

REGULATORY FRAMEWORK OF SHELTER HOMES – A STATE-WISE COMPARISON

I. National level framework

The Juvenile Justice Act, 2015 (the *Act*) consolidates and amends the laws for the welfare of the children in conflict with law and children in need of care and protection. The Act was passed to maintain the standards formulated under the Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990 and the Hague Convention on Protection of Children the United Nations. The Act covers in its ambit children below the age of 18 years, since persons above the age of 18 years are considered adults under the Indian contract law.

In its aim to protect neglected and mistreated children, the Act empowers the government to authorise the establishment of shelter homes for children in need of care and protection. The Act regulates child care institutions, which include open shelters, children home, observation home, special home, place of safety etc. Open shelters refer to facilities for children that are established and maintained by the State Government, either by itself, or through a voluntary or non-governmental organisation. Further, the Central Government framed Model Rules in 2007 (*Central Rules*) which apply to the states *mutatis mutandis* until the state government makes its own rules. While making their own rules, state governments need to conform to the model rules.

The layout of the Act covers all the aspects of the general principles regarding child protection plans, adoption regulations, rehabilitation programs, procedure for child in need of care and protection, children in conflict with law, offences against children along with the provisions for regulatory bodies *i.e.* Juvenile Justice Board and Child Welfare Committee.

The registration procedure of the shelter home along with the basic structural amenities and facilities that has to be provided to the children in the need of care and protection are prescribed by the state government. After fulfilling the mandatory requirements as mentioned by the state government, the registration can be initiated. The registration certificate, holds the validity for a period of five years. However, if any institution does not fulfil the prescribed criteria for registration within the period (*i.e.* 6 months) then the provisional registration shall stand cancelled. Failing to comply with registration procedure shall lead to punishment with imprisonment which may extend to one year or a fine of not less than INR 1,00,000 or both.

In case of any default in administration of the shelter homes and crime against the children in the need of care and protection, is regulated under the various legal provisions under the Juvenile Justice Act as well as Protection of Children from Sexual Offences (*POCSO*) Act, 2012. As per the Juvenile Justice Act, committing grievous offences against the children follows stringent punishments and penalties. Imprisonment may extend to five years and shall also be liable to fine of one lakh rupees for forcing a child for begging. If the person amputates or maims the child, he shall be punishable with rigorous imprisonment for a term not less than seven years which may extend up to ten years, and shall also be liable to fine of five lakh rupees. Intentionally neglecting or abandoning the child, shall lead to punishment with imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both. Rigorous imprisonment for a term which may extend to seven years and also a fine which may extend up to one lakh rupees is imposed for involving children drug peddling as well as giving, any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance. Furthermore, punishment for

child bondage for employment or child trafficking, may extend to five years and shall also be liable to fine of one lakh rupees. However, offence of kidnaping and abduction of child fall under the sections 359 to 369 of Indian Penal Code.

To scrutinise the provisions of the Act, the Juvenile Justice Board and Children Welfare Committee has also been provided under this Act. The Child Welfare Committee ensures the applicability of sensitive care and protection of the children. The Committee also functions as Bench and has the powers conferred by Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class. The Juvenile Justice Board also consists of a Metropolitan Magistrate or a Judicial Magistrate of First Class not being Chief Metropolitan Magistrate or Chief Judicial Magistrate with one woman vesting powers conferred under Code of Criminal Procedure, 1973.

II. State level framework

[List of Abbreviations:

Child Welfare Committee (*CWC*)

District Child Protection Unit (*DCPU*)

Special Juvenile Police Unit (*SJPU*)]

This comparative table looks at the JJ Rules in four sample states – Delhi, Bihar, Uttar Pradesh (*UP*) and Jharkhand. It compares the state rules with the Central rules to identify gaps in the regulatory framework. We have provided our recommendations on the basis of the gap analysis in Section III.

	Central Rules	Delhi Rules	Bihar Rules	UP Rules	Jharkhand Rules
Criteria for establishment	<p>Separate shelter homes according to gender and age group.</p> <p>Registration Organisation running care services</p>	<p>Separate shelter homes according to gender and age group.</p> <p>Child Friendly Observation homes and special homes must be child-friendly and in no way shall they looklike a jail or lock-up.</p> <p>Registration Organisations running care services for children to</p>	<p>Registration The State Government itself or in association with</p>	<p>Separate shelter homes according to gender and age group.</p> <p>Child Friendly Child Care Institutions shall be child-friendly and in no way shall they looklike a jail or lock-up.</p> <p>Registration All organisations running care services for children must be registered</p>	<p>Separate shelter homes according to gender and age group.</p> <p>Child Friendly Child Care Institutions must be child-friendly and in no way shall they looklike a jail or lock-up.</p> <p>Registration All organisations running care services for children must be registered</p>

	<p>for children to make an application to the State Government, together with specified documents, including a statement of past record of social or public service. State Government shall verify that all facilities exist before issuing a registration certificate.</p> <p>Certification or Recognition Application, together with specified documents, including a statement of past record of specialized childcare services provided by the organization to the State Government. State Government shall verify all facilities before granting certification or recognition.</p>	<p>make an application together with specified documents, including a statement of past record of social or public service. The State Government will verify all facilities before issuing a registration certificate.</p> <p>Certification or Recognition The certification or recognition of an organisation is issued by the State government for a maximum of 3 years, subject to an annual review.</p>	<p>voluntary organisations must register children’s homes as child care institutions in a prescribed manner. The State Government will verify all facilities made by such applicants before granting certification or recognition, which is valid for a maximum of 3 years.</p> <p>Certification or Recognition The recognition is valid for a maximum of 3 years and is issued on recommendation of the DCPU (or other prescribed authority).</p>	<p>Certification or recognition Application, together with specified documents, including a statement of past record of social or public service provided by the home to the State Government. The State Government will verify all facilities before granting certification of recognition.</p>	<p>the Act. Application in Form 27 together with specified documents, including a statement of past record of social or public service provided by the institution to the State Government and a <u>declaration from the person or the organisation regarding any previous conviction record or involvement in any immoral act or in an act of child abuse or employment of child labour or that it has not been black listed by the Central or State Government.</u> The State Government will verify all facilities before issuing a registration certificate. Please note that the State Government is <u>not</u> permitted to grant provisional registration where adequate facilities do not exist in the institution.</p>
<p>Criteria for operators</p>	<p>Training The State</p>	<p>Training</p>	<p>Training The State Government is</p>		<p>Training The State Government</p>

<p>and management</p>	<p>Government or the Officer-in-charge shall provide for training of personnel of each category of staff, in keeping with their statutory responsibilities and specific jobs requirements.</p> <p>The State Child Protection Unit is responsible for training and capacity building of all personnel (Government and Non-government) working under the Act.</p> <p>Superintendent The Superintendent is required to stay in quarters within institution.</p> <p>Role of</p>	<p>The State Government or the Officer-in-charge shall provide for training of personnel of each category of staff, in keeping with their statutory responsibilities and specific jobs requirements.</p> <p>The State Child Protection Unit is responsible for training and capacity building of all personnel (Government and Non-government) working under the Act.</p> <p>All staff must be trained in handling first aid.</p> <p>Superintendent The Superintendent is appointed for the control and management of the institution, and is required to stay within the institution and be provided with quarters.</p> <p>Role of Superintendent:</p>	<p>required to provide appropriate training to all persons involved in the implementation of the legislation in the state</p> <p>Superintendent The Superintendent is required to stay within the institution and will be provided with quarters. In case he is not able to (with prior permission of the Government), any other senior staff member of the institution is required to stay</p> <p>Role of Superintendent</p>	<p>Superintendent The Superintendent is required to live within the institution and be provided with quarters.</p> <p>Role of Superintendent:</p>	<p>shall provide for training of personnel appointed under the Act and the rules and each category of staff, keeping in view with their statutory responsibilities and specific jobs requirements.</p> <p>Person-in-charge (Superintendent) The Person-in-charge is appointed for the control and management of the institution, and is required to stay within the institution and be provided with quarters.</p>
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	<p>Superintendent</p> <ul style="list-style-type: none"> Control and management of the institution to supervise overall care of children To take decisions in case of crisis or emergency. <p>Whole-time staff Officer-in-charge, Case Workers, Child Welfare Officers, Counsellor, Educator, Vocational Training Instructor, Medical Staff, Administrative staff, Care Takers, house father and house mother, child mentors, volunteers, store keeper, cook, helper, washerman, safaikaramchari, gardener, etc.</p> <p>Part-time staff:</p>	<ul style="list-style-type: none"> Control and management of the institution To supervise overall care of children To take decisions in case of crisis or emergency. <p>Whole time staff Officer-in-charge, Probation Officer (in case of Observation home or Special home), Case Workers (in case of Children's home or shelter home or after care organization), Child Welfare Officers, Counselor, Educator, Vocational Training Instructor, Medical Staff, Administrative staff, Care Takers, house father and house mother, child mentors, volunteers, store keeper, cook, helper, washerman, safaikaramchari, gardener as required.</p> <p>Part-time staff</p>	<ul style="list-style-type: none"> Overall control and management and decisions relating to the operation of the institution To supervise overall care of children To take decisions in case of crisis or emergency (such as escape of child etc). <p>Whole time staff The whole-time staff in a home may consist of Superintendent, Probation Officer (in case of Observation home or Special home), Case Workers (in case of Children's home or shelter home or after care organization), Counselor, Educator, Vocational Training Instructor, Medical Staff, Administrative staff, Care Takers, volunteers, store keeper, cook, helper, washerman, safaikaramchari, gardener as required.</p> <p>Part-time staff:</p>	<p>Providing homely atmosphere of love, affection, care, development and welfare of children; implementing and co-ordinating all institutional activities; maintaining minimum standards in the Home.</p> <p>Whole-time staff Superintendent/Project Manager, Case Workers, child welfare officer, Counsellor, Educator, Vocational Training Instructor, Medical Staff, Administrative Staff, Care Takers, House Father and House Mother, Store Keeper, Cook, Helper, Washerman, SafaiKaramchari, Gardener, etc.</p> <p>Part-time staff: Psychiatrist, Psychologist, Occupational</p>	<p>Total number of staff</p>
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	<p>Psychiatrist, Psychologist, Occupational therapist, etc.</p> <p>Total number of staff: Approximately 25</p> <p>Management Committee to consider and review issues regarding management of the institution, including checking and stamping requisite registers; and to monitor progress of every child, including reviewing their individual care plans.</p>	<p>Psychiatrist, Psychologist, Occupational therapist, and other professionals as may be required by time to time.</p> <p>Total number of staff Personnel strength of a home is to be determined by the State Government according to the duty, posts, hours of duty per day as the base for each category of staff.</p> <p>Management Committee Every institution shall have a Management Committee for the management of the institution and monitoring the progress of every juvenile and child.</p>	<p>Psychiatrist, Psychologist, Occupational therapist, etc</p> <p>Total number of staff 30 for an institution with 100 children including house mother and house father etc</p> <p>Management Committee Every institution shall have a Management Committee for the management of the institution and monitoring the progress of every juvenile and child.</p>	<p>Therapist, etc.</p> <p>Total number of staff Approximately 26</p> <p>Local Government: The State Government may delegate powers to local authority to carry out responsibilities such as: recommending names for appointment of social workers as members of the committee, district and city advisory boards; visiting the institution and making suggestions for improvement</p>	<p>The personnel strength of a Child Care Institution shall be determined according to the duty, posts, hours of duty and category of children that the staff is meant to cater to. A suggested staffing pattern has also been provided.</p> <p>Management Committee Each home shall have a Management Committee for the management of the institution and monitoring the progress of every juvenile and child in the home.</p> <p>Restrictions on staff Staff is not permitted to:</p> <ul style="list-style-type: none"> • Be present at unauthorised locations in the institution • Bring any prohibited article into the institution • Consume any addictive substance within the premises • Have any business dealings with children or their guardians • Use abusive language, or consume obscene content like literature or pornography in the
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				<p>and development; creating a fund for the welfare and rehabilitation of the child.</p> <p>Duties of Case Workers/Child Welfare Officer: Social investigation of the child; clarifying problems of the child in dealing with their difficulties in institutional life; participating in orientation, monitoring, education, vocational and rehabilitation programmes.</p> <p>Duties of House Father/House Mother/Care Taker: Handling child with love and affection; maintaining discipline among the children; implementing daily routine</p>	<p>premises.</p> <p>Other rules:</p> <ul style="list-style-type: none"> • Any person associated with a Child Care Institution should not have been convicted of an offence or have been involved in any immoral act or in act of child abuse or employment of child labour or in an offence involving moral turpitude or hold any office in any political party during his tenure. • In case of Child Care Institutions housing girls, only female Person-in charge and staff must be appointed. • No person shall be appointed to or work in a Child Care Institution without police verification. • The Rules provide for appointment of security personnel, specifically stating that they must be trained to deal with children, and must not carry arms.
Rules for	Intake procedure	Intake procedure	Intake Procedure	Intake procedure	Intake procedure

<p>children</p>	<p>CWC, SJPU, public servants, Childlines, voluntary organizations, social workers, children themselves may refer a child to a shelterhome.</p> <p>To ensure proper care and treatment as per individual care plans, a child shall be grouped on the basis of age, kind of care required, physical and mental health and length of stay order.</p> <p>Duration of Stay No child shall stay in a short stay home for more than a year except in specialCircumstances .</p> <p>Parents/relatives may visit once a month. Children to write</p>	<p>The CWC, SJPU, public servants, Childlines, voluntary organizations, social workers and the children themselves may refer a child to such shelter homes.</p> <p>Counsellor/child welfare officer takes charge of new child, who shall be given brief orientation, bath and clothing, and allocated appropriate accommodation; name of child entered in Admission Register; Superintendent shall keep personal belongings of the child in safe custody; girl child shall be searched by female staff member, with due regard to decency.</p> <p>Duration of Stay No child shall ordinarily stay in a short stay home for more than a year except in special circumstances with the approval of the Committee.</p>	<p>The CWC, SJPU, public servants, Child Lines, voluntary organisations, social workers and the children themselves may refer a child to such shelter homes.</p> <p>There are provisions requiring the grouping and segregation of facilities subject to the age of the child –children of both sexes below the age of 10 can be kept in the same home, whereas separate children’s homes are to be set up for boys and girls in the age group of 10-18 years.</p> <p>Duration of stay No child shall ordinarily stay in a short stay home for more than a year except in special circumstances with the approval of the Committee.</p>	<p>The CWC, SJPU, public servants, Childline, voluntary organizations, social workers and the children themselves may refer a child to such shelter homes.</p> <p>Counsellor/child welfare officer takes charge of new child, who shall be given brief orientation, bath and clothing, and allocated appropriate accommodation; name of child entered in Admission Register; Superintendent shall keep personal belongings of the child in safe custody; girl child shall be searched by female staff member, with due regard to decency.</p> <p>Duration of Stay No child shall ordinarily stay in the Government founded shelter home on drop-in-centre for more than a year.</p>	<p>Counsellor/child welfare officer takes charge of new child, who shall be given brief orientation, bath and clothing, and allocated appropriate accommodation; name of child entered in Admission Register; Superintendent shall keep personal belongings of the child in safe custody; girl child shall be searched by female staff member, with due regard to decency.</p>
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	letters regularly. In case of emergency, telephonic communication with parents/guardians or relatives allowed.				
Minimum facilities requirements	<p>Physical Infrastructure Specifications for building and accommodation (size of dormitories, bathrooms, kitchen, playground, etc. has been prescribed)</p> <p>Specifications for flooring, lighting, ventilation, heating and cooling, pest control, safe drinking water and sanitation, in terms of gender and age appropriateness and accessibility.</p> <p>Provision of first aid kit, fire extinguishers, periodic review of electrical installations, proper storage and</p>	<p>Physical Infrastructure The shelter homes or drop-in-centres must have the facilities of boarding and lodging, besides the provision for fulfillment of basic needs in terms of clothing, food, health care and nutrition, safe drinking water and sanitation.</p> <ul style="list-style-type: none"> • Separate facilities (shelter homes / observation homes) for girls and boys • Requisite facilities for education, vocational training, counselling and recreation or make arrangements for it in collaboration with voluntary organizations or corporate sector. • Detailed norms for the building with dimensions have been provided in the Rules. <p>Standards of care</p>	<p>Physical Infrastructure Each institution must have an observation home, a special home, a children’s home and a shelter home; each home to be segregated based on the age and sex of the child.</p> <p>These rules prescribe minimum facilities for accommodation with 50 juveniles or children:</p> <ul style="list-style-type: none"> • number of dorms, classrooms, sick rooms, kitchen and dining areas etc. • facilities for education, vocational training, counselling and recreation or make arrangements for it in collaboration with voluntary organizations or corporate sector. 	<p>Physical Infrastructure Shelter homes to have minimum facilities of boarding and lodging, provisions for fulfilment of basic needs in terms of clothing, food, health care and nutrition.</p> <p>Specifications for flooring, lighting, ventilation, heating and cooling, pest control, safe drinking water and sanitation, in terms of gender and age appropriateness and accessibility.</p>	<p>Physical infrastructure The shelter homes or drop-in-centres must have the facilities of boarding and lodging, besides the provision for fulfillment of basic needs in terms of clothing, food, health care and nutrition, safe drinking water and sanitation.</p> <ul style="list-style-type: none"> • Separate facilities (shelter homes / observation homes) for girls and boys • Requisite facilities for education, vocational training, counselling and recreation or make arrangements for it in collaboration with voluntary organizations or corporate sector. <p>The institutions must make provision of first-aid kit, fire extinguishers in kitchen, recreation room, vocational training room, dormitories,</p>

	<p>inspection of food stuffs, stand-by arrangements for water storage and emergency lighting.</p> <p>Nutrition Children to be provided four meals in a day including breakfast; menu to be prepared with the help of a nutritional expert or doctor to ensure balanced diet and variety in taste.</p> <p>Medical Care: Maintain medical records of each child on the basis of</p>	<p>Specifications have been provided for:</p> <ul style="list-style-type: none"> • Clothing and bedding • Sanitation and hygiene • Nutrition • Medical facilities and mental health • Education • Vocational training • Recreation facilities <p>Nutrition Children to be provided four meals in a day including breakfast; menu to be prepared with the help of a nutritional expert or doctor to ensure balanced diet and variety in taste.</p> <p>Medical Care: Maintain medical records of each child on the basis of monthly medical check-up</p>	<p>Standards of care Specifications have been provided for</p> <ul style="list-style-type: none"> • Clothing and bedding • Sanitation and hygiene • Nutrition • Medical facilities and mental health • Education • Vocational training • Recreation facilities • 4 meals a day prepared with the help of a nutritional expert and special diets for sick children <p>Medical Care: Medical records are to be created for each child and</p>	<p>Nutrition: Children shall be provided 4 meals a day including breakfast. The menu shall be prepared with the help of a nutritional expert or doctor to ensure balanced diet and variety in taste. Children may be provided special meals on holidays. The diet of infants and sick children shall be as per their requirements.</p> <p>Medical Care: There must be medical facilities, preferably with</p>	<p>store rooms and counselling room; conduct periodic inspection of electrical installations; ensure proper storage and inspection of articles of food; and ensure stand-by arrangements for water storage and emergency lighting.</p> <p>Special infrastructural facilities and necessary equipment shall be provided to differently-abled children. Such facilities and equipment shall be designed under the guidance of specialists or experts.</p> <p>Nutrition Children to be provided four meals in a day including breakfast; menu to be prepared with the help of a nutritional expert or doctor to ensure balanced diet and variety in taste.</p> <p>Medical Care: Maintain medical records of each child on the basis of monthly medical check-up</p>
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	<p>monthly medical check-up and provide necessary medical facilities; necessary arrangements for immunization coverage; arrange for a medical examination of each juvenile or child admitted by the Medical Officer within twenty four hours and in special cases or medical emergencies immediately;</p> <p>Mental Health Both milieu based interventions and individual therapy are must for every child and shall be provided in all institutions.</p> <p>Education.— (1) Every institution shall provide education to all children according to their age and ability, both inside the institution or outside,</p>	<p>and provide necessary medical facilities; necessary arrangements for immunization coverage; arrange for a medical examination of each juvenile or child admitted by the Medical Officer within twenty four hours and in special cases or medical emergencies immediately;</p> <p>Mental Health Both milieu based interventions and individual therapy are must for every child and shall be provided in all institutions.</p> <p>Education.— (1) Every institution shall provide education to all children according to their age and ability, both inside the institution or outside, as per requirement. (2) Educational opportunities to include, mainstream inclusive</p>	<p>monthly check ups are to be conducted; medical facilities which include having a doctor on call, first aid kits and training of staff on first aid and access to hospitals are to be ensured.</p> <p>Mental Health Special arrangements to address mental health issues are to be provided and, specifically, the environment in the institution shall be free from abuse, allowing juveniles or children to cope with their situation and regain confidence.</p> <p>Education Every institution has to provide formal, non-formal and life skill education to</p>	<p>doctor and nurse. Medical examination of children within 24 hours of arrival in the home. Monthly routine medical check-up of children. In case of outbreak of contagious diseases, segregation must be ensured. Immunization as per National Immunization Schedule to be ensured. Medical record of each child to be meticulously maintained in child's case file</p> <p>Counselling Each home shall have the services of a trained counsellor.</p> <p>Education All children to receive education according to age and ability, either inside the home or outside, or both.</p>	<p>and provide necessary medical facilities; necessary arrangements for immunization coverage; arrange for a medical examination of each juvenile or child admitted by the Medical Officer within twenty four hours and in special cases or medical emergencies immediately;</p> <p>Mental Health Both milieu based interventions and individual therapy are must for every child and shall be provided in all institutions.</p> <p>Education.— (1) Every institution shall provide education to all children according to their age and ability, both inside the institution or outside, as per requirement. (2) Educational opportunities to include, mainstream inclusive schools, bridge school, open schooling, non-formal education and learning and</p>
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	<p>as per requirement. (2) Educational opportunities to include, mainstream inclusive schools, bridge school, open schooling, non-formal education and learning and input from special educators where needed.</p> <p>Vocational Training Institution shall provide gainful vocational training to children.</p> <p>Recreation Provide guided recreation to all children, including outdoor games, music, television, picnics and outings, cultural programmes, and library.</p> <p>Recreation Provide guided recreation to all children, including outdoor games, music, television, picnics and outings, cultural programmes, and library.</p> <p>Daily routine which shall provide for a regulated and disciplined life, personal</p>	<p>schools, bridge school, open schooling, non-formal education and learning and input from special educators where needed.</p> <p>Vocational Training Institution shall provide gainful vocational training to children.</p> <p>Recreation Provide guided recreation to all children, including outdoor games, music, television, picnics and outings, cultural programmes, and library.</p>	<p>all juveniles or children based on their age and ability.</p> <p>Vocational Training The institution is also expected to provide gainful and market oriented income generating vocational training to juveniles or children.</p> <p>Recreational facilities The institutions must provide for guided recreation in terms of indoor and outdoor activities, games, music, outings etc.</p> <p>Care plan The children's homes are required to prepare and follow individual care plans for every child with rights based approach, specifically addressing the child's physical and mental health, emotional needs,</p>	<p>Vocational Training (i) Every children's home shall facilitate useful vocational training and children shall be paid wages by the Government from time-to-time work undertaken by them during training.</p> <p>Recreation facilities Must include indoor and outdoor games, music, television, picnics and outings, cultural programmes, etc.</p> <p>Care Plan The in-charge, counsellor and child welfare officer/case worker/social worker shall prepare a care plan for every child in the home,</p>	<p>input from special educators where needed.</p> <p>Vocational Training Institution shall provide gainful vocational training to children.</p> <p>Recreation Provide guided recreation to all children, including outdoor games, music, television, picnics and outings, cultural programmes, and library.</p> <p>Review of Care Plan Management Committee must meet every month to consider and review matters such as custodial care, interventions required, medical facilities, individual problems etc.</p> <p>District Protection Child Units are responsible for:</p>
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	<p>hygiene and cleanliness, physical exercise, yoga, educational classes, vocational training, organized recreation and games, moral education, group activities, prayer and community singing, and special programmes for Sundays and holidays.</p>	<p>Review of Care Plan Management Committee must meet every month to consider and review matters such as custodial care, interventions required, medical facilities, individual problems etc.</p> <p>DCPU responsible for:</p> <ul style="list-style-type: none"> ensuring effective implementation of the Act at district or city levels by supporting creation of adequate infrastructure, such as, setting up Boards, Committees, SJPU and homes in each districts. developing parameters and tools for effective monitoring and supervision of agencies and institutions in the district in consultation with experts in child welfare. 	<p>education, skill development, protection and special needs if any.</p>	<p>which shall be reviewed from time-to-time for appropriate development and rehabilitation options. Children shall be consulted while determining their care plan.</p> <p>Care Facilities Services of Superintendent, child welfare officer, social worker shall be provided for the proper care, protection, development, rehabilitation and reintegration needs of such children.</p> <p>Free phone facility for children;</p> <p>Linkages with Integrated Child Development Services (ICDS) to cater to the needs of children below six years;</p>	<ul style="list-style-type: none"> ensuring effective implementation of the Act at district or city levels by supporting creation of adequate infrastructure, such as, setting up Boards, Committees, SJPU and homes in each districts. developing parameters and tools for effective monitoring and supervision of agencies and institutions in the district in consultation with experts in child welfare.
<p>Protections (safety and security)</p>	<p>Implementation Central Government, State Government, Juvenile Justice</p>	<p>Implementation Officer-in-Charge is responsible for developing parameters and tools for</p>	<p>Implementation All children’s homes are required to report to the relevant Committee about</p>		

	<p>Board, CWC, other competent authorities and agencies shall, in the best interest of children, ensure that every person, school, or other institutions abide by the Central and State Government guidelines.</p> <p>In case of death or suicide of a child Inquest and post-mortem examination at the earliest. (in case of natural death or due to illness, report from Medical Officer). Written intimation about the death to be given immediately to the nearest Police Station, the Board or Committee, etc., and the parents/guardians/relatives of the child. As soon as the inquest is held, the body shall be handed over to the parents/guardian/rela</p>	<p>effective monitoring and supervision of agencies and institutions in the district in consultation with experts in child welfare.</p> <p>Procedure in case of death of a child The institution must ensure that an inquest and post-mortem examination are conducted at the earliest. In certain cases, the Person-in-charge must obtain a report of the Medical Officer stating the cause of death, following which the State Government, nearest Police Station, Board or Committee, Delhi Commission for Protection of Child Rights, National Human Rights Commission, and the child's guardians must be immediately informed in writing.</p>	<p>every child in need of care and protection received by them.</p> <p>Procedure in case of death of a child The institution must ensure an inquest and post-mortem examination of cases of unnatural deaths or suicides; in case of natural deaths, a medical report must be obtained and report to the appropriate State agencies; there is a general requirement to record the cause of death and send reports to appropriate State agencies.</p>	<p>Procedure in case of death of a child Superintendent to record circumstances of death in case file of the child, death certificate to be obtained from attending doctor/hospital. Committee and District Level Inspection Team to be informed, along with relatives, if known. The last rites shall be performed according to the known religion of the child.</p>	<p>Procedure in case of death of a child The institution must ensure that an inquest and post-mortem examination are conducted at the earliest. In certain cases, the Person-in-charge must obtain a report of the Medical Officer stating the cause of death, following which the nearest Police Station, Board or Committee and the child's guardians must be informed in writing.</p> <p>The DCPU must seek reports and take action in cases of death or suicide in child care institutions and under other institutional care and submit the reports to the State Child</p>
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	<p>tives or, in the absence of any claimant, the last rituals shall be performed under the supervision of the officer-in-charge in accordance with the known religion of the child.</p> <p>In case of abuse and exploitation of the juvenile or child The environment in an institution shall be free from abuse.</p> <p>Every institution shall have systems of ensuring that there is no abuse, neglect and maltreatment and this shall include the staff being aware of what constitutes abuse, neglect and maltreatment as well as early indicators of abuse, neglect and maltreatment and how to respond to these.</p> <p>Leave of absence of</p>	<p>In the event of custodial rape or sexual abuse</p> <ul style="list-style-type: none"> • the incidents of abuse and exploitation shall be reported immediately to the Person-in-charge, • a report shall be placed before the Board or Committee, who must order for special investigation, • the Board or Committee shall direct the local police station or SJPU to register a case, and conduct necessary investigation, • the child victim must receive legal aid and counselling, • the child must be transferred to another 	<p>In the event of physical, sexual abuse or neglect</p> <ul style="list-style-type: none"> • the incidents of abuse and exploitation shall be reported immediately to the Superintendent, • a report shall be placed before the Committee, who must order for special investigation, • the Committee shall direct the local police station or SJPU to register a case, and conduct necessary investigation, • the child victim must receive legal aid and counselling, • the child must be transferred to another institution or place of 	<p>In the event of custodial rape or sexual abuse Superintendent to place report before the Committee, who shall order special investigation. SJPU to take cognizance of such occurrences and conduct necessary investigations.</p>	<p>Protection Society,</p> <p>In the event of abuse or neglect Every institution shall evolve a system of ensuring that there is no abuse, neglect and maltreatment. In the event of any abuse and neglect in an institution by those responsible for care and protection, the following action are to be taken:</p> <ul style="list-style-type: none"> • the incidents of abuse and exploitation shall be reported immediately to the Person-in-charge, • a report shall be placed before the Board or Committee, who must order for special investigation, • the Board or Committee shall direct the local police station or SJPU to
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	<p>a juvenile or child: A child may be allowed to go on leave of absence or released under supervision for examination or admission, special occasions like marriage or emergencies like death or accident or serious illness in the family.</p> <p>Prohibited Articles: No person shall bring into the institution the following prohibited articles, namely: (a) fire-arms or other weapons (b) alcohol and spirit of any description; (c) bhang, ganja, opium or other narcotic or psychotropic substances; (d) tobacco; or (e) any other article specified in this behalf by the State Government by a</p>	<p>institution or place of safety or fit person.</p>	<p>safety or fit person.</p> <p>If a child escapes In the event of an escape of a child, within 24 hours, the Superintendent must immediately send a report to the area Police Station or SJPU with a copy to the Committee, District Child Protection Unit and other authorities concerned. The Superintendent must inform the parents or guardians. The Superintendent must undertake an inquiry about such escape and send his report to the Board or Committee and the authorities concerned</p>	<p>If a child leaves the home without permission, information shall be sent to the police and the family; detailed report of efforts to trace the child shall be sent to the committee.</p> <p>No Social Investigation The requirement of social investigation and disposal shall not apply in cases of children residing in the shelter home, except giving information to the committee and the police about the missing or homeless children, besides initiating legal action in the interest of the child in terms of the Act or other child related laws.</p>	<p>register a case, and conduct necessary investigation,</p> <ul style="list-style-type: none"> • the child victim must receive legal aid and counselling, • the child must be transferred to another institution or place of safety or fit person.
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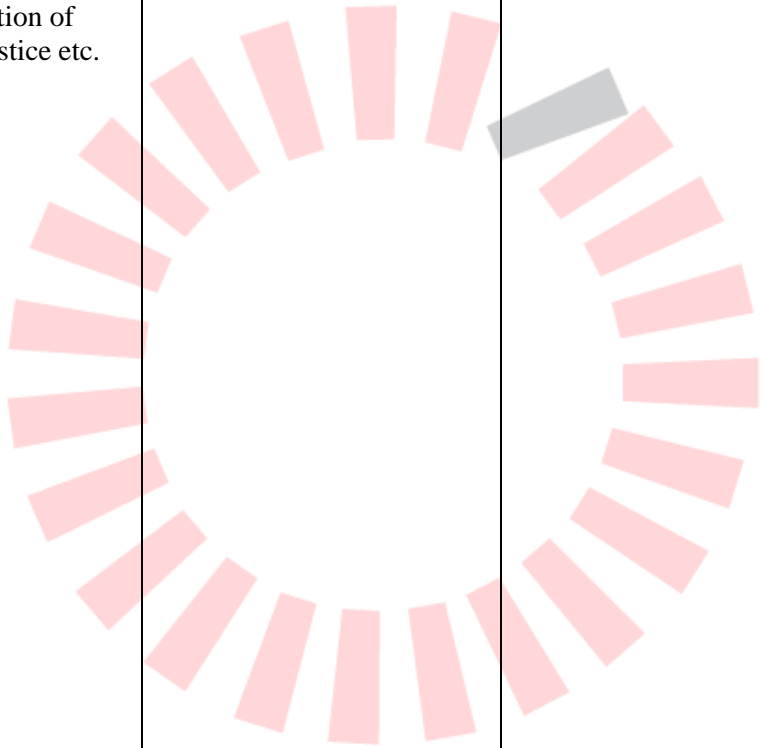
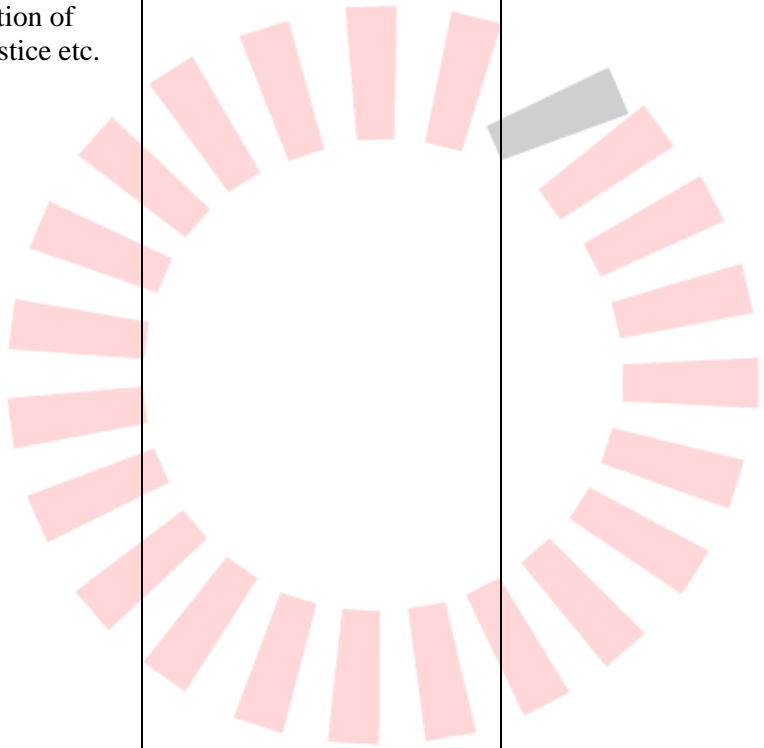
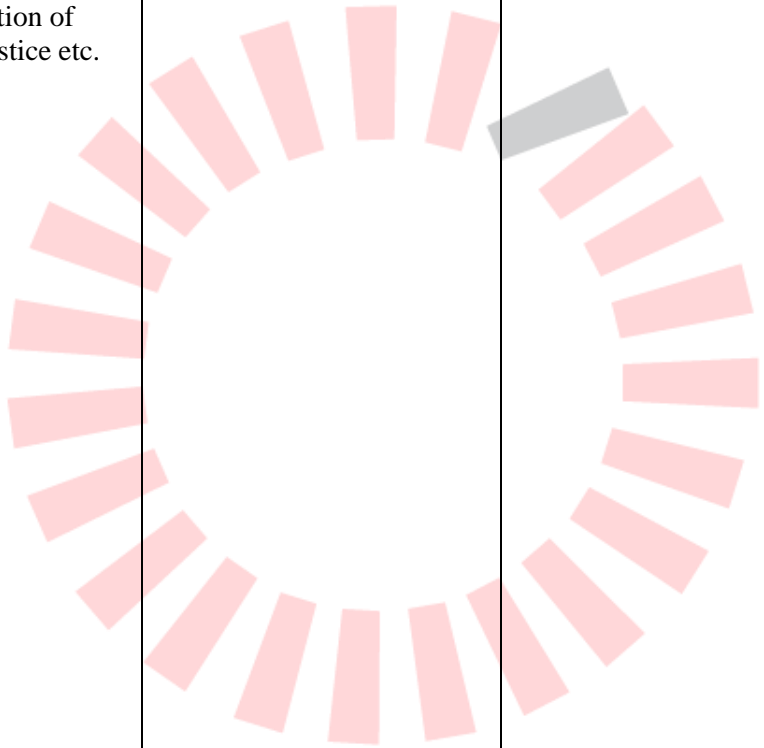
	<p>general or special order.</p> <p>A Visitor's Book shall be maintained, in every institution, in which the person visiting the home shall record the date of his visit with remarks or suggestions, which they may think proper.</p>	<p>A Visitor's Book shall be maintained, in every institution, in which the person visiting the home shall record the date of his visit with remarks or suggestions, which they may think proper.</p>			
<p>Reporting requirements for shelter</p>	<p>Reporting Report of children using the shelter home facility along with a photograph of the child to the CWC, missing persons bureau or SJPU and the District/State Child Protection Unit. Officer-in-charge or child welfare officer shall file a quarterly progress report of every child in the case file and send a copy to the District Child Protection</p>	<p>Reporting All shelter homes must submit a report of children using the shelter home facility along with a photograph of the child to the Committee, the missing persons bureau or SJPU and the DCPU or the State Child Protection Unit.</p>	<p>Reporting All shelter homes must submit a report of children using the shelter home facility along with a photograph of the child to the Committee, the missing persons bureau or SJPU and the DCPU or the State Child Protection Unit.</p>	<p>Reporting All shelter homes are required to submit a report of the children using the facilities along with a photograph of the child, to the CWC, the missing persons bureau or SJPU and the DCPU or the State Child Protection Unit</p>	<p>Reporting Whoever produces the child before the Committee shall make a report in Form 17 containing the particulars of the child as well as the circumstances in which the child was received or found. The DCPU must submit a monthly report to the State Child Protection Society. The Management Committee must seek a report by the Person-in-charge on the setting up and functioning of the children's committees, review it and take necessary action.</p>

	<p>Unit and Board or Committee.</p> <p>Production before CWC Produce child received by a shelter home before the CWC. Case file of each child to be maintained in the institution containing information such as: counsellor’s and caseworkers reports; observation reports; regular health status reports from Medical Officer; quarterly progress report; individual care plan, etc.</p> <p>Maintenance of Registers Officer- in-charge shall maintain all requisite registers, such as: a) Admission and discharge register; b) Supervision register; c) Medical file or</p>	<p>Openness and Transparency All Children's homes must be open to visitors with the requisite permission, in order to allow representatives of local self-government, voluntary organizations, social workers, researchers, medicos, academicians, prominent personalities, media, etc.</p> <p>Case file Maintenance of case file of each juvenile and child in the institution.</p>	<p>Openness and Transparency No relevant provision in relation to this issue</p>	<p>Case files All case files of the children maintained by the institutions and the committee shall be</p>	<p>Openness and Transparency All Child Care Institutions must be open to visitors with the permission of the Board or the Committee or the Person-in-charge, who may allow voluntary organisations, social workers, researchers, doctors, academicians, etc.</p> <p>Maintenance of Registers as per Rule 77.</p>
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	medical report; d) Nutrition diet file; etc.			computerized and networked so that the date is centrally available.	
Inspections (requirement, frequency, whether external agencies or not)	<p>Inspection: State Government shall constitute State, District or city level inspection committee to inspect the institution once every three months. The team shall consist of a minimum of five members from the State Government, the Board or Committee, the State Commission for the Protection of Child Rights, medical and other experts, voluntary organizations and reputed social workers.</p>	<p>Inspection: State Government shall constitute State, District or city level inspection committee at least one in every three months. It has the following duties:</p> <ul style="list-style-type: none"> • Visit and oversee the conditions in the institutions and appropriateness of the processes for safety, well-being and permanence • Review the standards of care and protection being followed by the institutions • Look out for any incidence of violation of child rights • Look into the functioning of the Management Committee and Children's Committee set up under rules 55 and 56 of these rules • Give appropriate directions. <p>Officer-in-Charge of an</p>	<p>Inspection: The State Government shall constitute State, District or City level inspection committee on the recommendation of a Selection Committee, for a period of 3 years.</p> <p>The inspection committee is required to visit and oversee the conditions in the institutions and appropriateness of the processes for safety, well-being and permanence, review the standards of care and protection being followed by the institutions, look out for any incidence of violation of child rights, look into the functioning of the Management Committee and Children's Committees and give appropriate directions.</p> <p>The team shall consist of 7 members - Judiciary/State Government, local authority, the Board or Committee, the State</p>	<p>Inspection State Government to constitute State, District or city-level inspection teams on the recommendation of Board, consisting of a minimum five members from State Government, local authority, the committee, medical and other experts, voluntary organizations and reputed social workers, for a period of 3 years, to visit and oversee the functioning of Homes, give suitable directions to be followed, and make suggestions for the improvement and development of the institution.</p>	<p>Inspection: State Government shall conduct a detailed inspection where provisional registration has been granted or <u>review annually</u> after registration under sub-section (1) of section 41 of the Act, of the facilities, staff, infrastructure and compliance with the standards of care, protection, rehabilitation and reintegration services and management of the institution or the organisation as laid down under the Act and the rules.</p> <p>The State Inspection Committee shall carry out inspections of the Child Care Institutions as defined under sub-section (21) of section (2) of the Act housing children in the State in <u>Form 46</u>. It must carry out random inspections of the institutions housing children, and make recommendations for improvement.</p>

	<p>Social audit To be carried out with support and involvement of organizations working in the field of mental health, child care and protection and autonomous bodies like the National</p>	<p>institution is responsible for periodical inspection, including daily inspection and rounds of the institution, proper storage and inspection of food stuffs as well as food being served.</p> <p>State Child Protection Unit is responsible for supervision and monitoring of agencies and institutions under the Act.</p> <p>Advisory Board must inspect the various institutional or non-institutional services and the recommendations made shall be acted upon by the State Government.</p> <p>Social Audit</p> <ul style="list-style-type: none"> The State Government must monitor and evaluate the implementation of the Act <u>annually</u> by reviewing matters concerning establishment of Board or Committee or SJPU where required, functioning of Board or 	<p>Commission for the Protection of Child Rights or the State Human Rights Commission, medical and other experts, voluntary organizations and reputed social workers.</p> <p>The inspection has to be carried out at least once in every 3 months and by not less than 3 members.</p> <p>The inspection team has to interact with the children during the visits to the institution, to determine their well-being and uninhibited feed-back.</p> <p>Social Audit The State Government must monitor and evaluate the implementation of the Act annually by reviewing matters concerning establishment and functioning of Board or Committee or SJPU, functioning of institutions and staff, etc</p>	<p>Social Audit: The Central or State Government shall monitor and evaluate the functioning of the children's homes annually with the help of organizations working with the children and autonomous bodies like the National Institute of Public Co-operation and Child</p>	
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	<p>Institute of Public Co-operation and Child Development, Indian Council for Child Welfare, Childline India Foundation, Central and State level Social Welfare Boards, School of Social Work and School of Law.</p> <p>Monitoring and Implementation Central/State Government shall monitor and evaluate implementation of the Act annually by reviewing matters concerning establishment and functioning of Board or Committee or SJPU, functioning of</p>	<p>Committee or SJPU, functioning of institutions and staff, functioning of adoption agencies, child friendly administration of juvenile justice and any other matter concerning effective implementation of the Act in the State.</p> <p>The social audit shall be carried out with support and involvement of organizations working in the field of mental health, child care and protection and public accountability.</p> <p>Monitoring and Implementation Management Committees responsible for monitoring progress of every child.</p>	<p>The Social audit must be carried out with support and involvement of organizations working in the field of mental health, child care and protection and public accountability.</p>	<p>Development, Indian Council for Child Welfare, Indian Council for Social Welfare, Indian Social Institute, Childline Indian Foundation, National Institute of Social Defence, Central and State-Level Social Welfare Boards and School of Social Work.</p>	<p>Monitoring by National Commission for Protection of Child Rights and State Commissions for Protection of Child Rights.</p> <p>Monitoring and Evaluation: The Central Government or the State Government can conduct an evaluation of the functioning of the Board, Committee, SJPUs, registered institutions, or recognised fit facilities and persons under the Act once in three years. This may be done institutions and agencies such as reputed academic institutions, schools of social work of</p>
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	<p>institutions and staff, adoption agencies, child friendly administration of juvenile justice etc.</p>				<p>Universities, Management Institutions, multi-disciplinary Committee especially constituted for the purpose etc. The findings of the evaluation must be shared between the Central and State Governments in order to strengthen and improve the functioning of different structures.</p> <p>The District Magistrate shall review the functioning of the CWC including by inspection once every quarter and also appraise the performance of the Chairperson and the members of the Committee.</p> <p>State Child Protection Society has the following functions:</p> <ul style="list-style-type: none"> • reviewing reports received from various DCPUs on the functioning of institutions • monitoring the functioning of the DCPUs <p>The District Inspection</p>
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					Committee shall inspect all Child Care Institutions in the district in Form 46, at least once in 3 months.
Remedies	<p>Management Committee shall set up a complaint and redress mechanism in every institution.</p> <p>Children’s Suggestion Box To be installed at an easily accessible place, away from the office, closer to the residence of the children, which shall be checked weekly by the Chairperson of the Management Committee. Chairperson to call emergency meeting of Management Committee to discuss and take action for problems requiring immediate attention.</p>	<p>The Management Committee shall set up a complaint and redress mechanism in every institution.</p> <p>Children’s Suggestion Box To be installed in every institution at a place easily accessible to juveniles and children away from the office set up and closer to the residence or rooms or dormitories of the children.</p> <p>Suggestion Box to be maintained by the CWC, and checked every week by the Chairperson of the Management Committee or his representative.</p> <p>Children’s Suggestion Book shall be maintained in every institution where</p>	<p>Children’s Suggestion Box The Management Committee is to maintain a suggestion box to encourage inputs from children and adults alike and take necessary action in every institution in an accessible place.</p>		<p>The Management Committee shall set up a complaint and redress mechanism in every institution.</p> <p>Children’s Suggestion Box Every Child Care Institution shall have a complaint box at a prominent place in the building to receive complaints of corporal punishment.</p> <p>Children’s Suggestion Book To be maintained in every institution where the complaints and action taken by the Management</p>

	<p>POCSO POCSO classifies sexual assault and penetrative sexual assault by anyone on the management or staff of a protection home or a place of care and protection as aggravated sexual assault and aggravated penetrative sexual</p>	<p>the complaints and action taken by the Management Committee are duly recorded. The Children’s Suggestion Book must be reviewed at least once in three months.</p> <p>POCSO POCSO classifies sexual assault and penetrative sexual assault by anyone on the management or staff of a protection home or a place of care and protection as aggravated sexual assault and aggravated penetrative sexual assault. Aggravated sexual assault is punishable with 5-7 years of</p>	<p>POCSO POCSO classifies sexual assault and penetrative sexual assault by anyone on the management or staff of a protection home or a place of care and protection as aggravated sexual assault and aggravated penetrative sexual assault. Aggravated sexual assault is punishable with 5-7 years of</p>	<p>POCSO POCSO classifies sexual assault and penetrative sexual assault by anyone on the management or staff of a protection home or a place of care and protection as aggravated sexual assault and aggravated penetrative sexual assault. Aggravated sexual assault is punishable with 5-7 years of imprisonment which</p>	<p>Committee are duly recorded. The Children’s Suggestion Book must be reviewed at least once in three months.</p> <p>State Child Protection Society has the following functions:</p> <ul style="list-style-type: none"> • Address complaints received regarding care and protection of children, • ensure that all institutions set up under the Act and the rules are in place and performing their assigned duties, <p>POCSO POCSO classifies sexual assault and penetrative sexual assault by anyone on the management or staff of a protection home or a place of care and protection as aggravated sexual assault and aggravated penetrative sexual assault. Aggravated sexual assault is punishable with 5-7 years of</p>
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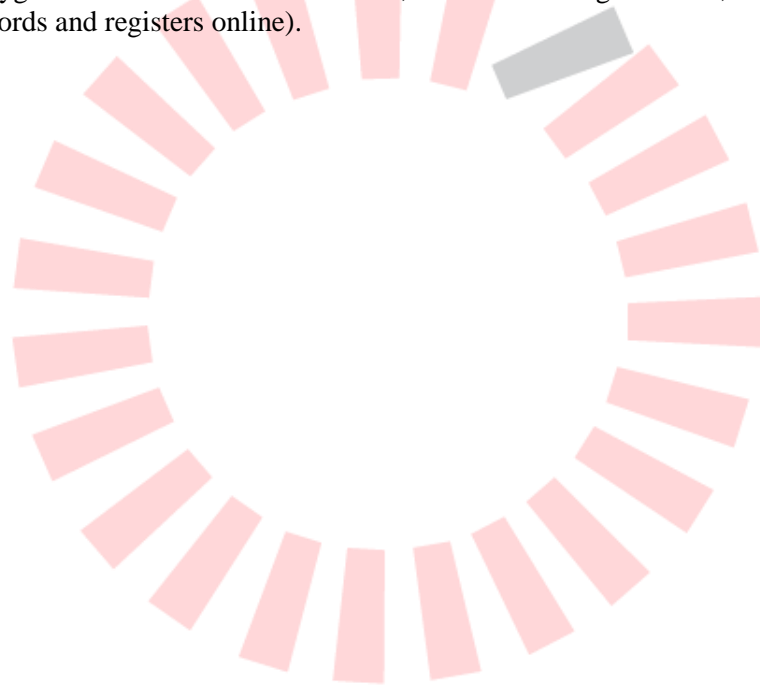
	<p>assault. Aggravated sexual assault is punishable with 5-7 years of imprisonment which can be simple or rigorous. Aggravated penetrative sexual assault is punishable with rigorous imprisonment for a minimum of 10 years.</p>	<p>imprisonment which can be simple or rigorous. Aggravated penetrative sexual assault is punishable with rigorous imprisonment for a minimum of 10 years.</p>	<p>imprisonment which can be simple or rigorous. Aggravated penetrative sexual assault is punishable with rigorous imprisonment for a minimum of 10 years.</p>	<p>can be simple or rigorous. Aggravated penetrative sexual assault is punishable with rigorous imprisonment for a minimum of 10 years.</p>	<p>imprisonment which can be simple or rigorous. Aggravated penetrative sexual assault is punishable with rigorous imprisonment for a minimum of 10 years.</p>
<p>Enforcement levels (Breakthrough to help provide details)</p>					<p>If the State Government finds unsatisfactory compliance by an institution, it may serve notice on the management of the institution and after giving an opportunity of being heard, declare within a period of sixty days from the date of the detailed inspection or annual review as the case may be, that the registration of the institution or organisation, shall stand withdrawn or cancelled from a date specified in the notice and from the said date, the institution shall cease to be an institution registered under sub-section (1) of section 41 of the Act.</p>

III. Gap Analysis and Recommendations

1. As may be observed in the table above, the JJ Rules have not been consistently adopted across the sample states. While newer legislations (such as the Jharkhand Rules) have provisions that go beyond the minimum requirements of the Central rules, older legislations (such as the UP Rules) do not meet many of the minimum requirements. For instance, the UP Rules have no provision to recognise an institution or organisation providing care and protection to children as a shelter home, no provision for a Management Committee, etc. The UP Rules also have no provisions for record keeping or reporting; however, it is implicit that records have to be maintained, since a requirement of computerising them exists. However, please note that new draft rules have been issued for UP in 2018. These rules are more up-to-date with the Central rules and more comprehensive in their provisions. It is expected that these rules may be promulgated soon.
2. All states may be asked to revise their existing rules under the JJ Act, 2015. Apart from incorporating additional requirements from the new Act, it will also be a helpful exercise in revising the existing provisions of the state rules. Presently, the requirements in terms of the minimum facilities vary across states with some states providing specific recommendations and others laying out more general standards. It is recommended that the Central Rules be made the default rules to fill the gaps in state Rules. Thus, if the Central Rules provide for a visitor's book, but the UP rules make no mention of such a facility, shelter homes in UP will be required to maintain visitor's books under the Central Rules.
3. The Ministry of Women and Child Development may carry out a periodic exercise of collating best practices across states, which can thereafter be added to the Central Rules, or be shared with each state to include in the state rules. For example, the Jharkhand Rules are more advanced than the Central Rules in some aspects. Firstly, the provisions for registration of organisations and personnel specifically disbar those which have a previous conviction record or involvement in any immoral act or in an act of child abuse or employment of child labour. Secondly, the provisions of training of personnel are much more detailed as compared to the central Rules. The Rules provide a minimum period of training (e.g. 15 days), the components of the training programme (e.g. the Act and Rules), as well as the expert organisations (e.g. National Institute of Public Cooperation and Child Development) to be involved in preparing the training modules. These provisions may be included in other state rules as well in the best interests of children.
4. The Rules indicate an overemphasis on the state mechanism carrying out audits. This opens up the door to corruption and lack of efficacy. In order to ensure greater transparency, it is recommended that more non-government organisations become involved in the process. It will, of course, be important to ensure that the non-government organisations involved in auditing themselves have a track record of pro-active social work and a clean financial history. Moreover, as with national state schemes, it is also recommended that the rules lay greater emphasis on monitoring and evaluation, rather than audits. Ongoing monitoring along parameters of child care and progress, minimum facilities available, and the functioning of the management, will ensure better day-to-day care and protection of the child, rather than relying on periodic audits.
5. While states have been given the responsibility of setting up and supporting shelter homes, the allocation of a budgetary grant is susceptible to the processes of corruption and red-tapism. Many shelter homes are unable to function well simply due to the lack of funds. It is therefore recommended

that shelter homes be given the option of accessing non-state funds, such as private donations or institutional sponsorship. Such a provision exists in the Bihar Rules, and it will be a good practice for other states to adopt.

6. While there is a lot of emphasis on maintaining registers and records in the state rules, there is not much emphasis on technology. It is recommended that there should be a much more aggressive use of technology in shelter homes in terms of physical infrastructure (fingerprinted visitor's logs, CCTV in the playgrounds and administrative areas, teleconferencing facilities, etc.), education (computer labs for children) and management (maintaining records and registers online).



breakthrough