



India's Hell Holes:
Child Sexual Assault in Juvenile Justice Homes



ASIAN CENTRE FOR HUMAN RIGHTS



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Tel/Fax: +91 11 25620583, 25503624

Website: www.achrweb.org

Email: suhaschakma@achrweb.org

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Abbreviations

ACHR	Asian Centre for Human Rights
CBI	Central Bureau of Investigation
CCI	Child Care Institutes
CRPF	Central Reserve Police Force
CSCPR	Chhattisgarh State Commission for Protection of Child Rights
CWC	Child Welfare Committee
DCPO	District Child Protection Officer
DCPS	District Child Protection Society
DCPU	District Child Protection Unit
DNA	Deoxyribonucleic Acid
FIR	First Information Report
ICPS	Integrated Child Protection Scheme
IPC	India Penal Code
JJB	Juvenile Justice Board
JJ(C&P)C Act	Juvenile Justice (Care and Protection of Children) Act
KSCPCR	Karnataka State Commission for Protection of Child Rights
MWCD	Ministry of Women and Child Development
NCPCR	National Commission for Protection of Child Rights
NCRB	National Crime Records Bureau
NGO	Non-governmental organisation
NHRC	National Human Rights Commission
PAB	Project Approval Board
POCSO	Protection of Children from Sexual Offences Act

Glossary

<i>Anatha</i>	Orphan
<i>Anathalaya</i>	Orphanage
<i>Asbram</i>	Shelter Home
<i>Bala Mandir</i>	Children Home
<i>Chowkidar</i>	Watchman
<i>Class-IV employee</i>	Lower level employees such as cook, sweeper, gatekeeper, clerk etc
<i>Duppatta</i>	A long multi-purpose scarf worn by women across both shoulders
<i>Holi</i>	A religious festival celebrated by Hindus as a festival of colours
<i>Randi</i>	Prostitute
<i>Rajikiya</i>	Government
<i>Samprekshan Grih</i>	Observation Home
<i>Shishu greh</i>	Children Home
<i>Vaislya</i>	Prostitute
<i>Yatheemkhana</i>	Orphanage

1. Executive Summary and Recommendations

Sexual offences against children in India have reached an epidemic proportion and the Protection of Children from Sexual Offences Act, 2012 (POCSO) is unlikely to be able to address the menace unless the Government of India and the State Governments take effective measures for proper implementation of the same.

A total of 48,338 child rape cases was recorded from 2001 to 2011. These include 7,112 cases in 2011; 5,484 cases in 2010; 5,368 cases in 2009; 5,446 cases in 2008; 5,045 cases in 2007; 4,721 cases during 2006; 4,026 cases during 2005; 3,542 during 2004; 2,949 cases during 2003, 2,532 cases during 2002 and 2,113 cases during 2001.¹ The registration of cases of child rape have been consistently increasing and India saw an increase of 336% of child rape cases from 2001 (2,113 cases) to 2011 (7,112 cases). These are only the tip of the iceberg as the large majority of the cases of child rape are not reported to the police while children regularly become victims of other forms of sexual assault too.

Many of the child rape cases take place in juvenile justice homes² i.e. observation home, special home, or children's home or shelter home set up, certified or recognized and registered respectively under sections 8, 9, 34, sub-section (3) of section 34 and section 37 of the Juvenile Justice (Care and Protection of Children) Act [JJ(C&P) C Act]. At the end of financial year 2011-2012, about 733 juvenile justice homes in India had received grants under the Integrated Child Protection Scheme (ICPS) of the Ministry of Women and Child Development.

It will not be an understatement to state that juvenile justice homes, established to provide care and protection as well as re-integration, rehabilitation and restoration of the juveniles in conflict with law and children in need of care and protection, have become India's hell holes where inmates are subjected to sexual assault and exploitation, torture and ill treatment apart from being forced to live in inhuman conditions. The girls remain the most vulnerable. It matters little whether the juvenile justice homes are situated in the capital Delhi or in the mofussil towns.

This report highlights 39 emblematic cases of systematic and often repeated sexual assault on children in juvenile justice homes. Out of the 39 cases, 11 cases were reported from government-run juvenile justice homes such as observation homes, children homes, shelter homes and orphanages, while in one case a CWC member was accused of sexual harassment during counseling sessions. The remaining 27 cases were reported from privately/NGO run juvenile justice homes such as shelter homes, orphanages, children homes, destitute homes, etc. Majority of privately/NGO

¹ Please refer to the Annual Reports of the National Crimes Records Bureau, Ministry of Home Affairs available at www.ncrb.nic.in

² "Juvenile justice homes" mean institutions defined under 2(i) of the Juvenile Justice (Care and Protection of Children) Rules, 2007 which states that (i) "institution" means an observation home, or a special home, or a children's home or a shelter home set up, certified or recognized and registered under sections 8, 9, 34, sub-section (3) of section 34 and section 37 of the Act respectively;

run homes are not registered under Section 34(3) of the Juvenile Justice (Care and Protection of Children) Act (as amended in 2006) which provides that “*Without prejudice to anything contained in any other law for the time being in force, all institutions, whether State Government run or those run by voluntary organisations for children in need of care and protection shall, within a period of six months from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, be registered under this Act in such manner as may be prescribed.*”

In the case of government-run juvenile justice homes, the perpetrators were staffs including the caretakers, security guards, cooks and other Class IV employees, and the senior inmates. In two cases, the sexual abuses were committed by the senior inmates in collusion with the staff.

With respect to the privately/NGO-run juvenile justice homes, the perpetrators include managers/directors/owners/founders and their relatives and friends, staff members such as caretakers, wardens, cooks, drivers, security guards, gatekeepers, senior inmates and outsiders including security forces. Out of the 27 cases in privately/NGO-run homes, inmates were responsible for the offences in five cases and out of these, in one case offence was committed in collusion with the staff.

In most cases, sexual assault in the juvenile justice homes continues for a long period as the victims are not able to protest and suffer silently in the absence of any inspection by the authorities under the JJ(C&PC) Act. While authorities are the main predators, the absence of separate facilities, in many cases for boys and girls, and in most cases as per age i.e. for boys and girls up to 12 years, 13-15 years and 16 years and above as provided under Rule 40 of the Juvenile Justice Care and Protection of Children Rules 2007 facilitates sexual assault on the minor inmates by the senior inmates.

The sexual assault on children the juvenile justice homes continues unabated as the Government of India i.e. the Ministry of Women and Child Development and the State Governments have failed to implement the JJ(C&PC)Act in letter and spirit. It failed to address four critical areas indispensable for addressing child sexual abuse in juvenile justice institutions i.e. functional Inspection Committees, registration of all juvenile justice homes, effective and functional Child Welfare Committees and separation of inmates on the basis of the nature of the offences, sex and age.

i. Inspection Committees

Most State governments have not formed Inspection Committees which are mandated to inspect the juvenile justice homes under the JJ(C&P) Act as provided under Section 65 of the JJ(C&PC) Act. Rule 63 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 mandates the Inspection Committees 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 Committee*” at least once in every three months.

The Ministry of Women and Child Development itself has repeatedly failed to raise the need for establishment of the Inspection Committees while approving projects for all the States and Union Territories under the Integrated Child Protection Scheme (ICPS). The Project Approval Board (PAB) of the ICPS indeed never raised the issue of inspection Committees with a number of state governments despite holding discussions for approval of grants since 2010. The PAB never raised the issue of Inspection Committees with the Governments of Delhi, Chhattisgarh, Puducherry, Bihar, Jharkhand, Tripura, Uttar Pradesh, Meghalaya and Nagaland despite having yearly meetings for approval of grants since 2010. The PAB failed to give the same importance to the Inspection Committees as given to the Child Welfare Committees and the Juvenile Justice Boards (JJBs), thereby failing to address child sexual abuse in juvenile justice homes. In fact, no separate budgetary allocation has been made under ICPS for the functioning of the Inspection Committees. There is a conscious effort on the part of the Ministry to avoid the issue of the Inspection Committees.

ii. Unregistered child care institutions

There are hundreds of unregistered child care homes across the country, which are not registered under Section 34(3) of the JJ (C&PC) Act, 2000. Inspection is seldom carried out in these unregistered homes and children remain extremely vulnerable to sexual abuse in these homes. These cases of sexual assault at two children homes at Mansarovar and Jagatpura in Jaipur, Rajasthan from where 51 children, mostly girls, were rescued on 12 March 2013;³ the Arya Anathalaya, an orphanage in Daryaganj, Delhi,⁴ the NGO-run orphanage, Supurna ka Aangan in Gurgaon, Haryana,⁵ and Sarbabhoutika Anatha Sishu Ashram Orphanage in Rourkela, Odisha cited in this report were not registered under the JJ(C&PC) Act.

Non-registration of the juvenile homes remains a massive problem. The Ministry of Women and Child Development had raised the issue of non-registration of children's home with Jharkhand on 21 January 2013, Odisha on 9 November 2012, Arunachal Pradesh on 29 August 2012, Haryana on 29 August 2012, Rajasthan on 29 August 2012, Andhra Pradesh on 11 July 2012, Assam on 11 July 2012, Mizoram on 15 March 2012, Karnataka on 28 June 2012 and Kerala 17 January 2012, among others.

There is no punitive provision *per se* for non-registration of the institutions. However, Section 23 of the JJ(C&PC) Act clearly provides that “*Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both*”. It is clear that appropriate action can be taken by the authorities under Section 23 following inspection.

³ Illegal Jaipur shelter owner accused of abusing 2 girls, The Indian Express, 30 March 2013

⁴ Government-appointed administrator to look into orphanage's functioning, The Hindustan Times, 12 February 2012

⁵ Indo-Asian News Service, 5 May 2012, available at: <http://www.sify.com/news/gurgaon-ngo-didnt-t-have-permission-to-run-orphanage-news-national-mffwucijaja.html>

iii. Non-functional Child Welfare Committees

Though there are 462 District Child Welfare Committees in 23 States mandated to verify fit institutions, majority of them exist only on paper. In a few cases, the State Governments have been restricting surprise inspections by the CWCs. The State Government of Karnataka while appointing the CWC members in October 2010 put the conditions that “members cannot visit child care institutions, when they are not holding a sitting, without prior permission of the heads of these institutions”. This effectively prohibits random and surprise inspections which is essential for the CWC to certify whether the institutions are “fit” as per the JJ(C&PC) Act.

Even in cases where there are no such restrictions, the functioning of the existing CWCs has been found wanting. On 16 April 2012, the Allahabad High Court while hearing the matter of sexual abuse at Rajikiya Shishu Grih, Allahabad observed as under⁶:

“The Court must also express its disappointment that the Child Welfare Committees consisting mainly of Social Workers which have been constituted under the Juvenile Justice Act (2000) [JJ Act] for attending to the welfare of children, have shown little proactive sensitivity for addressing the myriad problems relating to children, but have simply been passing orders in a mechanical and bureaucratic manner, with no sense of mission and thus have given little relief to children in distress.”

iv. Lack of segregation on the basis of nature of offences, sex and age

Recognising vulnerability of younger inmates, the Juvenile Justice (Care and Protection of Children) Rules 2007 underscored the need of classification and separation of the children on the basis of the nature of the offences, age and sex. Rule 40 provides for separate facilities between for boys and girls as well as according to age i.e. for boys and girls up to 12 years, 13-15 years and 16 years and above.

This provision has not been complied with and the recommendation of the PAB on the rationalization of the homes failed to address this particular issue. The lack of segregation on the basis of the nature of offences, age and sex facilitates senior inmates to commit the offences against minor inmates including girls.

Conclusion and recommendations

Child sexual abuse in juvenile justice institutions is rampant, systematic and has reached an epidemic proportion. Hundreds of children especially girls go missing from the juvenile justice homes either to escape from the abuses and/or being victims of trafficking. In Karnataka, as many as 1,089 children below 14 years have gone missing from 34 Bala Mandirs (Children's Homes) during February 2005 to February 2011.⁷ In July 2012, the Calcutta High Court ordered a probe by the Central Bureau of Investigation into the alleged disappearance of 40 girls from a West Bengal

⁶ Available at: <http://elegalix.allahabadhighcourt.in/elegalix/WebShowJudgment.do>

⁷ 1,089 children missing from bala mandirs in last five years, The Hindu, 28 August 2011

government-run home and another run by an NGO. The directive was passed after the Criminal Investigative Department of the West Bengal Police failed to trace the girls who went missing from the homes. According to the petition, 13 minor girls went missing from a home run by an NGO near Kolkata on 29 October 2009 while 27 from a government run children home in West Midnapore between 12 November 2009 and 18 March 2010.⁸

In order to address increasing sexual offences against children, on 19th June 2012, the President of India gave assent to the Protection of Children from Sexual Offences Act, 2012 (POCSO) to codify sexual assault, provide procedures for investigation and establishment of the Special Courts to try the offences. The Protection of Children from Sexual Offences Rules, 2012 came into force on 12th November 2012.

Oblivious to the systematic sexual assaults in the juvenile justice homes, Section 19(5) of the POCSO provides that *“Where the Special Juvenile Police Unit or local is satisfied that the child against whom an offence has been committed is in need of care and protection, then, it shall, after recording the reasons in writing, make immediate arrangement to give him such care and protection (including admitting the child into shelter home or to the nearest hospital) within twenty-four hours of the report.* Section 19(6) of POCSO further provides that *“The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, report the matter to the Child Welfare Committee and the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard.”*

The mandatory requirement of registration of all child care institutions within six months from the date of the Juvenile Justice (Care and Protection of Children) Act of 2006 came into force has failed to bring an end to child sexual abuses in the juvenile justice homes whether run by the government or the NGOs with the funding from the Government of India under the Integrated Child Protection Programme.

The Protection of Children from Sexual Offences Act, 2012 is also unlikely to be able to address the menace of child sexual abuse unless the Government of India and the State Governments take effective measures for proper implementation of the same.

Asian Centre for Human Rights recommends the following:

To Ministry of Women and Child Development, Government of India to:

- Ensure establishment of the Inspection Committees in all the districts and mandatory inspection of the juvenile justice homes by the Committees in every three months as provided under Rule 63 of the Juvenile Justice (Care and Protection of Children) Rules, 2007;
- Ensure that the status of the Inspection Committees as a separate agenda item in the Project Approval Board meeting of the Integrated Child Protection Scheme and separate budgetary allocation is made for proper functioning of the Inspection Committees;

⁸ West Bengal: 40 girls disappear from govt-run home, The Indian Express, 20 July 2012

- Issue direction to the effect that no funds are to be given to any juvenile justice homes whether run by the State Governments or NGOs unless the latest quarterly report of the Inspection Committees is submitted for consideration of further grants;
- Issue necessary guidelines to ensure that Inspection Committees or Child Welfare Committees or any other authorities during their inspection provide an atmosphere where the inmates could give their opinion about the status of the homes or their situations to the inspecting team without fear of retribution or punishment by the staff which therefore requires conducting interviews without the presence of any staff of the juvenile home and the Inspection Committees mandatorily inquire about sexual assault and the same is reflected in the Inspection Reports;
- Amend the Juvenile Justice (Care and Protection of Children) Act of 2000 to introduce a new chapter on monitoring of juvenile justice homes after holding consultation with all the stakeholders;
- Instruct all the state governments to transfer the staff posted in the Juvenile Justice Homes at regular period with a view to rule out vested interests and possible criminal nexus;
- Instruct all the State governments to ensure that no male staff is posted in the juvenile justice homes for girls;
- Take measures under the ICPS to implement Rule 40 which provides that the State Governments or the voluntary organisation recognised by that State Government shall set up separate observation homes or special homes for boys and girls; and (2) the observation homes or special homes shall set up separate residential facilities for boys and girls up to 12 years, 13-15 years and 16 years and above;
- Direct the State government to conduct a survey of the unregistered homes to be completed within six months and register cases against the authorities of the unregistered juvenile justice homes for any violations of the Section 23 of the Juvenile Justice (Care and Protection of Children) Act;
- Create a Special Fund under the Integrated Child Protection Scheme to provide financial assistance for prosecution of the offenders under the POCSO; and
- Provide adequate financial and human resources to the National Commission for Protection of Child Rights and the State Commissions for Protection of Child Rights for implementation of the role assigned under Rule 6 of the Protection of Children from Sexual Offences Rules relating to Monitoring of implementation of the Act.

Suhas Chakma
Director

2. India's hell holes: Sexual assaults in juvenile justice homes

2.1. Child sexual abuse in India

Children face all forms of sexual assault in India and offences against children have reached an epidemic proportion. The number of child rape cases registered is indicative of sexual assault against the children.

A total of 48,338 child rape cases was recorded from 2001 to 2011. These include 7,112 cases in 2011; 5,484 cases in 2010; 5,368 cases in 2009; 5,446 cases in 2008; 5,045 cases in 2007; 4,721 cases during 2006; 4,026 cases during 2005; 3,542 during 2004; 2,949 cases during 2003, 2,532 cases during 2002 and 2,113 cases during 2001.⁹ The cases of child rape have been consistently increasing and India saw an increase of 336% of child rape cases from 2001 (2,113 cases) to 2011 (7,112 cases).

These are just the tip of the iceberg as the large majority of the cases of child rape are not reported to the police while children regularly become victims of other forms of sexual assault too.

Among the states, Madhya Pradesh recorded the highest number of rape cases with 9,465 cases from 2011 to 2011; followed by Maharashtra with 6,868 cases; Uttar Pradesh with 5,949 cases; Andhra Pradesh with 3,977 cases; Chhattisgarh with 3,688 cases; Delhi with 2,909 cases; Rajasthan with 2,776 cases; Kerala with 2,101 cases; Tamil Nadu with 1,486 cases; Haryana with 1,081 cases; Punjab with 1,068 cases; Gujarat with 999 cases; West Bengal with 744 cases; Odisha with 736 cases; Karnataka with 719 cases; Himachal Pradesh with 571 cases; Bihar with 519 cases; Tripura with 457 cases; Meghalaya with 452 cases; Assam with 316 cases; Jharkhand with 218 cases; Mizoram with 217 cases; Goa with 194 cases; Uttarakhand with 152 cases; Chandigarh with 135 cases; Sikkim with 113 cases; Manipur with 98 cases; Arunachal Pradesh with 93 cases; Jammu and Kashmir with 69 cases; Andaman and Nicobar Island with 65 cases; Puducherry with 41 cases; Nagaland with 38 cases; Dadra and Nagar Haveli with 15 cases; and Daman and Diu with 9 cases. Lakshadweep recorded no rape cases during 2001-2011.¹⁰

The detail State-wise information of the child rape cases reported to NCRB from 2001 to 2011 is given in Table 1.

2.2. Juvenile justice homes

The Government of India enacted the Juvenile Justice (Care and Protection of Children) Act, 2000 and one of the aims of the Act is “.... to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by

⁹ Refer to the Annual Reports of the National Crimes Records Bureau available at www.ncrb.nic.in

¹⁰ Crime in India reports from 2001-2011, National Crime Records Bureau

Table 1: State-wise information of the child rape cases reported to NCRB from 2001 to 2011

States	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Madhya Pradesh	390	517	699	710	870	829	1043	892	1071	1182	1262	9465
Maharashtra	367	491	605	634	634	655	615	690	612	747	818	6868
Uttar Pradesh	562	416	301	394	394	347	471	900	625	451	1088	5949
Andhra Pradesh	84	137	383	363	315	412	363	412	416	446	646	3977
Chhattisgarh	150	182	186	308	382	448	368	411	394	382	477	3688
Delhi	113	138	140	186	235	448	398	301	307	304	339	2909
Rajasthan	35	38	49	137	246	311	406	420	371	369	394	2776
Kerala	64	186	69	159	140	219	183	215	235	208	423	2101
Tamil Nadu	20	29	47	166	115	125	141	187	182	203	271	1486
Haryana	108	84	77	24	131	176	122	70	116	107	66	1081
Punjab	38	52	54	54	51	58	135	106	210	144	166	1068
Gujarat	39	67	75	96	90	112	98	99	91	102	130	999
West Bengal	12	16	16	19	6	20	92	129	109	73	252	744
Odisha	17	21	55	31	28	101	92	65	87	74	165	736
Karnataka	11	19	25	42	48	84	84	97	104	108	97	719
Himachal Pradesh	35	26	36	32	58	41	48	68	83	72	72	571
Bihar	16	3	3	3	8	17	110	91	63	114	91	519

States	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Tripura	0	0	0	28	20	37	33	104	83	107	45	457
Meghalaya	0	16	24	22	51	47	41	34	60	91	66	452
Assam	0	3	5	7	90	61	34	27	10	39	40	316
Jharkhand	11	43	16	43	22	28	23	8	8	0	16	218
Mizoram	0	2	9	0	0	35	60	18	11	42	40	217
Goa	10	7	22	20	15	14	15	18	30	23	20	194
Uttarakhand	9	8	11	17	18	23	17	9	7	10	23	152
Chandigarh	8	6	9	13	21	8	8	10	21	16	15	135
Sikkim	4	4	8	1	14	14	17	12	14	14	11	113
Manipur	0	0	7	4	4	15	4	22	12	11	19	98
Arunachal Pradesh	0	3	9	11	10	0	1	11	16	12	20	93
Jammu & Kashmir	6	7	2	4	4	8	12	5	4	8	9	69
A& N Islands	0	1	2	8	2	5	3	8	12	15	9	65
Puducherry	4	4	1	4	3	8	3	4	1	3	6	41
Nagaland	0	6	0	1	0	11	2	0	0	3	15	38
Dadra & Nagar Haveli	0	0	0	0	0	3	3	3	2	3	1	15
Daman & Diu	0	0	4	1	1	1	0	0	1	1	0	9
Lakswadeep	0	0	0	0	0	0	0	0	0	0	0	0
Total	2113	2532	2949	3542	4026	4721	5045	5446	5368	5484	7112	48338

providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment.”

With this in mind, the JJ(C&PC) Act provides for establishment, management and regulation of different categories of juvenile homes for reception and reformation of juveniles in conflict with the law as well as to provide shelter to children in need of care and protection. These include (i) Observation homes under Section 8, (ii) Special homes under section 9, (iii) Children’s homes under section 34, and (iv) Shelter homes under section 37.

The JJ(C&PC) Act also empowers the State Government to certify any institution other than the one established by the government as a fit institution (i) for the temporary reception of juvenile in conflict with law (Observation homes) during the pendency of any inquiry regarding them under section 8(2); (ii) Special homes for reception and rehabilitation of juvenile in conflict with law under section 9(2); (iii) Children’s homes for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation under section 34(2); and (iv) Shelter homes for the children in the need of urgent support under section 37(2).

Rule 2(i) of the Juvenile Justice (Care and Protection of Children) Rules, 2007 states that “*institution* means an observation home, or a special home, or a children’s home or a shelter home set up, certified or recognized and registered under sections 8, 9, 34, sub-section (3) of section 34 and section 37 of the Act respectively.

As per the Ministry of Women and Child Development, Government of India, a total of 733 juvenile justice homes received assistance under the Integrated Child Protection Scheme by the end of financial year 2011-2012.

Table 2: List of the Juvenile Justice Homes which received assistance from the Ministry of Women and Child Development

Sl No	Name of the State	Number of Homes
1.	Andhra Pradesh	108
2.	Arunachal Pradesh	1
3.	Assam	10
4.	Bihar	14
5.	Chhattisgarh	12
6.	Delhi	25
7.	Dadra and Nagar Haveli	1
8.	Gujarat	13

9.	Haryana	10
10.	Himachal Pradesh	22
11.	Jharkhand	16
12.	Karnataka	52
13.	Kerala	28
14.	Madhya Pradesh	24
15.	Maharashtra	91
16.	Manipur	13
17.	Meghalaya	18
18.	Mizoram	4
19.	Nagaland	12
20.	Odisha	27
21.	Puducherry	21
22.	Rajasthan	35
23.	Sikkim	5
24.	Tamil Nadu	44
25.	Tripura	11
26.	Uttar Pradesh	61
27.	West Bengal	55
Total		733

2.3. Emblematic cases of child sexual assaults in juvenile justice homes

Many of the child rape cases take place in juvenile justice homes i.e. observation home, special home, or children's home or shelter home set up, certified or recognized and registered under respectively sections 8, 9, 34, sub-section (3) of section 34 and section 37 of the Juvenile Justice (Care and Protection of Children) Act [JJ(C&P)C Act]. It will not be an understatement to conclude that juvenile justice homes, mandated to provide care and protection as well as re-socialisation, rehabilitation and restoration of the juveniles in conflict with law, have become India's hell holes where inmates i.e. children are subjected to sexual assault and exploitation, torture and ill treatment apart from being forced to live in inhuman conditions. The girls remain at the highest risk of assault and abuse. It matters little whether the juvenile justice homes are situated in the capital Delhi or in the mofussil towns.

This report highlights 39 emblematic cases of systematic and often repeated sexual assault on children in juvenile justice homes. Out of the 39 cases, 11 cases were reported from government-run juvenile justice homes such as observation homes, children homes, shelter homes and orphanages, while in one case a CWC member

was accused of sexual harassment during counseling sessions. The remaining 27 cases were reported from privately/NGO run juvenile justice homes such as shelter homes, orphanages, children homes, destitute homes, etc. Majority of privately/NGO run homes are not registered under Section 34(3) of the Juvenile Justice (Care and Protection of Children) Act, 2006.

In the case of government-run juvenile justice homes, the perpetrators were staffs including the caretakers, security guards, cooks and other Class IV employees and the senior inmates. In two cases, the sexual abuses were committed by the senior inmates in collusion with the staff.

With respect to the privately/NGO-run juvenile justice homes, the perpetrators include managers/directors/owners/founders and their relatives and friends, staff members such as caretakers, wardens, cooks, drivers, security guards, gatekeepers, senior inmates and outsiders including security forces. Out of the 27 cases in privately/NGO-run homes, inmates were responsible for the offences in five cases and out of these, in one case offence was committed in collusion with the staff.

In most cases, sexual assault in the juvenile justice homes continue for long period as the victims are not able to protest and suffer silently in the absence of any inspection by the authorities under the JJ(C&PC) Act. While authorities of the juvenile justice homes are the main predators, the absence of separate facilities in many cases for boys and girls and in most cases as per age i.e. for boys and girls up to 12 years, 13-15 years and 16 years and above as provided under Rule 40 of the Juvenile Justice Care and Protection of Children Rules 2007 facilitates sexual assaults on the minor inmates by the senior inmates.

Case 1: Repeated sexual abuse of two minor girls by Manager of Baba Deep Jyoti Anath Ashram in Sambalpur, Odisha

On 3 April 2013, Upendra Das (40), Manager of Baba Deep Jyoti Anath Ashram, an orphanage at Naxapali in Sambalpur, Odisha was arrested by police for allegedly sexually abusing two minor girls of the orphanage for the last two months. The accused was arrested after some girl inmates of the orphanage confided about the sexual abuse of the girls to one Manas Barik, who teaches the inmates voluntarily. In turn, the teacher informed the Chairperson of the Child Welfare Committee who asked the District Collector to take action on the matter. The District Collector and the police raided the orphanage on the night on 2 April 2013. There were 20 inmates - 16 girls and four boys - aged between 1 and 14 years in the orphanage. All the inmates were shifted to Rukmani Lath Bal Niketan at Chachhanpali following a direction of the District Collector. Two among the girls, who were studying in class V and VII respectively, alleged that they had been sexually abused repeatedly by Upendra Das for about two months. A case was registered.¹¹

¹¹ Orphanage staff arrested for 'sexually abusing' inmates, The New Indian Express, 4 April 2013

Case 2: Torture and sexual assault on girl inmates at Bethel Children Home in Durg, Chhattisgarh

On 26 March 2013, four girl inmates ran away from Bethel Children Home in Titrudih area in Durg district of Chhattisgarh. They were rescued by volunteers of Childline NGO who helped them file a police complaint. The girls claimed that they were not given food, and instead they were beaten and sexually abused.¹² On 30 March 2013, the police arrested Director of the Home, B Nadulu and Warden J Dilip Kumar. Following the revelation an inspection was conducted by Chhattisgarh State Commission for Protection (CSCPR) of Child Rights and Women and Child Welfare Department, which confirmed the allegations. During the inspection some of the boy inmates also complained of sexual abuse. About 47 children, including 17 girls, were staying at the privately run children home. Four of the girls who escaped from the home were shifted to a children home at Mana in Raipur while the rest were being kept at a state- run children home in Durg.¹³

Case 3: Physical and sexual abuse of orphan girls at Jai Anand Nirashrit Ashram, Nashik, Maharashtra

In March 2013, girl inmates of Jai Anand Nirashrit Ashram, an orphanage situated at Chamar Leni area in Nasik, Maharashtra sent letters to Child Welfare Committee and Childline alleging physical and sexual abuse by the officials of the orphanage. In their complaint letters, the victims alleged that Superintendent Bhausahab Thorat, Caretakers Santosh Thorat and Harshad Patil, and Security Guard Bhalerao had been physically and sexually abusing them for years. The inmates revealed in the letters that whenever they were taken to a doctor's clinic, the accompanying caretakers would stop the vehicle in isolated areas and sexually abuse them. The letter also stated that the accused would touch their private parts, made to bend over and touch their toes for hours as punishment for small mistakes, and when visitors came to the orphanage, the caretakers would stand behind them and pinch them so that they do not complain to the outsiders about the abuse. On 24 March 2013, Child Welfare Committee and the Department of Women and Child Development visited the orphanage for investigation. The orphanage, recognized by the Department of Women and Child Development, Maharashtra housed 35 girls and 63 boys. However, there were no female staff other than the cooks who come for few hours every day to prepare meals.¹⁴

Case 4: Sodomy and physical assault by senior inmates at Kuldabad Juvenile Home, Allahabad, Uttar Pradesh

On 19 March 2013, a 17-year-old juvenile (name withheld) in conflict with law complained before a magistrate during inspection of the Juvenile Home, Kuldabad in Allahabad, Uttar Pradesh that he was sodomised and beaten by fellow inmates over the past several days. An inquiry was conducted by the staff and local police following

¹² Chhattisgarh: Warden, head of child shelter booked for sexually assaulting girls, *IBN Live*, 31 March 2013, <http://ibnlive.in.com/news/chhattisgarh-child-shelter-warden-head-booked-for-sexual-abuse/382169-3-235.html>

¹³ Raipur: Director, Warden of Private Shelter Held for Sodomy, *Outlook India*, 30 March 2013

¹⁴ Orphans allege sexual abuse at Nashik home, *The Mumbai Mirror*, 25 March 2013

the complaint. The investigation found the allegations against the nine inmates were true. Thereafter, the police registered a case under Section 377, 374, 332, 323 and 405 of Indian Penal Code (IPC) and Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.¹⁵

Case 5: Boy sodomised by guard and senior inmates at Govt-run Ashiana Home for Boys, Alipur in Delhi

On 13 March 2013, Delhi Police informed the Delhi High Court that the security guard of a government-run children home, Ashiana Home for Boys in Alipur, Delhi was removed from the job after a seven-year-old HIV positive boy alleged that he was sexually abused by the security guard and other older inmates. The security guard identified as Amandeep used to beat up the children with stick regularly. The boy also alleged that three older inmates had sexually abused him and used to harass him daily.¹⁶

Case 6: Illegal detention, sexual abuse and starvation of girls at illegal shelter homes, Jaipur, Rajasthan

On 12 March 2013, 51 children, including 27 girls and 24 boys, were rescued from two children homes at Mansarovar and Jagatpura in Jaipur in Rajasthan. The minors were illegally confined under appalling conditions for years in the two homes which were illegally run by one Jacob John from Kerala. Of the 51 children rescued from two children homes 21 were from Manipur, six each from Nagaland and Uttar Pradesh, four each from Assam, Nepal, Rajasthan and Punjab and two from Delhi. The children were rescued by the Rajasthan State Commission for Protection of Child Rights (RSCPCR) along with social workers, activists and media. The girls were found in a dreadful state. The homes were filthy, the food was full of fungus and the toilets were dirty. The children were kept locked in the two homes. Some of the girls had lesions on their skin and at least one of them had developed rickets due to non-exposure to sunlight. Hundreds of liquor bottles were also recovered from both the homes.¹⁷

Most of the minors were from the North East and have forgotten their mother tongue. The children were brought to the homes on the pretext of providing free and quality education. Jacob John reportedly used to sleep in one of the girls' rooms and had given different new names to the 51 children. The children alleged that they were starved for days. Jacob John, running the children homes by flouting every norm and guideline, was arrested.¹⁸

Out of the 27 girls, two of them, including a 17-year-old girl from Nagaland accused Pastor Jacob John of sexually abusing them during counseling sessions. The victim

¹⁵ 9 juveniles booked for sodomy, The Times of India, 20 March 2013

¹⁶ Security guard of Ashiana children home sacked: Delhi govt to HC, Zee News, 13 March 2013, http://zeenews.india.com/news/delhi/security-guard-of-ashiana-children-home-sacked-delhi-govt-to-hc_835210.html

¹⁷ 51 children rescued from Jaipur shelters, The Hindustan Times, 14 March 2013

¹⁸ Rescued children subjected to sexual abuse? Available at: <http://e-pao.net/GE.asp?src=24..220313.mar13>

from Nagaland alleged that she was repeatedly raped since she was 11 years while another rescued girl alleged she was molested. Some of the children also recalled other teenaged girls who lived in the home earlier were forced to sleep with Jacob John at night. The whereabouts of these girls could not be ascertained as no records were maintained.¹⁹

Case 7: Sexual abuse of a minor girl by Manager of a childcare home in Delhi

In March 2013, Ibrahim, (58 years)²⁰, manager of a childcare home at Samaypur Badli, Outer Delhi, was arrested on the charge of sexually abusing a minor girl and subjecting her to child labour. An NGO, which had sent the girl to the care centre, conducted a surprise visit and found that the child was living at the residence of the centre's manager. Thereafter the NGO representatives took custody of the girl and informed the police. After medical examination, the child was sent to another care home. On 18 March 2013, the girl was produced before the Child Welfare Committee. She alleged that the manager had kept her in his house for the past one year and had also raped her. The CWC ordered police to register a case against the manager.²¹

Case 8: Rape of minor girl at Swami Gnanananda Ashram orphanage, Andhra Pradesh

On 28 October 2012, police registered a case against 52-year old Swami Poornananda, Director of Swami Gnanananda Ashram, an orphanage and old-age home, in the Port City of Vishakapatnam, Andhra Pradesh on the charge of rape of a minor girl in the orphanage. The police registered a case under Section 376 of Criminal Procedure Code based on the complaint filed by the 13-year-old victim and her parents. The victim told the police that she was raped three months ago. Members of a tribal students association also alleged that the accused had sexually assaulted other inmates of the orphanage.²²

Case 9: Sexual and physical abuse at juvenile home, Kottayam, Kerala

In October 2012, children lodged at Juvenile Home, Thiruvananthapuram in Kottayam District, Kerala alleged before a television channel that they were subjected to sexual and physical abuse by the caretakers of the Home. There were 65 inmates in the juvenile home set up under the Social Welfare Department of the State Government. The victims alleged that they were asked to undress and do obscene things. If they did not follow the orders, they were beaten and threatened. In September 2012, some staff were taken into police custody for beating up a girl, but were released within few days. The state government of Kerala had ordered an inquiry into the allegations.²³

¹⁹ Illegal Jaipur shelter owner accused of abusing 2 girls, *The Indian Express*, 30 March 2013

²⁰ Manager of child home held for rape, *The Times of India*, 20 March 2013

²¹ Delhi playschool owner's husband held sexually abusing 5-year-old girl, *The Indian Express*, 20 March 2013

²² Swami arrested for raping minor girl in ashram, *The Indian Express*, 29 October 2012

²³ Children allegedly sexually abused by caretakers at Kerala juvenile home: NDTV: 11 October, 2012:<http://www.ndtv.com/article/south/children-allegedly-sexually-abused-by-caretakers-at-kerala-juvenile-home-278085>

Case 10: Sexual abuse of 10 girls by Secretary of Peralassery Yatheemkhana (Orphanage), Chakkarakkal, Kerala

On 24 September 2012, A. P. Ahamed (43), Secretary of the Peralassery Yatheemkhana (orphanage) at Chakkarakkal, Kerala was arrested on the charge of sexually abusing at least 10 minor girls at the orphanage. The arrest was made after the police received complaints from at least 10 minor girls alleging sexual and psychological abuse. On 25 September 2012, Ms. Kunhamina (40), who had worked as warden in the orphanage was also arrested. The orphanage, established in 1991, was housing 42 boys and 22 girls in age group of 10-15 years. The girls of the orphanage were shifted to a child care facility at Thalassery.²⁴

Case 11: Boy sodomised by inmates and staff at Govt.-run shelter home for children, Goa

On 29 September 2012, the police registered a case of sodomy against four inmates and two staff members of a State-run shelter home for children for sexually assaulting a minor boy inmate (10 years). In his complaint to the police, the victim alleged that during his two months stay at the Home he was sexually assaulted several times by the accused. But no action was taken by the concerned officials. The victim first filed the complaint against all the accused before the Child Welfare Committee who directed the police to register a case.²⁵

Case 12: Sexual abuse by senior inmates at Govt. Shelter Home, Jalpaiguri, West Bengal

On 28 September 2012, two inmates (13 and 14 years respectively) of a government-run shelter home for boys in Jalpaiguri District, West Bengal were sexually assaulted by two senior inmates. The victims were admitted to Jalpaiguri District Hospital with injuries. The shelter home houses juveniles as well as orphans.²⁶

Case 13: Sexual abuse of girls at Sarbabhowmik Sishu Ananta Ashram orphanage, Rourkela in Orissa

On 19 August 2012, Deepak Bal, Manager of Sarbabhowmik Sishu Ananta Ashram, an orphanage at Basanti Colony in Rourkela, Orissa was arrested on charges of sexual abuse of girl inmates. According to police, out of the 90 inmates, 10 girls had accused the Manager of sexual abuse. Medical examination of the victims confirmed the abuses. The inmates were shifted to other institutions following an inspection by the Child Welfare Committee.²⁷ The orphanage was not registered under the JJ(C&P)C Act.²⁸

²⁴ Sexual abuse of girls at orphanage: two arrested, *The Hindu*, 26 September 2012

²⁵ 10-yr-old boy at Goa shelter home allegedly sexually assaulted: *Hindustan Times*; 29 September 2012: <http://www.hindustantimes.com/India-news/Goa/10-yr-old-boy-at-Goa-shelter-home-allegedly-sexually-assaulted/Article1-937555.aspx>

²⁶ Teens sexually assaulted by homosexuals at West Bengal govt shelter: *The Indian Express*; 28 September: <http://www.indianexpress.com/news/teens-sexually-assaulted-by-homosexuals-at-west-bengal-govt-shelter/1009330>

²⁷ Assault in orphanage, *The Telegraph*, 20 August 2012

²⁸ 83 orphans shifted from errant Rourkela home, *The Times of India*, 22 August 2012

Case 14: Sexual abuse at a destitute home at Vasanthapuram, Tamil Nadu

On 21 June 2012, a minor girl, an inmate of the “*Joy Karunai Illam*,” a destitute home at Vasanthapuram in Namakkal town of Tamil Nadu, ran away from the home and was found wandering at a bus terminus by a lady teacher. When she was taken to the local police station the girl told them about sexual assault perpetrated on her by G. Jani, son of Caretaker George Gnanasekaran in May 2012. The victim remained silent as the Caretaker and his family members had threatened her. Following the revelation, the authorities closed down the home after an inquiry by District Child Protection Officer (DCPO) and Child Welfare Committee. The DCPO stated that some of the girls revealed that they were subjected to sexual harassment at the home and the Caretaker and his family covered up the incidents and threatened them of dire consequences if they complained. Later, some of the inmates were handed over to their parents, while some were shifted to another home.²⁹

Case 15: Sexual abuse of girls by staff of NGO-run orphanage in Gurgaon, Haryana

On 6 May 2012, the owner and caretaker of NGO-run orphanage, *Suparna ka Aangan* in Gurgaon, Haryana were arrested and sent to judicial custody for alleged rape and sexual abuse of minor girl inmates. Rachit Raju (20), the caretaker-cum cook was arrested on the charge of rape of the minor girls, while the owner identified as Suparna Sethi was arrested for violation of the Juvenile Justice (Care and Protection of Children) Act, 2000 as the orphanage was not registered. On 5 May 2012, a team of NCPCR inspected the orphanage on a complaint filed by NGO Shakti Vahini. There were 20 inmates lodged in the orphanage. Police suspected that the owner may be aware of the sexual abuse of the girls by the Caretaker.³⁰ At least five girls between 8-15 years were sexually abused by the accused.³¹

Case 16: Sexual and physical abuse of girls at Bal Kunj, a Govt-run shelter home in Yamunanagar, Haryana

On 31 May 2012, a girl inmate went missing from the Bal Kunj, a government-run shelter home in Chhachhrauli block in Yamunanagar district, Haryana. Media reports alleged that children of the shelter home had been subjected to sexual, mental and physical exploitation by the caretakers. The state government ordered a probe by the Haryana State Council for Child Welfare (HSCCW) into the allegation of sexual abuse of the inmates of the shelter home.³² The national daily, “The Tribune” had reported that the senior girls were stripped and subjected to beating by the caretaker.³³ Further,

²⁹ TN: Children’s home shut after complaints of sexual abuse, The New Indian Express, 25 September 2012, available at: <http://newindianexpress.com/cities/chennai/article600361.ece>

³⁰ Orphanage owner, caretaker arrested for sexual abuse of girls: IBNLive News; 6 May 2012: <http://ibnlive.in.com/generalnewsfeed/news/orphanage-owner-caretaker-arrested-for-sexual-abuse-of-girls/995254.html>

³¹ Indo-Asian News Service, 5 May 2012, available at: <http://www.sify.com/news/gurgaon-ngo-didn-t-have-permission-to-run-orphanage-news-national-mffwucijaja.html>

³² HSCCW team to probe shelter home sexual abuse charges, The Hindustan Times, 5 June 2012

³³ NIGHTMARE HOMES, The Tribune, 29 July 2012

a 17-year-old mentally retarded girl inmate who allegedly ran away from the shelter home was gang raped by two youths on 1 June 2012. Doctors confirmed that the girl was raped.³⁴

Case 17: Apna Ghar case, Rohtak in Haryana

In the first week of May 2012, three girls escaped from Apna Ghar shelter home in Rohtak, Haryana and revealed the tales of sexual abuses, torture, ill-treatment at the shelter home run by the NGO Bharat Vikas Sangh. On 9 May 2012, a team of NCPCR conducted a surprise inspection following which more shocking tales of torture, sexual abuse and exploitation, child labour, etc emerged. Some female inmates of the home had even alleged that the in-charge, Jaswanti Devi, had forced some of the girls from the home into immoral activities. The NCPCR team also found that some inmates were missing from the home. The NGO in-charge had reportedly given these children away to childless couples from other states. The NCPCR rescued about 120 inmates including children, girls and women. The state government of Haryana sealed the Apna Ghar shelter home in June 2012.³⁵

The NCPCR team revealed shocking findings. The NCPCR team noticed the following living conditions as revealed by the inmates:

- The children were not allowed to venture out of the Home and were treated as captive all the time.
- Medical attention was provided by a private doctor who would not write a prescription, but just give the medicine. ADC cross checked with the doctor referred by the Director Jaswanti who denied that Jaswanti would ever bring children to him for treatment.
- Children were forced to live together with the mentally challenged women, where as they needed to be segregated as this had a definite bearing on the psyche of the children.
- Most of the children were malnourished as they were not provided with the proper dietary requirements. Unless a special day, the evening meals consisted of *Dalia* with high water content barely enough to feed a growing child in his/her developmental stage.
- For the newly born babies the mothers were forced to beg Director Jaswanti for the milk and at times even on begging it would be denied as a part of punishment even for a flimsy mistake by the mother.
- On occasions as a part of punishment, children were forced to go hungry for 2-3 days even for most minor mistakes committed unwittingly. And sometimes the punishment would be extended to all the children even as old as 4-5 years.
- The sexually abused six girls transferred from Drone Foundation Gurgaon to Naaz Foundation Delhi and again after re-transfer to Haryana, they were finally

³⁴ Shelter home inmate gang-raped, another missing, The Times of India, 7 June 2012

³⁵ Rohtak shelter home sealed after at least 100 women and children allege sexual, physical abuse, NDTV, 9 June 2012, <http://www.ndtv.com/article/india/rohtak-shelter-home-sealed-after-at-least-100-women-and-children-allege-sexual-physical-abuse-229317>

sent to “Apna Ghar Rohtak” revealed that even in this home they were subjected to harsh abuse and have been forced to engage only in cleaning and sweeping without any one caring for their dietary requirements. Out of these, 4 girls were HIV positive, and their medical record was not properly maintained in the Home.

The NCPCR team further noted the following with regard to “Abuses, its forms and other irregular acts committed by the Director, her daughter, her son-in-law and the driver as reported by the children”

- The most frequent form used by Director Jaswanti was the abusive, obscene and vulgar language used, which at times was even shameful for the children to repeat.
- Calling names like Randi, Vaishya and sexually abusive terminology.
- Physically beating of children and even adolescent girls by the Director Jaswanti, her daughter Sushma@Simmi and Jai Bhagwan on the slightest of pretext of committing a mistake or refusal obey orders even if vulgar and not acceptable to girls.
- Even the boys were not spared of thrashings and spankings by the trio on the slightest of pretext of committing a mistake or refusal to obey orders.
- Forcing the girls to disrobe and lie in a naked condition overnight. Sometimes the girls would be tied to the grilled fencing with the *duppatta* for even two to three days and beating them with iron rods & wooden sticks;
- On slightest pretext of indiscipline making the children go without food and water for day ranging 1 to 3;
- Forcing two girls to lay in a naked condition in a locked room and subjecting them to engage in a lesbian act in presence of the Director Jaswanti who derived a special satisfaction out of the act and in case of a refusal to do so hitting their private parts with wooden rolling pins, scissors etc. which would result in bleeding at times.
- Using the children as domestic helps and sending them to her own home, home of her daughter and others without any remunerations;
- Forcing the children to work in agricultural fields (*a good number of sickles have been reportedly found in the premises by the police*)
- Sexual molesting of girls by Mr. Jaibhagwan, reportedly the son-in-law of the owner of the Home;
- Girls with good looks were sent to weddings to serve as waitress or even to perform. Tips earned would be snatched away by the director.
- Abandoning mentally challenged women from the Home in trains / bus stops in the middle of night with accomplice driver Satish Ahlawat.
- Allegedly selling / giving away of babies / infants in adoption without the consent of biological mothers or even following norms for adoption of destitute/orphaned children;

- Reportedly restoring children to mothers/relatives without any specific orders from CWC and without conducting any Inquiry as required under section 33 of the JJ Act, 2000.
- On the occasion of Holi the children were intoxicated by Jaswanti and Sushma@ Simmi resulting in a child falling sick.
- As a part of punishment unleashed on a child committing a grave mistake of demanding more food some amenities, child was forced to clean all the utensils for entire week or sweep the entire floor with a wet cloth.
- Cooking was normally entrusted to elder children of Apna Ghar, adolescents and the adult inmates of Swadhar Shelter Home.

The Punjab and Haryana High Court appointed a Committee to investigate the case. The Committee apprehended that if the Central Bureau of Investigation (CBI) did not take over the case evidence might be destroyed as Jaswanti Devi was an influential person with links among political and police brass. The officials of Haryana Police have been accused of exploitation of the inmates of the Apna Ghar. The CBI had taken charge of the investigation on 13 July 2013.³⁶ On 28 March 2013, the Punjab and Haryana High Court directed the CBI to complete the probe within two months.³⁷

Case 18: Sexual abuse of at least seven girls by guard at Rajikiya Shishu Grih, Allahabad in Uttar Pradesh

On 5 April 2012, Vidya Bhushan Ojha, a contract chowkidar at Rajikiya Shishu Grih, Allahabad, an orphanage run by the Social Welfare Department, Uttar Pradesh was arrested on the charge of rape of at least three girl inmates, including a mentally challenged one. The orphanage houses girls below 10 years. Vidya Bhushan Ojha had been subjecting the victims to physical and mental trauma for past couple of years. He had threatened them of dire consequences if they dared to disclose the matter. The trauma that these girls were undergoing came to light when one of the victims was adopted by a childless couple, who found blood stains in the underwear of the victim. The Allahabad High Court took *sou moto* cognizance after the incident was reported in a news report.

Following pressure, the state government on 5 April 2012 ordered a magisterial enquiry. The Magisterial Enquiry Report dated 8 April 2012 revealed a shocking picture where the main accused Vidya Shankar Ojha was found committing acts of sexual abuse with minor girls aged 6 to 10 years for the past several years in the Shivkuti Shishu Grih. The report also stated that other employees including superintendents, house mothers, cook, Class 4 workers such as helpers, nurses, nursery teachers and sweepers had either facilitated (or at least overlooked) the immoral acts of Ojha, sometimes even after being eye witnesses of the ghastly crime.

³⁶ CBI takes up probe in Apna Ghar shelter house case, Zee News, 13 July 2012, http://zeenews.india.com/news/haryana/cbi-takes-up-probe-in-apna-ghar-shelter-house-case_787302.html

³⁷ Apna Ghar sexual abuse: HC tells CBI to complete probe in two months, The Indian Express, 29 March 2013

Ojha had been indulging in these misdeeds for several years after his appointment as a *chowkidar* in the adoption unit of the home for 6 months in 2006. The report found sexual abuse of seven girl-child inmates by Vidya Bhushan Ojha. Apart from the sexual assault, Ojha forced the inmates to broom, sweep, cook and clean the toilet, and on their failure to perform their tasks, he would beat them. However, no action was taken against Ojha. The Magisterial Enquiry Report also indicted the previous superintendent Suman Srivastava.³⁸

Case 19: Juveniles fled due to torture, sexual abuse and ill-treatment at Govt. Observation Home for Boys, Mathura in Uttar Pradesh

On 17 February 2012, eight inmates fled the home following a scuffle with the staff. The inmates were allegedly beaten up by the staff. On 7 June 2012, a team of NCPCR visited the Rajkiya Bal Samprekshan Grih (Kishore), the Observation Home for Boys in Mathura and found the condition utterly dismal. The inmates had to cook, wash clothes and clean the place all by themselves. The inmates were subjected to physical and sexual abuse by the staff. The staff told the visiting NCPCR team that two of the inmates returned to the home on their own. However, NCPCR team found that the two inmates had been so grievously injured that they had to be rushed to hospital. The staff also told the NCPCR team that the inmates who had fled the home seriously injured the staff. The NCPCR team, however, observed “That some young children were able to so grievously injure the staff seemed to be an incredulous account prima facely.” Accordingly, the team asked for the medical reports of all the personnel who had been injured and also the FIR they had filed along with a detailed report of the incident.

The children were subjected to physical and sexual abuse by the Caretaker O. P. Yadav. During a previous visit, the NCPCR had recommended that the caretaker must be removed from his post. However, no action was taken against him. Finally, an FIR was registered against O. P. Yadav after the NCPCR team once again brought the matter before the District Administration during the visit in June 2012.

The NCPCR team also found that police fetched the children with uniforms and the children were bound by rope by the police while being taken away. Incidentally, a NCPCR team had visited the Home on 7 June 2011 and, among others, recommended that police should not enter the home in uniform and not to handcuff the children. However, none of the recommendations were implemented.

The NCPCR also enquired about the death of 11-year-old inmate who died due to lack of timely medical attention. The inmate had suffered an injury but he was not transferred to hospital despite the visiting doctor had insisted on his hospitalization.³⁹

³⁸ Criminal Writ-Public Interest Litigation No.4207 of 2012, 16 April 2012, Allahabad High Court, Available at: <http://elegalix.allahabadhighcourt.in/elegalix/WebShowJudgment.do>

³⁹ NCPCR Inquiry Report on Atrocities on Juveniles and the death of the 11 year old in Rajkiya Bal Samprekshan Grih (Kishor), Mathura, inspection of Rajkiya Bal Grih (Shishu) and Rajkiya Bhikshuk Grih and review of Child Rights in Mathura, <http://www.ncpcr.gov.in/Reports/NCPCR%20report%20on%20child%20right%20violations%20in%20Mathura%20Final.pdf>

Case 20: Torture and sexual abuse of minors at Church of Christ Home Orphanage in Bangalore in Karnataka

On 28 February 2012, 42 children, including 23 girls and 19 boys, aged between six and 17 years, were rescued by a team of State Child Rights Commission, Child Welfare Committee, Childline Bangalore and police from Church of Christ Home, an orphanage in Challaghatta, Bangalore in Karnataka following complaints of physical and sexual abuse. The Manager of the orphanage identified as Charles and another person John Williams were arrested. The team found marks of torture on the children who were in traumatic conditions. The home was registered as a society but not registered either with the Child Welfare Committee or the Department of Women and Child Development as an orphanage.⁴⁰ The team also found canes which were used for beating the children. The victims alleged that they were often sexually abused by Charles. One minor girl also allegedly died in the home. However, the accused covered up the death of the child.⁴¹

Case 21: Sodomy by senior inmates at Umeed Aman Ghar Children Home, Delhi

In February 2012, three boys were sexually abused by senior inmates at Umeed Aman Ghar in Mehrauli, South Delhi. The police confirmed sexual abuse of the three minors after an investigation. Two of the boys were sodomised, while the third was forced into unnatural activities. The abuse came to light in the first week of July 2012 when a former employee of Umeed Aman Ghar lodged a complaint with the Child Welfare Committee. The former employee alleged that three inmates were being sexually abused by older boys, but no action was taken against them. The complainant further claimed that it was not the first case of sexual abuse at the home and that the victims were not counseled after the incident.⁴²

Case 22: Sexual abuse of HIV positive children by the Manager of NGO Drone Foundation, Gurgaon, Haryana

On 15 January 2012, a team of the National Commission for Protection of Child Rights (NCPCR) raided the Drone Foundation, an NGO which run a childcare centre for HIV positive children, in Gurgaon, Haryana following complaint of sexual abuse of two girls. The team rescued 14 HIV positive children, including eight girls. The Manager of the NGO, Drone Foundation, was accused of sexually abusing the children for a long time.⁴³ The police booked the NGO caretaker and board member Ankur Gupta on charges of rape and his mother for conspiracy. An FIR was filed under Sections 376/376C/376F/120B/506 of the Indian Penal Code and Section 23 of the JJ(C&P)C Act.⁴⁴

⁴⁰ 42 children rescued from orphanage, Deccan Herald, 29 February 2012

⁴¹ B'lore shamed by abuse; 41 kids rescued from city orphanage: Oneindia News; 1 March, 2012: <http://news.oneindia.in/2012/03/01/blore-shamed-with-abuse-41-kids-rescued-from-orphanage.html>

⁴² Police probe confirms abuse at Mehrauli children home, The Hindustan Times, 7 August 2012

⁴³ 14 HIV positive children rescued from NGO, The Hindustan Times, 18 January 2012

⁴⁴ Discarded by society, they were easy prey for predator, The Hindustan Times, 19 January 2012

Case 23: Arya Orphanage Case in Daryaganj, Delhi

On 24 December 2011, an 11-year-old girl inmate at Arya Anathalaya, an orphanage in Darya Ganj, Delhi died after she was admitted to Lok Nayak Jai Prakash Narayan Hospital after she complained of vomiting. The post-mortem report revealed that the girl had been subjected to repeated sexual abuse.⁴⁵ A security guard identified as Navrattan was arrested for sexually assaulting the girl and a 14-year-old boy inmate of the orphanage was also apprehended on the charges of rape and physical assault.⁴⁶

According to the Haq Centre for Child Rights, which was engaged by Delhi Police to assist the probe, rape and physical assault on the deceased was not an isolated case as the 14-year-old accused allegedly confessed to sodomising five other boys. The investigation report by the Haq Centre for Child Rights, which was based on personal interviews and interaction with children of Arya Orphanage stated that older inmates and the staff members subjected a number of boys and girls to physical abuse and sexual assault.⁴⁷ The report further stated that children were paraded before outsiders while the male inmates and staff had free access to the female section.⁴⁸ According to the police, the management of the Arya Orphanage knew about the cases but they had not lodged a complaint.⁴⁹ The Arya orphanage is not registered under the JJ(C&P) C Act, yet the Government had not been able to take any legal action against the management.⁵⁰ In the aftermath of the Arya Orphanage sexual abuse case the Child Welfare Committee had recommended that the Delhi Government must ensure that all the children institutions run by the organisation get themselves registered under the JJ(C&P)C Act.⁵¹ Amidst more allegations of sexual abuses, the Delhi government appointed a senior officer of the department of women and child development as administrator of the orphanage to look after the regular administration and take steps to prevent further exploitation of 1,600-odd boys and girls living in the private children's home.⁵²

In his statement to the Child Welfare Committee, the 12-year-old boy who earlier accused a 14-year-old inmate of sodomizing him also alleged that he was physically abused by one of his teacher wardens too.⁵³ On 15 February 2012, a bench headed by Acting Chief Justice A K Sikri and Justice R S Endlaw of the Delhi High Court directed the newly appointed administrator of Arya Anathalaya to look into the alleged incidents of sexual abuse and harassment of children inside the orphanage.⁵⁴

⁴⁵ 13-year-old in net for girl's death

⁴⁶ Orphanage guard held for raping 11-yr-old girl, *The Hindustan Times*, 18 February 2012

⁴⁷ Abuse tales in orphanage, *The Hindustan Times*, 11 February 2012, *Deccan Herald*, 17 February 2012

⁴⁸ HT FOLLOW-UP - ARYA ORPHANAGE'S HORROR STORIES - Children were paraded before outsiders: Report, *The Hindustan Times*, 12 February 2012

⁴⁹ 12-year-old dies after rape at orphanage, boy arrested, *The Indian Express*, 11 February 2012

⁵⁰ Government-appointed administrator to look into orphanage's functioning, *The Hindustan Times*, 12 February 2012

⁵¹ Orphanage not even registered under Juvenile Justice Act, *The Hindu*, 13 February 2012

⁵² GOVT APPOINTS ADMINISTRATOR TO MANAGE CHILDREN HOME, *The Hindustan Times*, 14 February 2012

⁵³ Warden too abused kids, *The Hindustan Times*, 15 February 2012

⁵⁴ COURT ORDERS ORPHANAGE ABUSE PROBE, *The Hindustan Times*, 16 February 2012

On 18 February 2012, police arrested the Chief Warden of the Arya Orphanage Surinder Singh Chauhan and Ramesh Maurya, a warden of the boy's hostel on the charges of negligence.⁵⁵ On 25 February 2012, the Delhi government set up a commission of enquiry (CEO) to look into the issues and circumstances related to the allegations of abuse of children at the Arya Orphanage, an unregistered children home in Daryaganj.⁵⁶

Case 24: Mentally challenged girl raped by CRPF personnel at Sai Vikas Home and School for Mentally Retarded in Warangal, Andhra Pradesh

On 12 November 2011, a mentally challenged, deaf and mute 12-year-old girl, an inmate of Sai Vikas Home and School for Mentally Retarded, a shelter home located near a CRPF camp at Bhimaram in Warangal district of Andhra Pradesh, delivered a stillborn baby. The police had detained three CRPF constables for allegedly raping the mentally challenged for interrogation. According to the police, the three accused CRPF constables had been frequently seen in the shelter home. The police further claimed that the rape might have continued for over seven months. The incident of the sexual abuse came to light only when the victim was taken to hospital after she complained of stomach pain. Five other inmates in the shelter home were also suspected to have been sexually assaulted. The CRPF constables had easy access to the shelter home. The hostel warden Ms S Satyamma was also made an accused.⁵⁷

Case 25: Minor girl raped and impregnated at Vidyavati Ashram, Pune, Maharashtra

In November 2011, a 13-year-old girl inmate of Vidyavati Ashram, a private orphanage at Kamshet in Pune district, Maharashtra was found pregnant. The girl was already more than five months pregnant when it was revealed. She was allegedly raped by a 13-year-old inmate of the Ashram. The authorities allegedly failed to take any action despite being aware of the incident. Following pressure, the superintendent Basavraj S Chinnamwar and a lady caretaker at the orphanage were suspended for their failure to detect the rape case.⁵⁸ An NGO, however, demanded that the victim undergo a DNA test to ascertain whether she was raped by the 13-year-old inmate of the ashram.⁵⁹

Case 26: 9-year-old girl repeatedly raped by senior inmates at a destitute home in Bandra, Maharashtra

From 3 March 2011 to early April 2011, a 9-year-old girl was repeatedly raped by four senior inmates at a Destitute Home under the St Catherine of Siena school run by a missionary organization in Bandra (West) in Maharashtra. The victim, a student of 1st standard of St Catherine of Siena School, was an inmate of the Shelter Home attached to the school. There were about 350 inmates, both boys and girls, who live in the Home. The incident came to light in April 2011 when the authorities of the shelter

⁵⁵ Chief warden, 2 staff of Arya Orphanage held, *The Indian Express*, 19 February 2012

⁵⁶ Panel to probe child abuse case, *The Tribune*, 26 February 2012

⁵⁷ 12-yr-old delivers baby, CRPF men detained, *The Indian Express*, 15 November 2011

⁵⁸ 13-year-old's rape at orphanage surfaces 5 months later, *Mid-Day*, 3 November 2011

⁵⁹ NGO takes up Vidyavati rape case with WCD Department, *Mid-Day*, 6 December 2011

home and school held an interactive session with the inmates. During the session, every inmate was asked about his or her problems. This was when the victim told the authorities that she was sexually abused by the four boys in the shelter repeatedly since 3 March 2011. The victim had suffered trauma by the repeated sexual assaults. The accused boys, studying in Class III, IV and V respectively, were apprehended and confessed to have raped the girl.⁶⁰

Case 27: Sexual abuse of girls at Elsadi Jebathottam Orphanage, Thoothukudi, Tamil Nadu

In September 2010, a 15-year-old girl, an inmate of Elsadi Jebathottam Orphanage at Saathankulam in Thoothukudi district of Tamil Nadu was found pregnant after she was taken to hospital by her relatives. The girl was staying at the orphanage but had gone to stay at her relatives' home after she fell sick. The relatives took her to hospital where the doctor told that she was pregnant, following which the relatives filed a complaint with the police. Based on the complaint, the police raided the orphanage on 24 September 2010 and arrested the owner of the orphanage, Soundararaj (56) and his sons, Sebastian (26) and Udhayabalan (24). Other children were also allegedly subjected to sexual abuse. The orphanage housed 34 children including 12 girls hailing from various places in Tamil Nadu. The police also sealed the orphanage and shifted the inmates to other children homes.⁶¹

Case 28: Sexual harassment by CWC member during counseling in Bangalore, Karnataka

On 8 September 2010, the State Government issued an order restraining Balakrishna Masali, a member of the Child Welfare Committee II of the Bangalore Urban district, from attending sittings of the Child Welfare Committee, after he was found guilty of molesting girls by the Karnataka State Commission for Protection of Child Rights (KSCPCR) who were brought before him for enquiry. In its report the KSCPCR stated that the accused took the advantage of his position and used the opportunity to sexually molest the minor girls in the privacy of the cubicle and recommended his suspension and inquiry under the Juvenile Justice (Care and Protection of Children) Act, 2000 and relevant sections of Indian Penal Code. The KSCPCR held an inquiry following a complaint by the Association for Promotion of Social Action, an NGO, alleging that the accused molested a 14 year-old girl during a 30-minute counseling session. The KSCPCR recorded the statements of four girls including the complainant lodged in the government-run girl's home and the statement of the care-takers of the home. All the four girls alleged sexual harassment at the hand of the accused.⁶²

Case 29: Sexual abuse by founder of Siria Orphanage Home, Hyderabad, Andhra Pradesh

On 5 September 2010, the police arrested Malyadri, founder and secretary of Siria Orphanage Home and School situated at T.V. Colony, Vanasthalipuram in Hyderabad,

⁶⁰ ACHR complaint to NCPCR dated 7 April 2011

⁶¹ Orphanage manager, son held for sexually abusing minor, The Times of India, 26 September 2010

⁶² Person in charge of child protection turns violator, The Hindu, 9 September 2010

Andhra Pradesh following a sting operation conducted by a vernacular news channel on alleged sexual exploitation in the orphanage. The victims who confirmed the assault informed the police that the accused used to call the inmates to his room in the orphanage and sexually assaulted them.⁶³ Nearly 130 orphans, both male and female, live in the orphanage and classes from nursery to standard IX are conducted there.⁶⁴

Case 30: Physical and sexual abuse by caretakers of Pandita Ramabai Mukti Mission Orphanage in Nerul, Maharashtra

On 1 September 2011, eight minor girls were rescued by the police after they fled from Pandita Ramabai Mukti Mission orphanage in Nerul in Navi Mumbai, Maharashtra. The girls, aged between five and 10 years, fled the home unable to bear physical, sexual and mental abuse by the caretakers on the night of 31 August 2011. About 12 girls were staying in the ashram, out of which eight ran away. Initially the girls did not tell about the abuses but later they began to cry and told about their ordeal at the ashram by the caretakers. The police stated that out of the eight girls, three were the main targets of the accused and he used to force them to indulge in oral sex, apart from physical assaults. The girls had to serve food, wash utensils and do all the household works. The girls further stated that they were undergoing through the ordeal for the past three years. The remaining four girls were also rescued. The caretakers, Satish Pagi (45) and his wife Anita (40) were arrested.⁶⁵

Case 31: Sodomy, torture and ill-treatment at Observation Home for Boys, Berhampur, Orissa

In September 2010, a researcher of the Asian Center for Human Rights visited the Government Observation Home, Special Home and Children's Home (Combined) for Boys at Berhampur under Ganjam District of Orissa and found consistent, serious and credible evidence that both the staff and older adult inmates regularly sexually abused the junior inmates. It was also found that the inmates at the Observation Home were routinely subjected to acts of violence and sexual abuse. If any inmate refuses to follow the dictate of the officials, he is subjected to beating and deprived of food. The younger children in particular suffer treatment that amounts to torture, and sexual abuse both at the hands of the staff and the senior inmates. The adult/older inmates work for staff and abuse and intimidate the younger inmates.⁶⁶

Case 32: Physical and sexual abuse of children by owner of Arumai Packiam Immanual Shelter Home, Kanyakumari, Tamil Nadu

On 4 July 2010, Childline, Kanyakumari rescued 32 children from Arumai Packiam

⁶³ Orphanage founder arrested, *The Hindu*, 13 September 2010

⁶⁴ Girls in orphanage suffer sexual abuse, 13 September 2010; available at: <http://www.siasat.com/english/news/girls-orphanage-suffer-sexual-abuse%E2%80%8E>

⁶⁵ Sexually abused minors rescued, *Daily News and Analysis*, 3 September 2011

⁶⁶ Orissa: Juveniles Fleeing From Torture and Abuse: A fact-finding report on the fleeing of juveniles from the Government Observation Home, Special Home and Children's Home (Combined) for Boys at Berhampur under Ganjam District of Orissa on 21-22 September 2010, Asian center for Human Rights, available at: <http://www.achrweb.org/reports/india/JJ-Orissa-012010.pdf>

Immanuel, a shelter home in Kanyakumari, Tamil Nadu following a complaint of physical and sexual abuse of the children by the owner of the orphanage. The owner of the orphanage was arrested by the police pursuant to an FIR lodged by the Child Welfare Committee. The children included 14 boys and 18 girls in the age group of 3 to 14 years. The children were rescued after the mother of an inmate informed the Childline on 28 June 2010 that 40 children were housed in small rooms and the owner of the home abused of the children both physically and sexually. The children confessed to the Childline that the owner physically assaulted and every day two or three were taken to his house located close to the shelter home and they were compelled to massage him. One of the girl inmates further informed before the Childline team that "The owner very often hugs them and touches them at places that are sensitive and if they do not cooperate he assaulted them." Further before a day the children were rescued, three children came out of the shelter home and complained to the police unable to bear the torture. Later, the owner went to the police station to bring back the children and allegedly started beating them all through the police station to the shelter home. After reaching the home, they were beaten with chairs and hit them on the walls following which they suffered injuries.⁶⁷

Case 33: Ill-treatment and sexual abuse at Reach Children Home, Mogappair, Tamil Nadu

On 21 January 2010, 22 Manipuri children which included 11 girls were rescued in Chennai, Tamil Nadu after they were found in squalid conditions in a house at Sholinganallur and in Reach Children Home at Mogappair. As per the report of the Tamil Nadu Police, the children were not treated well and were made to do the personal work of the Director of the Reach Children Home and his family members. Three of the boys were engaged by the Director of the children home in compound wall construction work in his house at Madhavaram and they were beaten by the son of the Director when they failed to do the work in the home properly. One of the girls was asked by the Director to massage his body during night time and was molested. Two girls were reportedly molested by the son of the Director and one of their relatives respectively. The rescued children were sent back to Manipur in February 2010 through the coordinated action of the Tamil Nadu Police, CWC, Chennai, Social Defence Department of Government of Tamil Nadu and their counterparts in Manipur. The main person who was accused of exploiting the children was Mr. Immanuel and eight other accused in the case were arrested, but released on bail.⁶⁸

Case 34: Repeated rape by gatekeeper forced 15-year-old girl to run away from an orphanage in Cuttack, Orissa

On 12 August 2009, a 15-year-old inmate of an orphanage in Cuttack city of Orissa ran away from the orphanage after she was repeatedly raped by the gatekeeper. The victim was rescued by a local teacher from a railway track at Kandarpur, who took her to the

⁶⁷ <http://www.childlineindia.org.in/pdf/Sep-2010.pdf>

⁶⁸ Supreme Court order in the matter of "Exploitation of Children in Orphanages in the State of Tamil Nadu" [WP(Crl.No.102/2007 & CrMP No.4359/2010)], 1 September 2010

police station. In her statement to the police, the victim, who was a resident of Ganjam district, revealed that she was repeatedly raped by a gatekeeper of the orphanage since her admission at the orphanage in February 2009. On the basis of the complaint, the police registered a case and arrested the gatekeeper of the orphanage. However, the orphanage authorities had refuted the allegations saying that the girl was mentally unsound and she did not know what she was saying and further accused the school teacher, who rescued the girl, of trying to tarnish the image of the orphanage.⁶⁹

Case 35: Death, torture and sexual abuses of physically-challenged girls at Kalyani Mahila Bal Seva Sanstha, Panvel in Maharashtra

In March 2013, the Mumbai Sessions Court awarded death penalty to Ramchandra Karanjule, founder of Kalyani Mahila Bal Seva Sanstha, an orphanage, at Kalamboli in Navi Mumbai, Maharashtra for murdering an inmate of the orphanage. The Court also convicted six persons including the founder, the caretaker and trustees of the orphanage of sexually abusing 19 handicapped and mentally-challenged minor girls. Mr. Karanjule along with the other accused had been abusing the mentally challenged girls since 2007 till 2011 when the case was registered. The prosecution stated before that court that Mr Karanjule not only raped the girls who were under his care but also neglected to protect them from others.

While awarding the death penalty to Mr. Karanjule, the court noted that Mr Karanjule “has not only exploited the vulnerable, defenceless, physically disabled girls but also exploited the emotions of the donors. While holding a quasi-parental position, the accused has in fact breached the trust and fiduciary relationship with the inmates to satisfy his insatiable lust.”

The court observed that “by dumping 19 girls in a 250-square foot, shop like enclosure, which had no doors but only a rolling shutter, they were deprived of basic human rights such as health and education. It is a case of custodial torture, custodial rape and custodial murder.”

The abuses in the home was brought to light following a routine visit by a panel, set up by the Bombay High Court in 2011 to coordinate the functioning of state orphanages. Five girls had died in the orphanage but no report was submitted to the Child Welfare Committee or any other government authority. One of the girls, who Mr. Karanjule was accused of murdering, died after being denied medical help despite her having been ill for three months. Apart from being sexually abused, the girls were beaten up and they had cigarette burn marks on their bodies and they were forcibly made to consume alcohol.

The court awarded life imprisonment to Khandu Kasbe, a friend of the founder Mr. Karanjule; and Prakash Khadke, office-bearer of the orphanage, for guilty of rape. While Nanabhau, nephew of Mr. Karanjule, convicted of molesting the girls by using

⁶⁹. Rape charge against orphanage employee, The Hindu, 17 August 2009

force, was sentenced to two years' imprisonment. Sonali Badade, an office-bearer, and Parvati Malve, caretaker of the girls, were convicted of aiding and abetting in the crime committed by Mr. Karanjule and his other partners in crime and they were given rigorous imprisonment for seven and five years respectively.⁷⁰

Case 36: Official dismissed for sexual abuse of two girls at children home, Agra in Uttar Pradesh

On 11 January 2011, the Director (Women Welfare), Uttar Pradesh dismissed Kaushal Kumar, a Class-IV employee of Government Children Home (Infant), Agra in Uttar Pradesh after he was found guilty of committing rape on two minor inmates of the home in 2009. Kaushal Kumar used to get drunk and misbehave with the minor inmates at the home. Two victims specifically confirmed allegations of sexual abuse by Kaushal Kumar, following which he was suspended.⁷¹

Case 37: Sexual exploitation of girls at Swami Bal Nath Ashram, Ghaziabad, Uttar Pradesh

On 1 December 2006, the Supreme Court sought an immediate response from the National Commission for Women, NHRC and the District Magistrate after a private TV channel a day earlier revealed sexual exploitation of about 65 girls, most of them aged five or six years, and some mentally challenged, in the Swami Bal Nath Ashram at Ghaziabad, in Uttar Pradesh. The district authority reportedly did not initiate any action despite the matter being brought to its notice.⁷²

Case 38: Sexual abuse of three girls in NGO-run destitute home, Himachal Pradesh

On 29 November 2006, three destitute girls of Kanya Anath Ashram run by Mandava Charitable Trust in Mandi district alleged that they were sexually abused by the Founder-President of the Trust. In their statements recorded before the magistrate they accused the President/Founder of sexual abuse and outraging their modesty and making obscene gestures.⁷³

Case 39: Repeated sexual abuse of minors by a Class IV employee at Rajkiya Bal Grih (Shishu), Rampur in Uttar Pradesh

On 16 April 2012, the Allahabad High Court while hearing a matter of sexual abuse case in children home directed the State government of Uttar Pradesh to prosecute the Class IV employee Suresh Kumar, who was working at the Rajkiya Bal Grih (Shishu) Rampur under section 376 (2)(c) and section 376(2)(f) IPC and to ensure that the investigation and trial be concluded very expeditiously, if possible within 3 months. The order was delivered following lack of action against perpetrators of sexual abuses in children institutions in Uttar Pradesh.

⁷⁰ Orphanage founder sentenced to death for murder of girl, *The Hindu*, 22 March 2013

⁷¹ Criminal Writ-Public Interest Litigation No.4207 of 2012, 16 April 2012, Allahabad High Court, Available at: <http://elegalix.allahabadhighcourt.in/elegalix/WebShowJudgment.do>

⁷² Court seeks NHRC response, *The Asian Age*, 6 December 2006

⁷³ Minor girls record statements in rape case, *The Tribune*, 30 November 2006

During 2004-2005, Suresh Kumar, class-IV employee of Government Rajkiya Bal Grih (Shishu) Rampur was accused of sexual abuse of a large number of minor orphan girls in the Rampur Home. Medical report of three victim girls confirmed that they were sexually assaulted repeatedly by Suresh Kumar. However, Suresh Kumar after being suspended on 20 September 2005 got the inquiry proceedings against him delayed on one pretext or another. Shockingly, Suresh Kumar even succeeded in getting himself reinstated on 22 September 2009 due to the delay in the conduct of the inquiry proceedings. Thereafter, Suresh Kumar even made charges against one nurse Smt. Santosh Saxena. Further, Suresh Kumar complained that the nurse had been able to procure the adverse medical reports of the girls confirming the allegations of rape against him through the agency of her husband who was a senior pharmacist in the Rampur district hospital. Finally, Suresh Kumar could only be dismissed as late as on 26 February 2011, six years after his initial suspension. Expressing dismay over lack of action by the state government of Uttar Pradesh, the Allahabad High Court while hearing the matter of sexual abuse at Rajikiya Shishu Grih, Allahabad observed as under:⁷⁴

“We fail to understand as to how this delinquent employee succeeded in getting himself reinstated without the connivance of the authorities at the highest level. We also fail to understand why he was not prosecuted under section 376 IPC and other stringent provisions under the criminal law, and see no impediment to his prosecution even at this stage, as there is no period of limitation for the offence of rape by a staff member with a minor girl aged below 10 years in a children’s institution which is punishable with imprisonment for not less than 10 years and which may extend up to life imprisonment with fine in view of section 376(2)(c) or section 376(2)(f) IPC...

We think that the present incident of sexual abuse of a large number of minor girls was possible because of delays or non-action or inadequate action against delinquent employees, in the present and other matters when found engaging in such grave crimes. Only exemplary punishments for such offenders and expeditious disposal of their inquiries and trials, possibly within two or three months, can send out an appropriate deterrent message to others who may contemplate committing such dastardly crimes in future.”

2.4. Impact of sexual assault: Missing of children from juvenile justice homes

In order to escape from sexual assault and other abuses, hundreds of children especially girls go missing from the juvenile justice homes. The trafficking of these children also cannot be ruled out.

⁷⁴ Criminal Writ-Public Interest Litigation No.4207 of 2012, 16 April 2012, Allahabad High Court, Available at: <http://elegalix.allahabadhighcourt.in/elegalix/WebShowJudgment.do>

On 20 July 2012, a Division Bench of the Calcutta High Court comprising Chief Justice J N Patel and Justice K S Ahluwalia ordered a CBI probe into the alleged disappearance of 40 girls from a West Bengal government-run home and another run by an NGO. The directive was passed on a Public Interest Litigation filed after the West Bengal's Criminal Investigation Department failed to trace the girls who went missing from the homes. According to the petition, 13 minor girls went missing from a home run by an NGO near Kolkata on 29 October 2009 while 27 from a government run children home in West Midnapore between 12 November 2009 and 18 March 2010. The petition also stated there were about 108 such children homes in West Bengal.⁷⁵

In March 2010, one inmate was reported missing from the observation home for girls, Ghaziabad, Uttar Pradesh. By February 2012, five more girls were reported missing from the home. The girls, aged between 12 and 17 years, belong to Meerut, Sarahanpur and Aligarh districts. They were apprehended in different theft cases. The Government Observation Home for Juvenile Girls was opened in April 2009 at Raj Nagar area, Ghaziabad and has been functioning from a rented accommodation. The administration claimed that the girls fled the home as they had criminal records. However, child rights activists alleged that trafficking gang was involved in the disappearance of the girls. The Additional District Magistrate, Ghaziabad had conducted an enquiry into the matter and the warden Zubeda Khan and District Probation Officer Rajeev Sharma were transferred in May 2012.⁷⁶ The NCPCR inspected the home after reports of the girls went missing in June 2012 came to its notice. During investigation NCPCR found that the records at the home were poorly kept and the home did not have the requisite rent agreement to remain in the premises. Children in need of care and protection were also sent to the Observation Home. At the time of NCPCR visit there was only one girl child, aged 14, in the Home. During interaction with the NCPCR team, the girl revealed that the old Superintendent made her sweep and mop and wash utensils while on one occasion the superintendent's daughter had made her wash clothes. The girl further expressed her discomfort with the Superintendent peeping in when she takes a bath and of being made to wash herself by the cold water on return from hearing before CWC even in winters since she came to the home. The girl also revealed that she was beaten on occasions and deprived of her designated items.⁷⁷

In Karnataka, as many as 1,089 children below 14 years have gone missing from 34 Bala Mandirs (Children's Homes) during February 2005 to February 2011 according to an NGO, Odanadi Seva Samste. The missing children included 226 boys from the Government Bala Mandir for Boys in Bangalore, 135 from Gulbarga, 116 from Hassan, 111 from Davangere, 83 from Bellary, and 32 from Mysore. Among girls, 34 went missing from the Government Bala Mandir in Mysore, 18 from Bangalore,

⁷⁵ West Bengal: 40 girls disappear from govt-run home, *The Indian Express*, 20 July 2012

⁷⁶ Girls go missing from juvenile home, 5 June 2012, Ghaziabad, *The Millennium Post* available at <http://millenniumpost.in/NewsContent.aspx?NID=3416>

⁷⁷ NCPCR Enquiry Report, available at: <http://www.ncpcr.gov.in/Reports/NCPCR%20report%20on%20child%20right%20violations%20in%20Ghaziabad.pdf>

11 from Bijapur, and nine each from Tumkur and Hubli. Pursuant to a petition filed by Odanadi Seva Samste on the matter of missing children, the Karnataka State Commission for Protection of Child Rights, in an interim order passed on 17 July 2011, directed the Chief Secretary of Karnataka to order an inquiry by a three-member committee involving retired judges and submit a report in six months. The Commission also directed the custodians of Bala Mandirs to inform the State Child Welfare Committee and the Juvenile Justice Board about any future disappearance within 24 hours and register First Information Reports.⁷⁸ The inmates were forced to stay in poor living conditions. Counselors remained absent at many Bala Mandirs. In some cases, children were allegedly used by Bala Mandir officials as domestic helps.⁷⁹

⁷⁸ 1,089 children missing from bala mandirs in last five years, *The Hindu*, 28 August 2011

⁷⁹ 1,089 children missing from bala mandirs in last five years, *The Hindu*, 28 August 2011

3. How the Government of India allows protectors to become predators in the juvenile justice homes?

Sexual assault on children in the juvenile justice homes continue unabated as the Government of India i.e. the Ministry of Women and Child Development and the State Governments refuse to implement the JJ(C&P)C Act in letter and spirit. The Government of India failed to take any action on the four critical issues that remains indispensable for combating child sexual abuse in the juvenile justice institutions.

First, though the Government of India launched much vaunted Integrated Child Protection Scheme, the Ministry of Women and Child Development repeatedly failed to raise the need for establishment of efficient and functioning Inspection Committees which are mandatorily required to inspect each home in every three months. In fact, Inspection Committees do not figure as a separate agenda item either in the website of the Ministry or proceedings of the PAB. No separate budgetary allocation is made under the ICPS for the proper functioning of the Inspection Committees. There appears to be a conscious decision not to make the Inspection Committees functional.

Second, despite the JJ(C&PC) Act coming into force in 2002 and the Rules being framed in 2007 which mandatorily requires registration of all juvenile justice homes within six months after the Act came into force, as on date there are hundreds of juvenile justice homes which remain unregistered and sexual assaults continues unchecked. The State authorities failed to take measures as per Section 23 of the JJ(C&PC) Act if they are found to be “unfit”.

Third, effective and functional Child Welfare Committees remain indispensable to the juvenile justice administration. Apart from hearing of cases, the CWC is also required under Rule 25 (p) to visit each institution where children are sent for care and protection or adoption at least once in three months to review the condition of children in institutions, with support of the State Government and suggest necessary action and rule 25 (q) to monitor associations and agencies within their jurisdiction that deal with children in order to check on the exploitation and abuse of children. Though there are 462 District Child Welfare Committees in 23 States mandated to verify fit institutions, majority of them exist only on paper.

Fourth, recognising vulnerability of younger inmates, Rule 40 of the Juvenile Justice Care and Protection of Children Rules 2007 provide for separate facilities for boys and girls as well as per age i.e. for boys and girls up to 12 years, 13-15 years and 16 years and above. This provision has not been complied with and the recommendations of the PAB on the rationalization of the homes failed to address this particular issue.

i. Inspection committees – not the priority of the Integrated Child Protection Scheme

a. Inspection Committees

Section 35 of the Juvenile Justice (Care and Protection of Children) Act requires the State Governments to constitute State, District or city level inspection committee on the recommendation of the Selection Committee constituted under rule 91 of the Juvenile Justice (Care and Protection of Children) Rules, 2007.

Rule 63 of Juvenile Justice (Care and Protection of Children) Rules, 2007 provides for inspection of all child care institutions by District or City level inspection committee constituted under sub-rule (1). Sub-rule (2) requires the inspection committees 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 give appropriate directions. Sub rule (5) provides that the inspection shall be carried out at least once in every three months while sub rule (7) requires the inspection committee members to interact with the children during the visits to the institution, to determine their well-being and uninhibited feedback. Sub-rule (10) requires the inspection committee to send its action taken report, findings and suggestions to the District Child Protection Unit and the State Government while Sub-rule (9) requires all concerned authorities to take follow up action on the findings and suggestion of the inspection committee.⁸⁰

Sub-Rule 4 of Rule 63 states that the inspection team “ shall consist of a minimum of five members with representation from the State Government, the Board or Committee, the State Commission for the Protection of Child Rights or the State Human Rights Commission, medical and other experts, voluntary organizations and reputed social workers.”

b. Integrated Child Protection Scheme

In 2009-2010, the Ministry of Women and Child Development launched the Integrated Child Protection Scheme (ICPS) to bring several existing child protection programmes under one umbrella with improved norms. The Scheme incorporates other essential interventions, which aim to address issues which were, so far, not covered by earlier Schemes. It is based on the cardinal principles of “protection of child rights” and the “best interest of the child”. The aims of the ICPS are to (i) institutionalize essential services and strengthen structures, (ii) enhance capacities at all levels, (iii) create database and knowledge base for child protection services, (iv) strengthen child protection at family and community level, (iv) ensure appropriate inter sectoral response at all levels, and (v) raise public awareness.

ICPS’ target groups are children in need of care, children in conflict with law and other children.

⁸⁰ See Rule 63 of Juvenile Justice (Care and Protection of Children) Rules, 2007

ICPS' rehabilitation programme includes supports to the Child Line Foundation for running Childline services in the country. It also supports open shelters and non institutional care through adoption, sponsorship, foster care, after care and cradle baby reception centres. For institutional support, the rehabilitation programme includes shelter homes, children homes, observation homes, special homes and specialized services. It provides General Grants in Aid to the State Governments to initiate projects on issues / risks/ vulnerabilities which are not covered by the existing programs of the ICPS.

ICPS provides support services to the Juvenile Justice Boards, Child Welfare Committees and Special Juvenile Police Units.

Nowhere in the ICPS, the need for supporting the Inspection Committees including making budgetary provision is found. Consequently, majority State governments failed to appoint inspection committees at the State level, District or city level. Even in States, where the inspection committees at the State, District or city level were appointed, they largely remain non-functional. The inspection committee members fail to visit to the child care institutions under their jurisdiction.

c. PAB's record on the Inspection Committees

The Ministry of Women and Child Development itself has shown little concern for the Inspection Committees. In the Project Approval Board (PAB) meetings, the need for establishment of the inspection committees has not been raised systematically.

The Project Approval Board of the ICPS indeed never raised the issue of inspection Committees with the state governments and the State governments also did not bring the issue despite projects being approved since 2010. The PAB never raised the issue of Inspection Committees with Delhi despite having meetings on 18 September 2012,⁸¹ 29 August 2011,⁸² and 7 January 2011 despite the representatives of Delhi informing that a Juvenile Justice Committee was formed under the Chief Justice of the High Court with four Judges as members.⁸³ Similarly, PAB failed to raised the issue with Chhattisgarh on 27 November 2012⁸⁴ and on 17 February 2011⁸⁵; with Puducherry on 14 February 2013,⁸⁶ 22 November 2011 and 29 November 2010⁸⁷; with Bihar on 30 January 2013,⁸⁸ 16 December 2011⁸⁹ and 28 September 2010⁹⁰; Jharkhand on

⁸¹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Delhi%20PAB%20Minutes.pdf>

⁸² <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/DelhiMinutes25112011.pdf>

⁸³ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%2010th%20PAB%20Meeting%20Delhi.pdf>

⁸⁴ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/CHHT27nov2012.pdf>

⁸⁵ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Chattisgarh_Minutes.pdf

⁸⁶ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/puducherry_pab_14-03-13.pdf

⁸⁷ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20seventh%20PAB\[1\].pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20seventh%20PAB[1].pdf)

⁸⁸ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/PAB_BIHAR_18-02-13.pdf

⁸⁹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/bihardtd03082012.pdf>

⁹⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/2nd%20PAB%20meeting.pdf>

21 January 2013⁹¹ and 17 June 2011⁹²; with Tripura on 27 November 2012⁹³ and 29 November 2010⁹⁴; with Uttar Pradesh on 31 October 2012,⁹⁵ 18 July 2011⁹⁶ and 15 February 2011,⁹⁷ with Meghalaya on 25 October 2012⁹⁸ and 18 February 2011⁹⁹; and Nagaland on 25 October 2012¹⁰⁰ and 13 January 2011.¹⁰¹

PAB's record of raising the issue of inspection committees in 2012-2013:

For 2012-13, the proceedings of the PAB for approval of grants under ICPS to the State Governments and the Union Territories show that **no question about the Inspection Committees was raised** with Chandigarh on 14 February 2013,¹⁰² Manipur on 14 February 2013,¹⁰³ Puducherry on 14 February 2013,¹⁰⁴ Dadra and Nagar Haveli on 20 February 2013,¹⁰⁵ Bihar on 30 January 2013,¹⁰⁶ Jharkhand on 21.01.2013,¹⁰⁷ Chhattisgarh on 27 November 2012,¹⁰⁸ Daman and Diu on 27 November 2012,¹⁰⁹ Tripura on 27 November 2012,¹¹⁰ Uttar Pradesh on 31 October 2012,¹¹¹ Meghalaya on 25 October 2012,¹¹² Nagaland on 25 October 2012,¹¹³ Delhi on 18 September 2012,¹¹⁴ Madhya Pradesh on 18 September 2012,¹¹⁵ Tamil Nadu on 21 September 2012,¹¹⁶ and Gujarat on 30 August 2012.¹¹⁷

Astoundingly, Arunachal Pradesh claimed before the PAB that “inspection committees have been constituted in all the districts and at State level” despite Arunachal Pradesh having only one NGO run home which is not registered under the JJ (Care and Protection of Children) Act and another State run observation home.¹¹⁸ One wonders

- ⁹¹ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/PAB_jharkhand_20dec2012.pdf
- ⁹² <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/jharkhandpabmindtd18072011.pdf>
- ⁹³ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/TRI27nov2012.pdf>
- ⁹⁴ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20seventh%20PAB\[1\].pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20seventh%20PAB[1].pdf)
- ⁹⁵ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/UPdt31oct2012.pdf>
- ⁹⁶ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/UttarPradeshMinutes25112011.pdf>
- ⁹⁷ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/UP-Minutes.pdf>
- ⁹⁸ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Megdtd25102012.pdf>
- ⁹⁹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20-PAB%20Manipur-Final%2017th%20Mar.pdf>
- ¹⁰⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/ngadtd25102012.pdf>
- ¹⁰¹ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%2011th%20PAB%20Meeting%20Nagaland%20&%20Rajasthan\[1\].pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%2011th%20PAB%20Meeting%20Nagaland%20&%20Rajasthan[1].pdf)
- ¹⁰² http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/chandigarh_pab_14-03-13.pdf
- ¹⁰³ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/manipur_pab_14-03-13.pdf
- ¹⁰⁴ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/puducherry_pab_14-03-13.pdf
- ¹⁰⁵ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/PAB_DADRA&NAGAR_20-02-13.pdf
- ¹⁰⁶ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/PAB_BIHAR_18-02-13.pdf
- ¹⁰⁷ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/PAB_jharkhand_20dec2012.pdf
- ¹⁰⁸ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/CHHT27nov2012.pdf>
- ¹⁰⁹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Daman&Diu27nov2012.pdf>
- ¹¹⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/TRI27nov2012.pdf>
- ¹¹¹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/UPdt31oct2012.pdf>
- ¹¹² <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Megdtd25102012.pdf>
- ¹¹³ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/ngadtd25102012.pdf>
- ¹¹⁴ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Delhi%20PAB%20Minutes.pdf>
- ¹¹⁵ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP\(1\).pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP(1).pdf)
- ¹¹⁶ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/52nd%20PAB%20minutes%20-%20Tamil%20Nadu%20-%2021.09.2012.pdf>
- ¹¹⁷ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Guj.%20minutes%2030-8-12%20approved%20.pdf>
- ¹¹⁸ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Arunachal%20Pradesh-PAB%20minutes%20approved.pdf>

what are the functions of the inspection committees in the remaining 15 districts! And the PAB went along with the explanation.

Odisha claimed before the PAB on November 2012 that Inspection Committees have been constituted in all the districts and at State level.¹¹⁹ Earlier, ACHR during a field visit to the Govt. Observation Home and Children Home (Combined) at Berhampur in Ganjam district from 29 September to 1 October 2010 following the escape of ten juveniles found that the juveniles were subjected to repeated and serious abuse at the Home. Minor inmates were regularly picked up by the staff and older inmates for alleged purpose of assault/abuse. No inspection was carried out at this Home which encouraged torture and abuses of the juveniles. Odisha's claims could not be verified.

Similarly, Karnataka informed that Inspection Committees in all districts and Management Committees for each home have been set up and 16 inspections have been conducted till the time of PAB meeting on 28 June 2012. However, 16 inspections are inadequate as Karnataka has 69 homes i.e. 43 Children's Homes and 6 Observation Homes (GO), 11 NGO run Children Homes and the Inspection Committees are required to inspect every three months.¹²⁰ ACHR however was informed that during 2009-2011, no inspection took place in the Balakara Bal Mandir, Gulbarga,¹²¹ Children Home for Boys, Chikmagalur,¹²² Government Observation Home (Boys), Gulbarga,¹²³ Government Observation Home, Dharward,¹²⁴ the Government Juvenile Home for Boys at Bagalkot and Government Juvenile Home for Girls at Bagalkot.¹²⁵ Worst, in the case of the Balamandir for Boys, Belgaum, as of 23 September 2011 no inspection was done since 2007-08. The only inspection which was conducted by the Women and Child Development Department was done in 2006-07.¹²⁶ The large number of missing inmates further call for urgent need of regular inspections of the juvenile justice homes in the State.

Maharashtra had also failed to inform the PAB as to whether Inspection Committees were formed. It merely states that inspections have also been done by the SCPCR, SAB and MSW students. In 2011-12 the State has also closed down 60 institutions after inspections.¹²⁷

¹¹⁹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/ODIdt9nov2012.pdf>

¹²⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Approved%20PAB%20Minutes%20Karnataka%202012-2013.pdf>

¹²¹ RTI reply from Superintendent of Balakara Bal Mandir, Pragathi Colony, Gulbarga, Karnataka vide letter No. CHG/RTI/Inf/2011-12/556

¹²² RTI reply from Public Information Officer & Women & Child Development Officer, Women and Child Development Department, Chikmagalur, Karnataka vide letter No. DDC:WCD-C-2:RIACT:11-12/4751 dated 23.2.2012

¹²³ RTI reply from Superintendent of Govt Observation Home (Boys), Gulbarga, vide letter no. OHG/RTI/Inf/2011-12/95 dated 22-2-2012

¹²⁴ RTI reply from the concerned authorities vide letter dated 27-2-2012

¹²⁵ RTI reply from Government Juvenile Home for Boys and Girls, Bagalkot, Karnataka, vide letter dated 14-2-2012

¹²⁶ RTI reply from Superintendent cum Probation Officer Balamandir for Boys, Belgaum, dated 23-9-2011

¹²⁷ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mrtdtd25072012.pdf>

With respect to Mizoram, on 6 July 2012 PAB inquired regarding constitution of inspection committees and number of inspections conducted by them. The State Government informed that only 31 inspections have been undertaken since 2007 when 7 of the 8 inspection committees were formed. The PAB advised Mizoram State to activate the inspection committees as per JJ Act and State JJ Rules and regular inspections; including surprise visits, should be undertaken. The State was also advised to form Management Committees for each Child care Institution to oversee the day to day management of the Homes¹²⁸. During the field visit in Mizoram in September 2012, ACHR had found that in a number of juvenile justice homes, there is hardly any inspection. The State Inspection Team has conducted only one inspection at Government Observation Home-Cum-Special Home at Aizawl since its establishment in 1986 and no inspection has been done by the State Inspection Team at Government Observation Home-Cum-Special Home at Lunglei since its inception in 2008. There has not been any inspection by the State Inspection Committee or Mizoram State Child Protection Society (MSCPS)/ District Child Protection Society (DCPS) officials at the three newly established Government-funded Shelter Homes at Aizawl, Mamit and Champhai.¹²⁹

On 6 July 2012, West Bengal informed the PAB that the Inspection Committees constituted under the JJ Act had been constituted but inspections are not being conducted as per the provision of the JJ Act as there was a dearth of personnel and most officers were holding additional charge. The Child Development Project Officers had been promoted in most districts for the task and did not have the requisite time for inspections of JJ Homes, as a result of which, regular inspections were not being conducted.¹³⁰

The state government of Manipur failed to constitute Inspection Committees. The Project Approval Board of the Ministry of Women and Child Development in its 35th Meeting held on 17 January 2012 noted that “Inspection Committees have not been set up for Homes as per Juvenile Justice (Care and Protection of Children) Act, 2000”.¹³¹

The State Government of Assam had appointed Inspection Committees at the State level but had not appointed the Inspection Committees at the District and City Level as on 12.04.2012.¹³²

Haryana on 15 March 2012 informed the Project Approval Board that Inspection Committees have been set up for Homes as per JJ(C&P)C Act. The PAB advised the State government of Haryana to send these inspection reports to NCPCR regularly.¹³³

¹²⁸ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Approved%20Minutes%20Mizoram%202012-13.pdf>

¹²⁹ State of Juvenile Justice in Mizoram, Asian Centre for Human Rights, 27 February 2013

¹³⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Final%20Minutes%20PAB%20meeting%20West%20Bengal%202012-2013.pdf>

¹³¹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/manipurtdt17012012.pdf>

¹³² No.SCPS(G)43/2011/151 dated 12.04.2012

¹³³ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Haryanadt11062012.pdf>

However, the case of Apna Ghar Rohtak shows that inspection committees in the State do not function. As per Section 63(2) of Central Juvenile Justice Rules, 2007, the inspection committee shall visit and oversee the conditions in the institutions and appropriateness of the process for safety, well-being, etc. Such inspections should be carried out once in every three months. Had there been inspection by the inspection committees as per the rules the cases of sexual abuses, torture and ill-treatment, child labour, forcing the inmates into immoral activities, etc would have been detected. Furthermore, children in need of care and protection and those with conflict with the law were kept in the Apna Ghar shelter home.

In Goa, Inspection Committees were constituted at state and district level, but the committees conduct inspections only during the time of registration or renewal of children's homes.¹³⁴

PAB's record of raising the issue of inspection committees in 2011:

The Project Approval Board under ICPS failed to raise any question about the status of the Inspection Committees or the need to establish the same with Bihar on 16 December 2011,¹³⁵ with Puducherry on 22 November 2011; with Delhi on 29 August 2011,¹³⁶ with Himachal Pradesh on 19 August 2011,¹³⁷ with Sikkim on 26 July 2011,¹³⁸ with Uttar Pradesh on 18 July 2011,¹³⁹ with Karnataka on 14 July 2011;¹⁴⁰ with Punjab¹⁴¹ and Jharkhand on 17 June 2011,¹⁴² with Manipur on 22 February 2011,¹⁴³ with Meghalaya on 18 February 2011,¹⁴⁴ with Maharashtra on 17 February 2011,¹⁴⁵ with Chhattisgarh on 17 February 2011,¹⁴⁶ with Uttar Pradesh on 15 February 2011,¹⁴⁷ with Nagaland and Rajasthan on 13 January 2011,¹⁴⁸ with Delhi on 7 January 2011 despite the representatives of Delhi informed that a Juvenile Justice Committee was formed under the Chief Justice of the High Court, with four Judges as members. The Committee monitors the Homes, CWCs and NGOs as well as looks into the working of the WCD Department.¹⁴⁹

¹³⁴ Apna Ghar: It's time the system is sorted out, The Times of India, 19 April 2012

¹³⁵ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/bihardtd03082012.pdf>

¹³⁶ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/DelhiMinutes25112011.pdf>

¹³⁷ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/HPMinutes25112011.pdf>

¹³⁸ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/SikkimMinutes25112011.pdf>

¹³⁹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/UttarPradeshMinutes25112011.pdf>

¹⁴⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/KarnatakaMinutes25112011.pdf>

¹⁴¹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/punjabpabmin18072011.pdf>

¹⁴² <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/jharkhandpabmindtd18072011.pdf>

¹⁴³ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20-PAB%20Manipur-Final%2017th%20Mar.pdf>

¹⁴⁴ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20-PAB%20Manipur-Final%2017th%20Mar.pdf>

¹⁴⁵ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Maharashtra_Minutes-Final_17th_mar\[1\]dtd05052011.pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Maharashtra_Minutes-Final_17th_mar[1]dtd05052011.pdf)

¹⁴⁶ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Chattisgarh_Minutes.pdf

¹⁴⁷ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/UP-Minutes.pdf>

¹⁴⁸ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%2011th%20PAB%20Meeting%20Nagaland%20&%20Rajasthan\[1\].pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%2011th%20PAB%20Meeting%20Nagaland%20&%20Rajasthan[1].pdf)

¹⁴⁹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%2010th%20PAB%20Meeting%20Delhi.pdf>

The PAB under ICPS in its meeting held on 22 November 2011 however advised the state government of Madhya Pradesh to check the quality of the report submitted by the district officials who are part of the Inspection Committees at district level. The representative of the state government of Madhya Pradesh informed the PAB that inspection committees have been set up for the homes as per the JJ(C&P)C Act and inspection roster issued.¹⁵⁰

The state government of Maharashtra informed the PAB on 22 November 2011 that district advisory boards is under process which will act as inspection committees for the homes as per the JJ(C&P)C Act.¹⁵¹

The representatives of Tamil Nadu informed the PAB on 11 October 2011 that Inspection Committees were set up at district level.¹⁵²

The PAB on 11 October 2011 noted that Inspection Committees for Homes were not formed in Rajasthan. The representative from Rajasthan assured the PAB that the District level Inspection Committees will be in place by 15 November 2011.¹⁵³

The PAB on 28 September 2011 advised Andhra Pradesh to set up the Inspection Committees as prescribed in the JJ(C&P)C Act expeditiously. The state representatives informed the PAB that Inspection committees were not set up for Homes, but the DCPU staff and CWCs/JJBs were inspecting the Homes regularly.¹⁵⁴

The representatives of Orissa informed the PAB on 8 September 2011 that Inspection Committees for Homes were set up in all districts. CWCs were also inspecting the Homes regularly. An NGO, Aangan Trust was also commissioned to look into the functioning of Homes and suggest improvements.¹⁵⁵

The state representatives of Gujarat informed the PAB on 24 August 2011 that all Inspection Committees will be formed within 2 months.¹⁵⁶

PAB's record of raising the issue of inspection committees in 2010:

The Project Approval Board under ICPS failed to raise any question about the status of the Inspection Committees or the need to establish the same with Andhra Pradesh on 9 December 2010,¹⁵⁷ with Kerala and Haryana on 3 December 2010,¹⁵⁸ with Tripura and Puducherry on 29 November 2010,¹⁵⁹ with West Bengal on 26 October 2010,¹⁶⁰

¹⁵⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

¹⁵¹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mrdtd07032012.pdf>

¹⁵² <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/TamilNaduMinutes25112011.pdf>

¹⁵³ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Rajathanminutes25112011.pdf>

¹⁵⁴ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/APMinutes25112011.pdf>

¹⁵⁵ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/OrissaMinutes25112011.pdf>

¹⁵⁶ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/GujaratMinutes25112011.pdf>

¹⁵⁷ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%209th%20meeting%20of%20PAB-AP\[1\].pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%209th%20meeting%20of%20PAB-AP[1].pdf)

¹⁵⁸ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%20eighth%20PAB%20Meeting\[1\].pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%20eighth%20PAB%20Meeting[1].pdf)

¹⁵⁹ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20seventh%20PAB\[1\].pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20seventh%20PAB[1].pdf)

¹⁶⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20of%20the%20Fifth%20PAB%20Meeting%20under%20ICPS%20held%20on%2026th%20%20E%20%80%A6.pdf>

with Assam, Madhya Pradesh and Tamil Nadu on 22 October 2010,¹⁶¹ with Orissa on 1 October 2010,¹⁶² Gujarat and Bihar on 28 September 2010,¹⁶³ Mizoram and Tamil Nadu on 14 September 2010.¹⁶⁴

The Madhya Pradesh government in a letter dated 8 March 2010 informed the NCPDR that 26 Inspection Committees were functional in the state¹⁶⁵ which has 50 districts. This literally means that Inspection Committees were not constituted in 24 districts. On 22 November 2011, the state government of Madhya Pradesh informed during the Project Approval Board meeting that 70 Child Care Institutes (CCIs) were identified in the state and many of them were functioning without registration. Given that many of the CCIs were functioning without registration, it implies that no inspection is done.

ii. Unregistered child care institutions: homes for abuse

The Juvenile Justice (Care and Protection of Children) Act, 2000 as amended in 2006 states that “All institutions for children in need of care and protection shall within a period of six months from the date of commencement of Juvenile Justice Amendment Act 2006 be registered under Sec 34 (3) of this Act.”

While there are no punitive provisions *per se* for non-registration of the institutions except Section 23 of the JJ(C&PC) Act which clearly provides that “*Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both*”. It is clear that appropriate action can be taken by the authorities under Section 23 of the Act.

There are a large number of unregistered child care homes across the country where inspection is seldom conducted and children remain at the mercy of the authorities as well as older inmates as shown in the report.

Hundreds of children have been rescued from unregistered homes and they are often subjected to serious sexual assault.

For instance, the two children homes at Mansarovar and Jagatpura in Jaipur, Rajasthan from where 51 children were rescued on 12 March 2013;¹⁶⁶ the Arya Anathalaya, an orphanage in Daryaganj, Delhi,¹⁶⁷ the NGO-run orphanage, Supurna ka Aangan

¹⁶¹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/4thPAB-Meeting.pdf>

¹⁶² <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/3rd%20PAB%20meeting.pdf>

¹⁶³ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/2nd%20PAB%20meeting.pdf>

¹⁶⁴ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/newminutesoffirstPAB.pdf>

¹⁶⁵ D.O. letter No./210/CS/JJA/2010 dated 8.3.2010 obtained under the RTI Act, 2005 by Suhas Chakma, Director of Asian Centre for Human Rights

¹⁶⁶ Illegal Jaipur shelter owner accused of abusing 2 girls, The Indian Express, 30 March 2013

¹⁶⁷ Government-appointed administrator to look into orphanage's functioning, The Hindustan Times, 12 February 2012

in Gurgaon, Haryana,¹⁶⁸ and Sarbabhoutika Anatha Sishu Ashram Orphanage in Rourkela, Odisha, among others, were not registered under the JJ(C&P)C Act.

In the aftermath of the Arya Orphanage sexual abuse case the Child Welfare Committee had recommended that the Delhi Government must ensure that all the children institutions run by the organisation get themselves registered under the JJ(C&P)C Act.¹⁶⁹ Amidst more allegations of sexual abuses, the Delhi government appointed a senior officer of the department of women and child development as administrator of the orphanage to look after the regular administration and to take steps to prevent further exploitation of 1,600-odd boys and girls living in the private children's home.¹⁷⁰

The non-registration of children's homes was repeatedly raised in various meeting of the PAB such as with respect to Manipur on 21 February 2013,¹⁷¹ Bihar on 30 January 2013,¹⁷² Jharkhand on 21 January 2013,¹⁷³ Odisha on 9 November 2012¹⁷⁴ and 8 September 2011,¹⁷⁵ Meghalaya on 25 October 2012,¹⁷⁶ Nagaland on 25 October 2012,¹⁷⁷ Tamil Nadu on 18 September 2012,¹⁷⁸ Madhya Pradesh on 18 September 2012¹⁷⁹ and 22 November 2011,¹⁸⁰ Delhi on 18 September 2012¹⁸¹ and 29 August 2011,¹⁸² Gujarat on 30 August 2012¹⁸³ and 24 August 2011,¹⁸⁴ Arunachal Pradesh on 29 August 2012,¹⁸⁵ Rajasthan on 29 August 2012¹⁸⁶ and 11 October 2011,¹⁸⁷ Andhra Pradesh on 11 July 2012¹⁸⁸ and 28 September 2011,¹⁸⁹ Assam on 11 July 2012,¹⁹⁰ Mizoram on 16 July 2012¹⁹¹ and 15 March 2012¹⁹², Karnataka on 28 June 2012¹⁹³

¹⁶⁸ Indo-Asian News Service, 5 May 2012, available at: <http://www.sify.com/news/gurgaon-ngo-didnt-have-permission-to-run-orphanage-news-national-mffwucijaja.html>

¹⁶⁹ Orphanage not even registered under Juvenile Justice Act, The Hindu, 13 February 2012

¹⁷⁰ GOVT APPOINTS ADMINISTRATOR TO MANAGE CHILDREN HOME, The Hindustan Times, 14 February 2012

¹⁷¹ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/manipur_pab_14-03-13.pdf

¹⁷² http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/PAB_BIHAR_18-02-13.pdf

¹⁷³ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/PAB_jharkhand_20dec2012.pdf

¹⁷⁴ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/ODIdt9nov2012.pdf>

¹⁷⁵ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/OrissaMinutes25112011.pdf>

¹⁷⁶ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Megdtd25102012.pdf>

¹⁷⁷ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/ngadtd25102012.pdf>

¹⁷⁸ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/52nd%20PAB%20minutes%20-%20Tamil%20Nadu%20%20-21.09.2012.pdf>

¹⁷⁹ [http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP\(1\).pdf](http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/updated%20minutes%20PAB%2018th%20sept%20%2012%20MP(1).pdf)

¹⁸⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mpdtd07032012.pdf>

¹⁸¹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Delhi%20PAB%20Minutes.pdf>

¹⁸² <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/DelhiMinutes25112011.pdf>

¹⁸³ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Guj.%20minutes%2030-8-12%20approved%20.pdf>

¹⁸⁴ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/GujaratMinutes25112011.pdf>

¹⁸⁵ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Arunachal%20Pradesh-PAB%20minutes%20Approved.pdf>

¹⁸⁶ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/48th%20PAB%20minutes%20-%20Rajasthan.pdf>

¹⁸⁷ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Rajasthanminutes25112011.pdf>

¹⁸⁸ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Andhara%20Pradesh%20Final%20PAB%20minutes%202012-13.pdf>

¹⁸⁹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/APMinutes25112011.pdf>

¹⁹⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Minutes%20Assam%20Final.pdf>

¹⁹¹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Approved%20Minutes%20Mizoram%202012-13.pdf>

¹⁹² <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Approved%20Minutes%20Mizoram%202012-13.pdf>

¹⁹³ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Approved%20PAB%20Minutes%20Karnataka%202012-2013.pdf>

and 14 July 2011,¹⁹⁴ Haryana on 15 March 2012,¹⁹⁵ Tripura on 17 January 2012,¹⁹⁶ Kerala on 17 January 2012,¹⁹⁷ Maharashtra on 22 November 2011,¹⁹⁸ Puducherry on 22 November 2011,¹⁹⁹ Himachal Pradesh on 19 August 2011,²⁰⁰ and Chhattisgarh on 17 February 2011,²⁰¹ among others.

In Kerala, a large number of Homes are not registered under the JJ(C&PC) Act. On 17 January 2012, the PAB advised Kerala to take immediate steps to register the homes.²⁰² In Manipur, there are a number of children homes, orphanages etc run privately. However, the state government of Manipur informed the PAB on 21 February 2013 that only 11 NGO-run homes were registered under Section 34(3) of the JJ(C&PC) Act.²⁰³

The identification and registration is very tardy. Meghalaya could not register over 40 Child Care Institutions (CCIs) as on 25 October 2012 despite the CCIs being identified.²⁰⁴ The PAB on 25 October 2012 urged Nagaland to expedite the process of registration of CCIs on priority basis after it informed that 30 CCIs were identified but only 18 were registered.²⁰⁵ Tamil Nadu closed 76 CCIs following complaints and registered 1418 CCIs, but 112 CCIs could not be registered as on 18 September 2012.²⁰⁶

iii. Non-functioning of Child Welfare Committees

Effective and functional Child Welfare Committees remain indispensable to the juvenile justice administration. Apart from hearing of cases, the CWC is also required under Rule 25 (p) to visit each institution where children are sent for care and protection or adoption at least once in three months to review the condition of children in institutions, with support of the State Government and suggest necessary action and rule 25 (q) to monitor associations and agencies within their jurisdiction that deal with children in order to check on the exploitation and abuse of children.

Though there are 462 District Child Welfare Committees in 23 States mandated to verify fit institutions, majority of them exist only on paper.

A few state governments undermine such important functions of the CWC and prevent it from visiting the Child Care Institutions. For example, in October 2010,

¹⁹⁴ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/KarnatakaMinutes25112011.pdf>

¹⁹⁵ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Haryanadtd11062012.pdf>

¹⁹⁶ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/tripuradtd17012012.pdf>

¹⁹⁷ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/keraladtd17012012.pdf>

¹⁹⁸ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/mrtdtd07032012.pdf>

¹⁹⁹ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/puducherydtd07032012.pdf>

²⁰⁰ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/HPMinutes25112011.pdf>

²⁰¹ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Chattisgarh_Minutes.pdf

²⁰² <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/keraladtd17012012.pdf>

²⁰³ http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/manipur_pab_14-03-13.pdf

²⁰⁴ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/Megdtd25102012.pdf>

²⁰⁵ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/ngadtd25102012.pdf>

²⁰⁶ <http://wcd.nic.in/icpsmon/pdf/PAB-Minutes/52nd%20PAB%20minutes%20-%20Tamil%20Nadu%20%20-21.09.2012.pdf>

the Karnataka government reportedly issued an order preventing members of Child Welfare Committees from visiting child care institutions when they are not holding a sitting, without prior permission of the heads of the concerned institutions. This is a violation of the Juvenile Justice Rules of Karnataka, 2010 which gives the power to the CWCs to visit any child care institution any time. Further, the Government Order gives power to the Deputy Director of Department of Women and Child Development of Karnataka to visit and review cases being dealt by the CWCs once in 15 days which could interfere into the functioning of the CWCs.²⁰⁷ This also effectively rules out the possibility of random and surprise inspections and questions the autonomy of the CWC, the Chairperson of which has the judicial powers of a Metropolitan Magistrate.

Rule 25 (4) provides that the CWC shall meet a minimum of three days a week, which may be extended by the State Government depending on case and pendency of work while Rule 23 states that the Chairperson and Members of the Committee shall be paid such travel and sitting allowance, as the State Government may determine but it shall not be less than rupees five hundred per sitting per member. But, Member of JJB, Indore informed that contrary to the provision they were being provided with only Rs.120/-.

Even where the Child Welfare Committees have been formed, they seldom function properly. On 16 April 2012, the Allahabad High Court while hearing the matter of sexual abuse at Rajikiya Shishu Grih, Allahabad rightly observed as under²⁰⁸:

“The Court must also express its disappointment that the Child Welfare Committees consisting mainly of Social Workers which have been constituted under the Juvenile Justice Act (2000) [JJ Act] for attending to the welfare of children, have shown little proactive sensitivity for addressing the myriad problems relating to children, but have simply been passing orders in a mechanical and bureaucratic manner, with no sense of mission and thus have given little relief to children in distress.”

Surprise inspections in the Juvenile Justice Homes by CWC, Child Rights Commissions, etc are required to be conducted at regular intervals in order to secure the best interest of the children. The effectiveness of the surprise inspection is reflected in the spot visit conducted at the NGO-run Apna Ghar Shelter Home in Rohtak, Haryana by the NCPCR in May 2012. Though not a surprise visit as the NCPCR informed about the visit before arrival at the Home, the NCPCR team found that before the visit of any Official/Dignitary/Celebrity the children were always threatened not to talk to any outsider about any punishments or complain on any other matter including food/clothes/education etc. Still the children were threatened just sometime before the team's arrival after the news of the visit was broken to the Home. The NCPCR team also found the presence of police officer identified as Bhim Singh Ranga of Gandhi

²⁰⁷. Curbs on CWC members worry child rights activists, The Hindu, 1 November 2010

²⁰⁸. Available at: <http://legalix.allahabadhighcourt.in/legalix/WebShowJudgment.do>

Camp Police Station at an inappropriate time who failed to give any satisfactory explanation for his presence.²⁰⁹

Currently, juvenile justice homes are visited by concerned officials only after crimes are reported. Surprise visits will act as deterrent. As this report shows majority of the incidents were committed with the active participation of the staff of the juvenile justice homes or in connivance of the officials. However, little punitive action had been taken by the concerned authorities and bodies mandated to provide protective environment of children in the juvenile justice homes. Even if the reports of abuses emerge all out effort is made to cover-up. Consequently, it emboldens the culprits, resulting in recurrence of such acts of criminal misconduct.

Table 3: State-wise list of the Child Welfare Committees

Sl No	Name of the State	Number of Districts	No of Child Welfare Committees
1.	Andhra Pradesh	23	23
2.	Assam	27	27
3.	Bihar	38	28
4.	Delhi	9	6
5.	Gujarat	26	25
6.	Haryana	21	9
7.	Himachal Pradesh	12	12
8.	Jharkhand	24	
9.	Karnataka	30	30
10.	Kerala	14	14
11.	Madhya Pradesh	50	48
12.	Maharashtra	35	35
13.	Manipur	9	9
14.	Meghalaya	11	7
15.	Mizoram	8	
16.	Nagaland	11	11
17.	Orissa	30	30
18.	Rajasthan	33	33
19.	Sikkim	4	4
20.	Tamil Nadu	32	20
21.	Tripura	8	4
22.	Uttar Pradesh	75	69
23.	West Bengal	19	18
Total			462

²⁰⁹ Rohtak shelter home sealed after at least 100 women and children allege sexual, physical abuse, NDTV, 9 June 2012, <http://www.ndtv.com/article/india/rohtak-shelter-home-sealed-after-at-least-100-women-and-children-allege-sexual-physical-abuse-229317>

iv. Lack of segregation on the basis of offences, sex and age

The Juvenile Justice (Care and Protection of Children) Rules 2007 underscored the need of classification and separation of the children on the basis of the nature of the offences, age and sex.

Rule 40(2)(a) (b) states

“a. Observation Home:

- (i) Separate observation homes for girls and boys;
- (ii) Classification and segregation of juveniles according to their age group preferably 7-11 years, 12-16 years and 16-18 years, giving due consideration to physical and mental status and the nature of the offence committed.”

“(b) Special Home:

- (i) Separate special homes for girls above the age of 10 years and boys in the age groups of 11 to 15 and 16 to 18 years;
- (ii) Classification and segregation of juveniles on the basis of age and nature of offences and their mental and physical status”

“(c) Children’s Home:

- (i) While children of both sexes below 10 years can be kept in the same home, separate bathing and sleeping facilities shall be maintained for boys and girls in the age group of 5-10 years;
- (ii) Separate children’s homes for boys and girls in the age group of 7-11 and 12- 18 years;
- (iii) Separate facilities for children in the age group of 0-5 years with appropriate facilities for infants.”

However, these provisions are often not adhered to in the juvenile justice homes across the country. The lack of segregation on the basis of the nature of offences, age and sex facilitates senior inmates to perpetrate the offences upon minor inmates including girls and junior inmates.

Asian Centre for Human Rights found the lack of segregation of inmates in a number of States as given below.

Mizoram

At Observation Home-cum-Special Home at Lunglei in Mizoram there is no segregation of the juveniles on the basis of age and nature of offences as provided under the JJ (C&PC) Act.²¹⁰

Madhya Pradesh

In the Observation Home, Indore, Madhya Pradesh, segregation was done on the basis of age but not on the nature of offences. On 17 April 2012, ACHR researcher

²¹⁰ Information obtained from officials during ACHR researchers’ field visit to Observation Home-Cum-Special Home at Lunglei on 29 September 2012

interviewed Mr. Ashish Kumar Singh, Superintendent of the Observation Home, Indore who stated that segregation was done only on the basis of age and not on the nature of offences. However, Mr Singh informed that they have separate beds to sleep.

Karnataka

At Govt Children Home for Boys, Chitradurga, there were 28 inmates in April 2011, 27 in May 2011, 48 in June 2011, 50 in July 2011, 51 in August 2011 and 50 in September 2011 (upto 22 September).²¹¹ But the authorities informed ACHR that there was no segregation of the inmates on the basis of age and nature of offence.²¹² Similarly in Children's Home for Boys, Mysore, there is no segregation of children on the basis of age.²¹³

Himachal Pradesh

There is no segregation of the children in conflict with law (CCL) at the lone Observation Home-cum-Special Home at Una as well as of the children in need of care and protection (CNCP) at various Children Homes across the state as required under Section 9(4) of the JJ(C&PC) Act.

Replying to an RTI application filed by ACHR, District Programme Officer of Una stated that "juveniles are being kept separately based on their age and nature of sickness".²¹⁴ However, at the time of ACHR's visit on 19 April 2012 there were 10 juveniles (whose cases are being heard by JJBs) who were kept in a single dormitory irrespective of their age and nature of offence.²¹⁵

Similarly, separation of children is not maintained at some Children Homes such as Balika Ashram-cum-Children Home at Mashobra, Shimla district²¹⁶, Bal Ashram-cum-Children Home at Masli, Shimla district²¹⁷ and Children Home at Sunder Nagar, Mandi district.²¹⁸ There is lack of proper understanding about the need for separation of children provided in the JJ(C&PC) Act. While responding to an RTI application, the District Programme Officer, Shimla replied that separation of children was not being maintained at Balika Ashram-cum-Children Home, Mashobra, Shimla district on the ground that there was no child in conflict with law sheltered in the Ashram!²¹⁹ This is despite the fact that Rule 29(1) of the JJ(C&PC) Act states that "e) every

²¹¹ RTI reply from Deputy Director, Dept of Women and Child Development, Chitradurga, Karnataka, No. DD/CTA/DWCD/CR-1/RTI/11-12/3422 dated 23-09-2011

²¹² RTI reply from Deputy Director, Dept of Women and Child Development, Chitradurga, Karnataka, RTI dated 9/2/2012

²¹³ RTI reply from Department of Women and Children Welfare, Govt of Karnataka, Letter No. CHB:M:R.TI:2011-12 dated 4-1-2012

²¹⁴ RTI reply received from District Programme Officer, Una, dated 5 January 2012

²¹⁵ Interview with Ms Laxmi Kant, Acting Superintendent of Observation Home cum Special Home for Boys and Girls at Samoor Kalan, Una and District Programme Officer, Una, 19 April 2012

²¹⁶ RTI reply from District Programme Officer, Shimla, dated 7-5-2012

²¹⁷ RTI reply from District Programme Officer, Shimla, dated 7-5-2012

²¹⁸ RTI reply from PIO cum District Programme Officer, Mandi, Himachal Pradesh, vide letter No. ICDS. MMO-RTI-706 dated 8 June 2012

²¹⁹ RTI reply from District Programme Officer, Shimla, dated 7-5-2012

children's home shall include separate facilities for children in the age group of 0-5 years with appropriate facilities for the infants" and "(g) children in the age group of 10 to 18 shall be further segregated into two groups of 10 to 15 years and 15 to 18 years."

Manipur

Both boys and girls were kept in the Observation Home run by NGO, Health Integrated Ministries, Rengkai at Shan Veng in Churachandpur district.

Orissa

From 29 September 2010 to 1 October 2010, ACHR conducted an on-the-spot investigation at the "Govt Observation Home, Special Home and Children's Home (Combined) for Boys" at Berhampur, Gamjam district, Odisha. ACHR found that different categories of children were kept in the juvenile home. Both the children in conflict with the law and children in need of care and protection such as orphans and abandoned were held in the same facilities. ACHR also found that some of the inmates were above the age of 18 years. At least two inmates were over 30 years of age.

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ASIAN CENTRE FOR HUMAN RIGHTS

C-3/441-C, Janakpuri, New Delhi 110058 INDIA

Phone/Fax: +91 11 25620583, 25503624

Website: www.achrweb.org

Email: suhaschakma@achrweb.org