

Institutional Care for Vulnerable Children

The Law, Present Scenario, and Way Ahead

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Executive Summary

This paper explores the existing scenario with respect to care and protection of vulnerable children and recommends ways in which better support can be provided to the huge population of children in difficult circumstances in India. It focuses on institutional care as one of the means of rehabilitation of children in need of care and protection (CNCP), and analyses the crucial role which child care institutions (CCIs) play and the challenges which they face in course of their work. This analysis is in light of the increased global attention towards the so called 'harmful' effects of institutional care, and the recent action undertaken by national and state child welfare bodies in India towards rapid and large-scale restoration of children in institutional care. The paper argues that institutional care and family-based care options are complementary, and both are required at scale to be able to meet the needs of vulnerable children in India. The paper presents an analysis of the current scenario and closes with recommendations for care and protection of vulnerable children in India.

India is home to 440 million children, and the Ministry of Women and Child Development (MWCD) estimates 170 million children, or 40 per cent of the total number to be "vulnerable or experiencing difficult circumstances". Taking data from the 2011 census, UNICEF and Childline, we can safely conclude that at least 20 million out of the 170 million vulnerable children in India could be in situations of extreme risk and vulnerability, needing immediate support from the system.

Children in India enjoy rights and entitlements guaranteed by the Constitution of India and the United Nations Convention on the Rights of the Child (UNCRC). The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) provides the law, standards, and procedure with respect to CNCP and children in conflict with law (CCL) for their rehabilitation and reintegration into the society. It is evident from a perusal of these that India has a robust legal framework and well-defined processes for rehabilitation of CNCP and that the

same is aligned to the UNCRC and other international conventions.

Institutional care has been one of the mainstays of child care, protection and rehabilitation in India. CNCP [as defined by Section 2(14) the JJ Act] may be placed in CCIs in course of their rehabilitation and social integration by the district Child Welfare Committee (CWC). As per a recent report of the National Commission for Protection of Child Rights, more than 2.5 lakh children are growing up in 7163 CCIs. Children may be placed in CCIs for short-term, medium-term, or long-term care, till suitable means of rehabilitation are found for them. They may continue to be in institutional care till they reach the age of 18 years. The same 2018 study by MWCD found almost 33% of the children in CCIs to be those with single parents, 15% being orphan / abandoned / surrendered children, and about 9% being victims of child sexual abuse, victims of trafficking, child labour, runaway / missing children, victims of child marriage, children affected and infected by HIV and AIDS, victims of man-made and natural disasters, homeless children, and children who are mentally and/or physically challenged. The above categories form about 57% of the child population in CCIs. Most of the remaining children were placed in institutional care because the parents / guardians of the child were incapable of caring for them.

The background of children placed in institutional care explains why CCIs play such a crucial role in child care and protection in India. While there is no doubt that a child grows up best with a family and family-based care should be preferred for every child, for some children, CCIs may not be the last resort, but instead, the primary resort for care and safety for varying durations. Other factors such as the large number of vulnerable children in India, limited success of adoption and foster care, and lack of monitoring and support services at the grassroots makes it imperative for greater support to be provided to CCIs for them to be able to give better care and facilities to children.

Institutional care and family-based care options are complementary, and both are required at scale to be able to meet the needs of vulnerable children in India.

The reality, however, is that only about 45% CCIs receive some funding from the Government, which also is intermittent and in arrears. This means that CCIs are dependent on private donations, which is often hard to come by. Many CCIs are small and located in semi-rural areas. They lack the facilities, management capability and “knowhow” of managing a wellrun home. These factors - lack of funds and management knowhow - directly impacts the quality of care they are able to provide to children. They also face excessive scrutiny from the Government and suffer negative perception due to media coverage focussing on isolated incidents of abuse and neglect of children in CCIs, resulting in demotivation to run CCIs. An alarming trend that we are seeing is that many CCIs are either closing down or converting into hostels due to these reasons.

We firmly believe that CCIs, when adequately supported and monitored, can provide family-like care to CNCP. The services of CCIs will continue to be needed in the near future, given the socioeconomic realities of India and huge number of vulnerable children. In this context, in our view, the current capacity of institutional care must be maintained even while family strengthening programs are scaled up and family-based care options are promoted. Both strategies of care and protection must be followed in parallel. Institutional care and family-based care are not competing alternatives, but complementary programs and both are required in our country.

The need for progressively replacing institutionalization with family and community-based care options as against undertaking rapid and large-scale deinstitutionalization has been acknowledged by the United Nations in its 2019 Resolution on the Rights of the Child was adopted on 18 December 2019. The resolution calls for adequate resources are allocated to family and community-based care, training and support for caregivers, and robust screening and oversight mechanisms to be set up. It does not call for a closure of CCIs as seems to be the impression created in some media reports.

In the media, some cases of child abuse at CCIs have been reported in the recent past. Unfortunately, these create an impression that abuse is rampant in child care institutions across the country. We believe it is easier to manage this risk in the institutional context as compared to continuing abuse in domestic or child labour contexts. Hence while strict punitive action must be taken against CCIs where cases of abuse are detected, it should not be allowed to tarnish the image of thousands of CCIs which provide excellent care and protection to children, or to drive policy that may turn out to be infructuous and indeed damaging to the best interest of CNCP.

Our policy actions must adopt data-driven and evidence-based approaches. The data of children in CCIs should be available in real-time and the district and state must have a complete database and dashboard about children in institutional care. Standardised methodologies should be used to conduct regular social audits of CCIs to collect not just data on JJ Act compliance but also development indicators of the child, such health and education data. This standardised data should be used to analyse outcomes. With regular data collection and analysis, the risks in CCIs can be mitigated, improvements can be made, and good outcomes achieved in CCIs. All of this is very achievable in a short time frame.

Looking ahead, considering the scale and ground reality of vulnerable children in India, the following are our recommendations for better care and protection of vulnerable children:

1. An ongoing process to identify vulnerable children is required so that more children in need can come into the purview of care and protection system and be supported.
2. The mechanism of family strengthening and gatekeeping at entry and exit of institutional care needs to be improved.
3. Periodic evaluation of CCIs should be carried out and the result made available both to the CCI management as well as government authorities so that specific areas for improvement can be identified.

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4. CCIs should be provided with adequate support to reduce risks for children, improve outcomes and make them places that provide family-like care.
5. Better awareness regarding adoption and foster care needs to be created in order to promote the same. Foster parenting should be piloted with caution, and its best practices identified before large scale implementation.
6. Proper rehabilitation of care leavers should be ensured. Aftercare support should be enhanced and made accessible to all.

The sheer number of children facing difficult circumstances in India requires a coordinated effort between the government and civil society organizations to address the situation adequately. What is also required is a well-thought through strategy which is suited to the Indian context, rather than replicating models which may have worked in the west. Only then would we be able to achieve the common objective that all of us share – better care and protection for vulnerable children!



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