

COVID-19 and the Need for Family-Based Alternative Care for Children in India

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Introduction

“Every child has the right to love, to be loved and to grow up in an atmosphere of love and affection, of moral and material security, and this is possible only if the child is brought up in a family” (Bhandari, 2011).

Child protection is a child rights issue. Protecting and safeguarding children from abuse and violence and providing a non-hostile environment for their growth are central to the social development of children. Having ratified the United Nations Convention on the Rights of the Child (UNCRC, 1989), the Indian state is committed to protecting the rights of every child, the family environment and providing special protection and assistance if a child is deprived of such an environment. However, there are several children who may be deprived of this environment due to the loss of one or both parents. Several other children are runaways, have abusive family environments or are abandoned by their parents.

India is home to around 40 crore children below 18 years of age (Census, 2011). However, more than three crore children in India are orphaned and abandoned (UNICEF, 2016). Since the COVID-19 pandemic struck in 2020, thousands more children have been orphaned. According to the National Commission for Protection of Child Rights (NCPCR), between April 2020 and February 2022, a total of 1,53,827 children have been registered on the ‘Bal Swaraj’ portal, including 1,42,949 children with a single parent,

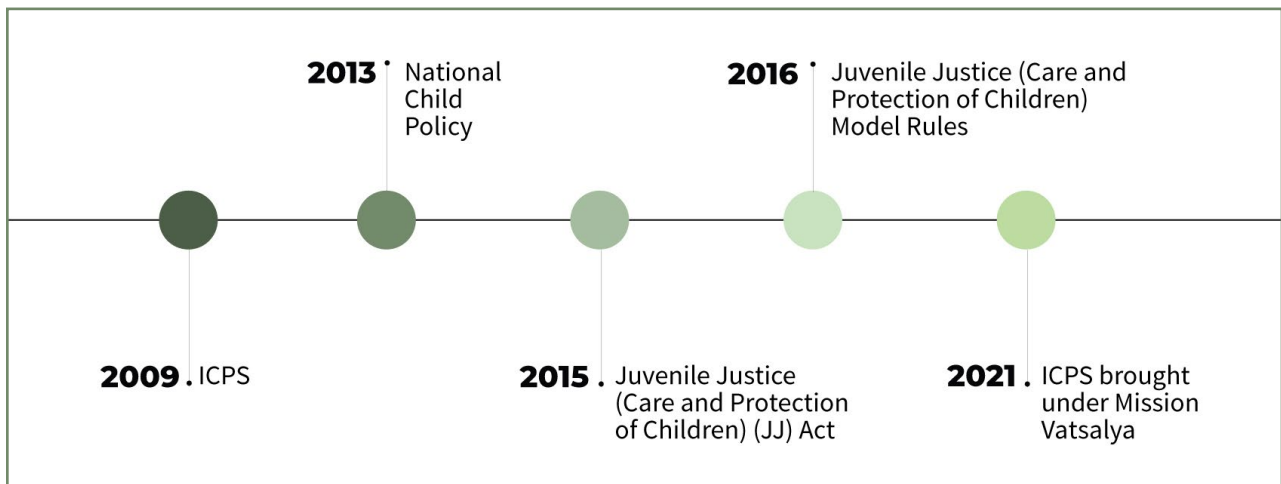
492 abandoned children and 10,386 children who have lost both their parents (Press Information Bureau, 2022).

Several studies have highlighted how the pandemic has put children at risk of abuse, neglect, and violence. The rise in the cases of child trafficking and child labour, along with the increase in child marriages, is indicative of the children’s vulnerability to the pandemic (Zaidi, 2021). According to National Crime Record Bureau (NCRB) data, India recorded over 350 crimes against children daily during the pandemic in 2020 (NCRB, 2021). Childline India, a helpline for children run by a non-profit, reported a 50 per cent surge in calls during the first lockdown (Chakraborty, 2021), and of the total call received by Childline in 2021, 31% of calls were about asking for help for protection from abuse (CHILDLINE India Foundation, 2021). Such uncommon emergency has also led to severe psychological problems among children, including anxiety disorders, mood-to-conduct disorders, substance abuse and suicidal tendencies (Kumar, Nayar & Bhat, 2021).

Although the impact of long-term institutionalisation on a child’s psycho-social growth is well documented (Berens & Nelson, 2015), in India, institutional care is used as the predominant response by stakeholders for Children in Need of Care and Protection (CNCP) as well as those in conflict with the law. As a

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Figure 1: Legal and Policy Framework for Protecting the CNCP

Source: Mission Vatsalya Guidelines, 2021-22¹

result, Child Care Institutions (CCIs) remain the default childcare option. Pre-pandemic, there were 2162 government-funded CCIs providing support to 77,765 children (Rajya Sabha, 2022). The number of children in the CCIs is just the tip of the iceberg, looking at the increasing vulnerability of children in the country. Also, COVID-19 has exposed the shortcomings in child protection services through institutional care. The pandemic has not only impacted the children residing in CCIs but has also brought forth the inability of the CCIs to take care of children already present there. Numerous CCIs, especially those run by non-governmental organisations (NGOs) or private entities, closed their operations during the pandemic.

Thus, with the increased vulnerabilities of children and the fragile institutional care system, the continuum of alternative care arrangements is necessary to safeguard every child's best interest. This article attempts to contextualise these aspects by underscoring the need for family-based alternative care (FBAC) in India.

Legal and Policy Framework for Child Protection

The Constitution of India recognises that Children have equal fundamental rights as all the other adult citizens in India and 'grants the highest priority for their protection and well-being' (Ministry of Women and Child Development - MWCD, 2018a). Therefore, the Government of India from time to time has implemented various child-centric legislations, policies, child protection programmes and schemes (Figure 1). As envisaged in the Juvenile Justice Care and Protection of Children Act 2015 (known as JJ Act), many statutory bodies and implementing agencies at different governing levels have also been set up to enforce the JJ Act (Figure 2) and Integrated Child Protection Scheme (ICPS) is the nodal scheme to facilitate the provisions of the JJ Act.

While there is a robust institutional architecture for providing services, India's child protection landscape has challenges, including low budgetary allocation, heavy reliance on institutional care, staff shortage, low salaries, and hence a high staff attrition rate and other administrative and operational disadvantages. These challenges demand our attention, now more than ever, as

¹ Mission Vatsalya Guidelines (2022). Ministry of Women and Child Development, Government of India. Available at https://wcd.nic.in/sites/default/files/GUIDELINES%20OF%20MISSION%20VATSALYA%20DATED%2005%20JULY%202022_1.pdf

Figure 2: List of Statutory Bodies and Implementing Agencies

NATIONAL	STATE	DISTRICT
Central Project Support Unit	State Child Protection Society	Child Welfare Committee (CWC)
Central Adoption Resource Authority (CARA)	State Adoption Resource Authority	District Child Protection Unit (DCPU)
National Institute of Public Cooperation and Child Development	State Commission for Protection of Child Rights (SCPCR)	Sponsorship and Foster Care Approval Committee
NCPCR		Juvenile Justice Board (JJB)
		Special Juvenile Police Unit

Source: Revised ICPS Guidelines, 2014²

we move towards a hopeful tomorrow in the aftermath of the pandemic.

Institutional Care as a Default Option

In CCIs, children are nourished, cared for and monitored in an institutional set-up governed by the State, NGOs or private organisations. Although the JJ Act (2015) affirms that institutional care should be the last resort, historically, the schematic structures and budgetary priority to deliver child protection services show a heavy reliance on the institutional care system. Despite this, CCIs in India are facing numerous challenges. Many CCIs lack necessities like staff, required infrastructure, water, sanitation and hygiene facilities, and medical facilities, lack financial transparency and report abuse of children (MWCD, 2018b). While the budgetary allocation for institutional care services is relatively more than the allocations towards FBAC services, it is still insufficient for the smooth functioning of the CCIs (Kundu & Bhuta, 2021).

Moreover, of the total number of registered CCIs under the JJ Act (2015), only nine per cent are government-supported. Hence, most of the NGO-run CCIs face fund shortages and continue to rely on individual donations. Also, in many cases, non-CNCP children are sent to CCIs for educational purposes; hence, many deserving CNCPs cannot be admitted to CCIs.

The situation of CCIs worsened during the pandemic. Due to the absence of supporting infrastructure, many children were deinstitutionalised. In December 2020, following the Supreme Court's order, 1,45,788 children residing in the CCIs were restored to their families (Mint, 2020). In 2021, NCPCR reported that over 721 children in CCIs contracted COVID-19 (The Hindu, 2021). The limitation of the institutional care system exposed during the pandemic has increased the significance of FBAC. Moreover, the majority of vulnerable children fall beyond the ambit of institutional care.

A Case for Family-Based Alternative Care

Alternative care is not a mere substitute for institutional care. Instead, it is a range of facilities and services that reach out to children without family or family support to provide them with a family or a family-like environment. The primary alternative care provisions are adoption, foster care, sponsorship, and aftercare (MWCD, 2014). The JJ Act 2015 (Chapter VIII) and the JJ Model Rules 2016 (Chapters VI & VII) provide a robust legal framework for child protection through alternative care, and ICPS/Mission Vatsalya is one of the vehicles through which alternative care interventions are being implemented in the country.

The adverse outcomes of long-term institutional care on children have, over time, made the States realise the need to shift the focus of interventions

² Revised ICPS scheme (2014). Ministry of Women and Child Development, Government of India. Available at <https://cara.nic.in/pdf/revised%20icps%20scheme.pdf>

from the institutionalisation of children to more family–and community–based alternative care. However, the practice and provision of FBAC in India have been inadequate in many dimensions.

In the framework of FBAC, adoption is considered to be the best intervention, yet India continues to have low adoption rates. It further declined during COVID-19. According to the Child Adoption Resource Information & Guidance System (CARINGS), in 2011-12, 6593 children were adopted; the number came down to 3405 in 2021-22. In 2022-23, 26000 prospective adoptive parents were registered with Central Adoption Resource Authority (CARA), but the number of children legally free for adoption was only 2400 (Rajya Sabha, 2022).

Foster care is a temporary arrangement whereby a child lives with an extended or unrelated family member (Sec 2(29), JJ Act, 2015). Unlike adoption, India's foster care services are yet to evolve and strengthen fully. While JJ Act (2015) provides the legal framework to promote foster care in India, the Act leaves it to the states "to make rules for purposes of carrying out the scheme of foster care of children". This has resulted in a sporadic and uneven implementation. In the absence of a pan-India database, it is difficult to comment on the number of CNCs who have benefitted from foster care facilities.

It is crucial to ensure that children are gradually removed from institutions and placed in FBAC, and family strengthening services are inevitable for promoting FBAC (Martin et al., 2013). Under ICPS, sponsorship is provided through financial support to the families to enable a child to remain in the family. The sponsorship amount was Rs. 2000 per child per month with a total allocation of Rs. 10 lakh per annum per district as Sponsorship and Foster Care Fund. This amount could cover at most 40 children per district per year, while the demand is much higher, resulting in a low approval rate. Also, the Sponsorship amount per beneficiary is inadequate. While there is a

revision in the financial norm for sponsorship under new Mission Vatsalya guidelines, States are yet to implement the revised norms.

The aftercare programme, the other intervention under ICPS for young care leavers, has not yet received the kind of momentum that it requires. The capacity of government-run aftercare homes is very limited, and so is the number of young adults receiving aftercare services, mainly because of a lack of infrastructure and financial support.

The JJ Act, 2015, under section 39(1) - states that children's rehabilitation and social integration shall be undertaken preferably through family-based care, such as by restoration to family or guardian with or without supervision or sponsorship, or adoption or foster care. The United Nations Guidelines for the Alternative Care of Children, 2009, form the basis of alternative care on two principles that such care is genuinely needed and is appropriately provided. Further, there is a global momentum towards deinstitutionalisation; in England, Ireland and Norway, nearly 85% of children are in foster homes (Ilinca et al., 2015). In Bangladesh, efforts are being made toward deinstitutionalisation of children of sex workers (Khondkar et al., 2017).

Despite the unanimous notion that alternative care is the best option for a child's overall development, it is not yet a priority in the Indian child protection scenario. One of the key reasons behind the poor implementation of FBAC is the lack of disaggregated physical and financial data. There is no recent data on the total number of CNCs, and that hinders proper planning and budgeting of the child protection programmes. Although many state governments have introduced policies, schemes and interventions promoting FBAC, those lack adequate budgetary support. Across the states, implementing agencies like CWCs, DCPUs, and others face numerous hurdles, including shortage of human resources, abysmally low salaries for

the staff, poor coordination between the agencies, procedural delays, low resource allocation, delays in the fund flow and under-utilisation of funds. These factors obstruct the delivery of FBAC services, especially during the pandemic. Also, inadequate investment towards knowledge and awareness building on FBAC among various stakeholders, including government officials, community members, parents and children affected the implementation.

Way Forward

A robust alternative care system for children is the need of the hour. Restoring and rehabilitating vulnerable children to families is a herculean task. During the pandemic, the State announced several interventions for CNCP. Although these measures were essential as an immediate response, a long-term commitment towards deinstitutionalisation and enhancing FBAC services requires systemic change.

In the current scenario, it is not plausible to do

away with institutional care services, as it still remains the only option for millions of children. And yet, when we understand the harmful effects such an arrangement can have on children; there must be a gradual shift from institutional to FBAC services, which needs adequate budgetary investment.

The statutory bodies and implementing agencies must be equipped with resources to facilitate FBAC services. Family strengthening services are inevitable for avoiding institutionalisation in the first place and also for the reintegration of institutionalised children with their families. This needs assistance to families and communities through material support, cash transfers, education, counselling and building parents' capacities to care for their children.

The pandemic serves as a lesson and a reminder for governments to prioritise preventive measures over responsive measures. It is an opportunity for the State to strengthen FBAC and invest adequately in the FBAC system.

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