

Ensuring Safe Restoration of Children in Institutional Care

A Master Class

The Master Class will cover:

- The step-by-step process of restoration of children with their family from institutional care.
- Responsibilities of stakeholders, including CCIs and Government functionaries.
- Common challenges and issues encountered in the process.

SPEAKERS



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Catalysts for Social Action

Satyajeet Mazumdar ▶
Head, Advocacy
Catalysts for Social Action

FRI **5TH** FEB 2021
11:00 AM TO 1:00 PM





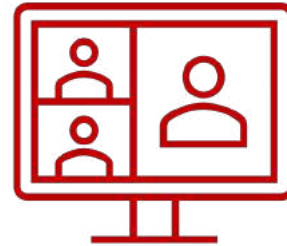
Ensuring Safe Restoration of Children in Institutional Care

A MASTER CLASS

Presented by
Deepesh Choukse & Satyajee Mazumdar

5th February, 2021

www.csa.org.in



Objective of this Master Class

Explain the step-wise procedure of
**ensuring safe restoration of children in institutional care with their
parents / guardians.**

What will we discuss today?

1. What do we understand by '**children in institutional care**'?

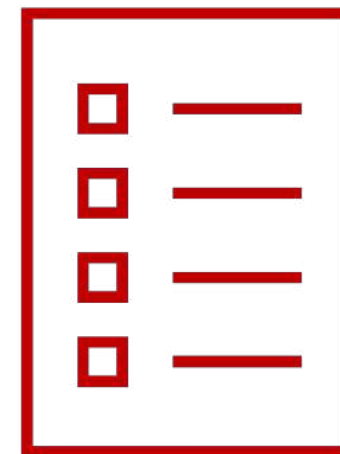
- Who are the children in need of care and protection?
- What is institutional care, and why are children placed in institutional care?
- What is the process of admission of children into institutional care?
- What are the norms of care and protection of these children?

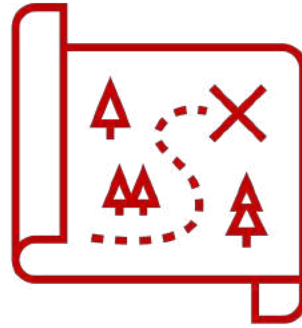
2. What is '**restoration**'?

- Why should children in institutional care be restored to their family?
- Under what circumstances can children be restored?

3. How can we ensure '**safe restoration**'?

- What are the pre-requisites of a safe restoration?
- What is the process prescribed by the JJ Act, 2015 and Model Rules, 2016





At the end of this presentation, we hope:

1. You will be clear about the **process of safe restoration**.
2. You will be able to **ensure safe restoration** in your respective capacities.
3. You will be able to **highlight concerns** with respect to 'unsafe' restoration.



What laws would we be referring to?

- 1. Juvenile Justice (Care and Protection of Children) Act, 2015**
[‘JJ Act’]
- 2. Juvenile Justice (Care and Protection of Children) Model Rules, 2016**
[‘Model Rules’]



Part 1

Children in Institutional Care

Children in Need of Care and Protection

Section 2(14) of the JJ Act defines CNCP through ten sub clauses. They can be broadly classified and grouped as:



Homeless children



Victim of child labour



Victim of abuse or exploitation



Residing with unfit person



Orphan, abandoned, or surrendered child



Victim of armed conflict or natural calamity



Victim of child marriage



Placement in Institutional Care

Section 37(1) of the JJ Act provides the orders that can be passed regarding a child in need of care and protection by the Child Welfare Committee.

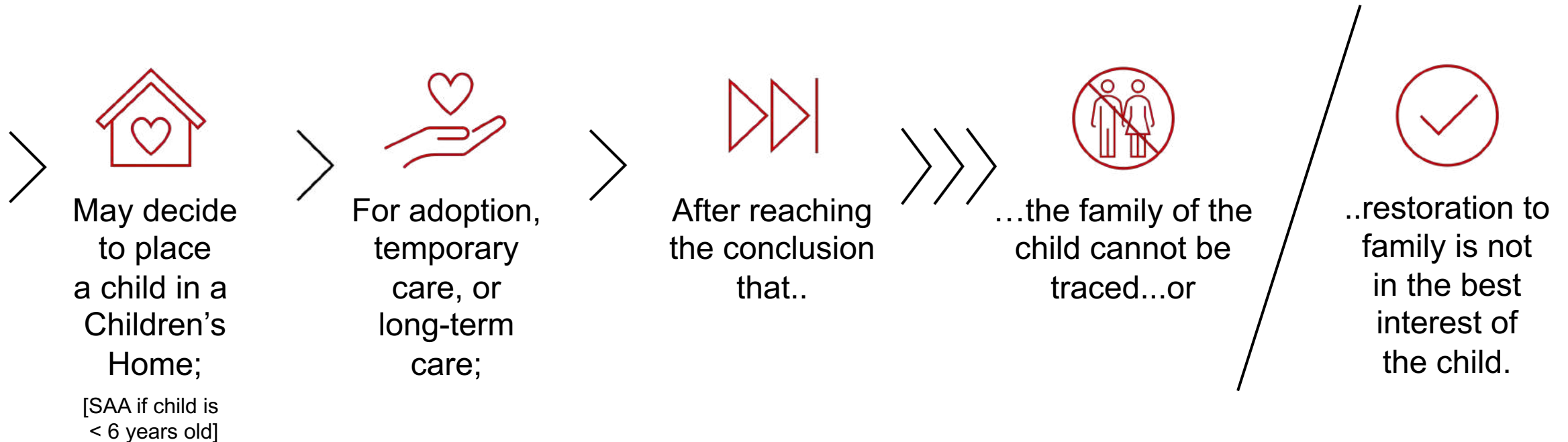
A child may be placed in a Children's Home, as per the process defined in S. 37(1)(c):



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Placement in Institutional Care

Points to note:

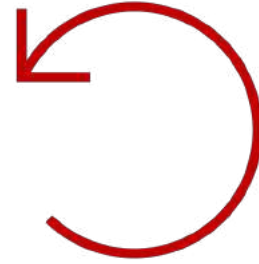
- Children should be placed in institutional care
 - after due enquiry;
 - on the basis of findings of the Social Investigation Report;
 - when family of child cannot be traced, or
 - when it is determined that restoration with family is not in the best interest of the child.
- Placement in institutional care can be
 - for short term care, or
 - long term care





Part 2

Restoration of children in institutional care



What is the meaning of 'restoration'?

Restoration

noun; UK /,res.tər'eɪ.fən/ US /,res.tə'reɪ.fən/

'the act or process of returning something to its earlier good condition or position'



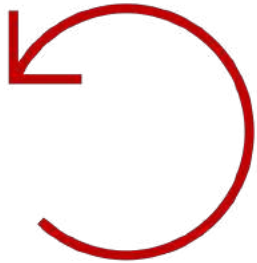
S. 3(xiii) of the JJ Act:

Principle of repatriation and restoration

*‘Every child in the juvenile justice system shall have the **right to be reunited with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.**’*

Restoration of child in need of care and protection

Section 40 of the JJ Act provides the powers and responsibilities of restoration.



(1) The restoration and protection of a child shall be the **prime objective of any Children's Home, Specialised Adoption Agency or open shelter.**



(2) The Children's Home, Specialised Adoption Agency or an open shelter **shall take such steps as are considered necessary** for the restoration and protection of a child



(3) The **Committee shall have the powers to restore** any CNCP to his parents, guardian or fit person, **after determining the suitability to take care of the child**, and give them suitable directions.

For the purposes of this section, "restoration and protection of a child" means restoration to —
(a) parents; (b) adoptive parents; (c) foster parents; (d) guardian; or (e) fit person.

Restoration of child in need of care and protection

Points to note:

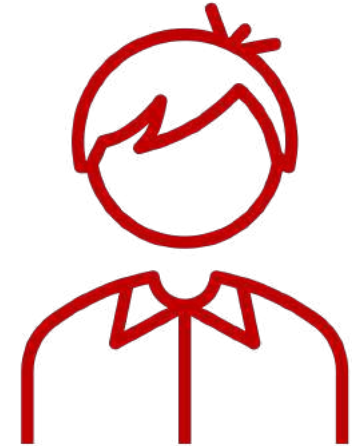
- The restoration and protection of a child shall be the prime objective of any CCI;
- CCI has a responsibility to take steps necessary for restoration
- The power to restore a CNCP with parents / guardians rests with the CWC after determining the suitability to take care of the child;
- “Restoration and protection of a child” means restoration to parents, adoptive parents, foster parents, guardian, fit person.



Case study

Story of Ramesh*

- Ramesh is a 10-year-old boy living in a CCI since the last two months.
- During counselling, he revealed that before coming here, he was in a different CCI in another district. He had stayed there for a month before he was sent back home.
- He shared that he used to live with his mother and step-father in a slum. The step-father was a drunkard who used to hit him and his mother.
- Once when his step-father hit him, he ran away and reached the railway station, where Childline found him.
- He was produced before the CWC and admitted to the CCI. During his stay, the CCI staff searched for his parents.
- On finding them, he was produced before the CWC who handed him over to his parents.
- Situation in the family remained the same. He again ran away, took a train and reached a different place. He was taken to the CWC by Railway Police.
- CWC got Ramesh admitted in the CCI.



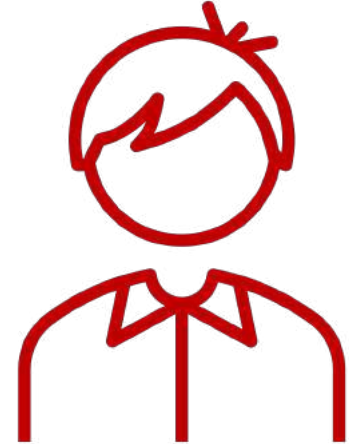
*Name changed to protect identity

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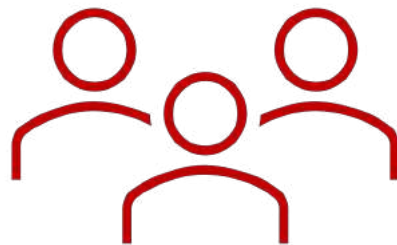


- **Where have we failed Ramesh?**
- **What could have been done differently?**
- **Was Ramesh 'restored' in the real sense, as envisaged by the JJ Act?**



Part 3

Safe Restoration



S. 40(3) of the JJ Act:

Restoration of child in need of care and protection

*The Committee shall have the powers to restore any child in need of care and protection to his parents, guardian or fit person, as the case may be, **after determining the suitability of the parents or guardian or fit person to take care of the child, and give them suitable directions.***



Checklist for safe restoration

to determine suitability of parents / guardian,
and the best interest of the child.

1. At the time of admission to a CCI;
2. Social Investigation + case history;
3. Rehabilitative stay;
4. Restoration and follow-up;

1.1 Admission – Production before CWC

S. 31

of the JJ Act

Production before Committee

Who can produce?

Police Officer, SJPU, DCPU,
public servant, Childline,
social worker, child himself /
herself, etc.

R. 18(2)

of the Model Rules

Production before Committee

“Whoever produces the child before
the Committee **shall make a report
in Form 17 containing the
particulars of the child** as well as
the circumstances in which the child
was received or found.”

F. 17

of the Model Rules

Report to be submitted at time of production

Details of the child; situation in
which the child was found;
location; etc.

**If child comes in contact of CCI
directly, responsibility of the. CCI to
produce before CWC in 24 hours.*

1.2. Admission – Order of placement

S. 37

of the JJ Act

**Orders passed
regarding CNCP**

After inquiry + SIR, CWC
may pass order for
placement of child in CCI
*‘either after reaching the
conclusion that the family of
the child cannot be traced or
even if traced, restoration of
the child to the family is not
in the best interest of the
child;’*

R. 18(5)

of the Model Rules

**Production before
Committee**

“The Committee or the member on
duty shall issue the order for placing
the child in Children’s Home”

F. 18

of the Model Rules

**Order of placement of a
child in an institution**

Details of the child; Duration of
stay; In case of orphan /
abandoned child, details to be
uploaded in TrackChild / portal.

2. Social Investigation

S. 37

of the JJ Act

**Orders passed
regarding CNCP**

CWC takes into consideration Social Investigation Report submitted by Child Welfare Officer when passing order of restoration, placement in foster care, adoption, sponsorship, etc.

R. 19(8)

of the Model Rules

**Procedure for inquiry –
Social Investigation**

“The social investigation...must provide an assessment of the family situation of the child in detail, and explain in writing whether it will be in the best interest of the child to restore him to his family.”

F. 22

of the Model Rules

**Social investigation report
for child in need of care
and protection**

Conducted by a social worker or Case Worker or Child Welfare Officer of the institution or any non-governmental organisation.

3.1. Rehabilitative stay

R. 69F

of the Model Rules

Procedure at the time of receiving the child

- Details of the child to be taken;
- Provided with food, medical care if needed;
- Should be kept in the reception dormitory for the first fourteen days.

R. 69G

of the Model Rules

Procedure to be adopted after the child is received

- Photograph of child to be taken;
- Child may take bath and must be given new clothes etc.;
- Staff to familiarize child with CCI;
 - Medical Examination.

3.2. Rehabilitative stay...contd.

R. 69H

of the Model Rules

Procedure during first 14 days

- Maximum interaction with the child by case worker;
- Rehabilitation plan to be prepared by case worker;
- Interaction with family members and understand the child situation in the family
- Prepare SIR with in 15 days of admission [S.62(4)]

F. 43

of the Model Rules

Case history of the child

Information for the same may be collected through all possible and available sources including the parents or guardians, home, school, friends, employer and community of the child.

3.3. Rehabilitative stay...contd.

R. 69I

of the Model Rules

**Procedure after expiry of
the first fourteen days**

- Shift to normal dormitories;
- Assigned bed, cabinet, study table

F. 7

of the Model Rules

Individual care plan

- ICP should include child's case history, education and vocational aptitude.
- In case of rehabilitation stay, ICP must have complete period of the stay and shall include directions given by the Committee towards the rehabilitation including bridge courses, formal, informal or continuing education.

F. 14

of the Model Rules

Rehabilitation Card

The Child Welfare Officer or Case Worker shall review ICP and note his opinion in the rehabilitation card in Form 14 on the basis of his own observations, interaction with the child and his teachers or instructors and the feedback received from the house father or house mother.

4.1. Restoration – prior to restoration

R. 19(9)

of the Model Rules

Reference to Counsellor

“Before the Committee releases or restores the child, both the child as well as the parents or guardians may be referred to the Counsellor.”

R. 69K

of the Model Rules

Pre-release planning

A well-conceived programme of pre-release planning and follow up of cases discharged from Children’s Homes, special homes and places of safety shall be organised in all institutions as per the directions of the Board or the Committee or the Children’s Court

4.2. Restoration – Release of child

S. 97

of the JJ Act

Release of a child from an institution.

- On a report of a probation officer or social worker or of Government or a voluntary or non-governmental organisation
- Absolutely or on such conditions as it may think fit to impose
- Permitting the child to live with parents or guardian or under the supervision of any authorised person named in the order

R. 79

of the Model Rules

Release of a child from a Child Care Institution

- Maintenance of roster of release
- Information to parent / guardian
- Provide set of clothes and toiletries
- Payment of subsistence money

4.3. Restoration – Release of child

R. 82

of the Model Rules

Restoration and Follow-up.

- Order for release after hearing child, parents / guardians.
- Takes into account report of PO, social worker, case worker, etc
 - Includes ICP with follow up plan
- Child should not be coerced for restoration.
- Child not restored when not in best interest.

F. 44

of the Model Rules

Release of a child from a child care institution

- Details of the child
- Conditions of restoration

4.4. Transfer of child

S. 95

of the JJ Act

**Transfer of a child to
place of residence.**

S. 96

of the JJ Act

**Transfer of a child
between CCIs**

R. 81

of the Model Rules

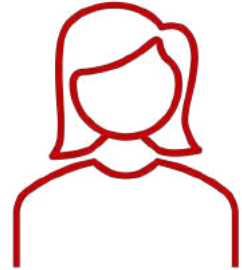
Transfer of child

During the inquiry, if it is found that the child hails from a place outside the jurisdiction of the Board or the Committee, the Board or the Committee shall order the transfer of the child and send a copy of the order stating the reasons for and circumstances of such transfer to the State Government and District Child Protection Unit.

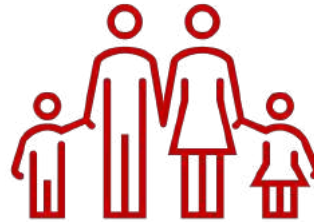
Most important pillars and tools of Safe Restoration



CWC



Case worker



Family



Case history



SIR



ICP



Monitoring &
Follow-up





Questions?

Thank you!

Mail us at info@csa.org.in