



EVERY CHILD'S RIGHT TO FAMILY LIFE: AN INTRODUCTION TO FAMILY STRENGTHENING AND ALTERNATIVE CARE IN INDIA



**HOPE
AND
HOMES
FOR
CHILDREN**



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ABOUT IACN

We are a collective of organisations, academicians and practitioners dedicated to the exchange of information and knowledge dissemination on issues of children without parental care or at risk of separation. IACN Secretariat is hosted at Butterflies and supported by UNICEF.

Read more about IACN here: www.iacn.in

Correspondence should be addressed to:

India Alternative Care Network (IACN)

ADD: C/o Butterflies, 163/4, Jaunapur Village, Chattarpur, Delhi - 110047

TEL: +91-11-35391068

EMAIL: iacnsecretariat@iacn.in

FOREWORD

Children have the right to grow up in a safe and nurturing family environment. Unfortunately, several children are deprived of this right and grow up outside family care, in the streets, in sweatshops, or on the move. Some of them end up growing in institutions. While there have been significant efforts to improve standards of care in these, the damages of institutionalization are well documented. Family is the natural unit of society, and the connections that a child develops through the family, is pivotal for the children's intellectual, emotional, and social development.

The COVID-19 pandemic has not only led to a significant increase in children without parental care but also enhanced the vulnerability of poor and marginalized families, thereby increasing the risks of separation from their families. However, as with all crises, there is a silver lining to this too. COVID-19 has led to a greater recognition of the importance of child protection as a service in emergency situations, which should comprise of a robust and responsive care system with a capacitated, qualified, and empathetic workforce. The crisis has also provided opportunities to expand family-based care, put family strengthening as a core focus and reduce the dependence on institutional care for children.

Indian laws and policies have long realized the importance of a family environment in children's growth and the harmful impact of institutionalisation on children. The Juvenile Justice (Care and Protection of Children) Act 2015 acknowledges the primacy of family care and advocates limited use of institutions and as a measure of last resort. These principles have been further re-emphasized in 'Mission Vatsalya', the recently announced Umbrella Scheme of the Ministry of Women and Child Development.

UNICEF's position on the issue of alternative care is mandated by the UN Convention on the Rights of the Child (CRC), to which the Government of India is a signatory. The United Nations Convention on the Rights of the Child recognizes the role of parents, and the State in caring for children. This has been strengthened in December 2019 when the United Nations General Assembly (UNGA) unanimously adopted the **Resolution on the Promotion and Protection of the Rights of Children**. This represents a landmark moment in terms of advancing the rights of children without parental care as it (1) recognizes the harm institutions cause children and calls for institutions to be progressively eliminated; (2) recognises the critical need to invest to keep families together and calls on states to transition away from institutionalisation of children and redirect resources to family and community-based care services; (3) calls on

states to make available a range of high quality, accessible and disability-inclusive alternative care options; (4) recognizes that children separated from families and those in institutional care are at higher risk of violence, abuse and exploitation than their peers and reaffirms states' responsibility to protect all children from all forms of violence and abuse, including children in alternative care;(5) recognizes the large global data gaps on children without parental care, calling on states to improve data collection, information management and reporting systems.

In this context, this document titled '**Every Child's Right to Family Life: An Introduction to Family Strengthening and Alternative Care in India**' compiled by the India Alternative Care Network (IACN) in collaboration with Hope and Homes for Children and UNICEF India, is a very timely resource on answering the most frequently asked questions on care reform and addressing related misconceptions.

We hope this document goes a long way in creating greater awareness, understanding, and sense of urgency, so that every child in India has a chance to grow in a nurturing, caring and protective family environment.

SOLEDAD HERRERO

Chief, Child Protection

UNICEF India

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The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.

PRINCIPLE OF FAMILY RESPONSIBILITY, SEC 3(V), JJ ACT 2015

ABBREVIATIONS

AWW	Anganwadi Worker
BCPC	Block Child Protection Committee
CCL	Children in Conflict with Law
CNCP	Children in Need of Care and Protection
CPS	Child Protection Services
CWC	Child Welfare Committee
DCPC	District Child Protection Committee
DCPU	District Child Protection Unit
FAQ	Frequently Asked Questions
JJ Act	Juvenile Justice (Care and Protection) Act
JJB	Juvenile Justice Board
MWCD	Ministry of Women and Child Development
NCPCR	National Commission for the Protection of Child Rights
PRI	Panchayati Raj Institution
SJPU	Special Juvenile Police Unit
SFCAC	Sponsorship and Foster Care Approval Committee
ULB	Urban Local Body
UNCRC	United Nations Convention on the Rights of the Child
UNGACC	Guidelines for the Alternative Care of Children
VCPC	Village Child Protection Committee

GLOSSARY OF TERMS

ABANDONED CHILD

A child left by his biological or adoptive parents or guardians, and has been declared as abandoned by the Child Welfare Committee (CWC) after due inquiry.¹

ADEQUATE CARE

Adequate care is where a child's basic physical, emotional, intellectual and social needs are met by their caregivers, and the child is developing according to their potential.²

AFTERCARE

Aftercare includes making provision of support, financial or otherwise, to persons who have reached the age of eighteen years but have not reached the age of twenty-one years and have left any institutional care; with the purpose of supporting them to transition into independent living outside care.³

ALTERNATIVE CARE

Alternative care is the care provided for children by caregivers who are not their biological parents. This care may take the form of informal or formal care. Alternative care may be kinship care, foster care, other forms of family-based or family-like care placements, residential care, or supervised independent living arrangements for children and young adults.⁴

BLOCK LEVEL CHILD PROTECTION COMMITTEE

As per CPS (previously known as Integrated Child Protection Scheme), Block level child protection committee are established in each block (ward in city), to monitor the implementation of child protection services at block level.⁵ The committees have an important role to reach out to children and engage with communities to protect children from any distressful situation such as a crisis, risk of separation, abuse, neglect, exploitation etc.

BEST INTERESTS DETERMINATION

A threefold concept which includes a substantive right, a fundamental and interpretative legal principle and a rule of procedure that is aimed at ensuring the full and effective enjoyment of all the rights recognised in the United Nations Convention of the Rights of the Child (UNCRC) and of which the primary consideration is to ensure the holistic development of the child.⁶

CAREGIVER

A caregiver is someone who provides daily care, protection and supervision of a child. This does not necessarily imply legal responsibility. Where possible, the child should have continuity in who provides their day-to-day care. A customary caregiver is someone who the community has accepted, either by tradition or common practice, to provide the daily care, protection and supervision of a child.⁷

CHILD

A child is any person who has not passed the age of eighteen years.⁸

CHILDLINE

CHILDLINE is twenty-four hours emergency outreach service for children in crisis that links them to emergency or long-term care and rehabilitation services.⁹

CHILD CARE INSTITUTIONS

Child Care Institutions (CCIs) include small and large group homes, fit institutions/facilities, (see below) and places of safety for emergency care.

CHILD PROTECTION SERVICES

A Centrally sponsored Child Protection Services scheme (erstwhile Integrated Child Protection Scheme) under the umbrella of the Integrated Child Development Services scheme for supporting the children in difficult circumstances in all the States/UTs and implementation of JJ Act 2015.¹⁰

CHILD WELFARE COMMITTEE

The JJ Act, 2015 (amended 2021), makes it mandatory to establish one Child Welfare Committee in each district as the final authority to manage cases in relation to the care, protection, treatment, development and rehabilitation of children in need of care & protection and to provide for their basic needs and protection of human rights.¹¹

COMMUNITY-BASED CHILD PROTECTION MECHANISM

A community-based child protection mechanism is a network or group of individuals at the community level who work in a coordinated way to ensure the protection and well-being of children in a village, urban neighbourhood or other community.¹²

CONTINUUM OF CARE

The continuum of care describes a range of alternative care options for children who have been separated from parental care. In keeping with evidence-based guidance from around the world,

the continuum places the highest priority on care within families. This includes reunification with the birth parent(s), placement with a relative (kinship care), foster care and adoption.

The continuum recognises the role that temporary residential care and small group homes can play in the spectrum of options to meet individual situations and needs. Large-scale institutions, however, are not considered a viable option, as research has shown they fail to provide the individualised care and relationships essential to the healthy development of children.¹³

DISTRICT CHILD PROTECTION UNIT

Child Protection Unit for a District, established by the State Government under section 106 of the JJ Act 2015, which is the focal point to ensure the implementation of this Act and other child protection measures in the district.¹⁴ An essential role of the DCPU is to facilitate family based non-institutional care through sponsorship, foster care, adoption and after care as per the orders of the Board or the Committee or the Children's Court.¹⁵

FAMILY-BASED CARE

Family-based care is a form of care of a child in a family other than their biological parents. This is a broad term that can include foster care, kinship care and supported child-headed households.¹⁶

FIT FACILITY

It is a facility run by a governmental organisation or a registered voluntary or non-governmental organisation, prepared to temporarily own the responsibility of a particular child for a specific purpose, and such facility is recognised as fit for the said purpose by the CWC.¹⁷ An institution or organisation is recognised as a fit facility for purposes which may include short term care; medical care treatment; mental health care; de-addiction and rehabilitation; education; vocational training and skill development; group foster care etc.¹⁸

FORMAL CARE

Formal care includes all care provided in a family environment that has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including private facilities, whether or not as a result of administrative or judicial measures.¹⁹

FOSTER CARE

Foster care is the placement of a child, by the CWC, in the domestic environment of a family, other than the child's biological family, that has been selected, qualified, approved and supervised for providing such care.²⁰

GATEKEEPING

Gatekeeping is the process of referring children and families to appropriate services or care arrangements with the aim of caring for children in their families and preventing unnecessary separation and entry into alternative care and reducing the numbers of children already placed in institutions. Effective and fair gatekeeping requires a system of safeguards and monitoring to prevent system abuse and access to services for the most vulnerable. It is dependent upon early identification and assessment of vulnerabilities and the availability of a range of family support services and community-based care options. Such support may include economic strengthening, social assistance programmes, and family services, including day-care and health or education provision.²¹

GROUP FOSTER CARE

It is a family-like care facility for children in need of care and protection who are without parental care, aiming at providing personalised care and fostering a sense of belonging and identity through family-like and community-based solutions.²²

INFORMAL CARE

Any private arrangement provided in a family environment whereby the child is looked after on an ongoing or indefinite basis by relatives, friends or others in their individual capacity, on the initiative of the child, their parents and other people, without this arrangement having been ordered by an administrative or judicial authority or accredited body.²³

JUVENILE JUSTICE BOARD

The JJ Act 2015, makes it mandatory to have a Juvenile Justice Board (JJB) in each district to deal with matters relating to juveniles in conflict with law.²⁴

KAFALAH

In the UN Guidelines, Kafalah is recognised as an ‘appropriate and permanent solution’ for children who cannot be kept in or returned to, their original families. Through Kafalah, a family takes in an abandoned child, a child whose natural parents or family are incapable of raising him or her or who is otherwise deprived of a family environment, without the child being entitled to the family name or an automatic right of inheritance from the family. Kafalah is the provision of alternative care without altering the child’s original kinship status because in Islam; the link between an adopted child and his biological parents must remain unbroken. There are three features which distinguish Kafalah from adoption: non-severance of family ties; non-transference of inheritance rights; and no change in the child’s family name.²⁵

KINSHIP CARE

Kinship care is family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature.²⁶

ORPHAN

Orphan means a child — (i) who is without biological or adoptive parents or legal guardian; or (ii) whose legal guardian is not willing to take or capable of taking care of the child.²⁷

SEPARATED CHILDREN

Separated children are those who are separated from both parents or from their legal or customary caregiver but accompanied by another adult. Separated children may include those in the care of adult siblings or other adult family members.²⁸

SPECIAL JUVENILE POLICE UNIT

To coordinate all functions of police related to children, the State Government shall constitute Special Juvenile Police Units in each district and city, headed by a police officer, not below the rank of a Deputy Superintendent of Police or above and consisting of all police officers designated as child welfare police officers (as per Sec 107(i) of the JJ Act 2015) and two social workers having experience of working in the field of child welfare, of whom one shall be a woman.²⁹

SPONSORSHIP

Sponsorship is the provision of supplementary support, financial or otherwise, to the families to meet the medical, educational and developmental needs of the child.³⁰ At the level of prevention, the sponsorship scheme supports families to prevent children from becoming destitute or vulnerable. The rehabilitative aspect of sponsorship supports children who are restored to their families.³¹ As per the JJ Act, 2015 sponsorship support can be extended in cases where children are orphan and are living with the extended family; where mother is a widow or divorced or abandoned by family; where parents are victims of life-threatening disease; where parents are incapacitated due to accident and unable to take care of children both financially and physically.³²

SPONSORSHIP AND FOSTER CARE APPROVAL COMMITTEE

The committee reviews and sanctions the sponsorship (for preventive settings only) and foster care fund. The committee has the authority to seek relevant documents to determine need for sponsorship assistance and also determine the duration of the sponsorship support on case-to-case basis.³³

SURRENDERED CHILD

A child, who is relinquished by the parent or guardian to the CWC, on account of physical, emotional and social factors beyond their control, and declared as such by the CWC.³⁴

VILLAGE LEVEL CHILD PROTECTION COMMITTEE

As per CPS (erstwhile Integrated Child Protection Scheme), village level child protection committee is established in village, to monitor the implementation of child protection services at village level.³⁵ The committees have an important role to reach out to children and engage with communities to protect children from any distressful situation such as crisis, risk of separation, obvious abuse, neglect, exploitation etc.

YOUNG PEOPLE WITH LIVED EXPERIENCE IN CARE

A person, typically over 18 years of age, who has spent all or part of their childhood in CCIs and other forms of formal and informal care and has since left the alternative care arrangement. They may be entitled to assistance with education, finances, psychosocial support, and accommodation to prepare for independent living.



IMAGE CREDIT: UNICEF/2017/EDWARDS

Secure the rights of children' temporarily or permanently deprived of parental care. The State shall endeavour to ensure Family and community-based care arrangements, including sponsorship, kinship, foster care and adoption, with institutionalisation as a measure of last resort, with due regard to the best interests of the child and guaranteeing quality standards of care and protection.

NATIONAL ACTION PLAN FOR CHILDREN, 2016

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INTRODUCTION

All children have the need and right to grow in a safe and nurturing family environment. Yet, across the world, children continue to be separated - temporarily or permanently - from their families.³⁶ Research evidence and experiences of children demonstrate that children who grow up away from families and in institutions show long term adverse outcomes. UNCRC, UNGACC and the JJ Act 2015, the primary legislation for the care and protection of children in India, establish the importance of caring for children in their families and provision of alternative care options when that is not possible. It is essential to invest in services that support the care of children in their own families and communities to prevent unnecessary separation, and develop a range of alternative care services, particularly those that support family-based care. Investment in alternative care should not supplant efforts to support families, and priority must be given to helping children grow up safe and protected in their own families.³⁷

This document answers the most frequently asked questions surrounding family strengthening and alternative care in India while also addressing misconceptions around it. It aims to help practitioners, child protection workers and researchers to build their understanding of family strengthening and alternative care in India. This document has been developed in accordance with the Mission Vatsalya Guidelines.

India has 472 million children between 0-18 years, accounting for 39% of the population.³⁸ It is estimated that around 170 million or close to 40% of India's children are vulnerable or are experiencing difficult circumstances characterised by their specific social, economic and geo-political situations.³⁹ The Report of the Committee for Analysing Data for Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care and Protection of Children) Act, 2015, and Other Homes 2018 states that there are 7,422 CCL and 370,277 CNCP across CCIs in India. The study found that of the total number of children in CCIs, 184,195 were children of parents/ guardians unfit or incapacitated to take care of them, 56,198 were orphans, and the others included victims of sexual abuse, child pornography, child marriage, trafficking, homelessness, or were children with special needs. In order to ensure the safety of children at the beginning of the pandemic, in April 2020, the Hon'ble Supreme Court of India ordered the restoration of children in CCIs to their families, following all due processes. As a result, several children were restored to their families, from institutional care. According to the data available on the MWCD dashboard (updated on March 31 2022), currently, there are 11,977 CCL and 54,988 CNCP across CCIs in India.

The COVID-19 pandemic has also pushed many families to the brink of crisis, and children face an exacerbated risk of abuse, neglect, violence and exploitation, which might lead to abandonment and separation. India reported a rise in child marriage,⁴⁰ child labour⁴¹ and trafficking⁴² since the onset of the pandemic. Many children dropped out of formal education due to the extended closure of schools and restricted or lack of access to technology to continue with online schooling.⁴³ As per the 'Bal Swaraj' Portal of NCPCR, 1,42,949 children have lost one parent, 10,386 children have lost both their parents and 492 children were abandoned, during the pandemic period, between April 1 2020 and February 15 2022 (PIB, MWCD, GOI, March 2 2022). Thus, the COVID-19 pandemic has led to a humanitarian crisis, affecting families and children.

Recognising the importance of a family environment in children's growth and the harmful impact of institutionalisation on children, significant legislation and schemes for children in India acknowledge the primacy of family care and the limited use of institutions and as a measure of last resort.⁴⁴ The JJ Act 2015, through various provisions, emphasizes the right of children to grow up in a family. The National Policy for Children, 2013 and the National Action Plan for Children, 2016 advocate for securing the rights of children temporarily or permanently deprived of parental care and the promotion of the development of family-based community-based services of care. CPS (erstwhile ICPS) which will be replaced with Mission Vatsalya, provides, decisive impetus toward non-institutional family-based care.⁴⁵ It strives to strengthen families and communities to ensure child protection, and enables them to protect children from vulnerability and abuse by identifying situations that may put children at risk.

The Model Guidelines for Foster Care that came into effect in 2016 highlight the Government's commitment to non-institutional family-based care. Furthermore, several States also have schemes and benefits that support non-institutional family-based care. Effective implementation is the key challenge as it necessitates the provision of resources and commitment at all levels.⁴⁶

The Government of India and CSOs response to children without parental care or at risk of separation, in accordance with the international and national policy framework and the response to children's care globally, has placed renewed focus on care in a family environment, development of services in the continuum of care including aftercare, and reintegration of children in CCIs to their families and communities. This is an ongoing process, and there are opportunities and scope to strengthen these measures.

The use of institutional care as a measure of last resort and for a limited period should be considered as a part of a more strategic and wider process that calls for creating a care system that includes a comprehensive range of services that enable every child and their family or caregivers to receive individual services as well as community assistance according to their needs, which will increase the health and well-being of families and reduce family separation. Some significant components of this process could include: gaining political will at the national and state level, strengthening the legal and policy framework, strengthening collaborations and networks, investing in the collection of data and understanding the experiences of children in the continuum of care and those who have left care, strengthening the social workforce and identifying/redirecting resources needed to support children in families and communities.

While the State has the ultimate responsibility for children's care and protection, such a shift from institutional care to care in families and communities can only happen with the support and collaboration of CSOs, development partners, academia and donors. Children are key stakeholders in alternative care and should be engaged meaningfully in their care provisions and placements. Increasing and redirecting resources towards children and their families within their community is critical in improving access to education, adult learning, parenting, health care, nutrition programs, livelihoods support, community services and early intervention, especially for children with disabilities. Experience has shown us that political commitment and leadership by the State is critical in investing in keeping families together.

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

PRINCIPLE OF REPATRIATION AND RESTORATION,
SEC 3 (XIII), JJ ACT 2015

In recent decades, there has been significant progress internationally towards recognizing the harm of institutionalisation and the importance of care reform. This has been coupled with a growing understanding of the concept of care reform and its importance in delivering the 'leave no one behind' commitments in the SDGs. Key global milestones include:

- The 1989 Convention on the Rights of the Child (CRC) affirmed that all children have a right to live with their families unless this goes against their best interests and that parents or other legal guardians have the primary responsibility to protect and care for the child;
- The 2006 UN Convention on the Rights of Persons with Disabilities (CRPD) clearly states that all persons with disabilities have equal rights to live in the community. For children, this means being in a family environment and receiving quality care and protection. Moreover, it affirms that States shall ensure that children with disabilities have equal rights with respect to family life. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents (Art. 23);
- The 2009 Guidelines for the Alternative Care of Children in 2009 (A/RES/64/142), which brought the first in-depth explanation of how the relevant articles of the CRC should be applied to children in alternative care;
- The 2015 SDGs / 2030 Agenda for Sustainable Development laid down ambitious targets for the countries to meet by 2030, promising to 'leave no one behind' as they tackle poverty, education for all, ending violence against children and many other targets. The SDGs recognise the essential role that families play in achieving their aim and call for greater disaggregation of data related to disability and other factors in order to meet the needs of those who are most vulnerable, especially children;
- The 2017 General Comment Number 5 of the CRPD Committee on Article 19 of the CRPD² highlighted the prevalence of children with disabilities in institutions around the world and provided strong calls for the elimination of institutional care settings for children to be prioritised;
- The 2019 UN General Assembly resolution on the rights of the child (A/RES/74/133)⁴⁷ was focused on children without parental care. It contained several important articles recognising the harm caused by institutionalisation and prioritised prevention and endorsed family and community-based care over institutions;

- The 2019 Human Rights Council resolution on Empowering Children with Disabilities for the Enjoyment of their Human Rights, including through Inclusive Education (A/HRC/40/27), which spoke about the need to create inclusive education for all children to create inclusive societies;
- The 2019 UN Global Study on Children Deprived of Liberty⁵ detailed the human rights violations in institutional care settings for children, including deprivation of liberty and in certain cases of torture.



A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.

PRINCIPLE OF INSTITUTIONALISATION AS A MEASURE OF LAST RESORT, SEC 3(XII), JJ ACT 2015

IMAGE CREDIT: HOPEANDHOMES/RS281

RESOURCES

Alternative care for children: Policy and practice, SOS Children's Villages of India and TISS, 2017.

KEEPING FAMILIES TOGETHER

A permanent, safe and caring family is widely acknowledged as the best place for a child to grow up. There are numerous reasons for this:

- When children grow up in safe and nurturing homes, they are more likely to develop positive self-esteem, emotional intelligence and resilience and exhibit fewer at-risk behaviours in their adulthood;
- A secure attachment with a continuous carer underpins children's cognitive, intellectual and emotional development (Oates, Lewis and Lamb 2005);
- Families are known to promote stability in their educational, cultural and social lives – factors that positively affect children's sense of security, identity and belongingness; and
- Most importantly, children worldwide, including those with lived experience in care, have consistently highlighted the need and preference to be cared for in their own families.

While children may also experience inadequate care and other risks in families, with proper support and effective child protection mechanisms, children are far more likely to thrive in a permanent, safe, and caring family than in any other care arrangement.⁴⁸ However, many children grow up out of family care and in institutions due to economic and social inequalities and other vulnerabilities.

It should be a priority for communities, Government and civil society to create a supportive environment for children to remain and thrive in their families and provide families with the necessary support services that keep families together.

WHY DO CHILDREN END UP OUTSIDE OF FAMILY CARE AND IN INSTITUTIONS?

Children often enter care due to poverty, social exclusion, discrimination, violence or lack of access to essential services and support. Children with disabilities, children from ethnic minorities and other vulnerable children are particularly at risk of family separation and institutionalisation. When placed in institutions, they are exposed to a system that is inadequate to meet their needs and systematically violates their rights – out of sight and segregated from

society. When they reach adulthood and exit care, without a family environment or support network to rely on, they experience further inequality and disadvantage. Following are some factors that are responsible for children being abandoned, surrendered and separated from their families:

■ **POVERTY IS A SIGNIFICANT DRIVER OF THE INSTITUTIONALISATION OF CHILDREN**

WORLDWIDE: Poverty is the most common underlying risk factor leading to children being separated from parents and institutionalised. Institutionalisation is intrinsically connected with poverty and the lack of access to support services that would help families overcome deprivation and enable families to stay together. Poverty is both a cause of and exacerbates all major drivers of institutionalisation: disability, gender, violence, health, education, discrimination etc.

■ **LACK OF ACCESS TO EDUCATION AND OTHER SERVICES IN THE COMMUNITY LEADS TO INSTITUTIONALISATION:**

A common reason for a child to be placed in an institution is the lack of accessible, quality, affordable and inclusive education and healthcare in the community. Education at all ages, from early childhood education and development through to primary, secondary and tertiary education, is a particular factor in children being placed into institutional care settings. Some children (e.g., children with disabilities, girls, rural children, refugees, minority ethnic or indigenous children and children living in extreme poverty) are more likely to struggle with access to quality and inclusive education in the community and, as a result, are increasingly vulnerable to institutionalisation.

■ **CHILDREN AND/OR FAMILIES WITH DISABILITIES:** Families or children with disabilities are at enhanced risk of separation due to the lack of access to necessary health and other specialised services to support their additional care needs. This can create a vicious circle of social exclusion and marginalisation that can lead to children being placed into institutional care settings where children with disabilities are further exposed to abuse, neglect and discrimination.

■ **GENDER DISCRIMINATION AND INSTITUTIONALISATION ARE CLOSELY INTERLINKED:**

Single mothers typically experience higher rates of poverty as compared to dual-parent and single father households. They are also more likely to face discrimination and stigma. This makes it more likely for these women to be compelled to leave their child in an institution, as they might feel they cannot adequately care for the child. It also happens that single mothers see themselves forced to migrate in order to find a job or have to work long hours,

making child care difficult in the absence of support services, and consequently, children are left in institutional care. Girls are exposed to particular conditions and discrimination, such as being vulnerable to child marriage, child labour, commercial sexual exploitation and violence, which further increases the likelihood of them being uprooted from parental care and homes, excluded and therefore ending up in institutional care settings. Due to the lack of acceptance of people on the LGBTQIA+ spectrum in Indian society, children who do not identify with the gender binary identities are vulnerable to abandonment, abuse, violence, resulting in their marginalisation and separation. Parents and caregivers belonging to the LGBTQIA+ community are also likely to face threats and vulnerabilities that can impact their ability to care for children.

■ **MIGRATION:** Internal economic migration, which is a common practice across most States in India, also results in children being left behind, displaced and exposed to a variety of protection risks. During migration, children are exposed to increased risks ranging from family separation, being institutionalised, abuse from smugglers and traffickers and sexual and gender-based violence. Institutional care settings are often used as a response or as the first resort for unaccompanied migrants and refugee children. Evidence demonstrates that unaccompanied migrant and refugee children are likely to have suffered abuse and trauma on their journey.

■ **BREAKDOWN IN FAMILY STRUCTURES AND POOR PARENTING:** Parental conflict and disharmony, separation, domestic violence, the quality of parenting, parental mental health, incarceration of parents, financial hardships and repeated changes in living arrangements often contribute to children feeling unwanted and not cared for, increasing the possibility of their abandonment and them running away. A child growing up in such situations is vulnerable and likely to enter into the juvenile justice system.

■ **COVID-19 AND OTHER HEALTH EMERGENCIES:** The evidence is clear; the COVID-19 pandemic has had a severe impact on the most vulnerable children and families, exposing and compounding structural weaknesses of child protection and welfare systems. Trends that have been observed include an increase in family separation (including loss of parents and primary caregivers⁴⁹); family breakdown due to poverty⁵⁰(secondary impact of the pandemic); lockdown further isolating institutions from their communities; children being sent home from institutions without preparation. In communities already coping with fragile social protection and welfare systems, vulnerable children and families at risk of separation have felt the full force of the crisis. They now find it harder than ever to meet their basic needs.

■ **CLIMATE CRISIS:** Climate change can be a driver of institutionalisation, impacting families and communities' ability to provide quality care for children. According to UNICEF, India is among 33 'extremely high risk' countries where children are at most risk of climate change. India has witnessed recurring natural disasters such as floods, cyclones and drought in the recent past. It puts livelihoods at risk and increases economic precariousness. It leads to greater insecurity, food security, scarcity of water and more internal and external migration. As the climate crisis becomes real, communities are weakened. Weakened communities are less resilient and are unable to support families in difficulty. Domestic violence and violence against children increase as the social fabric is put under pressure and systems break down.

■ **STRUCTURAL CHALLENGES AND ISSUES:** While India has a robust child protection legal and policy framework that prioritises care in families, the necessary systems and social welfare workforce, at both Government, civil society and community levels, to operationalise the framework entirely are still underdeveloped, fragmented and lack the capacity and resources needed to ensure all children's rights are upheld across the country. This results in unnecessary separation of children and a lack of availability and access to alternative care options when children are separated.

FAMILY STRENGTHENING

WHAT IS FAMILY STRENGTHENING?

Family strengthening is a process to enhance the capacity of parents, caregivers and children, with the goal to build positive relationships within families and to enable access to social protection services. It assists families in fostering protective factors that contribute to child well-being, including parent-child relationship, social connections, awareness of parenting support in times of need, emotional competence of children, and facilitating access to income generation initiatives and other social protection services.

Family strengthening is a preventive measure whereby vulnerable families, those facing poverty, social discrimination and any other form of distress, are supported to build protective factors and prevent unnecessary separation. These families are often caught up in the vicious cycle of economic, social and cultural deprivation.

Family strengthening provides essential services to children, such as education, health and nutrition services, livelihoods for families and capacity building of caregivers and children

so that children do not fall out of the protective net of their families and communities. When service providers work with families, they also help families build and draw on natural support networks within their family and community. These networks are critical to families' long-term support.

Prevention of family separation requires diverse care resources and services at the local level. In particular, social workers are required to respond to the volume of cases identified by the community. Investment in family and community-based services is essential, including short term alternative care services such as formal foster families, informal kinship care and support for children with disabilities.

Family strengthening should be understood as an umbrella approach to the care of children in their families and prevention of separation and their role in the continuum of care for safe and sustainable family-based care.

WHY IS FAMILY STRENGTHENING IMPORTANT, & HOW DOES THIS RELATE TO SERVICES IN THE CONTINUUM OF CARE?

Family strengthening services aim to reduce risks and promote a protective environment for the well-being of children and families. Family strengthening is essential for:

- Supporting vulnerable families in child care roles;
- Supporting families caring for children with inadequate parental care and vulnerable children in alternative care arrangements (kinship care, foster care);
- Reintegrating children in institutional care into the care of their parents or family-based care.

Supporting at-risk or vulnerable families is the first line of defence against their breakdown. Its primary purpose is to prevent the separation of children from their biological parents. This should be central to the practice of alternative care as many children in difficult circumstances and institutional care belong to families with poor access to social security measures. Furthermore, family strengthening plays an equally important role for children in family-based alternative care, such as kinship care, foster care, or other customary practices across cultures. Family strengthening is also a sustainable and long-term measure that allows for the reintegration of children in CCIs back into families and communities. Family

strengthening and its allied support interventions must consist of comprehensive legislation, policies and programs to empower the family to provide quality care to children within the community. When implemented effectively, family strengthening forms a complete safety net around children and caregivers to prevent neglect, abuse, separation or institutionalisation.⁵¹

WHAT ARE SOME OF THE COMPONENTS UNDER FAMILY STRENGTHENING?

Children may be pushed out of the protective net of their families due to several stressors, which are unique to every community, family and child. Care and support services need to be aligned with the public child protection system and should demand more investment in policies and programs that enhance the capacities of families and communities to care for children and prevent unnecessary separation.

Given the scope of family strengthening programs, a multi-sectoral preventive approach is essential. Regular mapping and assessment of at-risk families by the State and identifying their vulnerabilities is key to family strengthening. Understanding family strengthening as a comprehensive bouquet of services and its integration as an essential component in the continuum of care is necessary. Community-based child protection groups, local self-government bodies, and other community stakeholders become the strong conduits and proponents of family strengthening services. Convergence of community mechanisms and stakeholders with child protection mechanisms at all levels enables gatekeeping, referrals, and linkages with services on a need basis.

Components of family strengthening are non-exhaustive and wide-ranging and consider the needs of all vulnerable families facing a crisis, including kinship families, single parents etc.

Family strengthening services consist of (and are not limited to) the following:⁵²

- Ensuring the rights of children, such as:
 - Protection from abuse, neglect, exploitation and violence
 - Education
 - Play and leisure
 - Healthcare and nutrition
 - Safe and hygienic living accommodation
 - Opportunities for participation
 - Legal aid

- Building economic capacity of families through financial support, skill development and incentives for family-based alternative care that reduce family's vulnerability to poverty, increase financial independence, and improve people's ability to provide for children. The JJ Act 2015, views sponsorship as a means of supplementary support, financial or otherwise, to the families to meet the medical, educational and developmental needs of their children.⁵³
- The State's proactive engagement in ensuring ready access to social security measures for vulnerable families. This would include working on dismantling exclusionary and discriminatory practices that further isolate already marginalised families
- Engaging with children and youth and ensuring their participation in decisions about their care
- Capacity building of caregivers as individuals and parents in areas such as:
 - Parenting
 - Developing resilience, self-esteem and positive coping mechanisms in distress
 - Interpersonal and social skills
 - Conflict resolution
 - Child rights and protection, and children's participation
- Community involvement and building a protective ecosystem around the family that would act as a safety net in crisis
 - Facilitating access to community-based child protection groups
 - Early childhood care and education
 - Access to day-care/ night care
 - Self-help groups/peer parenting support groups
 - Access to mental health services
 - Facilitating access to social protection benefits and services
 - Referral and linkages to specialised services

RESOURCES

Prioritising family strengthening and kinship care Submitted to the Committee on the Rights of the Child, Day of General Discussion 2021 on Rights of Children and Alternative Care, IACN, 2021

GATEKEEPING

WHAT IS GATEKEEPING?

Gatekeeping can be understood in the context of prevention, as it involves identifying vulnerabilities that children and families face and taking appropriate decisions for the care of children, in their best interest, to ensure their protection and well-being. An essential function of gatekeeping is to prevent unnecessary and potentially damaging separation of children from their families or placement in alternative care by addressing the root causes of separation, such as poverty, child abuse, trafficking, child labour, child marriage, limited access to education, poor parenting practices and other drivers of separation. It is a systematic process that ensures that alternative care is only used when needed, appropriate care placement considering the individual vulnerabilities and needs of children, and reintegration of children already in institutional care back into families and communities.⁵⁴ Gatekeeping aims to strengthen processes that ensure the care of children through convergent action addressing multiple vulnerabilities based on their individual needs. Prevention of unnecessary family separation and strengthening family-based care is at the heart of gatekeeping.

Community-level early gatekeeping thus helps in the realisation of education, protection, health, nutrition and participation rights of the children in their families and communities by engaging with duty-bearers directly accountable to the child, namely, parents (and by extension, families and communities), service providers and local government institutions.

Gatekeeping should be understood in terms of processes and measures that strengthen the care of children, and children, families, and communities remain at the heart of it. Community-level early gatekeeping also ensures that the decisions made for the care of children are participatory, attuned to the local context and meeting the individual needs of children.

The different levels of gatekeeping are:

- Primary level, where the focus is to prevent unnecessary family separation by identifying early signs of vulnerabilities and creating a caring and protective social safety net for all children at the family and community level.
- Secondary level, where the focus is to prevent at-risk children from inappropriate care placement through convergent actions addressing multiple vulnerabilities.

- Tertiary level, where the focus is to expedite effective restoration of vulnerable children in the family and the community to prevent long term separation and institutionalisation.

WHO ARE THE IMPORTANT STAKEHOLDERS IN GATEKEEPING, & WHAT ARE THEIR ROLES?

There can be different approaches to gatekeeping involving multiple stakeholders across sectors. Convergence among various service providers in education, health, justice and social protection and welfare systems is essential. For gatekeeping to be effective, it is important that it begins early. In an overstretched child protection system such as in India where the diverse social and cultural realities in the communities largely influence practices on the care and protection of children, community-based child protection groups or VCPCs, and local governance mechanisms and duty bearers are often the first line of responders and are an essential part of the gatekeeping mechanism. Gatekeeping demands linkages between resources and stakeholders at the community level and formal child protection mechanisms to ensure a consistent response to the children's care as per relevant laws and policies. The role of VCPCs and local governance mechanisms in the gatekeeping process calls for investing in their orientation and capacity building, to facilitate informed decision making based on a comprehensive assessment of cases and individual needs that adhere to the rights and needs of children and can build on positive local and cultural care practices.

The scheme would pursue a conscious shift to family-based care, including sponsorship, kinship care, foster care and adoption. Periodic review of children in institutional care for restoration to families would also be undertaken.

CPS

The primary stakeholders in gatekeeping are:

PRIMARY STAKEHOLDERS	EXAMPLES	ROLE
Children, parents and, by extension, the family and the wider community	Mothers, fathers, extended family members (kinship carers), alternative care families, foster families, VCPCs, women's groups, community leaders	Accountability by caregivers and community members ensures that children can claim their rights to health, nutrition, education and protection from the adults responsible for providing a safe and nurturing environment for them to thrive
Service providers – professionals who are immediately responsible for children's survival, development, protection and participation right	Healthcare personnel, teachers, child development workers, child protection programme staff, social workers, police, judiciary	Ensuring participation of children and caregivers. Participation is essential in transforming the environment in which children live and in supporting children's engagement. Community-wide involvement seeks to provide direct participation in decision-making by all community members, children and adults, with special attention to ensuring the inclusion of excluded groups who have been left traditionally at the margin of the public discourse.
Local government institutions – the decentralised level of Government that is directly responsible for addressing children's needs and rights	<i>Panchayat</i> in rural areas and <i>Nagar Palikas</i> /Urban Local Bodies in urban centres	Ensuring multi-sectoral convergence, where the formal systems of child protection coordinate with duty bearers from other sectors, including local self-governance mechanisms for convergent planning and response. The purpose is to avoid the gulf between needs and response and thus recognise and address the multi-faceted nature of the vulnerabilities faced by children.

An effective gatekeeping mechanism would require the participation and coordination of the following stakeholders:

- **PRIs/ULBs:** Elected representatives of the PRI system and local governance can be crucial stakeholders in reducing the vulnerabilities of children and preventing family separation. They can support by ensuring linkages of the families of the vulnerable children with respective social security schemes and sustain the income generation activities for better care in the family.
- **VCPCs:** The VCPCs functional at the village/ ward level have a significant role in ensuring child safety nets in communities and strengthening gatekeeping mechanisms. The VCPCs have the role of identifying, tracking, and monitoring CNCP children, family counselling, and promoting awareness on child protection issues through social mapping, identifying the vulnerable pockets, and making efforts to link the family/child with the social security schemes. Local-level case management and need-based referral to BCPC and DCPC are some other roles of VCPCs.
- **BCPC:** BCPC addresses cases referred to them by the VCPCs or any case that comes to them directly. The BCPC facilitates linkages to different schemes by coordinating with various departments and stakeholders, ensuring redress or further referral to the DCPC wherever required.
- **DCPU/CWC/JJB/Police/CHILDLINE/SJPU:** These stakeholders are the district level bodies representing secondary and tertiary levels of care. The secondary and the tertiary level focuses on systemic collaboration and the role of duty bearers and service providers in awareness generation, prevention, rescue and rehabilitation through effective family reintegration of children in CCI or linking with services for family-based care. CWC and JJB are statutory bodies in the district responsible for taking decisions on cases of CNCP and CCL, respectively.
- **CSOs:** CSOs play a vital role in ensuring and safeguarding the rights of the child. The CSOs work in collaboration with the district administration and communities in strengthening the gatekeeping and the child safety net by awareness generation on child protection issues at the community level, vulnerability assessment and building/strengthening the skill capacities of the community-based groups for bringing out accountability and ownership to work towards the best interest of the child.

In addition to the availability of well-oriented human resources, an effective gatekeeping mechanism depends on the availability of and accessibility to services for strengthening care in families and a range of care options, particularly family-based care services.

WHY IS GATEKEEPING IMPORTANT?

Gatekeeping plays a significant role in ensuring every child has access to adequate care and is not subjected to unnecessary separation. The JJ Act 2015 and UNCRC highlight every child's right to care in a family and the use of institutional care as a measure of last resort. This is possible when there is a gatekeeping mechanism in place that strengthens the child safety net through a comprehensive process of identification, assessment, response, linkages and referral to services which includes family strengthening, case management, vulnerability reduction and a range of services for alternative care. The role of the stakeholders at the community level becomes critical in identifying the vulnerabilities of children and families and working in collaboration to address those through local linkages and solutions. Gatekeeping ensures a systematic process that aims to reduce vulnerabilities of children by working on probable solutions, linkages to child and family-centred social protection schemes and services, parenting and counselling services that help minimise the risk of family separation and access to appropriate care services. Gatekeeping is thus necessary because it is a mechanism through which the community and formal systems of child protection act as a 'watchdog' in ensuring the safety of a child in the community and care in their own families or family-based alternative care. Gatekeeping contributes to establishing care reform as a means to a paradigm shift, emphasising children's rights and quality of care.

RESOURCES

Before, not after: An evaluation of CINI's preventive approach to child protection in India, Harvard FXB centre for health and human rights, 2021

Essence and scope of strengthening community-based preventive child protection systems in India, Ranjan Kanti Panda, Lopamudra Mullick, Subhadeep Adhikari, Neepa Basu and Archana Kumari, 2020

It takes a village: VCPC toolkit, Leher, 2019

Together for children: A community's journey, Leher, 2017

ALTERNATIVE CARE

Alternative care for children is when children are placed into care arrangements when a child's own family is unable to provide adequate care for the child. These arrangements can be temporary or long-term depending on the individual needs of the child. In such cases, the State is responsible for ensuring that there are appropriate alternative care placements for children in line with national and global policy guidelines and instruments. For children at risk of separation or already separated, a range of community-based and family-based alternative care services should be available and accessible, including kinship care, foster care, and *kafalah*. When it has been assessed and determined that a child cannot be returned to their family, a long-term alternative care arrangement should be sought that gives the child a sense of security, continuity, stability and belonging. In some circumstances, small group home settings in the community may be considered to provide specialized care for children with acute special needs or young people who are transitioning to independent living.

Alternative care recognizes that in specific cases, it may be necessary to provide quality, temporary, specialized care in a small group setting organized around the rights and needs of the child in a setting as close as possible to a family and for the shortest possible period. The objective of such placement should be to contribute actively to the child's reintegration with his/her family or, where this is not possible or in the best interests of the child, to secure his/her safe, stable, and nurturing care in an alternative family setting or supported independent living as young people transition to adulthood.

CONTINUUM OF CARE

HOW IS ALTERNATIVE CARE PROVIDED?

The JJ Act 2015 is the primary legislation that governs decisions regarding the care of children. The central and state JJ model rules further elaborate on processes and mechanisms to support the placement and care of children in alternative care settings. ICPS brings together services and mechanisms for alternative care practices. Implementation of foster care is supported by the Model Foster Care Guidelines 2016. CWC at the district level is the decision-making body for all movement of children into alternative care settings. Placements are enacted by the DCPU who assess cases and monitor children in alternative care. The CPS includes other support mechanisms available to families, such as sponsorship, which is an allowance for supporting children in need of care and protection.

Formal alternative care should always be a temporary measure whilst permanent solutions are sought and should have the clear purpose of offering children a stable, protective, and nurturing environment.

LIMITING THE USE OF INSTITUTIONAL CARE

WHAT IS THE IMPACT OF INSTITUTIONALISATION ON CHILDREN?

Institutional care settings for children violate a child's right to development, protection and survival. It is globally recognized that children exposed to institutional care settings are subject to high levels of abuse and neglect. Neuroscience research shows that neglect, typical of institutional care environments, leads to substantive damage to the development of children's brains. Children living in institutional care are also prone to major developmental issues like poor cognitive development and delayed physical development. Being away from the love, care and attention of a family, children who grow up in institutional care settings suffer from depression and related disorders. Living in a state of trauma impacts the overall development of a child.

Children in institutional care settings witness their caregivers being changed constantly; they find it extremely difficult to foster strong attachments, a sense of security, and subsequently stable and long-lasting relationships. This impacts their attachment with their own birth parents, siblings, extended family, friendships and relationships.

There is evidence of slowed physical growth among children living in institutions across the world. Lack of proper nutrition, unhygienic conditions, and limited resources for proper healthcare very often results in issues such as stunted body growth which leads to delayed or early puberty.⁵⁵

Children who experience institutional care are more likely to struggle to cope in adulthood and to abandon their children. They are: 10 times more likely to be involved in prostitution, 40 times more likely to get criminal records, 500 times more likely to commit suicide than children who have grown up in families.

Children in institutional care are exposed to high levels of violence or sexual abuse.⁵⁶

The negative impact of institutional care can last a lifetime, so it is critical that children are not exposed to institutional care settings and that they grow in families and in communities, and where that is not possible, alternative family care should be provided.

WHY IS INSTITUTIONALISATION SO PREVALENT?

Despite legislation prioritising family care and specifying that institutions should be used as a last resort, institutions are often the ‘easiest’ solution to place children in an emergency. This is due to the lack of a social welfare workforce, and systems and resources that are responsive enough to prevent separation, and to find a family solution for children within a community. Additionally, there is a lack of accessible family placement options, such as emergency and short-term foster care, so children are often placed into institutions due to lack of other family alternative placements.

Most CCIs lack the capacity, skills or resources to identify a family solution, whether that be reintegration to the biological family or an alternative family, leading to children remaining in an institutional setting for months or even years. CCIs often have vested financial interests in maintaining children in their CCI and therefore have limited motivation to reduce the number of children in their CCI.

Weak enforcement of legislation also means that CCIs are not monitored effectively, resulting in CCIs circumventing and avoiding regulations in order to continue to operate.

CAN INSTITUTIONAL CARE BE ELIMINATED ENTIRELY?

Yes, some countries have demonstrated that care systems can be developed without having long term institutionalisation as an option for children. Other countries are also developing strategies for the elimination of institutional care for children and prioritizing family-based alternative care systems. Furthermore, all major stakeholders, including the UN, UNICEF and European Union, agree that children under the age of three should not be exposed to any form of institutional care, as children under the age of three are even more vulnerable to the damaging effects of institutionalisation. The 2019 UN General Assembly resolution on the rights of the child (A/RES/74/133)⁵⁷ recognised the harm caused by institutionalisation and prioritized prevention and endorsed family and community-based care over institutions. While some community-based residential care facilities are appropriate in certain circumstances, such as providing specialized services for young adults transitioning to independent living, respite care or specialized services, states should prioritise developing care systems where institutionalisation is replaced with more appropriate family care alternatives.

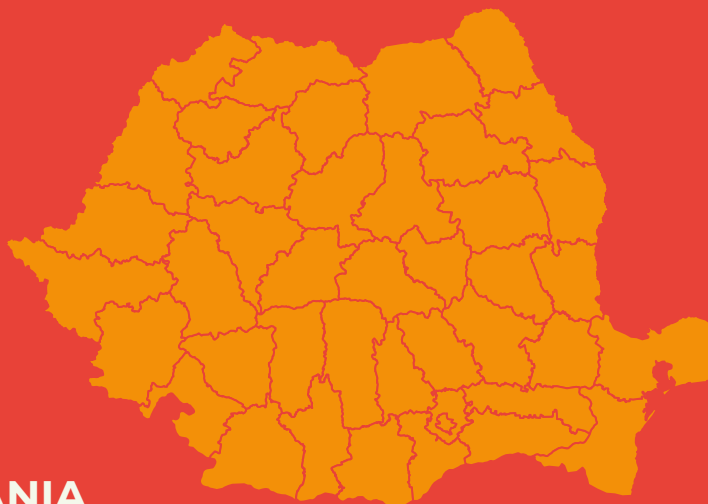
TRANSITIONING AWAY FROM INSTITUTIONAL CARE

Transitioning away from institutional care is not merely about closing institutions but taking a more holistic and collaborative approach at the national (policy) level, all the way down to the community and family level. This includes developing child-friendly systems and services that prevent children from being placed into institutions and ensure there are family alternative care placements available for children in need of care outside of their family. Critical in the transformation process is taking a broader perspective, assessing the community needs and developing appropriate community services aimed at children and their families to prevent family breakdown and to support families in need or those who care for children with special needs, such as professional foster carers. Planning for children to be moved from institutional care settings back into their families and communities will require all duty bearers to play their part with clearly defined roles and responsibilities. These activities should be brought together in an overarching country, state or/and district strategy owned by the relevant government department, using UNCRC as its framework to ensure that the needs and rights of each child are respected and protected in the transformation process.

Institutional care exists as a response (often a knee-jerk reaction) to a crisis. It provides a limited response (when compared to the needs of individual children) because it is built as a reactive intervention: it is available only when children's well-being is threatened. Transitioning from institutional care means becoming proactive in addressing risk factors and shifting the ability to families and communities, empowering them to take action. Transitioning away from it means building the mechanism that allows for early identification of risk factors and has a built-in response system that addresses risk factors before they become crises, therefore significantly limiting separation by reducing the perceived need for separation and institutionalisation. By reducing the perceived need for placement in institutions, it allows for more flexibility and better solutions for children who are separated from their parents: family-based options and community responses that strengthen families. The case studies show examples of where countries have been able to make significant progress in transitioning away from a reliance on institutional care.

TRANSITIONING AWAY FROM INSTITUTIONAL CARE: CASE STUDIES

There are growing examples of countries that have and are transitioning away from institutional care.



CASE STUDY: ROMANIA

Romania has undergone a significant transformation of its child protection and care system over recent decades, with several key pieces of legislation enacted and policy documents prepared.

In early 2000, there were over 100,000 children in care, predominantly in large scale institutions. The overall number of children in institutions for children has decreased to less than 4126 at the end of 2020, with a clear plan and strategy to transition all children into family and community-based care. Family-based care (including formal and informal foster care and kinship care) now constitutes the main form of care for children separated from their parents and far outweighs institutions.

The country went from complete reliance on institutional care as the only available solution for a variety of care and protection needs to a fully reformed child protection and care system that employs preventative mechanisms, gatekeeping and community development, emergency responses and a set of family-based and family-like alternative care for children without parental care.

Process and key milestones of the deinstitutionalization transformation process were as follows:

1. First stage of Reform - Instant and immediate pressure on the new government (1990s) to address the problem of children in institutions and the wider child protection challenges. However, for most of the decade, the Government attempted to fix the problem by refurbishing institutions and the country experienced massive and unchecked numbers of international adoptions, which it was hoped would reduce the number of children in institutions.
2. From 2001 to 2003, reform was initiated by the Romanian Government with massive support

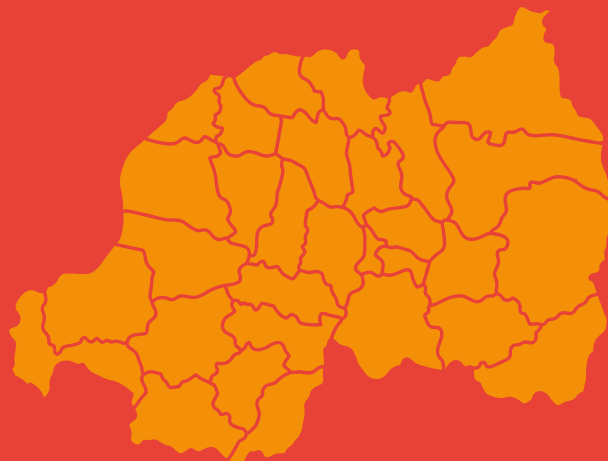
from CSOs. Alternative care continued to develop; foster care programs were initiated across the country and gained momentum. The first model of deinstitutionalization was implemented successfully on a larger scale and gained recognition from the Romanian National Authority for Child Protection, UNICEF and WHO. The first signs of aggregating political will manifested with the creation of the High-Level Group (HLG) for Romania's Children, under the high patronage of the Office of Prime Minister and the EU Rapporteur for Romania on the issue of children's rights. The HLG gathered representatives from the Ministries of Labour and Social Protection, Health and Education together with representatives of CSOs to work together to improve conditions for children without parental care.

3. Scaling up reform

- In January 2005, the first specific legislation for child protection was developed, marking a significant shift in the approach to care for children by considering transformation and development of alternatives as the pathway for improving the system, with a slow withdrawal from over-relying on institutions.
- In 2014 Romania adopted a ban on placing children under 3 in institutions, thus recognising the harm of institutions on children. Unfortunately, the legislative change was marred by the exclusion of children with disabilities, invoking that specialised care and attention needed.

4. Sustaining change

- In 2019 Romania adopted a complete ban on placing children under 3 in any form of residential care and increased the age of placing children in institutions to 7. Government legislation provisions stating that the date for closing all institutions should be the year 2021.
- In 2020, as the pandemic set in, child care and protection reform remained a priority, with the Government declaring the social workforce to be, essential personnel" and CSOs continuing the advocacy for further allocation of funds to continue the closure of large-scale institutions, supporting both Government and the EU for correct allocation of funding.
- 2021 – Child Protection Reform has reached the tipping point: the majority of children without parental care are in family-based alternatives (over 34,000), while significant numbers are covered by prevention services at the community level (53,294 children).



CASE STUDY: RWANDA

Before 1994, Rwanda had 37 institutions caring for 2,800 children. Following the dramatic increase in the number of orphans and separated and unaccompanied children as a result of the genocide against the Tutsi as well as AIDS-related mortality, the number of institutions rose, and by 1995 there were 77 facilities caring for some 12,700 children.

By 2007, the work of CSOs secured the necessary high-level commitment for the development of strategy, policies and plans for comprehensive child protection reform focused on deinstitutionalization and alternative care across Rwanda. This was demonstrated through a national conference that year, attended by the President, and a supportive declaration from him in favour of family-based and alternative care.

In 2010, MIGEPROF, the line Ministry, committed to reducing the number of children living in and entering institutional care through the closure of institutions and the development of sustainable, community-based alternative care services. A combined demonstration project and research to create the evidence base and model for deinstitutionalization were developed and rolled out.

Deinstitutionalization is the process of eradicating institutional care through the development of prevention and family support services and family-based alternative care. HHC's model focuses on the targeted closure of children's institutions alongside the development of appropriate services and building the capacity to sustain a family-based care system. HHC piloted this model in Rwanda through the closure of more PEFA institutions in partnership with the Ministry of Gender and Family Promotion (MIGEPROF) in 2011/2012. The aim was to find a permanent family for every child living in the institution, enabling complete closure of this institution, and to prevent new children from being placed in institutional care.

By 2018, progress in the childcare reform led to around 70% of the children without disabilities being reunited with their families or placed in suitable forms of family-based alternative care. According to internal data from Hope and Homes for Children Rwanda, by 2020, this increased to 87% (3303 children/young adults).⁵⁸



There is a need to shift the focus of interventions from an over-reliance on the institutionalisation of children and move towards more family and community-based alternatives for care. Institutionalisation should be used as a measure of last resort after all other options have been explored.

CPS

IMAGE CREDIT: HOPEANDHOMES/JACINTA_03_KFT_INDIA

RESOURCES

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Mapping long term outcomes for institutionalisation of children in need of care and protection in India, Make a Difference, 2019

The report of the committee for analysing data of mapping and review exercise of CCIs under JJA, 2015 and other homes, Ministry of Women and Child Development, Government of India, 2018

KINSHIP CARE

WHAT IS KINSHIP CARE?

Kinship care can be understood as a living arrangement where a child is cared for by a relative or close family friend known to the parents when the parents cannot care for their children. The kinship caregivers can be grandparents, other relatives, including older siblings, aunts and uncles. Kinship care comes naturally to kin motivated by the responsibility to care for 'their own'. In some cultures, kinship care can extend to community/clan/tribe members, while there are also many countries where the scope of kinship care is limited to blood relations. Kinship care covers a diverse array of different arrangements, each associated with varying degrees of risk and benefit for the child and caregiver. Recognizing that kinship care involves multiple forms rather than one form of care is essential for developing appropriate responses.⁵⁹

Kinship care is practised traditionally as a non-formal alternative care option in India. In some contexts, relatives, close family friends, and even neighbours and communities can assume the role of primary caregivers. It remains largely a non-formal practice followed by communities and families without representation in policy and legislation. The Model Guidelines for Foster Care 2016 acknowledges non-formal kinship care as a customary practice embedded in the cultural milieu in communities in India. Furthermore, it advocates supporting non-formal kinship care practices through sponsorship programs as per the JJ Act 2015 or any other state-specific schemes. The Model Guidelines for Foster Care 2016 defines kinship care as family-based care within a child's extended or joint family. However, there is no further guidance on operationalising non-formal kinship care or kinship care as described in the Model Guidelines for Foster Care 2016.

The key components to ensure care and protection of children in kinship care could include:

- Focusing on protective factors: Building parental resilience, knowledge of parenting and child development, social connections including respite/emergency care support when a family is in crisis;
- Community support system: Building a nurturing and supportive environment through community-based child protection groups and linkages to community programs/ resources and access to needed government services that enable families to meet their basic needs and providing specialised referral services;
- Capacity building: Building capacities of the child protection workforce, including VCPCs, to provide support and monitoring to kinship families and children.

- Involvement of children and kinship carers in decisions; and
- Multi-sectoral approach: Providing strengthening support to families by bringing together programme-level and system-level partners from multiple sectors that cater to the different needs of children and families in kinship care – providing a common language and a set of outcomes to work towards.

WHY IS KINSHIP CARE A PREFERRED OPTION IN THE CONTINUUM OF CARE?

Kinship care provides an opportunity for children with inadequate parental care to be cared for in their ‘familial environment’ in the same cultural and community context while reducing the risk of institutional care. Thus, making it a preferred option in the continuum of care.

Kinship care can promote a sense of continuity for children. Children usually know their caregivers as they are family members and/or members of their community, share customs and languages, and it helps children to retain a sense of identity. In some cases, they can remain in the same community, positively impacting their sense of well-being and belongingness. Kinship care can offer more stability than other forms of alternative care as it keeps children in a familiar and consistent environment, which is critical for their learning and development.

CSOs and kinship carers in India share economic hardships and lack of access to support services that caregivers need to enable care for children as factors often limiting the caregivers from providing quality care and extending and continuing the care arrangement despite their willingness to do so.⁶⁰ The lack of support and monitoring mechanisms can also result in neglect and other forms of harm to children in kinship care. Hence, it is vital to understand the experiences of children and caregivers in kinship care and support kinship carers and children to safeguard the interests of children.

SHOULD KINSHIP CARE BE FORMALISED?

It is important to understand that kinship care comes naturally to families and communities in India. Historically, families have cared for relatives during times of illness, poverty, incarceration, death, violence or other family crises. In some communities in India, a child who has lost parents is not considered an orphan and is cared for by extended families and even communities.

Recognising the non-formal nature of kinship care widely practised in India, providing adequate support and ensuring monitoring mechanisms for children to have positive outcomes and

safeguard their interests is necessary. The discussion around formalising kinship care could focus on the following aspects:

- Kinship caregivers receive adequate support through financial incentives wherever needed to meet the child's needs, parental training, respite support, mentoring and other family strengthening support; and
- Better monitoring to ensure safety and suitability of care in the best interest of children, ensuring their holistic development.

This would require investment in capacity building of the child protection workforce for support, monitoring and safeguarding the interests of children. There is a need to build evidence on the experiences of children and caregivers and the role of the State, NGOs, and communities to support better outcomes for children in kinship care. The deliberations around kinship care could begin with an understanding that formalising it is different from legalising it, which is a practice in some countries. Kinship care practice needs better policies, schemes, and services to support the care of children in a family environment. At the same time, keeping the essence of the culturally specific solutions to preserve traditional protective factors should be central to any support and monitoring mechanisms.



IMAGE CREDIT: UNICEF/2019/KATRAGADDA

RESOURCES

Prioritising family strengthening and kinship care Submitted to the Committee on the Rights of the Child, Day of General Discussion 2021 on Rights of Children and Alternative Care, IACN, 2021

FOSTER CARE

WHAT IS FOSTER CARE?

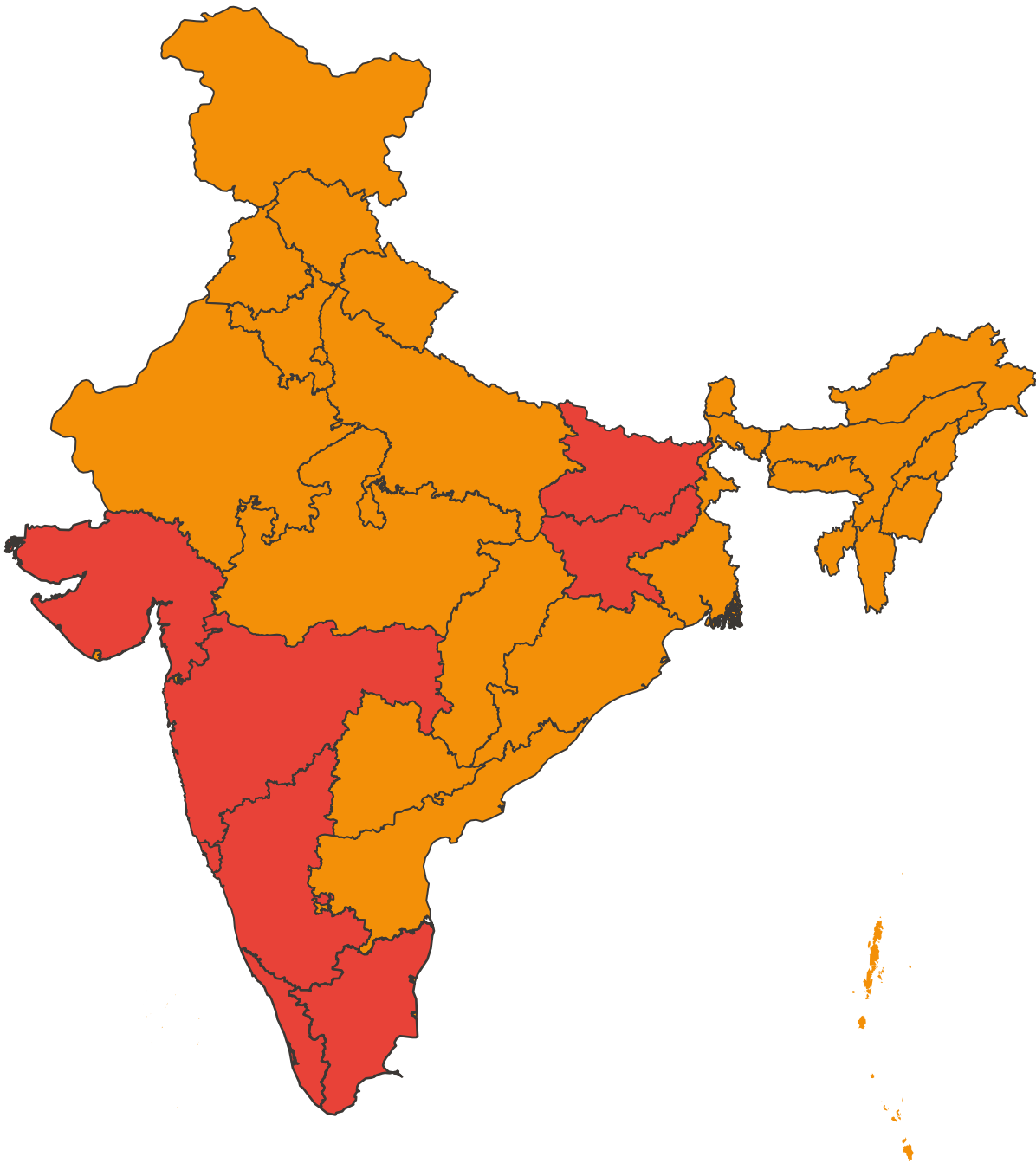
Foster care is a way of providing a safe and nurturing family environment to children when they are unable to live with their biological family. Foster care can be understood as a temporary living arrangement of a child without adequate parental care with a person who is not the parent, guardian, family member or extended family member of the child. The JJ Act 2015 and the Model Guidelines for Foster Care, 2016 also recognise group foster care, a family-like small residential care for a small group of children. Group foster care facilities are mandated to be registered as a fit facility as per the JJ Act 2015. Children between 0-6 years who are declared legally free for adoption and those who have been declared fit for adoption by the CWC are not considered for foster care as far as possible. The focus in such cases is to provide the child with a permanent family as per the adoption regulations.

While placing a child in foster care, preference is given to families who share the same cultural and community context as the child. The foster parents are appointed after due diligence and assessment and subject to regular monitoring to ensure the delivery of quality care to children. As far as possible, siblings are placed in the same foster family or fit facility. All decisions about foster care placements are made on a case-to-case basis and with due consultation with children and their parents and guardians. Unlike adoption, the child in foster care remains the legal responsibility of the parents or the State. The child in foster care may be reintegrated with their family or can be adopted by foster parents or any other family as per adoption regulations.⁶¹

WHAT IS THE STATUS OF FOSTER CARE IN INDIA?

Foster care in India is in its early stages, and its implementation is still limited. Isolated efforts in foster care have been successful in India during times of natural disaster such as the earthquake in Maharashtra in 1993; the earthquake in Gujarat in 2001; the cyclone in Marissa in 2000; and the tsunami in 2004.⁶² The recognition of foster care in the JJ Act 2015 and the JJ Model Guidelines, 2016, as a means of providing family-based care to children has led to the initiation of more concerted and standardised efforts to formalise foster care. The Model Guidelines for Foster Care, 2016 outline provisions and processes for when foster care for children is required, the edibility criteria of children and prospective foster parents, the selection and assessment of foster carers, placement in foster care, provision of support to foster families and children, roles and responsibilities of concerned

stakeholders and monitoring the foster care placements. The States of **Bihar, Goa, Gujarat, Jharkhand, Karnataka, and Maharashtra** also have schemes and guidelines that enable non-institutional family-based care, including foster care. Some states, e.g., **Bihar⁶³, Kerala⁶⁴, Tamil Nadu⁶⁵** etc., have initiated foster care programmes that are at the nascent stage.



WHAT ARE THE DIFFERENT CONTEXTS IN WHICH FOSTER CARE CAN BE PRACTICED TO PREVENT INSTITUTIONALISATION OF CHILDREN?

Foster care can be used in different circumstances according to the need of children and parents wherever applicable to reduce the need for institutional care while providing care with better outcomes for children in a family environment, within the framework of the JJ Act 2015 and the Model Guidelines for Foster Care, 2016:

- Emergency and short-term foster care can be provided to children who need care for a short duration during a crisis in their own family or a disaster/emergency when children need temporary care while a permanent care solution is being worked on;
- Medium-term foster care can be provided until a child's family can resume the care of the child, or when efforts are made to trace the family in case the child is missing or lost;
- Extended foster care can be provided when children cannot return to their family or find an adoptive family and need consistent care for the rest of their childhood;
- Respite foster care can be offered to children while their parents/caregivers need some support to care for the children – this could be appropriate for those looking after children with special needs;
- Additionally, there can be specialist foster care placements for children with specific needs, such as foster care for children with special needs and foster care for children with disruptive or challenging behaviour.

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AFTERCARE

WHAT IS AFTERCARE?

Aftercare services as per the JJ Act 2015 aim to prepare children exiting CCIs to sustain themselves during the transition from a life in care to independent life and enable their smooth transition from childhood to adulthood until the age of 21. Aftercare services support the youth making this transition in their education and vocational skills, apprenticeship/ jobs/ livelihood/ entrepreneurship for socioeconomic self-reliance, developing life skills such as self-esteem, communication skills and interpersonal relationship skills, and developing independent living skills and citizenship rights and responsibilities. Globally, aftercare services are inclusive of providing support to all young people with lived experience in care.

The UNGACC emphasises the following aspects for strengthening aftercare services:

- Childcare agencies and facilities should systematically aim at preparing children to assume self-reliance and to integrate fully into the community. The focus of actions should be on the acquisition of social and life skills through participation in the life of the local community.
- The process of transition from care to aftercare should consider children's gender, age, maturity and unique circumstances.
- Children leaving care should be encouraged to take part in the planning of aftercare life. Children with special needs, such as disabilities, should benefit from an appropriate support system. The public and the private sectors should be encouraged to employ children from different care services, particularly children with special needs.
- Special efforts should be made to allocate to each child, whenever possible, a specialised person who can facilitate the child's independence when leaving care.
- Aftercare should be prepared as early as possible, well before the child leaves the care setting.
- To make young people financially independent, they should be imparted educational and vocational training. This should be considered as part of their life skills education.
- Young people should have access to social, legal, health and financial services.

WHY SHOULD YOUTH IN CARE BE SUPPORTED AS THEY MAKE THE TRANSITION FROM CARE?

Transitioning into youth and adulthood is a significant period in every child's life that brings its fair share of challenges and opportunities. Young people with experience in care may find this change particularly difficult as they are navigating their way from formal care into independent or assisted living- which for most of them may mean starting life from scratch with no support system.

Aftercare is a crucial final stage in the continuum of care, as it ensures preparation and subsequent rehabilitation and reintegration of a young adult with lived experience of formal care. Preparing the youth leaving care for rehabilitation and social reintegration after they leave care is an important area of work in India that needs attention. However, due to inadequate planning, policy and implementation of the aftercare services, these youth are usually among the most socially excluded and vulnerable people in society. Aftercare is necessary for children in need of care and protection and children in conflict with the law who require further assistance for rehabilitation from formal care and/or institutional care to independent living.

Most children enter care in the absence of adequate parental care and carry the inherent trauma of separation, in addition to the trauma of factors that lead to their separation, and may not have either familial relationships to go back into or families where they are accepted and welcome. Furthermore, in the case of institutional care, children who enter CCIs at a young age have no reference point of life outside the CCIs. In the absence of continued support in the form of aftercare services, such young persons are known to face adjustment issues at home, work, and society. They are often pushed to homelessness, unemployment, and substance abuse, leading to further abuse and exploitation. Investment in aftercare services is also essential to prevent the total loss of investment of time, skills, and resources on children during their stay in formal systems of care.

Aftercare services for young people with lived experience in care ensure that they are not marginalised further and stand a chance of achieving better outcomes in life, instead of slipping into the same circumstances that pushed them into care in the first place.

WHAT ARE THE KINDS OF SUPPORT SERVICES THAT YOUTH NEED DURING THEIR TRANSITION FROM CARE?

The transition of children from CCIs or other care settings into independent or assisted living as they enter into youth is a tumultuous period. Some prime concerns include obtaining

identity documents that will allow them to access formal jobs, social protection benefits and services and continuing education. These challenges are compounded by the absence of mental health services and a lack of a robust social support system to fall back on. The JJ Model Rules 2016 lists a range of services under aftercare such as group housing, financial support and scholarship for higher education, access to mental health services and recreation and support with income generation activities to enable young people with lived experience in care to become independent.

Young people with lived experience in care express the need for the following support services as part of aftercare:⁶⁶



■ **Support and preparation to leave care:**

Preparing children for transition while they are in CCIs or other forms of care with life skills, including independent living skills, is essential as long-term adult outcomes depend on this critical process.



■ **Support for better and long-term education outcomes:**

Young people with lived experience in care should have access to free quality higher education to have better outcomes in life. Most young people with lived experience in care cannot continue their studies beyond school as they leave care due to a lack of adequate financial support for sustenance and end up in the unskilled and informal work sector.



■ **Accommodation:**

Young people with lived experience in care should have access to accommodation when they move out of care. This could be in the form of group housing or an aftercare home.



■ **Health and Nutrition:**

Aftercare services should include food stipend/allowance and health care inclusive of medical insurance.



■ **Emotional and mental health support:**

Peer support groups of young people with lived experience in care can act as a support system. Provisions for access to mental health and counselling services to all the young people with lived experience in care.



■ **Legal identity and representation:**

Before young people with lived experience in care move out of CCIs or care, they should have the primary documents in place and bank accounts set up in their name.



■ **Financial support:**

Provision of financial support in the form of a monthly stipend and one-time settlement amount and customised support to care leavers depending on the crisis they are going through, till 21 years or 23 years. The JJ Act 2015



makes provisions for aftercare support till 21 years.

■ **Skill development:**

Young people with lived experience in care are being provided with the necessary skill sets (life skills, functional skills, career counselling, tech skills, and digital literacy) depending on their aptitude and in line with emerging market trends. Skill development should begin while children



are still in care.

■ **Support in employment and career progression:**

A dedicated person/unit in the child protection system should be assigned to help young people with lived experience in care become job-ready, acquire market-related skills, be given internships in government and private sectors, and be made aware of and offered reservation in government jobs.



■ **Awareness and knowledge of schemes and services:**

The transitioning preparation and aftercare support should involve awareness of accessing existing schemes and services that young people with lived experience in care are eligible for and redressal mechanisms when they are denied access to such services.



IMAGE CREDIT: HOMEANDHOMES/S AJAY KUMAR/RS198

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