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### Introduction

NCPCR submitted before Supreme Court that 9346 children have been orphaned. There are 9500 CCIs in India. If Covid pandemic is a watershed moment in the human history, The mapping done by the Jena Committee in 2015-2017 was a landmark task. before covid stuck the world, India had knowledge and information about the quality and quantity of facilities available at CCIs. Rising Number of covid deaths = Rise in number of children falling in bracket of CCIs.



# **Objectives**

1. To analyse if the Child Care Institutions (CCIs) in India are structurally adaptable to accommodate orphaned children during the pandemic with a sound monitoring system and trained child care professionals.

2. To figure out how well the CCIs in India are meeting out the educational and health care needs of children orphaned during pandemic.

3. To find out the compliance of the CCIs with legal and judicial standards, especially during the pandemic.

4. To understand measures taken by CCIs and child protection commissions to prevent the crimes against children orphaned during pandemic.

5. To suggest measures that can be adopted by the states to ensure an efficient and adaptable functioning of CCIs in India.

## Methodology

Doctrinal and non-doctrinal research methodology and analysis of secondary sources to gather data.

Doctrinal research included the perusal of relevant legislations and case laws regarding the CCIs during the pandemic and the jurisprudence surrounding the rights of children. Non-doctrinal research encompassed secondary sources constituting reports of the Ministry of Women and Child Development, National Commission for Protection of Child Rights (NCPCR), UNICEF.

# Hypothesis

The childcare institutions (CCIs) in India are not equipped financially, structurally and logistically to sustain and provide for the basic nutritional, emotional and educational needs of children, especially orphaned during the course of pandemic and have failed to effectively uphold their fundamental rights.

## **Research questions**

1. Are the child care institutions in India structurally adaptable to accommodate orphaned children during a pandemic with a sound monitoring system and trained child care professionals?

2. Whether the present CCIs have been able to meet the educational needs of children orphaned during the pandemic?

3. Whether the present CCIs have been able to meet the health and nutritional needs of children?

4. Have the CCIs complied with the legal and judicial standards?

6. What actions have been taken by the CCIs to prevent crimes against the children orphaned

during the pandemic?

## CCIs & Child in care of need and protection

"Child Care Institution" means Children Home, Open Shelter, Observation Home, Special Home, Place of Safety, Specialised Adoption Agency and a Fit Facility, recognised under this Act for providing care and protection to children who are in need of such services.

Article 20, of the Convention on child rights lays that child who is deprived of his family environment should be provided assistance by the state.

The children who lost either or both of their parents during the pandemic, with no proper kinsmen to take care of them, immediately fall under the category of 'Child in need of care and protection' elucidated under the Juvenile Justice Act, 2015.

The Act has detailed procedure, that such child should be presented before Child Welfare Committee, which will order sending child to CCI.

### **Supreme Court**

- In 2017 The Court expanded the definition of "Child in need of care and protection" to include child victims of abuse and other kinds of offences under the definition of 'Children in need of care and protection'.
- In 2021, the could brought Covid Orphan Children in this category giving them judicial recognition and made them eligible for legislative and financial support.
- Union and state governments to complete and update registration process by 31.12.2017, along with set up of Inspection Committees.
- Plans for utilizing grants under Integrated Child Protection Scheme
- Formulate an individual child care plan for every child in each CCI on or before 31.12.2017
- State and Union Territory governments to set up State Commission for Protection of Child Rights which shall have to submit Annual Report

During the pandemic, Supreme Court in its suo moto case order on 3rd April, 2020, issued guidelines for CWCs, CCIs, Children Courts, Juvenile justice Boards and other stakeholders.

- CWCS to take proactive steps in deciding whether a child should be kept in CCI
- Establishing online health desks and support systems at state level
- Ensure counselling to prevent abuse, neglect and violence
- Preventive measures in CCIs to prevent virus contraction : Screening, quarantine, etc.
- Help children showing psychological distress
- Ensure that there's no delay in identification of orphans

# Loopholes in CCIs during Covid19

### 1. Lack of infrastructure

- More than 1000 homes didn't have dormitory
- Classrooms, Sick room, library, visitors' room, toilets/bathrooms, dining hall, etc. are lacking
- security measures like boundary wall, fencing are not available
- Residential facilities for supportive staff is unavailable
- 2. Lack of rights-based approach
- 3. Deficient child-caregiver ratio
- 4. Staff
  - Vacancies
  - Indiscipline and instances of corporal punishments
  - Not trained well as per the requirements
- 5. No segregation on the basis of age, gender
- 6. Supply chain disruptions due to Covid leading to shortage of equipments and toys

# Accessibility of CCIs during covid

- Parameters in Jena Committee Report : Approachability of roads, availability of transport and distance from headquarters
- Most CCIs are accessible except in difficult terrains and where these are built away from general population
- The NCPCR And Government stepped in to make CCIs more accessible .
- NCPCR has devised an online tracking portal **"Bal Swaraj (COVID-Carelink)**" : to monitor the process from the production of children before CWC to restoration to their parent/guardian
- **PM CARES website** also aim to support covid orphans.
- **Tracking child portal** was also used to track such children.
- Advisory was issued to Child welfare Officers in districts to track orphan children, present them before CWC and upload data.
- Accessibility gets restricted due to lack of information and financial resources, marginalization and discrimination, Lockdown and restriction on movement in pandemic.

### **Monitoring of CCIs**

The Child Welfare Police Officers are given the duty to regularly monitor the presence of orphan children in their jurisdiction

The **District Magistrates** need to create a district-level multi-departmental to **task force map the needs**, monitor the progress and ensure that all benefits reach the affected children

The Ministry had also asked **states and UTs to organize special inspection drives** in collaboration with district magistrates, for assessment of quality of care at all CC

The stakeholders and authorities must conduct regular inspections as mandated and make recommendations and suggestions, and the erring CCIs must be adequately dealt with.

# Standards to be followed by CCIs

- 1. Coordination;
- 2. Human resources;
- 3. Communications and advocacy;
- 4. Program cycle management;
- 5. Information management; and
- 6. Child protection monitoring.

# **Funding of CCIs**

- Restriction on visitors during covid affected fundraisings as major chunk of funds are provided by private individuals.
- IPCS grants reach about 50% of the registered CCIs, which stakeholders demand, should be extended to all registered CCIs
- CCIs are required to apply for funding, the process for which is lengthy and cumbersome
- CCIs sometimes get reimbursed for a fewer number of children than they actually provide for
- The government should consider relaxing the eligibility criteria and simplifying the process to avail ICPS funding, especially during this period.
- Issues about **Financial Transparency like** Lack of necessary system for maintaining/documenting financial records **and Improper use of funds**
- Integrated Child Protection Scheme do not cover CCIs. The stakeholders demand that CCis should be brought under ICPS.

### **HEALTHCARE** in **CCIs**

- Facilitation of age-appropriate vaccinations, physical growth monitoring and record keeping, routine check-ups and arranging doctor visits, accompanying children to doctor when needed, administering medication to children on time, taking care of diet and ensuring adequate medical care.
- Regular counselling to ensure psychological and mental wellbeing
- Age-appropriate recreational activities like yoga, dance, music, picnics, educational trips, festivals and birthdays celebrations, etc.

# Data regarding mental health

"Covid-19 and its Impact on Education and Psychology of Children Residing in Child Care Institutions: Experiences from Srinagar District" was a study carried out by Mudasir Ahmed Nazar, Showkat Ahmad Dar, Umara Yaseen

- Total figures of children in either government or NGO run CCIs are around eight hundred in all twenty CCIs. During the lockdown, due to Covid 19 majority of the children were send back to their native places.
- This stress can result in delayed cognitive development, somatic disorders, obesity, asthma, diabetes, recurrent infections, sleep disturbances and even premature death.

### Table 1 - Type of Symptoms found in Children residing in CCIs

	S. No	Particular	Children in CCI		Children On Levae	
			Male	Fem	Male	Fem
9	1	Anxiety	65	35	150	40
	2	Fear	100	50	250	45
	3	Stress	50	30	200	45
	4	Isolation	85	40	360	35

## Measures/Guidelines

- 1. During covid outbreak, Supreme Court issued directions to the state governments and varied alternative authorities to safeguard them
- 2. UNICEF released a manual for parents and care-givers: Psychosocial Support for Children during COVID-19
- 3. The Department of Women and Child Development also issued Guidelines for Child care Institutions regarding measures for prevention and control the spread of Covid 19
  - children should be strictly supervised
  - DO's and DON'Ts
  - strictly briefs the SOPs which need to be taken in case any children get infected

### **Educational Deficiencies During Covid-19**

- Pre-existing barriers to education only 38.8% CCIs have necessary educational linkages.
- Worsening digital divide during Covid-19 lack of technological connectivity, inadequate classrooms and access to libraries limit the quality of education.
- Initiatives for Education PM Cares Fund offers 10 lakh corpus for health, educational and vocational support till the age of 23. NGOs have attempted to lessen to reduce the digital divide by providing devices, online tutoring.

# **Results Analysis**

### Number of Educational Rooms in CCIs



### **Crimes against children during Covid-19**

During COVID-19 People were spreading information about orphaned children with their photographs, addresses, age, putting them at **risk of trafficking**.

These things were **attracting perpetrators** against children to exploit them.

The problem of **illegal adoption** was brought to the attention of the court by the National Commission for Protection of Child Rights (NCPCR).

The commission received complaints where the identity of the affected children was disclosed in public announcements by agencies and individuals inviting interested persons to adopt them. Such adoption routes were in violation of the Juvenile Justice Act which prescribes adoption through Central Adoption Resource Authority (CARA).

An **application filed by NGO 'We the Women of India'** informed the court about adoption requests on social media, which, upon enquiry by the NGO, were found to be fake he NGO through advocate Shobha Gupta stressed the need for immediate action to be taken by states and UTs to stop the circulation of such posts on social media and take stringent action against persons responsible for making such post.

## Recommendations

- 1. Delhi Model of SOS Child Care System should be implemented by various State Governments for all the Child Care Institutions in their respective states
- 2. Provide Adequate Technological Resources like smartphones, internet connectivity, etc.
- 3. Allocation of funds towards classrooms and Libraries through statesponsored and Private donations.
- 4. Mandatory Transition Training for smooth transition of children out of CCIs.
- 5. Proper utilisation of IVPS grants to improve infrastructure of CCIs.
- 6. There is urgent

- 6. Alternatives to child care institutions like foster care, adoption should be promoted.
- 7. Active involvement of CCIs in networking, coordinating and linking with various professionals, institutions and community-based organisations.
- 8. Record Keeping and Documentation and regular inspections of the same by the relevant State department to ensure transparency.
- 9. Linkages across the range of formal and informal aspects of systems should be facilitated.
- 10 Independent State-wise intervention by the respective governments with the help of external agencies

### Conclusion

For the orphaned children, the CCIs have come as a ray of hope when the children's parental support was snatched by the widespread pandemic. The existence of such institutions has helped to put such children under immediate care and protection. Their stay depended on the situation/circumstances in which they were placed in the institution, such as the spread of pandemic, the delay in getting information relating to death of parents, and getting the required documents. The Jena Committee mapped all Child Care Institutions (CCIs) in India timely before Covid knocked the doors of the nation. The report of the committee highlights mixed findings which suggested that the CCIs were capable of accommodating covid orphans in short run. It also underscored the steps that stakeholders should take in the long run. The best way forward in the Covid crisis is to address the gap between the capacities of CCIs and the expectations of the government, and enhance the capacities of the Child Care Institutions. This will enable them to offer better outcomes in terms of health, mental and emotional well-being, education, and preparing children for livelihood opportunities in the future, thus, providing family-like care within the institution, as far as possible.



### **ONLINE SHORT-TERM INTERNSHIP- FEBRUARY 2022**



### DEVASTATION CAUSED DUE TO COVID-19 PANDEMIC: ORPHANED CHILDREN AND THE ROLE OF CHILDCARE INSTITUTIONS - A <u>REVIEW</u>

### SUBMITTED TO:

National Human Rights Commission New Delhi

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#### ABSTRACT

India's Child Care Institutions have for a long time received critical opinions from various experts in the field about its unadaptable, inadequate and not so transparent facilities to meet the various needs of children. This clearly resulted in the rights of the children in Child Care Institutions (CCIs) being compromised and violated. Furthermore, the onset of pandemic in the beginning of 2020 resulted in many children becoming orphans. More than 10,000 children are estimated to have become orphans with nobody to sustain and take care of them. India is estimated to have around 9,500 Child Care Institutions and the need of these institutions were realised when a huge number of vulnerable children across India became orphans. In this context, this research project is aimed to study various aspects of functioning of Child Care Institutions in India, especially towards the protection of the children orphaned during the pandemic.

Through this research, various shortcomings and inadequacies of the Child Care Institutions were identified and the study henceforth also submits the suggestions arrived by the researchers. A review of secondary sources which included reports of various commissions, journals and judicial orders revealed that though several guidelines are in place to ensure an efficient functioning of the CCIs, the gaps in compliances and the overburdened system with scant resources are unable to bear the devastation of the pandemic. Insufficient staff, medical, educational and financial resources present a barrier towards the realisation of better living conditions for children in CCIs. There is an urgent need to facilitate an increased availability of resources, educational facilities such as internet and computers, and monitoring mechanisms to ensure compliance with legal standards and guidelines.

#### **INTRODUCTION**

The pandemic has definitely tested our nation on all fronts and the most unfortunate of our population were the children; the significant, resourceful, yet vulnerable section of India's population. The National Commission for Protection of Child Rights (NCPCR), in its report submitted before the Supreme Court of India on June 1, 2021, submitted that 9,346 children had been either abandoned or orphaned during the Covid-19 pandemic that started spreading in India from the beginning of 2020. Out of these 9,346 children, 7,464 have lost either of their parents, 1,742 have been orphaned and 140 have been abandoned. These figures submitted before the Court were provided inaccurately by the amicus curiae of the same case, Mr.Gaurav Agarwal, as it did not include data from other notable states. This further challenged the working of childcare institutions in India and their structural and logistical preparedness, and again brought the focus of experts and policy-makers over this long discussed topic with revitalised attention.

Even before the advent of the Juvenile Justice (Care and Protection of Children) Act, 2015, India had strived towards the protection of rights of children in need of care and state intervention to uphold Article 20 of the United Nations Convention on Rights of Children (UNCRC), which states -

"A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. States Parties shall in accordance with their national laws ensure alternative care for such a child."<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> See, Article 20, Convention on the Rights of the Child, 1989.

#### **OBJECTIVES**

- 1. To analyse if the Child Care Institutions (CCIs) in India are structurally adaptable to accommodate orphaned children during the pandemic with a sound monitoring system and trained child care professionals.
- To figure out how well the CCIs in India are meeting out the educational and health care needs of children orphaned during pandemic.
- 3. To find out the compliance of the CCIs with legal and judicial standards, especially during the pandemic.
- 4. To understand measures taken by CCIs and child protection commissions to prevent the crimes against children orphaned during pandemic.
- 5. To suggest measures that can be adopted by the states to ensure an efficient and adaptable functioning of CCIs in India.

#### **METHODOLOGY**

This research report adopted both doctrinal and non-doctrinal research methodology, with an analysis of secondary sources to gather data regarding the functioning of Child Care Institutes in India. Doctrinal research included the perusal of relevant legislations and case laws regarding the CCIs during the pandemic and the jurisprudence surrounding the rights of children. The non-doctrinal research encompassed secondary sources constituting reports of the Ministry of Women and Child Development, National Commission for Protection of Child Rights (NCPCR), UNICEF. Data gathered from reports, reputed journals, and newspaper articles have also been carefully analysed to determine the impact of Covid-19 on orphaned children living in Childcare Institutions of India. The sources and the gaps in data have been utilised to identify relevant information in order to answer the research questions posed in this project.

#### **HYPOTHESIS**

The childcare institutions (CCIs) in India are not equipped financially, structurally and logistically to sustain and provide for the basic nutritional, emotional and educational needs of children, especially orphaned during the course of pandemic and have failed to effectively uphold their fundamental rights.

### **RESEARCH QUESTIONS**

The hypothesis has been examined by looking at the following research questions:

- 1. Are the child care institutions in India structurally adaptable to accommodate orphaned children during a pandemic with a sound monitoring system and trained child care professionals?
- 2. Whether the present CCIs have been able to meet the educational needs of children orphaned during the pandemic?
- 3. Whether the present CCIs have been able to meet the health and nutritional needs of children?
- 4. Have the CCIs complied with the legal and judicial standards?
- 6. What actions have been taken by the CCIs to prevent crimes against the children orphaned during the pandemic?

#### **CHILDREN IN NEED OF CARE AND PROTECTION - JUVENILE JUSTICE ACT**

With the enactment of the Juvenile Justice Act, 2015 the childcare institutions in India gained a huge focus from various stakeholders like the policy-making bodies, the judiciary, and other non-profit and non-governmental agencies invested in childcare in India. "Child Care Institution" means Children Home, Open Shelter, Observation Home, Special Home, Place of Safety, Specialised Adoption Agency and a Fit Facility, recognised under this Act for providing care and protection to children who are in need of such services.<sup>2</sup>

The children who lost either or both of their parents during the pandemic, with no proper kinsmen to take care of them, immediately fall under the category of 'Child in need of care and protection' elucidated under the Juvenile Justice Act, 2015.<sup>3</sup> It clearly mentions that children without any ostensible means of subsistence are a Juvenile in need of care and protection. It is mandated under the 2015 Act that children in need of care once found, should be produced before the child welfare committee within twenty-four hours and the manner in which a child is entrusted to a child care institution should be recorded and reported to the child welfare committee as and when required.<sup>4</sup> Any person who finds or takes charge of a child who is abandoned or orphaned is mandated under the Law to inform the Childline Services or the nearest police station or to a Child Welfare Committee or to the District Child Protection Unit, or hand over the child to a child care institution registered under the 2015 Act.<sup>5</sup> The same provision mandates the information of children admitted to a child care institution to be uploaded as specified by the Central government or the child welfare committee or the district child protection unit or the child care institution.<sup>6</sup> Once a child is produced before a child care institution or a report has been filed before the child welfare committee about an orphaned child, the child welfare committee is required by the Law to pass an order as to whether a child is legally adoptable within sixty days of filing such a report.<sup>7</sup>

<sup>2</sup> See, S.2 (21) of the Juvenile Justice (Care and Protection of Children) Act, 2015.

<sup>3</sup> See, S.2 (14) (VI), Juvenile Justice (Care and Protection of Children) Act, 2015.

<sup>4</sup> See, S.31, Juvenile Justice (Care and Protection of Children) Act, 2015.

<sup>5</sup> See S.32(1), Juvenile Justice (Care and Protection of Children) Act, 2015

<sup>6</sup> See S.32 (2), Juvenile Justice (Care and Protection of Children) Act, 2015.

<sup>&</sup>lt;sup>7</sup> See S.38 (1), Juvenile Justice (Care and Protection of Children) Act, 2015.

The Juvenile Justice Act clearly states that once children in need of care and protection are placed before a child care institution, the institution should strive towards the protection, restoration, rehabilitation and social-reintegration of those orphaned children.<sup>8</sup>

<sup>&</sup>lt;sup>8</sup> Chapter VII, Juvenile Justice (Care and Protection of Children) Act, 2015.

### THE SUPREME COURT OF INDIA ON CHILDREN IN NEED OF CARE AND PROTECTION

The Supreme Court of India in its judgement dated 05.05.2017, expressed how the definition under section 2(14) of the Juvenile Justice Act, 2015 should not be interpreted exhaustively and should also include child victims of abuse and other kinds of offences under the definition of 'Children in need of care and protection' and listed out direction to ensure welfare of children in need of care and protection.

Some of the notable directions are as follows:

• The Union Government and the governments of the States and Union Territories must ensure that the process of registration of all child care institutions is completed positively by 31.12.2017, with the entire data being confirmed and validated. Inspection Committees should also be set up on or before 31.07.2017, to conduct regular inspections of child care institutions and to prepare reports of such inspections.

• The governments of the States and Union Territories should draw up plans for full and proper utilisation of grants (along with expenditure statements) given by the Union Government under the Integrated Child Protection Scheme.

• The schemes of the Government of India including skill development, vocational training etc must be taken advantage of for the rehabilitation and social reintegration of children in need of care and protection.

• Individual child care plans are extremely important and all governments of the States and Union Territories must ensure that there is a child care plan in place for every child in each child care institution on or before 31.12.2017.

• State and Union Territory Government must establish State Commission for Protection of Child Rights on or before 31.12.2017. The SCPCRs so constituted must publish an Annual Report so that everyone is aware of their activities and can contribute individually or collectively for the benefit of children in need of care and protection.

• The process of conducting a social audit must be taken up in right earnestness by the National Commission for the Protection of Child Rights as well as by each State Commission for the Protection of Child Rights to bring transparency and accountability in the management.

The court also clearly expressed how not all the children in need of care and protection should be placed in Child care institutions and alternatives such as foster care, adoption, etc., should be majorly considered by the concerned authorities.<sup>9</sup>

The Supreme Court in its suo moto case order on April 3rd, 2020<sup>10</sup>, where the National Commission for Protection of Child Rights (NCPCR) had told the apex court that over one lakh children are in need of care and protection as they are either orphaned, have lost one of their parents, or were abandoned during the pandemic since April last 2020, issued guidelines for stakeholders at various levels like child welfare committees, Child care institutions, children courts, Juvenile Justice Boards, state governments etc.

Some notable guidelines from this case are:

• The court in its guidelines held that any kind of violation of duties would be viewed as serious and strict disciplinary action would be taken under Rule 66 (1), Juvenile Justice Model Rules, 2016.

• CWCs should take proactive steps to conduct inquiries and inspections as to whether a child or children should be kept in the CCI considering the best interest, health and safety concerns.

• As far as possible, online health desks and support systems for queries should be established at state level for children and staff in CCIs.

• Proper counselling and ensuring proper monitoring system to prevent abuse, neglect, violence, including gender-based violence.

• Preventive measures to be followed in CCIs to prevent virus contraction by children in CCIs. Steps include screening, quarantine etc.

• Measures to help children showing psychological distress.

• Mechanisms to ensure there's no delay in identification of orphans.<sup>11</sup>

The data as to how well or whether these guidelines were pursued is not available and it becomes a huge difficult task to research, especially about the children orphaned during the pandemic due to the insufficiency of data.

<sup>&</sup>lt;sup>9</sup> Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India, 2017 SCC OnLine SC 534

<sup>&</sup>lt;sup>10</sup> https://main.sci.gov.in/supremecourt/2020/10820/10820\_2020\_0\_4\_21584\_Order\_03-Apr-2020.pdf

<sup>&</sup>lt;sup>11</sup>Availableat:https://economictimes.indiatimes.com/news/india/identification-of-orphans-due-to-covid-does -not-brook-any-further-delay-sc/articleshow/84790076.cms.
### **QUALITATIVE AND QUANTITATIVE ACCOMMODATION CAPACITY OF CCIs**

In June 2020, the Ministry of Women and Child Development directed states to make suitable arrangements for isolation facilities within CCIs to take care of children suffering from Covid-19 and prepare a roster of child psychologists or counsellors to visit the care homes and interact with them.<sup>12</sup> It has been very difficult to arrange accommodation for such children because in many cases, these children may also be infected. Having them in a registered centre where several other non-Covid children live is a tough task.<sup>13</sup>

CCIs were advised to shut their gates for visitors from outside in order to protect the children. This included staff who do not reside in the CCI premises and external volunteers and organisations working with CCIs to implement programmes on health, education, and so on. They have now limited, if not entirely paused, their engagement with children.<sup>14</sup>

The report of the Government suggested that the lack of infrastructure facilities is "glaring" and more than 1,000 homes did not have a dormitory for children.<sup>15</sup> There is a lack of a rights-based approach and minimal efforts on developing counselling, life skills, training, educational interventions and health support for children.

The CCIs have a deficient child-caregiver ratio, with the children outnumbering the caregivers. Vacancies remain unfulfilled, including supervisors for the night. Further, the employed staff has instances of indiscipline and corporal punishments. Therefore, the staff in the CCIs/Homes (permanent and temporary, full-time and part-time) need to be properly trained to sensitively and efficiently deal with children and their issues, needs, problems, concerns and safety. Vacant positions must be filled on an immediate basis and, where required, extra staff must be employed to ensure due care and protection of children.

Infrastructural facilities such as classrooms, dormitory, counselling room, recreation room, sick room, library, visitors' room, vocational training workshop room, dining hall, store room, record room, office room, staff residence, bath room, toilets/latrines and rooms dedicated for the sitting of the members of CWC are lacking. There is also non-availability/lack of security measures such as a

<sup>12</sup> Available at : https://www.deccanherald.com/national/721-children-in-child-care-institutions-contracted-covid-19-since-outbreak-rti-1022391.html.

<sup>13 .</sup>With Children Becoming Orphans Due to Covid, NGO's & Care Centres Struggle to Keep Them Safe (news18.com)available at

<sup>:</sup>https://www.news18.com/news/india/with-children-becoming-orphans-due-to-covid-ngos-care-centers-struggle-to-keep-them-safe-3703391.html.

<sup>14</sup> Orphanages in India - Forgotten Children | Inter Press Service (ipsnews.net) , available at: https://www.ipsnews.net.

<sup>15</sup> Child care institutions in India are in dire need of reforms (dnaindia.com) available at: https://www.dnaindia.com.

boundary wall, fencing and a strong structure to ensure the safety of children and staff within the premises of many CCIs. Privacy and safety of children are causes of concern, especially in CCIs that do not have adequate safety and security measures for children, including privacy in toilets and bathing areas. In some CCIs, bathrooms are not available for children exclusively; bathrooms/bathing areas and toilets/latrines are also not available for boys and girls separately. About 10 percent of the CCIs across the country do not have separate toilet facilities for young children/toddlers.

Where Covid-19 pandemic has made a lot of children orphan, it has also coextended its impact on the emotional and mental well-being of such children. There is a constant need to engage with such children to make them more comfortable and to help them accept the loss of their family members. This is only possible if these children are in constant contact with caregivers. However, less than 50% of CCIs meet the ratio of children to caregiver/ayahs in the institutions. It also reflects that there is a gap in active supervision of activities, or focused care during moments of trauma caused by the pandemic.

The data on supervisory senior staff, due to their constant engagement with the children to ensure their safety and care, is critical to assess the best interest of children. The infrastructure of the CCIs should be accommodative enough to ensure the residence of the supportive staff, so as to ensure the overall supervision and control. This will also create a bond between the children and the staff, enabling a better environment for restoration and rehabilitation. Many children who have been homeless or parentless, or are not used to routine or maintenance of personal as well as environmental standards of hygiene, need to be inculcated into a new manner of living. The foremost requirement for this lifestyle training is to ensure the availability of such facilities at the CCIs.

With only 6634 numbers of Homes (65.9%) showcasing a focus on active supervision of children who are emotionally distressed due to fear etc. and over 29% for infants/children who are unwell, a need for capacity building and sensitization of caregivers is strongly indicated. Only 28.7% CCIs are able to actively supervise infants / children who are emotionally distressed.<sup>16</sup>

Separate Observation Homes for girls and boys of different age groups are essential. However, not all states and all districts maintain segregation. With the lockdown restricting movements, there were reports of children being isolated in their homes. For immediate care, there are high chances

<sup>16</sup> The REPORT OF THE COMMITTEE For Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care & protection of Children) Act, 2015 and Other Homes Volume-I (Main Report part 1) | Ministry of Women & Child Development (wcd.nic.in)

that the nature of CCI needs a functional change to accommodate all possible categories of children, thus raising the number of composite centres. Provision of separate beds and segregation according to age groups is important for safety and dignity of children. The national figures reflect that only 74% of CCIs have provisions for individual beds and children in only 65% of CCIs are segregated on the basis of age group and gender. Age wise segregation also helps staff and caregivers to focus on the specific needs of one particular age group by making the identification of special difficulties easier. Lack of adequate space, infrastructure, etc. might be some of the reasons for absence of segregation in some CCIs.<sup>17</sup>

The study shows 62% of CCIs in the country report that every child undergoes a health check-up on admission, while 61% CCIs conduct regular health check-ups for children. Only about 34% of CCIs have provisions for nurse/paramedical staff at night; however, 64.3% of them ensure that medicines are administered by a staff/nurse; and 68% of the CCIs have trained staff to provide First Aid. Data on availability of nurse/paramedical staff in CCIs at night is discouraging.<sup>18</sup>

It is important that CCIs have sufficient play items of good quality that are safe to use. However, in wake of economic slowdown, where it is difficult for CCIs to manage basic financial requirements, additional equipment is unfeasible. CCIs must be equipped with specialised rehabilitation measures keeping these children and their needs in mind. These may include wheelchairs (for those unable to walk), walking sticks with a bell (in case of visually challenged children), hearing aids, speech therapists etc. However, the pandemic has caused supply chain disruptions which result in compromise in the nutrition intake of children. The expenditure on balanced diet and extra equipment like toys and masks is likely to increase as more children knock on the doors of CCIs.

# **Rise in Intake of Children**

The COVID-19 crisis did not only add to the number of children residing in CCIs, but also negatively affected the ability of CCIs to take care of the children already there. In India, on an average, 15.1% CCIs were housing children beyond their capacity, resulting in overcrowding. As the wave of Covid reaches a peak, the number of orphan children tends to rise, further aggravating the accommodation issues. The problem of overcrowding also makes following covid appropriate

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

protocol like quarantining and social distancing impossible. In overcrowded CCIs, the quality of care and protection given to children, facilities for education, vocation, food, clothing, health, etc. tend to get compromised.

Many children in CCIs come from families that are unable to take care of them due to their financial situation. The ongoing pandemic is expected to push many families deeper into poverty, which would lead to a rise in this number. The increasing intake of orphan students makes adjustment with available infrastructure challenging. According to the Report of the Ministry of Women and Child Development, each institution with 50 children must have 2 dormitories. While 89.5% of the CCIs in India have one dormitory, only 76.7% are adequately equipped with multiple dormitories.

Similarly, the majority of the CCIs also seem to have dining rooms, bathrooms and toilets. However, the CCIs are found to be lacking in facilities like sick rooms and visitor rooms. The building should also have three aspects of infrastructural security - boundary wall, fencing and strong structure. At an average out of every four CCIs, three CCIs have strong structure and boundary walls while less than half of them have fences. States with high percentages of occupancy in CCIs already have a fairly large number of CCIs. There is a need for rationalisation in most of the States/UTs, it also gives hope as it shows that infrastructure exists to accommodate more children in dire need of shelter.

### **ACCESSIBILITY OF THE CCIs DURING COVID 19**

Accessibility of CCIs is an important concern for children in vulnerable situations, as this ensures that services can reach a child and vice versa without any difficulty. This necessitates monitoring. The children who have lost their parent or parents due to covid 19 are children in need of care and protection under Section 2(14) of the Juvenile Justice Act, 2015 and all procedures given under the Act for such children must be followed to ensure the well-being and best interest of children. Not all categories of CCIs are found in each State/UT, leading to problems in immediate accommodation of covid orphan children.

Parameters such as approachability of roads, availability of transport and distance from headquarters were used as indicators to understand ease of accessibility of CCIs.. The majority of the CCIs in most of the States/UTs are easily accessible. Another important question is accessibility, especially in the regions with difficult terrain. In cases where the CCIs are built away from the general population, accessibility to the institutions is difficult.<sup>19</sup>

Every child affected by COVID-19 and found to be in distress and without family support must be produced before the concerned Child Welfare Committee under Section 31 of the Juvenile Justice Act, 2015.<sup>20</sup>States and Union territories are obligated to temporarily allocate CCIs to house those children whose parents have been unwell due to COVID-19 and provide necessary support to them, in case the extended family is not available to take care of them. 15 authorities were creating a new category of orphans by announcing a financial package that is available only to children who have been affected by the virus.<sup>21</sup>

National Commission for Protection of Child Rights (NCPCR) has devised an online tracking portal "Bal Swaraj (COVID-Carelink)" for children in need of care and protection<sup>22</sup> "Bal Swaraj-COVID-Care" portal, aimed at tracking the children affected by COVID-19, monitors the process from the production of children before the Child Welfare Committee (CWC) to the restoration of the children to their parent/guardian/relative and its subsequent follow-up.<sup>23</sup> SMWP No. 4 of 2020 *In Re. Contagion of Covid-19 virus in Children Homes*, vide order dated 28.05.2021 directed all district officers across the States/UTs to add information about orphaned children on the Commission's portal.<sup>24</sup>

The PM CARES for Children scheme has been launched to support children who have lost both parents or have a surviving parent or legal guardians or adoptive parents due to COVID-19 pandemic. The scheme is accessible through an online portal, i.e., <u>pmcaresforchildren.in</u>. The

19 Supra Note 16.

20 Ibid.

<sup>21 &</sup>lt;u>COVID: Thousands of Indian children orphaned by pandemic | Asia | An in-depth look at news from across the continent | DW | 01.06.2021.</u>, available at: https://www.dw.com/en/covid-thousands-of-indian-children-orphaned-by-pandemic/a-57742069

<sup>22</sup> NCPCR's 'Bal Swaraj' portal to aid kids orphaned due to COVID; states, UTs to share data (republicworld.com), available at

republichttps://www.republicworld.com/india-news/general-news/ncpcrs-bal-swaraj-portal-to-aid-kids-orphaned-due-to-covid-states-uts-to-share-data.html 23Avalilavle at: https://pib.gov.in/PressReleaselframePage.aspx?PRID=1722677.

<sup>24</sup> Available at: https://rajasthanjudicialacademy.nic.in.

applications of such children are uploaded on the portal by the respective State/UT Governments.<sup>25</sup> Of the total 6,624 applications received for support under the scheme, 3,855 have been approved.<sup>26</sup> Mobile services may be necessary to access populations in hard-to-reach areas or to provide alternatives in limited resource settings. They may be particularly relevant for child refugees, children in migration or other mobile populations.<sup>27</sup> Access to services may be difficult, however, due to a lack of information and financial resources and the presence of marginalization and discrimination. In urban contexts, child protection actors should conduct outreach to all groups of children.

CCI should implement flexible programming that can accommodate different numbers and types of children and coordinate with local authorities and multisectoral service providers. The states need to identify the children in distress through outreach and surveys and prepare a database with a profile of each child.<sup>28</sup> Rationalisation and equitable distribution of CCIs across the country, based on mapping of actual need, must be addressed immediately. Insufficiency of CCIs for specific categories of children, or mere focus on institutional care for rehabilitation may hamper the interests of the children.<sup>29</sup>

# MONITORING OF CCIs AND ORPHAN CHILDREN

The advisory issued by the National Commission for Protection of Child Rights in the letter dated 29.03.2020, recognized the fact that many street children are orphans and need protection. It laid down tasks for the district administration. The Child Welfare Police Officers are given the duty to regularly monitor the presence of orphan children in their jurisdiction. They shall also record details of such children and send the same to the child welfare committee. Committee shall then place orphans in CCI. If there is no CCI in a particular district or it cannot further accommodate children,

<sup>25</sup>Available at: https://pib.gov.in/PressReleasePage.aspx?PRID=1794724.

<sup>26</sup> PM-CARES: WCD savs 3.855 children orphaned during Covid approved for benefits (livemint.com), available at: Business News Today: Read Latest Business News, Live India Share Market News, Finance & Economy News | Mint (livemint.com)

<sup>27</sup> Available at: https://alliancecpha.org.

<sup>28</sup> Govt issues guidelines for care of children affected by COVID-19 - The Economic Times (indiatimes.com)Available at:

https://economictimes.indiatimes.com/news/india/govt-issues-guidelines-for-care-of-children-affected-by-covid-19/articleshow/83200586.cms?utm\_source=contentofinterest&utm\_medium=text&utm\_camp aign=coost ·

then it is the responsibility of the district administration to ask CWC to identify temporary arrangements such as schools, community centres or NGOs as CCI.<sup>30</sup>

The District Magistrates need to create a district-level multi-departmental task force to map the needs, monitor the progress and ensure that all benefits reach the affected children and all civil society organisations may be asked to positively inform the Child Welfare Committee or the District Child Protection Unit about any vulnerable child noticed by them. Vigil may be kept on the CCIs and the vulnerable hot spots in the district housing children at risk during the police beats or night rounds in urban and rural areas.<sup>31</sup> To ensure institutional support through CCIs, the ministry had also asked states and UTs to organise special inspection drives in collaboration with district magistrates, for assessment of quality of care at all CCIs for ascertaining the wellbeing of children. CCIs were also directed to ensure proper facilities such as clean and hygienic living conditions, basic amenities, quality food and safety for all children from the infection.

The fact that CCIs that do not even have basic amenities are housing children and running child care facilities where child rights and protection can be easily violated shows a very disturbing trend. Regular inspections by the relevant authorities and appropriate action to address and prevent such situations are necessary. There can be other participatory mechanisms of monitoring to facilitate timely action, such as children committees to raise issues, and reports of these committees being shared with district and state authorities. These should be encouraged to ensure improvement in the condition of children residing in CCIs as well as the overall functioning of these institutions and their capacity to deliver.

The stakeholders and authorities must conduct regular inspections as mandated and make recommendations and suggestions. They must regularly follow up and monitor the progress made based upon their recommendations and the erring CCIs must be adequately dealt with. The Management Committee for administration of the institution and monitoring the progress of every child has a major role to play. Taking into account the pandemic, the CCI should be able to check their resources and stocks and make arrangements in advance. Only 44% CCIs have HMCs and 25% have constituted CCs. Non-constitution of a CC could be due to multiple reasons such as lack of

30 Available at: https://ncpcr.gov.in.

31 Supra Note 28.

awareness or monitoring, or non-appointment of a person in charge of the CCI. This will be the major hindrance in knowing the potential of any CCI to accommodate and admit children orphaned due to covid.<sup>32</sup>

# STANDARDS TO BE FOLLOWED BY CCIs <sup>33</sup>

There are six standards to be followed by child care institutions. Ensuring quality within these six areas is essential to all child protection preparedness and response efforts.

- Coordination;
- Human resources;
- Communications and advocacy;
- Programme cycle management;
- Information management; and
- Child protection monitoring.

### **FUNDING OF CCIs**

Restrictions on the entry of visitors is very likely to affect fundraising prospects. CCIs depend heavily on local donors for their daily essentials; only few receive funds through government grants.<sup>34</sup> The directions of the NCPCR state that if the release of funds to the CCIs is pending, it should be expedited and funds be provided at the earliest. The stakeholders demand that the state must recognize the role of CCIs, especially in these trying times, and offer support to help them fulfil their duties. ICPS funding by the government should be extended to all registered CCIs, at least for the next two years. At present, ICPS funding is available to less than half of them, given low budgetary allocation towards child protection services, and lower disbursement.<sup>35</sup>Financial packages are tied up in red tape. Benefits from several social welfare schemes never reach the intended child beneficiaries because they are unaware of their eligibility or cannot manage the complicated procedures and documentation requirements needed to access the aid.<sup>36</sup>

<sup>32</sup> Supra Note 16.

<sup>33</sup> Supra Note 27. .

<sup>34</sup> Supra Note 14.

<sup>35</sup> Ibid.

<sup>36</sup> COVID: Thousands of Indian children orphaned by pandemic | Asia | An in-depth look at news from across the continent | DW | 01.06.2021., available at:

https://www.dw.com/en/covid-thousands-of-indian-children-orphaned-by-pandemic/a-57742069.

Additionally, the law does not make it mandatory for the government to fund CCIs even if they are registered. CCIs are required to apply for funding, the process for which is lengthy and cumbersome. For instance, the process to avail funding under ICPS requires CCIs to submit a proposal in a specified format along with expense reports and other documents.

The amount of funding, which is the cost per child, differs by state and is released on a reimbursement basis. CCIs sometimes get reimbursed for a fewer number of children than they actually provide for. The government should consider relaxing the eligibility criteria and simplifying the process to avail ICPS funding, especially during this period. While this would take care of the basic necessities, healthcare, education, life skills, and livelihoods training can be funded through CSR.<sup>37</sup>

Serious limitations were found with respect to financial transparency. Many CCIs do not have the necessary system for maintaining/documenting financial records. Improper use of funds collected from donations, and incorrect or missing financial records are major concerns across CCIs. On an average, only 57.5% of CCIs submit a copy of the audited account to the competent authorities. About 9,589 CCIs receive funds through various sources, which in some cases may include Government, Non-Government or other sources. However, if calculated on the basis of a particular funding source, about 56.8% of them receive funds through individual donation; 42.3% receive funds through government grants, 14.8% get funds from non-government grants, and 23.4% of CCIs receive funds from foreign sources.<sup>38</sup>

Regarding annual audits being carried out by a CA, 74.6% of CCIs covered, reported adherence whereas 17.2% reported non-compliance. It has been seen that many States/UTs have less than 50 percent of the CCIs that abide by the submission of financial documents to the appropriate authorities.<sup>39</sup> The state should set goals regarding the funding of CCIs.<sup>40</sup>

<sup>37</sup> Ibid.

<sup>38</sup> Supra Note 16.

<sup>39</sup> Ibid

<sup>40</sup> Burwick, A., Davis, E., Karoly, L., Schulte, T., & Tout, K.\* (2020). Promoting Sustainability of Child Care Programs during the COVID-19 Pandemic: Considerations for States in Allocating Financial Resources. OPRE report #2020-175, Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U. S. Department of Health and Human Services.

### **HEALTH IN CHILD CARE INSTITUTIONS**

One of the fundamental functions of all types of Child Care Institutions is to meet the developmental needs of the children. It means that Child Care Institutions are designed to grant physical, emotional, and mental needs of all children. It is mandatory to support the overall growth and development of all children. Providing adequate medical care and taking care of children's health is the most vital function of Child Care Institutions. Health services provided to children include: facilitation of age-appropriate vaccinations, physical growth monitoring and record keeping, routine check-ups and arranging doctor visits, accompanying children to doctor when needed, administering medication to children on time, taking care of diet and ensuring adequate medical care.

Childcare facilities provide regular counselling sessions to all children, which are conducted by a qualified psychologist to treat and ensure the psychological and mental well-being of each child in residential care. Childcare facilities arrange and organise age-appropriate recreational activities such as dance, yoga, music, picnics, outings, guided tours, monument visits, educational tours, participation in cultural events, festival celebrations, national and international day celebrations, birthday celebrations further celebrate the focus and attitude of this enlightening child while providing children with opportunities to explore and discover a new world.

# **Case Study**

Mudasir Ahmed Nazar, Showkat Ahmad Dar, Umara Yaseen researched to analyse *Covid-19 and its Impact on Education and Psychology of Children Residing in Child Care Institutions: Experiences from Srinagar District*.[1] The following study was carried out to assess, understand and evaluate the mental health conditions prevailing in the Child Care Institutions. This study helps us to understand the state of affairs in the system and how they affect the people involved, especially the children. The total figures of children in either government or NGO run CCIs are around eight hundred in all twenty CCIs. During the lockdown, due to Covid 19 majority of the children were send back to their native places. But some CCIs were functioning by following the necessary guidelines and SOPs passed by the concerned authorities.

The following table reveals various types of psychological uncertainties being faced by the children living in different child care institutions of district Srinagar.

S. No.	PARTICULAR	CHILDREN IN CCI		CHILDREN ON LEAVE	
		MALE	FEMALE	MALE	FEMALE
1	ANXIETY	65	35	150	40
2	FEAR	100	50	250	45
3	STRESS	50	30	200	45
4	ISOLATION	85	40	260	35

Table 1: Type of Symptoms found in Children residing in CCIs[2]

Table 1 reveals different types of psychological problems encountered by children living in the CCIs or on leave from the CCIs during Covid-19 period. During odd circumstances, the body's natural response to stress can become dysregulated (toxic stress) leading to persistent increases in cortisol and pro-inflammatory cytokines and predisposing children to adverse health effects later in adulthood. This stress can result in delayed cognitive development, somatic disorders, obesity, asthma, diabetes, recurrent infections, sleep disturbances and even premature death.

### **Measures Taken by Stakeholders**

On April 3, the Supreme Court took cognizance of the CCIs across the country amid the coronavirus outburst and issued directions to the state governments and varied alternative authorities to safeguard them. UNICEF also released a manual for parents and care-givers: *Psychosocial Support for Children during COVID-19*. The manual gives a discourse on some of the effects of COVID-19. The aim was to guide parents, caretakers, and children themselves to understand COVID-19 and

how it can be obstructed. The manual was designed in such a manner that it not only provided information but also there were some activities to do which can help children to keep positive as well as a stage to articulate their vehemence.

The Department of Women and Child Development also issued Guidelines for Child care Institutions regarding measures for prevention and control the spread of Covid 19. In the guidelines, it was mentioned that children should be strictly supervised. The guidelines also include some DO's and DON'Ts. It strictly briefs the SOPs which need to be taken in case any children get infected.

#### **EDUCATION IN CHILD CARE INSTITUTIONS**

The Convention on the Rights of the Child stipulates that signatory states must provide primary education to all children and make educational and vocational guidance accessible to all.<sup>41</sup> The same has been embodied in Article 21-A of the Indian Constitution, making free and compulsory education to children from ages 6 to 14, a fundamental right. Following this, the Right to Education Act, 2009, created a duty on the state to ensure availability of educational resources to all children, including the ones in child care institutions. The Juvenile Justice Act further provides that child care institutions, apart from providing basic requirements of food, shelter, clothing and medical attention are obligated to provide adequate educational services, skill development, vocational training to children under their care.<sup>42</sup> It creates a statutory obligation upon the State to facilitate education to children in frastructural gaps in catering to the educational and vocational needs of children in their care. The existing problems have been exacerbated by the Covid-19 pandemic. The pandemic has changed the mode and quality of education available to children with the shift of the classroom to digital media. Children in CCIs have faced serious repercussions due to the digital divide caused due to the lockdown.

### **Existing Barriers to Education in CCIs**

<sup>&</sup>lt;sup>41</sup> Art. 28, Convention on Rights of Child, available

at:https://www.ohchr.org/en/professionalinterest/pages/crc.aspx.

<sup>&</sup>lt;sup>42</sup> See Sec. 53, The Juvenile Justice Act, 2015.

The legal obligations and standards for education in childcare institutions do not reflect the ground reality. Owing to the high number of children in care and financial and structural inefficiency, basic amenities such as adequate number of classrooms, resources for access to knowledge like libraries and the internet, and teaching personnels have been severely lacking. According to the Report of the Ministry of Women and Child Development, only 38.8% of CCIs have the necessary educational linkages. Only 58.1% have educational classrooms, with 42.2% having access to libraries as well, which in most cases only constituted one room. This data is pre-pandemic and paints a terrible picture for the availability of facilities during the pandemic.<sup>43</sup>

Apart from this, the CCIs have had least focus on providing children with the kind of education and vocational training that can enable them to meet the challenges of the real world after their deinstitutionalization. Lack of 'real world' training for children is a huge drawback of CCIs.\*<sup>44</sup> The children do get food and shelter in childcare institutions, but they do not get the mentoring and mental health support that is crucial for them as young adults.<sup>45</sup> The children in CCIs face problems regarding the continuity of their education, skill-training and social stability.

A Jena Committee Report (instituted by the government to map child care institutes in the country) which came in September 2018, mentioned that —of the young adults interviewed, 42% had lived in two or more homes as children, adding to their instability and uncertainties. As a result of this uncertain existence, their education gets hampered, affecting their preparation for the transition into adulthood. The report mentioned that the care-leavers were poorly educated during their stay in childcare institutes and later about 40 % were dropouts. In Rajasthan and Delhi, only 14% and 13% had studied beyond school.

Nearly 21% of all care-leavers across states had not received the education they had wanted to in their childcare institutes, while 35% had faced difficulty in continuing their education when they had transitioned out of childcare institutes. The survey found that with low educational qualifications,

<sup>&</sup>lt;sup>43</sup> Available at: <u>https://wcd.nic.in/sites/default/files/CIF%20Report%201\_0\_0.pdf</u>.

<sup>&</sup>lt;sup>44</sup> Available at: <u>https://idronline.org/childcare-institutions-the-need-for-a-new-approach/</u>.

<sup>&</sup>lt;sup>45</sup> <u>Mental health in young adults and adolescents – supporting general physicians to provide holistic care (nih.gov)</u>, available at: <u>https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4953734/</u>.

most care-leavers work in blue-collar jobs and earn wages below the minimum wage.<sup>46</sup> A new study which was released in August 2019, "Beyond 18: Leaving Child Care Institutions - A Study of Aftercare Practices in Five States of India" uncovered that almost half of young adults could not get any paid work after leaving CCIs on turning 18.



Source: Beyond 18: Leaving Child Care Institutions - A Study of Aftercare Practices in Five States of India

To make sure that orphan children do not fall behind in education, proper arrangements need to be made to give them formal and informal education. Provision of vocational training varies from 10% to 64% of CCIs across states; 9% to 84% for Life Skill Education; 3% to 59% for Playful Learning; and 2% to 63% of CCIs provide Skill Training. The average performance of the CCIs in States/UTs across India is not optimal with respect to the learning methods used.<sup>47</sup>These data reveal the inefficiency of CCIs in meeting the educational needs of children in pre-pandemic India.

<sup>&</sup>lt;sup>46</sup> For thousands in childcare homes, turning 18 is a nightmare. Here's why | Business Standard News (business-standard.com), available at:

https://www.business-standard.com/article/current-affairs/for-thousands-in-childcare-homes-turning-18-is-a-ni ghtmare-here-s-why-119111601292\_1.html.

### **Covid-19 and The Worsening Divide**

In 2020, when the sudden emergence of Coronavirus shook the world, almost every human on this earth felt its negative impacts. But its impact was doubly felt by the children in CCIs, with their education facing the brunt of the pandemic. The imposition of lockdown to curb the spread of the virus shifted education to the online mode. According to studies, prolonged usage of digital devices have had an impact on the social and psychological wellbeing of children. The digital divide has disproportionately affected children from underprivileged backgrounds.<sup>48</sup> According to the UNICEF Report "Covid-19 and School Closures: One year of education disruption", merely 8.5% of Indian students have access to the internet.<sup>49</sup> This data highlights the existing disparity that persists in the country, particularly for vulnerable socio-economic groups.

CCIs in India are no exception to these technical hindrances, they are not technologically equipped. Till 2018, only 57.7% CCIs have computers with internet connectivity and these too were primarily used for administrative purposes. Thus, inaccessibility of digital devices, poor Internet connectivity, financial constraints for scaling up and lack of technical manoeuvring capacity of educators for conducting online classrooms have catastrophic effects on childrens' education in CCIs .\*<sup>50</sup>

Children with disabilities have been disproportionately affected by the shift in education media, with insufficient resources to cater to their needs, making it difficult for them to follow classes online.<sup>51</sup> CCIs lack the infrastructure to provide for specialised needs of children with disabilities within their care, thereby reducing their opportunities to receive formal education. This would disproportionately widen the inequality in attainment of education.

<sup>&</sup>lt;sup>48</sup> (PDF) The Silent victims of the Pandemic: Children and adolescents during the COVID-19 (researchgate.net)

<sup>&</sup>lt;sup>49</sup> available at: https://data.unicef.org/resources/one-year-of-covid-19-and-school-closures/

<sup>&</sup>lt;sup>50</sup> <u>Restructuring Institutional Care: Challenges and Coping Measures for Children and Caregivers in</u> <u>Post-COVID-19 Era - Sudeshna Roy. 2021 (sagepub.com) available at:</u> https://journals.sagepub.com/doi/full/10.1177/2349300320973825.

<sup>&</sup>lt;sup>51</sup> https://vidhilegalpolicy.in/research/covid-19-and-exclusion-of-children-with-disabilities-in-education/



Source: Report of Ministry of Women and Child Development, 2018

Further, due to the ongoing pandemic, especially the second wave of COVID-19 in India, brought many casualties, and has taken either one or both parents of many children. The Supreme Court itself confirmed in *In Re: Contagion of Covid-19 Virus v N Raghupathy*<sup>\*52</sup> 2021 that more than a lakh children have lost either or both parents during this pandemic. This confirmation by the Apex Court was based on the report filed by NCPCR which stated (based on data collected by States through Bal Swaraj Portal) that around 10, 094 children had been orphaned since April 2020.

This will ultimately lead to many more orphan children being admitted to CCIs challenging the already incompetent educational facilities of CCIs. The increment in the number of children along with lack of resources and technological constraints have made children in CCIs nothing but moot spectators, unable to fulfil their educational needs, prolonging their suffering to not only the present but also their future.

<sup>&</sup>lt;sup>52</sup> Available at: <u>https://indiankanoon.org/doc/53571620</u>.

# **Initiatives for Education**

Both state and non-state institutions have attempted to mitigate the plight of children in care homes by releasing guidelines and schemes to allocate sufficient resources. The PM Cares fund allocated Rs. 10 lakh corpus for orphaned children till they reach 18 years of age, supporting their health and education. The fund stipulates to use 10 lakhs rupees provided as monthly stipend to the entitled person till they reach the age of 23 to ensure systemic support in seeking employment or higher education.<sup>53</sup>

The National Institute for Public Cooperation and Child Development (NIPCCD) conducted capacity building programmes in 2020-21, focused on education, addressing the stakeholders working in the fields of education and child care institutions to develop measures ensuring care for the needs of children.<sup>54</sup> Several NGOs have also actively participated and worked in consonance with CCIs to minimise the gaps in education. Child Help Foundation (CHF), a non-profit organisation with its headquarters in Mumbai, has tied up with a number of CCIs across India to extend its support in creating learning opportunities for children.<sup>\*55</sup> Miracle Foundation, an international non-profit organisation, has been providing technological support and education to children in CCIs. Those unable to return to CCIs have been provided with remote coaching support through smartphones and partner agencies, utilising media like Whatsapp and videoconferencing to cover the school syllabus.<sup>56</sup>

# **Judicial Intervention in Right to Education**

The role of the judiciary has been pertinent in upholding the rights of children in CCIs. The Supreme Court has intervened from time to time to ensure the education of children must go on amidst COVID -19. *In Re Contagion of COVID -19 virus in Children Protection Homes* SMW (C) No. 4/2020, the Supreme Court on 15th December, 2020, ordered state governments to arrange for tutors,

<sup>&</sup>lt;sup>53</sup> Available at: <u>https://pib.gov.in/PressReleaselframePage.aspx?PRID=1742826</u>

 <sup>&</sup>lt;sup>54</sup>Available at: <u>https://wcd.nic.in/sites/default/files/WCD\_AR\_English%20final\_.pdf</u>.
<sup>55</sup> Role of Child Care Institutions (CCIs) (childhelpfoundation.in) available at:

https://childhelpfoundation.in/cii-blog/posts/Role-of-Child-Care-Institutions-CCIs.

<sup>&</sup>lt;sup>56</sup>How this NGO is helping orphaned underprivileged kids continue their education in Covid-19 lockdown - Education Today News (indiatoday.in) available at:

https://www.indiatoday.in/education-today/featurephilia/story/how-this-ngo-is-helping-orphaned-underprivilege d-kids-continue-their-education-in-covid-19-lockdown-1737659-2020-11-03.

books and necessary stationery to CCIs and care homes. The court, on 27th July, 2021, in light of the Right to Free and Compulsory Education Act, 2009 (RTE), directed the state governments to arrange for the continuation of education of orphaned children in the schools where they had already been enrolled for at least a year. Another order dated 26 August, 2021, directed the state governments to ensure that the lack of fee payment must not halt the education of children orphaned due to pandemic. It further instructed state governments to bear the cost of half portion of the fees in case private schools fail to waive off the fee requirement.<sup>57</sup>

<sup>&</sup>lt;sup>57</sup> <u>Covid Coverage: Children in Protection Homes - Supreme Court Observer (scobserver.in)</u>, available at: <u>https://www.scobserver.in/journal/covid-coverage-children-in-protection-homes</u>.

### **RECOMMENDATIONS**

- **1. Provide Adequate Technological Resources:** Furnish CCIs with smartphones, internet connectivity and TVs to ensure a digital connection to the virtual classroom.
- Allocation of Funds towards Classrooms and Libraries: Increase the number of classrooms, recreational rooms and libraries available in CCIs through state-sponsored and private donations.
- Mandatory Transition Training: Provide adequate resources and information for planning a future through career fairs, vocational skill development, financial and personal management programmes for children aged 15-17 years to smoothen the transition out of childcare homes.
- 4. Grants under the Integrated Child Protection Scheme should be properly utilised by the state governments to improve the infrastructure of their Child Care Institutions and if needed State governments should allocate more funds to ensure the same.
- 5. Alternatives to child care institutions like foster care, adoption should be promoted if possible with incentives in pursuance of the 2017 Judgement of the Supreme Court of India.
- 6. CCIs need to be actively involved in networking, coordinating and linking with various professionals, institutions and community-based organisations that have expertise in the concerned areas to provide a wide range of services to its children.
- 7. In settings where it is appropriate, linkages across the range of formal and informal aspects of systems should be facilitated. This can include police, social workers, health workers, child welfare services, education services, sexual and reproductive health actors, the juvenile justice system, mental health services, etc.
- 8. Articulating a set of goals or objectives can help state policymakers determine criteria and a process for distributing funds. It may be necessary to articulate short- and longer- term goals.
- Record Keeping and Documentation must be carried out as a matter of practice in all CCIs and there must be regular inspection of the same by the relevant State department to ensure transparency.
- 10. Independent State-wise intervention by the respective governments with the help of external agencies must be carried out to regularise finances, monitor transactions and bring about transparency in the system.

#### **CONCLUSION**

For the orphaned children, the CCIs have come as a ray of hope when the children's parental support was snatched by the widespread pandemic. The existence of such institutions has helped to put such children under immediate care and protection. Their stay depended on the situation/circumstances in which they were placed in the institution, such as the spread of pandemic, the delay in getting information relating to death of parents, and getting the required documents. The Jena Committee mapped all Child Care Institutions (CCIs) in India timely before Covid knocked the doors of the nation. The report of the committee highlights mixed findings which suggested that the CCIs were capable of accommodating covid orphans in short run. It also underscored the steps that stakeholders should take in the long run. The best way forward in the Covid crisis is to address the gap between the capacities of CCIs and the expectations of the government, and enhance the capacities of the Child Care Institutions. This will enable them to offer better outcomes in terms of health, mental and emotional well-being, education, and preparing children for livelihood opportunities in the future, thus, providing family-like care within the institution, as far as possible.