.5. HUMAN RESOURCES:
For any institution to work properly adequate staff is required as per norms. The exercise depicted shortage of adequate staff both as per the norms and as per sanction across all the CCIs in India. Delhi is found with 20 2.8% followed by Nagaland at 13.3% and Chandigarh 13.1 %. The lowest percentage has been recorded in CCI of Sikkim with 1.2% followed by 2.3% in Rajasthan. The major concern here raised is of a serious one with regard to the standards of care within the CCI as it shows numerous vacancies for staff which can be estimated over 4000 in one state. In various CCI it was found that the superintendent or person in charge did not stay back at night which raised another additional question for care and protection of children in the absence of supervisor at night.

1.6. FINANCIAL TRANSPARENCY:
Many CCIs do not have the required system for the maintenance and documentation of financial records in place which shows a serious limitation with respect to financial transparency of funds. These funds which are not properly used through collection of donations and such incorrect or missing financial records raises again a major question of concern across all CCIs. When an annual audit was carried out by CA it was revealed that only 74.6% homes covered and reported adherence while on the other hand 17.2 % reported non-compliance. This data shows that many state and union territories have less than 50% of homes which abide by the submission of financial documents to the authorities.

30 The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act,2015 and Other Homes Volume-I, (Jan. 25 ,2021, 11 am) https://wcd.nic.in/node/2190742

31 The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act,2015 and Other Homes Volume-I, (Jan. 25 ,2021, 11 am) https://wcd.nic.in/node/2190742
1.7. INSPECTION AUDIT:
The mechanism for monitoring and assessing the Performances of CCI is done through Inspection Committees, CWC, Department of WCD/SARA, JJ Committee of High Court, Commission for Protection of Child Rights at National/State level. In spite of these many authorities the data revealed that regulatory inspection of CCI across India not being carried out. The data reflects that only 21.3% of homes across the country have a copy of inspection recommendation and record of actions which are taken thereafter.

CHAPTER 2:
CONCEPT OF REGISTRATION AND JUVENILE JUSTICE ACT, 2015 WITH JJ MODEL RULES, 2016:
2.1. JUVENILE JUSTICE ACT, 2015 AND 2016 MODEL RULES:
With a huge population of children which can be estimated up to 427 million, various efforts have been made to place robust laws and rules defining the duties and responsibilities of the members which includes the government and the Child Care Institutions which they have towards the children in need of care and protection. The Juvenile Justice Act, 2015 and Juvenile Justice (Care and Protection) Model Rules, 2016 are the most recent legislations for the child welfare. They were passed to ensure justice, with an aim to rehabilitate and reintegrate the children back to the society. On 21.09.2016 the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 (JJ Model Rules, 2016) have been notified and published in the Official Gazette of India. The Rules are beholden of the developmental needs of children which is the primary consideration New forms have been added in the JJ Model Rules, 2016 to review the progress of children in Juvenile Justice System and to safeguard adequate rehabilitation and restoration services for them. Some new forms are also included in the latest JJ Model Rules, 2016 which are, Case Monitoring Sheet, detailed individual Child Care Plan, application for registration of Child Care Institutions, their certificate of registration, and the reports quarterly submitted by the Juvenile Justice Board/board/ Child Welfare Committee’s related provisions have been strengthened for monitoring.

For this very purpose, the Child Care Institutions (CCIs) play an important role in holistic development of children to make the provisions children-friendly. The present JJ Act, 2015 requires all homes to get registered is an effort to streamline the existing ambiguity concerning the CCIs/Homes in India. Background of the present study is for the Promotion, protection and safeguarding the rights of children which should be the priority area of the Juvenile Justice System in India.

2.2. REGISTRATION UNDER THE JJ ACT, 2015:
Section 41 of the JJ Act, 2015 provisions regarding registration of CCI. Under the present norms, all kinds of institutions either run by state, voluntarily or through non-governmental organizations which provide housing facilities and services for Children in Need of Care and Protection or Child in Conflict with Law, have to get themselves registered under the JJ Act within a period of six months from the date of commencement of this Act. The act promotes the institutionalization of children as the last resort. Registration is mandatory for all such institutions providing institutional care.
services to children in need of care and protection or children in conflict with law whether they receive grants from Central or State government or not.

Section 41(2) deals with determining and recording the capacity and purpose of Institution by the State Government for the purpose of granting registration to an institution and after that register it as either as children's home or open shelter or special adoption agency for Observation Home or special home or a place of safety as the case may be. Under the purview of this section fit person for fit facility is excluded. It is to be noted that Rule 21(2), JJ rules, 2016 provides that every institution that desires its registration as a child care Institution shall make an application to the respected state government in Form 27 along with the documents listed therein.

Once the state government has satisfied itself that the desirous institution for registration has adequate facilities for care and protection of children, their health, education, boarding and lodging facilities which includes vocational training facilities and conducive facilities for rehabilitation in accordance to the provisions of JJ Act 2015 and JJ rules 2016. The government may issue a registration certificate to such institution in Form 28 under section 41(1) of JJ act 2015. Section 41(3) deals with provisional registration certificate and stipulates that the state government may grant provisional registration certificate to any existing or any new institution within a time period of one month from the date of application received. This provisional registration shall be valid for a maximum period of 6 months such provisional registrations are subjected to detailed inspection by State Government.

Rule 21(4), JJ rules, 2016 states that the institution which would lack in providing the facilities as mentioned under section 41 shall not be granted the provisional registration an issue a denial order of provisional certificate. Section 41 (8) imposes a duty on every institution which is registered irrespective of the fact that it receives grant from Central or State government or not to receive children, subject to the capacity under the orders of child welfare committee.

Section 42 declares non registration of an institution housing the children in need of care and protection for children in conflict with law to be a punishable offence. The non registration of Institution under section 41 shall be punished with the term of imprisonment exceeding to one year or a fine of not less than one lakh rupees or both.

The non-registration of Institution is considered to be a continuing offence and the provision of states that every delay of 30 days in registration shall continue to be a separate offence.

2.3. REGISTRATION OF CCIs & DATABASE:
During the exercise it was revealed that many CCIs were unregistered or registered under some other Act or scheme or the ones whose registration were in process. The visits for the exercise were completed by November in the year 2016, while the MIS was submitted by March 2017.

This study acted as a booster for the legal compliance and registration processes which were evident soon after the visits were over. Table 2.3 below shows the legal status of many child care institutions mapped during the study that ended in March 2017, hence it
is expected that changes in the legal status of some CCIs might have occurred.

The table below highlights legal status of CCIs and Homes as on the day of visits:

a) CCIs or Homes registered under the JJ Act,

b) CCIs or Homes registered under any other Act/Scheme,

c) Unregistered and have applied for registration under the JJ Act and pending,

d) Unregistered and have not applied for registration under the JJ Act.

Table 2.3. Legal Status of CCIs/Homes across States

<table>
<thead>
<tr>
<th>States/UTs</th>
<th>Registered under JJ Act</th>
<th>Unregistered CCIs/Homes</th>
<th>Registered under Act/Schemes</th>
<th>Applied under JJ Act</th>
<th>Registered under other Act/Schemes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>Percent</td>
<td>No.</td>
<td>Percent</td>
<td>No.</td>
</tr>
<tr>
<td>A&amp;N</td>
<td>10</td>
<td>58.82</td>
<td>3</td>
<td>1.65</td>
<td>0</td>
</tr>
<tr>
<td>Andhra Pradesh</td>
<td>138</td>
<td>18.11</td>
<td>50</td>
<td>6.56</td>
<td>294</td>
</tr>
<tr>
<td>Arunachal Pradesh</td>
<td>5</td>
<td>62.5</td>
<td>1</td>
<td>12.5</td>
<td>0</td>
</tr>
<tr>
<td>Assam</td>
<td>62</td>
<td>47.33</td>
<td>4</td>
<td>3.05</td>
<td>0</td>
</tr>
<tr>
<td>Bihar</td>
<td>17</td>
<td>20.24</td>
<td>20</td>
<td>23.81</td>
<td>0</td>
</tr>
<tr>
<td>Chandigarh</td>
<td>5</td>
<td>31.25</td>
<td>9</td>
<td>56.25</td>
<td>0</td>
</tr>
<tr>
<td>Chhattisgarh</td>
<td>19</td>
<td>15.57</td>
<td>9</td>
<td>7.38</td>
<td>0</td>
</tr>
<tr>
<td>Delhi</td>
<td>70</td>
<td>56</td>
<td>22</td>
<td>17.6</td>
<td>0</td>
</tr>
<tr>
<td>Goa</td>
<td>48</td>
<td>68.57</td>
<td>6</td>
<td>8.57</td>
<td>0</td>
</tr>
<tr>
<td>Gujarat</td>
<td>88</td>
<td>52.07</td>
<td>43</td>
<td>25.44</td>
<td>1</td>
</tr>
</tbody>
</table>

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32 The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act, 2015 and Other Homes Volume I, (Jan. 26, 2021, 10am)

https://wcd.nic.in/node/2190742
2016, about 32% CCIs/ Homes were registered under the JJ Act, i.e. (3071 CCIs/ Homes); 15% had applied for registration i.e. (1487 CCIs/ Homes); 16.5% were registered under some other scheme i.e. (1585 CCIs/ Homes); while 33% were unregistered\textsuperscript{33}.

It was found that only 32% of total child care institutions and homes across the country are registered under the Juvenile Justice Act, which are 3071 CCIs; in spite of its registration being mandatory. \textbf{Which means that a majority of child institutions and homes remains outside the purview of the Act.} This highlights the main issue of concern which is that in such unregistered child care institution the standards of care and protection of the children remains unmonitored.

Approximately 96% of the CCIs and Homes in Sikkim are registered under the JJ Act followed by Haryana with 73.42% and with 69% in Goa. On the other hand, Kerala, Jharkhand, Jammu & Kashmir and West Bengal have large numbers of unregistered CCIs and Homes. There 22 States and Union Territories with less than 50% of the CCIs and Homes registered under the Act. UTs like Diu and Daman, Dadar Nagar Haveli and Lakshadweep which do not even have Child Care Institutions or Homes.\textsuperscript{34}

Through the in-depth analysis of the mapping exercise and the provisions dealing with the registration process highlights the main issue of concern which is that in such a registered child care institution the standard of care and protection of the children remains unmonitored as without registration the particular child care institution remains out of the purview of Juvenile justice system. In order to provide due care and protection it is not only mandatory to enact provisions and penalize the non-compliance but also implement it in the real sense with the help of various resources and Technology. The main objective behind making registration of these institutions necessary is that that the children who are restored in this institution can enjoy all the rights and facilities enacted for their benefit and also to keep an eye that such destitute children are not abused by the wrongdoers.

Any carelessness of the State, Board or Committee may result into gruesome violation of child rights. As per the study of 2016 there are in total 9589 child care institution out of which only 8744 Institutions were studied which makes 91% of the total institutions\textsuperscript{35}.

This answers to the very main objective of this research paper which is why registration process is of utmost importance and why there is a need of a new regulatory authority to govern this child care institutions and to revamp the current system deployed by the state.

\begin{itemize}
  \item \textbf{LACUNAS IN THE REGISTRATION PROCESS:}
\end{itemize}

\textsuperscript{33}The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act,2015 and Other Homes Volume-I, (Jan. 26, 2021, 5 pm) https://wcd.nic.in/node/2190742

\textsuperscript{34}ibid

\textsuperscript{35} The REPORT OF THE COMMITTEE for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act,2015 and Other Homes Volume-I, (Jan. 25, 2021, 10am) https://wcd.nic.in/node/2190742
Section 41(4) proves to be a hazard to the basic structure of the Juvenile Justice System which aims at Safeguarding rights of Children and their Protection as priority. Section 41(4) states that if a provisional registration certificate is not issued within one month by the State Government from the date of inception of an application. A mere proof of the receipt of application for registration made in form 27 shall be treated as provisional registration to run an Institution for a period maximum up to 6 months.

Sub-section 4 of section 41 proves to be violating the basic crux of juvenile justice system, that is to enhance the safety of destitute children and strives to meet the minimum standard of care. If without proper inspection or compliance to the procedure, the provisional registration is granted on the basis of no response upon the application for registration; it will lead to an increased number of illegal and unregistered institutions. As a consequence, such unregistered institutions remain out of the purview of protection provided by these legislations and ultimately the future of the children instituted there is not less than any black hole.

In the case of *Calicut orphanage v. Union of India*\(^{36}\), the Kerala High Court observed that even the private orphanages which have been registered under the Orphanages and other Charitable Homes Supervision and Control Act, 1960 to not qualify as a child care institution as per the definition of child care institution in Juvenile justice act 2015 will have to obtain registration nevertheless. In addition, it was also mentioned that on the mere fact that these orphanages are registered under the JJ act 2015 other regulatory measures of the said act and JJ rules 2016 for example constitution of Management Committee under section 53 and the standard of care is specified under JJ act will not become applicable to such orphanages. The court held that it would be disastrous to take view that if the charity does not extend to such standards as prescribed by the central government in the model rules then such Institutions would have to be closed down and the children thrown to the streets.

Another drawback which can be highlighted is that, registration of CCI’s is provided to the new institutions as well as to the existing ones, even if they are registered under different act. It can be clinched from the *Calicut Orphanage* case that there prevail issues in regards to the child care institutions even if they are registered under the JJ Act,2015. This raises a major question of concern that a mere registration of these institutions is not enough. This calls for a need to introduce a mechanism which allows the registration and governance of all types of CCIs under JJ Act,2015.

**CHAPTER 3:**

**MOMENTOUS NEED FOR A NEW REGULATORY BODY**

The National Institution for Transforming India (NITI Aayog) in its three years action agenda from 2017-2020 recognizes the non-availability of the credible data as the major obstacle in designing effective policies\(^{37}\).

\(^{36}\) 2017 SCC OnLine Ker 35927

The National Plan of Action, 2016 mentions that the needs of children are multispectral, connected internally and require actions collected. This plan aims strong coordination among all sectors and tiers of governance and to get a purposeful convergence along with active engagement and partnership with all stakeholders and create a comprehensive a reliable knowledge base.

In 2018 the centre proposed a directive to prepare an agenda for improving the management of child care institution by keeping in mind the utmost good faith of children in need of care and protection. During the Global pandemic of covid-19 a petition was filed by advocate Aparna Bhat in June 2020 when 57 minor girls at the Kanpur shelter home were found to be Covid-19 positive. During the Suo Moto proceedings of sexual assault in Muzaffarpur shelter home was brought to the notice this particular commitment was made to give live updates about children and the changes in the shelter home if any.

It is noteworthy that in this modern era of Technology where there is no shortage of Manpower in the country, we are unable to fully implement the provisions mentioned under section 41. It is impossible to find out what happens within the four walls of child care institution virtually. Here if something goes wrong in a government run institution which must have been registered and licensed one can only imagine what could possibly go wrong in an unregistered institution which are functioning beyond the legal system.

Article 3 of Convention on Child Right mandates that each and every action which are conducted for children by any public or private welfare institution courts of law legislative bodies or administrative authorities shall bear in mind the good faith of children as primary priority. Subsection 3 the same article imposes an obligation upon the state to ensure that the minimum standards of care are followed by the institution and are regularly supervised. **Now this can be only done if this child care institution is identified and registered.**

It is Constitutional obligation of the state to safeguard and Foster the rights of children through the available adequate funds which are exclusively provided for children who are in need of care and protection. Here the state cannot make an excuse of insufficient funds and grants to take proper precautions of the functioning of CCI's.

The rule of law also abides state to the parliamentary legislations therefore it would be extremely unfortunate if these respected governments will voluntarily flout the provisions enacted by the parliament.

Therefore, with all these inadequacy gives rise for the need of formation of a new regulatory authority which will govern not only the registration processes of child care

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39. Bhadra Sinha, Modi govt failed to frame plan to improve management of child care institutions: Plea
Institutions throughout the nation but also so will have to show the statement of expenditures of grants given for the betterment of children in child care Institutions and their upliftment.

This regulatory authority will also conduct inspection and evaluation of each and every child care institution under section 54 and 55 of the JJ Act 2015 whether registered or not, but not as the time period mentioned within the section of 3 years rather itself visit every child care institution once in a 3 months and shell make the provisions or pass some guidelines for every update from child care institutions.

CONCLUSION AND SUGGESTIONS:
After analysing the amendment to the JJ Act, 2000 and implementation of the 2015 Act, in regards to the Registration Process, it is very evident that we lack in the proper implementation of the enacted provision which is based in the very essence of our Constitution under Article 39 (f). There has been a humongous list upon the acts and legislations passed by the parliament in enforcing the Juvenile Justice System. But it’s sad that we have realized the need of registration of Child Care Institution in 2015 and made it a mandate under section 41.

Through the aid of National Mapping Exercise and the database, it can be concluded that in spite of having authorities like Inspection Committees, CWC, Department of WCD/SARA, JJ Committee of High Court, Commission for Protection of Child Rights at National/State level, the condition and performance of CCI across the Country is unfavourable and not ideal. Prior to the exercise data of only 2135 institutions were only available. In spite of exercise only 91% institution’s data was made available.

This shows that there is a momentous need for a new regulating authority which would govern the Child Care Institutions nationwide and bring them under the umbrella of Juvenile Justice Act, 2015 and the system of registration under other schemes shall be nullified.

During the critical analysis it has come to the author’s notice that there are many gaps in terms of the current situation prevailing within CCI’s. Let that be some States with no institution or non-availability of staff or superintendent, lack in providing basic standard of minimum care and facilities in addition to the usage of illegal means of disciplining & punishing children through Corporal Punishments and many more as discussed in Chapter 1 and 3 of the paper.

When these issues are combined with the current authorities it gives rise to the third major concern, which is the registration process. If the institutions are not identified and registered then they are not eligible to procure the benefits of the same. Not only this but it also strengthens the illegality and wrongful assaults upon the children in these institutions.

The SC itself has directed to establish a Secretariat to help courts in the process mentioned in the case of Re: Exploitation in Orphanages of Tamil Nadu r. Union of India41.. Following are the suggestions from the author:

41 (2017) 7 SCC 578
1. A new Regulatory Authority shall be established in every State for the proper and rational governance of CCIs.
2. The grants/ funds, its utilization and statement of expenses shall be duly submitted by the authority to the Union government on time-to-time basis.
3. The section regarding the provisional registration under Section 41 (4) shall not be used anymore, as it kills the very objection of the main section that is Section 41.
4. The time period mentioned under Section 54 and Section 55 for the purpose of inspection and evaluation shall be substituted by once in three months rather than 3 years.
5. More stricter ways of follow ups shall be implemented.
6. All the CCIs shall be brought under single head of Juvenile Justice Act, 2015 rather than being registered under different legislations.

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