

# Institutionalization Of Children And Their Overall Development

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## Abstract:

The ideal environment for children's physical, psychological, and emotional development is within a family. All children should live in supportive, protective, and caring settings that enables them to achieve their full potential. Those with inadequate or no parental care are especially at risk of missing out on such nurturing environments. Many children in India lack a stable home and family. These include abandoned, surrendered, and orphaned children, as well as destitute children with families. These children are particularly vulnerable in terms of their right to survival, development, and protection. The State is accountable for protecting the rights pertaining to these children and ensuring appropriate alternative care through its competent authorities, such as non-governmental organizations and civil society organizations. The Government also enacted the Juvenile Justice (Care and Protection of Children) Act 2015, which serves as the major legislative framework for child protection in India, ensuring the security, protection, education, welfare, and development of children in need. The paper attempts to explore the institutionalization of children, the shortcomings of such a process, and the felt needs of the children. It focuses on the concerns of institutionalization and the overall development of children, access to their rights, welfare provisions, and relevant legislations. It also looks at adoption as an alternative to institutionalization. The paper thus examines child care institutions from the perspective of the child and argues that institutional care should be the last resort. It also discusses contemporary social work and advocates for alternative care, along with comprehensive welfare measures to guarantee the protection and overall development of children in need.

**Key Words:** Alternative care; Child care Institutions; children's development; Child rights; Institutionalization

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## I. Introduction

Children are profoundly affected by the consequences of sexual exploitation, drug abuse, alcoholism, trafficking, child marriage, HIV/AIDS, and ethnic violence. As their parents succumb to these issues, large numbers of children become destitute and orphaned. A family environment is the best setting for their upbringing. However, due to their vulnerabilities, many children do not always have a family to keep them safe and occasionally also become deviant from the law. These children are then taken to Child Care Institutions (CCIs) for their security and shelter.

The United Nations Children's Fund, reports that there are 1.3 billion children worldwide, comprising 16% of the global population, with approximately 140 million orphans. The 2011 census of India, states that children constitute a significant portion of the population, accounting for nearly 39% of the total 1.21 billion people. India has approximately 30 million orphaned and abandoned children. There are 38,96,000 child care settings in the United States, of which 97 percent (3,767,000) are children's homes. Meanwhile, the Indian government's Ministry of Women and Child Development (MWCD, 2018) reported that there are 9,589 CCIs both registered and unregistered with 3,70,227 beneficiaries across India. Further, MWCD highlighted that under the Child Protection Service Scheme-Mission Vatsalya, there are 2,215 CCIs with 77,615 beneficiaries in India. Of these, 355 CCIs and 7,899 beneficiaries are located in the states of Northeast India during the year 2020-2021. These figures are a stark reminder of the intensity of the problem in the region. Child Help Foundation (2021) reported that about 50% of children in CCIs in India come from families that cannot provide proper care for them because of their financial situation. The two main legislative frameworks for child protection in India are the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), and the Juvenile Justice Model Rules, 2016 which have been designed and implemented to protect and promote the interest of children.

## **II. Orphans And Social Orphans As Destitutes**

Sabnis mentioned that among children, destitutes can be categorized into two types. The first category consists of people who are without living parents, generally known as orphans<sup>1</sup>. The second group consists of people who have parents and family members, but lack the minimum care and protection, known as social orphans. An orphan is a young person under the age of eighteen who has lost one or both parents. Maternal orphan is a child who has lost his/her mother and paternal orphan is one who has lost his/her father. Children who are abandoned by their parents and left without them are known as social orphans. A child is considered an "orphan" if he/she lacks a biological, adoptive, or legal guardian, or if the legal guardian is unable or unwilling to provide care for the child under section 42 of JJ Act, 2015. Further, UNICEF also defines an orphan, as "any child who is younger than eighteen and has lost either of the biological parents due to their death"<sup>2</sup>.

## **III. Vulnerabilities And Needs Of Children**

The traditional informal system of social, cultural, and economic relationships which provided physical protection, emotional security, as well as social and cultural orientation for the child within the family framework has now almost disappeared. Therefore, there is an increased need to provide an alternative formal system of legal and administrative safeguards to ensure social justice and safeguarding for the child, especially those children coming from the socially and economically underprivileged households and vulnerable sections of society. In India, social legislations intended to protect, care for, train, and rehabilitate deprived or neglected children has often been characterized more by hidden charity and discreet patronage than by a deliberately planned and coordinated social policy<sup>1</sup>.

Gugnani emphasized that children are society's most vulnerable and valuable resource. Because predators can include close relatives, teachers, senior school colleagues, strangers, and others. He stressed the importance of safeguarding children from physical harm, exploitation, and gender-based violence both within and beyond the home<sup>3</sup>. Meanwhile, Modi and Das (2016) highlight that the proportions of destitute children living on the streets in Delhi has been rising in recent years due to migration from rural areas<sup>4</sup>. They constitute an important group of children who need care and protection. Over 100,000 street children living in the city are vulnerable to abuse, drug use, criminal activity, and other antisocial behaviors. It was also reported that 80% of street children in Delhi engage in substance abuse. These children are commonly engaged in rag-picking, begging, street vending, and daily wage labor. They are also themselves frequently victims of emotional, physical, and sexual abuse due to contact with anti-social elements and deviant behavior, with limited access to education and basic amenities.

Another group that is especially vulnerable consists of children who reside in Delhi's slums. Slums are renowned for their exposure to deviant behavior and domestic abuse, peer pressure, a lack of appropriate or nonexistent coping mechanisms, financial difficulty, and emotional stress. Additionally, Jain highlights that the National Human Rights Commission (NHRC) estimates 44, 476 children in India go missing annually, of whom 11, 008 are never found. The NHRC noted in its 2002–2003 report that a significant number of missing children are actually trafficked and end up adopted, married, working in the labour market, or employed in the entertainment business, among which sex tourism is the foremost recent development<sup>5</sup>.

Chopra highlights that not all children have the good fortune to receive an environment which is conducive to provide appropriate development opportunities<sup>6</sup>. The need to protect some category of children is greater than others due to socio-economic reasons, political circumstances, and geographical location. These categories of children are particularly at risk with regard to their right to survival, development, protection, and participation and they are in especially difficult circumstances. Modi and Das notes that some categories of children, including those in need of care and protection and those in conflict with the law, should be given opportunities for their mental, physical, and emotional growth, enabling them to fulfil their potential as human beings. Their study found that Delhi is home to millions of children with difficult and vulnerable conditions, either by themselves or with their families, who need welfare and safety to ensure their overall development<sup>4</sup>.

## **IV. The JJ Act, 2015, And Its Provisions For Welfare**

The Juvenile Justice (Care and Protection of Children) Act 2015 is the major legislative framework for children's welfare in India, ensuring the security, protection, education, and the children's wellbeing. The JJ Act, 2015, categorizes institutions into two types, namely, (a) Children in Need of Care and Protection and, (b) Children in Conflict with Law, and provides a mechanism for institutional care and rehabilitation. The Act defines CCIs as "Children's Homes, Open Shelters, Observation Homes, Special Homes, Places of Safety, Specialized Adoption Agencies (SAAs) and recognized Fit Facilities". Children in Conflict with Law receive institutional care and safeguarding in Observation Homes, Special Homes, and Places of Safety, while Children in Need of Care and Protection are received in Children's Homes, Open Shelters, Specialized Adoption Agencies and Fit Facilities<sup>7</sup>.

The Act also lays down specific guidelines for Children in Need of Care and Protection such as children who find themselves in difficult circumstances such as orphans, semi-orphans, social orphans, runaways. It also includes those whose families are at risk, are mentally and physical challenged, have incapacitated parents,

vulnerable and prone to abuse, labor, trafficking, and exploitation, impacted by disasters, conflicts, and political instability.

The Juvenile Justice Model Rules (2016) discusses that the person in-charge (Child Welfare Committee) in any situation related to children's issues should bring the case before the Juvenile Justice Board (JJB) and specify the child as needy, thus, requiring protective measures by the JJB. The JJ Act, 2015, adds that according to CCIs, under Integrated Child Protection Schemes (ICPS) the age at intake varies across institutions. The age at intake in Children's Homes are from 6 to 18 years of age and for Specialized Adoption Agencies the intake is 0-6 years. Regarding Children in Conflict with Law, Section 2 (13) of the JJ Act 2015, defines a child as "someone who is not yet eighteen years old on the date the offence was allegedly or conclusively committed"<sup>7</sup>.

#### ***Stipulated Facilities and Services in CCIs under the JJ Act***

The MWCD's implementation of Mission Vatsalya, supports States and UT governments in child welfare. The scheme encompasses facilities and services for children in need, including those in CCIs, covering boarding and lodging with basic necessities such as clothing, food, housing, education, career training, and leisure activities like sports and the arts. It also entails healthcare, counseling, and rehabilitation, children's committees and individual care plan. Furthermore, 15 caretaking staff are prescribed for the children's wellbeing and safety within the facility. Mandatory police verification of CCI staff and others at district and state levels are also specified by the scheme guidelines to prevent abuse. Meanwhile, JJ Act mandates equal care standards for Children in Conflict with Law and Children in Need of Care and Protection in CCIs under Model Rule 29. Although children of both sexes below age 10 could reside together, it prescribes separate bathrooms and sleeping areas for boys and girls. It is mandatory to have distinct children's homes for boys and girls aged 7 to 11 and 12 to 18 years. It is equally important that the CCIs for both Children in Conflict with Law and Children in Need of Care and Protection should operate from separate premises.

#### ***Shortcomings of CCIs***

There is a considerable risk of exploitation in institutional care, particularly since many facilities lack proper regulation. This lack of regulation leads to poorly trained staff without background checks, creating an environment where abused or neglected children have no legal recourse or means for civil reparations. The prevalent forms of abuse in institutional care comprise both sexual and physical violence from staff or peers, neglect, under-nutrition, and bullying. Some of these constitute exploitation, with child labor being a notable example where children are frequently tasked with cooking, cleaning, and washing clothes in their care homes, often to an unacceptable extent. Meanwhile, in Bindu and Malika's study on CCIs in Kozhikode, they list fifteen problems, namely inadequate and insufficient infrastructure, absence of professional staff, a low rate of non-institutional care, limited vocational training and job placement opportunities, an inefficient grievance redressal mechanism, education limited to government schools, inadequate training and classes, inadequate medical care and recreational facilities, inadequate documentation pertaining to the child, non-compliance with the JJ Act, limited knowledge among the inmates and public as well as insufficient follow-up and aftercare provided by the facility<sup>8</sup>.

Chingtam's study found that 76% of children in CCIs attend government schools, while the remaining 24% attend private schools. Many of the children attending in government schools expressed a preference for private schools, considering them to be of higher quality. However, most CCIs do not have secondary or higher secondary schools on their premises<sup>9</sup>. Likewise, Wanglar's study on CCIs in Manipur highlights that most institutions do not offer vocational training. Among those that do, the training is limited to areas such as embroidery, pickle-making, tailoring, and basic computer skills. He notes that the training programs are typically short, lasting only a few weeks, and are conducted on the premises without professional instructors. Furthermore, these programs are not certified courses, and no job placement is provided for the children. Wanglar also points out that most CCIs lack professional and trained staff, with many institutions having no professional counselors, psychiatrists, or social workers<sup>10</sup>.

Further, Chowdhary observed that children in orphanages receive minimal care, with inadequate food, clothing, bedding, and recreation. Health, nutrition, and emotional needs were neglected<sup>11</sup>. Various categories of children were accommodated together without consideration for their psychological needs, lacking family love and affection. He also argued and suggested that children should ideally be raised in their own families, or alternatively, through foster care, sponsorship, and adoption.

## **V. Provisions For Children's Welfare And Legislations**

Legislations regulate, authorize, and control various aspects of life, serving as a guiding principle for concerned citizens or groups. It acts as a framework within the legal system that empowers citizens. Specifically, legislations serve to offer care, protection, maintenance, welfare, and rehabilitation in matters concerning children. Meanwhile, MWCD explains child protection as shielding against abuse, neglect, exploitation, and violence. It

also noted that children who experience abuse, exploitation, neglect, or violence may suffer to shortened lives, inadequate mental and physical health, educational problems, and poor parenting skills, homelessness and displacement. However, successful protection increases the likelihood that a child will acquire good physical and mental health<sup>6</sup>. Therefore, protecting children is essential for achieving all goals related to children's well-being. Childhood experiences such as abuse, exploitation, and neglect have long-term impacts on well-being and behavior, often hindering and delaying their development. Hence, welfare measures are necessary to enhance children's safety, ensuring their well-being and development. Ganguly highlights some of the legislations enacted in India for children's welfare includes; a) Immoral Traffic (Prevention) Act, 1986, b) Prohibition of the Child Marriage Act, 2006, c) Right to Free and Mandatory Education for Children Act, 2009, d) Protection of Children from Sexual Offences Act, 2012, and, e) Juvenile Justice (Care and Protection) Act, 2000, amended in 2015<sup>12</sup>.

## **VI. Institutionalization Of Children**

Padmaja et al. highlights that institutional care serve as a measure to provide care and support to orphans and destitute children. She points out that many NGOs are operating across India and providing institutional care to those children who are orphaned, abandoned, whose family are unstable and not being able to care for them due to financial problem and parent's illness etc.<sup>13</sup>. According to the JJ Act, 2015, a child who is orphaned due to the loss of both parents can be considered for adoption or placed in government-run CCIs or those operated by NGOs until they are 18 years old. It is revealed that in India a huge number of children of single parents were living in the CCIs/Homes. The others included orphaned, abandoned, turned in, trafficked children, mentally challenged children, sexually assaulted, victims of child pornography and child marriage and homeless children, and so on.

Meanwhile, the Integrated Child Protection Schemes of India (2017) points out that children who are abandoned by their families, runaways, or orphans are being raised in institutional settings. According to Chingtam in his study, it was discovered that broken households, poverty, helpless single parents, and parental abandonment are the key factors leading children to CCIs. Furthermore, it has been discovered that poverty, illiteracy, neglect, and abandonment represent the main reasons that led children to resort to CCIs<sup>9</sup>. Children may be apart from their parents and placed in institutional care for different reasons, including armed conflict, disasters, and migration. Other children end up in institutional care due to discrimination, due to their disabilities or the disability of a parent, and preference for a certain sex of the child. However, many children in orphanages are not orphans and have at least one surviving parent or other relative. Additionally, Rahul and Yadav notes that children end up in CCIs for various reasons. These institutions are designed to offer care and affection comparable to a family environment, providing food, housing, education, healthcare, and other services<sup>14</sup>, as addressed in the JJ Act, 2015, and the JJ Rules, 2016.

## **VII. Institutionalization And The Psycho-Social Development Of Children**

Poor caregiving, lack of stimulation, and the absence of a consistent caregiver are contributing factors to the negative outcomes among institutionalized children. Institutionalized children, including orphans and the other vulnerable children and adolescent are more prone to behavioral and emotional problem than their peers due to lack of family love and care. Chanu in her comparative study on orphans and normal children found that children who are orphaned and those who are particularly vulnerable stand more vulnerable towards emotional and behavioral issues due to abuse, exploitation, neglect, and a deficit parental love and care<sup>15</sup>. Moreover, they are more prone to be emotionally deprived and insecure and thus hamper their overall development. Children experiencing abuse, neglect, or violence in these institutions also do not have access to legal or civil reparations. Meanwhile, Bindu discussed and examined child growth in an evolving environment. She observed globally insufficient child development and protection initiatives for the particularly underprivileged and vulnerable children<sup>8</sup>. As family is among the most fundamental rights of a child, family-based non-institutional care is preferred over institutional care.

Further, Goswami's study on CCIs and the situation of orphans in Assam found that 63 out of 110 child respondents do not receive emotional or moral support from the staff when they are deeply hurt or distressed. The study also revealed that 89 respondents suffer from frustration and depression, 84 feel lonely, 32 have attempted suicide, and 59 have tried to run away from the institutions<sup>16</sup>. Meanwhile, Padmaja et al. found that institutionalized children experience more emotional problems and depression than those who are not institutionalized. The study also indicated that girls tend to have more emotional and other issues compared to boys<sup>13</sup>. Additionally, in Erik Erikson's theory of eight stages of psychosocial development, each stage involves a psychosocial crisis, which influences the individual's personality positively or negatively. The person's personality is shaped by the way they respond to each of these crises, and reacting positively results in the acquisition of a new virtue.

IJzendoorn et al. discuss that children in institutional care often lack the nurturing environment essential for their growth and psychological development. Consequently, these children frequently experience

developmental delays and may deviate from typical developmental pathways due to neglect, including inadequate physical resources and poor caregiver interaction. The authors highlight the severe developmental issues common among children in institutional care, such as physical, hormonal, cognitive, and emotional problems. They emphasize the necessity to study the interactions between children and their environment at a micro-level to assess the strengths and weaknesses of institutional care settings, potentially offering insights into improving these environments for children<sup>17</sup>. Meanwhile, in the handbook of child well-being, Schoenmaker et al. examines the research findings on the cognitive and social-emotional growth of children exposed to various natural experiments whereby the quality of parenting or family environment could be placed on a continuum. The authors assert that high-quality parenting and a nurturing family environment significantly influence children's well-being whereas, lack of stable parenting in institutional settings has negative effects on child development and well-being. The major delays found in institutionally reared children pertain to cognitive and social-emotional development. Thus, the authors observed that transitioning from institutional to foster care could be an effective intervention for children's cognitive and social-emotional development<sup>18</sup>. Meanwhile, CCIs under JJ Act module-6 highlights some of the negative impact of long-term institutionalization of the child. They are: 1) emotional deprivation, 2) maternal deprivation, 3) anonymity and lack of personal attention, 4) excessive routinization and regimentation, 5) development delays, 6) separation anxiety, 7) low self-esteem, 8) failure to trust, 9) difficulty in mainstreaming and adjusting in society and 10) inter personal relationship problems<sup>7</sup>.

Further, Jones emphasizes attachment theory that infants need a warm, persistent connection with a primary care provider for optimal mental health. According to this theory, a strong connection with a primary caretaker is required for the development of social and emotional abilities of the children. The concept also explained that parental responses shape attachment patterns for later relationships. Infants form attachments with any responsive caregiver, and though the key attachment figure is usually the biological mother, this position may be assumed by anybody consistently displaying nurturing behavior. Children separated from caregivers often experience depression. In CCIs and orphanages children face challenges as caregivers change, disrupting attachment bonds. However, children benefit from steady, approachable faces that offer love and attention and this provides them the feeling of security and helps them in mental development. Neglect or inconsistent care may lead to less positive internal models, impacting relationships and resulting in stress. This theory explains that the bond between a caregiver and a child is rooted in a child's requirement for security, safety, and protection. Thus, in most industrialized countries, foster care or family-style settings have gradually replaced orphanages. This shift aims to facilitate a child's effective physical, emotional, mental, behavioral, and personality development. It is believed that children thrive when there are consistent, loving, and caring figures in orphanages attending to their emotional needs and offering mothering support<sup>19</sup>.

Furthermore, Kaul notes that the Save Our Ship (SOS) Children's Villages movement, founded by Dr. Herman Gmeiner in 1949, provides homes for children without families. Each village has around twenty families, with each family caring for up to nine children. It is funded by donations, contributions, and sponsorships from individual or groups and it operates in more than 130 countries. Meanwhile, Save Our Ship Children's Village India report (2022-2023) highlights that SOS Children's Villages India is the largest self-implementing childcare NGO. Established to disrupt the cycle of child neglect and abandonment, the organization offers both curative and preventive services to vulnerable children who are without parental care or are in danger of losing it. Their care services extend beyond basic childcare, focusing on holistic child development. SOS Children's Villages India runs programs such as family strengthening, family-like care, foster care, short stay homes, emergency child care, special needs care, education, and youth skilling. The SOS report discusses the impact of the above-mentioned programs on transforming the lives of children. Between the year 2022 and 2023, there were 31 SOS Children's Villages across India, along with 27 family strengthening projects, 11 kinship care projects, 10 vocational training centers, and 6,529 children growing up in these villages. The organization reported empowering 38,841 children, successfully relinking 395 children with their families and relatives. Additionally, about 15,000 vulnerable women have been included in Self-Help Groups. The head office is located in Vasant Kunj, Delhi and there are two SOS Children's Villages in the northeastern regions of India, namely in Guwahati and Shillong. Guwahati houses 161 children, while Shillong has 127 children, with a combined total of 1,063 beneficiaries in the Family Strengthening Programme<sup>20</sup>.

### **VIII. Rights Of Children Related To Physical, Sexual Abuse, And Safety**

Child rights are defined by the UN and the UNCRC. "These rights are basic freedoms and entitlements for everyone under 18, regardless of origins, fortune, birth, language, religion, ethnicity, colour, gender, and opinions or ability"<sup>6</sup>. Meanwhile, Bajpai highlights that only during the twentieth century the notion of children's rights emerged and shifted the focus from welfare to the rights approach. The rights perspective is embodied in the UNCRC legislation and India slowly signed and adopted the Convention on the Rights of the Child (CRC) in December 1992. The CRC emphasizes the protection of human rights, with Article 6 recognizing every child's inherent right to life and mandates state parties to ensure their survival and development to the fullest extent

possible. Article 7 grants children the right to know their parents, addressing issues such as abandonment, birth out of wedlock, or parental divorce.

In the Universal Declaration of Human Rights 1948, Article 25, also emphasizes the children's rights for special care and assistance. Every child is entitled to grow up in an environment that supports their physical, psychological, emotional and social growth. In 2013, the National Policy for Children, seeks to guarantee that family and community-based care, such as sponsorship, kinship, foster care, and adoption, is provided by the state for children who are temporarily or permanently lacking parental care. Institutionalization will only be applied as a last resort. It will provide a high level of care and protection keeping the child's best interests into consideration<sup>5</sup>. On March 29, 2020, the National Commission for Protection of Child Rights (NCPCR) issued an advisory related to child protection and care associated with migrant families, those residing on the streets, and in CCIs. Furthermore, Routiya highlights that UNCRC has outlined four fundamental human rights that should be given to children such as 1) right to survival, 2) right to protection, 3) right to Participation and 4) right to Development<sup>21</sup>.

### **IX. Institutionalization And Child Abuse**

Institutionalized children face violence from those accountable for their well-being, such as staff and officials. This abuse encompasses torture, physical beatings, isolation, restraints, rape, harassment, and humiliation.

Meanwhile, MWCD, government of India, conducted an investigation into child abuse in 13 states of India, with a sample size of 12,447 children aged 5-18, young adults aged 18-24, and various stakeholders. The participants were split up into five categories: children not attending school; children in schools; children in CCIs; working children; and street children. The investigation showed that young children aged 5-12 are the most at risk of abuse and exploitation. Additionally, the study showed that two out of three children experienced physical abuse. Among the 69% of children abused in the 13 sample states, 54.68% were boys. Additionally, the study reported that Andhra Pradesh, Assam, Bihar, and Delhi had exhibited greater incidences of all forms of abuse in contrast to other states in India. Further, research showed that 53.22% of children experienced one or more types of sexual abuse. The highest rates of sexual abuse cases were reported among children in CCIs, street children, and working children. Additionally, the study found that 50% of the abusers were individuals the child knew or held positions of trust and responsibility<sup>22</sup>.

Meanwhile, Gugnani highlights a study carried out in Bangalore, where 75% of the 48 institutionalized children in the shelter home reported poor treatment by the staff. In Chennai, a study showed that 83.6% of the 110 institutionalized children also reported bad treatment by the staff<sup>3</sup>.

The MWCD government of India recorded a total of 77 cases of child abuse in CCIs, including shelter homes, over the last five years. In 2018-2019, 26 cases were reported, and 21 cases were reported between 2021-2022. Sil also discusses that child abuse is a widespread and troubling issue in India, affecting millions of children who experience physical, psychological, and sexual abuse every year. Between 2017 and 2020, there were 2.4 million cases of reported child abuse with 80% of the girl victims under fourteen years. She noted that despite the large number of reported cases, many instances of child abuse remain unreported, suggesting that actual abuse may be even more.

Children's rights to be protected from abuse and exploitation are well defined in international and national laws. However, knowledge of children's rights is essential, and every citizen has a responsibility, particularly the concerned authorities and staff working in child care settings, since these children are the most vulnerable and at risk of violence, abuse, and exploitation. Therefore, children's rights must be protected, and they should be reared with full support and protection for their well-being, without denial or violation.

### **X. Adoption As An Alternative To Ccis**

Pearl explains that there are two types of adoption; 1) in-country and 2) inter-country. In-country adoption involves Indian adoptive parents adopting a child within India, while inter-country adoption involves adopting a child from another country<sup>23</sup>. Bajpai points out the existence of a significant gap between the number of children in India who require adoption and the actual number of adoptions that occur each year. She also notes that there are many non-Hindus who wish to adopt children but could not, since the Indian law prohibits them from adoption and it accords them only guardianship<sup>24</sup>. Meanwhile, Babbar highlights that one approach to child welfare is through adoption. She explains that the Hindu Adoptions and Maintenance Act of 1956 was established to address issues concerning orphans, abandoned, and refugee children, allowing only Hindus to adopt and be adopted. Following the ratification of the Child Rights Convention, the Juvenile Justice Act (JJA) of 2000 introduced mechanisms to ensure the welfare of children who need care and protection, as well as those involved in legal conflicts<sup>25</sup>. Further, Bajpai emphasized that millions of children deprived of their basic rights could find loving homes through adoption. She asserts that adoption should be available to anyone, regardless of their religion, for children of any religion or gender<sup>24</sup>. Chopra discusses that as caring practices shift towards non-institutional services, adoption offers orphaned or abandoned children a family and provides parents with a child.

She adds that the state of adoption in India is poor, with many orphaned, abandoned, and destitute children still thriving, while very few have found homes via adoption<sup>6</sup>.

#### ***India's adoption status***

Chopra highlights that in-country adoptions are very few in comparison to the innumerable orphans and destitute children across the nation. Further, she addresses that there is a need to widen the adoption programme all around the nation<sup>6</sup>. Central Adoption Resource Authority (CARA), under the MWCD, Gov. of India in 2021-22 there were 2,991 in-country adoptions and 414 inter-country adoptions. It was also reported that in 2022-23, 3,010 children were adopted by Indians and 431 were adopted by foreigners. Further, CARA annual report for 2021-22 indicated that in the North East states of India, there were 266 domestic adoptions, comprising 119 males and 147 females. Additionally, there were 27 international adoptions, with 11 males and 16 females<sup>26</sup>.

The MWCD reported there are 474 Special Adoption Agencies (SAAs) around the nation. According to the Ministry's Central Adoption Resource Information and Guidance System (CARINGS) portal, Assam has the highest number of SAAs among the Northeast states with twenty, followed by Arunachal Pradesh with two, Manipur with nine, Meghalaya with six, Mizoram with seven, Nagaland with four, Sikkim with three, and Tripura with nine. As stated in the report, Maharashtra has the maximum numbers of children in SAAs, with 1,172 children in 56 SAAs. Tamil Nadu follows with 471 children in 23 SAAs. In the Northeast region, Assam has the highest with 137 children in 20 SAAs, followed by Manipur which has 62 children, Tripura ranks third in the region with 57 children, Sikkim has 13 children. Meghalaya has 10 children, Arunachal Pradesh has 7 children and Nagaland has 6 children. The North East region is constantly embroiled in ethnic strife and children have been one of the major casualties. Assam ranks highest in the North East probably due to it being the most densely populated state in the regional and covering a large geographical area too.

#### ***Adoption bill***

The JJ Act, 2015 became operative on January 1, 2016, and according to this Act, a person of any religion can adopt any child irrespective of his /her religion<sup>3</sup>. Meanwhile, Bajpai points out that NGOs had come up with a bill on adoption, known as the Christian Adoption Bill, 1988. The key provisions of this bill included: 1) allowing the adoption of both female and male children, 2) permitting adoption without court intervention, and 3) enabling single males to adopt. However, if a single male adopts a girl, there must be an age gap of 21 years, and the girl must be under 15 years of age.

CARA and the MWCD regulates adoption in India, it reports that annually, only 3,500 to 4,000 children can be adopted, focusing on orphaned, abandoned, and surrendered children through its affiliated agencies. Adoptions in India are regulated by two laws, namely, the Hindu Adoption and Maintenance Act, 1956 and the JJ Act, 2015. CARA also introduced "Children for Immediate Placement" to reduce waiting time. It promotes adopting older children, advocating inclusivity in adoption preferences alongside high demand for infants. Such provisions are more children friendly and helps shift the focus from institutionalization to deinstitutionalization.

### **XI. Institutional Care As Last Resort**

Chowdhary observed that destitute and neglected children have generally been placed in welfare institutions where facilities such as physical care, education, medical aid, recreational and cultural activities and vocational training etc. are provided. However, he argued that a child shouldn't be placed in institutional care merely because he/she has no economic support. Rather, children should be brought up in families and even if they need to be put in institutions, the environment should be similar to a home. He also suggests that house parents and house mothers should be appointed to look after the neglected, orphaned, and destitute children like the other normal children are looked and cared for in families. Further, Chowdhary points out that institutionalization generated more issues instead of solving it, as institutionalization tends to produce, emotionally disturbed, frustrated and delinquent individuals. Therefore, he recommends to save the expenditure on solution of social problems for the future and properly plan for welfare services for the children to avoid institutionalization as an approach to solving problems of children. It's not reasonable with regard to the child who is physically, mentally, and emotionally fit to be placed in an institutional care merely because he/she is a destitute. He also argues that, institutional care is helpful to some but unnecessary and even harmful for others. Therefore, Chowdhary suggests that children must be raised in their own families, failing which alternative interventions such as foster care, sponsorship, and adoption environment needs to be made available for the care of destitute children keeping in view their basic requirements and entitlements to family<sup>11</sup>.

UNICEF notes that children are institutionalized for various reasons, including parental death, abandonment, or withdrawal of parental responsibility. Other factors include the need for special care, temporary parental inability to cope, domestic violence, neglect, and loss of communication with parents owing to hostilities or emergencies. It is believed that such placements can jeopardize or even definitively terminate the role and presence of these children's primary caregivers. It also emphasizes the inadequacy of isolated efforts to improve

individual institutions for children receiving residential care. In extreme cases where children cannot obtain the treatment they require within their families, family and community-based alternatives must be prioritized, and institutional care placement should be the final resort.

Children who have been separated from their parents should only be placed in institutional care as a last option, with priority given to family and community support. Many children could overcome issues faced in institutional care, if entrusted to family care environments. Further, development of children in adoptive homes have been noted to be positive as experiences of family care promotes children's wellbeing and healthy development. Additionally, ReThink Orphanages highlights that children who are out of contact with their parents and families and growing up in institutional care face harmful consequences for their development and well-being. This environment hinders healthy development, irrespective of the quality of conditions or compassionate staff. Therefore, it emphasizes a global movement to shift from care provided in institutions to family-based care, like foster care and kinship care, guardianship, or local adoption, citing these options as more beneficial and cost-effective.

Further, Catalysts for Social Action notes that children are frequently placed in institutions despite available family support and the outcomes of institutionalized children are significantly worse than those in family-based care. It adds that institutions or orphanages often engage in exploitation by manipulative individuals and neglectful parents. It recommends that India should follow the Western countries that frequently stress adoption and foster care as alternative methods. Catalysts for Social Action also adds that in December 2019, the UN General Assembly adopted a Resolution affirming the rights of children, with all 193 member states agreeing that orphanages harm children. They recognized that most children in orphanages with living families should be reunited or supported to stay with their families. As a signatory, India is expected to adhere to this stance, which means the inevitable closure of some CCIs. Catalysts for Social Action believed that Adoption and Foster Care are the foremost effective rehabilitation options for children in need of care and protection<sup>5</sup>.

## **XII. Institutionalization, Adoption And Social Work**

In contemporary times, social work stands by and prefers family-based non-institutional care over institutional care. It is believed that alternative interventions such as foster care, sponsorship, and adoption could be more effective for children's healthy development and well-being, as institutionalization hampers their development. Social work encourages alternative care, and institutional care should be considered a last resort, only ideally supporting the child's best interests. Additionally, in-country adoptions are very few in comparison to the innumerable orphans and destitute children in the country. Intercountry adoptions have also seen a decrease over the last several years. Social work can play a crucial role in child adoption services by creating awareness, counseling pregnant women, and educating potential adoptive parents about adoption programs. Additionally, social workers can promote adoption through foster care and assess potential adoptive parents for their willingness and capacity to raise children who have undergone trauma like abuse, neglect, and institutionalization. Social work ensures that children's voices are heard and their interests are fulfilled by advocating for their rights and their needs.

Raneesh and Mohan highlight a significant change in India's child welfare system, driven by new juvenile justice laws, emphasizing that institutionalization should be a last resort and promoting deinstitutionalization to other care facilities. They add that effective intervention by skilled childcare staff is crucial for deinstitutionalization, but the study finds childcare staff lack the necessary standards and skills. They suggest that a transformation is needed to meet government standards and achieve the desired outcomes for vulnerable children<sup>27</sup>. Meanwhile, Modi and Kalra discuss that Udayan Care initiated a family strengthening project namely Families Together (FiT), in 2021. It offers facilities like family counseling, employment support, entrepreneurial opportunities, and connections to social welfare schemes, enabling them to care for and protect their children instead of resorting to institutionalization. The FiT project, is a comprehensive approach to family strengthening, and serves as a demonstrable intervention model in India<sup>28</sup>.

Further, Bajpai highlights that children thrive best at home. However, many are institutionalized due to an absence of alternative care options. Families in poverty, facing stress, violence, or substance abuse, encounter major obstacles in caring for their children and need support, which can take various forms, including home visits by social workers or community workers. She emphasizes that quality alternative care, such as kinship care, fostering, and adoption, requires clear standards, assessments, and permanency planning, including reunification with families or adoption, if necessary, to ensure children's well-being. Bajpai also emphasizes deinstitutionalization and reforming childcare systems by closing orphanages, finding new placements for children, and establishing non-institutional support for vulnerable families. She adds that this process is time-consuming but essential for ending child institutionalization and restoring their right to family life. In the meantime, finding a safe home for the destitute and impoverished children remains a herculean challenge<sup>24</sup>. Bindu and Malika highlights several issues including insufficient professional staff, poor maintenance of child-related



documents, low awareness among inmates and the public, and inadequate aftercare and follow-up in the institution<sup>8</sup>.

The social worker can have a key role in CCIs, bridging gaps both within and outside the facility to foster harmony. They must possess social work principles and skills to work with destitute children, evaluate their experiences and challenges, and understand their problems. It is essential for staff to collaborate harmoniously to create a healthy environment for children's development. Proper documentation, including Individual Care Plans, Case Studies, and Follow-up are necessary and vital for supervising children and tracking their progress for future reference. These records can also aid in the field of research. Social workers are essential in building safe, healthy families and communities, particularly in protecting and supporting vulnerable children and families. However, staff involved in child care are found to be lacking in skills and possessing inadequate knowledge and experiences. They need necessary services, such as workshops, capacity-building training, and other skill development opportunities, to enhance their abilities and promote positive change in the lives of these children and the institution. Thus, social work has changed over time from charity to a profession focused on individual well-being and social justice. Therefore, adequate knowledge of children's rights and development is necessary for social workers in child care settings and children's welfare to assist parents in enhancing parenting skills and creating a safe environment. It encourages alternative care over institutionalization along with comprehensive welfare measures to guarantee the protection and overall development of destitute children.

### **XIII. Conclusions And Suggestions**

Children are being institutionalized as a result of parents' deaths, non-conducive family environment, poverty, health issues and such other reasons that apparently will affect the child. The JJ Act, 2015 mandated all the CCIs to provide basic necessities, education, medical care facilities, protective measures, vocational training, and recreational activities for rehabilitation of children. However, from the literature review it was found that many CCIs are functioning without adequate standards, lack sufficient personnel, and fail to provide feelings of love, care, and affection. Despite laws to protect children and receiving assistance and care, many children in CCIs are prone to maltreatment, assault, and exploitation and face various challenges owing to absence of improper implementation. Moreover, inadequate attention and emotional care, leads to delayed growth and development. Children in institutions frequently exhibit lower levels of social, emotional, mental, and physical development. As a result, it is crucial for the government, NGOs, and CSOs to collaborate and share responsibilities to prevent child abuse, exploitation, and developmental delays, ensuring children's well-being and development. The government, with the help of NGOs and CSOs, can conduct workshops and training programs for institutions and staff to promote positive outcomes.

Further, many studies highlight the positive impact of family involvement on children's healthy development and well-being. Children in CCIs have significant potential to effect change in both oneself and society. They need proper guidance and social support from parents, community members, teachers, and the institution. As much as possible, children should not be placed in institutions and should be provided with alternative care such as foster care and adoption. However, it should always be suited to the needs of the child, with institutionalization considered as a last resort.

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