

**REPORT ON THE FUNCTIONING OF**  
**CHILD CARE AGENCIES**  
**IN THE STATE OF MAHARASHTRA AS**  
**PER SUPREME COURT DIRECTIONS**  
**IN SAMPURNA BEHURA v.**  
**UNION OF INDIA**

---

**BY:**

**Maharashtra State Commission for  
Protection of Child Rights**

**in collaboration with  
International Justice Mission, Mumbai**

**and  
Knowledge Partners  
Tata Institute of Social Sciences, Mumbai**





**REPORT ON THE FUNCTIONING OF  
CHILD CARE AGENCIES  
IN THE STATE OF MAHARASHTRA AS  
PER SUPREME COURT DIRECTIONS  
IN SAMPURNA BEHURA V.  
UNION OF INDIA**

# ACKNOWLEDGEMENTS

## ADVISORY COMMITTEE

Chairperson - **Hon'ble Justice (Retd.) V.M. Kanade**, High Court of Bombay

**Mr. S.V. Yerlagadda**, Jt. Director, Maharashtra Judicial Academy and Indian Mediation Centre and Training Institute

**Mr. Krishna Prakash** IPS, Special Inspector General of Police, Administration

**Mr. Ravi Patil**, Deputy Commissioner, Commissionerate of Women & Child Development, Maharashtra State, Pune

**Mr. S.R. Salunkhe**, Secretary, High Court Legal Services Committee, Mumbai

**Ms. Melissa Walavalkar**, Director of Operations, International Justice Mission, Mumbai (IJM)

## ACADEMIC ADVISORY BOARD

**Prof. Arvind Tiwari**, Dean School of Law, Rights & Constitutional Governance, TISS as Domain Expert.

**Prof. Anil Sutar**, School of Research Methodology, TISS as Methodology Expert.

**Dr. Mohua Nigudkar**, Chairperson, Centre for Equity and Justice for Children and Families, School of Social Work, TISS as Domain Expert.

## CORE TEAM

**Mr. Uday Jadhav**, IAS, Member Secretary, Maharashtra State Commission for Protection of Child Rights (MSCPCR)

**Ms. Seema Vyas**, IAS, Former Member Secretary, MSCPCR

**Mr. Pramod Badigi**, Legal Advisor, MSCPCR

Project Head – **Yesudas Naidu**, Head, Partnership Development, IJM

Project Manager – **Mary Sebastian**, Regional Senior Lead, IJM

Methodology and Data Analyst – **Melita Vaz**, Consultant, IJM

Data Coordinator – **Chetana Iyer**

Report Writing – **Melita Vaz, Madhuri Kamat, Mary Sebastian**

## FIELD RESEARCH TEAM

**Mr. Neeraj Kumar**, Sr. Research Consultant

**Ms. Sunandini**, Research Consultant

**Mr. Ankit Keshri**, Research Consultant

**Ms. Akshita Singh**, Research Associate

**Ms. Anushka Chaturvedi**, Research Associate

**Ms. Shweta G**, Research Associate

**Mr. Vikas Parashar**, Research Associate

This research was made possible through the support and diligence of many staff in MSCPCR and IJM including **Sanjay Macwan, Ajoy Varghese, Catherine Gabriel, Shalini Newbigging, Jeshua Holmes, Kile D'Souza, Carol Pereira, Christine Roberts, Deepak Kumar** and many more.



# FOREWORD

The Supreme Court in *Sampurna Behura v. Union of India* (Writ Petition (Civil) No. 473 Of 2005) directed state child rights commissions to “carry out time-bound studies on various issues, as deemed appropriate, under the JJ Act. An urgent need to study the structural and infrastructural compliances of childcare institutions was identified. Therefore, Maharashtra State Commission for Protection of Child Rights (MSCPCR) and International Justice Mission (IJM) partnered to conduct a Study under the directions in the *Sampurna Behura* judgment on the protection and safeguard measures for children in childcare agencies in Maharashtra.

Children's rights, rehabilitation, and social integration are primary objectives as well as the most challenging tasks for childcare institutions, everywhere. This report assesses specific childcare and protection bodies in six selected districts of Maharashtra under the JJ Act and other acts to understand the existing issues and challenges in the system. Thus, the report unravels and studies specific childcare and protection bodies under the JJ Act 2015 and POCSO Act in selected districts of Maharashtra, identifies gaps in the implementation of the acts, understands systemic factors affecting proper implementation of the acts, assesses the quality and adequacy of infrastructure, and suggests appropriate recommendations and solutions to enhance functioning of the agencies for further action by respective officials.

The study has been guided by an Advisory Board, chaired by Hon'ble Mr. Justice VM Kanade, Retd. High Court of Bombay and members from law enforcement and judicial institutions. The presence of multi-sector stakeholders in the Advisory Board lends the Study due subject matter guidance and marks the intentionality of the system to work cohesively to improve the system for the sake of our children. The contributions of Tata Institute of Social Sciences in providing robust academic support are deeply appreciated. I appreciate International Justice Missions able support and pioneering partnership in conducting this study.

Through the findings and recommendations stemming from this study, the Commission is optimistic that, structural gaps in the childcare system in the State will be addressed and lead to special attention for the development, well-being and overall reintegration of children in mainstream society.

**Mr. Uday Jadhav, IAS**

Member Secretary

MSCPCR



## SPECIAL MESSAGE

Maharashtra State Commission for Protection of Child Rights (MSCPCR) partnered with International Justice Mission (IJM) to conduct a study on the Functioning of Child Care Agencies in the State of Maharashtra as per Supreme Court Directions in Sampurna Behura v. Union of India (Study). This research unravels the existing functioning of Child Care Agencies and identifies the reasons why they are unable to yield better outcomes for children and how they can be strengthened to restore the children to their families or communities.

In a short span of time, the childcare system has taken great strides in protecting and safeguarding children in the State of Maharashtra. An increased priority has been placed to tackle systemic, operational, and attitudinal challenges within the child protection bodies and Child Care Institutions. However, structural, and functional gaps have hindered the holistic development and rehabilitation of children and led to infringement of children's rights.

This report draws attention to issues in staffing, timely Grant-in-Aid for Child Care Institutions (CCIs), CCI Practices: Adherence to JJ Rules, Infrastructure at CCIs, Recreation Facilities for Children, Educational and Vocational Training, Emergency Facilities, Autonomy and Privacy of the Child, Mental Health and Safety, Convergence, Capacity Building of Juvenile Justice Board & Child Welfare Committees, and a Special Juvenile Police Unit.

Our team has had the proud privilege to work shoulder to shoulder with MSCPCR to enable the holistic development and social reintegration and rehabilitation of children in the State of Maharashtra in keeping with the Juvenile Justice Act's primary objective.

I am grateful to the Maharashtra State Commission for Protection of Child Rights whose vigour and fortitude to serve the well-being of children in the State is reflected in initiatives such as this Study. I am deeply grateful to the members of the Advisory Board under the Chairmanship of Hon'ble Mr. Justice VM Kanade, Retd. High Court of Bombay. Their invaluable guidance has helped the Study unearth context-specific and imminent issues which can propel problem solving and design of solutions. The Tata Institute of Social Sciences academic support lends the study robust intellectual and research backing. My sincere thanks for their partnership.

On behalf of IJM, I thank all practitioners in the system whose diligent and silent efforts make an intangible difference in the lives of so many children in need of care and protection in the State of Maharashtra. While we have made a lot of progress, we must pause and acknowledge shortcomings in the process in our quest to deliver the best to our children. We hope this Study proves a critical contributor in doing that and more.

**Ms. Melissa Walavalkar**

Director of Operations,  
International Justice Mission



## ABBREVIATIONS

<b>CCA:</b>	Child Care Agency
<b>CCI:</b>	Child Care Institution
<b>CCL:</b>	Children in Conflict with Law
<b>CNCP:</b>	Children in Need of Care and Protection
<b>CPCR:</b>	Commission for Protection of Child Rights
<b>CPS:</b>	Child Protection Services Scheme
<b>CSA:</b>	Child Sexual Abuse
<b>CWC:</b>	Child Welfare Committee
<b>CWPO:</b>	Child Welfare Police Officer
<b>DCPCR:</b>	Delhi Commission for the Protection of Child Rights
<b>DCPO:</b>	District Child Protection Officer
<b>DCPU:</b>	District Child Protection Unit
<b>DLSA:</b>	District Legal Services Authority
<b>DWCD:</b>	Department of Women and Child Development
<b>DV Act:</b>	Domestic Violence Act
<b>HIR:</b>	Home Inquiry Report
<b>HQ:</b>	Head Quarters
<b>ICDS:</b>	Integrated Child Development Scheme
<b>ICP:</b>	Individual Care Plan
<b>IPC:</b>	Indian Penal Code
<b>JJA:</b>	Juvenile Justice Act
<b>JJB:</b>	Juvenile Justice Board
<b>JJC:</b>	Juvenile Justice Committee
<b>LCPO:</b>	Legal cum Probation Officer
<b>MWCD:</b>	Ministry of Women and Child Development
<b>NALSA:</b>	National Legal Services Authority
<b>NCPCR:</b>	National Commission for Protection of Child Rights
<b>NCRB:</b>	National Crime Records Bureau
<b>NIPCCD:</b>	National Institute of Public Cooperation and Child Development
<b>NGO:</b>	Non-Government Organisation
<b>PIL:</b>	Public Interest Litigation
<b>PO:</b>	Probation Officer
<b>POCSO:</b>	Protection of Children from Sexual Offences



<b>PWD:</b>	Public Works Department
<b>RTE:</b>	Right to Education
<b>SCC-JJ:</b>	Supreme Court Committee on Juvenile Justice
<b>SCPS:</b>	State Child Protection Society
<b>SIR:</b>	Social Investigation Report
<b>SJPU:</b>	Special Juvenile Police Unit
<b>UNCRC:</b>	United Nations Convention on the Rights of the Child
<b>UNICEF:</b>	United Nations International Children’s Emergency Fund
<b>UNGAC:</b>	United Nations Guidelines for the Alternative Care

---

# TABLE OF CONTENTS

<b>Chapter I. OVERVIEW</b>	<b>19</b>
<b>1. Introduction</b>	<b>19</b>
<b>2. Legal Framework</b>	<b>20</b>
2.1. The Genesis of the Juvenile Justice Act	20
2.2. International Instruments and their Impact	21
2.3. The United Nations Convention on the Rights of the Child	22
2.4. Child Protection Safety Net	23
2.5. Child Rights Commissions	26
2.6. Court Committees on the Juvenile Justice Act	26
<b>3. The Supreme Court Directions in Sampurna Behura v. Union of India, 2018</b>	<b>27</b>
<b>4. Review of Literature</b>	<b>29</b>
4.1. Background of the Child in Child Care Institutions	31
4.2. State of the Child in Child in Child Care Institutions	34
4.3. Rehabilitation of the Child in Child Care Institutions	36
4.4. The State of Child Care Agencies in India	37
4.4.1. Insufficient Infrastructure	38
4.4.2. Scarcity of Trained Human Resources	39
4.4.3. Lack of Awareness	40
4.4.4. Overburdened System	41
4.4.5. Remuneration	42
<b>5. Rationale of the Study</b>	<b>43</b>
<b>Chapter 2. RESEARCH METHODOLOGY</b>	<b>47</b>
<b>1. Introduction</b>	<b>47</b>
1.1. Objectives of the CCA Study	47
1.2. Oversight Processes	48
<b>2. Scope of the CCA</b>	<b>49</b>
2.1. Site Selection	49
2.2. Sample Selection	49
<b>3. Research Design</b>	<b>51</b>
3.1. Tools and Data Gathering Protocols	52
3.2. Data Gathering Protocols and Experiences	52
3.3. Data Processing and Analysis	53
3.4. Actual Study Sample	54
<b>4. Strengths and Limitations of the Study Design</b>	<b>57</b>

## **Chapter 3. CHILD CARE INSTITUTIONS: CHILDREN AND PERSONNEL 61**

<b>1. Introduction</b>	61
1.1. CCA Study Data on Child Care Institutions	63
1.2. Registration Status and Aid	64
<b>2. CCA Study Data on the Children in Child Care Institutions</b>	65
2.1. Number and Category of Children	65
2.2. Age-wise Distribution of Children	65
2.3. Observations on Age and Gender of Children	67
2.4. Duration of Stay of Children in Child Care Institutions	67
2.5. Observations on Duration of Stay of Children in Child Care Institutions	69
<b>3. Staffing Patterns in Child Care Institutions</b>	69
3.1. CCI Superintendent	73
3.1.1. Educational qualification of CCI Superintendent	73
3.2. Probation Officer	74
3.2.1. Educational Qualifications of Probation Officer	74
3.3. Counsellor	74
3.3.1. Educational Qualification of Counsellor	74
3.4. Tutor or Teacher	74
3.5. Medical Officer and Nurse	75
3.6. Houseparent/Caretaker	75
3.7. Cook	76
3.8. Security Guard	76
<b>4. Conclusion</b>	76

## **Chapter 4. CHILD CARE INSTITUTIONS: PROCESSES AND SERVICES 81**

<b>1. Introduction</b>	81
<b>2. CCA Study Data on Services in Child Care Institutions</b>	81
2.1. Food and Cooking Arrangements	81
2.2. Clothes and Bedding	83
2.3. WASH Facilities	84
2.4. Living Conditions	86
2.5. Medical Services and Safety Training	87
2.6. Recreation	87
2.7. Education and Vocational Training	89
<b>3. CCA Study Data on Processes in Child Care Institutions</b>	92
3.1. Individual Care Plans	92
3.2. Committee Formation	96
<b>4. Conclusion</b>	97

## **Chapter 5. CHILD PROTECTION BODIES AND CO-ORDINATING AGENCIES** 101

<b>1. Introduction</b>	101
<b>2. Child Welfare Committee</b>	101
<b>3. Juvenile Justice Board</b>	110
<b>4. District Child Protection Unit</b>	117
<b>5. Special Juvenile Police Unit</b>	120
<b>6. Conclusion</b>	121

## **Chapter 6. PROCESSES AND SERVICES AT CHILD PROTECTION BODIES AND CO-ORDINATING AGENCIES** 125

<b>1. Introduction</b>	125
<b>2. Documentation of Processes in Case Files at Child Welfare Committees</b>	125
2.1. Case Monitoring Sheet	125
2.2. Social Investigation Report	126
2.3. Individual Care Plan	127
2.4. Implications of Findings	127
<b>3. CWC members' narratives on Case Progress and Documentation</b>	128
3.1. Narratives on Social Investigation Reports and Social Background Reports	130
3.2. Narratives of Child Protection Bodies on Individual Care Plans	135
3.3. Narrative of Child Protection Bodies on Education and Vocational Training	136
<b>4. Challenges in Working with Specific Categories of Children</b>	139
4.1. Facilitating Repatriation of Children from Outside the state	139
4.2. Facilitating Restoration of Children with Difficult Family Circumstances	140
4.3. Dealing with Child Sexual Abuse within the CCIs	141
4.4. Dealing with Children Accused of Rape	142
4.5. Dealing with Eloping Children Accused of Rape	142
<b>5.0. Conclusion</b>	144

## **Chapter 7. PROBATION OFFICER** 147

<b>1. Introduction</b>	147
<b>2. Role and Functioning</b>	147
<b>3. High Vacancies</b>	153
3.1. Extra Charge	155
3.2. Consequences of Under-Staffing	156
<b>4. Training and Preparedness</b>	157
<b>5. Conclusion</b>	158

## **Chapter 8. HUMAN RESOURCES ISSUES**

163

<b>1. Introduction</b>	163
<b>2. High Vacancies</b>	163
<b>3. Consequences of Under-Staffing</b>	164
<b>4. Task Shifting</b>	167
4.1. Extra Charge	167
<b>5. Salaries</b>	169
<b>6. Training</b>	170
<b>7. Conclusion</b>	171

## **Chapter 9. RECOMMENDATIONS**

175

<b>1. Child Care Institutions</b>	175
<b>2. Child Welfare Committees</b>	179
<b>3. Juvenile Justice Board</b>	181
<b>4. Special Juvenile Police Unit</b>	182
<b>5. Probation Officer</b>	182
<b>6. Children in Difficult Situations</b>	183
<b>7. Conclusion</b>	184
<b>8. The Way Forward</b>	187



# INDEX OF TABLES AND FIGURES

<b>Table 1:</b> Child Protection System	24
<b>Table 2:</b> Categories of Children in CCIs in India	32
<b>Table 3:</b> Sample of CCI Personnel	54
<b>Table 4:</b> Sample of Residents in Aftercare Homes	55
<b>Table 5:</b> Sample of Child Protection Authorities	56
<b>Table 6:</b> Maharashtra State CCIs	63
<b>Table 7:</b> CCA Study Data on Child Care Institutions	64
<b>Table 8:</b> Ratio of Female Staff in CCIs as per Gender to Total	71
<b>Table 9:</b> Staffing Reported by CCIs	72
<b>Table 10:</b> Library Facility in CCIs	89
<b>Table 11:</b> Vocational Training by CCIs	90
<b>Table 12:</b> Vocational Training for Girls and Boys in CCIs	91
<b>Table 13:</b> Existence of Individual Care Plan in the Children's Records	93
<b>Table 14:</b> Adherence of CCIs to JJ Rules	96
<b>Table 15:</b> Child Safety and Planning Processes as evidenced in the CWC Case Records	126
<b>Table 16:</b> The Extra Charge Index Scores	168
<b>Figure 1:</b> Past and Present Approaches in Child Care System	25
<b>Figure 2:</b> Typology of Child Care Institutions under the JJ Act, 2015	61
<b>Figure 3:</b> Institutional Care for CCL and CNCP	63
<b>Figure 4:</b> District-wise Age distribution of Girls and Boys in Children's Homes and Observation Homes	65
<b>Figure 5:</b> District-wise Length of Stay of Girls and Boys Children's Homes and Observation Homes	67
<b>Figure 6:</b> Ratio of Sanctioned Staff to Appointees in CCIs	70
<b>Figure 7:</b> Ratio of Permanent Staff in CCIs to Total Staff	70
<b>Figure 8:</b> Ratio of Female Staff in CCIs as per gender to Total	71



# **Chapter 1**

## **OVERVIEW**



“There can be no keener revelation of a society’s soul than the way in which it treats its children.”

– Nelson Mandela

## Chapter 1 OVERVIEW

### 1. Introduction

The idea of “the instruction of profligate youth” in institutional treatment was mooted for the first time in *Rome* by Pope Clement XI. In 1816 England, Elizabeth Fry opened the first school for children staying in jails with their parents. A pioneer of prison reforms and activism to end capital punishment, she later opened a Reform School in 1825 for female juvenile delinquents and offenders.<sup>1</sup> In colonial India, Savitribai Phule broke caste shackles to become the first female teacher who went on to open the first schools for all castes and communities for women and girls. In 1853, she started the first care shelter to offer support to child widows and prevent infanticide from fear of social ostracism after they became pregnant from sexual assault. In 1863, Savitribai opened an orphanage for destitute women, pregnant child brides and widows discarded by their families. The facilities opened by these pioneering women in the 1800s, became the precursor to institutional care arrangements made by the State and civil society that went beyond orphanages for children without parents to cover all vulnerable children.

Today, institutional care is the single largest and most preferred arrangement in India to provide care and protection to children without adequate means of support. Currently, 9,589 such institutions cater to the needs of approximately 3.8 lakh children<sup>2</sup> who fall within the ambit of the Juvenile Justice (Care and Protection) Act, 2015 (JJ Act, 2015). This is the foremost legislation in India that provides for institutional care and non-institutional support, guaranteeing the protection, security, education and all aspects of well-being of a child in need of care and protection and a child in conflict with law.

This chapter provides the history of the JJ Act, 2015 and international instruments on child rights; an analysis of the *Sampurna Behura v. Union of India*<sup>3</sup> judgment of 2018 regarding the status of the JJ Act, 2015’s implementation; a literature review of the state of institutional care and the child therein, and ends with the rationale for this research study.

---

<sup>1</sup> International Journal of Legal Development and Allied Issues: Juvenile Justice in India. (March 2019). <https://thelawbrigade.com/criminal-law/juvenile-justice-in-india/>

<sup>2</sup> Ministry of Women and Child Development (MWCD), Government of India (GOI): “The Report of the Committee (Main Report: Volume I) for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care and Protection of Children) Act, 2015 and Other Homes”. (2018). Available at: <https://wcd.nic.in/sites/default/files/CIFpercent20Reportpercent201.pdf>

<sup>3</sup> (2018) 4 SCC 433



## 2. Legal Framework

### 2.1. The Genesis of the Juvenile Justice Act

#### Pre-Independence Legislation

In British India, the Apprentice Act of 1850 was the first legislation dealing with children in conflict with law, in which the court could treat children committing petty offences as apprentices rather than sending them to prison. Then came the Reformatory School Act of 1897, which allowed children sentenced to imprisonment to be sent to a reformatory school instead. This was followed by the Act of Criminal Procedure, 1898 providing special treatment for juvenile offenders. After the Indian Children Act by the Indian Jail Committee (1919-1920) highlighted the need for a fair trial and treatment of young offenders, and establishing schools for them rather than lodging them in jails<sup>4</sup>, the Provincial Governments in Madras, Bengal and Bombay passed their own Children Acts in 1920, 1922 and 1924, respectively. The Borstal Schools Act was enacted in 1929 for the detection, training and treatment of adolescent offenders with the first Borstal School established in Punjab in 1912. Borstal Schools under the prison administration continue in nine states in India till date<sup>5</sup>. These Acts helped to separate children from the judicial system of adult offenders. "The philosophical foundation for the separate juvenile court was based on the doctrine of *parens patriae* (*parent of the country*) evolved by the Chancery courts in 15th-century England. The doctrine permitted the State/juvenile courts to intervene, take custody and to care for the children when the parents failed to protect their children, thus paving way for the juvenile courts to assume jurisdiction over the dependent, neglected and the delinquent children."<sup>6</sup>

#### Post-Independence Legislation

The Constitution spelt out the State's responsibilities towards its children and guaranteed their rights and protection. Children are entitled to rights to equality, protection from discrimination, freedom of speech and expression, protection of life and liberty, and prohibition of trafficking and forced labour under Articles 14, 15, 19(1)(a), 21, and 23 respectively. Further, there are specific provisions directed towards children such as for free and compulsory education between the ages of 6 and 14 (Article 21A) and prohibition of employment of children in hazardous occupations (Article 24). Article 39 under the Directive Principles of State Policy

---

<sup>4</sup> Pande, B.B.: "In the name of Delhi gang rape: The proposed tough Juvenile Justice Law reform initiative", *Journal of National Law University* 2, pp. 145-166 (2014), in Kumar S.: "Shifting Epistemology of Juvenile Justice in India" in *Contexto Internacional* (Jan/April 2019, Vol. 41 (1)).

<sup>5</sup> Bhattacharya S.: "Juvenile Justice - An Indian Scenario", 83 (2000), in Chaitra, V.: *From protection to accountability a critical analysis of juvenile justice system in India with special reference to the state of Karnataka* (Bangalore, National Law School of India University, 2018).

<sup>6</sup> Dunham, H. Warren: "The Juvenile Court: Contradictory Orientations in Processing Offenders", 23 *Law and Contemporary Problems*, pp. 508, 509 (Summer 1958) in Chaitra, V. (2018), op. cit. Available at: <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2763&context=lcp>,

“mandates that state policy aims to prevent citizens from being ‘forced by economic necessity to enter vocations unsuited to their age or strength’ and to protect their health and strength from abuse. It further stipulates that state policy should ensure ‘that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.’”<sup>7</sup> Article 45 calls for State provision for early childhood care and education for all children up to the age of six years. Article 47 enjoins the State to enhance the standards of living and improve health and raise the nutrition level.

Unlike the pre-Independence State legislations, which sub-classified juveniles based on their age and subjected them to different institutional arrangements, post-Independence legislations brought all the juveniles up to the age of eighteen years under a single reformatory institution<sup>8</sup>. The Children’s Act came into effect in 1960 as the first model law, introducing a sex-discriminatory definition of the child and separating two adjudicatory bodies for dealing with children in conflict with law and children in need of care and protection. It facilitated a Child Welfare Board and a Children’s Court but lawyers were not allowed to be present till 1978.

## **2.2. International Instruments and their Impact**

Subsequently, the development of the juvenile justice policy in India was led by the Constitutional mandate and international covenants such as the United Nations Standard Minimum Rules for Administration of Juvenile Justice (Beijing Rules) in 1985; the United Nations Convention on the Rights of the Child (UNCRC) in 1989; the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990; “Riyadh Guidelines” for the Prevention of Juvenile Delinquency in 1990; the Hague Convention on Protection of Children and Co-operation in respect of Inter-Country Adoption, 1993; Optional Protocols to the UNCRC on the Sale of Children, Child Prostitution, and Child Pornography, 2000; Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict, 2000; UN Convention on the Rights of Persons with Disabilities, 2006, which calls for eliminating disability discrimination and ensuring inclusive education; and UN Guidelines for the Alternative Care of Children (UNGACC), 2009.

The Government of India being a State Party to the Beijing Rules and Riyadh Guidelines and having ratified the UNCRC in 1992 is duty-bound to fulfil the provisions of the same. However, India is not a signatory to the Optional Protocol to the UN Convention on Rights of the Child, 2011 and the Optional Protocol to the UN Convention on Rights of Persons with Disabilities, 2006, which cover procedures for communication. Hence, the implementation of treaty provi-

---

<sup>7</sup> Centre for Health and Social Justice (CHSJ): Child Rights in India and the Role of Men as Fathers – A Review of Literature (June 2016). Available at: <https://www.menengage.org>.

<sup>8</sup> Chaitra, V. (2018), op. cit.

sions is through submission of periodic reports to the treaty bodies by the State.<sup>9</sup>

Following the ratification of the various international instruments, related Indian legislation were amended such as Immoral Traffic (Prevention) Act, 1956 amended in 1986 and The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which was amended in 2010 (and became the Rights of Persons with Disabilities Act (RPWD) Act, 2016); while new legislation enacted included the Child and Adolescent Labour (Prohibition) Act, 1986; Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994; Prohibition of Child Marriage Act, 2006; Right of Children to Free & Compulsory Education Act, 2009, which fulfilled the Constitutional mandate under Article 45; and Protection of Children from Sexual Offences Act, 2012. Policy initiatives included National Charter for Children (2004) and National Plan of Action for Children (2005). Besides the Integrated Child Development Services, which came into effect in 1975, the Integrated Child Protection Scheme was launched in 2009.

### **2.3. The United Nations Convention on the Rights of the Child and the Juvenile Justice Act**

The UNCRC abides by the principles of the 'best interests of the child' and non-discrimination while recognising the rights of the child to survival and development, protection and participation. The UNCRC requires the State Parties to undertake all appropriate measures in case of a child alleged as or accused of violating any penal law, including (a) treatment of the child in a manner consistent with the promotion of the child's sense of dignity and worth (b) reinforcing the child's respect for the human rights and fundamental freedoms of other (c) taking into account the child's age and the desirability of promoting the child's reintegration and the child assuming a constructive role in society. In addition, Article 37 specifically talks about issues related to torture and deprivation of liberty. It also prohibits capital punishment and life imprisonment of children. Article 40 talks about the children accused of Penal Laws. It promotes a distinct structure of juvenile justice with precise, progressive aims rather than punitive aims. This Article also significantly supports several types of institutional care, stating that "a variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence."

These were incorporated in the Juvenile Equity (Care and Assurance) Act 2000, which with a few changes became The Juvenile Justice (Care and Protection) Act in 2001. In her critique of the Juvenile Justice system in India published in 2004, Kumari pointed out that, "This Act, 2000

---

<sup>9</sup>Tata Institute of Social Sciences, Mumbai: N-for-Nose: State of the Education Report for India - Children with Disabilities (New Delhi, UNESCO, 2019). pp. 22.

is not penal legislation. It does not look to the punishment for the misdeeds of the juvenile but is totally inclined towards 'care and protection of children' through institutionalisation." However, she also noted that these institutions, which are meant to be protective, also violate the rights of children. She argued that, the fundamental nature of these institutions is such that, it inevitably curtails the freedom of every child and denies them the right to live in a family environment.<sup>10</sup> Therefore, this particular Act was amended over time during 2006, 2011, and 2015 to make it more inclusive, child friendly and a new JJ Act was enacted in 2015 to holistically address the gaps in the Act.<sup>11</sup> However, one of the amendments in 2015 also attracted criticism for allowing juvenile offenders between the ages of 16-18 to be tried as adults in the event of their committing a heinous crime. This places them in an adult adversarial criminal trial process that is seen to contradict "its own objective and that of the national and international instruments, in letter and spirit [...] and undoes the distance India has travelled towards securing an improved Juvenile Justice System"<sup>12</sup> In 2021, further amendments to the JJ Act, 2015 included, among others, due inquiry by the Juvenile Justice Board in cases where a child is accused of a serious offence; and a change in nomenclature removing the negative association with the word 'juvenile' by replacing it with 'child' or 'child in conflict with law'

## **2.4. Child Protection Safety Net**

The JJ Act, 2015 and The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) with the Child Protection Services Scheme (CPS, erstwhile ICPS) provides the legal background for protecting the rights as well as the interests of children in need of care and protection (CNCP) and children in conflict with law (CCL) under the JJ Act, 2015. As a component of the centrally sponsored Integrated Child Development Scheme (ICDS), the CPS provides preventive, statutory care, and rehabilitation services to CNCP and CCL. The central scheme extends financial support to State Governments/UT Administrations, for delivering services (as mandated under the JJ Act, 2015 and JJ Rules thereunder) for children, either through themselves or through NGOs. It emphasises mainstreaming of orphan/abandoned/surrendered children; support to children and caregivers, shifting CNCP from institutional to non-institutional care; acknowledges every child has a right to family and focuses on rehabilitation and reintegration of CNCP and CCL as an important objective along with a provision for adequate institutional care in the country. Besides training and capacity building for all stakeholders working in child protection, the following are the other major components/services of the CPS (Table 1), which for purposes of this study have been clubbed together as Child Care

---

<sup>10</sup> Kumari, V.: "The Juvenile Justice System in India: From welfare to rights". (USA, Oxford University Press, 2004)

<sup>11</sup> Sarma, K.M.: "A critical study on the juvenile justice system in India and its origins, growth and development upto present stage" in *The Clarion- International Multidisciplinary Journal* (2018, Vol.7 (2)).

<sup>12</sup> Kumar, S.: "Shifting Epistemology of Juvenile Justice in India" in *Contexto Internacional* (Jan/April 2019, Vol. 41 (1)).

Agencies (CCAs) within which, Child Care Institutions (CCIs) are included as indicated in the graphic below <sup>13</sup>.

**Table 1: Child Protection System**

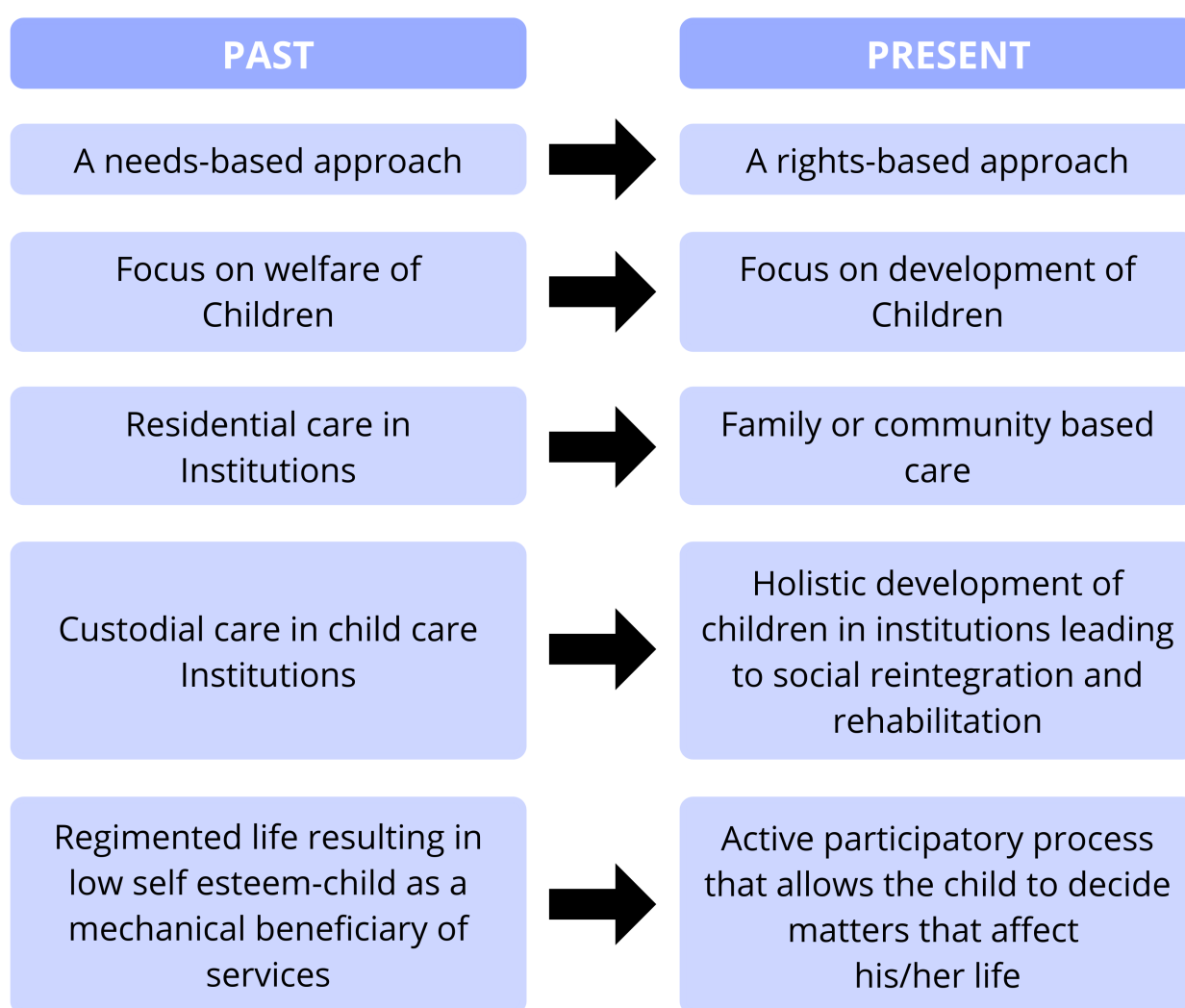
Sr No.	Component / Service	Child Care Agencies
1	Statutory Bodies	Child Welfare Committees (CWC), Juvenile Justice Boards (JJB), Special Juvenile Police Units (SJPU), Central Adoption Resource Authority (CARA).
2	Service Delivery Structures	National Institute for Public Cooperation and State Child Protection Society (SCPS), State Adoption Resource Agency (SARA), District Child Protection Unit (DCPU).
3	Institutional Services (Child Care Institutions - CCIs)	Children's Home, Open Shelter, Observation Home, Special Home, Place of Safety, Specialised Adoption Agency (SAA) and a fit facility recognised under the Act for providing care and protection to children, who need such services. A unit within Children's Homes provides specialised services to children with special needs (disabled children, children who are affected by HIV/AIDS, children affected by substance abuse etc.).
4	Family based non-institutional care	Sponsorship; Foster Care; Adoption; and After Care Programmes.
5	Emergency outreach phone services for children in crisis/difficult circumstances	A 24 hours toll free number 1098 (CHILDLINE 1098)
6	Child Tracking System	Track Child, including Khoya-Paya, a website for missing children and related MIS.

<sup>13</sup> This is a modified version of the original table, Ministry of Women and Child Development, Government of India: Annual Report 2019-2020.



Over the years, while institutionalisation continued, there was a change towards a rights-based approach in the CPS and a shift to family and community-based care (Figure 1). This was reflected in the key priority identified under the National Policy for Children in 2013: "To 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 institutionalization as a measure of last resort, with due regard to the best interests of the child and guaranteeing quality standards of care and protection." (Para 4.10) <sup>14</sup>.

**Figure 1: Past and Present Approaches in Child Care System** <sup>15</sup>



<sup>14</sup> Standards of Care in Child Care Institutions, A Series on Alternative Care. (UNICEF and Udayan Care, 2017).

<sup>15</sup> Ibid.

## **2.5. Child Rights Commissions**

The National Commission for the Protection of Child Rights (NCPCR) and State Commissions for the Protection of Child Rights (SCPCR) were constituted as statutory bodies under the JJ Act in March 2007. The Maharashtra State Commission for Protection of Child Rights (MSCPCR) was set up in July 2007 as a statutory body under Commission for Protection of Child Rights Act 2005 (4 of 2006) (CPCR Act) to protect, promote and defend child rights in the state. 'Child rights' as per Section 2 (b) of the CPCR Act includes the rights provided under the UNCRC defined above. These include protecting the child against all forms of discrimination, protecting the child's inherent right to life, survival and development, including the right to the highest attainable standard of health to facilities for the treatment of illness, right to education, keeping the best interests of the child as a primary consideration in all actions concerning children, protection from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, among other things. As mandated by NCPCR Rules, the MSCPCR may analyse current law, policy and practice to assess compliance with UNCRC, undertake inquiries and produce reports on any aspect of policy or practice affecting children and comment on proposed new legislation from a child rights perspective. As per Section 13(1) (i) of the CPCR Act, it also monitors the functioning of CCIs falling under the purview of the JJ Act, 2015 and has been granted a special monitoring role under POCSO Act and Right to Education (RTE) Act.

## **2.6. Court Committees on the Juvenile Justice Act**

Resolutions passed by the Chief Justices' Conference in 2006, 2009, 2013, 2015, and 2016 called upon Chief Justices of all High Courts to oversee the conditions and functioning of the institutions created under the then Juvenile Justice (Care and Protection of Children) Act of 2000, by nominating a High Court Judge. At the 2013 Chief Justices' Conference, it was specifically resolved that Juvenile Justice Committee (JJC) under the said JJ Act set up in Delhi High Court be replicated across all High Courts to monitor the implementation of JJ Act provisions in its true spirit. Subsequently, the Supreme Court Committee on Juvenile Justice (SCC-JJ) was set up in August 2013 to ensure the effective implementation of the said Act. Although High Court Committees continue to function under the mandate of the JJ Act, the lack of a guiding framework has resulted in each JJC conducting itself differently. In one of the review meetings by the SCC-JJ with the State Level JJC's in 2014, it emerged that, there was a need to develop strategies for effective implementation of the JJ Act across the country.<sup>16</sup>

---

<sup>16</sup> Guiding Framework for Juvenile Justice Committees. Available at: <https://mediationcentrepnhc.gov.in>

The JJC of the Bombay High Court has been formed and held consultations at the state and regional levels towards reforming care services for children and aligning them to standards set under the JJ Act, 2015 as well as to ensure better implementation of the JJ Act keeping the child as the focal point and best practices to ensure restorative justice to them. At one such consultation in 2019, Hon'ble Ms. Justice Anuja Prabhudessai pointed out that, "the JJ Act categorises not children but their vulnerability in terms of whether they are in need of care and protection or in conflict with the law [...] The continuance of the problem of child vulnerability reflects a concomitant failure of the entire system in fulfilling the goals of the JJ Act."<sup>17</sup>

### 3. The Supreme Court Directions in *Sampurna Behura v. Union of India, 2018*<sup>18</sup>

Sampurna Behura who had been handling cases of child sexual abuse, street children and working children and had also undertaken studies on child rights, filed a Public Interest Litigation (PIL) under Article 32 of the Constitution and drew attention to the several Articles of the Constitution including those dealing with Directive Principles of State Policy, which "impose primary responsibility on the State to ensure that the needs of children are met and their basic human rights are protected": Article 39 (f) calls for state policy to ensure "that children have opportunities and facilities to develop in a healthy manner and conditions of freedom and dignity and that children and youth are protected against exploitation and against moral and material abandonment". "Article 39 (a) emphasizes "equality of justice and free legal assistance". It establishes that, "the State will guarantee that the operation of the legal system promotes justice, on the basis of equal opportunities and, in particular, will provide free legal assistance, through adequate legislation or plans or in any other way, to guarantee those opportunities to ensure justice is not denied to any citizen for economic reasons or other disabilities." [ii] Articles 14 and 22 (1) also oblige the State to guarantee equality before the law and a legal system that promotes justice based on equal opportunities for all."<sup>19</sup> The PIL underlined the failure of State Governments to implement various provisions of the JJ Act.

*What can a citizen do if the State pays no attention to his or her fundamental or human or statutory obligations? What if that citizen is a voiceless child...?*

*These questions arise in the context of the virtual non-implementation or tardy implementation of laws beneficial to voiceless (and sometimes silenced) children...*

- **Justice Madan B. Lokur (Paras 1-2)**

---

<sup>17</sup> Juvenile Justice Committee of the Bombay High Court, Department of Women and Child Development (DWCD) Government of Maharashtra and UNICEF, Maharashtra Field Office: Maharashtra State Round Table Conference on Effective Implementation of The Juvenile Justice (Care and Protection of Children) Act, 2015 (2019).

<sup>18</sup> Writ Petition No. 473 of 2005.

<sup>19</sup> [http://lawtimesjournal.in/sampurna-behura-vs-union-of-india/#\\_ednref1](http://lawtimesjournal.in/sampurna-behura-vs-union-of-india/#_ednref1)

In 2018, Justice Madan B. Lokur of the Hon'ble Supreme Court of India in *Sampurna Behura v. Union of India* passed orders related to the implementation of the JJ Act, 2015. The Hon'ble Court made specific observations, and the judgment provided directions to the related statutory bodies and other CCAs. Several key concerns were raised throughout this judgement. The first was regarding the abysmal condition of the infrastructure of statutory bodies and CCIs. It was noted that, the statutory bodies often had to work under challenging conditions with minimum facilities (i.e. internet, telephone and computers) to support their work. Further, while describing the situation of CCIs, it was emphasised that, several of them lack the infrastructure to provide a conducive and child friendly environment for children to even live.

The judgment highlighted the concern regarding the establishment of different CCAs in the States. CCAs are key pillars in the JJ system. Recognition and enforcement of child rights will not be a distant dream if CCAs can operate as per the mandated guidelines. However, even after several years, there are many states, which are still unable to establish a functional Juvenile Justice Board (JJB), Child Welfare committee (CWC) or Special Juvenile Police Unit (SJPU) in each district.

Similarly, in many places where CCAs have been formed, they function with inadequate human resources. In most of the cases, these positions were left vacant for months because of various administrative delays in the process of recruitment. The judgment further adds that in the absence of the required human resources, the implementation of any affirmative provision to secure children's rights has remained unfruitful. Also, the issue of frequent transfers was looked into as a matter of concern.

The judgment made a note that, all CCAs and JJ System stakeholders need to work with children from a rights-based perspective. Being cared for in a nurturing environment as well as being given provisions for survival, development, participation, and protection is the right of every child. The State machinery is duty-bound to make necessary arrangements to ensure such an environment where a child can enjoy all the rights conferred to them under the JJ Act and other related national as well as international legal mandates are created. In this context, the need for skilled, trained and permanent human resources across the CCAs has been acknowledged. Further periodic training programs were regarded as necessary to sensitise and make the functionaries aware about their duties and responsibilities. It was put on record that, training can have a significant contribution in transforming the system to make it child friendly and to reduce the incidents of child abuse.

Provision of quality legal aid lawyers was another critical component considered useful for upholding the ethos of the JJ System. Legal aid services can provide a fair chance of representation to children in CCL. Similarly, it can assist CWCs and provide legal advice whenever such needs arise.

The judgment also underscored the importance of obtaining data pertaining to the JJ System including information about the children under its ambit. For example, it was noted that, there is uncertainty about the availability of statistics on the number of children in CCL in each district. In the absence of such data, an effective plan for providing legal aid or providing appropriate homes becomes challenging.

Likewise, the benefits and need for the use of information and communication technology were also emphasised in the judgement. Its varied purposes (i.e. database of missing children, trafficked children and for following up on adoption cases, etc.) were shown to improve the administrative efficiency of CCAs thereby making positive changes in the lives of children.

Finally, a call for convergence among various CCAs, stakeholders, NGOs and other Government bodies was reiterated in the judgement. The purpose of such coordination is varied (training, legal assistance, etc.) but are intended towards improving the JJ System.

The SC also directed State Child Rights Commissions to “carry out time-bound studies on various issues, as deemed appropriate, under the JJ Act. Based on these studies, the State Governments and the Union Territories must take remedial steps.” The Apex Court also directed State Child Rights Commissions to “carry out a study for estimating the number of Probation Officers required for the effective implementation of the JJ Act.”

## 4. Review of Literature

According to the last Census of 2011, India has around 372 million children in the age group 0-14 years, constituting approximately 31 per cent of the total population.<sup>20</sup> Also, from estimates by the Ministry of Women and Child Development, Government of India (MWCD) in 2015, it appears that, around 440 million children are less than 18 years of age.

It was in the Code of Hammurabi in 1790 BC that, the supervision and maintenance of the child was first vested on the family.<sup>21</sup> Yet, increasingly, it is observed that, a familial unit is no longer able to fulfil this role reiterated in the Preamble of the UNCRC in 1989: “Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that, it can fully assume its responsibilities within the community.”

---

<sup>20</sup> Ministry of Statistics and Programme Implementation, Government of India: Children in India 2018 - A Statistical Appraisal, Available at: [http://www.mospi.gov.in/sites/default/files/publication\\_reports/Childrenpercent20inpercent20Indiappercent202018percent20percentE2percent80percent93percent20Apercent20Statisticalpercent20Appraisal\\_26oct18.pdf](http://www.mospi.gov.in/sites/default/files/publication_reports/Childrenpercent20inpercent20Indiappercent202018percent20percentE2percent80percent93percent20Apercent20Statisticalpercent20Appraisal_26oct18.pdf)

<sup>21</sup> International Journal of Legal Developments and Allied Issues (2019), op. cit.

International Save the Children Alliance (2007) explained that, globalisation, poverty, migration, HIV/AIDS and armed conflict are often the reason/s, which affects the ability of families to raise their children.<sup>22</sup> In some instances, a child can also be removed from their family care. It can be done if the parents are incapable of looking after their child. This incompetency can be a result of neglect or abuse of the child.

The MWCD in 2014-15 estimated that, about 40 per cent of India's children (170 million) are "vulnerable or experiencing difficult circumstances arising from their specific social, economic, and geopolitical circumstances".<sup>23</sup> A survey conducted in 2012 by Tata Institute of Social Sciences (TISS), Mumbai and Action Aid, India pegged the number of street children in Mumbai alone at<sup>24</sup> of whom, nearly 65 per cent stayed.<sup>25</sup> Similar findings emerged in a survey conducted in 2019 by Save the Children & Rainbow Homes across five other cities where the majority of 84,563 street children were found to be from 'street living families'.<sup>26</sup> Further, MWCD country data published in 2018 revealed the disturbing trend of the number of children with single parents who stay in CCIs/Homes being more than double that of the orphan, surrendered, abandoned children - at a staggering 1,20,118 <sup>27</sup>

Contrary to common perception, 1997 National Crime Records Bureau (NCRB) data revealed that, "children living with parents/guardians constituted 90.1 per cent of the juveniles apprehended while the share of homeless children was only 9.9 per cent."<sup>28</sup> A decadal study of data from 2001-2015 also confirmed that, 70-80 per cent of annually arrested juveniles stayed with their parents. Although in the absence of country data regarding total juvenile population based on residence, a direct correlation between juvenile delinquency and residence cannot be drawn;<sup>29</sup> the fact remains that, family and parental control in a child's socialization process has declined over the years. It is also to be noted that, the 2018 NCRB data revealed that, in 94.6 per cent of cases under the POCSO Act, the offenders were known to the child victim among which 1700 cases involved members of the child's family. <sup>30</sup>

---

<sup>22</sup> International Save the Children Alliance: A last resort - Annual Report. (2007). Available at: <https://resourcecentre.savethechildren.net/node/2644/pdf/2644.pdf>

<sup>23</sup> Ministry of Women and Child Development, Government of India: Annual Report 2014-15. Available at: <https://wcd.nic.in/sites/default/files/AR2014-15.pdf>

<sup>24</sup> <https://timesofindia.indiatimes.com/city/mumbai/Over-37000-kids-fending-for-themselves-on-citys-roads-First-street-children-census/articleshow/26756505.cms>

<sup>25</sup> <https://www.actionaidindia.org/blog/childhood-on-the-streets/>

<sup>26</sup> Save the Children, Rainbow Homes, India and UK AID (DFID): Life on the Street, Street children survey in 5 cities: Lucknow and Mughalsarai in Uttar Pradesh; Patna in Bihar; Kolkata-Howrah in West Bengal; Hyderabad in Telangana. (2019). Available at: <https://resourcecentre.savethechildren.net/library/life-street-street-children-survey-5-cities-lucknow-mughalsarai-hyderabad-patna-and-kolkata>

<sup>27</sup> Ministry of Women and Child Development, Government of India (2018), op. cit.

<sup>28</sup> "Crime in India, (National Crime Records Bureau, 1997) in Report of the Working Group on Adolescents for the Tenth Five Year Plan (Planning Commission, Government of India, 2005).

<sup>29</sup> Chaitra, V. (2018), op. cit.

<sup>30</sup> "Crime in India", Table 4A.10 (NCRB, 2020). Available at: <https://ncrb.gov.in>



Lack of safe, quality education and access to schools including provision for safe transport, alternatives like hostels for continued education, as well as absence of equitable access to health, nutrition and reproductive health counselling and services mean that young girls are often married off after they drop out of school due to lack of higher secondary education facilities near their homes. The Census 2011 revealed that India has more than 45 lakh girls under 15 years of age who are married with children. Out of these, 70 per cent of the girls have two children.<sup>31</sup> It is these children who are likely to become CNCP.

There are an estimated 7.8 million children aged under 19 who live with disabilities in India and the proportion of children with disabilities who are out of school is also much higher than the overall proportion of out-of-school children at the national level.<sup>32</sup> Yet, there is an acute shortage of adequate number of CCIs, especially for children with special needs and this leads to poor rehabilitation and support to such children.<sup>33</sup>

The following section examines the literature available on the themes of the state of the child in institutional care and that of the CCAs tasked with their care and protection.

#### **4.1. Background of the Child in Child Care Institutions**

The JJ Act, 2015, defines a CNCP in Section 2 (14) and provides a list of children in difficult situations who require support. In May, 2017, the Supreme Court in an order<sup>34</sup> ruled this definition to be illustrative and that, all children requiring State care and protection must be extended the benefits envisaged for children in need of care and protection. Consequently, the definition of CNCP was given a broader interpretation.

According to the central MWCD study brought out in 2018, 377,649 children were occupying 9589 CCIs/Homes across the country during the study period (2016-17). Of them, 7422 were CCL - 5617 boys and 1805 girls. There were 370,227 CNCP - 199,760 boys, 170,375 girls and 92 transgender children.<sup>35</sup> They belonged to the following categories (Table 2).

---

<sup>31</sup> <https://www.cry.org/statistics-on-children>

<sup>32</sup> Tata Institute of Social Sciences and UNESCO (2019), pp. 12, op. cit.

<sup>33</sup> Centre for Child and the Law (CCL) National Law School of India University (Bangalore): Consolidated Report of Third Round of Regional Level Round Table Consultations. (Supreme Court Committee on Juvenile Justice and UNICEF, August 2017).

<sup>34</sup> Supreme Court order dated 5/5/2017 in Exploitation of Children in Orphanages in the State of Tamil Nadu versus Union of India & Ors. in Ministry of Women and Child Development, Government of India (2018), op. cit.

<sup>35</sup> Ministry of Women and Child Development, Government of India (2018), op. cit.

**Table 2: Categories of Children in CCIs in India**<sup>36</sup>

Category of Children			
1	Total number of Children (as per records)**	3,77,649	%
2	Children of single parent	1,20,118	31.81
3	Orphan	41,730	11.0
4	Abandoned	7677	2.0
5	Surrendered	6791	1.8
6	Sexually Abused	1575	0.4
7	Victim of Child Pornography	189	0.1
8	Children Trafficked for Domestic Work	857	0.2
9	Children Trafficked for Labour / Rescued from Labour	1827	0.5
10	Children Trafficked for Commercial Sexual Exploitation	489	0.1
11	Victim of Child Marriage	469	0.1
12	Homeless Children	8573	2.3
13	Runaway / Missing Children	3780	1.0
14	Mentally Challenged Children	10794	2.9
15	Physically Challenged Children	9040	2.4

Studies from India have highlighted poverty as the primary reason for a child's entry to a CCI. However, the Department of Women and Child Development, Maharashtra has pointed out that, in the case of CNCP, it is not poverty alone but crises situations such as the death/in-carceration of parents, which become causal factors in the lengthy institutionalisation of the child.<sup>37</sup> The following Family Adversity index used in a United Kingdom study in 2015<sup>38</sup> encompasses the diversity of factors, which could impinge on the state of the health of an adolescent child. These could well apply to other children as well: (1) age of mother at first pregnancy; (2) housing, comprising (a) adequacy, (b) basic amenities, and (c) defects, damp, and infestation; (3) mother's and father's low educational attainment; (4) financial difficulties; (5) relationship

---

<sup>36</sup> Ibid.

<sup>37</sup> Juvenile Justice Committee of the Bombay High Court et al., (2019), op. cit.

<sup>38</sup> Collin S. et al: "Maternal and Childhood Psychological Factors Predict Chronic Disabling Fatigue at Age 13 years" in Journal of Adolescent Health (2015, Vol. 56).



with partner, comprising (a) status, (b) lack of affection, (c) cruelty, and (d) lack of support; (6) family, comprising (a) size and (b) child in care, not with natural mother, or on at-risk register; (7) social network, comprising (a) lack of emotional support and (b) lack of practical support; (8) substance abuse; (9) crime, comprising (a) being in trouble with the police and (b) convictions; and (10) psychopathology of the mother (anxiety, depression, or suicide attempts). In India, family adversity is further enmeshed in the disparities engendered by divisions along lines of caste, class, community, language, gender and region. Rapid urbanization and the lack of rural livelihoods force entire families to migrate for survival prospects. Studies reveal that, they are often the young and the dispossessed belonging to the lowest socio-economic strata, primarily from the Vimukta Jaati Nomadic Tribe (VJNT)/Scheduled Caste (SC)/Scheduled Tribe (ST)/Other Backward Caste (OBC). They cannot access State entitlements for housing, health services, pension or rations under the Public Distribution System, which leaves their children at their most vulnerable, especially girls among them. In 2015-2016, for instance, "only 48 per cent of children under six years received any food from Anganwadi centres, with the proportion ranging from 14 per cent in Delhi to 75 per cent in Odisha". National Family Health Surveys have consistently reported stunting as being more likely in Adivasi, Dalit and OBC children.<sup>39</sup> As Supreme Court Justice Dhananjay Chandrachud pointed out at the National Juvenile Justice Consultation in 2019, "given the deplorable living conditions of many children in India, it is imperative to acknowledge that children in conflict with law are not just offenders but in many cases are children in need of care and protection"<sup>40</sup>

However, it is equally true that, the determinant risk factors behind juvenile delinquency such as broken homes, addiction and drugs/substance abuse <sup>41</sup> as well as parental neglect and poor academic achievements <sup>42</sup> are prevalent across all socio-economic classes. However, children from the lower socio-economic strata are more likely to be incarcerated as offences of children from higher strata go unreported or are settled out of court by their families fearing damage to their reputation.<sup>43</sup>

---

<sup>39</sup> Narayan, S.: "India's most vulnerable children are paying the price of upper caste prejudice with their bodies" (January 6, 2021). Available at: <https://scroll.in>.

<sup>40</sup> Press Trust of India: There is chasm between ideals and implementation of the Juvenile Justice Act: Justice Chandrachud (New Delhi, December 14, 2019).

<sup>41</sup> Gupta, A. et al: "Sociodemographic characteristics and aggression quotient among children in conflict with the law in India: A case-control study" in *The National Medical Journal* (2015, Vol. 28(4), 172) in Chaitra, V. (2018), op. cit. Available at: <http://archive.nmji.in/archives/Volume-28/Issue-4/Original-Article-I.pdf>

<sup>42</sup> Delhi Commission for Protection of Child Rights (DCPCR): Why Children Commit Offences - Study On Children In Conflict With Law In Delhi, 8 (2015) in Chaitra, V. (2018), op. cit. Available at: <http://www.butterflieschildrights.org/admin/resource/Whypercent20Childrenpercent20Commitpercent20Offences-DCPCR.pdf>

<sup>43</sup> Ibid.

Other instances, which may go unreported because of families fearing for their lives include the impact of insurrections in recruiting children in states like Chhattisgarh and Jharkhand, a fact highlighted by UNICEF in its *Children in Armed Conflict Report* in 2018.<sup>44</sup> Therefore, in most circumstances, the level of vulnerability from macro to micro, which push children towards CCIs are many and rarely a result of any one single reason.

## 4.2. State of the Child in Child Care Institutions

Studies from India have shown that children growing up in orphanages have a substantially lower level of intellectual development.<sup>45</sup> It was found that, children getting admitted into Homes had skin diseases, fits, lower immunity, low weight, malnourishment and other diseases prior to their institutionalisation.<sup>46</sup> Yet, the 2018 MWCD study showed that, while active supervision of children under trauma was possible in 65.9 per cent of Homes only 28.7 per cent centres were able to tend to infants/children showing signs of hunger or illness.<sup>47</sup> Children from orphanages in the post-institutional period were found to have a range of delays, deviations and disorders, which “most certainly had their roots in institutional care”.<sup>48</sup>

A 2018-19 NCPCR audit of CCIs found that, 2,764 Homes across the country out of the 7,163 CCIs in the study “do not have adequate measures to prevent any form of physical, emotional abuse of children”.<sup>49</sup>

Lack of caregivers and limited interaction of a child with caregivers where available are areas of concern. The MWCD 2018 study reported only 46.7 per cent of the Homes had adequate number of caregivers per child.<sup>50</sup> A significant number of children have grown up in institutions without love, attachment and individual attention of an adult caregiver.<sup>51</sup> Children have no interaction with a caregiver during 80 per cent of the time.<sup>52</sup> In a study by Aangan in 2006,

---

<sup>44</sup> “Naxalites recruiting kids in Jharkhand, Chhattisgarh, says UN report”, in Times of India, 2 July, 2018.

<sup>45</sup> Taneja, V., Sriram, S., Beri, R. S., Sreenivas, V., Aggarwal, R., Kaur, R., & Puliyeel, J. M.: “Not by bread alone’: Impact of a structured 90-minute play session on development of children in an orphanage”. *Child Care Health and Development*, (2002, Vol. 28(1)), pp 95–100.

<sup>46</sup> Gupta, K. M.: “Mental Health Challenges and Best Practices in Children Homes in India” in Rai, H. and Rai, R.: *Health Care Facilities in Child Care Institutions in Delhi* (Noida, Uttar-Pradesh, India, Amity Institute of Social Sciences, Amity University, 2005) in *Indian Journal of Public Health Research & Development* (2020, Vol. 11). Available at: medicopublication.com

<sup>47</sup> Ministry of Women and Child Development, Government of India (2018), op. cit.

<sup>48</sup> Juffer F., van IJzendoorn M.H., Bakermans-Kranenburg M.J. et al: “Structural Neglect in Orphanages: Physical Growth, Cognition, and Daily Life of Young Institutionalized Children in India” (2017) in: Rus A., Parris S., Stativa E. (eds) *Child Maltreatment in Residential Care* (Springer, Cham).

<sup>49</sup> NCPCR Report: India, Key Findings at a Glance. Available at: <https://www.ncpcr.gov.in/>

<sup>50</sup> Ministry of Women and Child Development (MWCD), Government of India (GOI) (2018), op. cit.

<sup>51</sup> International Save the Children Alliance (2007), op. cit.

<sup>52</sup> Juffer et al., (2017), op. cit.

45 per cent of children shared that, the Probation Officer never contacted them for any purpose.<sup>53</sup> A study in 2014 by Delhi Commission for the Protection of Child Rights (DCPCR) found that, in general, children living inside CCIs have reported having a lower emotional subjective well-being and due to impersonal care, many of them lack the ability to form social relationships with others, which further impacts their chances to reintegrate into mainstream society.<sup>54</sup> A study in four districts of Manipur also highlighted how institutional care fell short in strengthening parent-child equations leading to unhealthy relationships.<sup>55</sup> A survey was conducted from September 2018 to April 2019 by NGO Shishu Aadhar in partnership with Miracle Foundation India of 82 children restored to families from CCIs in Pune all of whom were institutionalised voluntarily by families. It found that, 20 per cent of the children had to be re-admitted to CCIs after just one year of restoration to their families. Adjustment problems were faced by 30 per cent of the children, including tendency to solitary mealtime, eating imbalances, refusal to take up household chores by the older children, laziness/stubbornness and poor hygiene habits like skipping baths. In two or three cases, adolescent girls and caregivers had differences over the former having friendly relations with the opposite sex. Providing support, along with pre- and post-restoration family assessment could have prevented some of these problems and readmission of children to CCIs.<sup>56</sup>

Evidence has also shown that, the isolated and closed nature of CCIs impedes the betterment of a child. It makes children more vulnerable and prone to experience a wide range of abuse (physical, emotional and sexual). The magnitude and severity of such instances can be understood by the findings, which emerged in the Aangan study in 2006 where around 60 per cent of CNCP shared about the incidents of physical abuse done to them by the caretakers and monitors of the Home.<sup>57</sup> A similar finding also emerged from the TISS audit of short-stay and Shelter Homes in Bihar in 2017, which unearthed widespread cases of sexual exploitation and physical abuse perpetrated by the staff.<sup>58</sup> The instances of abuse are not always limited inside the CCIs. Around 59 per cent of the children in Maharashtra and Rajasthan in an NCPCR study

---

<sup>53</sup> Aangan: Changing Spaces: Understanding the effectiveness of children's institutions - The child's perspective, (2006). Available at: [http://Aanganindia.org/pdf/Aangan\\_ChangingSpaces.pdf](http://Aanganindia.org/pdf/Aangan_ChangingSpaces.pdf)

<sup>54</sup> Delhi Commission for Protection of Child Rights: Subjective Wellbeing of Children in Institutions in Delhi: A Rights Based Perspective, (2014). Available at: [http://dcpcr.delhi.gov.in/wps/wcm/connect/doiit\\_dcpcr/DCPCR/Publication/Subjective+Wellbeing+of+Children+Living+in+Institutions+in+Delhi](http://dcpcr.delhi.gov.in/wps/wcm/connect/doiit_dcpcr/DCPCR/Publication/Subjective+Wellbeing+of+Children+Living+in+Institutions+in+Delhi)

<sup>55</sup> Wanglar, E.: "Child care institutions in India: Investigating issues and challenges in children's rehabilitation and social integration" (Manipur, Indira Gandhi National Tribal University, Regional Campus) in Children and Youth Services Review (31 December 2020).

<sup>56</sup> Ghate, B.: "Strengthening families in crisis, family and community based alternative care and deinstitutionalisation: Evidence from field research and practice" in Juvenile Justice Committee of the Bombay High Court et al., (2019), op. cit.

<sup>57</sup> Aangan (2006), pp.10, op. cit.

<sup>58</sup> Sharma, A.: "How TISS team blew the lid off Bihar sexual abuse case", in The Economic Times, New Delhi, (2018).

conducted by TISS in 2016 shared that, they have been physically abused by the police.<sup>59</sup> In 2007, a pathbreaking study by MWCD on understanding child abuse in India recorded that, around 52 per cent of children in institutions were subjected to beating and have experienced various other forms of physical abuse.<sup>60</sup> A study by DCPCR in Delhi in 2015 also showed that institutionalised children have a greater probability of substance misuse.<sup>61</sup>

### 4.3. Rehabilitation of the Child in Child Care Institutions

The broader meaning of rehabilitation is restoring the child to their family or community. In recent years, there has been a move towards non-institutional options of kinship care and foster care. However, the Juvenile Justice Committee of the Bombay High Court, 2019 reiterated that, non-institutional care cannot be the mainstay of rehabilitation of the children.<sup>62</sup> During the Third Round of Regional Level Round Table Consultations organised by the SCC-JJ in 2017, “the narrow and rudimentary construction of rehabilitation for CCLs and CNCPLs was challenged by many stakeholders and experts working on child rights.”<sup>63</sup>

It has been argued that, since most of the children living in CCIs come from difficult backgrounds, they require special attention for their development, well-being and overall reintegration in mainstream society.<sup>64</sup> However, very few institutions have the structure, intent and capability of doing so. The January 2019 National Legal Services Authority (NALSA) report in pursuance of the directions in *Sampurna Behura v. Union of India* found that, “the rate of follow-up post-restoration and release as required under the law is higher for those leaving Observation Homes and Children’s Homes as compared to children in other CCIs. Maharashtra was among the three states found not to be carrying out any follow-up of children released from Observation Homes despite preparing individual care plans.”<sup>65</sup>

The process and steps taken to rehabilitation may differ according to the child but predominantly education, housing, health and employment are the key areas of rehabilitation.<sup>66</sup> It has

---

<sup>59</sup> National Commission for Protection of Child Rights: A Study on the Juvenile in Conflict with Law and Administration of Juvenile Justice System in States of Maharashtra and Rajasthan, conducted by Tata Institute of Social Sciences, Mumbai, (2016).

<sup>60</sup> Ministry of Women and Child Development, Government of India: Study on Child Abuse (2007). Available at: <https://resourcecentre.savethechildren.net/node/4978/pdf/4978.pdf>

<sup>61</sup> Delhi Commission for Protection of Child Rights: Substance abuse by children: A Status Paper on Rehabilitation Strategies (2015). Available at: [http://dcpcr.delhi.gov.in/wps/wcm/connect/doit\\_dcpcr/DCPCR/Publication/Substance+Abuse+by+Children+in+Delhi](http://dcpcr.delhi.gov.in/wps/wcm/connect/doit_dcpcr/DCPCR/Publication/Substance+Abuse+by+Children+in+Delhi)

<sup>62</sup> Juvenile Justice Committee of the Bombay High Court et al., (2019), op. cit.

<sup>63</sup> Supreme Court Committee on Juvenile Justice and UNICEF (2017), op. cit.

<sup>64</sup> International Save the Children Alliance (2007), pp.9, op. cit.

<sup>65</sup> Available at: <https://nalsa.gov.in/acts-rules/guidelines/status-of-juvenile-justice-system-a-quick-overview>

<sup>66</sup> Mendes, P., Baidawi, S., & Snow, P. C.: “Young people transitioning from out-of-home care in Victoria: Strengthening support services for dual clients of child protection and youth justice” in Australian Social Work (2014, Vol. 67(1)), pp. 6 - 23.

been argued that, high self-esteem, vocational training, higher educational qualification, extra-curricular activities, quality of care, scope for socialisation, life skill education, psychological well-being, age of leaving care, preparedness to leave care, a robust Aftercare program and availability of any forms of support system are factors, which can have positive outcomes in the process of rehabilitation and social reintegration.<sup>67</sup> As one of the critical factors, researchers have emphasised upon the ability of a child to form a social relationship with others. However, in a 2014 study by the DCPCR, this ability was found to be less than desirable among the children.<sup>68</sup> Employability and skill-building have been highlighted as other contributing areas integral in facilitating an enabling environment for rehabilitation. Previous studies have noted that, professional training was given on distinctive trades to children across different CCIs in India. The most widely recognised skills were of electrical, teaching, printing and fitting work.<sup>69</sup>

Significance of education of various kinds (general and vocational) has also been reiterated in the process of rehabilitating children. However, a 2018 NCPCR study of 2691 children in 50 Observation Homes and Special Homes for CCL across 14 states (including Maharashtra) and three Union Territories, indicated that a lot needs to be done in this regard. First, there is no separate budget for education and vocational training for children in 42 Homes. Several Homes also lack the arrangement of vocational training inside their campus and where it is available the courses are obsolete and do not ensure any employability. Things are even worse because a large percentage of children (70 per cent) eligible for skill training are kept out of vocational training facilities.<sup>70</sup>

#### **4.4. The State of Child Care Agencies in India**

A National Consultation on Child Protection Services in 2018 while reviewing child protection services flagged the following areas of concern: no scope for prevention of abuse and growing crime rates against and by children; interventions address only the stipulations under the JJ Act, 2015; inadequate database of vulnerable children and absence of rehabilitation strategies; human resources have low payment structures, lack of child protection professionals and expertise to provide psychosocial support while their capacity building and sensitisation remain a challenge; overall lack of convergence and synergy, inadequate resources and the grant becoming a mere source of employment rather than child welfare.<sup>71</sup> At the Third Round

---

<sup>67</sup> Dutta, S.: “Institutional Care in India: Investigating Processes for Social Reintegration” in *Children and Youth Services Review* (2016, Vol. 66), pp. 144–153.

<sup>68</sup> Delhi Commission for Protection of Child Rights (2014), *op. cit.*

<sup>69</sup> National Institute of Public Cooperation and Child Development: *Juvenile Justice institutions in India or child care institution in India: An Assessment* (2007).

<sup>70</sup> National Commission for Protection of Child Rights: *A Study on Availability of Quality Education and Vocational Training in Observation Homes in India*. Available at: <https://www.ncpcr.gov.in/showfile.php?lang=1&level=1&&sublinkid=1711&lid=1700>

<sup>71</sup> MWCD, GOI: “Review of Child Protection Services” (June 5, 2018).



of Regional Level Round Table Consultations organised by the SCC-JJ in 2017, besides some of the above, other key areas requiring attention, which emerged included “the need for coordination and convergence between the criminal justice system and the child protection system in aspects of compensation, age verification, care and protection, and the treatment of children in conflict with the law in cases under the POCSO Act”. In this context, several systemic, operational and attitudinal challenges that, obstructed linkages between the JJ system and the criminal justice system in the context of the POCSO Act, 2012 were highlighted such as non-production of victims before the CWC; delays in awards and disbursal of compensation; social stigma, which hinders victims and families from accessing the criminal justice system, and acute support gap.<sup>72</sup> Yumi Bae, UNICEF, Odisha speaking at the fourth Eastern Region Round Table Conference on Juvenile Justice in 2018 pointed out that, “soft skills such as respect, empathy and compassion for children and their families are essential for meaningful contribution for implementing legislation for children.”<sup>73</sup>

The following section presents a snapshot of the significant concerns, which emerged across previous studies.

#### **4.4.1. Insufficient Infrastructure**

The functionaries of CCAs are responsible for protecting all the children who come into their contact. The number of such children is vast, so to continue their work and to maintain a high standard, CCAs require infrastructural support (office premise, furniture, recreational space, etc.). The JJ Act and ICPS did make provisions for such assistance. Nevertheless, several instances were noted in previous studies, which indicated the CCAs are operating with insufficient infrastructure. Moreover, regular budgets for renovation of CCIs have not been forthcoming in Maharashtra as per the DWCD in 2019.<sup>74</sup> It has been pointed out by NCPCR in 2013 that, in the absence of proper infrastructure and non-availability of equipment; the staff of the CCIs experienced difficulties in administering them.<sup>75</sup>

It was also reported that, only traditional courses were offered in vocational training. However, most CCIs lacked the infrastructure to even provide any type of vocational training as per a study conducted in 2001 by the National Institute of Public Cooperation and Child Development in Karnataka.<sup>76</sup> In this context, another study conducted by the same institution of CCAs

---

<sup>72</sup> Supreme Court Committee on Juvenile Justice and UNICEF (2017), op. cit.

<sup>73</sup> Patnaik, L.: Talks on kids’ study at childcare shelters in *The Telegraph India*, Cuttack, 25 March, 2018.

<sup>74</sup> Juvenile Justice Committee of the Bombay High Court et al., (2019), op. cit.

<sup>75</sup> National Commission for Protection of Child Rights: *Child Welfare Committees in India: A comprehensive analysis aimed at strengthening the Juvenile Justice System for children in need of care and protection* (2013).

<sup>76</sup> National Institute of Public Cooperation and Child Development: *A study on child care institutions in Karnataka* (2001).

in India in 2007 identified the absence of equipment and rooms as other major constraints, due to which 62 per cent of Homes had failed to offer any vocational and professional training.<sup>77</sup>

Children in the DCPCR study in 2014, reported low scores on a scale intended to measure the living environment that existed within the CCI, which included infrastructure facilities as one of the components.<sup>78</sup> The 2001 study in Karnataka also found that, while there were indoor recreational facilities the majority of CCIs lacked outdoor activities.<sup>79</sup> Gradual changes have been observed as several Homes have reported having the minimum infrastructure (classrooms and kitchens). However, the situation is still far from the prescribed standard mandated under the JJ Act, 2015, as various components (number of dormitories, classrooms, toilets and bathrooms) are still inadequate in CCIs across India.<sup>80</sup> The 2018-2019 NCPCR social audit of CCIs found that, "1,504 of the Homes lack exclusive toilet facilities, while 434 do not have privacy in toilets and bathing areas and 1,069 homes do not have individual beds for the children. Managing Committees that take decisions on functioning of the Child Care Homes were constituted in 90 per cent of the Homes but regular meetings were not held in 85 per cent of them."<sup>81</sup> In such a situation, it is nearly impossible for the functionaries to obtain a positive outcome for children concerning their overall well-being.

#### **4.4.2. Scarcity of Trained Human Resources**

Several studies have tried to understand the profile of staff working across CCAs. The 2018-19 NCPCR social audit of CCIs discovered that, "29 per cent of the Homes have staff who do not have training on the rehabilitation process of children. About 70 per cent of the Homes have not given training to its staff in child rights protection, while 61 per cent did not impart training on caregiving of these children."<sup>82</sup> The concern about the lack of professional training for caregivers and social workers emerged even in NGO Udayan Care's 2019 study of youth leaving care in Maharashtra.<sup>83</sup> A study noted similar instances where 70 per cent of CCL and 50 per cent of CNCP acknowledged that the staff do not understand them and their needs.<sup>84</sup> Sachi Maniyar of the Mumbai-based NGO Ashiyana pointed out in her presentation to the Bombay High Court Committee on Juvenile Justice in 2019 that, though counselling is an imperative, the reality is that, there are either no such posts in the Homes, or where there are,

---

<sup>77</sup> National Institute of Public Cooperation and Child Development (2007), op. cit.

<sup>78</sup> Delhi Commission for Protection of Child Rights (2014), op. cit.

<sup>79</sup> National Institute of Public Cooperation and Child Development (2001), op. cit.

<sup>80</sup> National Institute of Public Cooperation and Child Development (2007), op. cit.

<sup>81</sup> "2,764 childcare homes have no adequate measures to prevent abuse of children: Govt report", Athar, U. in Outlook: The News Scroll, 16 November, 2020.

<sup>82</sup> Outlook (2020), op. cit.

<sup>83</sup> Udayan Care: Supporting Youth Leaving Care: A Study of Current Aftercare Practices in Maharashtra (2019) Available at: [https://www.udayancare.org/upload/Reports/2019-20/Maharashtra\\_Report\\_13.08.2019\\_LR.pdf](https://www.udayancare.org/upload/Reports/2019-20/Maharashtra_Report_13.08.2019_LR.pdf)

<sup>84</sup> Aangan (2006), pp.10, op. cit.

budget constraints translate into low remuneration for the position, thus remaining vacant.<sup>85</sup> The 2018-2019 NCPCR social audit of CCIs confirmed that, 48 per cent of Homes in India do not have a counsellor.<sup>86</sup>

The difference trained personnel can make was evidenced in a Maharashtra study, which found that, an overburdened CWC in Mumbai city was greatly assisted by the Probation Officer preparing parents and children before they were presented before it.<sup>87</sup> Similarly, it is more likely that, untrained human resources will have limited knowledge of strong gatekeeping and as a result, a significant number of children will enter CCIs only because of poverty. In 2016, for instance, a massive exercise conducted by the DWCD in Maharashtra unearthed 60,000 children in institutions who do not fall in the category of children needing care and protection under the JJ Act, 2015 and who were then restored to their families.<sup>88</sup>

Besides, untrained staff is more likely to encounter problems while dealing with children with challenging behaviours and may often resort to corporal punishment as a method of discipline. The importance of sensitisation among those coming into contact with children is underlined by studies, which show how limitations of inadequate infrastructure were overcome by a child friendly environment. The Nashik CWC in Maharashtra through cordial interaction and making best use of the space available was one such example.<sup>89</sup> Another was of the Bangalore CWC in Karnataka, which set up a special cubicle in the corner of its room for assuring privacy while discussing issues of child sexual abuse, marital discord, relinquishment.<sup>90</sup>

#### **4.4.3. Lack of Awareness**

A 2016 study in Maharashtra on the implementation of the POCSO Act also depicted a grim picture of awareness among various functionaries of CCAs (i.e. police, CWC, JJB, DCPU, etc.) regarding legal provisions, ICPS guidelines, their role and overall job description. It also explained that, caregivers working in CCAs are unaware of any information about counselling, guidance, vocational training and recreation.<sup>91</sup> Its repercussions can be alarming as evidenced

---

<sup>85</sup> Maniyar, S.: “Psycho – social care & services for children in institutions” in Juvenile Justice Committee of the Bombay High Court et al., (2019), op. cit.

<sup>86</sup> NCPCR Report: India, Key Findings at a Glance. Available at: <https://www.ncpcr.gov.in/>

<sup>87</sup> Shekar, N. & Vora, A.: “A study of the role and functioning of the Child Welfare Committees in Maharashtra: Opportunities and challenges in strengthening the Juvenile Justice System” (Maharashtra, DWCD & UNICEF, 2010) in The National Commission for the Protection of Child Rights (2013), op. cit.

<sup>88</sup> Juvenile Justice Committee of the Bombay High Court et al., (2019), op. cit.

<sup>89</sup> Shekar, N. & Vora, A. (2010)., op. cit.

<sup>90</sup> Nayak, N. P. & Rajesh, A.S.: “Justice for Children: Handbook on implementing the Juvenile Justice System based on Child Welfare Committee, Bangalore Urban District Experience” (Bangalore, ChildFund India, 2007) in The National Commission for the Protection of Child Rights (2013), op. cit.

<sup>91</sup> Patkar, P. and Kandula, P.: 4 Years Since POCSO: Unfolding the POCSO Act in the State of Maharashtra (2016). Available at: <https://www.admcf.org/wp-content/uploads/2019/11/4-Years-Since-POCSO-Full-Report.pdf>



in the findings of a study of the ICPS in eight districts in Uttar Pradesh: it was a routine practice for the CWCs to categorize cases as 'missing' and without any Individual Care Plans have the child sent back to the family with poor or no counselling. There was "no follow-up or review regarding socio-emotional progress of child or even to review if the particular conditions that triggered the child to run away or be forced into work have been removed". It led in one case to the death of a runaway girl who set herself alight after being repeatedly sent back to her parents. In other cases, due to stigma attached to children who come under the purview of the ICPS system, parents often married off their daughters in the absence of review or support by the CWC.<sup>92</sup>

In 2016, in an attempt to streamline information gathering, the MSCPCR took a few initiatives towards standardizing formats. The details requested in these formats, for instance, information on POCSO cases regarding police attire (plainclothes or uniform), interpreter (presence or absence), child friendly communication (independent interaction of the judge with the child); actually sensitised authorities to the provisions of the law.<sup>93</sup> Evidence from a study of the ICPS across seven states also showed that, across the sample districts, there is a general lack of awareness of the JJ Act amongst the police. They are often ignorant of their objectives, existence and role in protecting CNCP. This situation defeats the overall aim of the JJ Act.

#### **4.4.4. Overburdened System**

There is a burden of extra responsibilities on social workers in Maharashtra due to multiple portfolios handled by them.<sup>95</sup> Such a situation often reduces the number of interactions between the child, their caregivers and social worker causing significant damage to their psychosocial well-being. Evidence from research by Rainbow Homes in 2018 also showed that, the other CCAs (i.e. SJPU) are also experiencing difficulty in operating because of a shortage of human resources.<sup>96</sup> As mandated by the law, every district should have one CWC. But the report submitted by NALSA to the Supreme Court in *Sampurna Behura v. Union of India* showed that, eight of the thirty-three States/Union Territories excluding Arunachal Pradesh and J&K had not constituted CWCs in every district. A 2010 study of CWCs in Maharashtra pointed out that, the profile of some districts (i.e. large geographical area, difficult terrain, international borders and high population density) results in a higher number of cases requiring

---

<sup>92</sup> Human Liberty Network: Report of Study on Integrated Child Protection Scheme (ICPS) (2019).

<sup>93</sup> Vyas, S.: "Monitoring Implementation of the JJ Act, MSCPCR" in Juvenile Justice Committee of the Bombay High Court et al., (2019), op. cit.

<sup>94</sup> Rainbow Homes Program – Association for Rural and Urban Needy: Child Protection & Governance: Implementation Status of Integrated Child Protection Scheme (ICPS), A study in 7 States of India from the perspective of Children in Need of Care & Protection (2018).

<sup>95</sup> Udayan Care (2019), op. cit.

<sup>96</sup> Rainbow Homes Program – Association for Rural and Urban Needy (2018), op. cit.

intervention from a CWC. High caseload may lead to anomalies such as the Mumbai city district CWC with a caseload of 100 cases per sitting.<sup>97</sup>

Simultaneously, evidence has indicated that even after years of the inception of ICPS, the DCPUs have either not been constituted or are defunct in a vast majority of districts.<sup>98</sup> Where the DCPUs have been formed, as in Maharashtra, they were reported to be understaffed with the limited budgetary allocation as well as restricted discretion to continue their work uninterrupted.<sup>99</sup>

These contexts put an additional burden on the existing system. For example, the role of the DCPU in post-restoration follow-up of children was examined in a study of the ICPS across seven states. In most of the sample districts, the staff of the DCPU were involved in conducting follow-up via the telephone, and home visits were only done on a needs basis.<sup>100</sup> This is due to paucity of human resources and scarcity of funds, which is likely to impact the work quality of the CCAs. These circumstances raise questions on the quality of inspection and social audit conducted in these CCIs. Supreme Court Justice Dhananjay Chandrachud pointed out that, "the problem is the absence of standards and the enforcement of standards despite the establishment of structures of governance."<sup>101</sup>

#### **4.4.5. Remuneration**

Salary or remuneration was also an issue with the staff. The study on the ICPS across seven states reported requests for a higher salary, more holidays, an increase in the overall budget and acknowledgement from and accessibility to authorities to be common.<sup>102</sup> Inadequate compensation prevailing in the childcare sector remains a concern among functionaries.<sup>103</sup> Besides the above-mentioned concerns, studies have found that, there is also a critical gap in accurate data on the functioning of the JJ System in India, which affects planning. For instance, the NCPCR admitted that, its 2013 study on CWCs in India was based on incomplete information provided by seven state studies, due to significant gaps in recording and maintenance of case data by CCIs, among other reasons.<sup>104</sup>

---

<sup>97</sup> Shekar, N. & Vora, A. (2010), op. cit.

<sup>98</sup> National Commission for Protection of Child Rights (2013), op. cit.

<sup>99</sup> Patkar and Kandula (2016), op. cit.

<sup>100</sup> Rainbow Homes Program – Association for Rural and Urban Needy (2018), pp.43, op. cit.

<sup>101</sup> Press Trust of India. (2019), op. cit.

<sup>102</sup> Aangan (2006), pp.10, op. cit.

<sup>103</sup> Udayan Care (2019), op. cit.

<sup>104</sup> National Commission for Protection of Child Rights (2013), op. cit.

## 5. Rationale of this Study

CCAs that support vulnerable children for their overall care, protection, development and rehabilitation in Maharashtra have a relatively older history. Several reports and studies have documented their work.<sup>105</sup> However, most of them have also repeatedly questioned the effectiveness and ability of the overall system to fulfil the physical, emotional, and rehabilitation needs of children.<sup>106</sup> The attempts by previous studies to gain a holistic understanding about the functioning of CCAs have been limited by several factors. Most focus predominantly on studying CCIs thereby missing out on the perspectives of other agencies; and studying the system is in the context of either CCL or CNCP, which does not provide a complete picture to assess the functioning of CCAs. The few studies, which include multiple agencies (i.e. CWC, JJB, CCIs, SJPU) and perspective of CNCP and CCL are limited to one or two major cities of Maharashtra and thus provide a preliminary and non-representative understanding about the existing situation. There is also a paucity of available information on CCAs of more recent origin such as the DCPU, and those like JJBs and SJPU. Overcoming these limitations provides a strong rationale for this study to understand why and how the overall juvenile justice system operates in the State of Maharashtra. A detailed and nuanced understanding is also critical for making any kind of recommendation for areas of improvement. Hence, a systematic study is necessary to unravel the existing functioning of CCAs and identify the reasons why they are unable to yield better outcomes for children and how they can be strengthened. Based on this rationale, this study has been commissioned by the Maharashtra State Commission for Protection of Child Rights (MSCPCR), which collaborated with International Justice Mission, Mumbai to conduct the study from July to November 2019 with the overarching aim of studying the functioning of specific CCAs under the JJ Act, 2015 and POCSO Act, 2012 as per the Supreme Court directions in *Sampurna Behura v. Union of India* in six select districts in Maharashtra. The selection of the CCAs and districts is elaborated in the next chapter.

---

<sup>105</sup> Patkar and Kandula (2016), op. cit.

<sup>106</sup> Dutta, S: “Experiences of young Indian girls transiting out of residential care homes” in Asian Social Work and Policy Review, (2017, Vol. 11), pp. 16–29.



**Chapter 2**  
**RESEARCH METHODOLOGY**



## Chapter 2

# RESEARCH METHODOLOGY

### 1. Introduction

The Study on the Functioning of Child Care Agencies in the state of Maharashtra as per the Supreme Court directions in *Sampurna Behura v. Union of India* (hereinafter referred to as the CCA Study) was commissioned by the Maharashtra State Commission for Protection of Child Rights (MSCPCR) in collaboration with International Justice Mission (IJM). An Advisory Board (Box 1), chaired by Hon'ble Justice (Retd.) V.M. Kanade, High Court of Bombay and comprising members from law enforcement, judicial institutions and the State government was constituted to provide robust guidance on the implementation of the CCA Study. To lend further academic credence, Tata Institute of Social Sciences (TISS), Mumbai was invited as knowledge partner on April 26, 2019. The CCA Study was undertaken between July to November 2019.

#### Box 1: Advisory Board

1. Chairperson - Hon'ble Justice (Retd.) V.M. Kanade, High Court of Bombay.
2. Mr. S.V. Yerlagadda, Jt. Director, Maharashtra Judicial Academy and Indian Mediation Centre and Training Institute.
3. Mr. Krishna Prakash IPS, Special Inspector General of Police, Administration.
4. Mr. Ravi Patil, Deputy Commissioner, Commissionerate of Women & Child Development, Maharashtra State, Pune.
5. Mr. S.R. Salunkhe, Secretary, High Court Legal Services Committee, Mumbai.

#### 1.1. Objectives of the CCA Study

The specific objectives included in the research study are as follows:

1. To study specific childcare and protection bodies under the JJ Act, 2015 and POCSO Act 2012 (Acts) in selected districts of Maharashtra;
2. To identify gaps in the implementation of the Acts;
3. To understand systemic factors affecting the proper implementation of the Acts;
4. To assess the quality and adequacy of infrastructure; and
5. To suggest and propose appropriate recommendations and solutions to enhance the functioning of the agencies for further action by the respective officials.

## 1.2. Oversight Processes

At the behest of the Director, TISS, Mumbai, an Academic Committee (Box 2) was convened for oversight over the methodological aspects of the study.

### **Box 2: TISS Academic Committee**

1. Prof. Arvind Tiwari, Dean, School of Law, Rights and Constitutional Governance, TISS as Domain Expert.
2. Prof. Anil Sutar, School of Research Methodology, TISS as Methodology Expert.
3. Dr. Mohua Nigudkar, Chairperson, Centre for Equity and Justice for Children and Families, School of Social Work, TISS as Domain Expert.

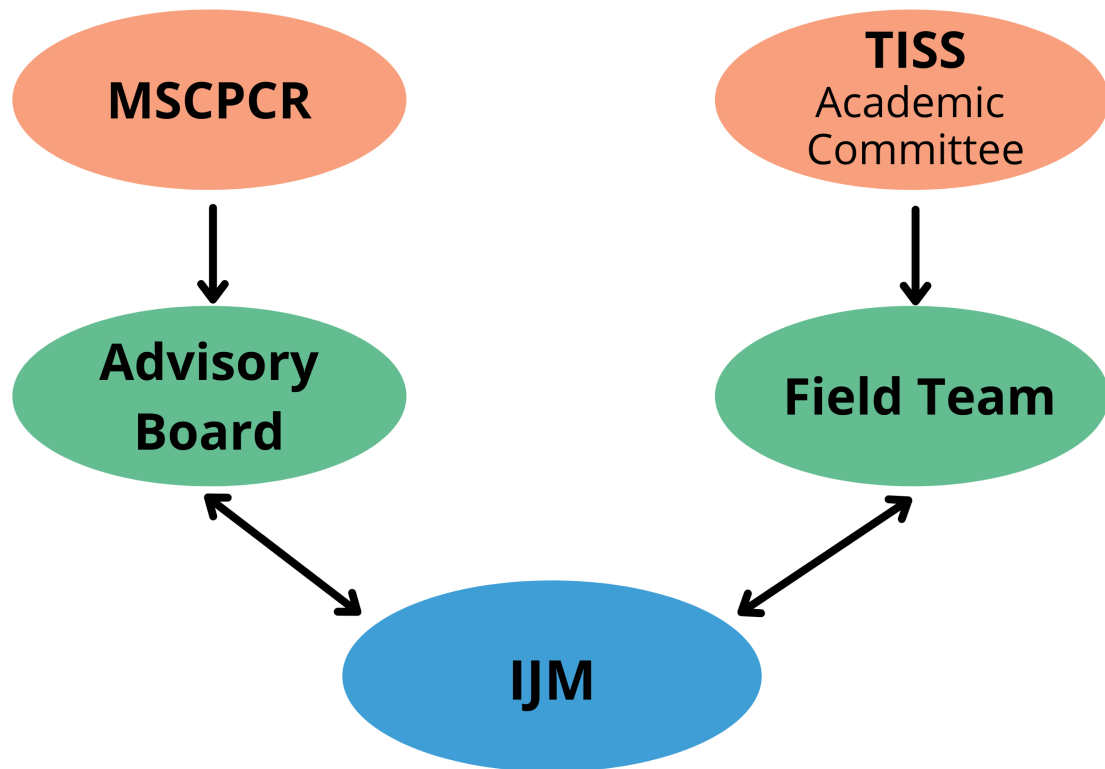
As a conscientious first step, recommendations for ethics protocols were extracted from the TISS website. The same was done from IJM's Child Protection Policy. These were developed into an Informed Consent Form for each interviewee. In order to maintain objectivity, it was decided that respondents of the CCA Study would not be provided any compensation for their interviews except for former residents of CCIs living in Aftercare facilities.

A team of data gatherers was selected and trained by IJM subject matter experts and the TISS research team (hereinafter referred to as TISS team) on aspects of the JJ Act, interviewing techniques, handling of ethical procedures, child safety protocols, and on research tools. A senior doctoral student from TISS was selected to lead the field team, comprising four research investigators with social science degrees who were selected after qualifying personal interviews. One of them is a native Marathi speaker. In the field, quality control involved observations of interviews by junior researchers, end-of-day briefings and note-taking.

Prior to data gathering, safety protocols for the field team as well as for children in the CCIs were developed and reviewed. This included instructions to not enter rooms with children without the presence of an adult from the CCI, protocols regarding interviewing female personnel, and check-in procedures for the field team. The team was asked not to consume meals at the facilities other than a cup of tea/coffee as offered.

The completion of interviews was tracked through a research management sheet and daily communication between the field research team and the IJM monitoring team. Day-to-day monitoring and problem-solving was managed by this IJM team through phone calls and Whatsapp messages.





## 2. Scope of the CCA Study

### 2.1. Site Selection

The Advisory Committee recommended the following districts representing the six administrative divisions in the state: Ahmednagar, Aurangabad, Nagpur, Pune, Thane and Yavatmal. The data gathering team conducted a pilot testing of tools in Thane district. Data collection took place between June 24, 2019 and July 3, 2019.

### 2.2. Sample Selection

Within each district sample selection ensured inclusion of the following:

- Children's Homes and Shelter Homes (for Children in Need of Care and Protection – abbreviated as CNCP)
- Observation Homes (for Children in Conflict with Law - abbreviated as CCL)
- Child Welfare Committee (abbreviated as CWC; for CNCP)
- Juvenile Justice Board (abbreviated as JJB; for CCL)
- District Child Protection Unit (DCPU)
- Department of Women and Child Development (DWCD)
- Special Juvenile Police Unit (SJPU)

The MSCPCR and the Advisory Board facilitated permissions for data gathering (Annexure 1). The permissions for data gathering from JJBs and the District Legal Services Authority (DLSA) were procured after the data gathering team had been disbanded. Hence, the JJB could only be assessed in the district sites through interviews with a few of its members and some panel lawyers. No judges were interviewed. Children's Courts could not be included in this study.

Further, based on a literature review and analysis of the JJ Act, the TISS Academic Committee recommended the inclusion of certain key personnel within each CCI and child protection bodies in every district. Additionally, to capture alternate viewpoints, it was proposed to include other stakeholders such as NGOs and residents of CCIs. In research language this is known as triangulation of source.

The MSCPCR reviewed and approved these recommendations for inclusion:

- **CCIs:**
  - Superintendent, Probation Officer, Counsellor (where available), Caretaker
- **Child protection bodies:**
  - CWC: Two members and a Probation Officer
  - JJB: Magistrate, Lawyer, Probation Officer, Social Worker
  - DCPU: Unit head plus three more personnel
  - SJPU: Unit head plus two more personnel
- **NGOs who work with the CCIs and the child protection bodies**
- **Residents of CCIs - represented by residents of Aftercare Homes**

The data gathering team was instructed to include as many Probation Officers as possible to understand their role and functioning in the light of the Supreme Court recommendations in the *Sampurna Behura* judgement. Probation Officers with less than three months of experience were to be excluded from the study as it was reasoned that, their understanding of role and processes would be limited to inform the study findings. No such limitation was placed on interviews with other personnel.

Since the sampling of NGOs for interviewing was not part of the primary sampling decision due to paucity of time in data gathering in each district, the representatives of NGOs were included based on recommendations from personnel at the CCIs or the CWC. The sampling criteria for this category was decided based on a list from the DWCD and the criteria were established as a part of the methodology plan between IJM and TISS team, which was approved by the TISS Advisory Committee.

Inclusion of residents of CCIs raised several ethical issues. Interviewing children who are currently residing in the facilities could leave them vulnerable to pressure from the personnel in the CCIs. Therefore, an alternative strategy was incorporated into the study design – inclusion

of residents of Aftercare Homes who could relate their prior experience with CCIs.

This asymmetric inclusion of stakeholders was considered appropriate as it would ensure representation of voices of persons who have lived in a CCI. Further, it was not the intention of the research team to place CCIs under an evaluative lens wherein the findings would cause district officials to undertake remedial measures on specific CCIs or individuals.

It was decided *a priori* that, the field team would attempt to sample CCIs near the CWC and JJB as well as those outside the urban areas where these statutory bodies are located. CCIs covering female and male children were to be included in the sample. Similarly, CCIs run by the State as well as by non-governmental organisations were to be covered. At least three CCIs were to be selected in each district. Further, when selecting personnel from within the CCIs, where possible, the team was to maintain a balance between female and male personnel (for instance, in selection of caretakers for interviewing). In research terms this ensured that, the sample would have variation in terms of gender and geographic distance. However, the choice of Aftercare Homes got limited in terms of what was available in the district selected by the MSCPCR. Hence, all three Aftercare Homes selected were those, which catered to male residents.

At the field level, the DWCD office at the district level facilitated contact with the CCIs. The data collection team was guided by the district officials who ensured introductions to the Superintendent. This decision was made once data gathering was underway because of the perceived resistance from the CCIs towards inclusion in the study despite a clear letter of permission from the DWCD. This led to a filtering process within the sample selection by district officials, which may have influenced the sample towards CCIs that are visited more frequently by the supervisory authorities. However, as the research study design aimed to capture a wide range of stakeholder views, it is hoped that, any “bias” would be mitigated by these varied views and voices.

### 3. Research Design

The TISS team recommended a mixed methods study design involving:

- **Qualitative data**
  - Key Informant Interviews (KIIs) (Annexure 2).
  - Field observation.
- **Quantitative data**
  - Detailed Information Sheet for each CCI including checklists for assessing space considerations at the CCI, registers and staffing.
  - Anonymised data extraction from case records at the Children’s Homes and the CWCs to assess case management procedures.

With regard to the anonymised data extraction, the planned sampling process was to take the CCI's register for 2018 (previous year) and moving backwards take every third case till a sample of 25 records could be assessed. However, the field team found that case records were not always systematically maintained, thereby requiring them to collect whatever records were available for the year till they covered 25.

### **3.1. Tools and Data Gathering Protocols**

After an initial literature review, the TISS team developed tools, which were reviewed by the MSCPCR, the Advisory Committee, the Academic Committee and field experts at IJM. These included a set of interview guides for KIIs, the Detailed Information Sheet and the data extraction format.

The KII guides and the Detailed Information Sheet were pilot-tested in Thane district in the months of June to July, 2019 with assistance from the District Office. The efficacy of the tools post the piloting phase was reviewed and finalised. While the original sampling plan focused on the Superintendent, Probation Officer, counsellor and caretaker, the TISS team recommended and developed additional interview guides for other personnel such as cook, nurse, and security guard. This was in anticipation of a situation wherein they might need to interview alternate personnel in absence of the key informants originally desired.

The case records data extraction protocol was developed based on IJM's compendium of report formats.<sup>107</sup> It was field-tested in a CWC in Mumbai city and then implemented in the data gathering for five districts.

The tools were translated into Marathi. No back-translation was undertaken. Rather, bilingual speakers with field experience were asked to read the protocols in English and Marathi and ensure quality of translation.

### **3.2. Data Gathering Protocols and Experiences**

Prior to actual field work in a district, IJM with assistance from the DWCD and the MSCPCR, facilitated contact with the District Office of the DWCD. The District Office in turn discussed with the field team and then facilitated contacts with the CCIs. The field team also made telephone calls to the CCIs, discussed a suitable date for the visit, and sent a Marathi copy of the interview guides to the personnel so they could prepare for the questions asked.

---

<sup>107</sup> In Appendix

During the site visit the field team introduced themselves to the Superintendent and the personnel, discussed their visit in detail and outlined the procedures for the rest of the day. One part of the protocol involved a walk-through of the CCI to understand the layout (preparatory to validating the Detailed Information Sheet on the CCI). Then per the convenience of the staff, interviews were conducted and registers perused. Interviews were conducted by one member of the field team while a second one took notes. Prior to the interviews, the field team explained the informed consent process and administered the form. Interviews were conducted in Hindi or Marathi and recorded on a digital recorder.

The field team accommodated personnel who were uncomfortable in being interviewed. For instance, at one CCI, the Superintendent was not comfortable in replying to questions and requested a more vocal member of the staff to answer on their behalf while they sat in the room watching the interview. The data gathering team acquiesced to this request as an ethical response that, nevertheless met the requirements for valid, trustworthy data. The team's anticipation of missing personnel did materialise as they found that, CCIs almost uniformly had many vacancies. Therefore, they instituted these alternate interviews in the hopes of eliciting a complete picture of each CCI. Also, they realised that, personnel who were not interviewed felt left out. Interviewing these personnel who were not part of the original sampling plan facilitated the progress of the data collection at the CCI.

When personnel had not been appointed to a particular post, the field team attempted to interview anyone who held additional charge for that post, or anyone who was not formally designated to the post but who nevertheless was carrying out the role. These changes and modifications were noted on the Research Management Sheet shared with the IJM Monitoring team.

Regarding CWCs, JJBs, members of the DCPUs, and SJPU, the respective District Officers provided contact details and facilitated data collection through introductory telephone calls to the members of these units.

### **3.3. Data Processing and Analysis**

After a site visit, digital interviews were labelled and uploaded to a secure data storage site within the IJM's servers and also stored on an external storage device. Detailed Information Sheets and data extraction sheets were scanned and uploaded to the data storage site. Informed consent forms were numbered and filed.

Interviews were transcribed directly from Hindi or Marathi to English by bilingual speakers. The transcribed interviews in MS Word format were uploaded to the secure data storage site. The field team conducted a thorough debriefing with the IJM Monitoring team. Two members of the field team also undertook a preliminary analysis of trends.

A researcher under the guidance of the Monitoring & Evaluation, Research & Learning (MERL) consultant at IJM undertook further coding and analysis of the data. Interviews were entered into NVivo 12 and coded. A code system was developed based on the briefing of the field team and the provisions of the JJ Act (deductive coding) as well as concepts emerging from the data (inductive coding). A modified criterion-referenced coding pattern was followed – that is, observations from interviewees were compared with provisions of the JJ Act to assess how near or far they were from the recommended policy guidelines. In addition, coded output was further categorised into positive and negative. These categorisations were discussed between the two researchers and disagreements were resolved through reference to the policy. The researchers also reached out to field experts to better understand the data.

Data from the case records data extraction process and the Detailed Information Sheet were entered by a trained data entry operator into MS Excel and properly cleaned. The data were saved in .csv format and migrated for analysis to JASP Version 0.11.1. The code system was then analysed into overarching categories related to the specific objectives of the study.

### 3.4. Actual Study Sample

The tables below give broad details of the total study sample. A total of 135 interviews were conducted in 24 CCIs in the six districts (Table 3). In some instances, CCIs that were included housed both Children’s Homes and Observation Homes. Thus, the number of Superintendents exceeds that of the CCIs covered. The number of Probation Officers is low as these positions were often left vacant and responsibility for those duties was held as an extra charge by another individual. More details about these aspects are discussed in the chapter on Probation Officers (Chapter VII).

**Table 3: Sample of CCI Personnel**

DISTRICT	C C I	SUPERINTENDENT	PROBATION OFFICERS/ CHILD WELFARE OFFICERS	COUNSELLOR	CARE TAKERS /HOUSE PARENT	OTHER (NOT PART OF SAMPLING PLAN)
Ahmednagar	3	5 (male - 2, female - 3)	--	2 (male -1, female - 1)	5 (male - 2, female - 3)	1 teacher (female)
Aurangabad	3	2 (male – 1, female – 1)	2 (male – 1, female – 1)	1 (female)	4 (male – 2, female – 2)	1 clerk (male) 1 teacher (female)

Nagpur	6	6 (male – 3, female – 3)	--	7 (male – 2, female – 5)	10 (male – 4, female – 6)	1 cook (female) 1 social worker (female) 3 teachers (male – 1, female – 2) 3 medical/paramedical personnel (female)
Pune	4	4 (male – 2, female – 2)	2 (female)	3 (male – 1, female – 2)	15 (male – 7, female – 8)	1 trustee (female) 1 security personnel (male) 3 teachers (male – 1, female – 2) 2 medical/paramedical personnel (female)
Thane	5	2 (male – 1, female – 1)	3 (male – 1, female – 2)	3 (male)	15 (male – 9, female – 6)	1 NGO director (male) 1 Police Constable (female) 2 security personnel (male) 2 teachers (female) 1 medical/paramedical personnel (female)
Yavatmal	3	3 (male)	--	2 (male – 1, female – 1)	5 (male – 3, female – 2)	1 teacher (male) 5 cooks (female) 1 NGO founder (male) 2 security personnel (male)
<b>TOTAL</b>	<b>24</b>	<b>22</b>	<b>7</b>	<b>18</b>	<b>54</b>	<b>34</b>

35 male Care Leavers who exited CCIs and are now residents in Aftercare Homes in three districts were interviewed (Table 4).

**Table 4: Sample of Residents in Aftercare Homes**

DISTRICT	AFTERCARE
Aurangabad	11
Nagpur	11
Pune	13
<b>TOTAL</b>	<b>35</b>

The table below details 76 interviews conducted with child protection authorities (Table 5). As it is more likely that, given the small number of personnel, critical views of administration policy and execution could be easily connected back to the interviewees despite measures for anonymisation, the research team has elected not to display the district-wise break-up in this table.

**Table 5: Sample of Child Protection Authorities**

<b>CHILD WELFARE COMMITTEE</b>	14 members
<b>JUVENILE JUSTICE BOARD</b>	6 members 6 lawyers
<b>SJPU</b>	4 Unit heads 3 Child Welfare Police Officers (CWPO) 2 members 1 Official of Social Service Branch 1 Head, Bharosa[108] Cell
<b>DCPU*</b>	4 District Child Protection Officers 1 Unit Head who is holding a position as Additional Charge 2 Counsellor 3 Legal cum Probation Officers (LCPO) 5 Admin personnel 3 Protection Officers (Institutional Care) 5 Social Workers 1 Protection Officer (Non-Institutional Care) 1 Outreach worker 1 Member
<b>DWCD</b>	2 Probation Officers 1 District Officer
<b>NGO</b>	10
<b>TOTAL</b>	<b>76</b>

Anonymised data extraction from case records was completed for 368 records at 18 Children’s Homes and 169 records at CWCs respectively at Aurangabad, Nagpur, Pune, Thane and Yavatmal districts. As mentioned earlier, in the absence of adequate permissions, examination of records at Observation Homes and the JJBs could not take place.

---

<sup>108</sup> A cell under the aegis of the police, which offers assistance, including psychiatric help and legal advice to women and child victims of crime and may cater to senior citizens as well.



## 4. Strengths and Limitations of the Study Design

The assessment process was approached using a mixed-methods approach of which qualitative research methods are a key ingredient. By its nature qualitative research does not claim to be representative of real-world phenomena. To qualify as representative, data would have to be drawn proportionate to how it occurs in the real world.

Rather, the approach taken per recommendations from the TISS Advisory Committee was to study the performance of the CCIs and the child protection bodies in depth. To this end, the data reflect perspectives of different types of stakeholders. It is indicative of trends rather than representative.

The sampling plan prior to data gathering was drawn up to be a robust representation of implementers of key aspects of the JJ Act in the districts. However, at the field level, there was a high degree of vacant positions. So, the team accommodated these absences and vacancies by interviewing alternate personnel.

The data reflects perspectives of different types of stakeholders.  
It is indicative of trends rather than representative.

Finally, the field team had to rely on the goodwill of the District Office of the DWCD to get past the gatekeepers at the CCIs and the child protection bodies. As noted earlier, this additional layer of filtering may influence the trends noted in the data. Where these possible influences might affect the analysis will be highlighted in this report.

However, the strength of the CCA Study is its inclusion of a diverse set of stakeholders in order to achieve what is called the strategy of maximum variation in qualitative sampling procedures. This contributes to credibility of the data analysis.

The following chapters will first outline the scope of work of each of the CCIs and the child protection bodies. The chapters that follow will address specific areas of note for examination and policy guideline change if possible.



**Chapter 3**  
**CHILD CARE INSTITUTIONS:**  
**CHILDREN AND PERSONNEL**



## Chapter 3

# CHILD CARE INSTITUTIONS: CHILDREN AND PERSONNEL

### 1. Introduction

According to the definition provided in the JJ Act, 2015, a Child Care Institution is any “children’s home, open shelter, observation home, special home, place of safety, Specialised Adoption Agency (SAA) and a fit facility recognised under the Act for providing care and protection to children, who need such services” (Figure 2). These children include CNCP and CCL who are housed in separate institutions (Figure 3).

**Figure 2: Typology of Child Care Institutions under the JJ Act, 2015<sup>109</sup>**

TYPE	NATURE
Children's Home (Section 50, JJ Act 2015)	Meant for care treatment, education, training, and rehabilitation of children in need of care and protection.  Children's Homes are established by the state government in every district or group of districts either by itself or through voluntary or non-governmental organizations.
Open Shelter (Section 43, JJ Act 2015 and ICPS)	Meant for vulnerable children (homeless, street children, drug addicts, beggars, etc.) in urban/semi-urban areas.  It is a short-term community-based facility for children in need of residential support that protects them from abuse. Open shelter is established by the State government either by itself or through voluntary or non-governmental organizations.
Observation Home (Section 47, JJ Act 2015)	Meant for temporary reception, care, and rehabilitation of children in conflict with law during the pendency of any inquiry.  Observation home is established by the State government in every district or group of districts either by itself or through voluntary or non-governmental organizations.
Special Home (Section 48, JJ Act 2015)	Meant for reception and rehabilitation of juveniles in conflict with law.  Special home is established by the State government in every district or group of districts either by itself or through voluntary or non-governmental organizations.
Place of Safety (Section 49, JJ Act 2015)	Any place or institution, other than a police lock-up or jail that can temporarily receive and take care of children alleged or found to be in conflict with law. The Institution od meant for a person above the age of 18 years or a child between 16 to 18 years of age who is accused of or convicted of committing a heinous crime.  Place of Safety is set up by the State government either separately or attached to an observation home or special home, with separate arrangements and facilities for children or persons during the process of inquiry and those convicted of committing an offence. Section 49, JJ Act 2015, contains provision for setting up at least one place of safety in a state by the state government.

<sup>109</sup> UNICEF and Udayan Care. (2017). Standards of Care in Child Care Institutions, A Series on Alternative Care.

Home of Special Needs Children (ICPS and Section 50 (2), 53 (ii) & (iii), JJ Act 2015)	For children with special needs (infected/affected by HIV/AIDS, drug addicts, and mentally/physically challenged), either in the form of a specialized unit within an existing home or a specialized shelter home for the purpose.  The JJ Act 2015 states that the State government shall designate any Children's Home as a home fit for children with special needs delivering specialized services, depending on requirement'.
Fit Facility (Section 51 (i), JJ Act 2015 and Rules 23 (13) & 27, JJ rules 2016 )	Refers to facility being run by a Governmental organisation or a voluntary or non-governmental organisation registered under any law for the time being in force to be fit to temporarily take the responsibility of a child for a specific purpose. It also includes facilities for group foster care.
Specialized Adoption Agency (Section 65, JJ Act 2015)	An institution established by the State government or by a voluntary or non-governmental organization for housing orphans abandoned and surrendered children, placed there by order of the CWC, for the purpose of adoption.

### Children in CCIs in Maharashtra (MH): A Fact Sheet

- MH is among the states with the highest number of single parented children (21,260) in CCIs/Homes of whom 14 are TG, 14784 are boys and 6462 are girls.
- MH is among the four states with the largest numbers of children (381) rescued from domestic work, labour and CSE residing in CCIs/Homes, with 179 rescued after being trafficked for forced labour other than domestic work.
- MH has the highest number of children trafficked into CSE residing in CCIs/Homes, namely, 170, which is 33% of the total such children in the country data.
- MH is the state with the second highest number of missing/runaway children found in the JJ system and placed in CCIs/Homes and has the highest number of boys (264) in this category.
- MH has around 10,745 orphaned, abandoned and surrendered children in the age-group of 7-18 years in CCIs/Homes.
- MH has the highest percentage of occupancy of girls among orphan, abandoned and surrendered children in CCIs/Homes at 11.72% (3154).
- All 14 transgender children housed in CCIs/Homes of Maharashtra are orphans.
- The highest numbers of CCL category children (1851) are accommodated in the CCIs/Homes of Maharashtra.
- MH has the second largest numbers of CNCP in CCIs/Homes (57,022).
- MH's average occupancy is 46 children per CCI/Home.
- Despite MH having a high rate of child marriage, only 5 girls in the age group of 12-16 and 6 girls in the age group of 16-18 made it to a CCI/Home.
- MH has the second largest numbers of children (813) who are affected and infected by HIV and AIDS, with more girls than boys, which may indicate a lack of other care options as also/or, a robust system for identifying and bringing them into the care fold.

**Source: GOI (2018)**

**Figure 3: Institutional Care for CCL and CNCP<sup>110</sup>**

<b>Institutions for Children in Conflict with the Law are:</b>	<b>Institutions for Children in Need of Care and Protection are:</b>
Observation Homes	Children's Homes
Special Homes	Open Shelters
Place of Safety	Fit Facilities

As per 2018 GOI data (Table 6), Maharashtra had 1,263 CCIs/Homes, which included the highest number of Observation Homes (53). Details can be seen in Table 7 (Next Page).

**Table 6: Maharashtra State CCIs**

<b>State</b>	<b>Observation Home</b>	<b>Special Home</b>	<b>Children's Home</b>	<b>Shelter Home</b>	<b>Special Adoption Agency</b>	<b>Total</b>
<b>MAHARASHTRA</b>	<b>53</b>	<b>3</b>	<b>1137</b>	<b>15</b>	<b>55</b>	<b>1263</b>

This chapter provides a detailed description of the child residents and personnel at the various CCIs – Children’s Homes for CNCP, and Observation Homes for CCL. Data is drawn from the Detailed Information Sheet for each institution and are illuminated with quotations from KIIs with personnel at the institutions.

### **1.1. CCA Study Data on Child Care Institutions**

The field team gathered data at 18 Children’s Homes, two stand-alone Observation Homes and four CCIs that, housed both an Observation Home and a Children’s Home. At the time of data collection there were reportedly 146 Children’s Homes in the six districts – thus the field team visited 16% of these Homes in the district. Each district reportedly had one Observation Home, which was covered.

<sup>110</sup> <https://nalsa.gov.in/acts-rules/guidelines/status-of-juvenile-justice-system-a-quick-overview>

**Table 7: CCA Study Data on Child Care Institutions**

District	Children's Home*	Observation Home\$	CCI houses a Children's Home and an Observation Home
Ahmednagar	2	--	1
Aurangabad	2	--	1
Nagpur	5	1	--
Pune	3	1	--
Thane	4	--	1
Yavatmal	2	--	1
<b>TOTAL</b>	<b>18</b>	<b>2</b>	<b>4</b>

\* Includes 1 Home wherein minors rescued under the ITPA Act are placed  
 \$ Includes 1 designated Place of Safety  
 Two also housed Aftercare Homes

## 1.2. Registration Status and Aid

Twelve CCIs were run by the Government. Of the other 12 run by NGOs and trusts, seven received Government aid and five did not. All organisations reported that, they had completed their online application on the Niti Aayog portal in Form 27 and several reported sending a hard copy of the form to the Commissionerate Office at Pune. However, at the time of the interview, they had yet to receive their formal documentation recognising them as registered bodies.

The CCIs had been established an average of 40.6 years before (SD=25.3 years). *Vidyadeep Balgruha* run by Jyoti Society in Aurangabad reported being the oldest CCI (102 years) having been established in 1917. *Anand Balsadan Balgruha* in Yavatmal was the newest, being just a few months old.

Three CCIs were either next door to the CWC/JJB while half were within 6.5 kms distance. *Anand Balsadan Balgruha* was reportedly the most distant – reportedly 90 kms.



## 2. CCA Study Data on the Children in Child Care Institutions

### 2.1. Number and Category of Children

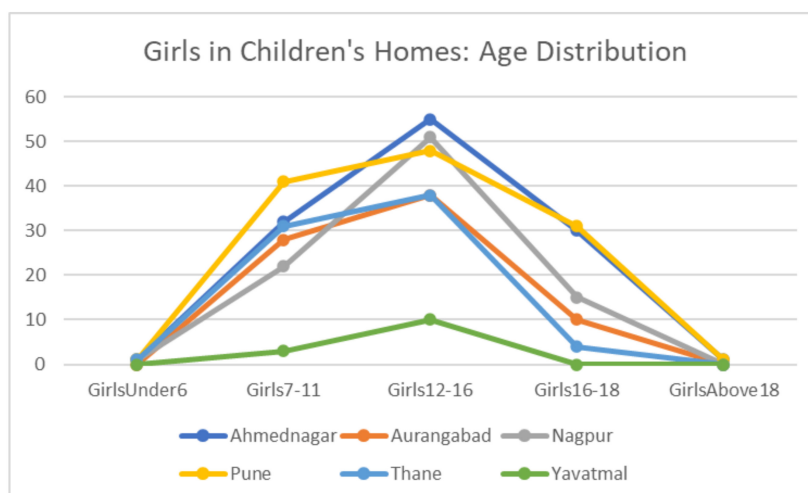
At the time of data gathering, as per the staff reporting on the questionnaire administered to them, the 24 facilities collectively housed a total of 1049 children: 937 in the Children's Homes (493 females; 444 males) and 112 in the six Observation Homes (five females; 107 males). Of these, 217 (20%) were orphaned; 377 (36%) came from single-parent homes; 202 (19%) had parents who had been declared unfit. There were 27 (3%) who had been found abandoned by parents, or who had run away from home – children who are "Missing." Twelve had a parent in prison. Apart from a CCI for children affected by HIV/AIDS, which had an occupancy of 66 kids, other facilities had two children from families affected by HIV and two who were HIV-infected themselves. Four girls rescued from commercial sexual exploitation were dubbed "ITPA minors."

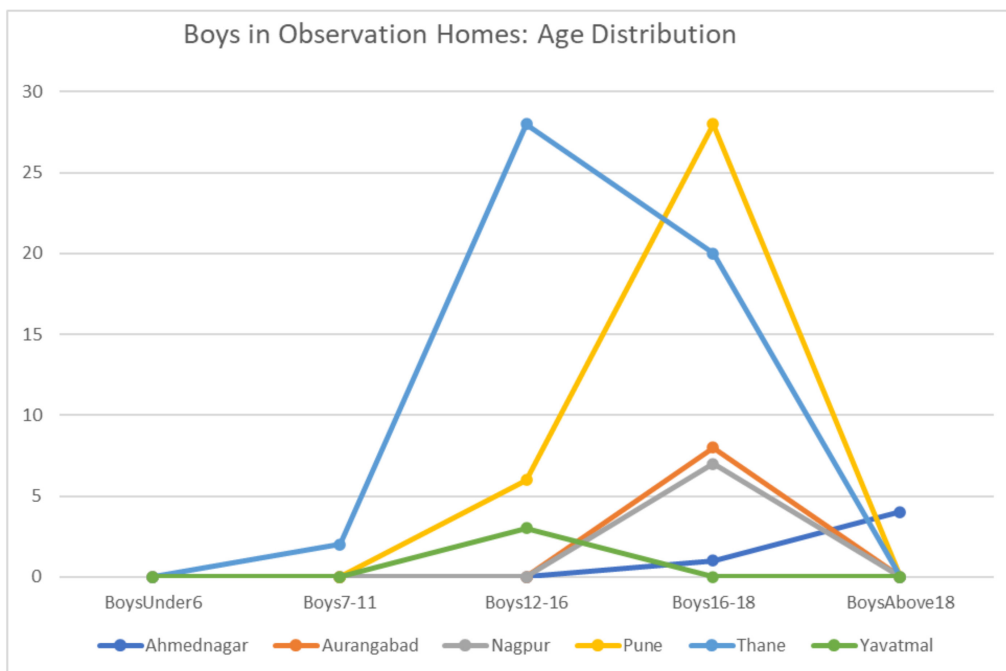
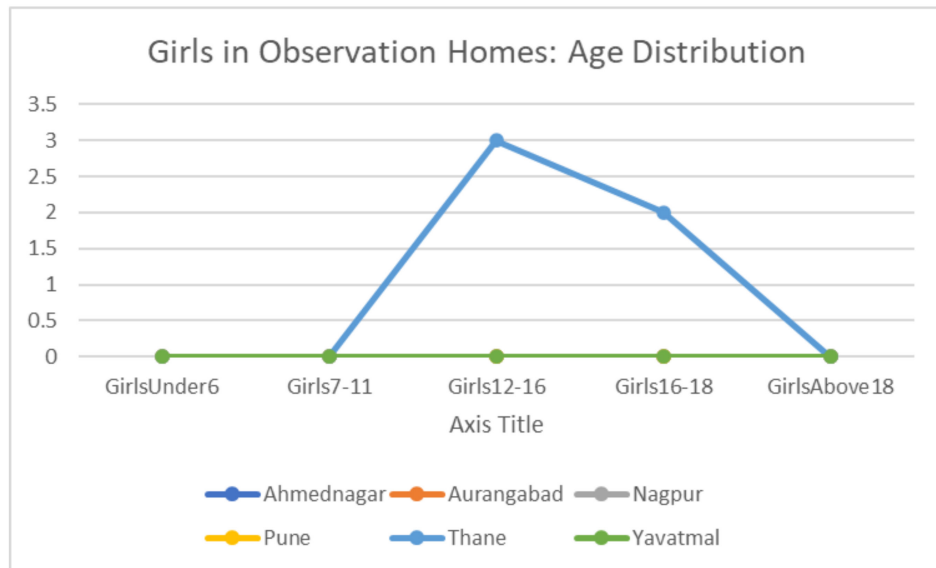
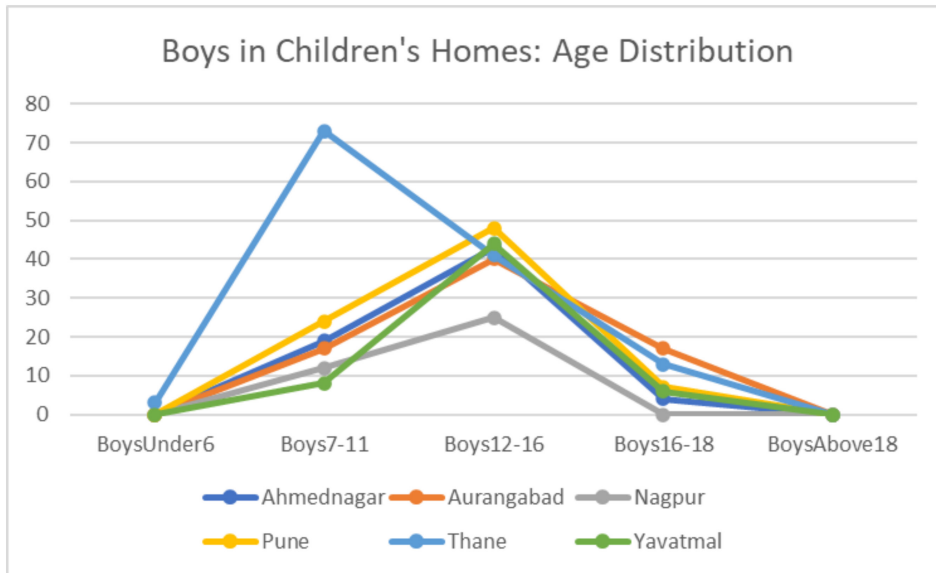
Thirty children had been sexually abused and were victims in a POCSO case. There were five children with mental health challenges, 11 children with physical health challenges (including nine at the Children's Home for Disabled Boys), and one child with both mental and physical impediments.

### 2.2. Age-wise Distribution of Children in Child Care Institutions

The first four diagrams show the distribution of girls and boys respectively as per age in the Children's Homes and the Observation Homes (Figure 4); the second set of four diagrams show the distribution of length of stay of both girls and boys for each type of CCI (Figure 5). As these were data reported by staff at the CCI in categories rather than a person-wise table, there was no attempt to run any kind of statistical analysis on these numbers, and caution would be advised against drawing any deep inferences from these diagrams. However, some observations do stand out and require a word of explanation, which is given below.

**Figure 4: District-wise Age distribution of Girls and Boys in Children's Homes and Observation Homes**





### 2.3. Observations on Age and Gender of Children in Child Care Institutions

Thane district had a higher number of male children in Children’s Homes. This could be because the field team had contacted a CCI in the district, which had a larger capacity than others. This first observation appears to be validated by the fact that, the length of stay of male children in Thane was visibly higher than the other districts, namely boys stay longer at the Home in Thane than in other districts.

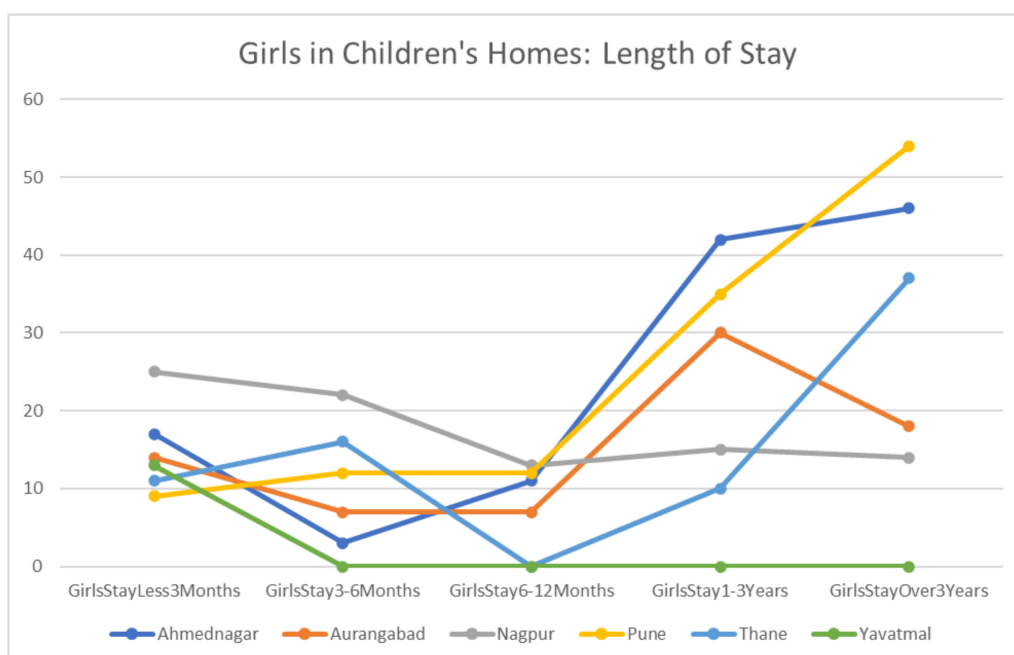
Yavatmal district appeared to have distinctly fewer children in CCIs as compared to other districts. This may be related to the fact that, the field team contacted fewer organisations in this district. However, both Ahmednagar and Aurangabad have a similar research profile as Yavatmal and their utilisation numbers were higher.

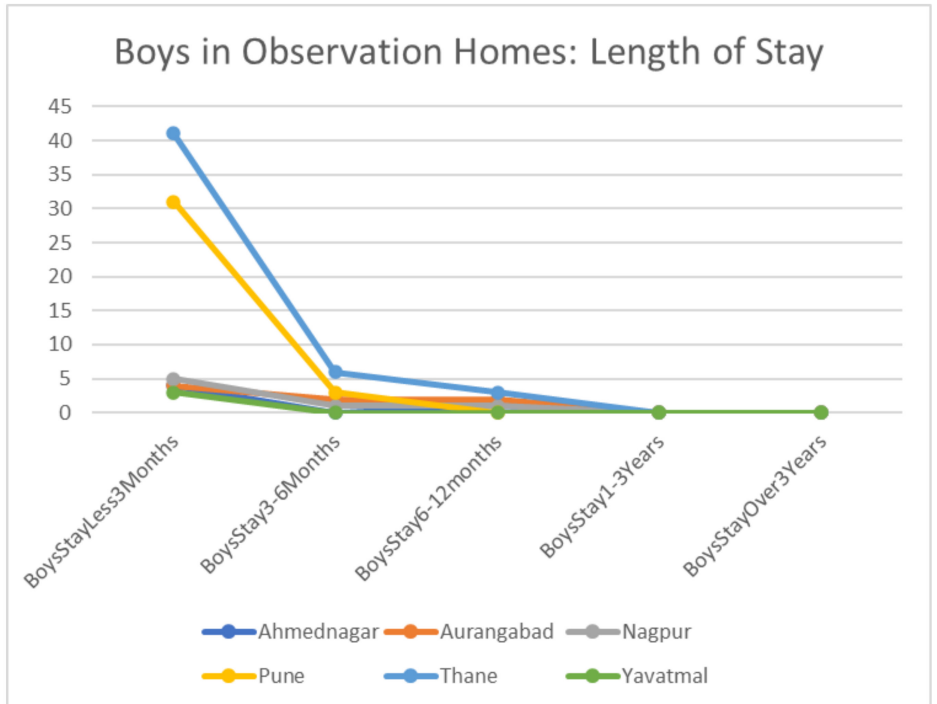
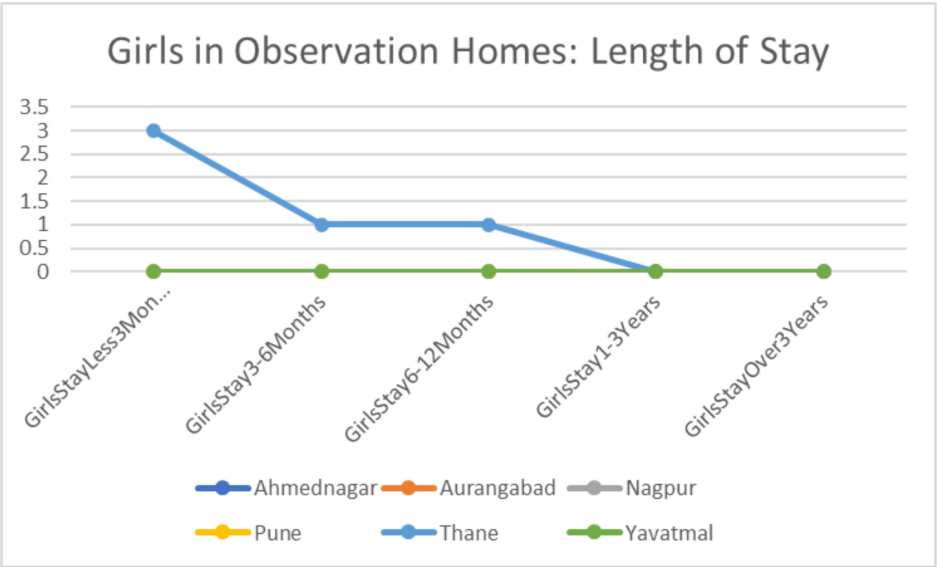
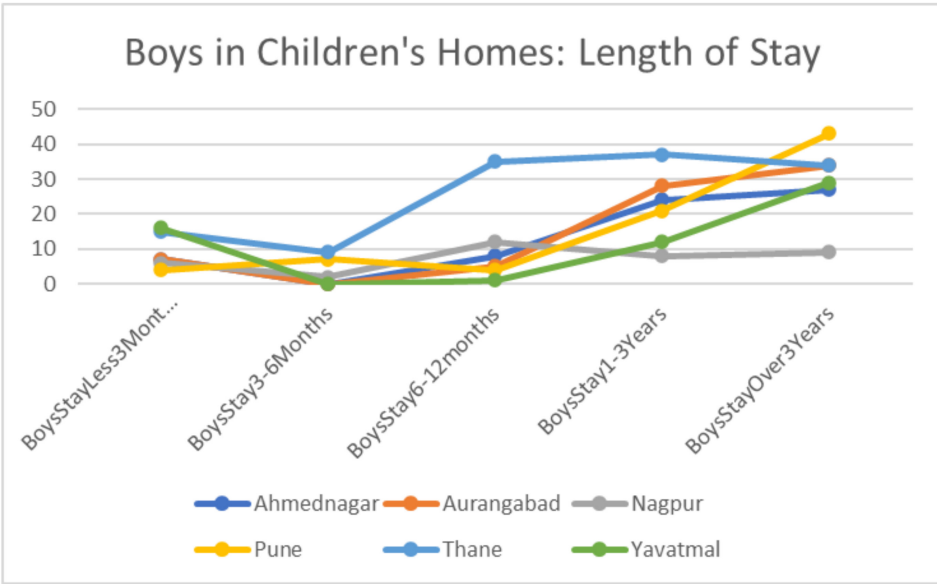
The number of CCL was visibly less than CNCP. The number of females was considerably less. This was not due entirely to the referrals from the District Officer of the DWCD to Observation Homes housing male CCL. For instance, in Ahmednagar, the Superintendent clearly mentioned that, the Observation Home was for boys and girls. However, at the time of data gathering, there were no female CCL in the Home. Even in Thane where there were both females and males the number of female CCL was visibly less than male CCL.

### 2.4. Duration of Stay of Children in Child Care Institutions

This set of four diagrams shows the distribution of length of stay of both girls and boys for each type of CCI (Figure 5).

**Figure 5: District-wise Length of Stay of Girls and Boys Children’s Homes and Observation Homes**





## 2.5. Observations on Duration of Stay of Children in Child Care Institutions

CNCP appeared to stay longer in the Children's Homes. In contrast, the (mostly) male CCL appeared to have briefer stays at the Observation Home. Two districts each had one female child above 18 years of age in Children's Homes. One district reportedly had four males above age 18 in the Observation Home.

During the qualitative interviews, personnel revealed that, CCL may be placed for longer stays in the Observation Home at the discretion of the judge:

*Sometimes [children referred by the JJB] are in for two hours, a day, a month, a few months, or six months... depending on their case. There is no fixed duration and the order is not time-bound. The JJB orders for the child to be kept in the Observation Home and we do the needful. When their bail order is passed, we send them off. There was a case of a child who was addicted to drugs. He stayed for six months with us. One child was with us for eight months. He had murdered his friend. His behaviour was very good and he regretted making that mistake. We have this ATS case who is here since January. His charge sheet wasn't filed for a long time. We just received his charge sheet in June [2019]. It's a complicated matter and it is still under investigation. Unless we get a release order, we have to keep him. Then there are cases of repeat offenders that keep coming in and out.*

Later in the same interview, the research participant shared:

*We have 5-6 children right now [who have been staying longer than four months]. Their parents have not taken them or furnished bail. The parents are also troubled that, the child is a repeat offender. They feel that the child has to be punished, and that, he should stay in here. Some people don't have money for the lawyer or the bail.*

Please note in the case of this CCI, the Detailed Information Sheet, which was filled from registers did not match the narrative of the staff member.

Another Observation Home staff also mentioned CCL above 18 being placed at their CCI by the JJB. They were placed because they were *on warrant*<sup>111</sup>, and it was anticipated that, they would be released by the JJB after review of the case.

## 3. Staffing Patterns in Child Care Institutions

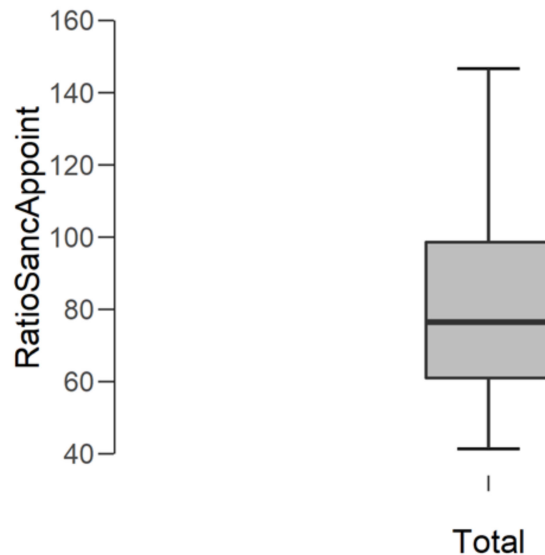
Half of the CCIs were staffed at 76% of their sanctioned strength or less (see the middle bold line in the box (Figure 6), which marks the middle of the statistical distribution of CCIs). Two Government CCIs reported higher staff than the official sanctioned strength. In one situation,

---

<sup>111</sup> Legal document issued by a judge authorizing the arrest or detention of a person.

the high numbers were due to the acceptance of additional personnel through NGO funding. Another institution had reported higher numbers but most of these high numbers could be seen to be part-time vocational staff.

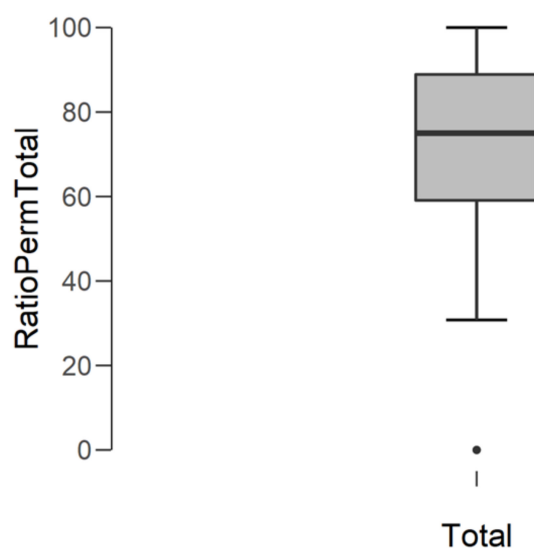
**Figure 6: Ratio of Sanctioned Staff to Appointees in CCIs**



Looking at the ratio of permanent staff to the total staff (expressed as a percentage of the total), it was found that, about half the CCIs had a workforce with more than 75% permanent staff (Figure 7). This means that, conversely, in the other half of CCIs, there was a high number of temporary or contractual staff. The two most recently established CCIs reportedly did not have even a single permanent staff appointment.

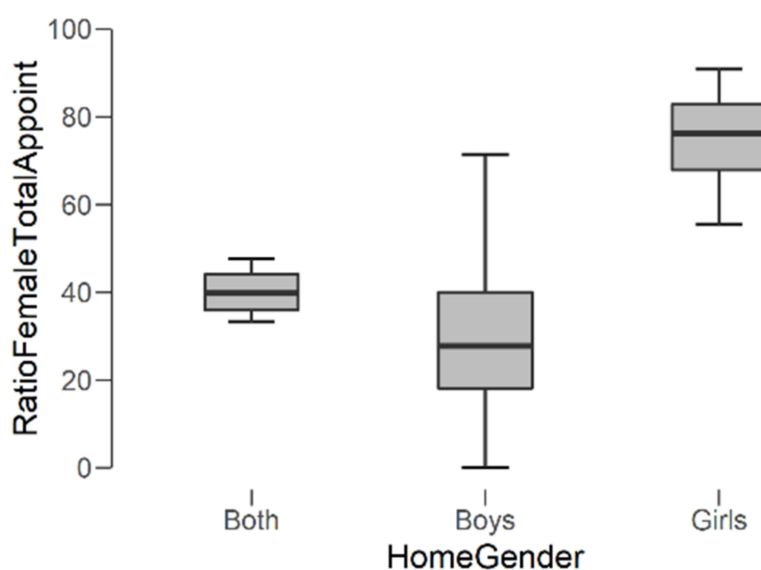
For the longer-established Homes, the ratio of permanent staff to total sanctioned posts could be as low as 40% of the total. Older CCIs were more likely to have permanent staff. A distinct paucity of full-time staff in many CCIs was also observed.

**Figure 7: Ratio of Permanent Staff in CCIs to Total Staff**



It would be expected that, women would make up the bulk of the workforce given that, in CCIs for females they would be in much larger numbers. On looking at the ratio of women to total staff (Figure 8) the median female to total staff ratio was found to be around 40% - that is, in half the CCIs women accounted for less than 40% of the total staff. Breaking this number down by gender served by CCI (Table 8), expectedly those dedicated exclusively to girls had a higher number of female staff (up to 76%) compared to CCIs for boys (median female-to-total staff ratio of 28%). In CCIs serving both girls and boys the median female-to-total staff ratio was 40%. But a look at the comparative boxplots (Figure 8) shows that, the lowest value for girls' only CCIs was 56% - that is, this particular CCI had 44% male staff.

**Figure 8: Ratio of Female Staff in CCIs as per gender to Total**



**Table 8: Ratio of Female Staff in CCIs as per Gender to Total**

	Girls-only CCIs	CCIs for Girls and Boys	Boys-Only CCIs
<b>Number of CCIs</b>	7	4	12
<b>Mean</b>	74.90	40.16	30.70
<b>Median</b>	76.19	39.85	27.78
<b>Standard Deviation</b>	12.08	6.34	23.40
<b>Minimum</b>	55.56	33.33	0
<b>Maximum</b>	90.91	47.52	71.43

These numbers indicate perhaps lack of sensitivity in prioritising the placement of female staff in CCIs, which serve females. Indeed, the qualitative data bears this out in that, one of the interviewees in a girls' CCI pointed out that – contrary to rules – a male counsellor had been appointed and that, this caused problems as girls could not speak freely about their personal matters. The same complaint was made about male caretakers hired in CCIs dedicated to girls. These male staff could not be allocated actual hands-on caretaking tasks – thus placing additional responsibilities on the female caretaker staff.

*It is completely wrong. There are some girls who are in their adolescence. They can have some health issues, which they may not be able to express to the male counsellor. The girls here are from rural areas. They cannot express themselves openly. Suppose a girl has her MC period, then she can't go to the male counsellor if she requires sanitary napkins. Therefore, they come to me and tell me about it. There are many issues of girls. MC, requirements like innerwear, they may require some clothes. They cannot demand these essentials from the [male] counsellor. (Superintendent)*

The CCIs were asked to report on their staffing (Table 9) to determine appointees, sanctioned posts and vacancies.

**Table 9: Staffing Reported by CCIs**

Position	CCI for which there is data reported	CCI for which there is a sanction	CCI which report having this position filled	Notes
Superintendent	23	23	22	--
Probation Officer	23	17	11	1 had a sanction for a Child Welfare Officer.
Counsellor	24	21	19	--
Tutor	24	18	13	--
Art teacher	24	4	3*	* One CCI, which did not have a sanctioned post had made arrangements for someone to teach the children.



PT or Yoga Instructor	24	4	2#	# 1 CCI had made an arrangement with a local NGO to provide services.
Medical Officer	24	18	19	--
Nurse or Paramedic	20	12	10	--
House Parents/ Caretakers	24	22	23\$	\$ 1 Home appointed 2 people even without a sanctioned post.
Cook	23	22&	22	& 1 CCI, which had a higher number of Houseparents appointed, had combined the role of caretaking with cooking responsibilities also.
Security staff	23	9	14	Several CCIs hired security guards through agencies.

### 3.1. CCI Superintendent

Of the 24 CCIs, 22 of the 23, which reported on whether there was a sanctioned post of Superintendent stated that, they did in fact actually have a Superintendent appointed. The one that, did not have a sanctioned position was overseen by a Probation Officer who held this as an additional charge. In this instance, the Superintendent appointment position is slightly misleading because the qualitative data shows that, CCIs housing multiple facilities tended to have one Superintendent having multiple charges. Only one such CCI had filled both the separate Superintendent posts. This meant that, the sample consisted of 23 Superintendents.

#### 3.1.1. Educational qualification of CCI Superintendent

Thirteen of the 23 Superintendents held a Masters in Social Work and three held other Master's degrees. Three were graduates while one was reportedly just a Class XII pass – someone who had received a promotion from a clerical position to that of Superintendent.

### **3.2. Probation Officer**

Of the 23 CCIs, which reported their status on Probation Officers, 17 had sanctioned posts. Of these 11 had at least one Probation Officer appointed in case of multiple posts sanctioned (1 reported filled positions for Child Welfare Officers). Some CCIs reported arrangements wherein a Probation Officer visits the CCI from another parent institution. This data was removed from this Report's count of appointed versus sanctioned. Six organisations, which reported not having a sanctioned post were all run by NGOs. In two such organisations, the Superintendent was assigned additional charge for the portfolio of the Probation Officer. However, the numbers of filled positions versus sanctioned positions is slightly misleading. In two CCIs, the Probation Officer was deputed to attend duty in other places.

#### **3.2.1. Educational Qualifications of Probation Officer**

The qualifications of the Probation Officer were not uniformly reported by CCIs. Of the eight Probation Officers for which details were available, four hold social work degrees and one was reportedly a Bachelors in Commerce.

### **3.3. Counsellor**

The hiring status for counsellors was better: 21 of 24 CCIs reported having sanction for at least one counsellor, of which 19 positions were reported as filled.

#### **3.3.1 Educational Qualification of Counsellor**

Many of those who reported the counsellor's qualifications stated that, they had appointed a Masters in Social Work.

### **3.4. Tutor or teacher**

Eighteen of 24 CCIs had a sanctioned post for a tutor or teacher, and 13 were filled. Of the ten with in-house arrangements, seven had their full complement of teachers appointed. Two had some teachers appointed.

Four CCIs had a sanctioned position for a physical training instructor or a yoga teacher. Only one CCI had appointed such a teacher. In addition, one CCI, which did not have a sanctioned post had nevertheless entered into a tie-up with a local NGO to provide yoga training.

Notably, one government CCI, which did not have an arrangement for a school at all had a post for a teacher, which was also not filled at the time of the data gathering. The data gathering team also observed some poor practices: In one CCI, the clerical staff spent some time

teaching the children. In another institution, the teacher was assigned to do clerical work in the office.

*There is a post vacant of the junior clerk. So, I have the charge of the junior clerk...all sorts of work, which is done by the junior clerk, for example salary of other employees, maintaining the ration register for milk, ration, etc; the salary of other outsourced employees and preparing information, which is demanded by the department...I have to go out for the work of the department. Then I get less time for my teaching job. And most of the time I have to do that work. For instance, when I come here around 10 am for the class...I am called for any official work. Then I have to leave the class and go for the official work...The main work is often ignored as the post is vacant and somebody has to do the work. I can't say no to work that is assigned to me. (Teacher)*

### **3.5. Medical Officer and Nurse**

Eighteen of the 24 CCIs reported a sanctioned position for a visiting Medical Officer (MO). Not all had filled this post. In a positive move, some CCIs had arranged for a physician to visit despite not having a sanctioned position. A few CCIs had an MO visiting every day, while most CCIs mentioned the visits being weekly. Twenty out of 24 facilities were asked if they had sanctioned post for a Nurse – of these 12 reported they had such a position sanctioned and 10 of these had filled the post.

For days when residents fell ill but the MO was not present, staff reported taking children to a hospital – 19 took the child to a government hospital using autorickshaws (or in one instance, a staff member's car). The other CCIs referred serious cases of illness to private hospitals

### **3.6. Houseparent/Caretaker**

Although the appointment of caretakers and Housemothers and Housefathers was separately queried, for this Report, these two categories were combined as their roles appear to be similar. Of the 24 CCIs, 22 had sanctioned positions for caretakers and/or Houseparents. They had all recruited and appointed some staff to these positions. One NGO had in fact appointed more caretakers than sanctioned. Surprisingly, one government Home also reported more staff appointed as compared to their sanctioned strength. A closer look showed that, they did not have a position for a cook and the caretakers here had cooking and caretaking responsibilities for a small group of children. As reported earlier, one girls' Home had a male caretaker. Further, one government CCI reported that three of their five caretakers were deputed to other places: two to other CCIs and one to the Divisional Office. This left this institution with only two caretakers to handle the work.

Currently I have a staff of 10. But two are working somewhere else. Their payment is released from here only but they work somewhere else. One is in Division office and the other is in an Observation Home. One as a cook and other as a Probation Officer. (Superintendent)

Similarly, one CCI Superintendent reported having a caretaker deputed from another institution who was unhappy to be placed at the CCI by an order.

### **3.7. Cook**

Out of the 24 CCIs, 23 reported on the post of cook: Of the 23, 22 reported sanctioning for the post. The sole CCI – a non-governmental organisation – wherein there was no sanction had combined the role of cook with that of caretaker as stated in the previous paragraph. This CCI housed children in a family style arrangement wherein a Houseparent couple took care of all needs of a small group of children including living, bathing and cooking. This Home had a high number of Houseparents compared with all other CCIs. In one of the CCIs where meals were outsourced, the cook having no work carried out the tasks of a caretaker.

### **3.8. Security Guard**

Only nine of 23 CCIs reported having a sanctioned position for security guards. Yet, underscoring the importance of security, 13 had some security arrangement. Some reported that, they had an outsourcing arrangement for security personnel. In a few CCIs with no security arrangement, it was caretakers or clerical staff who handled opening the gate.

*There are four security personnel in the Institute. Two are at daytime and other two are at night. In the team of two, one is constantly at Gate and other is inside. (Superintendent of Non-Aided Home)*

*We don't have a separate post of security guard. Caretakers act as the security guards. The main gate is locked and visitors are accompanied inside by the staff members. (Superintendent of a Government CCI)*

## **4. Conclusion**

According to a presentation by DWCD in 2019, of the total CCIs/Homes, only 652 (50.78%) were registered under the JJ Act. In light of these statistics, some CCIs not receiving approval despite NGOs submitting the requisite documentation for registration needs further study.

Given that, this CCA Study consciously attempted to include CCIs beyond the urban areas where the CWC/JJB may be located, it is heartening that, barring one CCI, the rest are within proximate distance of the CWC/JJB, which are charged with the responsibility for their super-

vision. But whether this has had any noticeable impact is moot.

As indicated in the preceding sections, no definitive statistical analysis can be drawn from the numbers of child residents in CCIs as these are based on staff reporting. So, the numbers of CCL being visibly less than CNCP and the number of females being considerably less can only be said to mirror the state data in the GOI study, 2018.

The higher number of CNCP as compared to CCL makes it evident that, unfortunately, institutionalisation is still the fallback option for these children. It is hoped that, with a policy for foster care and a strengthened sponsorship scheme in place in Maharashtra, these numbers will reduce the numbers of CNCP.

However, what needs deeper investigation is the duration of stay of CCL in institutions. A recent Supreme Court judgment ordered the immediate release on interim bail of juveniles illegally detained in an Agra jail and questioned the delay in their immediate release despite the order (*In re Delay in Release of Convicts after Grant of Bail*, SC 2021). There could be a need for an audit as to how many and which children continue to languish in Observation Homes when bail cannot be paid or because a case continues to be under investigation for an inordinate length of time.

A cause for concern in two districts is some instances of children residing in CCIs after completing the age of 18. The lack of sufficient Aftercare options for young women has been highlighted by the DWCD and with the policy thrust on Aftercare in the State, it is hoped that, this situation will be addressed adequately. At the same time, scrutiny of their presence must not lead to their forced exits from the CCIs without a support system.

The staffing patterns suggest that, education seems to be a low priority with only 13 tutors reported to have been appointed across 24 CCIs and only 18 being sanctioned while art teachers are sparse. While justifiably calling out the presence of a male counsellor in an all-girls CCI, it is couched in terms of the shame associated with menstruation. It also points to deeper problems about lack of the child's autonomy in the CCI that something as basic as sanitary napkins are not made freely available in a space, which they can access but must be requisitioned from a staff member.

The practice of dubbing girls as 'ITPA minors' or a Children's Home as an 'ITPA Home' or a boy as an 'ATS case' when the investigation about his role is still to be completed underlines the need for more rigorous sensitisation training of staff. Given the complex web of gender, caste/class barriers they need to overcome, such children face further marginalization due to such terms, which brand them with the crime committed against them in Homes meant precisely for their protection and rehabilitation from it.



**Chapter 4**  
**CHILD CARE INSTITUTIONS:  
PROCESSES AND SERVICES**





## Chapter 4

# CHILD CARE INSTITUTIONS: PROCESSES AND SERVICES

### 1. Introduction

While the previous chapter described the staffing of CCIs and drew up a detailed profile of the child residents, this chapter describes the processes and services at the CCIs. Data is drawn from the Detailed Information Sheets for each CCI, and sampling of records at 18 Children's Homes in five districts (excludes Observation Homes). Quantitative data is illuminated with quotations from Key Informant Interviews (KIIs) with personnel at the CCIs and males who have lived in Children's Homes<sup>113</sup> – who for convenience are designated as ex-residents.

### 2. CCA Study Data on Services in Child Care Institutions

#### 2.1. Food and Cooking Arrangements

It was noted that, 21 of the 24 CCIs had a designated kitchen. In one Home, food was cooked outside the building. One Home had two separate kitchens though only one of two cook positions was filled. In two CCIs the kitchen was common to its Children's Home and Observation Home. One had designated an outdoor shed as the kitchen. But effectively the cooking was done in a large room, which was also where children changed their clothes. The smallest kitchen was reportedly 77 sq. ft. The largest was 610 sq. ft. Twenty-one of the CCIs, which had kitchens, were observed to have some arrangements against flies.

Three CCIs reported that, meals were not prepared on-site, rather they were outsourced. One government CCI in one district reported that, such an arrangement was in place for the last three years. The team noted that, two other government CCIs in the same district also had an outsourcing arrangement. Staff reported that, persistent delays in releasing the grant-in-aid had caused difficulty for providing food. Recognising this problem, the District Collector of that time had passed an order for the midday-meal programme to include this CCI in its service provision.

Staff interviewed at the Homes did give detailed descriptions of the meals served. However, as these were self-reports, which could not be verified by the data-gathering team, these elaborate descriptions do not find mention in this Report.

---

<sup>113</sup>The reason for only male ex-residents being interviewed is explained in the earlier chapter.

Only 11 of 19 CCIs asked had a vegetable stock register, which the team could examine, and 12 maintained a food grain register. Two Homes reported that, they did not maintain this as meals were outsourced.

The team observed nutrition charts in 14 kitchens. One NGO staff took great pains to explain their care in feeding children in a way that ensured that, the nutritional needs were met. However, several interviewees reported delays in receiving grant, which affected their ability to provide nutritious food. The effect of a delay in receiving the grant-in-aid was corroborated by some of the ex-residents of Children's Homes also.

Six CCIs reported that, children helped in the kitchen with chores like cutting vegetables, making chapattis, etc. An additional two had older children involved in serving food. Of the CCIs where children assisted in the kitchen, five were girls' facilities, and staff were quick to state that, the children were involved in cooking so they could learn to cook. But these same CCIs did not have cooking as part of vocational training, which is described later in this chapter. This practice violates JJ Rules, which allow children to be involved only in daily cleaning activities in the CCI and in group activities such as washing of clothing and bedding and dormitories only during public holidays and vacations.

None of the Observation Homes showed this arrangement of children assisting in the kitchen – perhaps because most residents of Observation Homes were boys, and their stay is of short duration. Moreover, the fact that, girls are more likely to be involved than boys, and the absence of any formal curriculum or lesson plan, puts this stated intention under doubt.

Our interviews with male children now residing at Aftercare Homes covered the issue of meals in the Children's Home. Now past age 18, several of the interviewees had lived in more than one Children's Home. Their experience was varied depending on their recollection of the Home. They had limited expectations of the food they were served. One ex-resident recalled how the food in one Home was so basic and bland that he had to speak up to the trustee manager of the Home. He had complained to the CWC about this. However, he could not share his grievances in confidence, and his complaint led to reprisals by the trustee manager who said, "Complain and see what happens. Nothing will change even if you complain". Hence, "I was worried that I would be tortured if I complain too much". Other children recalled with glee spending their limited pocket money on roadside snacks and biscuits. These little treats were related as pleasant memories to cope with an otherwise mundane existence. One boy related that, donors often gifted food items that went to the manager or staff of the CCI.

In relation to carrying out chores in the Home such as cleaning and cooking, there was a uniformity to the views. Younger children were not expected to handle such work, which changed as they grew older. As children grew older, they were variously expected to keep their own area clean or clean other common areas. With regard to helping in the kitchen, some reported

doing so – boys also. But in the case of at least one boy, this was an attempt to overcome boredom. For another boy it was an effort to influence the cook to prepare some special food item.

When CWC members conduct inspections at the CCIs, inevitably food and meals are one item they cover. The below emerged consensually from interviews of CWC members as well as CCI staff.

*CCIs are often found assigning labour work and cooking duties to children.  
(CWC member)*

*[People who come for inspections] see the surroundings, beds of all the children, the toilets, bathroom, cleanliness, everything they check; then the kitchen, how is the dal and rice...  
If anything is cooked, they see that as well. (Superintendent)*

Notably, only one Superintendent in a CCI displayed awareness of need to supervise the quality of the food, which under JJ Rules is also the responsibility of the Houseparent and Child Welfare Officer.

*[Every day, I] check if food is properly made or not... First we need to eat and check if it's eatable, only then should we give it to the children. If you check you can see plenty of complaints in the papers of children getting food poisoning or that, they found a dead lizard in their food. So, we need to maintain all hygiene and care. We need to check if the storeroom is properly maintained, if they have cleaned it properly... , check if the kitchen is cleaned properly ... (Superintendent)*

## **2.2. Clothes and Bedding**

All CCIs reported that, they provided a full set of clothes and bedding to children. This was reported in detail. However, as the data gathering team could not validate these self-reports against actual reports from children at the CCIs these are not described in the Report.

Staff at several CCIs reported that, clothing in general was not a problem. Some received donations of used clothing, which sorted any need. However, it was school uniforms that were in short supply. The hand-me-downs did not include appropriate clothing for the children's schools.

*There is no problem with supply of clothes. These children wear each other's dresses many times. There is ample supply of clothes from the donors. (Caretaker)*

This practice of hand-me-downs at childcare CCIs was not appreciated by all as reflected in the comment of a CWC member:

*We have given this instruction to every CCI that it has come to our notice that when there are birthdays, birthdays of leaders, [and] there is a party, the remaining food comes to us. We have banned it. Here, cooked food items, old used clothes, used footwear, old books, our kids won't take it. It won't be accepted.*

It was unclear whether the reason was to prevent food poisoning or whether it was to accord dignity to the child residents. However, the practice of accepting hand-me-down clothes and accepting left-over food from celebrations of rich people was something that, staff used to overcome the fact that, the government grant-in-aid is limited and would not stretch to cover clothing also. One Superintendent, however, had managed to find an alternate solution to this:

*Like I said, we get very less government funds... Children's clothes have to be bought, or mattress, carpets. So, I took funds of Rs 5,00,000 from DPC (District Programme Coordinator). (Yavatmal Superintendent)*

Ex-residents of Children's Homes who were interviewed – by and large – corroborated these observations in their own interviews.

### **2.3. WASH Facilities**

In 21 of 24 CCIs, the number of bathrooms were observed to be sufficient. In a similar number, the number of toilets were observed to be sufficient. However, the presence of toilets and bathrooms does not presume its functionality. For instance, in one CCI, 17/20 toilets were non-functional. Repairs in government CCIs were sometimes held up because of the lack of speedy response from the Public Works Department (PWD). Most CCIs failed to report on the issue of privacy for children in the CCI. This concept could probably not be well understood by personnel at the CCI.

An ex-resident of several Children's Homes who was interviewed on his experience, minimized his experience with the use of bathrooms and toilets. When asked how the children managed in a Home with a few toilets and bathrooms, he mentioned that they had drawn up a schedule regulating the times for use of the facilities. Further, he mentioned that he woke up very early to use the facilities.

Safe and sufficient water supply was a significant issue in districts of Ahmednagar, Aurangabad and Nagpur, especially given their hot summers and water shortages. In 23 of 24 CCIs, water was reported to be sufficient. In a few districts, piped water was not available. However, the district authorities had made arrangements for provision of tankers. Most Homes had compensated by making adequate arrangements for storing the water. Considerable resources were expended on water. Further, CCIs largely differentiated between potable water and water used for other purposes.

*We have a borewell and... drinking water is supplied every two days by taps. Borewell water is used for all other purposes except drinking... We have fitted a water purifier. We purchase the water packed in bottles for drinking if there is no supply of drinking water. (CCI Superintendent)*

*There is problem of water supply in this district. But we have five borewells in the premises. We have a very large underground water tank...almost the size of the building. We bring water from the lake 3 kms away from our premises. We have laid a pipeline of 12 kms length [later corrected self to say 4 kms] ...We bring the water through this pipeline. In case of shortage of water, we purchase the water. If you look at our water bill, you will find that we spend almost Rupees 1.5 lakh per month for water. (CCI Superintendent)*

*We have a tap of Jeevan Pradhikaran and we have the borewell. For washing clothes and utensils, we use borewell water, and for drinking water we use Jeevan Pradhikaran water. (CCI staff)*

*We receive Corporation [Municipal] water after five days. So, it is collected in the tanks. We have almost ten tanks on the roof and one underground where we store. If water gets over, we have a borewell for washing cloths and there is a hot water facility - children can use hot water to take a bath. So, the Corporation water goes to the hot water system. (CCI Superintendent)*

Some Superintendents had used local resources to ensure uninterrupted supply of this critical resource – using Corporation resources or local donors:

*We bring outside tanker only in the month of May when there is a problem... The village Nagar Panchayat President provides us 5-6 bottles of [drinking] water [per day] (CCI Superintendent)*

*We get water from the [Municipal] Corporation. There is a water filter and a water cooler received through donation. There is a borewell for other uses of water. There is no water shortage here. Water is available 24x7 due to the borewell. There is [a] tank for drinking water storage and a pump has been installed by PWD to refill the tank. (CCI Superintendent)*

However, the need to be able to respond to unanticipated problems was also highlighted. One NGO in another district reported a sudden breakdown in supply for which they had to carry water from a neighbouring NGO. Water problems mentioned included the feasibility of using water purifiers:

*We don't get enough water supply here. We get water every eight to 15 days. So, it's not feasible to have a water purifier. (CCI staff)*

*We have Aquaguard water purifier, which we use on water from the [Municipal] Corporation. (CCI Superintendent)*

Some issues to take note of were the involvement of children in washing clothes and fetching water. For instance, a few CCIs reported the presence of a washing machine (in one case broken down a month before). Other CCIs did not report such arrangements, nor were they visible to the team. Only on probing did staff reveal that children were expected to wash their own clothes.

*Interviewer: Where do the girls wash their clothes?*

*Respondent: There is an open place outside the bathroom block... The girls use buckets. The taps are fitted in the bathrooms. Girls can collect the water in the buckets and use it.*

## **2.4. Living Conditions**

Different CCIs had a different configuration of sleeping arrangements. It was observed that, a few Homes favoured large dormitories where all children slept – irrespective of age. However, one Home had limited space for children to enjoy privacy while changing clothes. Some had limited beds and so, to ensure an equitable distribution, distinguished between older and younger children. Some attempted to separate children placed in the Children's Home from those placed in the Observation Home.

*There are two separate rooms...one for senior children and other for small kids. Small kids sleep on mattresses. The senior children sleep on the prepared beds... (Pointing) Bed sheets and cover sheets... are kept there. (Caretaker)*

*There are three bunk beds in each room. So, 5 to 6 children sleep in one room. There are six rooms in the Children's Home. There are 5 to 6 rooms. There are separate rooms for the Observation Home and the Children's Home. (Joint Superintendent of OH and CH)*

Children were assigned sheets for sleeping on entry into the CCI. They were responsible for maintaining their own sleeping areas. This was corroborated in the interviews of the ex-residents of Children's Homes.

All 24 CCIs had fans in the areas where the children sleep, four had coolers, and none had air conditioners. None of the CCIs reported that, they had an air-conditioner in the children's sleeping areas. Fifteen had made arrangements for mosquito control such as mosquito repellents or insecticide fogging of the building. Yet, the observations of the data gathering team was that, some CCIs had boarded up windows and this meant both poor light quality and inadequate air circulation.



## 2.5. Medical Services and Safety Training

Nineteen CCIs had a dedicated medical unit or a sick room. This ranged from 60 sq. ft to a large 1000 sq. ft. So, the medical facility in some CCIs could cater to one convalescent child while at the more spacious end of the scale, it had provision for up to ten children. The medical unit of one CCI doubled up as the library. In one CCI housing both a Children's Home and an Observation Home, the medical unit was a commonly used facility. The data gathering team conducted a physical tour of the facility but its remit stopped at the assessment of the room itself, and not the provisioning of medical supplies. However, the team did ask about first-aid supplies. Eighteen of 19 CCIs for which data was available replied in the affirmative. In 13 out of 23 CCIs for which data was available, it was reported that, staff were trained in the application of first aid.

Only a few Superintendents mentioned fire safety equipment and fire safety training:

*We received training on safety against fire. We were trained to operate fire safety devices like fire extinguishers, Different types of fire extinguishers etc. There was also training of escaping from the fire. Precautionary measures against fire... We are given training with arrival of new employees in the organization. Revision training is organized every six months. (Superintendent of non-aided CCI)*

But staff at another CCI mentioned worry about possible accidental fires, and stated they would go around switching off lights, etc. One Superintendent, displaying ignorance, stated that, the child residents had received training on fire safety at schools. But the Superintendent did not seem to view it as a measure important for the safety of her charges.

## 2.6. Recreation

Indoor recreation overwhelmingly consisted of carrom, chess and standard board games such as Ludo and Snakes and Ladder. Five CCIs restricted the use of these recreational activities to the weekends and holidays. The others permitted children to play daily. Only 13 out of the 24 CCIs had a dedicated space for recreation indoors. In other instances, recreational spaces were clubbed with dining areas or were also used for other purposes such as counselling.

Except for one CCI, all Homes had at least a basic television – even if this was commonly shared by both the residents of Children's Home and Observation Home run by a single organisation. Television time was reported as regulated. Five Homes restricted television viewing to the weekends only. The others permitted children to watch TV shows from anywhere from one to four hours.

Five out of the 24 CCIs had no playground at all. The advantage of being in more rural areas for some was that, they had more than one open-air space for their minor residents to play. In a few CCIs, which housed more than one type of Home, the outdoor play areas were common to both facilities. Sports activities were mostly football, cricket, and badminton (sports that require minimal equipment) and kabaddi and kho-kho (sports that require no equipment). Just three were observed to have equipment like swings and slides. Of the 24, 17 permitted their residents to play every day while six restricted the use of the playground to weekends. One CCI did not allow any outdoor time citing that, children run away. This one was an Observation Home in a CCI, which also housed a Children's Home. Besides these curbs on outdoor play time, the only recreational possibilities for children to occupy their time in this Observation Home were a television, and a shared library. The male tutor in this Home reportedly occupied their time by "talking" to them.

The lack of dedicated play spaces in the Home was acutely felt by some CCI personnel:

*We need to have our own space so that, children can have a ground to play, have space for their activities and entertainment and separate space for their sleeping...Now this space here is our dining hall and is used for the children's recreation. Only the sleeping arrangements for the children in the Observation Home and the children in the Children's Home is different. If there would be more space and the things could be separate and children require proper cots to sleep and equipment for sports as many children are very much interested in playing. But due to lack of space we cannot provide them any facility. And we cannot take them far away (meaning outside) as we have other children of both the Homes to look after. (Staff at Joint OH and CH Home)*

*They do not have atmosphere to play, there is no ground. Some girls are involved in sports or interested. So, there should be something for them to take this forward. (Staff at CH for girls)*

Fourteen of the CCIs had some library facility of which seven were just a shelf in the office. Only seven had a dedicated room for this purpose. The others were in a space used for another purpose: the recreation room, the computer room or the sick room (Table 10). One CCI housing both an Observation Home and a Children's Home had a common library. Reading materials consisted of books on history, motivational content, biographies and general knowledge with comics in four CCIs.



**Table 10: Library Facility in CCIs**

Reported Response from CCIs	CCIs with a Library	Library Space in CCIs		
		Dedicated Room	Multipurpose Space	Shelf in Office
YES	14	7	3	7
NO	10	--	--	--

## 2.7. Education and Vocational Training

All 24 CCIs reported some scholastic arrangements. Eleven ensured that, children attended a nearby government school, three used other schools, and ten preferred in-house arrangements. The one government CCI, which did not have an arrangement for a school at all nor had filled the sanctioned teacher’s post, had only a library shelf in the Home as its educational facility.

All the Observation Homes in the study indicated in-house educational arrangements. However, only two of these Observation Homes had dedicated classrooms/study rooms that were not used for other purposes. In all, only eight of all Homes had a classroom or a study area.

In a CCI, which had a teacher, the children’s literacy level was determined before deciding how to assist the education process further.

*Respondent: We segregate children by priority of attention and dependence, nothing like other schools. If one set of children does not know how to read, then we manage them. We give the other set of children work of reading or writing. It is not like other schools, where a teacher takes a class and then goes. Our job is for the whole day. If a new child comes today, we take his admission and evaluate his knowledge, then decide which class he has to be put in. Everyday a new child comes with newer problems. So, every day is a fresh start.*

*Interviewer: If you have taught them for six months then how are they evaluated?*

*Respondent: Yes. We teach them for six months then we take a test in any of the government schools when they get out of there. They take a test in other normal schools with permission to take admission. Also, their year isn’t wasted. If one enters here from first standard and stays here for a year, we give a certificate so they can join third class. (Teacher at OH and CH)*

It is pertinent to note that teacher in another point in the interview described having to take on multiple roles within the institution. So, even though the plan as described was appropriate, it was not evident how many children – CNCP or CCL were benefitted.

While CCL are in the Observation Home, however, there are few efforts to ensure children attend a regular school. Rather they are restricted to the CCI premises and must avail education there.

*We try and make effort to get the illiterate children to help learn the alphabet so that, they can have their signature, read and understand things for their future. We have very few children coming in who are literate and so far, we have had only one child, who is literate and is studying in the 12th Standard. He only studies at the Home. We don't send him to school. (Observation Home personnel)*

Only six of the 24 Homes had a room devoted to vocational training. The fact that, only six out of 24 Homes had a dedicated vocational room reflected in the paucity of options for vocational training. Twelve out of the 24 CCIs reported no options for vocational training at all. The highest number of vocational skills (5) was taught in only two CCIs (Table 11).

**Table 11: Vocational Training by CCIs**

Vocational Skills taught	CCIs
0	12
1	4
2	1
3	3
4	2
5	2
<b>Total</b>	<b>24</b>

On checking, no co-relation was found between how long a CCI had been established and its ability to deliver vocational training services. Similarly, there was no difference with regard to districts.

Compared with boys there is no mention of providing skill training to the young girls. As this CCI personnel mentions – they attempt to get them married.

*We do the counselling of girls when they complete the age of 18. If they want to get married, then we get them married. We have sent these HIV-positive girls in the society by getting them married. Most of the boys work in MIDC after completion of 18 years of age. The boys who want to go for training in ITIs are sent there after their selection in ITIs. (CCI personnel)*

There is little thought to the possibility that, even as married women, some girls might be able to work and earn for themselves, or that marriages might fail, and the girls become vulnerable again – this time not qualifying for the support services of the child welfare system because they are too old.

Among the array of options, too, girls were offered fewer options than boys (Table 12).

**Table 12: Vocational Training for Girls and Boys in CCIs**

Vocational Skills taught	CCIs for Girls	CCIs for Boys	CCIs for Both
Tailoring	3	1	--
Beauty Treatment, Hair cutting	2	2	--
Computer	3	2	1
Jute bags, Bead work	--	1	1
Painting, Mehendi, Arts, Crafts	--	2	--
Book binding	--	2	--
Electrical training	--	1	2
Textile work	--	--	1

<b>Making soaps, candles, pickles</b>	--	<b>1</b>	--
<b>Repairing mobiles</b>	--	<b>1</b>	--
<b>ITI</b>	--	<b>1</b>	--
<b>Rickshaw</b>	--	<b>1</b>	--
<b>TOTAL</b>	<b>8</b>	<b>15</b>	<b>5</b>

Asked about the presence of a computer for children to practise, 12 of 24 Homes reported they had one which was available for children to learn. Of these, four permitted computer usage every day. The rest reported that, computer practice took place on weekends or when there was a training class. Not surprisingly, on examining the children's records, the lack of vocational options was also found reflected in the limited presence of vocational plans.

CCI staff when interviewed listed institutions where they could refer children for skill learning – for instance ITI education, the Aditya Birla vocational centre. But these options were few. For instance, the Aditya Birla centre has limited openings and cannot cater to all the children. The Aftercare residents mentioned that, they had studied hard. They also said that, they had wished for vocational guidance though they did mention varied and yet limited attempts at vocational training – an orientation to hotel management, a computer course where a trustee paid for the fees, candle-making. They were currently studying in different courses – auto-engineering, Class 12, etc.

### 3. CCA Study Data on Processes in Child Care Institutions

#### 3.1. Individual Care Plans

The Individual Care Plan (ICP) for each child in a CII includes information on their nutrition and health needs, special needs, education, emotional and psychological aspects, restoration and follow up, social mainstreaming, life skills and vocational training, along with protection from all kinds of exploitation and abuse.

Of the 368 children's records examined in 18 CCIs (Children's Homes only), Individual Care Plans (ICPs) were found in only 163 of 368 records (44.3%) (Table 13). Examining the quality of these records, only 26% (43) were observed to be detailed. The others were restricted to social history and the child's demographic details. Further, most of the detailed ICPs were observed in a few CCIs. They were not uniformly distributed.

**Table 13: Existence of Individual Care Plan in the Children’s Records**

<b>Individual Care Plan Present</b>	<b>Number of Records</b>
<b>Yes</b>	<b>44.3% (163)</b>
<b>No</b>	<b>52.2% (192)</b>
<b>Not Mentioned</b>	<b>3.5% (13)</b>
<b>Total</b>	<b>100% (368)</b>

CCI personnel were asked about ICPs and their views on the rehabilitation process. The interviewees were split between those who were aware of ICPs and those who were not. Many CCI personnel – whether Children’s Homes or Observation Homes – stated that, they did not maintain ICPs and Rehabilitation Cards. The Rehabilitation Card is issued by the CWC to monitor the progress made on the child’s ICP. It is to be updated by the PO/CWO of the concerned CCI or the authority providing rehabilitation at the district level.

*Interviewer: Do you prepare any Rehabilitation Card of these children?*

*Respondent: No.*

*(Personnel at Children’s Home)*

*No, we don’t make the Care Plan as we don’t know the duration of the child’s stay. (Personnel at Observation Home)*

*Interviewer: Any Rehabilitation Card or rehabilitation progress is maintained?*

*Respondent: Nothing as such maintained. (Personnel at Observation Home)*

The CCI staff who did maintain this documentation were able to describe it in some detail. But they tended to stand out as exceptions.

See, this is the [Rehabilitation Card]. Initially, we take all the information and later we see whether any changes have happened or not. Yes, this is the rehabilitation booklet. It has information for each month. What all development has happened each month. There are a lot of proformas but time is very less. (CCI personnel)

Every girl has separate plan... In the Care Plan itself you can see our rehabilitation plan. It points at the need for the girl to stay at the institute as her home condition is such and she was into that profession due to such conditions. It comes in the rehabilitation plan. After she come here whether she needs a medical [test]? As per her health condition. So, all that is written in plan. (Personnel at CCI for girls rescued from trafficking under the ITPA)

(Demonstrating the format) This is the Form 7, which is the Individual Care Plan, which has the name of the child, the name of the Superintendent, the date the Individual Care Plan was prepared, under what circumstance has the child been sent to the institute. In case of a child from an Observation Home, there are the sections that he has been charged with that are mentioned. Apart from his other details like, where is he from, what is his background, his education etc. are mentioned. We also ask him what he wants to do and what all the institute can do for him... We make it for three months to start with, then we look at six months and then accordingly we plan ahead... We make it right at the beginning. It takes two to eight days for us to make the plan. Once we know that, he has settled in the institute then we make the Plan. (Personnel at a CCI facility housing an Observation Home as well as a Children's Home)

Respondent: Yes, we make the Care Plan... I and the Superintendent make it... We fill the form according to the format.

Interviewer: What all things are taken care of while making the Care Plan?

Respondent: How is the child? Does he go to the school? Does he play games? He sings well, does good debate, he is good in sports.

Interviewer: On what intervals is the Care Plan made?

Respondent: After one year. We update the case files within 15 days. If the child has participated in any activity in school like there was some play in which he acted as some leader or he participated in the debate, he has got good marks in school. So, we write it in that. When Sir tells us, "Your child did a good job in school, we write it in the case file." (Child Welfare Officer)

Care Plan cannot be made when the girls come as we have to see their education level, their interest area as we do provide vocational trainings like [beauty] parlour, stitching

*work, housekeeping. Some girls are interested in education and they wish to study. One or two girls have studied and gone for a nursing course too. Some girls are working as a cook so we make a Care Plan as per the interest of the girls. [ICP] is made after one month and one to two months goes in talking to the girl...We have to see her psychological [condition], family, health condition - all that has to get into the Care Plan. Some girls are released within 21 days' time. So, there is no use making Care Plans for such girls... We prepared it in 1-2 months [and update it] ... as per requirement. Suppose she has started going to school, she is in 4th standard and next year goes to 5th, her case file is updated. All records of her progress are there in case file. She is doing well, taking interest in studies, 'doing laziness' all that is included in case file. (Personnel at CCI for girls rescued from trafficking under the ITPA)*

These last two interviews along with that of the Probation Officer who spoke of needing a few months to decide a Care Plan (Chapter VII) stood out as unique in the entire sample. Their detailed explanations conveyed credibility to their narrative in contrast with other interviewees who were probably feeling like they had to say something to prevent being judged as lacking. More transparent was the next interviewee cited who displayed a format and naively mentioned that, it was maintained in case of inspections. By the nature of their role as a clerk they were not expected to be responsible for completing the ICP but the low number of hired people in the CCI meant that, this task became part of their workload. Not being trained in preparing an ICP the clerk had filled the format and left it in the file in order to pass the inspections of the CCI.

*The Care Plan is filled as you have seen but the format in which it should be filled needs to be updated like if the Care Plan of a child is to be filled and kept and I feel like a few things have to be done for the child. If these things are not done or there is no follow up for the same, then such a Care Plan is of no use. I have filled it and kept it in case any inspection committee comes and questions me. I can show them the same. But whether it is properly followed or not is the main concern. Simply filling the Care Plan on paper is of no use. (Clerk at a CCI housing an OH and CH)*

Beyond the ICPs, however, the several CCI staff spoke of individual children receiving special medical care or a special diet if they were ill or malnourished. This was special food such as an extra portion of milk or porridge or eggs for specific children per the doctor's advice. However, there was no systematic documentation of this in most CCIs.

In contrast to what CCI staff reported, the Aftercare residents did not describe any special privileges in relation to food. They described food as humdrum and routinely boring. Perhaps these individuals did not merit such special treatment.

Aftercare residents interviewed, while cheerful, spoke of the various CCIs they had lived in as being very basic and spartan, with little to no special events. They mentioned their current status of higher education as having pushed past the odds within the system. One interviewee mentioned receiving a cycle to facilitate reaching school. Another mentioned strong interest in the vocational programmes that were arranged – however, these were infrequent.

### 3.2. Committee Formation

The data gathering team also attempted to examine the presence of certain governance systems prescribed by the JJ Act as reported by staff, and as seen through records (Table 14). Per Rule 42, Children’s Committees have to be established in the Homes. Fourteen Homes reported that, they had constituted these committees. However, only one Home actually produced minutes of these meetings. The suggestion box was observed in 15 Homes. In four Homes it was present but was not actually maintained/used.

Per Rule 41, a Management Committee has to be established for each Home. Eighteen Homes reported that, they had a Management Committee and that, it had even met a few times (except for the brand-new Children’s Home). However, only for one Home could the minutes of the meeting be viewed.

**Table 14: Adherence of CCIs to JJ Rules**

	<b>Children’s Committee</b>	<b>Suggestion Box</b>	<b>Management Committee</b>
<b>Present</b>	14	15	18
<b>Not Present</b>	4	-	-
<b>Not Maintained</b>	-	4	-
<b>Not Answered</b>	6	5	-
<b>TOTAL</b>	<b>24</b>	<b>24</b>	<b>18</b>



## 4. Conclusion

It is evident that, while the law may have kept pace with the global change towards a rights-based approach as mentioned in Chapter 1, implementation remains a work in progress. Anomalies such as the absence of permanent availability of basic rights to nutrition, sanitation (save for the provision of water), and education indicate deeper issues that, need to be overcome in the JJ system as a whole.

Proper inspection, drawing up detailed Individual Care Plans, and the establishment and effective functioning of requisite committees as per processes laid down in the JJ Rules are yet to be followed through in letter and spirit. There appears to be more of service provisioning than fulfilment of the child's rights.

A government CCI continuing without an in-house teacher or school admission for its children; paucity in supply of school uniforms, or pulling away of teachers from a classroom to handle office chores are reasons for concern. Space constraints mean that except where Children's and Observation Homes exist in the same space, there is a lack of segregation by age as required under the JJ Rules.

There is a gap in sensitivity in prioritising the placement of female staff in all girls-CCIs. Further, there exists gender discrimination in tasks assigned to girls as well as the reduced number of options for them in vocational training as compared to boys, and the idea that, marriage is the avenue for integration of HIV positive girls into society. These instances point to a worrying absence of real engagement with the spirit of the law and international instruments that enshrine gender equality as a guiding tenet.



**Chapter 5**  
**CHILD PROTECTION BODIES**  
**AND CO-ORDINATING AGENCIES**



## Chapter 5

# CHILD PROTECTION BODIES AND CO-ORDINATING AGENCIES

### 1. Introduction

This chapter describes the processes and services of child protection bodies under the JJ Act, 2015, namely the Child Welfare Committee (CWC), the Juvenile Justice Board (JJB). It also describes the functioning of co-ordinating agencies such as the District Child Protection Unit (DCPU) and the Special Juvenile Police Unit (SJPU) as they relate to the child protection bodies and the Child Care Institutions (CCI). Data is drawn from KIIs with personnel at these bodies. Where validation is available from other interviews with CCI personnel or records, these are used to corroborate accounts.

### 2. Child Welfare Committee

#### i) Role and Functioning

The CWC is a statutory body, and its members are executive appointees. According to Section 27 (1) of the JJ Act, 2015, the CWC has sole authority over decisions regarding the children needing care and protection. A CWC comprises five members, including a chairperson, a female member, and an expert on children's issues. It is mandatory that every district form at least one CWC.

The CWC members who were interviewed demonstrated a good understanding of their role and responsibilities with regard to child protection. In the districts covered in the study, the CWCs are approached for children in various difficult situations who require support. The caseload of a typical CWC is highlighted in the following quote.

*How to describe the CWC? In short it is Gate Keeping - giving protection to those children who need care and protection, referring them to various CCIs and working with those kids who are already there...Other than that we conduct various training programs (awareness about CWC) system for the Education office, Police Department...In [our district], we remain connected with activists who are working with children...There are many issues related to children where they are not getting their rights - like not getting admission to school, issues of extra fees, beating and punishment by teachers. There are many complaints from parents about their wards like overuse of mobile phones, anti-social activities where the child*

*is using drugs, gutkha, mawa, the child does not stay at home, or does not study, does not go to school. We continuously get cases of physical abuse of children...We have seen a lot of cases of [Section] 363, [charge of kidnapping – though it was unclear from context if the child was the perpetrator or victim] ...Generally, children are brought here by the police or NGOs or other persons or in some cases even parents...We refer [children fit for adoption] to institutes working in the field of adoption. There are many children needing special care like HIV-positive children or pregnant minor girls...We pass the relevant orders. (CWC Member)*

Case referrals per the interviewees came from a wide variety of sources: parents, schools, NGOs, Childline, the police, and so on. It appeared that, though CWC members themselves held the view that, people in various sectors did not understand their role and functioning, the availability of the CWC as a child protection body with the capacity to help children in need is well-known in at least some villages of the districts covered. This was evident in stories of case referrals such as the following:

*The other day we received a case of two small minor girls from a village. A social worker brought us the case. The two little ones had lost their mother and their father was a drunk. The kids roamed all over the village all day [unsupervised]. Their father did not care for them. They were dressed in such tatters. Our CWC began to investigate the case. (CWC Member)*

The mechanism for this awareness of the CWC is probably in part the sensitization programs conducted by some of the CWCs themselves with various government department personnel in their respective districts, as well as referrals from the DCPU and the Childline agencies. But some research participants also mentioned that, it had become common knowledge among CCIs that any progress vis-à-vis a child in their premises, and any government payments and schemes requires the assessment and sign-off of the jurisdictional CWC. This indicates that, at a minimum number of child protection cases do enjoy a nominal oversight by the CWCs.

The interviewed CWC members were also able to describe how they routinely handle cases with fluency and understanding. Their descriptions showed that, in several cases they worked to undertake the child protection processes enacted within the JJ Act – such as a Social Investigation Report (SIR), passing a final placement order, and working towards repatriation of children to their state of origin, or their country of origin in case of minors from Nepal and Bangladesh. They mentioned by number several reporting formats for various processes such as referrals and orders - Form 7, Form 21, for instance. Such procedural knowledge was evident in all the members interviewed and indicated familiarity with the processes mandated by the State Government JJ Rules.

Several mentioned that, they had received training by the State government. This included a specialised week-long training session held in the six weeks preceding data gathering – a state-wide specialised training session for members of the newly constituted CWC. This could

account for their familiarity and sense of competence in handling diverse cases. One CWC member also shared that, the diverse professional composition of the committee (for instance, lawyer, social worker, paediatrician) was a positive advantage in exploring different possibilities in routine and non-routine cases.

One member reported that, the familiarity with rules and procedures made them aware of deficiencies of some of the reports presented to them. While some members attempted to decipher these inadequate reports from CCIs and CWCs, in some cases, the reports were deemed to be so inadequate that, members had to ask for the documentation to be undertaken again or call for additional supporting documentation. More than one CWC member queried the quality of SIR and Individual Care Plans (ICPs) – indicating a need to train CCI and NGO staff in how to prepare these mandatory reports.

On the opposite side, such orders or requests from CWCs for additional documentation were not welcomed by CCI personnel. A few key informants from the CCIs said that CWCs asked for documentation such as Aadhar cards even when the child had indicated they recognised the adults as their family members. These opposite points-of-view demonstrate the tricky balance related to sufficient documentation necessary to ensure child safety and protection. Quite simply put – how much is too much? How far is too far? While both CWCs and CCIs voice a commitment towards child safety, these opposing views point to a need for better understanding of the provisions of the JJ Act and the JJ Rules within all quarters of the system.

## **ii) Child Sensitivity**

Beyond familiarity with report formats, there were several instances wherein CWC members displayed their sensitivity about the role of CCIs as a measure of last resort, situations wherein a child might benefit from living with family and instances where this is unsafe, as well as the need to speak with the children themselves to ascertain their wishes. The latter was often described [erroneously] as “counselling”. There was in some instances a leaning towards having children remain with parents or family members. However, the counter-view also emerged that for at least some situations such as child sexual abuse, institutional placement was preferable – especially when families were unprepared to accept the child as they represented an awkward social situation. One CWC member described a situation wherein institutional placement was initially ordered for a young girl who was impregnated through rape as her family was unwilling to accept her, and then after a year when the family and child were keen to reconcile, the situation was reassessed and the child was placed back with the family. However, the follow up to this situation was not described. So, in this case, it is uncertain as to whether child safety was achieved through the decisions of the CWC despite their stated good intentions.

The following quotation describes the factors that go into decision-making for both the immediate future of the child as well as the long-term prospects, which demonstrate attempts to apply the provision of the law suitably:

*If a child arrives at night, the next morning itself we prepare our order. We have to take all the details. If the child has parents, then the priority is to hand over the child to them. But if the parents are not available then we have to admit the child in our facility. We have to search for his address and if we find it, then we ensure a home visit and talk to the parents... or responsible persons at home and if they accept. If no responsible adult is found, then the child stays with us for the next three months...To start with we study the case. In most cases our efforts are to send the child back to the parents or relatives. We strive to keep the child with parents instead of sending him/her to any institute. We are very careful in such cases. We study the case in detail...We talk to the person who brought the child to us, [and] the child...If the child does not want to stay with the family, we study the case to figure out why the family is not accepting the child. If the child does not have a family, then we place the child in any good organization under us...The priority is to keep the child with their family or relative who can take care and talk well with the child. We prepare the family accordingly...If not, we accommodate the child in various schemes. If that also does not work out, then the final stage is to place the child to CCI...If the child has no parents nor any other relative and say, his age is 6-7 years, then we try to see that child is adopted...(CWC Member)*

Some members also described how they handle certain delicate situations such as cases of sexual abuse – trying to build trust in victims, and avoid re-traumatization. Specific issues related to sexual abuse will be discussed in Chapter VI.

*We have friendly conversation with the victims. We make sure that police sit outside. We see with who they are comfortable and talk to them. We talk to girls who are victims, their parents, and we maintain privacy. (CWC Member)*

Some CWCs specifically ask the female members to engage in these conversations with children. One member described how they would begin with non-threatening questions about food and their stay at the CCI before proceeding to more sensitive queries about the reason for their placement in the CCI.

However, despite wanting to do so, not all children could be guaranteed such privacy at CWCs. One member spoke about the earlier premises of the CWC in that district wherein there was no privacy for such delicate interactions: "Everything was in the open. How can we talk to children in front of everyone? So, we asked the Probation Officer of the DWCD to make some arrangements."



Crowding at CWCs and heavy caseload was another factor that, often ruled out private conversation with children. One CWC member mentioned that, as the JJB and the CWC worked out of the same office space, albeit in different rooms, the pressure of the crowd in the waiting area made for a very uncomfortable work environment. One particularly unforgettable experience reported separately by members of the CWC and the JJB in that particular district was when a child marriage was detected and interrupted. Apparently, there was a massive crowd in a hostile and angry mood. The disruptions created from that incident though extreme as an example typifies the sense of pressure and crowding under which CWCs operate.

When unable to question children due to such a heavy caseload, CWC members reportedly call the child back to the CWC on a quieter day to interview them personally. However, given that CCI personnel have reported being inadequately staffed and having difficulty in covering all duties such as accompanying children (even sometimes to school), it is not clear whether these follow-up interviews take place. From the interviews of the residents of Aftercare Homes - individuals over 18 years who have lived in (some instances more than one) child care institution, it was also evident that few have recollections of being presented at the CWC, though some mentioned visits by CWC members. So, though well-intentioned, there was no tangible evidence of such follow-up meetings with children.

The heavy caseload of CWCs leading to a long wait time was validated by some CCI personnel. One CCI Superintendent mentioned that, when the Probation Officer had to attend a CWC sitting, this took almost the entire day. Part of the daily caseload relates to the fact that; cases of certain children need to be addressed through multiple visits to the CWC to complete all the requisite documentation.

One aspect of a heavy caseload pertains to a high occupancy at CCIs. Members from two different CWCs reported an attempt on the part of the government (1) to ascertain the actual number of child residents at CCIs in what appeared to be described as a physical counting activity or audit; and (2) to re-assess the suitability and need of every child resident at the CCIs. Here, a CWC member described efforts undertaken by some unscrupulous CCIs to dupe them by presenting them with children from a nearby school to ensure that numbers on paper matched numbers recorded with the CWC and State Government. In relation to the second point, members from these two different CWCs mentioned a massive effort to ascertain whether CCI residents at the time actually fit any of the criteria under the JJ Act. One interviewee mentioned that, they received phone calls from senior officials at Mantralaya (the State Government Ministry Offices) to influence them in the direction of retaining the majority of these children in certain well-heeled NGOs. Another spoke of a strong, motivated NGO lobby, which tries to ensure high occupancy numbers so that, their institutions can survive through continuation of government grant-in-aid. This member spoke of efforts of these NGOs to tutor children in what to say when presented at the CWC, or to tutor their family members. These political factions were described as so powerful that, even personnel of the DWCD were

unwilling to intervene. Yet, despite the interference, these two districts reported a significant drop in numbers of CCI residents from one year to the next.

This impression of some CCIs having residents who do not really qualify as CNCP under the JJ Act was validated by at least one CCI personnel who questioned the reason for placement of some children within her CCI – indicating that the JJ Act was incorrectly applied for at least some child residents – such as parents of farm workers who are too busy with work to handle child related responsibilities. The concern of this CCI employee who shared this view (without prompting) was that, the filling of institutions with children in such a manner deprived other needy children who might be in real situations of vulnerability.

### **iii) Convergence**

CWC members spoke of their duties as involving inspection visits to CCIs and in some instances holding CWC sittings within the premises of the CCI. Sittings within CCIs, however, involve a laborious process as they find it difficult to carry all the files of the children with whom they are supposed to interact. In other parts of the interviews, CWC interviewees stated that, they do not have sufficient secretarial assistance to manage paperwork and physical errands – carrying of case files from the main CWC office to a CCI for a sitting would be one such task. Further, as will be reported later in this chapter, the CWC members are not provided a travel allowance or travel assistance, which would provide them the means to travel with these case files. One CWC member mentioned that, holding these sittings within a CCI is disruptive to the CCI itself as their space is encroached for the duration of the sitting. Further, the CWC members perceived the CCI space to be inadequate to accommodate other personnel and children attending these sittings at CCIs. This feedback indicates a possible lack of understanding of how and why the need for these sittings at the CCI.

*We visit all the Children's Homes in various tehsils (administrative blocks). We inspect the institutes. And we conduct meetings with the officials there. If there are any different kinds of cases there, we deal with them also. (CWC member)*

Many CWC members described planned and surprise visits to CCIs. They reported some CCIs to be at a distance of 100 kms away from the district headquarters. The key informants' verbal claims are substantiated by register entries at the CCIs, which were part of the study sample. As per the research protocol, the CCI's visitor's logs were verified and the designations of visitors along with the number of visits for the previous year were copied out. These demonstrate routine and frequent visits by the CWCs. Not all visits were for the purpose of inspections – some were related to CWC members attending flag hoisting on the national days of importance. However, whatever the purpose of their visit, the presence of CWCs at the CCIs brought them into close proximity with the children, which is a key advantage. Verbal reports by CCI personnel also reported that, CWCs across all districts undertake inspections. Staff, however,

were likely to complain about the disruptive nature of the visits – of being asked for this documentation or that, or being quizzed about some aspect of child care that they had undertaken in a particular manner before the JJ Act was enacted.

As part of visits, CWC members spoke of trying to ascertain child welfare by checking the food of the children, the clothing they wear. Several had illuminating stories to share and one was willing to show photographs to illustrate the examples.

*If I show you a few photographs, they will seem horrible to you...There is a water tank; there are insects in it and even if it is getting purified the water is not fit for drinking. We ask them to clean the tanks. Further, they say they have given inner wear to the children. But the children are saying that they got that the previous day. [But the lie is exposed because] all the inner wear hanging outside was torn and I clicked a picture while coming inside. Even the towels were torn. (CWC Member)*

Unannounced visits labelled “surprise visits” also threw into focus the veracity of CCI written reports. For instance, one CCI received a surprise visit ostensibly to celebrate a religious festival with the children. The CWC members reported finding only half the number of children present on site as compared to those mentioned on the register. Instances such as these cause the CWC members to be wary of taking at face value reports from CCI personnel.

*We decided to inspect the CCI. It was night and very cold and the children were asleep. There were 24 admissions in that CCI and we could see only 13 children. We asked them, “Where are the other children?” They said, “They are gone for winter vacations.” (CWC member)*

Based on their visits some members spoke of needing to educate the CCI personnel. For instance, one member spoke of their CWC as passing an order to CCIs not to accept leftover food from weddings and religious festivals as the quality of such food would have degraded over time. But that CWC member also questioned the value conveyed to the children through the feeding of leftover food, namely viewing them as being fit only for leftovers. While this view is a positive one, some Aftercare residents who were interviewed expressed a different opinion – they stated that, food at the CCIs though hearty and filling was often bland and boringly routine. The arrival of leftover food was perceived as a rare treat, which they appreciated. The intention of this Report in raising these two vastly differing opinions is not to endorse the questionable charity of feeding leftover food to institutionalized children – rather it is to point out that, though institutions provide food to children it lacks variety and there is need to explore healthy ways of providing for such an intrinsic human need of sustenance along with variation or novelty.

CWC members prepared reports of their visits and submitted them to the authorities. In some instances, they had to contend with the anger of the NGOs running those CCIs. This produced a sense of vulnerability especially considering female members. One member expressed a need for joint visits with other department personnel such as the DCPU.

In terms of procedural issues, CWC members attempted to co-ordinate with the DCPU for the SIR. One key informant expressed a wish that, the DCPU would provide them with a list of referral resources related to counselling and mental health. But not all districts had a DCPU. The CWCs perceived themselves as unsupported, fighting a solo battle on child welfare cases. Some CWC members applied their own knowledge and ingenuity to identify psychiatrists and vocational options. They took some personal satisfaction in having successfully applied themselves to child welfare situations with almost no solutions – the most frequent of these were related to rehabilitation and vocational courses.

Coordination with the police centred around referrals of vagrant children found wandering around or found without the presence of an adult such as a parent. Some districts explicitly mentioned that, police and Childline brought cases of vagrant children or missing children. However, while there was perceived co-ordination with the entry of children, on the point of children exiting the system, namely repatriation, views were not positive.

Some CWC members described co-ordinating with other government agencies – running awareness sessions related to child rights. In one instance, they mentioned liaising with village-level authorities to convey the availability of the CWC for CNCP. One CWC also spoke of awareness sessions with the Education Department officials.

#### **iv) Remuneration**

A unanimous theme among all CWC informants was about the remuneration for their work. It should be pointed out that, members did not raise this as the first issue of concern when discussing the work of the CWC. However, when specifically asked the questions, their views were vocal and consistent. Several members pointed out that, the State Government has limited the number of sittings to 12 per month despite a higher number mentioned under the JJ Act. The general consensus was that 12 sittings per month were insufficient to handle the caseload. This is despite the reduction of the number of children in institutional care. Several members reported attending more than 12 sittings in a month despite being paid for only 12. Some members, reportedly recognizing that, they would not be remunerated for work beyond 12 sittings, opted not to attend these additional sessions. It was reported that, on the next official sitting, they affixed their signatures to orders taken on the unpaid sitting date. Such token signatures throw into question the validity of the decision-making in these cases - possibly defeating the purpose and spirit of the JJ Act.

This, however, does not imply intentional wrongdoing on the part of the CWC members. Those who attend these additional unpaid sessions appeared to do so from a concern for their minor charges. However, despite holding additional unpaid sessions, the members described having to work long hours, sometimes late into the evening. Further, the presence of some members on one day and not on the other days of unofficial sitting could be causing needless processing for NGO staff – one CCI KII reported that CCI personnel sometimes were asked to come back on another day because ‘so-and-so Madam was not present.’

Further, members reported that, the honorarium payments for the 12 official sittings are delayed for at least three months at a time. Members mentioned the opportunity cost of CWC work, namely to undertake CWC work they had to furnish an undertaking to reduce other work and make time for the CWC. This led to a decrease in income from other sources. Delay in payment caused hardship for them and their families.

*When our appointment was done...we were advised to leave our jobs and work full time. We were promised certain honorarium at the rate of 1500 to 2000 per sitting for first 20 sittings... as per the Act. We were without any honorarium for first 6-7 months...We had left all work and joined CWC. There was difficulty to meet the ends. We had to borrow money for day-to-day expenses of our families. Then our honorarium came at the rate of 500, that too after 6-7 months. Then the payment was stopped for some months. Then they sent payment of 12,000/- after six months. (CWC Member)*

Despite the responsibility of inspection visits to CCIs in the district, none of them reported receiving any travel allowance or any travel support by way of a vehicle. As mentioned previously, every district had some CCIs, which were inconveniently distant from their official place. While there is evidence of CWC members in all districts having visited the CCIs included in the study, the lack of institutional support from the DWCD hints at governmental disregard to the legal oversight mandated by the law.

Delays in reimbursement elicited from many interviewees phrases indicating a sentiment of being devalued by the government system – a feeling compounded by the poor infrastructure they are provided for their office, as well as the fact that, their written and verbal requests for infrastructure upgrades or personnel support to carry on important procedural work most often go unanswered.

*They said that our compensation will be Rs, 1500/- per sitting and there will be minimum 20 sittings. They have not paid us as per the letter. Instead, they have paid us for 12 sittings. We are all advocates. Initially we were paid at the rate of Rs.500/- We asked them, “What is the meaning of all this? We are not here for money. You are expecting so much from us but you are not giving us what is committed by you.” These tables, chairs, these curtains also have come here from my office. They did not provide any furniture, no fans, no office set-up. The*

*computer was also brought here from someone in the Committee. There was no printer. We had to get our documents printed at the JJB office or through some alternative arrangement. The computer and the printer, and two cupboards have been allotted to us just recently. (CWC Member)*

However, despite the feeling of being devalued and sometimes targeted by some unscrupulous members of the NGO community, all members appeared to feel positive about their work and spoke in tones of determination to continue functioning despite the various obstacles listed above.

### 3. Juvenile Justice Board

**Juvenile Justice Board (JJB):** According to Section 4 (1) of the JJA Act, 2015, JJBs are required to be formed in every district for dealing with cases of children in conflict with law. The JJB comprises three members, which includes one Principal Magistrate and two social workers, of whom one should be a woman.

As study permissions to interview members of the judiciary came a few months after the field team of data gatherers had completed their task, the data in this section are limited to the interviews of the non-judicial members of the JJBs at the six districts. Their perspective is, therefore, not informed by the views of the magistrates who comprise a key part of the board structure. Yet, these interviews provide valuable insights into the functioning of the JJBs. The lack of a rounded set of interviews, however, means that insights are less rich as compared to the previous section on the Child Welfare Committees. Similarly, the comparatively lower occupancy of children in Observation Homes (CCL) as compared to CNCP, and their relatively shorter stays meant that observations about CCI interactions with the JJB are also correspondingly limited. As some Observation Homes were situated in the same premises as Children's Homes, and were served by the same staff, this Report carefully separates those quotations, which directly reference CCL and present those where relevant.

#### i) Role and Functioning

The non-judicial members of the JJB who were interviewed reported a range of cases that came up before them. The following quote is typical of this discussion:

*There are near about 45-50 cases per day. There are cases of [IPC Section] 379 [Theft], 376 [Rape], 363 [Kidnapping], 366 [Kidnapping a female to compel her into marriage], murder cases, ITPA cases, POCSO cases, dacoity...all types of cases. Currently, there is a case from*



*the Anti-Terrorism Squad. There was a case of MCOCA [Maharashtra Control of Organised Crime Act]. (JJB member)*

*Since the day I have joined, I can say that the majority cases I have heard are of Section 302 [Murder], 307 [Murder], 323 [Voluntarily causing hurt], 324 [Voluntarily causing hurt with dangerous weapons], 379 [Theft], 504 [Insults] and 376 [Rape]. These are the majority cases. But there are also [a] few cases involving the Arms Act. (JJB member)*

JJB members displayed their knowledge of procedural matters for various issues. Decision-making centred around whether a child has been involved in a "heinous crime" or not (for instance, murder). Given legislative changes around children involved in crimes involving grievous harm to other people, the JJB reported engaging with psychologists locally to ascertain the mental make-up of a child as a pre-step to referring the matter to the adult court for processing and trial. Several explained that, they did not attempt to detain for too long a child involved in a crime, given the young age of the individual and given that, their sense of right and wrong has not been fully formed. This is consistent with the quantitative data from the Observation Homes across the six districts, which showed that few CCL stay at Observation Homes for a long period of time.

However, while the length of detention at an Observation Home might be for a short period of time, the actual time taken to dispose a complaint against a CCL could take up to six months or more. The JJB members interviewed all mentioned a pendency rate from 800 cases in one district to 2000 in another district. At least two interviewees stated that, the reason for these delays in progress in disposing off these matters is that, witnesses do not attend the sessions when required, which causes a case to be postponed. One member stated that, the police made inadequate efforts to reach witnesses. One JJB member attributed the delay partially to the Board not being properly constituted, and that, once all members were appointed the pace of work improved significantly.

Delays and pendency apparently caused some JJBs to try novel methods to cope with the situation. For instance, one JJB began a postal reminder to witnesses, which apparently improved attendance at JJB sessions. This was facilitated by having clerical support:

*The reason for large pendency is that, there was no provision of witness summons. Witnesses are not intimidated. They come from remote places of the district and some come here sacrificing their daily wages. So, we started sending them summons by postcard. Fortunately, post card has a wide reach in rural area. Therefore, the witness response increased. Now we have a Data Entry Operator and Probation Officer. The work is easier and the witness response is better. (JJB Member)*

Juvenile Justice Boards in some districts reportedly held sessions twice or thrice a week for about seven hours. These infrequent sessions could also be a reason for the high number of unresolved cases. One JJB member shared that, as the CWC and JJB operate from the same building, there is crowding in the waiting area, and so, to lessen this impact, the DWCD in the district set up an arrangement that, CWCs and JJBs would have sittings or sessions on alternative days of the week. This finding seems to be more a matter of convenience, which does not actually examine the effect of delays on the welfare of CNCP and CCL children.

Further, the restriction on the number of sittings in a week meant that on those days there would be a high caseload for the JJB (as well as correspondingly for the CWC on their sitting days).

*[While discussing the daily case docket] About ten cases do not come up [for hearing] due to various reasons like absence of witnesses but we have to do hearing of 30 to 35 cases every day. (JJB member)*

Statements like this beg the question of what individual attention could be addressed to the CNCP who might be attending the hearings, and whether thoughtful juvenile justice could be achieved. One interviewee shared a troubling report – the Principal Magistrate was appointed part-time to the JJB. JJB related hearings were routinely held at the courtroom in the main court area – several kilometres away from the JJB location. The non-judiciary members of the JJB were not involved in these hearings and decisions even as an afterthought. The JJB member sharing this was of the opinion that, the Magistrate was not properly oriented on the JJ Act. It was a difficult situation for the non-judiciary members to navigate as they were lawyers and felt themselves to be at a disadvantage in checking or rectifying this non-inclusive behaviour pattern. Since the judge had a personal quota of staff servicing the regular court when held, it was easy to prepare orders for the JJB at the regular court as well. The judge got pulled up when a case of a child was referred to the regular court for hearing as an adult – the court to which the judge referred the child sent back the case papers stating clearly that, they lacked the signatures of a proper quorum of JJB members. Following this, the Magistrate began sending the typed judgment to the other members for signature. But there was no opportunity provided for them to discuss the case and share their opinions. Once more, this kind of behaviour is indicative of the need for better sensitization of judges on the JJ Act. But elsewhere, CCI representatives did speak of judges whose sensitivity has increased after training. This points to a need to ensure consistent and regular training of JJB members including judges, and to avoid positioning untrained judiciary members at the JJB.

## **ii) Child Sensitivity**

In contrast to the CWC members, the JJB interviewees typically referred to the children as “cases” of particular sections of the Indian Penal Code (IPC). This could be reflective of the



fact that the interviewees were lawyers. But this manner of referring to children as a case of particular crimes could indicate a need for deeper sensitization with regard to children. "People-first language" has become a part of many aspects of society in India. The JJ Act itself follows this by intentionally replacing disparaging terms like 'juvenile' or 'offender' with the term "Child in Conflict with Law". The JJB members through their continuing references to children as cases are not perhaps in full consonance with the spirit of the Act.

JJB members interviewed did verbally express their understanding of speaking to the children involved in these crimes to ascertain their mental state. To use a modern phrase, they were able to "talk the talk". They spoke of sensitivity in questioning children. One member spoke of how lawyer take off their white bands so they look less official when questioning children. He described that, police officials who accompany children are dressed in "civil dress" (that is non-uniformed) to lessen the fear of being accused of wrong doing and of severe punishment.

The following quotation also shows that, at least in some instances, the JJB members were aware of the need to protect the rights of the child and prevent overly intrusive questioning that might re-traumatize a child. When prompted, they showed awareness of the possibility of questioning the child in camera. Further, they appeared to be alert to local sentiments and sensitivities regarding gender:

*JJB member: When the child comes before us, we try to make him comfortable so that, he can open up to us. Secondly, we do not allow the questions to be asked of the child, which cause hesitation.*

*Interviewer: Which type of questions? Can you please describe?*

*JJB member: One case of [IPC Section] 376 came to us. The advocate [on the defence side] was asking some questions in the wrong way - like what do you mean by pimple and where do you get that pimple and all. So, we told him not to ask such questions. "You record only those answers which are coming from the child's mouth. You do not ask any questions from your side."*

*Interviewer: What is your view about in camera proceedings?*

*JJB member: These conferences are held here. If any case comes to us related to [IPC Section] 376 or POCSO, we do not allow anyone to come inside. If the victim is a girl, we do not allow gents to come inside. Only lady advocates are allowed inside...we limit that to one lady advocate. We do not allow any "gents" staff nor police constables. So those types of proceedings take place in camera only.*

*Interviewer: In what other cases are in camera proceedings preferred?*

*JJB member: There was a case where the child was fearful of everyone. So, in this case we held in camera proceedings.*

However, the interviews give limited indication of whether this is a routine practice. One member mentioned difficulties in pursuing a child-friendly and victim-sensitive process while ensuring fairness to the minor who is undergoing the trial.

*I will tell you about a case. The girl was sitting with her parents in front of the boy convicted of ruining the girl. We were telling the boy, "You should not have done this. You have a grandmother. Try to behave properly. We will give you education, training etc." The girl and her parents were listening to the hearing. What would be going on in her mind as she heard this? There are 40 to 45 cases daily...In such a scenario, we are not doing any justice to the complainant girl who is sitting at the hearing of the convict CCL. During the hearing, there may be so many things, which will make the girl uncomfortable. However, we cannot help her. We cannot be alert all the time. (JJB member)*

In the instance described, the JJB member has attributed the inability to maintain the good practice of separating the victim from the accused because of the high caseload. Another JJB member mentioned that the space wherein they could ensure a separation of various parties in a case was limited given that, the small space provided had to include all the board members, the clerical staff, the child accused of the crime/parents, and lawyers. The impression created was of a tight fit. Given that, all JJB members unfailingly reported that they frequently dealt with cases of sexual assault by children this inability to separate perpetrator from victim is troubling.

Panel lawyers as seen in the quotation below also expressed the need to be sensitive to the children who are involved in cases brought to the JJB for justice. However, their understanding of child friendliness could be limited to the variety of "giving a pacifier" to children to stop them crying so that, they can provide details of the case.

*The atmosphere [in the JJB] should be child friendly because often there are cases. There was a 7-year-old girl under [IPC] Section 376. We first gave her chocolate and then released the whole story from her. She told us in complete detail what happened to her. (Panel advocate)*

The above quote shows a limited understanding of a traumatized young girl as a closed box of evidentiary information that needs to be unlocked for the case to proceed, namely an instrumental view of the child rather than a child-centric one. This JJB panel's advocate's quote contrasts sharply with that of a counsellor dealing with young women caught up as victims of

sexual abuse. She describes trust-building and the whole scary experience of giving witness testimony. In camera proceedings are just one aspect of child sensitivity.

*Judges have received training 2-3 times. They have a lot of sensitivity. They know that, she's a girl, she's young, how to talk to her. The evidence of girls is done in camera only. But even if the accused is present there the girls know that, we are present with them. She knows that, the counsellor is there with me, my Didi (elder sister) is there and she will look after me. They have trust and confidence that, if she [counsellor] is with me [victim], no one can harm me in any way. So, she speaks the truth properly about what happened with her. But often the girl may falter in her statement. She has to be there for the entire day. So, she gets tired of waiting. In addition, the number of lawyers on the side of the accused [individual] also matters. (Counsellor working with victims in ITPA cases)*

The relative silence among personnel at the JJB in terms of contemporary understanding of child sensitivity and avoidance of re-traumatization could indicate a need for training on specifically themed topics.

### **iii) Convergence**

JJB members also reported making inspection "visits" to the Observation Home and talking to its residents. This was relatively easy to achieve because in at least two districts, the JJB was located in the same campus as the Observation Home. One interviewee mentioned that, the Observation Home had closed-circuit cameras for keeping an eye on the activities there, as well as on the CCL placed there.

These visits of the JJB members including, of the Principal Judge to the Observation Home are recorded faithfully in the visitor's registers. It appeared that, at least once a quarter there was a visit from the judge at the Observation Home across all districts. As mentioned with CWCs, some of these visits could be timed to days of national importance in order to attend the flag-hoisting ceremony.

But one JJB member did speak about speaking to CCL residing in the Home and asking after their well-being as well as the treatment they receive from the staff. He said, "I ask them 'khule mein and akele mein'" (both in public and private). As the number of CCIs to be visited was small, it would be presumably easy to undertake these inspection visits.

In terms of procedural issues, the JJB members had a strong co-ordination mechanism with the police. They used police to reach out to witnesses for hearings. But sometimes the JJB members felt that, the police were a bit laid-back in terms of producing witnesses, that, they gave up too easily. They also asked police assistance in providing escort services to the young charges.

With regard to Social Background Reports (for CCL) written by police personnel as part of case documentation, one member felt that police personnel were very limited in their presentation – they tended to focus on family composition. This stated lacuna hints at a need to prepare police personnel better for this role.

There is perhaps some merit to this view of police personnel being limited in providing comprehensive background documentation. A police official from the Social Service Branch in one district described a massive effort to generate background information for several hundred children accused of some or the other crime. Limiting themselves to just three years, they identified some 500 children for whom they had to generate a background report. While not stated explicitly, it appears that, the Social Service Branch may have only needed to do this as the earlier investigations were not comprehensive in nature. The quotation below also explains the process followed by the police. It also explains the hesitation inherent in the community when they interact with the police:

*What we did in the beginning was we made a list of the crimes by our children in the last three years. We made a format of Home Visit Report and we took a meeting of all members of each police station. We asked them for a list of the crimes committed by children in their jurisdiction in the last three years. Then we visited each and every child's home and ascertained his entire background, meaning what his father does? What his mother does? What is his education? What kind of bad habits does the child have? If he has a criminal background...We researched like this. We received data of around 500 children...Some children had already turned 18. They were automatically omitted from the list. This left 300 to 350 children. When our people went to their houses, we could contact around 170 to 180 children. Then our officers started going in 'civil' dress. They made the parents understand a little, befriended them. The work is still going on. (Police Official from the Social Service Branch)*

JJB members felt police officials were aware of the referral process and stated that, the JJB contact numbers were well publicised with local police stations. Here, it was observed in some interviews with police personnel, they were more aware of the services of the Observation Home. While discussing the juvenile court process – *Bal Nyayalaya* – one person mentioned that, their role stopped after dropping off the child at the Observation Home.

Only in two of the six districts did JJB members or staff have anything to say about the DCPU. In one district, the DCPU had placed a counsellor at the JJB. In the other, they supported the work of the JJB by providing services of a Probation Officer. In terms of sourcing counsellors or psychologists for preliminary assessment of children, a few JJBs had established relationships with psychologists at local district hospitals or with lecturers at local colleges. The DCPU and the DWCD were not seen as intrinsic to the justice meted out at the JJB.

#### iv) Remuneration

Like CWC counterparts, JJB members also expressed deep dissatisfaction with the delays in payment. Some interviewees were lawyers and they felt they were not being accorded dignity when they consistently received late payments. Not all reported such a view. It is possible that, as practising lawyers, they were able to manage household expenses from their other means of earning. However, the delays in payment do underscore the commitment and respect accorded to the JJB by the DWCD. Further, the delay in payment is demotivating to the professionals engaged in public service on the JJB. One lawyer emotively explained that, the payment process is disrespectful as it is delayed and further it is labelled on the government order as wages – a term which the lawyer deemed is used for low-paying jobs.

## 4. District Child Protection Unit

**The District Child Protection Unit (DCPU):** According to the JJA Act, 2015, a DCPU is “a Child Protection Unit for a District, established by the State Government under Section 106, which is the focal point to ensure the implementation of this Act and other child protection measures in the district”. To carry their responsibilities effectively, a DCPU thus comprises a District Magistrate/Collector, District Child Protection Officer, protection officer (institutional care), protection officer (non-institutional care), legal cum probation officer, counsellor, social workers, outreach workers, accountant, assistant cum data entry operator, and community volunteers. It is the fundamental unit for implementation of the ICPS at the district level.

#### i) Role and Functioning

At the time of data gathering for the study, there was one district with no DCPU and one where the DCPU was recently constituted. Where constituted, it had the following blend of members:

*We have DCPU unit in our district with 12 posts: 1 DCPO [District Child Protection Officer], 2 Institutional Probation Officers, 1 Non-institutional Probation Officer, 2 Counsellors, 1 Outreach Worker, and Data Analyst. They work in implementation of the JJ Act (CCI staff)*

Where the DCPU were functional for some time, the view of the DCPU was almost entirely positive. There was only one instance of a CWC member dismissing the utility of the DCPU. Other views were positive. One CCI staff said in very approving terms that, the DCPU had the advantage of employing a group of youngsters, perhaps implying that, all the heavy tasks related to child protection would be handled with ease and enthusiasm.

Indeed, when developing a laundry list of activities received from the DCPU by CCIs and child protection bodies, these were extensive and varied: Organising training related to using the Track the Missing Child portal, conducting inspections of CCIs, organising Aftercare options and raiding unauthorised CCIs and rescuing children who were to be trafficked into beggary. However, the most critical activity undertaken by the DCPU relates to conducting SIR. Various interviewees from CCI and CWCs mentioned that, the DCPU conducts SIRs within the district, in other districts and in other states and also assisted in repatriation of children to other districts, states and countries. They facilitate the documentation in the case of children from outside the state.

*We take their help for home visit when we receive children from other states and other countries. So, we take their help in SIR for rehabilitation process. (CCI staff)*

While the discussion earlier is based on reports from CWC members and CCIs, a District Child Protection Officer (DCPO) described his role, which reflects the overall work of the unit:

*I took charge here in March. There was an initial period of orientation followed by an identification of areas. Now I have to monitor the routine activities of the employees in the unit. Then there are issues of CCIs and NGOs. In addition, I have to look into cases of child labour, child marriage and child abuse. These cases are referred from the CWC. Some cases come directly from Childline. I have to do the follow-up of these cases to the police station level, the Collector level and the CWC. Therefore, these are regular duties for me. This unit is new and all the employees are new here...Our unit is new...We are in the process of learning. We have started work in that direction...we have started sessions as preventive measures. The main concern is the ...Village Child Protection Committee. We are trying to empower this. There are issues of child marriages. They can prevent cases like this at local level if they are empowered enough. We have come across some cases where we had to prevent child marriages at a later stage where [the] groom has arrived and is ready for marriage. We had to do counselling of the parents. In some cases, we had to take help from Police also. (DCPO)*

The role of the DCPU thus is interpreted as responsiveness to children who are currently in crisis as well as creating social change from a prevention perspective. Besides which, interviews elicited the work of the DCPU to be of co-ordinating the different bodies and organisations working towards the welfare of children in the district. This includes inspections of the CCIs:

*Our relationship is okay, good. Our social workers are the one who are most in touch with the DCPU. It is a mixed feeling. Sometimes, I find them to be strict with things when they come here. They create an atmosphere of fear. Sometimes they do it on purpose. They don't smile, they might not respond when we ask queries. They give good suggestions, good compliments. (CCI personnel)*



The last sentence is an unusual compliment. Most of the KII material when describing other units tended to run down the services, and availability of other partners in the system. This was one of the few instances when praise was assigned. The same is seen in the next quotation involving the role of the DCPU to collect data from various bodies and CCIs – a task which is generally perceived as burdensome. However, this speaker appears to be defending the DCPU:

*They are always asking for information from us. They come often for enquiries and we need to provide them with it. It's a little hassle in our daily routine. But it isn't a problem though, it's a nice relationship between us. (CCI personnel)*

In a few districts, when asked about the DCPU, the CCI staff automatically began naming the DCPU staff – perhaps those individuals who have frequent interaction and who pay the CCI a visit. No other child protection body elicited such kind of personal name recognition. One CCI personnel also spoke sympathetically about how the DCPU's functioning was restricted by the funding flows. The personnel at the DCPU also explained their role as that of being supportive of the CWC and the JJB – to co-ordinate quick processing and to ensure suitable rehabilitation plans. In one district the Legal-cum-Probation Officer supports the JJB. A DCPU counsellor visits the CWC in another district.

## **ii) Remuneration**

DCPU personnel face the same challenges as those faced by CWC members and JJB members when it comes to remuneration. Salaries have been provided quite late.

*Now it is regular. Last year we did not get salaries till six months. It did not happen in between three months. Now we got of three months. We got in July. And last three months' pay we got in August. Government knows there are these many workers. Whatever their business is, 60% is central and 40% is state government. Knowing this they should...already keep in budget of their 40%. But it does not happen. (DCPU staff)*

The delay in travel allowance was something, which reportedly has impact on targets.

*If we do not get the TA [Travel allowance] on time then the monthly target of work that we have will suffer...how much should be kept aside for work, for going and coming back, for making visits outside...Sometimes if the office printer starts malfunctioning, then xeroxes from outside and prints have to be taken...When SIRs are done, CWC says that we should click a picture with the family, click a picture of the house...Photos when they are printed, black-and-white does not look good...At this point we have to get coloured photos from outside. (DCPU staff)*

*I have not received my travel allowance for 4 months. Since I have joined, I have not received my salary. In fact, I have spent more money on traveling than that. (DCPU staff)*

## 5. Special Juvenile Police Unit

**Special Juvenile Police Unit (SJPU):** The JJA Act, 2015 defines the SJPU as “a unit of the police force of a district or city or, as the case may be, any other police unit like railway police, dealing with children and designated as such for handling children under Section 107.” The Act also specifies that each district must have a SJPU, and each police station must nominate one Child Welfare Police Officer (CWPO) to coordinate all the functions of police surrounding children. Thus, under the JJ Act - along with the POCSO Act and ICPS - various responsibilities have been put upon SJPUs/CWPOs. Effective execution of such mandated functions is essential for maintaining a higher standard of childcare within the juvenile justice system.

### i) Role and Functioning

If the DCPU received positive comments, the SJPU is often dismissed by other sectors of the child welfare system: CWCs grumble that the SJPU is not available when needed (for instance when a police escort is requested). Interviewees mentioned asking for escort services to accompany a child of the system. But often the police are not available. It was also noted by CCI personnel that, police may show up wearing their uniform, in violation of prescribed rules. CWC members in one district claimed the police personnel sometimes failed to follow process of seeking permission from the CWC and then could not escort the child in a timely manner.

Members of the SJPU who were interviewed for the study explained their role to be that of handling lost and found children, handling cases of domestic abuse and of sexual abuse, cases of kidnapping, etc. The SJPU personnel also reported handling a lot of POCSO charges. The police themselves viewed their role as that of investigation, checking and publicising details of missing children on the police network. The specific role of the police under the ambit of the JJ Act was not widespread knowledge. Further, the police were familiar with the Observation Home – some referring to it by the old-fashioned term “Remand Home”.

One of the key issues tasked to police personnel appeared to be the determining of minor versus major status of the individual. So, they were conversant with the medical test procedures for the age verification.



## ii) Child Sensitivity

Especially in handling POCSO charges, police who were interviewed listed them among their most difficult cases. So, they attempt to work in a sensitive manner with both the child and the parents. They attempt to ascertain the views of the children and to keep parents from panicking or assigning blame to them. One interviewee spoke eloquently about all other colleagues and he having received training on POCSO, and knowing the Standard Operating Procedures. These had been conveyed through routine training for police personnel. However, he felt there were natural personality limitations in what male police could provide. Hence, he strongly advocated for female police in these instances. The Pune Police were engaged in developing child friendly rooms wherein they could interview children. These rooms would be provisioned with dolls, toys and drawing materials. One or two of the key informants mentioned the need for police officials to be in "civil dress" rather than uniform when dealing with children. However, as mentioned previously CCIs have many instances when police enter the CWC wearing their uniforms. This indicates that, there is still need for training the police.

## 6. Conclusion

Overall, the data shows that the CWC and the DCPU in the sample districts are more oriented towards the child rights perspective as compared to the JJB and SJPU. Given that CCL come within the ambit of the criminal justice system, training members of the SJPU and the JJB in aspects of child sensitivity is urgently needed so that, the child is not reduced to a 'case'. The collaboration between members of the CWC needs to be examined in-depth to provide pointers to ensure that, the JJB similarly works in tandem with all its members. The fact that, the CWC members come from varied professions was cited as an advantage. So, also, perhaps the JJB could also benefit from a panel with a wider range of professional exposure.

Gender sensitivity across stakeholders needs fine-tuning. A CWC assigning female members to certain tasks like talking to the child indicates that males are not stepping up to take on this responsibility. So, also, citing 'personality' among male policemen for the demand for more females in the SJPU may essentially reduce female recruits to child-related responsibilities, which are seen as requiring 'sensitivity'. This deep-rooted prejudice towards re-orienting their own attitudes to be more child-centred among male stakeholders requires study and an intensive and continuing behaviour change communication training.

Issues regarding delay in salary disbursement, mentioned by staff of CCIs, extending to child protection bodies as well indicates that, there is no hierarchy at work and the delay is across stakeholders. The direct fallout it may have on children within the families of the functionaries as well as those children whose responsibility is vested with them cannot be overlooked. Responsibility needs to be fixed at the highest levels of the state government to end this cycle of delay as it affects not only the work of functionaries of the JJ system at the ground level but

stakeholders. The direct fallout it may have on children within the families of the functionar-ies as well as those children whose responsibility is vested with them cannot be overlooked. Responsibility needs to be fixed at the highest levels of the state government to end this cycle of delay as it affects not only the work of functionaries of the JJ system at the ground level but also their mental make-up in terms of their self-esteem, which has assumed more importance in the current times.

---

**Chapter 6**  
**PROCESSES AND SERVICES AT**  
**CHILD PROTECTION BODIES AND**  
**CO-ORDINATING AGENCIES**



## Chapter 6

# PROCESSES AND SERVICES AT CHILD PROTECTION BODIES AND CO-ORDINATING AGENCIES

### 1. Introduction

This chapter delves in greater detail into the processes and services of child protection bodies under the JJ Act as well as co-ordinating agencies and the challenges they face therein. It builds on findings of the previous chapter through quantitative and qualitative data.

Data is drawn from anonymised data extraction from case record at the CWCs (n=169; Aurangabad, Nagpur, Pune, Thane and Yavatmal districts) and from Key Informant Interviews. Most findings come from the descriptions of CNCP as the descriptions of stakeholders were very rich and detailed. The interviews of situations related to CCL provide fewer case details. It is unclear if this reflects the greater numbers of CNCP in the child welfare system in comparison with CCL. The lack of data should not be interpreted, further, as lack of importance.

As mentioned earlier, permissions for data gathering from JJBs and the District Legal Services Authority (DLSA) were procured after the data gathering team had been disbanded. Hence, the JJB could only be assessed in the district sites through interviews with a few of its members and some panel lawyers. No judges were interviewed. Children's Courts could not be included in this study.

### 2. Documentation of Processes in Case Files at Child Welfare Committees

The JJ Act and the State Government Rules (dubbed the Maharashtra State JJ Rules) place responsibility on CWCs and other constituent members of the JJ system to maintain/follow certain procedures to ensure child safety, child welfare and child rights. Through the data extraction process of the case records the researchers sought to examine how these processes of juvenile justice are displayed through the paperwork in the children's files.

#### 2.1. Case Monitoring Sheet

Per the Maharashtra State JJ Rules, a case monitoring sheet labelled Form 26 must be attached to the front of the case file. Form 26 is intended to determine at the very outset when a child is first brought to the CWC - the timelines for speedy justice for them. A summary report (in Form 16) on Form 26 enables the District Magistrate to review pendency of cases.

The team of data gatherers looked for a Form 26 or its equivalent in the case records. There did not appear to be any cohesive attempt to keep track of case progression of children being produced at the CWC. A case monitoring sheet could be seen in only 5/21 case records in Pune and 2/35 case records in Yavatmal.

## 2.2. Social Investigation Report

The Maharashtra State JJ Rules mandate that, CWCs should assess the condition of the child through a Social Investigation Report (SIR) in Form 22. The State Rules require the CWC to pass a formal order for the completion of this process on Form 21. The team of data gatherers looked for Form 21 and Form 22 in various case files. Orders for SIRs were most likely to be addressed to the District Child Protection Unit (DCPU). The order for SIR was addressed to an NGO once only – in one district. It is possible that this has a more supportive NGO network than other districts. Protection Officers were addressed only twice in two districts each.

If orders for SIRs were scarce, then the SIRs themselves were even less evident. The CWC at Aurangabad was the best at maintaining Form 21 with the highest number of SIRs though even its performance was just over 50% of case files viewed having SIRs attached. But a close examination of these showed that, a little over half of these had adequate details, which CWC members could use to determine in a comprehensive manner what would be the best option for the child’s welfare.

**Table 15: Child Safety and Planning Processes as evidenced in the CWC Case Records**

		Aurangabad	Nagpur	Pune	Thane	Yavatmal
		(n=43)	(n=35)	(n=21)	(n=35)	(n=35)
<b>Case Monitoring Sheet</b>	Present	0	0	5	0	2
	Not Present	28	35	13	33	26
	No Response	15	0	3	2	7
<b>SIR Order</b>	Present	27	6	7	2	1
	Not Present	8	29	14	33	33
	No Response	8	0	0	0	1

<b>SIR Order addressed to</b>	DCPU	24	--	6	--	1
	Protection Officer	1	1	--	--	--
	CCI	1	2	--	--	--
	NGO	--	1	--	--	--
	Not Specified	1	2	1	2	--
<b>SIR</b>	Present	24	3	5	2	1
	Not Present	3	3	2	0	0
<b>SIR Detailing</b>	Detailed	13	1	4	2	1
	Not Detailed	10	1	--	--	--
	No Information	1	1	1	--	--
<b>Individual Care Plan</b>	Present	1	--	6	--	--
	Not Present	30	33	13	34	33
	No Information	12	2	2	1	3

### 2.3. Individual Care Plan

Under the Maharashtra State JJ Rules, Form 7 is the format for the Individual Care Plan (ICP) capturing important information related to the needs and wishes of the child to determine the best course of action for the long-term future of the child. This has to be reviewed periodically and modified as per progress.

The data gatherers wanted to undertake a qualitative assessment of the ICPs if available. Unfortunately, they could find only seven ICPs in 169 case files examined across the five districts. Further, these ICPs did not yield much information and appeared to be very sparse.

## 2.4. Implications of Findings

The JJ Act and the Maharashtra State JJ Rules are very clear and detailed about the processing of children who need care and protection from the State. These legislations call for transparency about decision-making related to children through a sturdy documentation. In earlier chapters, the interviewees displayed knowledge of the JJ Act processes even though they sometimes expressed systemic barriers to the completion of these processes. This is reflected in CWC case records being largely devoid of SIRs and ICPs. The absence of a case monitoring sheet or an order for conducting an SIR underscores the lack of transparency in the CWC decision making. Further, there is a lack of consistency in maintaining these records within CWCs and across districts. The reason for SIRs and ICPs is to ensure a thorough vetting process on behalf of every child without prejudice. Data show this is largely observed in the breach.

## 3. CWC members' narratives on Case Progress and Documentation

While the data extraction process showed what has actually been retained in the case records, the interview data narrate the CWC members' verbal perspectives and underscores the lack of transparency in the CWC decision making. CWC members did speak of individual children's cases being discussed at multiple sessions. Quotations such as these highlighted the step-wise progression of the procedures followed and the timelines:

*It depends on the case. If a child is in a Children's Home for the purpose of education, then obviously once an order has been passed, he will only come after six months or else we visit too...or if a child has an issue, only then he is produced. Or else they are kept in receiving centre... For that, one week's time is granted. In one week, they have to [do] whatever has been ordered...like the interview report, medical report...or if something has happened to the child... They are supposed to produce all that within 8 days. They are given a period of eight days. (CWC member)*

This member earlier had described the decision-making process with regard to children coming from crisis situations. There appeared to be distinct considerations for the different situations – sexual abuse, trafficking, child labour. The member showed awareness of legal considerations for specific cases – for instance the Statement 164 – and their attendant timelines:

*If the child has been admitted [to a CCI], there is an order for six months at the Children's Home. The child has to be 'reproduced' after six months. If the child is temporary... we keep [him/her] for eight days - under POCSO, [ITPA] or child labour or child beggar regulations, if any case has come, or if the child just ran away... missing cases... It is important to study them. So, we give a time period of eight days to the Probation Officer. He makes the internal report. Or if the police want to take out a TM - a Tracing Memo or gynaecology tests or if the*



*child's medical test has to be conducted. We give them eight days for these. In one month, we finish up. Some cases are more complicated, like 164 (Statement made to a magistrate) in cases of [trafficked] girls - then according to JJ Act we have four months. (CWC member)*

Similar views were expressed by CWC members from two other districts. Their considerations towards decision making showed awareness of the JJ Act procedures with regard to child placement, as well as distinctive needs of children:

*When the child is produced, mostly by the police, we check the FIR. We see the child's medical (test). We see the child's age verification. We see the child's statements and then we interview the child. What is the child's inclination? What the child wants to do? According to that if the child has to be kept in the institution, then we choose that institution and we send the child there. (CWC member)*

*When the child comes to the CWC, we take applications from the person who has got the child... If they qualify... we pass a 15-day order stating that the child should be kept for care and protection... and whichever [Children's Home] we keep the child in, [that Home's] Probation officer (PO) is asked to submit SIR, home visit report, etc. If we feel... we give directions to DCPU... Then the Child Welfare Committee decides whether the child needs care and protection... Not all children come under one thing. At times it happens that there is an addicted child, then we have to refer the child to some other place. If the child is from education, then we refer him to that... Many times, some have a disease, then they are sent to an institution that particularly manages it. Mentally disturbed children [who] come in front of the CWC, they are referred to special schools. (CWC member)*

CWC members in one district explicitly referred to the JJ Act processes using the Form numbers cited in the State JJ Rules, possibly reflecting the training imparted to the CWC members. But we observed few interviewees speaking in this manner.

*First application comes from Children's Home in [Form] 44. If the child has to be admitted then 18 number come[s]. Number 18 order is passed from here. [Form] 36 is made in case the child has to be released. For SIR, 22 is given to CCI or the POs. (CWC member)*

There appears to be poor attention paid to the documentation of the ICP. As a CWC member stated, sometimes there is a gap between the recommended and the actual practice:

*If the child doesn't have shelter and is in need of protection, then we give the child a temporary order of three months - temporary placement for three months and when the report comes, we give the final order. [With regard to the interval getting temporary shelter and the final order comes] the child should be produced again and again, because after every 14 days what the development of the child is; for the first three months 14 days - 14 days - 14*

*days (referring to periodic presentation of the child at the CWC initially). Individual Care Plan is made and how development is happening, it has to be made and reported. **But it is not being produced like that.** (CWC member – emphasis added)*

There is some validation of this point related to variations in quality and completeness of documentation from interviews with other stakeholders. For instance, a counsellor with additional charge of Probation Officer explained that, they provide a full report of the child's behaviour only if the child is perceived as difficult, namely this system stakeholder chooses to prepare and submit a report based on their personal determination of what is important, and not a complete documentation per the law.

*I send the Care Plan, S.I.R, H.I.R. and progress report to CWC & JJB... **We also submit report regarding behaviour of the child if we observe that it's affecting other children's behaviour** as and when we need an order from the JJB or CWC. (Counsellor with additional charge of PO at a CCI housing a Children's Home and an Observation Home – emphasis added)*

The lack of documentation does not appear to be linked with failure of the state government to make clear the documentation needed. For instance, this CWC member explained that, the district authorities had provided formats for the various types of documents.

*We have specific formats of admission, medical examination, SIR, HIR, etc. The authorities provided us these different formats along with Letterheads. (CWC member)*

Another CWC member actually showed the formats – albeit in photocopied form.

### **3.1. Narratives on Social Investigation Reports and Social Background Reports**

The various stakeholders interviewed shared their perspectives on the SIR process. Barring one CCI Superintendent who did not know the term SIR and needed an explanation, the descriptions of the SIR process from stakeholders were detailed and close to the spirit of the JJ Act. System stakeholders – whether they were CWC members or counsellors or DCPOs or Probation Officers – were, across the board, aware of the procedures. Some listed several system resources such as DCPUs to aid in the procedure for an SIR.

However, there were barriers to completion of an SIR. Sometimes the lack of a proper address held up the process of completing an SIR.

*Suppose address is from slum then we have difficulties tracing their address other than that we don't have any difficulties. [In case of children coming from outside of Mumbai] ... another district also has DCPU. So, we contact DCPU. We have the Missing Child portal from where we take their address and contact CWC and send information about child to them and their*

*staff conducts the SIR and the report comes. Suppose the child has the parents' number then we talk to parents. In most case parents agrees to come here. So, we call them at the CWC, make the inquiry and deport (sic.) the child. (Counsellor and Probation Officer)*

The lack of travel support and long distances also impedes SIR completion. More than one interviewee mentioned this as a barrier.

*I have given up on facilities. Our government does not have them. For instance, you go to some location and there is no transport, no auto. There is a rule that you do not get TA within the range of 8 km. If there is train or bus to reach the location, then you have to use that particular transport. But if we keep waiting for this local transport then we land up wasting our entire day... For train you may spend Rs. 10/- whereas for auto you may have to spend Rs. 150/-... So, minimum one day is spent in travelling to the place and gathering information if the place is around 10 km away. If it is closer, it can be 4 to 5 hrs. (Counsellor -cum-Probation Officer)*

With regard to Social Investigation Reports in ITPA cases, personnel mentioned the challenge of entering alone into communities wherein families push their under-age daughters into the flesh trade. The SIR process is very much part of the overall legal procedure. But female staff look for a male colleague to accompany them for safety as they enter these community spaces where crimes such as human trafficking are common.

Though system stakeholders interviewed listed several system resource persons who can be assigned SIR work, these system personnel tend to hold many responsibilities resulting in delay.

*We can give this order to the DCPU also but the DCPU has many more responsibilities and the minimum period of this is 15 days. (CWC Member)*

Further, in at least one district there is concern about accuracy of reports. For instance, another CWC member described a situation where an NGO shared an SIR, which later was disproved by the actual facts. The CWC in this instance had to issue a Show Cause notice. Another CWC member expressed concern over allocating SIR preparation to the staff of a CCI where the child is temporarily placed. As the CCI's receipt of state grant-in-aid depends on their occupancy rates, there is a possibility of them slanting the SIR to favour a long-term occupancy by the CNCP minor. The CCI staff of that district corroborated that view by saying that they needed to collaborate with the DCPU as their reports were "not given weightage" [by the CWC].

Issuing the SIR to DCPU did not always turn out positive. One CWC member mentioned that, the DCPU had to prepare and sign off on SIRs – But there was corruption involved with regard

to the placement and determination of which NGO-CCI would receive the child for long-term placement. The issue of such corruption and under-the-table payments for placing children in government-aided CCIs was also mentioned by a resident of the Aftercare Home. The researchers could not corroborate to which district the Aftercare resident was referring as Aftercare residents mentioned being transferred from one CCI to another.

One CWC member opined that, the SIRs prepared by Probation Officers when available were of good quality. This view was not shared by all CWC members. Another CWC member complained about the completeness of the SIRs – in line with what was observed in the Data Extraction process from the case files. A third spoke of contradictory information presented.

*The quality of the SIR is not good. They fill the first page, and they fill the last page. Rarely they fill the pages in between... It is very difficult to take the decision in these cases. (CWC Member)*

*The PO is not there. Who will do the SIRs? And when I show you the format you will see that the SIR is so contradictory that we get fed up with it, and we wonder how we should give entry to these children. For instance, when you do the SIR under Form 22 then you are writing the basic information of the child such as his name and address and the other details of the family on the first page, and then directly you come to the conclusion on the last page that this child is under CNCP, so he should be kept in the home. But this is wrong because the social, mental and all the backgrounds should come into the SIR but nothing is there. (CWC Member)*

*SIRs are only in form of making questions and at the end remarks are provided and those remarks are not filled. Many organizations and their social worker don't know that they have to write remarks in the form. (CWC Member)*

Another CCI personnel revealed that, there are children in their CCI whose SIR has not been completed for some years despite notifying the authorities.

*Madam, there are some 2-3 children who have completed more than two years... and one child has completed six months and two children have completed more than one year [whose SIR has not been done]... A letter has been given to D.C.P.O. by us. D.C.P.O. stated, "It is your responsibility. You do it." (CCI personnel)*

The discussion after this statement went on to describe a tussle between the CCI and the DCPU, which was not resolved at the time of the interview, meaning that no case review had been undertaken for these children. Another CCI staffer in the same district spent time explaining how they had personally managed to contact the mother of a child at the CCI but despite the mother providing adequate documentation, the release of the child was delayed

because the SIR had not been completed. The CCI staffer was very invested in the children in the CCI and was personally upset at the distress caused to the family by the delay in the child's reuniting with his family.

*Child is admitted eight days back. His mother arrived and brought all the documents. Till the time we do the SIR we will hold him. If SIR is not there they will not release. And if SIR doesn't come in six months or whole of a year then child will not go?... Madam, the system of SIR is not properly developed here. But in this what is the mistake of that child, his mother father or the family? Whether it is my mistake that I called them? I have seen it, then what is to be done in such situation, you tell me? SIR never happens, madam, very rarely it happens, the system, which gives SIR, doesn't provide that. (CCI personnel)*

A CCI staffer in a different district mentioned delay in SIRs, which cause problems with after-care planning.

*Our experience is good. But recently we faced a difficulty. When three of our children completed their 18 years, we had given the DCPU a letter to do their SIR, which was delayed. But now even that unit does not exist. (CCI personnel)*

These interview narratives from CCI personnel tend to validate the findings from the data extraction exercise, namely that, SIRs are not consistently prepared for CNCP.

In contrast with the CWC structure and SIRs of CNCP, (and even more concerning) SIRs were barely mentioned by JJB members and personnel in the Observation Homes. There was even confusion in one member about the difference between SIR and Social Background Report.

*I will have to check. Probably Social Investigation Report comes from Police and Social Background Report is prepared by Probation Officer after child is brought here. The Reports are almost the same. One comes from Police and other from Probation Officer. Both have a format. Some of the points are to be ticked and some spaces are to be filled. In Social Background Report, there is a mention of family background. Some of the communities have a background of crime. It can be stigma or real also. The information in the Report is about how many members [are there] in the family, how many are educated. We compile all such information and take the decision accordingly. (JJB Member)*

Another JJB interviewee was only marginally clearer about the distinction. But this interviewee stated the Social Background Report to be mandatory but not the SIR.

*The difference between the Social Background Report and Social Investigation Report is that, when the child is being taken into custody, at that time when the child is being asked everything that, is Social Background Report. Sometimes the child lies. The SIR is prepared*



*while visiting the child's home, locality, and in cases of heinous crime the school is also visited. This is the main difference between the two. The Social Background Report comes with the First Information Report when any case comes **as it is mandatory**. (JJB Member – emphasis added)*

The JJB member from a third district described the SIR as a 'pre-investigation,' and the Probation Officer as a 'Probationary Officer' – even while being able to give details of the contents of an SIR. This individual explained some of the other reports such as the psychologist's assessment that contributes to the determination of the child's fate.

*People at DCPO (District Child Protection Office) do the assessment. Their Probationary Officers (sic.) go to the site. They do the **pre-investigation**, like social investigation. They give us the family background, the circumstances, where all this happened, how is the child in school, what the teachers say, what the parents say, what their neighbours say. We collect all this information. And after that, how is the mental status of the child? There's a table of the psychologist. We come to the conclusion seeing all these things. (JJB Member – emphasis added)*

With regard to CCL, the protocol was clearly that, the Probation Officer would complete the SIR and that, this would be done in a week or two. There was mixed feedback on the quality of this documentation.

*SIR is done by the Probation Officer. The Superintendent of the Observation Home is also given the charge of the PO. There is a format given - Form number 9. The SIR is being done according to this form ... There is a time limit given to them - 7-8 days. If they are not able to do and require more time then the application is taken from them for extension of more time... Generally, in 8-10 days the SIR is completed. (JJB Member)*

Two different JJB members raised concerns about the quality of SIR.

*The report is feedback of the Social Investigation Report and the benefits of report are there. And sometimes we don't get proper report from the PO so then we have to take reports from the Police machinery about the nature of the child. (JJB member)*

*[The quality of the S.I.R] is not good. They give recommendation to the Board (laughs). They tell the board to do this, do that, the action that should be taken. Actually, there's a column in remarks, and they write there about the offences and the action to be taken by the Board. So, there is no need to give the recommendations. What is your work? There are the columns. Fill that. You do not need to speak on the remarks. There is Board sitting in there for... Whatever information they are collecting, they are not taking interest in it. (JJB member)*

One panel lawyer attached to the JJB mentioned that, this judicial process, which should be wound up in six months sometimes takes years because the inquiry has not been completed. This contradicted the claim of JJB members of the SIR process being concluded within two weeks.

*According to my belief a 12-year-old young child cannot commit rape. There is a rape case going on concerning this 12-year-old boy... since 3-4 years. Even today his case is going on. I suggested to the Board he must be discharged. The Board then commenced with an inquiry. It has not yet ended. How can justice be delivered to him? (JJB Panel Advocate)*

A clerk at an Observation Home when asked about the SIRs of CCL said that, they did not retain such records – indicating that, this and any kind of report was submitted to the “court” – the JJB.

### **3.2. Narratives of Child Protection Bodies on Individual Care Plans and Rehabilitation Card**

CWC members were mixed in their response to the maintaining of ICPs and rehabilitation cards. One appeared confused. One mentioned hearing it in training. The third was aware of the ICP requirement but mentioned that, it was not followed by CCIs.

*Interviewer: Do you have any comments on the rehabilitation card? On how it is being made, whether it is adequate...*

*Respondent: Rehabilitation card...*

*Interviewer: Yes, there is docket made...the one we call the rehabilitation plan...*

*Respondent: Yes, yes...*

*Interviewer: About what will happen to the child when he leaves after 18 years of age...How much was he given training, now will he get a job...a card is made like this. Is it not?*

*Respondent: No, that card is not made here. A card should be made like this. Actually, it is there in their Care Plan...shown there...But there is no such card. (CWC member)*

*And now particularly before restoration also we are asking to complete that personal form and means we restore them. We ask to produce form 15 days before restoration. These few things we started doing after our latest training. (CWC member)*

*We are at zero level in providing education, counselling, ICP, etc. We do nothing to improve it. CCIs even don't know that they must do ICP. Our Act is very perfect framed theoretically. One feels glad to know about the Act and feels everything is going on well. But in reality, the actual conditions are exactly the opposite. (CWC member)*

The situation of ICPs for CCL was similar. This JJB member mentioned that, the Observation Home personnel prepared a Care Plan but they do not make it well. But the JJB member was not particularly clear on the contents of an ICP.

*Interviewer: Who prepares Care Plan?*

*Respondent: Observation Home. They make [it] for CCL children... for each child who is admitted*

*Interviewer: Any particular format?*

*Respondent: Yes, there is a format, a basic form is there.*

*Interviewer: Do you think they are working on the Care Plan?*

*Respondent: I don't think they are working very great on it.*

*Interviewer: What is your recommendation on that?*

*Respondent: Activities. We should monitor the Care Plan should be according to the interest area of the children. Are they getting exposure as per their interest? Suppose any child is good in mathematics or in drawing but if you are not giving any exposure then what is the use? (JJB member)*

### **3.3. Narrative of Child Protection Bodies on Education and Vocational Training**

Like other stakeholders, most CWC members, too tended to lay emphasis on education.

*[We recommend] extra coaching like we do in our families. Our children are not strong in studies. Most of the CCIs give extra coaching after school hours. (CWC member)*

*There was a girl who was 13 years old. She was in 7th Standard and she was six months pregnant. So, we kept her in the Maahila Rajya Grah after she gave birth to the child. She was shifted back to the CCI recently. She has been admitted in school in 8th Standard... Now she has started going to school. (CWC member)*



*There is an ITPA case currently. We have to shift her... to [another district] because there are no facilities for education here. She passed 10th this year. She has to be rehabilitated. (CWC member)*

*You are aware that there is no examination till 8th Standard. When he goes from 7th Standard to 8th, his progress is very slow, his mathematics is weak. He does not understand anything. So, we ask him about his previous education. We assess his ability and recommend some solutions to CCIs. We try to teach him some basic things... the tables, the grammar etc. We collect the information useful to these children when they go to 8th Standard. We give them information available on Internet about the syllabus, Mathematics, Science etc. I have sent the copies of these topics to all CCIs. So that, children can learn from those printed materials. I have recommended that, children should "by heart" tables and grammar (learn by rote) when they are supplied milk or tea in the morning and evening or even at night. We have to make these children "by heart" these things. (CWC member)*

Juvenile Justice Board members were less vocal on the topic of education. But at least one member stated that, they tended to focus more on vocational options though few such options were open to them. This JJB member who was a lawyer in a rural district offered insights that, boys who are in conflict with law could be trained in auto mechanics or blacksmithing or masonry – trades which could give them skills.

*The short-term courses are in the field of computer. You need to have basic education to learn them. The level of education in rural area is very low and children here are from the lowest economic background. Their education is poor. If you tell a child of 10th Standard to write something...he may not be able to write it. So how can we train them? Therefore, we were insisting on ITIs (Indian Technical Institutes – Government trade schools). (JJB member)*

*Usually, our first question to child is, "Do you go to school?" Alternatively, "What is your education? Why have you left education?" If we agree that the child can be multi-faceted, then why do we give unnecessary emphasis on the education of these children? The child can survive in this world without school education. He can earn... He can be a 'labour', He can work in a brick-kiln, He can survive by woodcutting, and he can work in a garage. Therefore, we can do something for child if we know about his basic skill. Our problem is that, the child comes here alone and that too for a very short duration. On release or on bail we can suggest the child to go to a garage and learn the skill there...We can request the owner of the garage to give the child training of repairs. We can do this much only. (JJB member)*

The belief that CCL come from impoverished and low educational backgrounds is also shared by CCI personnel. However, the above statements reflect prejudice among JJB members in their assumption that, this is a reason for formal educational programmes or computer training to be of limited utility for CCL.

The impression from the data was that, CCL are few in number and stay for a short period of time. Attempts are made to release them to their families "on bail" as soon as possible. In the meantime, to cope with the delays and to "avoid disruption to the life of the minor", JJB case hearings were apparently often conducted without the CCL present at the hearing. At least two different JJB interviewees mentioned that, children were excused in case they had to attend school. One mentioned a young girl being excused on receiving college admission in Bangalore (a city in another state). Parents make a representation to the Board to excuse their children from the hearing. Children are represented by their lawyers and their parents. In such situations, there is a question of what inputs the child receives in order to help them comprehend the wrongness of the act and need to reform or perform some simple, non-taxing act of restitution for wrongdoing. JJB members did speak of "counselling" the child. But given the degree of overuse of the term "counselling", this term probably involves some level of lecturing the child on the wrongness of his/her misdeeds albeit in a coaxing tone of voice.

One JJB member described a slightly different set of measures meant to match the "crime". For instance, a young male child who was charged with sexual harassment of women was asked to take on minor "fetch and carry" services in a local girls' hostel! The reasoning was that, this constant interaction with females would give him exposure to cause him to see them less as sex objects and more as individuals deserving of respect! The JJB member mentioned that, for one Observation Home resident who was detained longer than most, it was arranged sometimes to have him brought to the JJB (the Observation Home is in the same premises) where he was made to watch some inspirational YouTube videos with positive moral messages. This was done both to instil some positive values as well as to keep him engaged since his academic occupation at the Observation Home was limited and he was for a while the sole occupant of the Home! For rehabilitation, the JJB member suggested that, CCL could be encouraged to get educated in simple but remunerative tasks such as motor mechanics – as such occupational activities would divert the CCL from a life of crime by helping them perceive profitable alternatives. However, these suggestions were from a single member. Given the workload and pendency described, it is not clear how much time this JJB member could actually devote to this child. Further, placing a male CCL in a girls' hostel is neither apt nor advisable and both these instances underline the urgent need for a more systemic, holistic and cohesive approach for engaging with CCL. As noted in an earlier chapter, there was a stated demand from one CWC for a list of vocational services and referral organisations. A similar requirement was stated by this JJB member.

*Everything is available on paper. The picture is rosy on paper. However, ground reality is different. There is no vocational training facility. We have to do our follow up with DWCD or State Woman and Child Welfare Department... We request them to send a list of Vocational Training Institutes. Now Prime Minister Employment Scheme is available through which free vocational training is possible. We have prepared a list of Institutes of Vocational Training under PMES and their contact numbers at District level, Taluka (block) Level. The list is now*

*available with us... We can send the children to these Institutes when they are on bail or we can give the contacts of the nearby institutes to the parents when their child is released from here. (JJB member)*

The narratives of CWC and JJB members appeared to focus on the efforts of individual members of the system, and not of the system itself. Several stakeholders were able to give examples of children who were processed through the system and who succeeded – attempting to join a police school, become a nurse, become a cook, take up beauty styling, housekeeping and maintenance. These examples were salient to them. But it was not clear whether the system provided a uniform springboard for all children to achieve success. Clearly this is an area that still requires much work – especially with regard to developing and strengthening the system resources for the constituent stakeholders to access easily and to utilise fully.

## **4. Challenges in Working with Specific Categories of Children**

In discussing how they work with children in certain difficult circumstances, stakeholders also mentioned situations, which they found difficult to manage – some where they seemed unclear about the law. In this section we discuss such cases. Their relative rarity may contribute to why stakeholders are unable to handle them effectively.

### **4.1. Facilitating Repatriation of Children from Outside the state**

System stakeholders who were interviewed were well aware of the network of child protection services created across the country. Through their local district office, they could access the network to ensure processes such as SIRs in other districts or states and subsequent transfer and restoration. But having the network did not take care of all problems. For instance, in this case described next, CCI personnel and CWC members often face practical problems such as translation and communication which hold up the restoration process. For instance, this interviewee has obviously not been complacent. However, the efforts were not successful.

*One child who is out of state his family cannot be traced. He has both mother and father. He said, "I have both mommy and dad." Then how could we say that he needs it? He is with me since four years... [It is not that we cannot trace his family] He did not want to reveal... because, I feel he is in a trauma. His family members must be beating him... Recently a month ago his school was changed... The school principal over there spoke to him after such a long day's work and [he] did not reveal the name of his village. He just said, "I am from Orissa." Two months back a team from Orissa came here. There is a drive going on... I am not recollecting [the name of that drive] now - the one in which police people came and rescue... Those people came to us... a team of 5-6 people came here. They saw him, talked to him but they said that he does not belong to their state. The thing is when he came here, he was very small and the Odiya language is very different. So, basically, he was just 5 or 6 years old at*

*that time. Now he is staying here. So, he speaks in Hindi... Basically I had done 3-4 times correspondence about [his SIR] till date. I did not receive any response... Till date I have done correspondence with the D.C.P.U. What follow up the D.C.P.U of the state has done and not done; I really don't have idea about this. I have raised the issue to the CWC. I have personally spoken to them (indicating no useful response from them). (CCI personnel)*

One got a sense of the child as a difficult-to-resolve case was being pushed between the members of the JJ system. The pressure this CCI staffer was experiencing to resolve this situation appeared to be unfair given the reach of the staffer's personal resources, and it is emblematic of a child falling through the cracks in the system.

In the same vein, CNCP who originated from countries like Nepal and Bangladesh were in an even more difficult situation when it came to restoration.

*We report the case [of Bangladeshi and Nepali minors] to the Child Welfare Commissioner. They have good contacts... So, these children can be sent as soon as possible. But our experience with the Commissioner Office is not so good. They don't put in any efforts for passports and other documents of these children, nor do they co-ordinate with their counterparts of the countries concerned... We send so many [reminders]. We even appealed to CCIs to do something. There is a CCI in Mumbai, which deals with problems of the girls like these. In fact, most of the girls from neighbouring countries are brought here for sex trafficking. They don't know the language. This CCI tries to repatriate them. We are trying to send three girls from here to that CCI. They may do something for the girls. (CWC member)*

It is worth noting the extent to which the official child welfare system has been ineffective in this situation – the CWC member is actually reaching out to an NGO for assistance.

#### **4.2. Facilitating Restoration of Children with Difficult Family Circumstances**

Besides out-of-state children, system stakeholders struggled with child-friendly restoration of children from families with problems such as single-parent homes, or families of a person in prison. This case discussed by a CWC member mentioned the difficulties in tracing and unifying families in very difficult social circumstances. System stakeholders also struggled with breaking the news to children of the death of their family members.

*There was a girl who was brought here about five years [ago]. We wanted to place her in her own District...Buldhana. She could only tell us that she was from Buldhana. She could not tell us more than this. On constant counselling and search we came to know that she was living near railway line. She told us her name. We contacted the Childline of Buldhana. She started telling that she has two brothers and she told us about her mother and father. We wanted to place the girl in a CCI, which was dedicated to girl admissions. But there was none*

*in Buldhana district. In our search we found out that, her father had murdered her mother and he was sentenced to jail. Her younger brother was taken home by her aunt. We could not trace the whereabouts of this brother. The elder one was placed in a CCI there. By that time her brother was about 12-13 years old. He came to us and by this time the girl attained the age of 8-9. So, I made a video contact with the boy on the occasion of Rakhi. And this girl recognized him. She started asking about her parents, her younger brother. She did not know that; her mother was dead and her father was in jail. It was very hard even for us to tell the reality. It was indeed very emotional to watch. I almost cried. We wanted this girl to be placed in CCI where her brother was also placed...It would be better for both of them. Now they're both placed here.*

*There was another girl...daughter of a sex worker. Her mother died of AIDS. The 'Mausi' (House owner of sex workers) used to beat this girl as she was useless for her. This girl was brought here through Childline. She used to ask us about her mother. The girl is in the 10th Standard now... But she still asks me, "Madam, did you phone my mother? Tell her to come here and pick me." I replied, "Let her go... She must be having her own difficulties... We all are here for you." She replied, "She can come here at least once for me... All mothers come for their children." (CWC member)*

#### **4.3. Dealing with Child Sexual Abuse within the CCIs**

Few chose to speak of Child Sexual Abuse but the few interviewees who did refer to it within CCIs, expressed their inability to handle it. At least one male Aftercare resident also mentioned knowledge of such a case. The researchers could not corroborate to which district the Aftercare resident was referring as Aftercare residents mentioned being transferred from one CCI to another.

A CWC member confirmed that, girls who have been rescued "sometimes abuse the other girls" and then went on to trash the character of the girls in extremely disparaging terms that do not bear repetition here so as to protect their dignity. Suffice to say that, the CWC member squarely blamed their 'hormones' and 'urges' and declared that, "...they are the victims. As per the JJB, they are not accused. But they are wrongdoers. To keep these girls in isolation is not correct. They should be kept in a locked room."

This statement betrays an alarming lack of understanding of the effect of trauma on the trafficked girls – wherein the deep effects on the long months of sexual exploitation has a deleterious effect on their social and sexual development. The CWC member (and most likely other stakeholders) requires a sensitization on handling such situations in a trauma-informed manner. Moreover, the mention of a CSA case by a male Aftercare resident needs deeper investigation on the gender of the victim as often CSA of boys tends to get overlooked.



#### 4.4. Dealing with Children Accused of Rape

The system handles many situations, which pertain to rape by children. In situations where the child who allegedly committed the rape is much older than the child who has been raped – the situation is very challenging. System stakeholders feel they have few options open to them. The system itself appears to struggle with such cases – attempting to balance the rights of the person accused of the crime as well as the one who was at the receiving end. This report is too limited a space to discuss these issues. But it is highlighted here for the record so that, it may become part of the mainstream discussion around child safety and welfare, with the hope that sensitive solutions may be generated.

*One child had come through JJB [to my Observation Home], 9th Standard boy, 15-year-old child who had raped a 6-year-old girl. He was very impudent even after coming here. After seeing his attitude, I was shocked. I also saw the girl. She was severely injured. I was shocked to see that, even his family supported him and said that, the girl had done something to her vagina just to ruin the image of the boy. I had reported to the JJB, "Please don't send this child back to his family right now. If at 15 years of age he can do this and if his family is also supporting him after doing such a heinous crime, then what will he do in future? However, he got bail from the JJB. (Probation Officer)*

#### 4.5. Dealing with Eloping Children Accused of Rape

A subset of the situation above pertains to cases of elopement wherein the boy is below the age of marriage (that is 21 years) and the girl is below 18. Though there appears to be mutuality in the decision of the couple to run away together, the male is liable to prosecution under the POCSO Act and is booked accordingly. Various stakeholders across the system dubbed these situations as *Sairaat* cases – after the block buster movie on young lovers from different castes.

*[Speaking of the fast-track court for rape cases] We asked them, "Why do you leave them on bail (release the perpetrator)? It's non-bailable" ... So, they said, "Sometimes it happens if the boy is 17-plus, the girl is really in love with him. Putting him in the jail if he is under 21 years, if their union is done and if their relations are running nicely, then we think of rehabilitation and we leave them on bail. [The girl takes] the case back... Some cases they take back... If the girl is saying, "I love him..." If he says, "We both love each other..." If he is elder and she is small, but she's saying that, she loves him. "I ran away with him." We have got so many such cases after watching the movie Sairaat. (CWC member)*

*In our CWC, we have seen a lot of cases of Section 363 - kidnapping cases... The percentage of girls is more... is a big challenge in front of us ... Whenever such a case comes to us, we try to do complete rehabilitation of that girl child... What happens is...when the case of Section 363 is registered... Police bring that girl from wherever she is with the boy. (CWC member)*

The second respondent mentioned the various ramifications of these cases while first speaking of a minor girl eloping with an adult male, and then speaking of two children eloping:

*The parents [of the girl] don't accept the girl... So, she comes back again to the CWC...Our first challenge is to mentally prepare her. We have to stabilize her, do counselling. She is not ready to stay with the CWC. She says that she wants to go back to the boy, sometimes she even says she wants to go to her 'mother-in-law'. She feels that, she has married the boy, and society has accepted their marriage... The percentage that we are seeing is really less (age) and in most of the cases, the girls are in the age group of 12 to 18. I have seen many girls in the age group of even 12 years elope with not only their boyfriends...but with married men also. And then they don't want to stay here, they want to go. They will bang their head against the wall, their feet, refuse to eat. We have to do their counselling to calm them, and then work with them. Once she is prepared to stay here, then further work can be done with her. On the other front, we have to deal with her parents. Parents think she is a bad girl. They feel that, the girl has destroyed them socially... their family reputation. We have to correct their mindset. We have to work in co-ordination with the police also. In a lot of cases, the girl has become physical ... But even so, even after having engaged physically, she is not ready to go for a medical examination... that, is a challenge we face. When the police take her for a medical examination, she does not give her consent. So many cases we have. In such situation, the police come to us and seek our help so that, girl gives her consent. We have to send every girl for UPT [Urine Pregnancy test] who comes for shelter. We have to see that; the girl is not pregnant... So, we have made UPT compulsory. That is also a challenge we are working with... The order is done accordingly. We give temporary orders, to keep her in a temporary shelter. But if we feel parents are such that they won't accept her, then her education is also interrupted, then we link the girl with [special] organizations where the process of getting her educated restarts. We focus on that so that, her life is transformed, she understands the way of the world, so that, she understands she is a victim. Often a girl does not accept. She says "It was my choice. I wanted to go with him, I wanted to have sex as well. It is my choice." It becomes a challenge to make her understand that as well. We first give an order for three months. By this time, we get to know details of her case. After this period, if her parents are still not accepting her, then we pass an order for long- term stay. But majorly, I have seen that the girl doesn't stay with us for even a year, her parents accept her afterwards. The girl also goes back to her parents. These cases are labelled as 'Sairaat'..*

*Another challenge I have faced, is when a girl and boy elope, the girl is a minor, usually 17-18 years, and the boy is also a minor. He can be either a major or minor. When I talk to these children as they are brought to us, they will say that, they will attempt suicide... Many children these days. I feel we should listen to both sides. In such cases where children are minors...or even major... whether they are legally eligible or not eligible...their career is finished... You can understand...a boy when apprehended...he may have attained the age of 18 or 19... But he is held under POCSO only. When a boy and girl live together for 15 -20 days, then sexual contact happens for sure. So, POCSO is always applicable for boy...they are arrested under POCSO. In olden days, police did not register many cases...they used to solve the*

*problem by counselling at their level... But nowadays...with new laws...and stricter POCSO...it is very difficult to get away easily. (CWC member)*

## **5.0. Conclusion**

While CWC and JJB members seem conversant with the procedures, maintaining case monitoring records requires improvement. This is an area requiring more focussed attention during induction training.

The difficult situations mentioned indicate that, there remain systemic gaps in restoration of children to families despite SOPs regarding processes for inter-state and inter-country repatriation of children. Bolstering the emotional resilience of CWC and JJB members also needs to be part of training as the kind of cases they undertake can and does take a mental and emotional toll as per their statements.

The indications of the presence of CSA among children in CCIs are deeply concerning because CSA is often part of a pattern of bullying and other forms of emotional abuse and neglect, which is likely being ignored or not been discovered as yet. Sensitisation of personnel across the board to the issue and how to deal with it is imperative.

---



**Chapter 7**  
**PROBATION OFFICERS**



## Chapter 7

# PROBATION OFFICERS

### 1. Introduction

Probation Officers play a central role in child welfare as spelt out in the Probation of Offenders Act (PO Act, 1958) and the Juvenile Justice Act. The *Sampurna Behura* judgment made a special mention of them. Therefore, the research plan included a section devoted to the work of Probation Officers (POs) as reported by themselves and by other stakeholders in the system. This chapter focuses on data elicited from stakeholder interviews. Most of these stakeholders were accessed through the District Offices.

### 2. Role and Functioning

The three sources listed above have consistently underlined the need for Probation Officers and described their role in detail. The stakeholders who were designated as Probation Officers often referenced the PO Act and the JJ Act when describing their role and functioning. They listed activities to be undertaken as defined by the law.

*The PO's appointment itself has been mentioned in the PO ACT, 1958. So, their job chart says visiting the court, communicating with the Magistrate on minors' cases - those that are not heinous crimes, call for those reports, later, after their home inquiry, submitting a report. There is also supervision under the PO Act. What the court does is - in one or two cases where the accused is not a habitual offender - is to give them a chance to reform. Per the PO Act under the Probation Officer's supervision for a minimum of one year and a maximum of three years, they send them here for supervision. So, we do their supervision. When the probationer brings the order from the court to us, we do their home inquiry and we give them guidance to maintain good and peaceful behaviour. Regarding their rehabilitation, say in a year, we think about that also... For instance, those who have been a prisoner for three years and above, who have come after serving their jail term, who are released from jail. We call for a proposal for them under the PO Act, for grant, for rehabilitation, and we send that to the Commissioner's office. And after the grant comes, we do their rehabilitation. We pay them that 25,000 rupees for say goat farming, general store, tailoring, printing press, and so, for their job/business. (Probation Officer at District Office)*

*I do work for child welfare according to my post according to the Probation of Offenders Act. I have to make enquiry reports and rehabilitation visits to the prisoners, I also do the enquiry for ITPA [Immoral Traffic (Prevention) Act]. (Probation Officer at District Office)*

*We need to prepare and submit reports of the convicted children to judges. There are welfare schemes for children of culprits. We have to look after implementation of schemes. (Probation Officer at District Office)*

Describing work in terms of legislation as old as the PO Act implies that, terminology used is sometimes outdated – for instance, referring to CCL as offenders, juveniles, convicted or probationers. This could be due to their close interaction with the court system. But some Probation Officers did use more currently acceptable language such as CCL, which is current with the JJ Act. However, embedded in these descriptions of work are also detailed outlines of awareness among the POs of their expected activities from the initial interaction with children all the way to ensuring rehabilitation. They described the enquiry phase, the reporting phase, the work with CCL and then subsequent rehabilitation.

The POs who were interviewed did not limit discussion to work with CCL. They spoke of working with other children in vulnerable situations such as children found to be begging by the police, child labourers, young females rescued in ITPA operations of the police, and children of prisoners.

*I have been given responsibilities of women development, child development and the PO report. I have to inspect women's institutes to prepare and submit the PO report of women who are arrested in raids under Prevention of Immoral Trade Act [ITPA]. Then visit the CCIs for inspection of facilities, issues, maintenance and other activities of CCIs... There are so many CCIs in my district... We check the facilities. We check whether they supply proper and nutritional food to children. We make sure that; these children are not abused by the staff of CCI. We check that, they are provided enough food, good clothes and other daily needs... We also check that, they are given proper education. (Probation Officer at District Office)*

*If the team is going for the rescue of child beggars and child labour then I go along. The rescues are conducted by the Child Labour office under the Labour Commissioner. We find child labour sometimes at brick kilns... (Probation Officer at District Office)*

*One day I have a case of an "HIV child", another day it may be an "orphan case"... I can't tell you precisely. Those three cupboards are full of records... The cases where the child needs placement in Child Care Home or Children's Home etc. We assess the situation and place the child in the type of Home needed. This is not a typical Government Office. We must help the children as per their needs and as per the guidelines of DWCD. (Probation Officer at District Office)*

POs at CCIs had less system-level responsibilities and more work related to the children in the care of their institution.

*[The Probation Officer's] responsibilities are to communicate with the children, to find out from where they have come, to trace their parents, report to CWC, if parents are traced then sending the children to their parents' home and transferring children as per the CWC orders, searching NGOs to send children above 18 years of age to Aftercare Homes - those whose parents are not found. (CCI Counsellor with additional charge of Probation Officer)*

Apart from these more traditionally expected roles of a PO, some POs attached to CCIs mentioned having to pitch in with other activities also because of staff vacancies. For instance, one PO interviewed at a CCI mentioned having to help with the cooking of the meals as the staff at the CCI were inadequate in number.

A few POs at the District Office included visits to CCIs among their list of duties. In at least two districts they appeared to be aligned more with the JJB than the CWC. The quotation below demonstrates further that, SIRs are undertaken when orders are passed by child protection bodies. There appears to be no proactive mechanism to complete this key documentation on the part of this key stakeholder group as a matter of routine.

*Our work is to support JJB and also to provide [a] little support to CWC. In help, there is SIR. In addition to that, if the JJB has asked us to visit some place and prepare report. We have job chart where everything is written. Children in conflict with law come here and we must prepare the Individual [Care] Plan. When the JJB asks us to make the Individual Plan then we prepare it. That plan is prepared only when those children stay in our observation. (Probation Officer at District Office)*

The perception that, POs are less available to CWCs than to JJBs is also echoed in the interviews of the CWC members. CWC members in two different districts described requests to district authorities for a Probation Officer to support their work with children. In one instance, the request was granted after a year of requests mid-way through the term of appointment of the CWCs who till that point reportedly struggled to meet the requirements for assessing the children's background.

The POs also listed welfare scheme management, budget management, routine quarterly meetings hard-copy reports and online reporting requirements. These were more characteristic of Probation Officers at the District Offices. The Probation Officers at CCIs spoke of counselling and SIRs.

*We have quarterly meetings... We have a data entry operator. We have monthly and quarterly data. The court also sends data. The data entry operator of the DCPU also sends data. We have to do all these tasks. (Probation Officer at District Office)*

*We have to present reports on the Google drive in the first week of the month. There is other correspondence work of the Children's Home and then we have to see the budget of After-care Home, their assessment and all other work has to be done. (Probation Officer)*

Probation Officers displayed knowledge of reporting formats and detailed explanations, which conveyed credibility to their narrative and along with a few CCI staff mentioned earlier (Chapter IV) proved an exception in the entire sample with their knowledge of the ICP procedures.

*For follow up...there is a format - Form No. 7. [Referring to the Individual Care Plan].  
(Probation Officer)*

*"Care plan" is prepared keeping in mind the fact that when the child was admitted here what was his basic need and what was his condition at the time of admission. For instance, if he was unwell, had addiction issues, mentally frustrated, our first priority is to bring him out of all such issues. Then if we see the child is settled, we change it accordingly. The "Care plan" is changed as per what is his need now... We change the "Care plan" in one or two months. Six months duration is there. (Probation Officer)*

*[For the] Individual Care Plan we have to decide the goal. To decide the goal, we need about 2-3 months. As soon as child comes, we don't have any sports. We change the Care Plan every three months. We give training in sports and if they are interested in sports they can go for sportsmanship. There were two children who had interest in making tattoos. There was some interest in saloon. I had one session by VLCC where a professional barber had come. These kinds of events are important for children to know in which field they can make their career. This is a time-consuming process. If the child is interested in studies, then looking for education can give them decent jobs. When we talk to child about what they want to become, they say, "Engineer". But they don't know the types of engineering and the kind of sector and available options. Here children make routine career choices - ITI, military or police selection. Many children have a police craze... We had one child who was very much interested and was sent to Nashik for police selection process... There are children who want to become police, have a good body build but are not good at studies. Then we sit with that child and say, "You need to focus on education," and that is added in his Care Plan. Suppose a child is medically weak, there is no height, no body then we have to see which profession to decide for him and accordingly the Care Plan is prepared... As per the government every three months the Care Plan must be updated. But that is not possible. It takes 4-5 months. (Probation Officer)*

The Probation Officer who reported being able to update Care Plans only every four or five months rather than the three months recommended by the law also appeared to have actual experience in maintaining the ICPs.

A few POs reported stress from the workload with a large number of tasks, some of which had to be completed under pressured deadlines. The lack of adequate support to complete work was a contributory factor. One PO used the term “hard work” versus experienced work to imply that, the tasks he was completing were less technical than expected of a Probation Officer and more related to busy work of administration.

*I have to do multitasking here. I have to work as PO, I have to look after clerical work, I have to attend meetings and I have to work as peon in this office. Therefore, the difficulties are there. I have to take help from the junior officer for completing my tasks. I can't give justice to my job. I am always stressed. In addition, Head Office wants everything so fast. They need it on WhatsApp or by email, that too, on urgent basis. This shoots up my blood pressure. (Probation Officer at District Office)*

*I look after all the work for Child Welfare, I look after the cases of ITPA and then I have to do RTI [Right to Information] work also. At this age of mine, the work should be more experience-oriented than the hard work. (Probation Officer at District Office)*

The SIR is an important mandated process in child welfare and child safety. Some POs explained their work efforts as including SIRs. In the quotations below, the orientation towards the JJB can be seen and also show some limited effort within the government system to divide tasks across days, and across personnel. These trends did not appear to be widespread across the system.

*I will do discussion... [at the JJB]. I will not give SIR. I will prepare it. I will keep it here. After that I will go for inquiry. I will submit it after coming back from inquiry. There must be 15 to 20 SIRs you get approximately in a month from the JJB. I do not take much inquiries from the CWC. [Speaking further of time to prepare an SIR] See, visit and write SIR... We have to do visits. We cannot go out for three days - Monday, Tuesday and Wednesday. Then the rest of the days - Thursday, Friday and Saturday... whatever SIRs [SIR orders] get passed are done during these days. For example, if we have four SIRs, in these rest of the three days we do visits for all four SIRs. After visiting all four, we submit one by one. It is not necessary that once they tell us and we have to submit it immediately. SIRs get submitted in around three days. (Probation Officer at District Office)*

*When children come to the JJB - JCL - juvenile in conflict with law - we prepare SIR of those children. The SIR is prepared by the government PO. If there is anything going on regarding counselling then we send for counselling. (Probation Officer at District Office who visits the JJB)*

Interviewed personnel also described reciprocal relationships with personnel in other districts to complete SIRs to ensure coverage of these critical processes for children from outside the



district or outside the state. A PO describing such arrangements, explained that, SIRs across districts or states took more effort or more time, and were perceived as work of others.

*Bhandara district will look after their own cases [citing a district, which has no Observation Home]. There are not many cases there. JJB sits in Nagpur but Bhandara's SIRs are looked after by DCPU unit over there. If a Nagpur child is in Wardha or in Yavatmal, then Yavatmal DCPU unit will tell Nagpur to do the SIR. If Yavatmal's child is in Nagpur, then Nagpur will say to Yavatmal through a letter that their child is with Nagpur and will ask them to provide the SIR... And it is not just about here... Now if there are some children from Jharkhand, we contact the DCPU there. Also, we do not give it on time. Because no one leaves their work and does other people's work. There is one case... He stole a mobile in Raipur. We got a message from DCPU from Raipur to do his SIR. So now I went to his home... So now we do contacts in such a manner and we help each other. (Probation Officer at District Office)*

Opportunities for one-on-one dialogues with children were limited. One PO spoke of speaking to CCL in a group and of needing to speak with the child individually if they misbehaved. Another spoke of referrals to a psychologist.

*The Observation Home is in same compound as the JJB. Whenever children are fighting or shouting, the JJB can hear everything. I meet them daily. I know that child has come here in a particular case. Then I think and observe how that child is behaving inside the hostel. what he is doing. If his behaviour is not good, then I sit with him separately for counselling. Now group counselling was started recently by the judge on the third Monday of every month. We all sit together... the JJB members, sometimes Madam (Judge) is also there, PO and counselor. (Probation Officer at District Office)*

Interactions with CCL to ensure their continued well-being were explored in interviews. Though POs listed follow-up as part of their role, actual work appeared to be limited. For instance, the interviewee quoted below explained that, the actual physical interaction with children released from the custody of an Observation Home is limited and is only undertaken on instructions from the JJB or court. As a routine, a report of good conduct is sought from the police of the jurisdictional police station or from Protection Officers at the taluka [block] level. Follow up appeared to be at arm's length (through proxies). The idea of guidance for reformation or rehabilitation does not appear in this narrative. This throws into question what concept of child welfare is held by Probation Officers. Most notably, other quotations of job descriptions tended to be a long task list with interviewees elaborating with case examples. This task had to be explicitly explored through questions and answers to elicit details. The paucity of details is also visible.



*Interviewer: How much you do follow up after bail-out of the child?*

*Respondent: When the child is bailed out on a [Section] 302 or 307 or 376 case, we do follow up.*

*Interviewer: How do you do follow up?*

*Respondent: We get in touch with the IO*

*Interviewer: The IO?*

*Respondent: IO[Investigating Officer] of that police station where the case is registered. We ask the IO whether the child has improved his behaviour or has the same behaviour as before. They also keep a watch on it...We do follow up like this. Sometimes the Court also orders follow up after 15 days, one month or three months. After that we have to submit a report... We coordinate with IOs and if the Court has asked us directly then we also undertake an inquiry at the child's home and his surroundings and we submit that report to the Court. (Probation Officer at District Office)*

*Interviewer: Suppose the parents come to you to take back their child. They seem to be capable economically and you have to release the child. Do you organize any follow up of such cases?*

*Respondent: Yes.*

*Interviewer: How do you organize it and what is the frequency of the follow up?*

*Respondent: We do the follow up through our Protection Officers at the Taluka level. (Probation Officer at the District Office)*

### **3. High Vacancies**

As with other personnel in CCIs and District offices like the DCPU, there were high vacancies among this cadre of personnel. Unsurprisingly, therefore, though the research plan was to interview a sizeable number of Probation Officers, there weren't that many to interview due to vacancies. Most of the POs were at the District Offices.

*In the staff position they are supposed to be three PO. One PO should be the assistant of the DPO and then the other PO should be seeing the Child Department and another one should see the Women's Department. But if there is one PO then he has to look after the full set-up. This is a problem. The District Office has the sanctioned strength of three POs. (Referring*

*next to the entire district unit) In the district the total sanctioned strength is six. The Women's Home requires one PO post which is vacant, the Aftercare Home requires one PO which is a vacant post, and the Observation Home requires one PO who stays there also as the Superintendent. All five posts are vacant. (Probation Officer at the District Office)*

*It's like this here, one District Probation Officer and three Probation Officers' posts are vacant. Till now since 2015, I am alone here. So, one position of Probation Officer is filled. One District Probation Officer and two Probation Officers posts are vacant. So, I have to handle all additional responsibilities of these vacant posts as well. (Probation Officer at the District Office)*

The cause of these vacancies was attributed to a "decision" by the child welfare system.

*Interviewer: There is a need of Probation Officer even in CWC. Which PO works for CWC?*

*Respondent: ICPS.*

*Interviewer: Why there is no appointment of PO in these agencies?*

*Respondent: It is administration decision. Many vacancies are not filled... There are 358 posts of POs in Maharashtra. Only 152 or 153 are appointed. Other posts are kept vacant. (Probation Officer at the District Office)*

The researchers could not validate these numbers reported by this interviewee. However, the interviewee painted a picture of a high degree of vacant positions, which was validated by the inability of the data gathering team to find enough POs in the district to interview.

The high number of vacancies contributes to the high workload and diminishing interest in the job. Other staff must handle the workload of the missing staff.

*Interviewer: As so many posts are vacant what happens to the workload?*

*Respondent: There is a lot of workload of online work. The senior office demands a proforma in two hours. Due to less staff, we are not able to give the information in time. To give it we stay back to 8 or 9 pm. Even our district head has to stay back. There are lots of problems. (Probation Officer at the District Office)*

*Twelve posts in the DCPU are vacant and three posts of PO are vacant. A total of 15 posts are vacant. Even a good, talented person cannot handle that. I have told the district head, "I will work till December and see after that." (Probation Officer at the District Office)*

Further, lack of clerical support compounds the problems and makes the task even less appealing. The lack of POs in CCIs did not appear to concern some district officials. It is unclear if this was from lack of caring or inability to personally address a system-wide problem.

*Interviewer: There is a need for a PO in the Observation Home and at the Children's Home. In fact, every Home must have a PO. However, they are not appointed. Someone else with the charge of PO is doing the work. Do you guide them about their job as PO? Do you supervise them?*

*Respondent: The CCIs are independent. They don't need any guidance from us.*

*Interviewer: What about the government homes where there is no PO?*

*Respondent: The DPO is available. (District Official)*

But given the high number of vacancies, whether the single official can suitably manage all the needs of these institutions is moot.

### **3.1. Extra Charge**

The practice of "extra charge" – officially assigning work to a staff member of another position in the same institution, or work of a similar nature in a different institution – has been applied to the Probation Officers also. The pattern applies to POs in District Offices as well as to the few POs who were positioned at CCIs.

*There are three posts as per the job chart. Every District Office has three posts for PO. Why three? Because that is the kind of workload in this office. In fact, in this department the PO has to see to every work, apart from the Establishment and the Inward and Outward [that is mail dispatching]. In total, there are 16, 17, 18 Acts that we have to implement, the Beggar's Home, POCSSO, JJ Act, Child Marriage, PO Act... The PO is answerable to implement all these. Now I also have the additional charge of District Probation Officer. There are limitations. (Probation Officer at the District Office)*

The counsellor of two CCIs were given additional charge of the duties of the Probation Officer. The Probation Officer of another CCI was posted at the Divisional Office leaving the CCI short-staffed. Typically, the Probation Officer would be asked by the district authorities to handle the extra charge of the Superintendent or the reverse.

*We have two posts of counsellor and two posts of Probation Officer. I have been assigned the charge of the Probation Officer as well as the post is vacant. (CCI counsellor)*

In the following chapter on human resources the creation of the numeric index called the Extra Charge Index is described and the detailed scores provided.

### **3.2. Consequences of Under-Staffing**

It is possible that, the lack of follow up mentioned earlier could be because of inadequate strength of POs. Other consequences were also visible. POs could not cover all child protection bodies in the district. For instance, they had limited interaction with CWCs and CWC members had consequently come to have very low expectations of getting one, and of their capacities. JJB members did not mention such complaints.

*I have only spoken with the Chairperson of CWC two times only. Other than that, I haven't spoken with the CWC. (Probation Officer at the District Office)*

*There is a Probation Officer appointed by the government but he has a lot of work on his hands and he does not visit the CWC... It has been so long that we have not had a PO, [that] we have even forgotten what a PO does. (CWC member)*

When vacancies are not filled, there is a possibility of the position lapsing – that is, the institution/ unit is determined to have managed without having that position for a long period of time, and the lapsed post is considered non-essential to the smooth operations of the unit.

*There should be an appointment of Probation Officer... This is as per status at time of inception of the Home. This post and others have lapsed. (CCI personnel)*

The CWCs and the CCIs felt unsupported by the district officials – especially in terms of having a PO. Different CWC members and CCIs stated the need to have POs.

*There are high expectations from the CWC from all concerned agencies and the system as well. Basically, as per the JJ Act if you want to ensure rights of children, the CWC needs to be supported. These challenges whether big or small, need to be solved. Within that, the manpower (sic.), the staff that is required... A Child Protection Officer is continuously needed here in CWC. There are so many cases coming from various agencies...like the police...We should have a continued follow up, for home visit...A home visit is very essential in most of the cases... Protection Officer is a must but they are not coming into the system. They are not able to provide one. I really find the need for a Protection Officer. (CWC member)*

*If there is no PO who will do the SIR? (CWC member)*

*Per our Home capacity we should have two Probation Officers. We have none. (CCI staff)*

As outlined by the CWC member quoted earlier, completing SIRs are a problem with the high number of vacant PO positions. Home Inquiry Reports (HIRs) are also a casualty. Probation Officers located at the District Office undertake visits to the child's home only in a few instances.

*Interviewer: And how many HIRs have you done after your appointment here?*

*Respondent: I don't have to do any HIR.*

*Interviewer: What about instances when CWC orders an HIR or a Social Background Report or SIR? What is your action in such cases?*

*Respondent: Then we have to visit the homes of children.*

*Interviewer: Do you do it personally or do you give order to an NGO?*

*Respondent: It depends on availability of time for me. I personally visit only if the case is very sensitive. (Probation Officer at the District Office)*

Another district was planning to distribute the task of conducting SIRs to local social work colleges. This was a district with a high caseload. Till date they had reportedly done very few.

*Interviewer: How many SIRs are done by your unit?*

*Respondent: We can give you that number later. But if you see the frequency then it would be about 30 in a month. We have made one plan. There are three social work colleges in the district. We are thinking to distribute SIRs by collaborating with them. (Probation Officer at the District Office)*

## 4. Training and Preparedness

The training status of POs was inconsistent. Some reported receiving induction training and some reported no training. One PO was apparently trained as a PO but accidentally before being appointed to the position. Some reported one-day refresher programmes on the law but not induction training.

*I was sent for training at Pune... last year... probably February. It was a two-day session. (Probation Officer at the District Office)*

*There was no training. Earlier I had experience that, how to do home visit and what to do. And I was also associated with District Court because adoption cases used to happen in District Court. Therefore, we used to know the process little bit. What can be there more than*

*this! So, I learnt this, everything by reading my job chart. Later I also learnt from senior PO from here. There was a judge madam here. I learnt from her very much. Whenever I used to make SIR and whatever is lacking in it, she used to tell me. She used to call me in chamber and used to guide me on writing a report... (Speaking about training on Individual Care Plan) I learnt like that only. I learnt from the format given in JJ Rules only. And I write in that what child feels. (Probation Officer at the District Office)*

*Interviewer: Do the employees who are working on additional charge of PO receive any training? Have you organized any PO training for them?*

*Respondent: No. (District Official)*

*One year there was training of District Probation Officers. By mistake my name was there. I told the Commissioner office that my name was included by mistake. They told me I should come for 10 days. (Probation Officer at the District Office)*

The lack of training caused a lot of worry. This Probation Officer expressed concern about how work quality suffers when untrained people are asked to do sensitive tasks.

During the interviews regarding ICPs and Rehabilitation Cards, one PO had trouble understanding the latter term.

*I am not aware about the Rehabilitation Card but we do provide a health card. What is Rehabilitation Card? Rehabilitation post form I know. (Probation Officer)*

CWC members also highlighted the effect of untrained, newly-appointed personnel on the work of child welfare.

*Madam, please do something about this DCPU unit... If a fresher comes here, he would not be able to understand things here...He will not be able to learn. They should do this thing that, two POs should be appointed. The second person will learn from the first. (Probation Officer)*

## **5. Conclusion**

The Supreme Court in its Sampurna Behura judgment had called for "a study for estimating the number of Probation Officers required for the effective implementation of the JJ Act." Based on the conversations with experts, it is recommended that no additional charge must be given to the existing and newly appointed Probation Officers, all existing vacant positions for Probation Officers must be filled in adherence to the revised ICPS guidelines. This means each district must have at least 3 probation officers (at District Office/CCI/ and Legal-cum Proba-

tion Officer). Additionally, it is recommended that 1 legal Probation Officer must be appointed to each CWC in every district. For urban districts with a high population density, it is recommended by experts that based on the availability of Central and State funding, 6 probation officers (2 Institutional / 2 Non-Institutional / 2 Legal cum Probation Officers) and as well as 2 Counsellors & 4 Data Entry Operators must be appointed to support high volume of cases.

The CCA Study, however, highlighted the imbalance within the system in that, while Probation Officers are made available to the JJBs for CCL, the POs do not necessarily interact with CWCs for the CNCP. Given that, in the sample of this CCA Study, the number of CCL were visibly less than CNCP, and the latter's duration of stay was also longer, the importance of POs for the CWCs cannot be stressed enough.

It is to be noted that, the NALSA report of 2019 found Maharashtra to be among only three states, "not carrying out any follow-up of children post restoration and release" from the Observation Homes though they admit to preparing ICPs. In the absence of visible support to the CWC, this scenario being likely repeated across CNCP as well emerged in this Report. Competent follow up on the CNCP and CLL is a systemic gap, which needs to be plugged on a priority basis.

The Probation Officer acts as the prime interface between the vulnerable child and the justice system. It is on their reports that the JJBs and CWCs rely as it is the PO on whom it often falls to prepare the SIRs, HIRs and Social Background Reports. The criticality of the task can be gauged from the varied sample of children in the CCIs who formed part of this CCA Study: 217 were orphaned; 377 came from single-parent homes; 202 had parents who had been declared unfit. There were 27 who had been found abandoned by parents, or who have run away from home – children who are "missing." Twelve had a parent in prison. Hence, the absence of adequate and well-trained POs to equally serve CCIs, CWCs and JJBs adversely affects the quality of justice, care and protection accorded to the child in the JJ system.







**Chapter 8**  
**ISSUES IN HUMAN RESOURCES**



## Chapter 8

# ISSUES IN HUMAN RESOURCES

### 1. Introduction

This chapter covers a recurrent theme emerging across all interviews and across all districts: the crisis in staffing CCIs and some child protection bodies and its fallout on children under their custody.

### 2. High Vacancies

The JJ Act specifies clearly the staffing pattern of all CCIs as well as the roles of these various staff positions. It takes a holistic view of child welfare. However, these staffing patterns were observed in the breach across CCIs. In Chapter IV on staffing in the CCIs the data from the Detailed Information Sheets showed that, only half of the institutions sampled had 76% or more staff hired – whether in permanent or temporary category. Across the entire data set, key informants consistently reported a high degree of vacancies, and explained how this caused much hardship and had a potentially damaging impact on child welfare. CCI personnel and CWC members shared the same view:

*I go regularly to monthly meetings. I observe that many institutions have inadequate staff [referring to the staffing norms of the JJ Act]. At the moment, one person is working where three persons are required to do the job. (Superintendent)*

*What should be functional in a government Children's Home is not functional as of now. Why? Because they have less staff. One staff member looks after three or four Homes. One takes up three or four charges. They have charge like Probation Officer, Superintendent, this and that - one staff looks after it. Then, in the handicapped Children's Home, the cook is the Superintendent as well as looking after the cleanliness and also looking after the children. He handles so many responsibilities. What else do we expect out of him? (CWC Member)*

Embedded in the words of both these interviewees are a host of issues, which will be explored hereon. As seen in the staffing numbers in Chapter IV, vacancies were noted across all CCIs. In institutions which housed both Observation Home and Children's Home, staff typically undertake responsibilities for both Homes. Vacancies were in a wide variety of positions. In some CCIs, there was no appointed Superintendent, in others there were no Probation Officers, and in yet others there were no security personnel. With regard to teachers, general-subject teachers were also fewer than the expected strength but for specialised positions like an art teacher or a yoga instructor the vacancies were even higher.

Though the researchers could not confirm this, in one district it was reported that, the delay in filling of vacant positions was due to an ongoing court case related to the application of the provisions of the Integrated Child Protection Scheme (ICPS). Another reason stated was that, the scheduling of elections delayed the recruitment of new people and renewal of existing staff. However, neither reason could account for all the vacancies mentioned. These appeared to be of long-standing duration.

Further, in some government CCIs, staff appointed for a particular CCI were posted for duty at another CCI or another office thus weakening an already depleted staff strength.

*I'm telling you, the DWCD wants all the staff in their office only. I don't know the reason. Then they say, "It's such a big district and there is no staff on the field." (CWC member)*

A different complication was the suggestion that, the actual numbers for a few CCI could be even less than stated because of manipulation of the system through ghost employees. But this was mentioned by only one person in the study.

*For a CCI with an intake capacity of 100 there should be a staff of 11... However, there is a manipulation of appointments. Only five to six employees are appointed and the rest are shown only on paper (Superintendent)*

Though the Detailed Information Sheet did not throw up large-scale vacancies among caretakers, the key informants who were interviewed consistently mentioned a need for more caretakers. On a side note, there was some confusion about staffing norms under the ICPS and under the JJ Act. Nevertheless, the vacancy position existed irrespective of which staffing norms operated.

### 3. Consequences of Under-Staffing

The high number of vacancies and consequent understaffing caused many problems. Staff shortages were reported as causing difficulties in responsibilities related to childcare. There were not enough people to accompany children to school, or to cultural outings, or even to see the doctor when they fell ill.

*There are insufficient caretakers. We need one caretaker to take the children to school, one to accompany a child for medical assistance, and one to manage the rest as per the shift rotation. (CCI caretaker)*

Childminding reportedly suffered due to less staff. Some caretakers spoke of not having enough time to talk to children. School holidays were reported as particularly difficult for the staff. Night hours were reported as especially challenging. Caretakers who were placed as the sole

childminder during the night hours worried about a child falling ill. Secondly, typically some admissions by the police took place at night, and caretakers reported having to split attention between the new arrival who would typically be in crisis and the existing child residents.

*In the night there is a need for two men (caretakers)... There are many types of children – child labourers, children from other situations. We need more than one caretaker to manage – for instance taking children to the washroom at night... Sometimes police bring children to the Home at night. So, we need two people. (CCI caretaker)*

Insufficient caretaker strength means night-time emergencies are a particular span of vulnerability. One of the interviewees described a prank played on the sole caretaker by three male residents who tricked and locked the caretaker in one of the empty rooms.

Staff reported feeling stressed about being stretched thin by having to care for too many children. They reported inability to pay attention to the needs of the kids. Many CCI staff described the first few days of stay at a CCI as particularly difficult for children. Many display self-harming behaviours.

*We admit “missing” children and child labourers. Suppose if there are five or more children, and someone runs away or does something, it is difficult to manage the situation. Children can run away if our attention slips even for a minute and then we get blamed. (CCI caretaker)*

*There is need to supervise the children during their toilet breaks, their lunch time and to wait for them to finish their activities. No one caretaker can do all that. Some children from the Observation Home want to be freed. They attempt suicide and other acts like banging their heads against the walls of toilets. So, caretakers have to check on them. Hence, we asked for the police. We need more staff. (CCI caretaker)*

Girls who have been rescued from trafficking situations are particularly vulnerable. So too, are the girls who elope and are “rescued” only to be placed under a temporary stay order at a CCI. All such children act out and present challenges to the staff.

*It is quite difficult when they come from the police cases because they try all over the day they enter here, they try to see which side they can go out and then literally we have to keep an eye on them, literally we have to... Sometimes, they are 16 years, 15 years they ran away from the house with the boy. Sometimes their parents are not agreeing, so they just leave the house and go... It looks easy but it’s quite difficult. (CCI Counsellor)*

Working with runaway children and suicidal children (especially recently-admitted children) was particularly worrisome:

*There may be runaway cases. These girls have tension during which they try to harm themselves. They don't want to stay. All the time we have to keep vigilance on them. They require more time; we interact and counsel them to share their problems with us. We try to divert them by explaining them politely... We take all precautions by not exposing them to sharp objects, they manage through (pencil) sharpener blades. Other girls also inform us that (so-and-so girl) is trying to harm herself... Sometimes parents don't accept their children. There was a case where the girl wanted to go to her house. She did not interact with anyone. She was insistent on going home. When her parents were called, they didn't turn up. We had to explain to her so much to eat food. (CCI personnel)*

*Mostly in these girls there's a high tendency to commit suicide. After coming here, if, for three days, the girl is handled properly, then she does not want to leave. But the first three days are very tough for her... Once a girl came. She went on the top and jumped... breaking everything. The gate upstairs was open to dry the clothes. Now we don't keep the gate open after this incident... Sharpener! They remove the blade of the sharpener and keep in their [pencil box]. Purposely, if they do not receive something they want they will cut themselves. Or if a girl says something in the night, some nicknames for each other, then, too, they cut themselves. [In case of misdeeds] sometimes one girl tells another girl, "You cut yourself, automatically next day the [house] mother will not say anything to you." They cut themselves so easily, nothing is going to happen to them but they have to scare us... Counselling is one thing we do... At the beginning we see to it that there is no rod, knife or Phenyl around. (CCI personnel)*

The same staff member mentioned a specific incident of a girl who broke the handle of a tea-cup and swallowed it, requiring an immediate transfer to the government hospital. The situation described underlined how easy it is for children to self-harm even when CCI personnel take precautions to ensure that there is no access to dangerous objects. The narratives shared also underline how daunting the challenge of managing such situations becomes when number of staff are insufficient.

The understaffing also resulted in staff not receiving leave. Caretakers in two different CCIs reported not being permitted leave for several years. This situation eased for one only when he fell ill. After this, he was granted two days of leave per month. The lack of breaks contributes to fatigue in the staff and makes childminding even more prone to danger. The lack of options for childminding and child care was related to teachers also.

*If we have to permit a weekly holiday for staff, then the Shelter Home [Children's Home] should have 5-6 caretakers (CCI caretaker)*

*When a teacher goes on leave there is no one to handle the children (CCI staff)*

Vacancies in one child protection body also affected the working of another as this CWC member pointed out:

*Right now, DCPU office strength is less due to lack of staff there. Our home inquiries get delayed because of that and the quality work that should be there is affected.  
(CWC member speaking of DCPU in another district)*

## 4. Task Shifting

To cope with childcare and childminding responsibilities, CCI staff typically reported task-shifting – moving a work responsibility of one staff member to another individual. In one CCI, with one caretaker, the teacher accompanied children to school. The teacher of yet another CCI doubled up as a clerk. To manage with the extensive documentation such as the salary register and the rations register required to run a CCI, this teacher often had to cut the teaching sessions:

*I don't get time for my original responsibility. I am called from my class to do the office work.  
(Teacher at CCI)*

The caretaker in one CCI had to give a hand to the cook. In some Homes, which lack a watchman, the staff have to continually open and shut the main gate. One counsellor reported having to help the cook to prepare the meals.

At first reading, the number of staff to residents could appear like the staff are making frivolous complaints about overwork. However, when read against their full job description, these apprehensions disappear.

### 4.1. Extra Charge

The task-shifting in the previous section has been institutionalized in the practice of “extra charge” – the practice of officially assigning work to a staff member of another position in the same institution, or work of a similar nature in a different institution.

The descriptions of extra charges gave the impression of patchwork arrangements. It caused staff to be overly busy. In some instances, certain duties could not get discharged. To understand the degree to which this extra charge situation has been applied, a numeric index called the Extra Charge Index (Table 1) was created. First, from the interviews, all mention by the key informants of their original charge and then the additional charge(s) being officially assigned to them were extracted. A point was given for each post to which the person was officially assigned. A Superintendent with additional charge of Probation Officer, for instance, would receive a score of 2 – 1 for the role of Superintendent and 1 for the role of Probation Officer. The Extra Charge Index score was developed for each key informant.

The following table shows the distribution of Extra Charge index scores for 142 CCI employees in the sample. There were three persons holding four charges each and another three persons holding three charges each. The average Extra Charge Index score was 1.26 (SD = 0.6). Simply put on an average across the sample, each person was doing about a “quarter more of someone else’s job” and three persons were doing four jobs each – without any increase in the number of hours in the week since time is inflexibly finite.

**Table 16: The Extra Charge Index Scores**

<b>Extra Charge Index Score</b>	<b>Number of staff</b>
<b>1</b>	<b>114</b>
<b>2</b>	<b>22</b>
<b>3</b>	<b>3</b>
<b>4</b>	<b>3</b>
<b>TOTAL</b>	<b>142</b>

The Superintendents in the study were particularly affected by this institutionalized task-shifting. Their average Extra Charge Index score was 1.65 (SD = 0.97; Minimum = 1, Maximum = 4)

The field team could identify and interview 13 personnel designated as POs across the six districts or holding this as an additional charge. When applying the Extra Charge Index to them, the Probation Officers had an index score of 2.3 (SD=0.94) – that is, on average, every PO was expected to do the equivalent task of 1.3 other personnel. There were some POs with a single charge. But there were two people holding four charges each. One individual had charge as Superintendents for two CCIs and also the charge as POs for those CCIs. The second was PO and counsellor in two different CCIs. This constituted a system-wide phenomenon.

One CCI staff who was holding charge of PO along with that of another charge explained that, it is possible to carry out work when assigned the charge of PO for two different organisations but holding the charge of another staff is difficult because the work is angled in a different direction. The validity of this view is beyond the scope of this study. The solution may not lie in determining how to assign additional charge responsibilities but to address the root by increasing the number of staff in the system.



It was common to see this practice in CCIs wherein the Children's Home and the Observation Home co-exist in the same campus. However, one Superintendent reported having to oversee a few CCIs, which were some distance apart from each other. Having such an additional charge or responsibility would mean additional work for the individual. It would also possibly cause fatigue, and perhaps delay in decision-making or work completion.

The high staff vacancy and the practice of additional charge also damaged some of the critical processes under the JJ Act. At least two CCI personnel reported that, Home Inquiry Reports and SIR have not been completed as per norms, or not completed at all.

The high vacancies and additional charges practice also hurt the follow-up of children leaving the CCI.

*If you want follow-up of children, you should have better staff strength. We struggle with daily work. (CCI employee)*

One NGO tried to avoid over-stretching its staff by rehiring retired persons and reimbursing them through honorarium payments. In some cases, these amounts are insubstantial. The extra charge pattern also extended to child protection bodies. For instance, a DCPU in one district had three personnel doing the job meant for 13.

*My main suggestion would be to fill all the vacancies, so that, we all will be able to give justice to our job and children as well. (DCPU)*

## 5. Salaries

The inadequacy of salaries was raised by many interviewees. It was suggested by two people that, filling the positions of art teacher and music teacher in interior rural areas was difficult as the salaries were inadequate:

*If you don't have [good] salaries, you don't get anyone to come. (CCI personnel)*

However, in general it was perceived that, salaries were low across the board and needed to be raised. Salary was seen as a motivating factor. Within this context a few interviewees mentioned outsourcing as a poor practice. In the following instance, CCI staff engaged through an agency did not receive their full pay. They had to pay a cut to the agency.

*Outsourcing means they are appointed through third parties, NGOs. If DWCD pays Rs 10000 the NGO retains 2000 and releases Rs 8000 to the person. The feeling was that, the government is not able to be held accountable under these circumstances (CWC member)*

As salary is such an important motivator to good performance, outsourcing, which reduces a person's pay packet would also affect their morale, and make them vulnerable to both: leaving the job when something better shows up, and/or corruption/scheming.

## 6. Training

Training was mentioned in several contexts. Several key informants had undergone some training related to the JJ Act or their work position. CWC members reported a week-long training at Yashoda Pune; JJB members had received training for four days at the Judicial Academy. There was also mention of training for judges, and for police officials.

Training for CWC members and JJB members was specific to their role. Police officials were trained on how to apply the law to various work situations. They were trained on handling persons involved in POCSO.

Besides the DWCD, there were other agencies that, organised training – NGOs and UNICEF. The DCPU also organised some training on how to use the Track the Missing Child portal. But it was felt that, not all training was well-pitched. There was a suggestion to make training more specific to the role and function of the individual.

*We had requested for a 'Child Protection Officer'. He was appointed after a gap of a year and a half. He does not know his duties. He is not aware of his new responsibility. He is in a dilemma about his roles - Counsellor or Protection Officer. This is one example. Most of the staff are not competent and it takes lot of time to explain their duties. Most of them don't know how to handle children. If you neglect the child, scold them...pressurize them...they will not speak anything. (CWC Member)*

Also, some individuals reported receiving training one year after they had joined the job. Receiving role-specific training so late could mean that, the person develops inappropriate work practices, or may be stressed from not knowing how to do the job. There was a suggestion from one interviewee to have child sensitization training for staff, especially caretakers whose education was limited to Class 10 or 12.

However, a few key informants were of the opinion that it was more appropriate to focus on finding the right staff.

*In my opinion, two counsellors are needed...not just for namesake, they should be well trained and experienced. One will sit in the office and other will be visiting CClIs and interact with children there. (CWC member)*

They were critical of the capacity of people who were hired. For eg., data entry operators who could not type or took two hours to prepare a letter.

## **7. Conclusion**

Human resources are the vital cog to make the justice system function to its optimal capacity. The stress of inadequate personnel and/or lack of fitment for the posts have repercussions on the future of children and threaten to derail the objectives of institutional care and protection and rehabilitation of children in the custody of the State. Training is another area of concern in that it needs to be tailored to suit the role and function required in the post. Overall, the crisis in staffing, the need for higher remuneration for some posts has been acknowledged and taken on board by higher authorities but it needs to be addressed as a priority before the demotivation experienced by some becomes a deep-rooted malaise.

---



**Chapter 9**  
**RECOMMENDATIONS**



## Chapter 9 RECOMMENDATIONS

### 1. Child Care Institutions

#### 1.1. Staffing at CCIs

a. At the time of data collection, half of the CCIs were staffed at 76% of their sanctioned strength or less. Two Government CCIs reported higher staff than the official sanctioned strength. In one situation, the high numbers were due to the acceptance of additional personnel through NGO funding. Another institution had reported higher numbers but most of these high numbers could be seen to be part-time vocational staff. It is recommended that the staffing at CCIs be improved significantly through filling of existing vacancies. This will decrease the additional responsibilities of existing staff at the CCI and improve the overall quality of care and focus given to the children.

b. Half the CCIs had a workforce with more than 75% permanent staff. Conversely, in the other half of CCIs, there was a high number of temporary or contractual staff. The two-most recently established CCIs reportedly did not have a single permanent staff appointment. For the longer-established Homes, the ratio of permanent staff to total sanctioned posts could be as low as 40% of the total. Older CCIs were more likely to have permanent staff. A distinct paucity of full-time staff was observed in many CCIs. It is recommended that, there be introduced a balance of permanent to contractual staff ratio at the CCIs to ensure an adequate tenure of staff dedicated to the CII to bring significant changes and improvement in the overall functioning of the CCI. Sporadic transfers of staff and lack of accountability and limited investment in the CII by non-permanent staff members could impact the overall quality of care provided at the CCI.

c. It was found that, in Homes with girls and boys, the staffing of female staff was at 40%. It is recommended that, the ratio of female staff to male be increased in Homes housing both male and female to provide female residents comfort and security in interacting with the staff. This is especially critical in the appointment of counsellors and caretakers in whom the children may confide with personal issues.

d. It is recommended that, the staffing and presence of DCPUs be assessed and strengthened to provide adequate support to the CNCP. The DCPU's role is fundamental for implementation of the ICPS at the district level.

## **1.2. Ensuring Timely Grant-in-Aid for CCIs**

a. It has been reported that, delay in grant-in-aid has caused difficulties in providing nutritious and balanced meals to the children. In one place, a CCI was included in the mid-day meal programme, however, this does not cater to all meals. It is recommended that, the delay in grant-in-aid for nutritional requirements of the children be reviewed and rectified as deficiency in grants can have a long-drawn-out impact. The lack of timely aid also compromises ensuring of adequate staffing at the CCIs and in turn the quality of food and provision of a nutritional diet to the children.

b. A few CCIs welcomed donations of clothes while some were against receiving hand-me-downs. It is noted that, with delayed grants to the CCIs, the priority of children getting adequate clothing is diminished. While receiving donations of used clothes may provide a temporary solution, it does not fully guarantee the safety and dignity for the child as accorded by the JJ Act. The state government should ensure timely disbursement, District Offices to follow up for release.

## **1.3. CCI Practices: Adherence to JJ Rules**

a. Further, it has been observed that certain CCIs have been maintaining vegetable stock and food grain registers. In some places it was not possible to maintain as food is outsourced for the CCI. It is encouraged that the practice of maintaining these registers be maintained across all relevant CCIs to ensure quality control and in turn nutrition of the children.

b. It has been reported in certain CCIs, mostly girl facilities, that, children have been involved in the kitchen with chores like cutting vegetables, making flatbreads, etc. This is to impart and hone skills in the kitchen. This violates the JJ Rules, which allow children to be involved only in daily cleaning activities in the CCI. Such ad-hoc practices must be discouraged as they can be purported as child labour. It is recommended that, skills such as cooking be imparted in a structured manner via vocational trainings to both boys and girls to avoid gender discrimination.

c. Of the 368 children's records examined in 18 CCIs (Children's Homes only), ICPs were found in only 163 of 368 records (44.3%). Examining the quality of these records, only 26% (43) were observed to be detailed. It is recommended that, additional emphasis be placed on trainings on ICP amongst staff of the CCI with higher accountability at the Superintendent level.



#### **1.4. Infrastructure at CCIs**

a. The CCIs show a high rate of compliance in having the requisite number of washrooms. However, data has reported that, most toilets were non-functional. The reason attributed to this has been delays by the Public Works Department in repairing. It is recommended that, the washroom spaces needing repair work in CCIs be mapped and a formal request be made to the PWD to prioritise fixing the same.

b. It has been observed that, CCIs have boarded up windows, which impede the light and air circulation quality. Considering the current pandemic situation, it is recommended that air circulation within the housing premises of the CCIs be reviewed and adequate steps be taken to ensure adequate ventilation.

#### **1.5. Recreation Facilities for Children**

a. Of the recreation facilities reported, it was found that, not all CCIs allowed children to play outdoors. Further, the sports relied on were those needed little or no equipment such as cricket, kho-kho etc. It is recommended that, a structured plan be drawn out to encourage sports and games for children in the CCI by professional sports teachers. Sports could encourage building of skills, health, career decisions, discipline and even hone untapped potential of the children. It is recommended that, inter-Home sports events can be organised to provide children an opportunity to interact with others, build a spirit of healthy competition and increase the life experiences the child is exposed to.

b. The library facilities across the CCIs can be improved. Only 14 of the 24 CCIs had some library facility of which seven were just a shelf in the office. The emphasis on reading, a critical component of knowledge building, can be improved by creating dedicated spaces for books in the premises and time for reading for the children. The experience of book reading can be increased by interesting activities such as story-telling, drama, enactments and more. The provision of books across genres, in English and Marathi could make the experience more enjoyable for children.

#### **1.6. Educational and Vocational Training**

a. In the formative years of the child, education plays an important role in providing knowledge, shaping skills and interests, and helping prepare them on a path of success. Eleven of 24 CCIs reported that children attended a nearby government school, three used other schools, and ten preferred in-house arrangements. The one government CCI, which did not have an arrangement for a school at all nor had filled the sanctioned teacher's post, had only a library shelf in the Home as its educational facility. The absence of a formal structure of education by CCIs opting for in-house arrangements has the potential of ad-

versely impacting a child's educational growth and in turn prospects at a dignified life contributing to society as an adult. It is recommended that, the formal educational provisions at the CCIs be reviewed to ensure provision of sufficient opportunity for learning and growth to children.

In one institution, which was fortunate to have a teacher, the children's literacy level was determined as per attention span, age, reading and writing abilities before deciding how to assist the education process further. Accordingly, children were then assigned to a class tailored for their benefit rather than teaching all the children uniformly. This needs to be studied for its possibility as a Best Practice.

b. Further, the vocational training provided to children was found to be outdated in comparison to skills required in the professional spaces of today. These included tailoring, beauty treatment, hair cutting etc. Twelve out of the 24 CCIs reported no options for vocational training at all. While the training already being provided may be advantageous to some children, the provision of more advanced training for children related to computers, writing, coding, talents such as music, dance etc could help tap and reveal unused potential in the children. Subjects from the humanities including languages may also be explored. Preliminary exposure to a wide range of subjects, co-curricular and extra-curricular activities and skills to tap into the child's inherent talents, which can be pursued professionally if they so choose can add tremendous value to enable the child to be a contributing member of society.

c. It is recommended that, resource mapping on available educational and vocational services for children be conducted in the State. This can be produced in the form of a guide for easy access to District Offices who can create linkages with the CCIs. The help of local social work schools and NGOs may be solicited in the creation of a guide and a robust plan for vocational training of the children at CCIs.

## **1.7. Emergency Facilities**

a. Medical facilities, though present at the CCIs are inadequate without adequate training being provided to the staff on administering first aid in cases of an emergency. It has been reported that, 13 out of 23 CCIs for which data was available, staff were trained in the application of first aid. It is recommended that, the staff at CCIs be provided adequate training on administering emergency first aid and of steps to take in case of a grave situation as a first responder.

b. Similarly, fire safety and training does not come across from the data as a point of prioritisation in the CCIs. It is recommended that, staff at CCIs be trained adequately and frequently on fire safety, precautions and action to be taken in case of a fire at the CCIs to prevent untoward incidents.

## **1.8. Child in Conflict with Law**

A KII revealed instances of children whose parents could either not afford bail or wanted their children who are repeat offenders to be 'punished' leading to their continued stay in Observation Homes. Although this was not backed by the Detailed Information Sheet, the fact that such instances came up, it is recommended that, on the lines of the survey conducted by the state government on CNCP in CCI, a survey be conducted on CCL in Observation Homes. The survey could have a specific focus on the status of CCL vis-à-vis bail - are they in the Home because bail orders have not been filed, or bail cannot be paid; or parental unwillingness to take the child back; or when trial for petty offences has not commenced within six months, which would warrant the CCL's release under the law - and whether those children with special needs such as a child who is a drug addict is being placed with CCL in an Observation Home instead of a Children's Home. In this light, it is further recommended to equip Children's Homes to have a unit for children with Special Needs (disabled children, children who are affected by HIV/AIDS, children affected by substance abuse etc.) as envisaged under the JJ Act.

## **1.9. Autonomy and Privacy of the Child**

Most CCIs failed to report on the issue of privacy for children in the CCI. It might be that this concept is not well understood by personnel at the CCI. It is recommended that, staff induction trainings incorporate a specific focus on the importance of autonomy and privacy of the child in the CCI. It needs to be conveyed that, a child in the custody of the State does not in any way lessen their rights to be consulted in every aspect, and to have easy access and not just availability of basic rights. For instance, girls having to approach staff for sanitary napkins rather than a space where they can just take them as and when needed.

## **2. Child Welfare Committees**

a. The Report acknowledges the challenges on the functioning of the CWCs which in turn impacts delivery of quality care to the child in need of care and protection. It has been highlighted through the interviews that, CWC members are not paid their remuneration, which includes CWC hearings and visits to CCIs, on time. The payments are limited to 12 hearings and visits whereas the number of visits made by members to the CCIs exceeds this limit to ensure the CCI's smooth functioning. Inadequate and untimely remuneration for their services and travel places enhanced strain on the CWC members to function in an efficient manner.

b. Further, it is recommended that, the CWCs mechanism to interact with the children be improved at the CCIs. Constituting a grievance channel where children can individually confide in CWC members on challenges being faced by them would enhance the support

felt by a child by the system. Fear of retribution and bias by CCI members may impede the decision of the child to speak up freely. An independent mechanism for children to share their concerns with CWC members could improve the overall quality of care provided to a child.

c. This, however, is dependent on the ability of CWC members making physical visits to the CCI, which is connected to the issues of timely and adequate remuneration as stated in 3(a). Hence, it is recommended that, payment to CWC members for their services be made seamless and adequate for their critical services rendered in safeguarding the interests of children.

d. The CWC members face a heavy caseload, which impedes their ability to speak to all children on the same day. The children may be called back for an interview on a quieter day but this cannot be guaranteed as CCI staff find it difficult to manage their existing responsibilities and accompany the children as well. Further, the resources and space to carry out their duties is sparse. For instance, there is little or no space for a CWC member to have a private conversation with a child at the CWC. This is critical especially when trying to gain the confidence of the child to relate instances of trauma and abuse. In one instance, the CWC shared the premises with the JJB. Act especially as the composition of the Board comprises judicial and non-judicial members. The Report highlights the instance of a judicial member having adjudicated on matters relating to the child unilaterally in chambers without adequate consultation with the other members. This would be in contravention of the provisions of the JJ Act.

e. It is recommended that, the child friendliness of the CWCs be assessed and appropriate improvements be made with adequate budget disbursements to improve the environment and quality of care to be provided to children at the CWC. This includes infrastructural changes such as provision of private space for counselling, functional washrooms and facility for safe drinking water. Experts in the field of child rights, gender rights, disability rights drawn from various sectors including professionals in the field of design as well as civil society organisations including NGOs may be consulted to design such child friendly spaces.

## **2.1. Mental Health and Safety**

a. It is recommended that, a mapping be conducted on child psychologists and psychiatrists available for children in the State. It was reported that, CWC members often require mental health resources and counsellors and rely on their own abilities to search for the same, sometimes unsuccessfully. A guide would mitigate the struggles in locating and providing mental health services to children in need by CCIs and CWC members.

## 2.2. Convergence

a. The study found that, while both CWCs and CCIs voice a commitment towards child safety, opposing views on provisions of the law, for instance, the CWC asking for documentation such as Aadhar cards even when the child had indicated they recognised the adults as their family members. It is recommended to explore the possibility of technology to enable ease of convergence in decision making between various agencies working at different levels to plug gaps in the system such as delay in registration of CCIs, or grants-in-aid to registered CCIs. It can also ensure uniform interpretation and seamless application of laws, especially the JJ Rules and JJ Act vis-à-vis the ICPS as data revealed some confusion on which norms prevail in a given situation such as staffing.

b. There is an absence of filing of case monitoring sheets and orders for documentation like SIRs in case files with the CWC. There needs to be a tracking mechanism to ensure that, all requisite documentation right from the entry to the exit of the child in the JJ system is being systematically undertaken.

## 3. Juvenile Justice Board

### 3.1. Capacity Building of JJ Board

a. There is a need ensure consistent training of the JJB members on the aspects of the JJ Act especially as the composition of the Board comprises judicial and non-judicial members. The Report highlights the instance of a judicial member having adjudicated on matters relating to the child unilaterally in chambers without adequate consultation with the other members. This would be in contravention of the provisions of the JJ Act.

Further, child sensitivity in dealing with cases of children must be imbibed at all levels in the functioning of the JJB. In contrast to the CWC members, the JJB interviewees typically referred to the children as “cases” of particular sections of the IPC. “People-first language” has become a part of many aspects of society in India. The JJ Act itself follows this by intentionally replacing pejorative terms like juvenile or offender with the term “Child in Conflict with Law”. Adequate training of JJB members on specific themes such as child sensitivity, including avoidance of re-traumatization of the child could help mitigate this anomaly.

It is recommended that, there be training of JJB personnel on legal provisos such as the fact that JJBs can be approached for modification of bail orders if bail is not met in cases involving CCL.

### **3.2. Best Practice**

a. Data from all JJB members revealed that, the pendency of cases before the JJB numbered between 800 in one district to 2000 in another district. One of the reasons cited was the absence of witnesses at the JJB hearings. It is recommended that, the use by a JJB of a postal reminder to witnesses be explored as a best practice, as it was found to be an effective tool to get witnesses to present themselves as and when required.

## **4. Special Juvenile Police Unit**

a. Data found that, there is unhappiness among stakeholders about the role police play in the JJ system such as lack of support in providing police personnel for escorting the child, for instance, as well as the poor quality of Social Background Reports. It is recommended that, training be provided to police personnel on filing of a Social Background Report, which hitherto remains restricted to family composition and the Social Service Branch be tapped to draw up a training manual detailing the aspects of such a report.

b. The deep-rooted resistance among male police towards re-orienting their own attitudes to be more child-centred requires study. It is recommended that, following the study an intensive and continuing behaviour change communication training be conducted for the police to end the misogyny that, females are better suited for tasks, which involve interacting with the child.

## **5. Probation Officer**

a. The Supreme Court in its Sampurna Behura judgment had called for "a study for estimating the number of Probation Officers required for the effective implementation of the JJ Act." However, the estimate could not be arrived at as Probation Officers with less than three months of experience were to be excluded from the study as it was reasoned that, their understanding of role and processes would be limited to inform the study findings. Only 13 personnel designated as POs across the six districts or holding this as an additional charge could be interviewed. The number of POs in the sample is low as these positions were often left vacant and responsibility for those duties was held as an extra charge by another individual.

b. On an average, it was found that, every PO was expected to do the equivalent task of 1.3 other personnel. The pattern of extra charge applies to POs in District Offices as well as to the few POs who were positioned at CCIs and this constituted a system-wide phenomenon. Typically, the Probation Officer would be asked by the district authorities to handle the extra charge of the Superintendent or the reverse. Another common scenario was the extra

change of counsellor being assigned to Probation Officer and vice versa. The descriptions of extra charges gave the impression of patchwork arrangements. It caused people staff to be overly busy. In some instances, certain duties could not get discharged. It is recommended that, the solution may not lie in determining how to assign additional charge responsibilities but to address the root by increasing the number of staff in the system.

c. From the interviews of the residents of Aftercare Homes - individuals over 18 years who have lived in (some instances more than one) child care institution, it was also evident that, few have recollections of being presented at the CWC, though some mentioned visits by CWC members. So, though well-intentioned, there was no tangible evidence of such follow-up meetings with children. The absence of follow up may be attributed to the lack of sufficient Probation Officers. Moreover, actual physical interaction with children released from the custody of an Observation Home is limited and is only undertaken on instructions from the JJB or court.

d. It is recommended that, the Probation Officers while being conversant with procedures, can also benefit from sensitization training in setting aside more time for meeting the children and follow up procedures, which sometimes take place more through proxies. Orientation of POs towards CNCP and CWC is also necessary as POs tend to devote more time to CLL and JJBs.

## 6. Children in Difficult Situations

a. System stakeholders feel they have fewer options open to them in cases of rape by children. The system itself appears to struggle with such cases – attempting to balance the rights of the person accused of the crime as well as the one who was at the receiving end.

b. Few chose to speak of Child Sexual Abuse but the few interviewees who did refer to it within CCIs, expressed their inability to handle it.

c. The NCPCR as well as several State Commissions have created guidelines for various stakeholders such as the CWC, JJB, DCPU and SJPU, which have been developed to assist child survivors of sexual abuse and these include inter alia the following rights: (i) Right to Privacy and Confidentiality, (ii) Right to Non-Discrimination, (iii) Right to express their views in all matters affecting the child, (iv) Right to Safety and Well-Being. It is recommended that, these be revisited and included in training modules across the board.



## 7. Conclusion

Education is one area where most stakeholders seemed to be in agreement. They spoke of determining the educational level of the child in order to mitigate any interruptions in this domain. Aftercare residents interviewed mentioned their current status of higher education as having pushed past the odds within the system.

System stakeholders who were interviewed were aware of the network of child protective services created across the country. Barring one exception, the descriptions of the SIR process from stakeholders were detailed and close to the spirit of the JJ Act. System stakeholders – whether they were CWC members or counsellors or DCPOs or Probation Officers – were, across the board, aware of the procedures. Some listed several system resources such as DCPUs to aid in the procedure for an SIR.

Probation Officers displayed knowledge of reporting formats and detailed explanations, which conveyed credibility to their narrative and along with a few CCI staff proved an exception in the entire sample with their knowledge of the ICP procedures.

The CWC does take the initiative in ensuring children are kept with the family/kin and there were several instances wherein CWC members displayed their sensitivity about the role of CCIs as a measure of last resort, situations wherein a child might benefit from living with family and instances where this is unsafe, as well as the need to speak with the children themselves to ascertain their wishes. There is also awareness of the JJ Act procedures with regard to child placement, as well as distinctive needs of children. They were also able to describe how they routinely handle cases with fluency and understanding.

There were routine and frequent visits by the JJBs including the Principal Magistrate and members of the CWCs to CCIs, which brought them into close proximity with the children, which is a key advantage. Verbal reports by CCI personnel also reported that, CWCs across all districts undertake inspections.

Despite the feeling of being devalued and sometimes targeted by some unscrupulous members of the NGO community, CWC members appeared to feel positive about their work and spoke in tones of determination to continue functioning despite the various obstacles they faced.

Some JJB members were aware of the need to protect the rights of the child and prevent overly intrusive questioning that might re-traumatize a child. When prompted, they showed awareness of the possibility of questioning the child in camera. Further, they appeared to be alert to local sentiments and sensitivities regarding gender.



## **Areas of concern, which emerged in the Report are as follows:**

There was some confusion about staffing norms under the ICPS and under the JJ Act. Nevertheless, the vacancy position existed irrespective of which staffing norms operated. But across districts, there is a crisis in staffing CCIs and some child protection bodies, which is impacting the care and protection of children.

Task-shifting has been institutionalized in the practice of "extra charge" – the practice of officially assigning work to a staff member of another position in the same institution, or work of a similar nature in a different institution.

The high staff vacancy and the practice of additional charge also damaged some of the critical processes under the JJ Act and also hurt the follow-up of children leaving the CCI.

Staff reported feeling stressed about being stretched thin by having to care for too many children. They reported inability to pay attention to the needs of the kids and not having enough time to talk to them. Understaffing also resulted in staff in CCIs not receiving leave.

Institutions do provide food to children but it lacks variety and there is need to explore healthy ways of providing for such an intrinsic human need of sustenance along with variation or novelty. There was corruption reported about the placement and determination of which NGO-CCI would receive a child for long-term placement and under-the-table payments for placing children in government-aided CCIs.

The reason for SIRs and ICPs is to ensure a thorough vetting process on behalf of every child without prejudice. Data show this is largely observed in the breach. The poor quality of documentation and lack of thorough and systematic monitoring of the child's progress at the level of the CCIs and child protection bodies are also areas of concern.

Social Investigation Reports are undertaken when orders are passed by child protection bodies. There appears to be no proactive mechanism to complete this key documentation on the part of the key stakeholder group of POs as a matter of routine. Social Background Reports by police leave a lot to be desired and there is a worrisome pattern of POs and police servicing JJBs more than CWCs.

With a high number of case hearings daily, the question arises as to what individual attention could be addressed to the CNCP who might be attending the hearings, and whether thoughtful juvenile justice could be achieved. JJB members unfailingly reported that, they frequently dealt with cases of sexual assault by children and the inability to separate perpetrator from victim is troubling.

The heavy caseload leads to a long wait time during hearings. Part of the daily caseload relates to the fact that; cases of certain children need to be addressed through multiple visits to the CWC to complete all the requisite documentation. Short-term solutions such as alternately using a space for CWC and JJB do not also examine its impact on the welfare of CNCP and CCL.

Follow up by Probation Officers appeared to be at arm's length (through proxies). The idea of guidance for reformation or rehabilitation is absent in their narrative. This throws into question what concept of child welfare is held by Probation Officers.

Many stakeholders who were interviewed expounded on personal philosophies of child education and child socialization but some reflected prejudice against children from families with low financial and educational backgrounds as being not a good fit for formal education or vocational training. It was, however, not clear to what extent these personal philosophies affected their decision-making nor how they influenced the CCIs in their jurisdiction.

Delays in reimbursement elicited from many interviewees phrases indicating a sentiment of being devalued by the government system – a feeling compounded by the poor infrastructure they are provided for their office, as well as the fact that, their written and verbal requests for infrastructure upgrades or personnel support to carry on important procedural work most often go unanswered. In general, it was perceived that, salaries were low across the board and needed to be raised.

There was a lack of sensitivity in prioritising the placement of female staff in CCIs, which serve females.

Personnel of CCIs and child protection bodies found it challenging to deal with children in certain difficult situations. These are in particular, girls who have been rescued from trafficking situations who are particularly vulnerable. So, too, are the girls who elope and are “rescued” only to be placed under a temporary stay order at a CCI. There are also children who may display suicidal behaviours, and need constant supervision, and those who engage in self-harming behaviours. All such children act out and present challenges to the staff. Other children who are from difficult family situations such as a parent in prison, parent/s who have died, takes an emotional toll as breaking the news to a child is extremely difficult. Other challenging situations include dealing with children who have faced sexual abuse, including rape victims as well as CCL accused of rape and those accused of rape in elopement cases or those who sexually abuse other children within the CCIs. There are also issues of translation and communication with children who may be from other states and countries who have to be repatriated, restored to families/kin.

Counselling is sometimes misunderstood to mean merely speaking and interacting with the child. There is little contemporary understanding of child sensitivity and avoidance of re-trau-

matization. The idea of confidentiality seems to extend only to not revealing the identity of the child victim or CLL but there is no restraint maintained in describing the crime with details needlessly described. The importance of mental health and building emotional resilience among both CCI staff, personnel of child protection bodies and children in their care and protection is not given the importance it deserves.

## 8. The Way Forward

Overall, the Report found that, the issues highlighted in the literature review such as insufficient infrastructure in CCIs and for child protection bodies to function optimally; scarcity of trained human resources, especially in critical posts like the DCPU, which is hampering follow-up post-release of the child; lack of awareness about legal processes, laws and components of the JJ system like vocational training; an overburdened system due to extra responsibilities; and absence of adequate and timely remuneration; continue to beset the JJ system.

There needs to be a concerted effort at convergence to tackle systemic, operational and attitudinal challenges within the child protection bodies and CCIs, with a focus on due diligence in monitoring and supervision with regards to fundamental participatory, consultative processes such as Management Committees, Children's Committees, maintenance of records, and adherence to procedures from the point of entry to exit of the child from the JJ system; enabling their holistic development and social reintegration and rehabilitation in keeping with the JJ Act's primary objective.

Perhaps, it is time to also meaningfully include mental health aspects in to the JJ system as well. This will enable the entire system to be proactively responsive and sensitised to the holistic needs of a child.





