



PUNE INTERNATIONAL CENTRE



# Aftercare for Young Adult Orphans

Mr. Prabhakar Karandikar (I.A.S Retd.)

Mr. Aditya Charegaonkar (Ph.D. Scholar, TISS Mumbai)





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Young Adult Orphans

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# FOREWORD

In the last three decades, the Child Rights movement has taken big strides the world over. In India however, the rights of 'Children in need of Care & Protection' (CNCP), especially the orphans, continue to remain largely neglected. Lack of accurate data leads to guesstimate, which further compounds the problem. According to one such estimate, about one percent of them find a place in some form of Alternate Care. Although institutional care continues to be the most dominant form of childcare in India, the state of Child Care Institutions (CCI) is, often, a subject of public outcry and judicial activism.

After reaching 18 years, children in CCIs are required to leave and often fall off the radar. This lack of visibility in after care is an area of concern in India and there are yawning gaps in the 'After care' service of these Care Leavers, many of whom are orphans. They face heightened challenges and poorer outcomes on the journey to independence, not only because of their fractured pasts but also due to a lack of planned interventions towards preparing them for life out of CCIs. They have serious issues of shelter, sustenance, documentation of identity, continuing education and finding employment. Surveys conducted by Udayan care - a leading NGO - reveal that one out of three youth in after care have mental health issues.

Thanks to continuous prodding from the Judiciary, we now have a Juvenile Justice System, but its credibility is still a serious concern. This is due to factors like insufficient funding, lower prioritization by the State, inadequate professional training and compensation for caregivers and social workers, who often bear the burden in the childcare sector.

Orphans who exit institutional care are wards of the State but, they are 'nobody's responsibility'. There needs to be a clear public policy and a defined nodal agency that takes responsibility for reintegration of these Young Care Leavers into the mainstream of society. Aftercare is present by law but in spirit, practice and implementation it remains largely absent.

Given the importance of developing a holistic policy for after care of young adult orphans, PIC decided to undertake a study in collaboration with STAPI, a nodal agency designated by the Government of Maharashtra. This joint Study Team was led by Shri Prabhakar Karandikar, I.A.S.(Retd.), the Honorary General Secretary of the PIC. We are very grateful to the countless organizations, experts, individuals and especially the young adult orphans who readily shared their experiences and ideas with the Study Team.

A round table of multiple stake holders was held on 12th April 2019 to discuss the working draft of the Policy Paper. We are grateful to all participants in round table meeting for their comments and suggestions.

We would like to especially acknowledge contributions from the Officials of the Women & Child Development Department of Government of Maharashtra, UNICEF Maharashtra and Udayan Care, New Delhi.

I also wish to acknowledge the valuable contribution by a young idealist scholar, Shri Aditya Charegaonkar to the PIC-STAPI Study Team.

I hope that this policy paper will meet the needs of our policy makers towards making the long-needed improvements in the after-care-services to our young adult orphans.

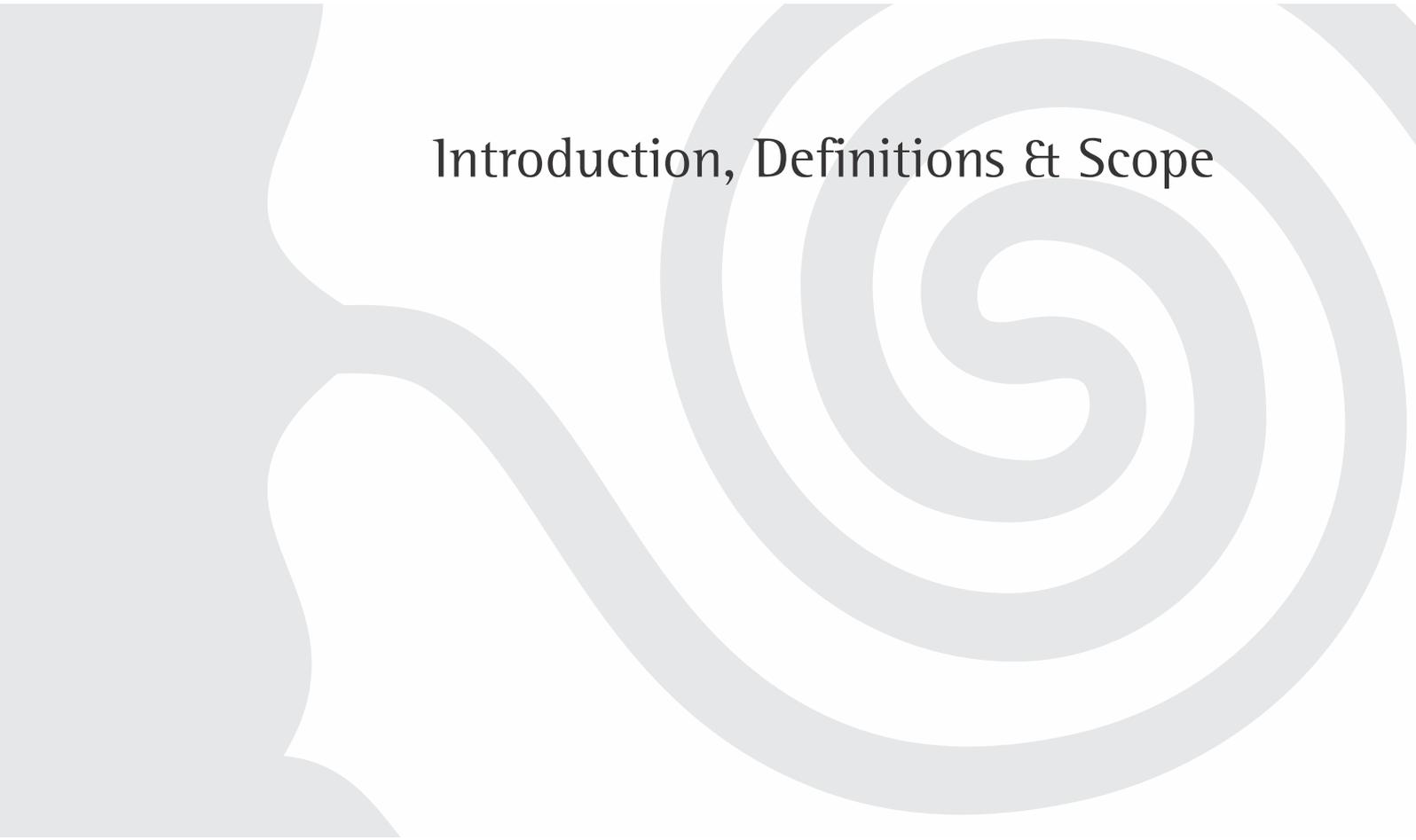
**Vijay Kelkar, Ph.D**  
Vice President, PIC





# Section 1

Introduction, Definitions & Scope

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## A: Introduction

1. When a child's own family is unable, even with external support, to provide adequate care and protection for the child, the State is responsible for ensuring appropriate alternative care for children (ACC), which can be institutional such as Child Care Institutions (CCIs) or non-institutional such as adoption, foster ship or sponsorship. ACC in any form other than adoption usually terminates when the child under ACC attains adulthood (usually 18 years of age). Persons leaving institutional care are called Youth Leaving Care (YLC) and After Care Services (ACS) refers to such YCLs.
2. ACS is traditionally a compendium of best practices to provide services after inmates leave correctional or Child Care Institutions (CCI) to facilitate their reintegration into the community. Now, 'childcare and protection' is understood as a continuum of services from ACC to ACS and therefore, ACS is acknowledged to be a necessary concomitant of ACC.
3. Historically, in India, the concept of ACS was associated with and confined to adult offenders and juvenile delinquents exiting from correctional institutions. It was realized later that greater attention needs to be paid to organizing ACS even for the non-offender children when they exit institutional care. Unfortunately, ACS for YLC suffered from inadequate attention, lack of policy instruments, programmes and funding. Furthermore, policy planners for childcare as well as practitioners viewed the subject from the perspective of 'welfare' rather than from the perspective of 'child rights.' This situation has changed in the last few years. We have briefly sketched the history of the evolution of the concept of Aftercare in Annexure I. Various schemes and programmes for ACC as well as ACS have been launched in India and the state of Maharashtra has the distinction of being a pioneer in the field. However, a lot remains to be done.
4. The United Nations announced a Convention of Child Rights (UNCRC) in 1989. India acceded to the treaty in 1992. The UN General Assembly adopted a resolution in 2009 and issued Guidelines for ACS. On the 10th Anniversary of this resolution, the UN General Assembly has decided to focus on the rights of children deprived of parental care, or who are at risk of being so, as the theme of the 2019 UNGA Third Committee resolution on the Rights of the Child<sup>1</sup>. Hence, this may be an opportune time to discuss a policy for ACC with special reference to Maharashtra.

ACS for the 'Orphans' exiting institutional care i.e. Young Adult Orphans (YAOs) deserves special attention in particular as orphans have a special set of problems – legal, social, psychological and economic- This paper attempts to recommend a suitable policy framework of aftercare services for YAOs, with special reference to the state of Maharashtra. The next section deals with definitions and scope. In section 3, We touch upon the proactive Role of Judiciary in developing the Juvenile Justice system.





## B: Definitions & Scope

1. Broadly speaking, the Juvenile Justice Act of 2015 recognizes two types of ‘vulnerable children’ or ‘children-at risk’: (a) Children in Need of Care & Protection (CNCP) as defined under section 2 (14) including orphans (as defined under section 2(42) and Children in contact with law, who have come in contact with the law either as a victim or as a witness or due to any other circumstance and (b) Children in Conflict with the Law (CCL) as defined under 2 (13). The CNCP category includes victims of abuse, children without their parents, street children, run away children, missing children, victims of child labour, sexually abused children, children without their biological parents etc.
2. Alternative Care is understood as care for CNCP. It includes children under guardianship care including sponsorship, kinship care, foster family care, organized residential care and other community-based arrangements for care of children in need, particularly for children without primary caregivers. The children without parental care, living in formal or informal settings of Alternative Care are also referred to as children in Out-of-Home Care (OHC). Two main forms of Alternative Care for children in OHC settings include residence in CCIs and Foster care.
3. Orphan: In the literature on the subject, sometimes a fine distinction is made between ‘pure orphans’ i.e. children who are abandoned with no trace of their biological parents and ‘social orphans’ i.e. children whose parents can be traced but who have no effective parental or family support. UNICEF and some other international organizations define an orphan as a child who has lost one or both parents. In India, the Section 2 (42) of the JJ Act defines Orphan as “a child (i) without biological or adoptive parents or a legal guardian or (ii) whose legal guardian is not willing to take care or capable of taking care of the child”. Thus, the Indian definition includes both ‘pure’, some categories of ‘social’ orphans and abandoned children but excludes children living with a single parent. For the purposes of this paper, we have adopted the definition of ‘Orphan’ under the provisions of JJ Act.
4. Some schemes have been formulated by GoI and a few states for Street Children and Railway Children, not defined in any legislation but the term ‘street children’ may include pure orphans, social orphans or destitute children not living with their families or children living on the pavements with parent/s. Some of the street children may have taken to streets on account of poverty and they may be engaged in begging or casual employment in the

informal sector; whereas some of the street children may be living on the pavements with their parent/s who may be migrants and destitute. Thus, there is an overlap in the definitions of street children, pure orphans, social orphans and CNCP. This creates a definitional problem for enumeration or survey of 'street children'. So far, there are no official statistics available on the number of 'street children' in India.

5. Aftercare: Interestingly, aftercare was defined for the first time under section 2(5) of the JJ Act of 2015 "making provision of support, financial or otherwise, to persons, who have completed the age of eighteen years but have not completed the age of twenty-one years, and have left any institutional care to join the mainstream of the society"<sup>2</sup>. There is no distinction made in the nature and extent of ACS to orphan and non-orphan youth leaving institutional care.
6. Social Defense: Till 1969, most of the schemes and programmes relating to child protection and care; juvenile delinquency, child-labour and child- beggary were included in the term 'Social Defense'. In the year 1969, the subject of 'Social Defense' was transferred to the 'State List' and the states were made primarily responsible for undertaking and funding several schemes and programmes pertaining to protection and care of children (including orphans). GoI continued to provide 'supplementary' funding.
7. Child Care Institution (CCI) is a generic term and it includes Children Homes, Open Shelter, Observation Home, Special Home, Place of Safety, Specialized Adoption Agency and a fit facility recognized under JJ Act, 2015 for providing care and protection to children, who need such services.
8. Children's Home (CH) means a Children's Home, established or maintained, in every district or group of districts, by the State Government, either by itself, or through a voluntary or non-governmental organization, and is registered as such for the purposes specified in section 50 of the JJ Act<sup>3</sup>. For the purposes of this document, the meaning of term CH is restricted to the homes, which may be variously named or styled as Children Home, Orphanages, Bal Sadan, Balika Ashram, Bal Gruha, Shishu Gruha, Snehalaya, Bal Aadhaar Kendra etc., which provide residential institutional care to CNCP.
9. Under the provisions of Section 41 (1) of the JJ Act and the rule 21(1) of the Rules framed there under, all CCIs are required to register themselves with the State Government within six months from the date of commencement of the JJ Act, 2015, whether such institutions are run by the Government or by an NGO and are meant either wholly or partially for



housing children. The requirement of registration of institutions is irrespective of whether they are receiving grants from Government or not. The State Government is expected to issue a provisional registration certificate to the institution within one month from the date of application. There is also penalty of one year imprisonment and /or fine of not less than Rs. 1 lakh for non-registration of a Child Care Institution (Under Section 42/JJ Act).

10. Integrated Child Protection Scheme (ICPS) was launched by the Ministry of Women & Child Development of GoI (MWCD) in the year 2009-10 and revised in 2014. It is a comprehensive centrally sponsored programme, which seeks to operationalize the JJ Act and which provides partial funding. The states are expected to bear the expenditure of the remaining portion. ICPS contains certain provisions for aftercare of the young adults in the age group of 18-21 years who leave CCIs on attaining adulthood (YLCs), in view of the special problems faced by them.
11. Young Adult Orphan (YAO): Some international organizations often do not make a fine distinction between orphans and non-orphans categories of CNCP. They group together both the categories of CNCP who leave alternate care on attaining the age of 18 years as YLCs because their situation after attaining adulthood is quite similar and the policy instruments as well as the aftercare services required to deal with their problems are similar.
12. This paper focuses attention mainly on 'Orphans' as defined under the section 2 (42) of the JJ Act and 'aftercare' as defined under section 2(5) of the JJ Act. The scope of this paper is restricted to YAOs, although much of what it outlines in respect of YAOs is applicable to YLCs also.



## C: Organization of the Paper

**Section 2** highlights the proactive role played by Indian Judiciary in development of Juvenile Justice System in India.

**Section 3** deals with the modes of Alternate & Institutional care; the present status of Aftercare programmes; the shortcomings and ICPS as the flagship scheme devised by GoI to overcome those shortcomings.

**Section 4** outlines the nature of problems faced by YLCs and focuses attention on the special problems of YAOs.

**Section 5** contains a quick analysis of the situation in Maharashtra and makes a few suggestions for improving the quality of Aftercare services.

**Section 6** deals with the state of funding available for Child Care & Protection in India and Maharashtra.

**Section 7** discusses the problems associated with two major initiatives taken by GoM – Anaath Certificate and 1% Parallel Reservation<sup>4</sup> - and suggests remedial action.

**Section 8** outlines the challenges in delivering Aftercare services in Maharashtra and offers some suggestions to overcome them.

**Section 9** deals with some of the major issues involved in PIL currently under consideration of the Supreme Court and their implications.

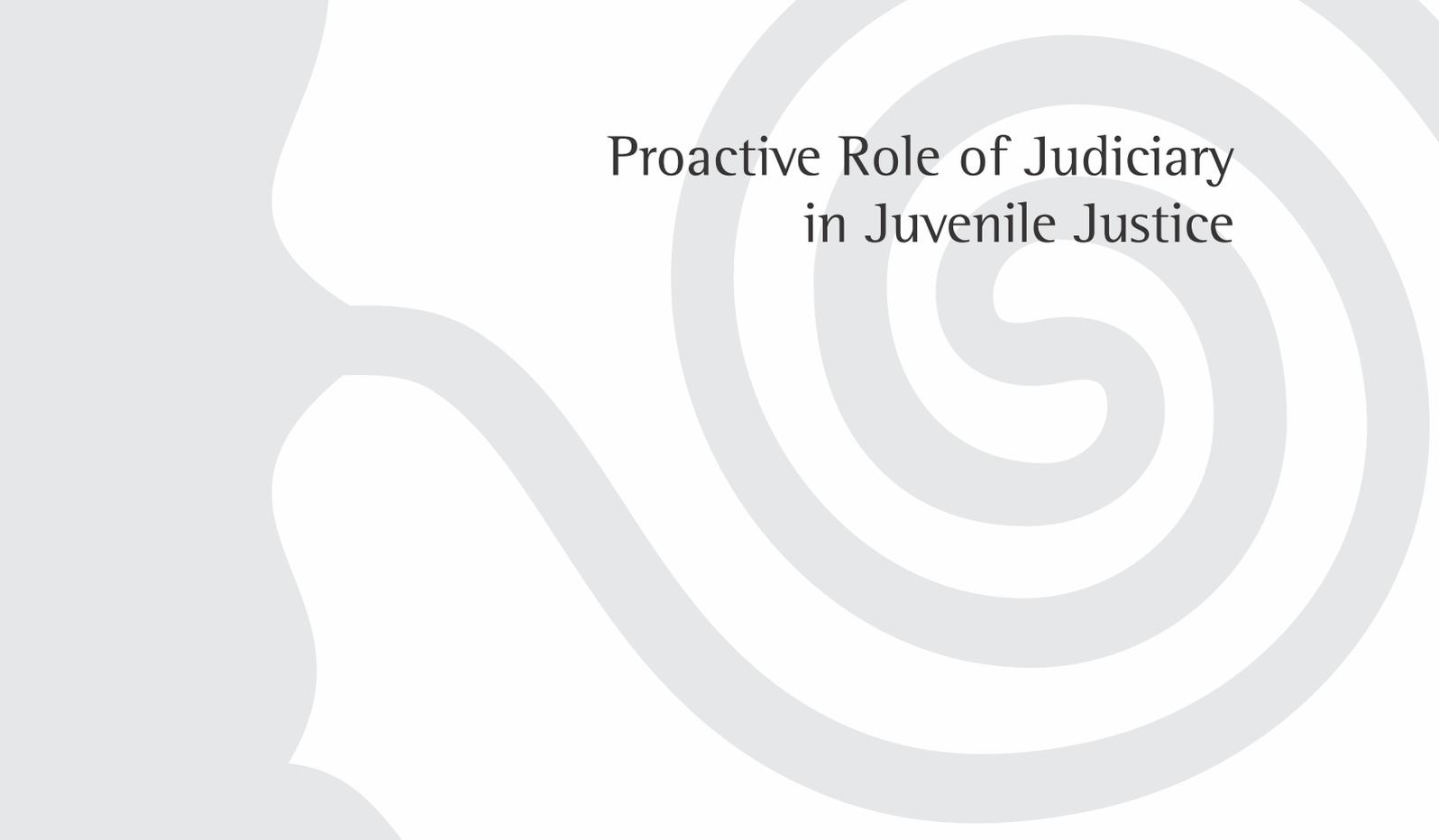
**The last section** contains a summary of recommendations. Annexure II contains text of the Guidelines on Aftercare issued by GoM. The working draft of the Policy paper was discussed in the round table meeting of multiple stake-holders held on 12th April 2018. Annexure III contains list of the participants of the round table meeting.





# Section 2

Proactive Role of Judiciary  
in Juvenile Justice

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1. In several cases including Charanlal Sahu Vs Union of India [AIR 1990 SC 1480], the Supreme Court upheld the doctrine of 'parens patriae' and held that the Government has sovereign power of guardianship over persons with disability and it is its duty to protect them. It was further held that where citizens are not able to protect their rights, Government must intervene and fight for their rights. It, thus, established a principle that in the case of orphans, i.e. children who are without any parent or caregiver, the State must assume the role of a parent. However, despite several steps taken and laws enacted during recent years, there are significant gaps in the role of the State as a 'parent' for an orphan.
2. Judicial intervention was partly responsible for the successive enactments of the Juvenile Acts of 1986, 2000 and 2006. However, implementation of the various statutory provisions by the Union Government and particularly the State Governments somewhat tardy and haphazard. Several activists from the civil society and Non-Government Organizations (NGOs) at various times moved the judiciary through the instrument of Public Interest Litigation (PIL). The Judiciary accorded due importance to the subject of child care and either acting on the PILs or on its own, has played a very positive and pro-active role in improving administration of the JJ Act.
3. The Chief Justices' Conferences held in 2006, 2009, 2013, 2015 and 2016 passed certain important resolutions. These included; (a) calling upon the High Courts to impress upon the State Governments to set up Juvenile Justice Boards, (b) nominating a High Court Judge to oversee the condition and functioning of the remand/observation homes and to take remedial measures for the betterment of the conditions of the juvenile homes; (c) calling upon the States to expedite appointments of Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs); (d) calling upon all the High Courts to appoint Juvenile Justice Committees to monitor the implementation of the provisions of the Act in their true spirit. This would indicate that the State Governments had been rather slow in fulfilling the basic structural requirement of the Juvenile Justice system.
4. In Sampurna Behura Vs Union of India & Ors. [W.P. (C) No.473 of 2005], decided on 6th February 2018, the Supreme Court directed that the Chief Justice of every High Court to register proceedings on its own motion for the effective implementation of the JJ Act so that road-blocks if any, encountered by statutory authorities and the Juvenile Justice Committee of the High Court are meaningfully addressed after hearing the concerned governmental authorities.'
5. The Committee for Juvenile Justice of the Supreme Court and the High Courts have

responded and acted positively to bring about several improvements, especially in (a) the living conditions in CCI, After-care Homes for adolescents passing into adulthood, in particular the homes for girls and children who are mentally challenged; (b) making juvenile courts child-friendly and various other issues connected with Child Protection & Care; (c) formulation of Rules & Guidelines and (d) filling up vacant posts in CWC and JJB.





# Section 3

Modes & Status of Alternative &  
Institutional Care in India

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## A: Why Institutional Care Dominates

1. Although non-institutional forms of alternative care (either adoption or foster care or sponsorship) are universally recognized as more appropriate forms of Child Care & Protection, for a variety of factors, Institutional care still happens to be the most common and visible form in India.
2. CARA functions as the nodal agency for regulating in-country and inter-country adoptions. The adoption-figures reported by CARA show a declining trend. From 6593 in 2011- 2012, the number has come down to 3927 in 2017-18<sup>2</sup>. Thus, adoption as a measure of rehabilitation and re-integration of orphans has a very limited application in India.
3. MWCCD issued Model Foster Care Guidelines for Foster Care and Sponsorship Programmes in the year 2016. Achievements under these programmes have not been reported in the public domain by MWCCD so far. Many of the States have also been operating Foster Care and Sponsorship programmes (mainly with the help of NGOs) by aiding the foster-parents. However, these two programmes cover all types of children-at-risk, including orphans and reliable statistics regarding their achievements are not available. It can be estimated that every year not more than a few thousand children are placed under Foster Care/Sponsorship in India. This lack of response from families to Foster Care/Sponsorship programmes could be (a) insufficiency of financial incentive; (b) lack of public awareness; (c) ineffective administering of these schemes at the District level.
4. The number of CNCP in India is so large that adoption, sponsorship and foster care programmes can, at best, cater to a very small percentage of orphans. Institutional care i.e. CHs must bear bulk of the responsibility for taking care of the orphans.
5. However, the institutional facilities (leaving aside the quality of care) in India are highly inadequate. In states like Jharkhand, 21 out of 23 districts do not have any CH of any kind. In Uttaranchal in 10 districts, in Chhattisgarh in 11 districts, in Bihar in 20 districts, in Uttar Pradesh in 29 districts there are no functional CCIs. Relative to this, the situation in Maharashtra is a lot better, although the quality of care provided by CHs in Maharashtra can be uneven.

6. The Jena Committee appointed by MWCD for the first time mapped the ground situation of all CCIs in India and reviewed 9589 CCIs (in 36 states). It found that 91% of the CCIs are run by NGOs, and the rest are run by government. The Jena Committee Report (2018) also states that there were 370,227 CNCP (199,760 boys, 170,375 girls) and 7422 CCL under institutional care in India. The report, however, does not specify the number of orphans and does not contain details of aftercare services provided by CCIs<sup>6</sup>.
7. Going by the estimates and reports of the international NGOs, only a small fraction of the CNCP in India (less than 1%) can find a place in CCIs. Very little is known about the status of their health, nutrition and education. Even the data about number of CCIs of different kinds and the number of children and their age-profile in CCIs, is not readily available.





## B: Shortcomings in the Institutional Arrangements

1. The sub Group Report on Child Protection in the 11th Five Year plan (2007-12) GoI, MWCD states that “In almost 60 years of independence and government functioning, little attempt has been made to respond to the needs of children in need of care and protection. The minimal government structure that exists is rigid and a lot of time and energy goes in maintaining the structure itself rather than concentrating on programmatic outcomes”. The report goes on to observe several major shortcomings and gaps in the infrastructure, set-up and outreach services for children.
2. The shortcomings specifically related to our policy paper are as under:
  - 2.1. No mapping of CNCP or of the services available for them at the district/city/state level
  - 2.2. A large percentage of CNCP outside the safety and services
  - 2.3. Inadequacy of existing schemes in outreach and funding, resulting in marginal coverage of destitute children and children in difficult circumstances
  - 2.4. Allotment of negligible resources to child protection and uneven geographical spread in utilization of allotted resources
  - 2.5. Overbearing focus on institutional services
  - 2.6. Lack of coordination and convergence of programmes/services
  - 2.7. Lack of professionally trained manpower for providing child protection services in the country, especially counselling services
  - 2.8. Inadequate training of personnel working under the juvenile justice system and on other child protection programmes which is also inequitable among States
  - 2.9. Lack of lateral linkages with essential services for children for example education, health
  - 2.10. Inadequate facilities for the CWCs and JJBs, resulting in delayed enquiries and disposal of cases
  - 2.11. Lack of standards of care (accommodation, sanitation, leisure, food, etc.) in CClIs due to low funding norms and lack of supervision and commitment
  - 2.12. Weak supervision, monitoring and evaluation of the JJ system
  - 2.13. Inadequate Number of CHs/CCIs/services for orphans,
  - 2.14. Inadequate attention to preventive measures with major focus of government programmes being on addressing the problem after it occurs.

## C: Integrated Child Protection Scheme & Aftercare

1. ICPS, the flagship programme of MWCD aims at streamlining the general institutional arrangements for Child Care & Protection. ICPS includes an After Care Programme for children without family or other support and who leave institutional care. The objective of ACS Programme under ICPS is to enable such children to adapt to the society and to encourage them to move away from an institution-based life. District Child Protection Society (DCPS) is expected to identify suitable voluntary organizations that will run such After Care Programmes. These organizations (whether run by Government or run by NGOs) are required to formulate an aftercare programme for each of the care-leavers for a period of 3 years.
2. Under ICPS, funds for managing after care programmes are provided to the states on the following scale: -
  - (i) States with less than 15 districts: Rs 15 lakhs;
  - (ii) States with 15-30 districts: Rs 30 lakhs and
  - (iii) States with more than 30 districts: Rs. 45 lakhs.
3. With these funds a state is expected to fund aftercare services including monthly allowance to all YLCs upto Rs 2000 per person for education /vocational training; residence, food and other requirements, upto the age of 21 years.
4. Key-components of Aftercare include: -
  - (a) Community group housing on a temporary basis for groups of 6-8 Cls;
  - (b) Encouragement to learn a vocation or gain employment and contribute towards the rent as well as the running of the home;
  - (c) Encouragement to gradually sustain themselves without state support and move out of the group home to stay in a place of their own after saving sufficient amount through their earnings;
  - (d) Provision for a peer counselor to stay in regular contact with these groups to discuss their rehabilitation plans and provide creative outlets for channelizing their energy and to tide over the crisis periods in their lives;
  - (e) Providing stipend during vocational training until the youth gets employment; and
  - (f) Arranging loans for youths aspiring to set up entrepreneurial activities.

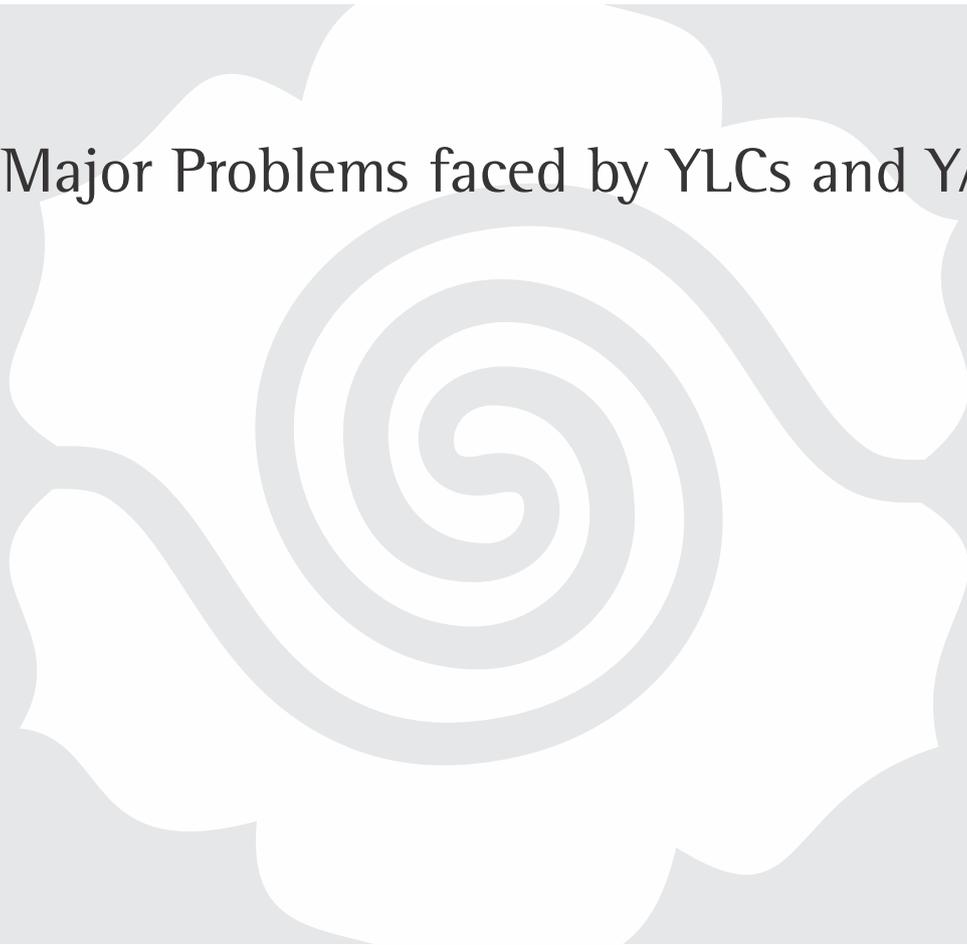


5. The ICPS guidelines further stipulate that every DCPS shall have an After Care Fund for carrying out after care programme as per the provisions laid down under the Juvenile Justice (Care and Protection of Children) Act 2000 and respective State Rules under the Act. The DCPS shall in turn release grants up to a maximum of @Rs.2000/- per child per month either to the Individuals or to the Organizations providing Aftercare services based on the individual needs of every child. This amount shall include expenses for basic needs of the youth including food, clothing, health care and shelter; age appropriate and need based education and vocational training; stipend; and other requirements.
  
6. It is heartening to note that on 19.06.2019, GoM has issued Policy & Guidelines for Aftercare Services for YLCs. (Annexure II). According to the ICPS (as well as GoM guidelines), the DCPU shall identify suitable voluntary organizations that will run such Aftercare Programmes. However, neither ICPS nor GoM guidelines include specific provisions for the norms and criteria for registering, recognizing and assisting Aftercare Homes in NGO sector. The amount of Rs 2000/- p.m. per capita can be sanctioned to the YAOs undergoing an Aftercare programme but it is not clear whether the residential Aftercare Homes run by NGOs would be eligible for any grant-in-aid to cover the infrastructure, lodging and boarding expenses for the entire gamut of aftercare services to be provided to YAOs. This amount was originally fixed in the year 2009-2010 and has not been revised so far.



# Section 4

Major Problems faced by YLCs and YAOs





## A: Enumeration

1. One of the basic problems of this sector is lack of reliable data about the number of CNCP falling under various categories. There has never been an official census or even a sample survey of orphans in India and therefore no official statistics for the number of orphans ~ are available.
2. The UNICEF publication 'State of the World's Children Report' (2007) mentioned the figure of 25 million orphans (defined as child with one or neither parent living) in India. The Reports (2014) and (2016) both mention a figure of 29 million orphans.
3. SOS Children's' Villages – an international NGO of high standing – in its publication 'India - National Child Vulnerability Situation Analysis Report' (2011), quotes a figure of 20 million orphans (i.e. children living with single or neither parent) non-abandoned children in India.
4. World without Orphans (WWO), a global NGO, reports an estimated figure of 31 million orphans in India (UNICEF-like definition of orphan).
5. According to Child Line Foundation (nodal agency of MWCD of GoI), out of the Indian population of 1.21 billion in 2011, about 39% or 472 million were children below the age of 18 years. Children In India 2018- Statistical Appraisal (publication by Ministry of Statistics & Programme Implementation, GoI) states that about 5% of the children in the age group of 0-18 years were orphans (definition similar to UNICEF). From these two reports it can be estimated that about 23.2 million children in India needed alternative care and were living with single or neither parent.
6. For the purposes of this paper, we have conservatively assumed that there are about 2.5 crore CNCP out of which approx. 2.0 crore are orphans (living with single or neither parent). Maharashtra accounts for 10% of Indian population and therefore, it can be assumed that about 25 lakh CNCP (including 20 lakh orphans) reside in Maharashtra.
7. NITI Aayog, in its 3 years Action Agenda (2017-2020) acknowledges non-availability of credible data as a major obstacle in designing effective policy interventions in many sectors of social development.

8. A census of 'deprived' families was undertaken as Social and Economical Caste Census 2013 (SECC). Interestingly, the entitlement to health insurance cover under the Pradhan Mantri Jan Arogya Yojana (PMJAY) is automatically granted to members of households included in the SECC. They are not required to register separately for PMJAY. However, SECC captures only 'households' in the census but orphans (whether living under institutional care or otherwise) are not covered by the definition of a 'household', with the result that orphans are not entitled to automatic coverage under PMJAY, as well as other benefits that may accrue to the members of households included in SECC.





## B: Common Problems of YLCs and YAOs

1. The children living in Institutional Care have minimal community integration or interaction and many of them may not have acquired essential resources like employable skills, educational achievements, social and life skills, information about opportunities for personal development etc. Many of them begin the transition to an independent adult life carrying with them the baggage of their unpleasant experiences. They face several personal, professional and social hardships such as physical and mental health issues, homelessness, substance abuse, conflicts with law, abuse and violence, teenage pregnancy, social exclusion, incarceration, and self-harm and suicide. Some of them turn to crime or undesirable occupations such as bootlegging or prostitution. Only a few of them can stabilize themselves and become respectable citizens. There is no reliable data available on how many of them commit suicide or seek livelihood in criminal activities such as bootlegging, gambling or prostitution.
2. YLCs also lack the basic documents and certificates such as ID proof, Aadhaar Card, Address Proof, Caste Certificate, Income Certificate, Ration card, Voters' ID card, Place of Birth certificate etc. All they have may have is a certificate from the CH. As a result, employers do not trust them. The educational institutions, banks, fair-price shops also often turn them away for want of basic documents. Renting accommodation is also a challenge for them. In the last few years, Maharashtra authorities have introduced the practice of issuing 'Aadhar' cards to all YLCs, which can reduce their difficulties in this regard to a great extent.
3. At the time when YLCs leave CHs, they have generally completed or nearly completed their education up to 10+2 standard. However, in the absence of support, they find it very difficult to pursue higher education, if they so desire.
4. YLCs need to be supported, guided and counseled so that they are able to explore and avail opportunities to realize their full potential. They face difficulties such as locating and accessing safe and stable housing; building strong and positive relationships with members of their social networks; being able to manage crisis and stress; pursuing higher education or vocational training and life skills essential for finding employment. It is, therefore, important to ensure that YLCs receive care and support outside CCI, on a continuous basis, till they are able to manage on their own.

5. For children living in a care-setting, it is common to face frequent changes in schools and CHs often resulting in loss of academic programmes ranging from four to six months and disrupted relationships with teachers and peers. This can have an adverse impact on their educational progress and psychological development. Quite often, they begin to lose interest in education and/or skill development.
6. Many young adults raised in alternative care have experienced trauma in one form or another and they face 're-traumatization' after leaving care. Many of them must bear a stigma of criminal background. Any meaningful aftercare programme, therefore, needs to have a component of mental health and continuous support in the forms of counselling, guidance, interventional support, and services delivered by qualified mental health professionals. Each child exiting from care has had unique life experiences and therefore, the interventions must be suited to individual needs.
7. Aftercare is an important final stage in the continuum of care, as it ensures smooth rehabilitation and reintegration of YCL in the community and therefore, ACS ideally need to commence at least two or three years prior to their departure from the care setting. This would include socio-psychological support therapy, aptitude-testing and developing an individual development plan. In this preparatory stage, the CH must also provide vocational training alongside the normal education.
8. In the absence of any credible 'tracking' mechanism, nothing much is known about how many of the YLCs have managed to successfully rehabilitate in the society. The State as well as NGOs invest considerable amount of money and efforts in providing institutional care and ideally, there must be a mechanism to capture the outcome of their efforts. Also, monitoring of YLCs after their exit from care would give important feedback about the gaps and deficiencies in the pre-exit preparations as also in the aftercare services.
9. CHs provide education upto the 10th standard. There are no provisions for scholarships or after-school coaching. The provision of education in good schools is included in the Right to Education policy for children of below-poverty-line parents but very few CHs appear to access the RTE provisions. Most orphans 'age out' by the time they reach 10th standard. The State expects YAOs to educate themselves without any support from the State. It is true that the ICPS provides for establishment of Aftercare Homes and also financial support @ Rs. 2000/- pm to YLCs. This amount is grossly inadequate. There is no provision for any grant-in-aid to the NGOs who undertake the provision of residential or



nonresidential aftercare services. Moreover, the number of operational Aftercare Homes is very small and the operational modalities of releasing the financial assistance of Rs 2000 pm to YLCs are not yet established.

10. UNGACC provide comprehensive guidance on minimum standards for ACS. Support for Aftercare (Para Nos 131 to 136) is an important section of UNGACC. GoM needs to consider UNGACC while framing policy as well as guidelines for ACS.



## C: Special Problems of YAOs

1. YAOs face the entire range of problems like other YLCs but they have a few ‘special’ problems of their own. Their eighteenth birthday is a disheartening and traumatic event for them, as they become ‘orphans’ for the second time. Some of the YLCs are able to revert to their family-setting but the YAOs have no such option.
2. Amand Shukla and Poulomi Pavani Shukla call the orphans as the weakest on the earth in their book ‘Weakest on Earth: The Orphans of India’ (Bloomsbury 2015). They have argued with considerable force that every creature comes into this world the weakest and most defenseless amongst its kind. A human baby, who takes over a year to learn to feed itself and over a decade to fend for itself is the most fragile of the newborns and therefore, the human infant is biologically the weakest living being on earth. It cannot do anything without the support of its parents and a child abandoned by its parents or orphaned due to loss of parents must be termed as the weakest on earth. They make a strong case for the State evolving sound and robust policy instruments as well as institutions to provide care and protection to orphans till they are empowered to live a productive and useful life as responsible members of the community.
3. Recently, GoM has made a provision for issuing an ‘Anaath’ certificate to YAOs. While this is a welcome move, there is a need to remove a few glitches in the regulations governing ‘Anaath’ certificate, which are discussed later.
4. The problems of rehabilitation faced by female YAOs are even more acute because of the safety and security related issues.
5. The YAOs as a subset of YLCs need a policy specially designed to address their special requirements.





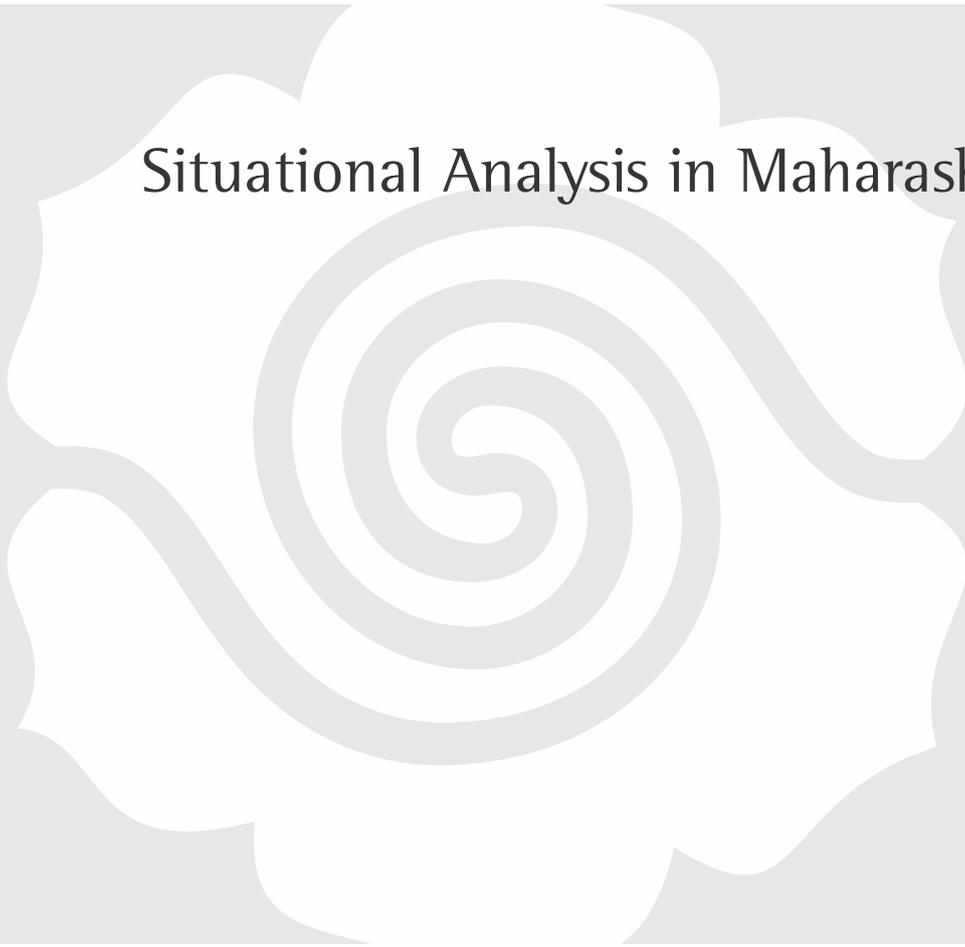
## D: Name, Religion and Caste of YAOs

1. At present, the CCIs, at the time of admission of an orphan, 'give' a certain name to the child, which often denotes a religion and a caste. The orphan has no choice in the matter but to carry this name for the rest of his/her life. In our interactions with the YAOs, many of them expressed that after attaining adulthood, they should be given an opportunity to assume a name, religion and caste of their choice, by making an affidavit or some other legal documentation. This would be in accordance with Article 8 of the UNCRC (1989) which states "1. States undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. 2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity".
2. According to reports in Indian Express dated 26.02.2016 and 23.9.2016; the National Commission for Backward Classes (NCBC), first considered the inclusion of orphans in the central OBC list in May 2015, in the light of the Judgment of the Supreme Court in Ram Singh Vs Union of India (Writ Petition No 274 of 2014, decided on 17.02.2015). In February 2016, NCBC passed a resolution that destitute orphaned children who have lost their both parents before the age of 10 and who have no guardian to take care of them and who are admitted to either government or government-aided orphanages/ schools should be included in the OBC list and held eligible for reservation at par with all OBC castes for admission in government schools and jobs. Tamil Nadu had already started giving reservation to the destitute orphaned children under the state OBC list since the year 2013 and had requested the Centre to include orphans in the central OBC list. The NCBC had written to all states asking for their opinion on the matter. Following this, the Telangana and Rajasthan governments included orphans in their state OBC list. In Madhya Pradesh, the state Backward Classes Commission recommended the inclusion, but it was turned down by the state government.



# Section 5

Situational Analysis in Maharashtra





## A: Administrative Set Up in Maharashtra

1. The Department of Women & Child Development (WCDD) is the nodal department of the Government of Maharashtra (GoM) for provision of services to children and the Commissioner (WCD) heads the field agency of WCDD. At the Regional level, the work is supervised and coordinated by the Divisional Deputy Commissioner (WCD) and at the district level by the Women & Child Development Officer (DWCDO).
  
2. After the enforcement of the JJ Act and the ICPS all state Governments are required to establish the following mechanisms at the State level such as Maharashtra State Child Protection Society (MSCPS) and Maharashtra State Commission for Protection of Child Rights (MSCPCR) and at the District level:
  - (a) District Child Protection Society (DCPS);
  - (b) District Child Protection Unit (DCPU);
  - (c) Juvenile Justice Board (JJB) and
  - (d) Child Welfare Committees (CWC).



## B: The Maharashtra Juvenile Justice Rules (MJJR), 2018

1. The Maharashtra Juvenile Justice Rules (MJJR), notified in 2018, after care support is, envisaged and categorized in two parts: one is around housing and second is around other services.
2. Salient features of MJJR are as under:
  - 2.1. Types of aftercare services have been grouped into (a) Aftercare Homes/ Hostels or community group housing or group home on a temporary basis for groups of six to eight persons; and (b) Nonresidential Aftercare Centers for Personal, Social and Vocational Guidance.
  - 2.2. Other aftercare support services provided to CLs may include (a) vocational training or scholarships for higher education and support till the person gets employment; (b) arrangements for skill training and placement in commercial establishments through coordination with National Skill Development Programme, Indian Institute for Skill Training and other such Central or State Government programmes and corporate, etc.; (c) provision of a counselor to stay in regular contact with such persons to discuss their rehabilitation plans; (d) provision of creative outlets for channelizing their energy and to tide over the crisis periods in their lives; (e) arrangement of loans and subsidies for persons in aftercare, aspiring to set up entrepreneurial activities; and (f) encouragement to sustain themselves without State or institutional support.
  - 2.3. The State Government (Rule 27) shall prepare an aftercare program for children who have to leave CCIs on attaining eighteen years of age by providing for their education, giving them employable skills and placement as well as providing them places for stay to facilitate their re-integration into the mainstream of society. It further provides that any child who leaves a CCI may be provided after care till the age of twenty-one years and in exceptional circumstances, for two more years on completing twenty-one years of age.
  - 2.4. The DCPU shall prepare and maintain a list of organizations, institutions and individuals interested in providing after care as per their area of interest such as education, medical support, nutrition, vocational training etc. and the same shall be forwarded to the Board or the Committee and all Child Care Institutions for their record.
  - 2.5. The Probation Officer or the Child Welfare Officer or case worker or social worker, shall prepare a post release plan and submit the same to the Board or the



Committee, two months before the child is due to leave the CCI, recommending after care for such child, as per the needs of the child.

- 2.6. The Board or the Committee or the Children's court, while monitoring the post discharge plan will also examine the effectiveness of the aftercare program, particularly whether it is being utilized for the purpose for which it has been granted and the progress made by the child as a result of such Aftercare program.
- 2.7. Children, who are placed in Aftercare program, shall be provided funds by the State Government for their essential expenses; such funds shall be transferred directly to their bank accounts, if they are placed in after care group homes. In the case of children living in after care home, such funds may be transferred to the organization providing after care home facility.
- 2.8. Other after care support services provided to children discharged from an institution on attainment of eighteen years may include: (i) provision of stipend during the course of vocational training or scholarships for higher education and support till the person gets employment; (ii) arrangements for skill training and placement in commercial establishments through coordination with National Skill Development Program, Indian Institute for Skill Training and other such Central or State Government programs and corporate, etc.; (iii) provision of a counsellor to stay in regular contact with such persons to discuss their rehabilitation plans; (iv) provision of creative outlets for channelizing their energy and to tide over the crisis periods in their lives; (v) arrangement of loans and subsidies for persons in Aftercare, aspiring to set up entrepreneurial activities; and (vi) encouragement to sustain themselves without State or institutional support.
- 2.9. The Management Committee, that has to be constituted in each and every CCI under this Act, is vested with the responsibility of meeting at least once every quarter or sooner as per need to consider and review planning post-release or post-restoration rehabilitation programme and follow up for a period of two years in collaboration with after care services, and inter-district and in co-ordination with inter-state networking agencies as the case may be; pre-release or pre-restoration preparation; release or restoration or repatriation; post release or post-restoration or repatriation follow-up; and minimum standards of care, including infrastructure and services available.
- 2.10. MJJR also provide for setting up 'Juvenile Justice Funds' and further state that the State Government has to make adequate budgetary allocations towards this Fund, and may receive donations, voluntary contributions, subscriptions or funds

under Corporate Social Responsibility whether given for any specific purpose or not. This Fund has to be utilized for implementing programmes for the welfare and rehabilitation of children, providing entrepreneurial support, skill development training or vocational training; specialized professional services, counselors, etc. and can also be used for Aftercare support.

- 2.11. The functions of the SCPS include (a) developing a program of Aftercare; (b) maintaining a data base of Aftercare organizations. Similarly, MJJR also details the functions of the DCPU, which includes facilitating the implementation of the Aftercare programmes as per the orders of the Board or the Committee or the Children’s Court; and maintaining a database of Aftercare organizations and institutions etc. at the district level and forwarding the same to the Committees and the SCPS.
- 2.12. Every CCI should appoint a Rehabilitation cum Placement Officer (RPO) for the specific purpose of rehabilitation of children.
- 2.13. GoM has, thus, taken an important step by notifying a comprehensive and progressive set of rules. In some respects, the MJJR 2018 expands and surpasses the Model Rules (2016) of MWCD. We understand that MWCD is expected to issue detailed guidelines for aftercare services. GoM has framed and notified its own operational guidelines.





## C: Present Status of Aftercare in Maharashtra

1. Neither ICPS nor GoM have issued detailed guidelines for ACS. However, under the directions of the JJC of the Bombay High Court, GoM has undertaken the task of formulating detailed guidelines for Foster Care, Sponsorship and Aftercare programmes.
2. Initially, the progress of making appointments of members of JJB and CWC and staff under DCPU was slow in Maharashtra like most other states but after repeated directives from the Judiciary, this has improved considerably. So far as far as Registration of CCI is concerned, (statutory requirement under the JJ Act), good progress has been made in Maharashtra.
3. According to the Resource Cell for Juvenile Justice of Tata Institute of Social Sciences (unpublished paper), there were 1189 CCIs (all types) in Maharashtra in 2015-16. The collective 'sanctioned' strength of all CCIs was about 100,000. There are still some CHs in the NGO-sector, who may be unregistered. A few of the CCIs run by NGOs do not seek funding from the Government. A drive was undertaken in 2017 by GoM to derecognize those CCIs who do not fulfill the prescribed norms and recognition of 284 CCIs was withdrawn. Even in case of CHs registered and receiving grant-in-aid, there are problems of data-collection and data-validation, particularly with the number of YCLs and YAOs.
4. The Jena Committee (appointed by MWCD) report of 2018 gives the following numbers for Maharashtra:

Types of CCIs	No. of CCIs
Observation Homes	53
Special Homes	3
Children home	1,137
Shelter homeS	15
wadhar Home	14
Ujjawala Home	7
SAA	55
<b>Total Number of CCIs</b>	<b>1,284</b>

5. At the time of compilation of data in 2016-17, it was found that 365 CCIs in Maharashtra were still unregistered, whereas applications of 267 CCIs were under process.

6. According to government statistics, there were 21,000 children in different CCIs of Maharashtra and every year 5,000 to 6,000 young adults are released from state's care. From 300 organizations 190 care leavers have been released and recommended for aftercare support in the year 2017-18. (Udayan Care Report: Inception Process of the current Aftercare Practices (CAP) April 27-28 Pune).
7. It is difficult to determine the existing number of orphan/CNCP children living in CHs or the number of YCLs and YAOs or to make future projections about the number of YAOs, who may need Aftercare services. It has been estimated by one NGO that every year about 4000 YAOs pass out of the CHs in Maharashtra. According to the Deputy Commissioner of WCDD about 5000 to 6000 YLCs transit from CCIs. However, these estimates need to be validated. As for the number of orphan / CNCP children living in CHs outside the pale of CHs, there is no hard data or any reliable estimates available.
8. For a total of 36 districts in Maharashtra, there are seven Government Aftercare Hostels (called Anurakshan Gruh), of which one is managed by an NGO. Six of these seven homes are for boys (located in Amravati, Aurangabad, Nashik, Kolhapur, Mumbai, Nagpur, and Pune); whereas there is only one girl's hostel in Nasik. As on January, 2019, the total capacity of these homes was 640 (540 males and 100 females) YLCs. No Aftercare Homes exist in rural locations of Maharashtra. There are no government-run, non-institutional programmes (Aftercare Centers) that could provide any non-residential aftercare services to YLCs who are either restored to families or choose to live in non-institutional housing.
9. According to the Economic Survey of Maharashtra of 2017-18 (p. 203) at present there are six Government and three NGO-managed Aftercare Homes in Maharashtra with a total intake capacity of 600 and 110 respectively. However, the number of beneficiaries in the Government managed Aftercare Homes, appears to be 123, (about 20% of the intake-capacity). The Government provides grant-in-aid of Rs 1215 per month per resident of these homes for providing residential facilities, food, clothes, education, medical facilities, counseling, vocational guidance, etc.
10. The present capacity of the Aftercare Hostels/ group housing facilities in the state is grossly insufficient to cater to the needs of about 5000 YLCs who exit from CCIs every year. At present there is no scheme operated by GoM for recognizing and assisting 'After Care' Homes for YAOs in the NGO-sector. Some NGOs such as SOS Village provide Aftercare services to the persons exiting from their own CHs without seeking funds from GoM. Some other NGOs like Udayan care (New Delhi), Prerana (Mumbai), Committed



Community Development Trust (Mumbai), Prayas (Mumbai) , Vinimay Trust (Mumbai), Catalysts for Social Action (Mumbai), Our Children (Mumbai), Ekata Niradhar Sangh (across Maharashtra), New Vision Foundation Sanath Welfare Foundation (Pune), Kshamata (Mumbai) run residential/group Aftercare Homes but they operate under severe resource-constraints and their scale of operations /capacity is severely restricted. These after-care homes (hostels or group housing) have not been formally recognized by GoM.

11. GoM may consider instituting a scheme of Grant-in-Aid to NGOs working in the field of Aftercare Services on the lines of 'The Scheme of Grant-In-Aid to Voluntary Organizations Working for the Welfare of Scheduled Tribes (with effect from 1st April 2008), being operated by the Ministry of Tribal Affairs, GoI.
12. Under the guidelines issued by GoI under the ICPS, all CHs are required to prepare Individual Care Plans, outlining the steps to be taken for the children in the age group of 15-18 for facing life in the communities after exiting from the CCIs, as also the aftercare Services they may need after leaving the CCI. However, very few CCIs seem have undertaken this exercise in the right earnest.
13. The problem is further compounded by the fact there is no mechanism in existence to track and trace the YAOs after they leave the CCIs and hence there is no authentic information available about the nature and extent of their rehabilitation status.
14. There is also a need to provide a legal & administrative framework (appropriate Government Resolutions/circulars applicable to all Departments) to provide and honor various documents issued to the YAOs such as Birth Date/ Place of Birth/ Caste or Income certificates, Aadhar Cards, Voters' ID cards etc.
15. A public interest litigation (PIL) highlighting problems of Orphans was filed by Advocate Rajendra Anubhule in the Supreme Court of India. It is learnt that in response to the notices issued by the SCI, the Central Government, Seven Union Territories and 28 States have initiated the process of developing a comprehensive policy in respect of aftercare services to be provided to YAOs/ YLCs., which will cover areas such as specific schemes/programmes of rehabilitation services including providing food, clothing and shelter; financial assistance/scholarships for completing education and/or skill development, assistance for employment/ self-employment. As noted earlier, GoM has issued detailed guidelines on ACC and ACS.

16. At present, a grant of Rs. 2000/- p.m. for per person under the Aftercare Programme is admissible under the ICPS guidelines. The amount of monthly grant was originally fixed in the year 2009 when ICPC was launched and there has been no revision thereafter. The grant amount is grossly insufficient as the YLC has to incur expenditure on paying fees, boarding & lodging, transportation, health care and other sundry expenses.





## D: Community Participation and Local Self Government Bodies

1. One of the stated objectives of ICPS is to raise public awareness by educating the public on child rights and protection; on the situation and vulnerabilities of children and families and by informing the public on available child protection services, schemes and structures at all levels. It also proclaims that ICPS will function on the principle of Government – Civil Society Partnership.
2. The Local Self Government Institutions (three-tier Panchayat Raj Institutions in the rural sector and the Municipal bodies in the urban sector) do not seem to have been given any significant role and specific responsibilities in planning and implementation of the programmes under ICPS, except for naming the President of Zilha Parishad as co-chairman of DCPS.
3. Maharashtra state was the first in the country to have ushered in the three-tier Panchayat Raj Institutions (PRIs) at Village, Block and District level way back in 1962. The system is well entrenched and has shouldered many responsibilities in rural development and poverty alleviation programmes. This system has ensured community participation in the development process and administration.
4. GoM has directed that Zilha Parishads (District) , Panchayat Samitis (Block) and Gram Panchayats (Village) earmark at least 10% of their own funds for Women & Child Welfare and there are WCD committees formed at all levels. GoM has also prescribed a list of schemes on which the PRIs can incur expenditure from the earmarked funds. For example, an amount of Rs. 21 crores were earmarked by Pune Zilha Parishad in FY 2017-18. However, no scheme relating to aftercare services is included in the list of schemes prescribed by GoM.
5. Maharashtra is urbanizing at a rapid rate and by 2021, it may have more than half of its population living in urban areas. GoM has not issued any directives to the Municipal bodies to establish WCD Committees or earmark any funds for WCD activities. Each Municipal body devises its own schemes and programmes for WCD. The Municipal Corporations and other municipal bodies can also share responsibilities of implementing ICPS with the State Government provided GoM involves them in the task.

6. Involvement of the local bodies seems important also from the point of view of implementation of the National Action Plan for Children -2016, which provides for establishment of Village Level Child Protection Committees (VLCPC) at Gram Panchayat, Revenue Village, Ward and Block levels. It also envisages village-wise and block-wise mapping of vulnerable children by types of vulnerability.
  
7. As observed by Hon'ble Justice Gupta, Chairperson of the Supreme Court's Juvenile Justice Committee, "There is a need for "de-officializing the institutions". (UNICEF report on 'Roundtable of Thought Leaders and Practitioners : Reforming services for children under the Juvenile Justice Act). One important step in that direction would be to institutionalize 'social audit' for all CCIs. Each of the CCIs may be asked to constitute a 'Board of Visitors' consisting of eminent persons from the community and WCCD may prescribe a suggestive format for reporting by the Visitors' Board. **The Youth Leaving Care can be a effective stakeholder for the transforming JJ system, it will be helpful if their participation taken into consideration**





## E: Quality of Aftercare Services in Maharashtra

1. Udayan Care, a leading NGO in India working for the last 25 years in the field of child care, studied the current aftercare practices in Maharashtra. Udayan Care: A Study of Current Aftercare Practices (CAP) in Maharashtra- 2019 provides some important insights as well as guidance for redesigning the aftercare programmes in Maharashtra. During the study, the Udayan Team interviewed 107 YLCs in Maharashtra in the age group of 17 to 25 (74male and 33 females, 51 from Government run CCI and 55 from NGO-run CCI). It is important to note that CLs who did not receive any ACS post-exit and/or who chose to live independently without organizational support were extremely hard to find and inevitably underrepresented in the study sample.
  
2. Some of the key- findings of the study are as under:
  - (1) 44% CLs were placed in more than one CCI during their childhood, which was found to have significant (unsatisfactory) correlation with emotional well-being, acquiring of interpersonal skills and independent living skills, and even the formation of their social support network.
  
  - (2) 39% CLs were not consulted in preparing their Individual Care Plan (ICP) which included Aftercare or rehabilitation planning.
  
  - (3) 16% CLs were unable to continue their education as per their wishes during their CCI stay. This number increased to 31%, who informed that education was discontinued during the Aftercare period against their wishes.
  
  - (4) A set of skills that could empower CLs to achieve satisfactory outcomes in key domains of adult life were identified under 3 broad categories - Job-readiness & Vocational Skills; Independent Living Skills and Interpersonal Skills. A composite score for these 3 categories was computed by factoring in whether children in CCI received any training for developing these skills. It was found that only a quarter of the sample fell in the 'satisfactory' range, while the Skill Index in CCI of the remaining 75% CLs was either 'neutral' or 'unsatisfactory'.
  
  - (5) Out of 103 Aftercare receivers, 62 were placed in residential homes (52 male CLs, living across 7 Government Aftercare facilities and few NGO-run Aftercare hostels and only 10 females). Most of the 10 young women are supported by either NGOs providing hostel

services or by Swadhar Gruha (hostels for destitute women). 41 out of 103 Aftercare receivers lived in non-institutional accommodation (Seven living in accommodation such as group-housing, Paying Guest accommodation, rented accommodation, etc., which were supported by their CCI/Aftercare agency and 34 living independently).

(6) The education level of CLs interviewed ranged from illiterate (2%) to post-graduation (2%). Bulk of them had secondary & higher secondary education (64%), whereas 7% had Diploma and 12% had College-graduation.

(7) Only half or less of all CLs had received training in one or more career-related skills in CCI; while 26% to 41% received training during their Aftercare transition phase. A greater proportion of CLs from NGO-run CCIs had acquired vocational skills as compared to CLs from Government-run CCIs. More female CLs also reported as having acquired these skills in their CCIs as compared to the males, although this could be because most females in the sample belonged to NGO-run CCIs.

(8) Out of 107 CLs, 55 had either held or currently hold salaried jobs and 4 were self-employed. A significantly greater proportion of males reported having their own sources of income than females. 51% CLs believed that the Government should provide financial support to their Aftercare organization for each young adult supported by them, whereas 36% thought this monetary support should be given directly to CLs. The remaining 13% did not have an opinion. 35% believed an amount of Rs. 2,000 per youth per month would be sufficient but even that is not disbursed properly as of now. 32% suggested an amount up to Rs. 8,000 per youth per month would be required. 33% stipulated an even higher amount, ranging from Rs. 8,000 to Rs. 30,000.

(9) At the time of interviewing, 39% CLs were pursuing education, and 26% were pursuing vocational/technical Training. 9% were looking for employment, whereas 7% had no engagement.

(10) 23% reported that their communication and English-speaking skills were poor and 11% reported that averting monetary crisis had taken precedence over pursuing their goals. 20% CLs thought their education and/or skill level were inadequate.

(11) 67% CLs had not received any information regarding their legal rights and responsibilities towards others as an adult prior to leaving their CCI. 43% CLs were not even aware of their fundamental right to identity through documents such as Aadhar



Card, Voters' ID Card, Birth Certificate, Passport, etc. 71% CLs were unaware of the fact that they were entitled to Aftercare support and services under the law. 96 % CL possessed Aadhar card and 28% held Voters' ID card.

(12) 97% needed assistance in completing their higher education; 94% needed assistance in finding adequate housing; 94% needed assistance for training/guidance to achieve financial independence; 93% needed help for vocational / job readiness/ skill development; 93% needed career counselling and assistance in job placement; 89% needed better physical healthcare amenities; 87% needed professional mental health interventions; 77% reported the need for legal literacy workshops/training.

3. These findings indicate that investments to ensure better quality care, individual care planning, education, and targeted skilling during childhood would allow for a smoother transition into independent living, resulting in better outcomes in key domains of adult life.
4. As admitted by Udayan Care, the study encountered a serious problem of tracking CLs for interviews. . Relatively, YLCs from NGO-run CCIs, particularly females, were more easily available than those from Government-run CCIs. Although the proportion of YAOs amongst the respondents has not been specifically mentioned, the study reveals lack of tracking of YLCs and several other areas for improvement in the pre-exit care and post-exit care services.



# Section 6

Inadequate Funding at National &  
State Level





1. The HAQ Centre of Child Rights started the international practice of analyzing the 'child' component of the Union Budget in India in the year 2000, by disaggregating the complex document of annual budget. The practice of denoting the 'child budget' was subsequently adopted by the Union Government. Analysis of the child budgets for the years 2015-16 to 2017-18 carried out by Ms. Poulomi Pavani Shukla – a social activist and a practicing advocate – in her book 'Weakest on Earth: Orphans of India' shows that the 'child-budget' accounts for 3.5% of the Union Budget. Further, the components of Education, Development and Health taken together account for 98.5% of this provision, leaving just 1.5% the child budget for Child Protection & Care.
2. The Union Budget for 2018-19 provides for a total expenditure of Rs 24, 42,213 crores, of which an amount of Rs 725 crores is earmarked for 'Child Protection & Care' (whereas Rs 21,000 crores were provided for recapitalizing of Public Sector Banks). In other words, for estimated 25 million CNCP (including Orphans), the provision available would be less than 80 paisa per child per day.
3. These low allocations for ICPS were also not being utilized fully. In the year 2009-10, Rs 50 crores were allocated (RE) for ICPS, out of which Rs. 42.63 were spent. In the year 2016-17, against the allocation of Rs. 610 crores (RE) an amount of Rs.576.96 was spent. Inadequate funding has resulted in very low coverage of the ICPS Scheme.
4. The total number of beneficiaries (as reported by MWCD) was 36780 in the year 2009-10 when 17 states had signed the MOU with MWCD. In the year 2015-16, the number of states rose to 36 states, but the number of beneficiaries was 76463.
5. GoI provides about 75% funding for most of the schemes and programmes under ICPS and about 25% of the expenditure is borne by the states. After considering the State-share, the total expenditure on child protection & care would come to less than Rs 1/- per day per child. This allocation includes provisions for staff-salaries, vehicles, office-expenditure and incidentals. The amount directly available for children would be even lower.
6. Maharashtra is one of the laggard-states in utilizing the full quantum of Central share under the ICPS, mainly owing to a lack of sufficient budget allocations to cover the full amount of state-share.

7. Maharashtra Government does not present the 'Child budget' and the provisions for 'Child Protection & Care' have to be derived from the overall allocations for WCDD. Generally speaking, the State's expenditure for Child Protection & Care amounts to less than 0.2% of its total budgetary expenditure. It has been contributing its share for most of the schemes under ICPS and other centrally sponsored schemes. However, there are some notable exceptions. For example, the State is entitled to 75% grant from the Centre for the State Commission for Protection of Child Rights provided it contributes its share of 25% but in FY 2017-18 and 2018-19, Maharashtra did not provide for its contribution of 25% share and hence the State was not able to get grants from GoI to the full extent. There have been no special allocations from the State Government for Child Protection & Care over and above the Centrally Sponsored Schemes. Recently, GoM approved extension of benefits under the 7th Pay Commission to its 20.5 lakh employees and the additional burden annually on account of this wage-revision is expected to be Rs. 21,000 crores. However, the schemes of Child Protection and Care continue to be underfunded.
  
8. At present, 15% of the State budget is earmarked as 'Special Component Plan' and 9% of the State budget is earmarked for 'Tribal Sub Plan'. We recommend that 1% of the State budget may be earmarked as 'Childcare Component Plan' for 'Child Protection & Care' programmes and entrusted to the State Juvenile Justice Fund as 'discretionary flexi fund' to be utilized for supplementing the grants for various schemes and programmes being implemented by WCDD for 'Child Protection & Care'. These funds should not be used for other activities of WCDD and for construction of residences for officials, purchase & maintenance of vehicles, general publicity, rewards & incentives for staff and such other purposes.





# Section 7

Anaath certificate and 1% Reservation





## A: Anaath Certificate

1. The GoM had taken a welcome step in the direction of Anaath certificates by issuing orders on 6th June 2012 (amended on 21th January 2013, 6th June 2016, superseded on 2nd April, 2016 and further amended on 9th May 2018) that every YAO can obtain an 'Anaath' certificate at the time of leaving CCI or thereafter. The CCIs have to forward the applications to the DWCD and after due verification and recommendation by CWC, the certificate is issued by the Divisional Deputy Commissioner of DWCD. There is also a provision for the grant of an Anaath Certificate to Orphans not residing in CCIs. Although hard and reliable data is not available about the number of orphans in institutional care and those outside CCI, from the estimates published by UNICEF and other NGOs with good standing, it appears that less than 1% of the total number of Orphans is under institutional care. It is more difficult for the orphans living outside institutional care to complete all compliances and formalities for obtaining the certificate.
2. It is seen that in the initial period from 2012 to 2018, the progress of issuing Anaath certificates was slow. However, after GoM granted 1% parallel / horizontal reservation to orphans holding Anaath Certificate in education and employment on 2nd April 2018, it is observed that the YAOs started seeking Anaath certificates in right earnest. It is learnt that up to Jan. 2019, 70 adult-orphans have applied for Anaath Certificate (all of them from CCIs) and 22 certificates have been issued. It appears that many of the YAOs and the concerned personnel from CCIs may still not be aware of the application process for an Anaath certificate and the benefits thereof. When multiple CCIs are involved, the problems of completing documentation are compounded. About 99% of the orphans live outside institutional care and the level of awareness amongst them is even lower.
3. The main body of the GR of GoM regarding 'Anaath' certificate is silent about 'caste' of the orphan. However, in the format of the Certificate appended thereto, two options have been provided. First option relates to a case where no information about the biological parents /relatives of the orphan and their caste is available. The second option relates to a case where information about near relatives of the orphan and their caste is available. In case of the first option, the certificate is issued stating therein that the caste of the orphan is unknown; whereas in the second option, caste of the orphan is mentioned, which is derived from the known caste of the relatives. This has important implications so far as eligibility for 1% reservation in education and employment is concerned. The orphans whose caste is not known (i.e. first option) only have been held eligible for the reservation.

When the caste of the orphan is known and mentioned (i.e. second option), the concerned orphan can avail concessions and benefits available, if any, to the caste as mentioned in the certificate but he/she would be ineligible for 1% reservation.

4. The issue of 'caste' of the orphan arises mainly on four occasions. The first occasion is the time when an orphan or abandoned child is registered in the CCI and the child is 'given' a name, a middle name and surname and religion by the concerned CCI. Quite often, the name and surname denote a religion and / or caste. This, then, becomes the religion and /or caste of the orphan permanently. The second occasion, in many cases, is when CCI admits an orphan in any aided school. The concerned school requires that the name of the father/mother as well as caste must be mentioned. The CCI may not have any definite information about the parents and the caste of the orphan, but CCIs mention some name of father / mother and some caste or the other in order to comply with the regulations of the school. Some schools do not require information about the caste if admission is sought in the 'open' category but if admission is sought in any 'reserved' category then invariably, the schools insist on documentation about the caste. The third occasion may arise when the orphan is to be registered for Secondary School Certificate examination. Quite often, the Board may require that the caste of the child must be mentioned. The caste mentioned by the CCI to the School / Board then becomes the 'given' caste of the orphan permanently. The Fourth occasion may arise at the time of issuing 'Anaath' certificate. When CCI has information about the relatives of the orphan, they mention the caste of the known relatives as the caste of the orphan and then the certificate comes to be issued with the second option i.e. mentioning the caste of the orphan.
5. The present provisions about 1% reservation mention that facility can be availed only when the certificate is issued with Option 1 (i.e. there is no caste) of the format of the 'Anaath' certificate. This would mean that those who hold 'Anaath' certificate with Option 2 (i.e. caste is mentioned) would be eligible only for 'preference' in education and employment but not reservation. It would follow that when Government issues circulars about admissions to educational institutions or issues advertisements for recruitment, it may be useful to mention that the Orphans with Anaath certificate in Option 1 would be considered against 1 % reservation but after the quota of 1% is fulfilled, all orphans holding 'Anaath' certificate (regardless of Option 1 or 2) would be given 'preference' over others in the 'open' category. At present, there is no clarity about when 'reservation' would be 'applicable and when 'preference' would be available. Another suggestion which came up during our interactions with YAOs was that if some seats in the quota of 1% reservation remain unfilled then the remaining seats may be filled with orphans holding certificate in Option 2.



6. During our interactions with the YAOs, we came across very strong views on the issues of religion and caste. Many of them questioned the validity of some religion and/or caste that was assigned arbitrarily to them by the CCI. Some of them also questioned the relevance of CCI and CWC determining the caste of the known relatives of YCL/YAO, particularly, when the said relatives did not take care of the child or even bother about its welfare as long the child was under institutional care. Some YAOs mentioned that under the usual legal provisions, when whereabouts about a person are not known for a period of seven years, the person can be presumed to be dead. They argued that their so-called relatives can be presumed to be dead, when they make no contact with the CCI for a period of seven or more years and therefore, the caste of such relatives must be treated as irrelevant.
7. In the limited context of issuing the 'Anaath' certificate with the second option, i.e. certificate with the caste of the orphan, it is seen that in the text of main body of the GR, there is no mention of the caste-verification of 'near' relatives of YAO to be carried out by the CCI/CWC. Going by the usual rules of interpretation of statutes, it may appear that the provisions of the main body of the regulation should prevail over the subsidiary provisions of procedural formats. We may conclude that the issue of Orphan's caste, in general, and the issue of the second option of the Anaath certificate, in particular, needs careful consideration by the Government authorities and the Courts.
8. The format of 'Anaath' certificate is common for orphans coming from CCIs and those not living under institutional care. When the procedures for these two types of cases are different, it may make things simpler if two separate formats are prescribed for the two types of cases.
9. The present procedure for obtaining 'Anaath' certificate is complicated and time-consuming. It may be useful to delegate the powers to grant the Anaath Certificate to the District Collector after receipt of verification reports from DWCDO and CWC, for the following reasons; (a) Collector is the ex-officio chairperson of DCPU. (b) Anaath certificate in just one of the many issues and programmes relating to Aftercare services to and rehabilitation of the orphans. Collector is the ex-officio chairperson of the District Rehabilitation Committee, which monitors rehabilitation of several classes and groups of citizens. Orphan is also one such category. (c) In case of Orphans not living under Institutional care, the prescribed procedure requires that preliminary enquiries should be conducted by the Revenue, and Police authorities in the district.

## B: 1% Parallel Reservations

1. GoM, vide GR dated 02.04.2018, has taken another welcome step by granting 1% 'parallel' reservation in the 'Open category' for the purpose of education and employment to orphans holding 'Anaath' certificate in Option I format (i.e. without caste). However, orphans holding the certificate in Option II format (i.e. with caste) are not eligible for this reservation.
2. There are some doubts expressed about the exact nature of 'parallel' reservation. At present, the total reservations in Maharashtra for SC/ST/OBC/VJ-NT taken together stand @52 % which marginally exceeds the Constitutional limit of 50%. If the 1% reservation to Orphans in the 'Open' category is construed as additional reservation, then the total reservations would go up to 53%, thus exceeding the constitutional limit of 50% and the possibility of the Orphan-reservation being challenged in the Courts cannot be ruled out. Moreover, the Indian Parliament has recently amended the Constitution to provide for a special category of 'Economically Weaker Section' (EWS) and provided 10% reservation for them in Education and Employment. YAOs would qualify to be included in EWS on the basis of income-criteria even without 'Anaath' certificate. In the light of this recent development, the relevance of 1% reservation in the 'open' category granted by GoM would need to be revisited and clarified.
3. It has been suggested that instead of creating a special sub-category of Orphans within the Open category for 1% 'parallel' reservation, it may be better to include the (pure) Orphans in the OBC category. It is true that all other reservations are 'caste-based' whereas orphans have no religion or caste. However, under the scheme for measuring social and educational backwardness devised by the Mandal Commission, orphans qualify to be included in the OBC category. Moreover, in a recent ruling of the Supreme Court [Ram Singh Vs Union of India (supra)] the court noted that, "Though caste may be a prominent and distinguishing factor for easy determination of backwardness of a social group, this Court has been routinely discouraging the identification of a group as backward solely on the basis of caste. Article 16(4) as also Article 15(4) lays the foundation for affirmative action by the State to reach out the most deserving. Social groups who would be most deserving must necessarily be a matter of continuous evolution. New practices, methods and yardsticks have to be continuously evolved moving away from caste centric definition of backwardness. This alone can enable recognition of newly emerging groups in society



which would require palliative action". As noted earlier, following this view of the Supreme Court the National Backward Class Commission has already passed a resolution to the effect that 'orphans' should be included in the central list of OBC.



## C: Scholarships & Freeships to Orphans

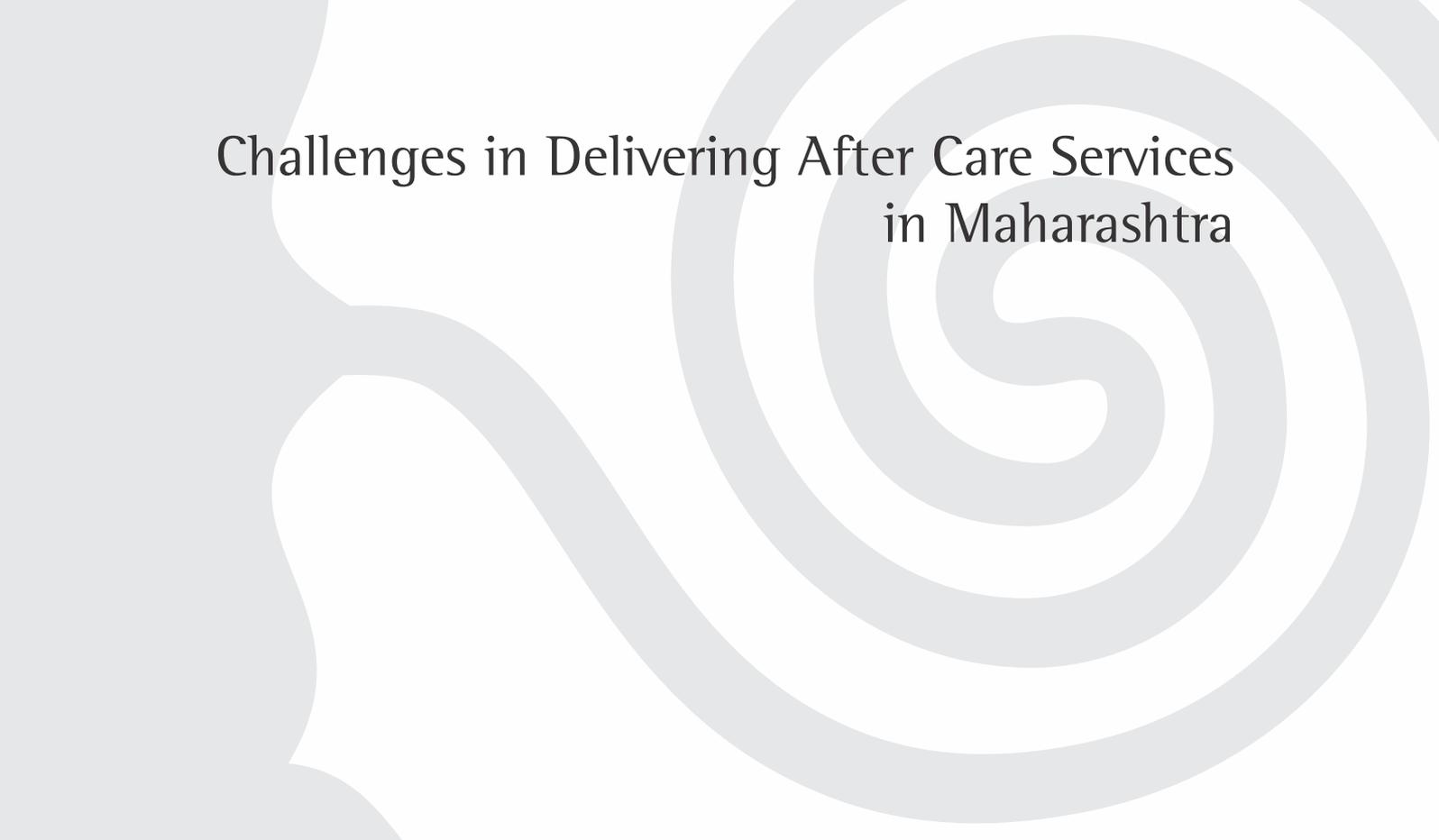
1. YAOs find it extremely difficult to pursue further education, because at present, they are not entitled to any scholarships / freeships from Government. The grant-in-aid that can be sanctioned to the aftercare homes (Rs.2000 p.m.) is grossly inadequate for the agencies to bear the expenses of fees and other incidentals for further education of YAOs.
2. On the issue of educational scholarships, it is learnt that the amounts are released by the Social Justice Department in case of students belonging to Scheduled Castes & OBC, whereas the Tribal Development Department is responsible for releasing the amounts to students belonging to the Tribal category. In case of YAOs, the arrangements for releasing funds are not clear.
3. In our interactions with YAOs, it was suggested that GoM could consider extending the benefit of Scholarships /Freeships to YAOs on the same scale and in the same manner as other students from the OBC category, a large number of YAOs will be able to continue further education / technical training.
4. We understand that Delhi University has taken a decision to waive fees for undergraduate programmes for orphans. Other Universities may also like to follow this example.<sup>7</sup>





# Section 8

Challenges in Delivering After Care Services  
in Maharashtra

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## A: Improving Service Delivery

1. There appears to be a certain lack of clarity about which department/agency should be responsible for implementing the aftercare programmes. The provisions of JJ Act, the Model Rules and ICPS are expected to be implemented by the WCCD. WCCD has also issued MJJR and hence, WCCD in Maharashtra should be presumed to be the main agency responsible for managing, delivering and supervising the aftercare services.
2. Effective implementation of after care services would require convergence of several departments and agencies such as Social Justice, Home, Revenue, Housing, Education, Youth Services, Skill Development, Directorate of Industries etc. GoM needs to evolve an effective mechanism to achieve convergence.
3. The ICPS Guidelines lay down that the State Secretary, Women and Child Development shall supervise the implementation of ICPS with the help of the Maharashtra State Child Protection Society (MSCPS), which includes members from the allied government departments like Health, Education, Labour, Housing, Judiciary, Home, Railways and members of the local bodies like PRIs, ULBs, voluntary organizations and members of the civil society. The SCPC is expected to monitor the implementation of ICPS on the basis of the state specific indicators, which will be developed in the process of implementation of the scheme. The Chief Secretary of the State is expected to conduct an annual review and evaluation of the implementation of the ICPS at State level. SCPC can be modeled and mandated to work as the mechanism for convergence at the State Level and the DCPU, under the chairmanship of the Collector can play a similar role. In practice, it is seen that in Maharashtra SCPC meets infrequently and the annual review by Chief Secretary is also conducted regularly.
4. In most districts, the Collectors do not appear to be playing a very active and effective role in monitoring the functioning of the DCPS and DCPU. Meetings of DCPS and DCPU are held infrequently. Posts of many functionaries of DCPU, as required under ICPS, have remained vacant. WCCD is making efforts to improve functioning of the District-level mechanisms.
5. There are several other schemes of GoM which can benefit YAOs such as Foster Care Scheme (Bal Sangopan Yojana), Pramod Mahajan Kaushlya Udyojkta Vikas Abhiyan

(PMKUVA), Seed Money Scheme, Earn and Learn Scheme, Shubh Mangal Yojana, Karmavir BhauraoPatil Yojana, Self-Employment Scheme, Government Women Hostels, Women Shelter Homes, Protective Homes, State Homes(established for rehabilitation of helpless, destitute, abandoned, endangered, oppressed women and maiden mothers in the age group 16 to 60 years, Hostels for Working Women, Swaadhar, Women Counselling Centre's, Support to Training and Employment Programme (STEP), Mahatma Jyotiba Phule Jan Arogya Yojana, Rajarshi Chatrapati Shahu Maharaj Tuition Fees Scholarship Scheme etc. It would be necessary for each CCI, CWC, DWCD and the proposed RPO to maintain a directory of such services and schemes, so that YCLs and YAOs can be counseled and assisted to avail benefits under such schemes.

6. On several other counts including filling up vacancies in CWC; establishing 'child-friendly' court and providing adequate financial support to NGOs for running CHs, the Judiciary found that the performance of Maharashtra has been less than satisfactory. For example, the Bombay High Court in suomotu PIL No 182 of 2010 decided on 17th April 2017 observed." Para 61. The discussion made above shows that there are proper Legislations in place, but there is a complete failure to implement the same. All that this Court is doing is to ensure the implementation of the existing Laws".
7. The Bombay High Court bench of Justices Naresh Patil and Kulkarni, accordingly, initiated a suomotu petition in April 2018 and sought the assistance the Advocate General of Maharashtra on drawing up a plan to implement the various directions of the Supreme Court.
8. The Maharashtra State Commission for protection of Child Rights has been appointed and established in 2007 under the provisions of the National Commission for Protection of Child Rights Act of 2005 to protect, promote and defend child rights in the State. However, the GoM, so far, has not provided adequate infrastructure, staff and funding for this important statutory body to discharge its responsibilities effectively. It operates from a small and ill-equipped office with just 3 or 4 staff members (including the Secretary of the Commission, who is a senior I.A.S. officer of the rank of Secretary to the State Government). The salaries and allowances of the staff are not paid regularly for want of adequate budgetary allocations. The contingency funds even for meeting day-to-day expenditure have not been provided.



9. Training and Capacity Building of the caregivers needs to be accorded high priority. As observed by Ms. Swagata Raha, (UNICEF report on ‘Roundtable of Thought Leaders and Practitioners : Reforming services for children under the Juvenile Justice Act) “The current system of child protection needs to have a transition from ‘head to heart’ where the child protection machinery and staff is motivated enough to create a positive change.
10. A uniform syllabus for ‘Delivering Juvenile Justice’ needs to be developed along with standard operating procedures. Courses can be made available through online portals and short refresher courses to caregivers can also be organized.
11. Teachers and caregivers in CCIs need training on how to deal with traumatized children and YLCs with psychological problems. Contingency funds even for meeting day-to-day expenditure have not been provided.



## B: Role of Maharashtra State Probation and Aftercare Association

1. MSPAA, which was originally set up in 1931 as a 'Bombay Presidency Borstal Association', provided after care services to children. It established including a hostel in Mumbai where children could stay after completing their term in the remand home and even after phasing out from the Aftercare program. Several other services like home loans, marriage assistance, and employment assistance were also provided on a case to case basis. In 1996, the associations got registered as a civil society organization, which the Govt. of Maharashtra recognized as a nodal agency to support the young probationer offenders and youth from various CCLs. It functions as an apex body of 35 distinct District Probation and Aftercare Associations. Its expenditure in 2016-17 was about Rs. 82 lakhs out of which almost Rs. 70 lakhs was the establishment cost. At present it runs one hostel for boys in Chembur, Mumbai and is in the process of setting up Aftercare Home (Girls) at Borivali. MSPAA and its district partners are mandated to implement the Aftercare programme in the State. However, MSPAA and its district-constituents appear to be concentrating more on running Observation Homes (earlier known as Remand Homes) rather than aftercare services.
2. Even in the Observation Homes run by the district-constituents of MSPAA, the task of preparing children for their post-exit life does not seem to be given much attention.
3. Although MSCPS is mandated to oversee and guide all activities under the ICPS, it may be useful to establish a body at the state level, specifically to supervise the aftercare programmes. According to the Guidelines issued by GoM on 19th June 2019, it is proposed to strengthen MSPAA to play the role of a Nodal Agency in developing an effective aftercare programme in the State and also act as an umbrella organization for all providers of the aftercare services. It would be necessary to empower, equip and adequately fund MSPAA play such a meaningful role. It needs to be given the responsibility of monitoring and guiding the district-level set up to supervise the aftercare programme, including operations of the district-level Aftercare Fund. It is learnt that till recent times, the constitution of MSPAA provided that a nominee of GoM headed the organization. If GoM decides to entrust a larger role and responsibility to MSPAA, it may also be necessary to amend the constitution of MSPAA so as to provide a dominant



presence of Government officials, nominees of GoM (which should include experienced and eminent persons in the field of aftercare services and at least one YAO who has successfully completed the reintegration process) in the Governing Council/ Board of Management of MSPAA.



## C: District Level Arrangements

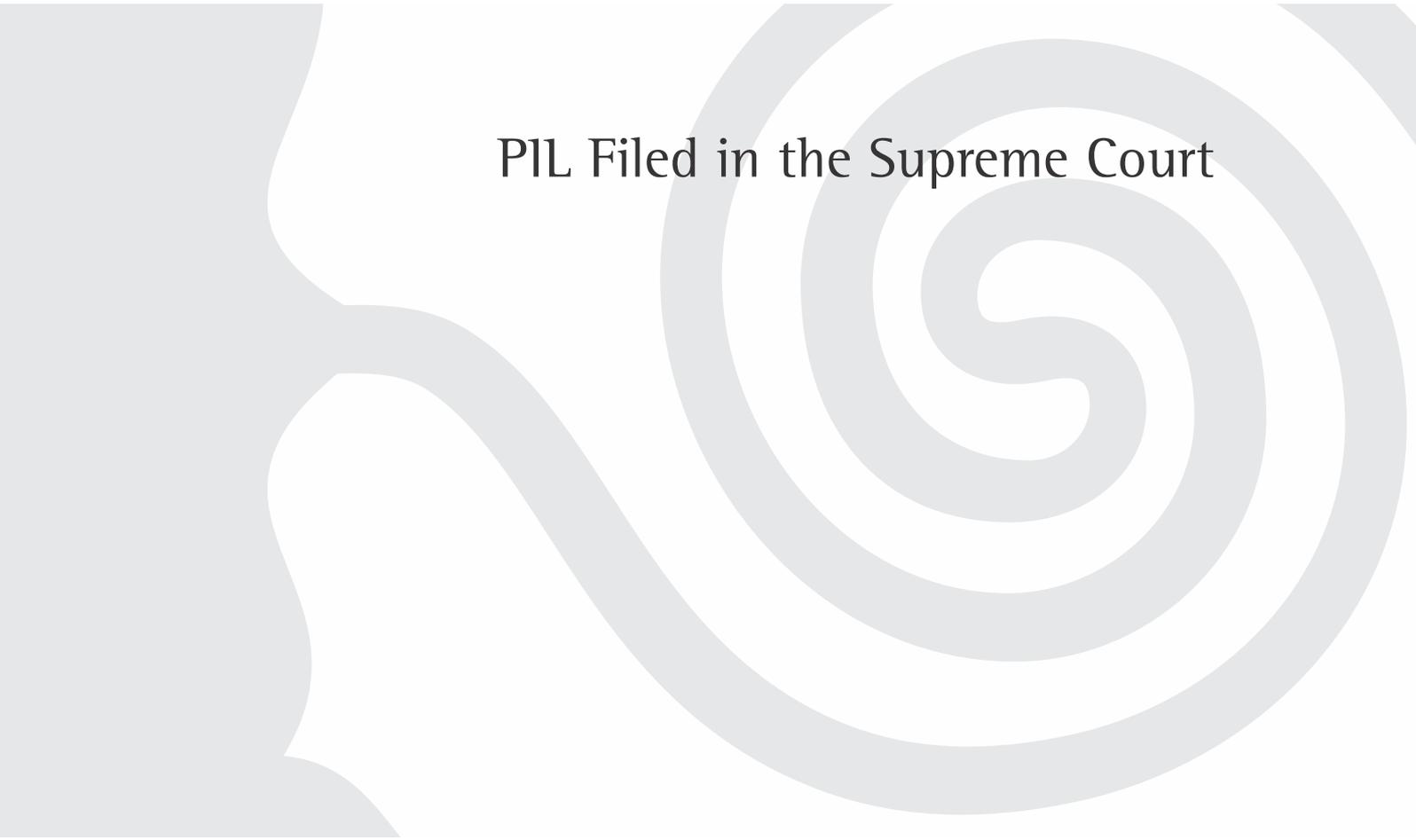
1. ICPS provides that every district shall have a Sponsorship and Foster Care Approval Committee (SFCAC) under the Chairmanship of District Child Protection Officer, to review and sanction sponsorship and foster care fund. There is no specific provision for a committee to manage aftercare services. The functions of the SFCAC could be enlarged to also act as the Aftercare Services Advisory Committee (ASAC).
2. According to the ICPS as well as GoM Guidelines on Aftercare, the Protection Officer Non-Institutional Care (PO-NIC) under the supervision of the DCPO, is expected to ensure effective implementation of the non-institutional components of ICPS including aftercare. However, the posts of PO-NIC are lying vacant.





# Section 9

PIL Filed in the Supreme Court





1. Advocate Poulomi Pavani Shukla has filed a Writ Petition in the Supreme Court ( 305/2018) on the subject of Orphans, in which a number of prayers have been made for betterment of the Orphans and for more effective implementation of the JJ Act. Hon'ble Supreme Court has issued notices on 5th July 2018 to GoI and all State Governments to file their affidavits-in-reply. Copies of the affidavits –in-reply filed by GoI, GoM and other states are not available with us. The matter is under litigation.
2. The Petitioner prays for effective implementation of the 'Adopt a Home' program that was notified on 27th April 2016, by the Ministry of Women and Child Development (MWCD), Government of India. The program proposes bringing corporate sector, business houses and individuals together to support children staying in CCIs. The District Magistrates of the respective districts are envisaged as the officers in charge of implementing this programme at the district level, which they can do by signing a Memorandum of Understanding (MoU) with the respective private entities interested in taking part in the program. The PIL states that no achievement has, however, been made by the MWCD under this scheme.
3. The PIL highlights the inadequacy of budgetary provision for aftercare under ICPS. The PIL says that the "State, effectively, stops contributing at the age of 18 years towards the support of 'orphans' except for the recently introduced meager Rs. 2000 per month that could be reached to a very limited numbers in the Aftercare program in the current scheme of things and available funds with the Ministry".
4. The Petition also includes a prayer to declare (pure) Orphans in the category of Other Backward Class (OBC).
5. Hon'ble Supreme Court is likely to issue certain directions to GoI and the States, which may have considerable impact on the national as well as state policy relating to ACS for the Orphans.



# Section 10

Summary of Recommendations





1. **Child Budgeting:**  
GoM should start the practice of 'Child Budgeting' on the lines of GoI. This would help to highlight the commitment of GoM to the subject of Child Care & Protection.
  
2. **Child Care Component Plan:**
  - a) An amount equal to 1% of the State Budget be earmarked as 'Child Care Component Plan' and credited to the Juvenile Justice Fund of GoM. It should be a discretionary flexi fund and should be an additional allocation over and above the normal provisions for DWCD.
  - b) Access funds for ACS programmes from the National Children's Fund established by GoI under the administrative control of the National Institute of Public Cooperation and Child Development (NIPCCD).
  - c) Encourage and assist NGOs to access funds from NIPCCD/NCPCR for ACS as well as Jan ShikshanSansthan working under Ministry of Human Resource Development (GoI).
  
3. **Census of Vulnerable Children & Orphans:**  
Carry out a census of CNCP periodically and create a comprehensive database needs to be created on the lines of SECC, as suggested by the National Action Plan for Children-2017 by involving all Local Self Government bodies in the state. Such a database would enable GoM to draw up more realistic and meaningful plans and programmes and be useful for deciding eligibility and entitlements under various schemes.
  
4. **Participation of Local Bodies:**
  - 4.1. Issue directives to the Municipal bodies to (a) establish Women & Child Development committees; (b) earmark 10% of their income to be spent on WCD activities and schemes and (c) prescribe a list of pre-approved schemes on which the Municipal bodies can incur expenditure from the earmarked funds.
  - 4.2. Expand the list of schemes that can be undertaken by Local Bodies and include aftercare services as one of the approved schemes.
  
5. **Health Insurance:**
  - 5.1. Amend the rules of SECC so as to automatically add names of YAOs holding Anaath certificate which will entitle them to the benefits of PMJAY.
  - 5.2. Amend the Rules of Mahatma Jyotiba Phule Jana Arogya Scheme of GoM to make YAOs holding Anath Certificate (with or without caste) eligible to receive benefits.

6. Anaath Certificate:
  - 6.1. Anaath certificate should not have any reference to religion or caste of the YAO;
  - 6.2. Prescribe two separate formats of the certificate- one for Orphans exiting from CCIs and the other for Orphans from outside institutional care.
  - 6.3. Delegate the powers to grant Anaath certificate to the District Collector.
  - 6.4. Make regulations and prescribe a format of affidavit to enable YAOs to choose name, religion and caste after attaining adulthood, in compliance with Article 8 of the UNCRC (1989).
  
7. Inclusion of YAOs in the State List of OBC:

Accept the recommendation of the National Backward Class Commission regarding inclusion of Orphans in the state list of OBCs.
  
8. 1% Parallel Reservation in Education & Jobs:
  - 8.1. Re-examine the legality of this decision in the light of various judicial pronouncements and the recent Constitutional Amendment in respect of Economically Weaker Section. (If Orphans are included in the state list of OBCs, then this 'parallel' reservation may be withdrawn).
  - 8.2. Make all (pure) Orphans regardless of the caste of their near relatives (when known) eligible for reservation.
  
9. Monthly Grant to YAOs:
  - 9.1. Increase the quantum of monthly grant of Rs 2000/- to an amount equal to 75% of the notified Minimum Wage for Unskilled Worker for the City/Town from where YAOS exit CCIs. Automatically revise the amount of monthly grant as and when the revision in the Minimum Wage for un-skilled worker is notified by the Government.
  - 9.2. Where YAOs reside in a residential Aftercare Home, 75% of the admissible grant-in-aid should be given to the institution and 25% of the grant be paid directly in the Bank Account of the YAO. The institution concerned shall be responsible for submitting periodical progress reports to the ACAC.
  - 9.3. Where YAOs resides in a group-housing arrangement, 25 % of the admissible grant-in-aid should be given to the institution arranging group/shared housing and 75 % of the grant be paid directly in the Bank Account of the YAO. The institution concerned shall be responsible for submitting periodical progress reports to the ACAC.



- 9.4. Where YAOs make their own arrangements for residence, 100 % of the admissible grant-in-aid should be paid directly in the Bank Account of the YAO, provided the YAO keeps in touch of ACAC of the District and submits periodical reports about his reintegration.
10. Freeships / Scholarships to YAOs:
  - 10.1. Specify the quantum of freeships and scholarships that the holders of Anaath certificate would be eligible for and also put in place a mechanism from where the YAOs can avail these facilities. If GoM include Orphans in the state list of OBC, then they would be entitled to freeships and scholarships available to persons from OBC category.
  - 10.2. Other departments of GoM such as School Education, Higher & Technical Education, Medical Education, Public Health and Social Justice & Empowerment etc. should repeat these instructions to agencies / institutions working under their respective jurisdiction by issuing circulars.
  - 10.3. Facilitate Educational Loans to YAOs from Banks.
11. Expanding Aftercare Homes & Aftercare Centers:
  - 11.1. Accord high priority to finding affordable and adequate housing by YAOs.
  - 11.2. Encourage NGOs to set up Aftercare Hostels /group housing facilities, particularly at District places. The number of such institutions for women also needs to be stepped up.
  - 11.3. Make available options such as group-homes or supported rental apartments within each district - places.
12. Expanding Non-residential Aftercare Services:
  - 12.1. Emphasize outreach-based Aftercare services such as one-stop centers or 'Suvidha Kendra' which can provide outreach services to YLCs living in other housing options.
  - 12.2. Use P-P-P model to start such one-stop service center with or without short-term group housing and educational facilities.
  - 12.3. Encourage and empower the existing CCIs to start Suvidha Kendra.
13. Grant-in-aid to NGOs providing Aftercare to YAOs:
  - 13.1. Launch a scheme of Grant-in-Aid to NGOs working in the field of Aftercare Services on the lines of "The Scheme of Grant-In-Aid to Voluntary Organizations Working for the Welfare of Scheduled Tribes (with effect from 1st April 2008),

being operated by the Ministry of Tribal Affairs, GoI.

- 13.2. Make available grants to the voluntary organizations identified to run an aftercare programme to get overhead expenses.
14. Separate Norms for Aftercare Homes and Centers:  
Do not make the norms for recognition and registration of CCIs applicable to the organizations running Aftercare Homes and Aftercare Centers. Evolve and prescribe a separate set of norms and criteria for recognition of such organizations.
15. Documents issued to YAOs at the time of exit:
  - 15.1. Give YAOs essential documents on exiting the CCI – such as a) Aadhar Card ; b) Anaath Certificate c) Reference letter; d) School documents such as Mark-sheet and School Leaving Certificate; e) Certificates of any other achievements, vocational skills learnt, etc.; f) Health/ Medical case papers; g) Individual Care Plan; h) List of personal articles and belongings that were given to the child during his/ her stay in the CCI and that the same have been handed over to him / her; h) List of important contacts and welfare services such as the police, hospitals, lawyers, de-addiction services, help lines, shelters and hostels, job placement agencies.
  - 15.2. Help CLs for opening Bank Account under the Jan Dhan Yojana, Voters' ID card; Ration Card with BPL status (in yellow colour) and Domicile Certificate.
16. Concessions for Micro and Small-scale Enterprises:
  - 16.1. Give special incentives and concessions to YAOs such as (a) Reservation in the shopping units (gala) or slots/ sites for starting hawing-carts at a concessional price; (b) Reservation in the industrial/commercial plots / pre-built flats developed in industrial estates at a concessional price; (c) Priority in entrepreneurship development programmes for accessing various schemes like Mudra Yojana; (d) interest subsidy and seed money schemes for self-employment and for accessing bank-loans etc.
  - 16.2. Give YAOs financial assistance/ concessions / waivers for accessing various schemes for skill–development, entrepreneurship development programmes.
17. Tracking of YLCs and YAOs & Follow-up:
  - 17.1. Develop and put in place a credible and comprehensive system of monitoring and tracking YAOs and YAOs after they exit from CCIs, which will help to measure the outcome and efficiency of the ACC provided to them and also assess the situation



of those who have not received any Aftercare support or services.

- 17.2. CCIs to remain in touch with the YLCs and YAOs and provide them counseling support.
18. Convergence between existing schemes:
  - 18.1. Achieve convergence between the aftercare programmes and other existing schemes of GoM and GoI such as Jan Dhan Yojana, PMJAY, National Youth Empowerment Scheme, Mahatma Phule Jan Arogya Yojana, Post-Matric Scholarship to O.B.C. students, Pradhan Mantri Kaushal Vikas Yojana, Driving Training Centre (DTC) Scheme, Entrepreneurship Development Training Program, Women Entrepreneurship Platform by NITI Aayog, Solar Charkha Scheme, Smart Ration Card 2018, National Urban Livelihood Mission, National Career Service (NCS), Rajiv Gandhi Scheme For Adolescent Girls - SABLA Scheme, Inter Caste Marriage Scheme for Dalits, Pradhan Mantri Aavas Yojana, training programmes offered by Rajiv Gandhi National Institute of Youth Development and by Nehru Yuva Kendra etc..
  - 18.2. Encourage entrepreneurship along with mentoring and suitable loan opportunities as options, alongside the provision of traditional vocational skills.
  - 18.3. Provide links with the ministry of Youth affairs and Sports for promoting higher education, resilience building through sports and building a confidence for the nation building.
19. Channelizing CSR Funds:
  - 19.1. Establish a platform and a mechanism for channelizing CSR funds for Aftercare programme/services.
  - 19.2. Approach corporates, not always for grants but also for other forms of assistance such as close employee engagement for voluntary work; internships and apprenticeships and training.
  - 19.3. Promote schemes such as 'Adopt -A- CCI' or 'Adopt an Aftercare Home' to involve corporates more actively with management of institutions; pre-exit preparation of YAOs; quality-improvement of child care; counseling, skilling and offering opportunities for future employment.
20. Service Delivery System at District Level:

Let Sponsorship and Foster Care Approval Committee (SFCAC) also function as the Aftercare Services Advisory Committee (ASAC), which would be serviced by the Protection Officer Non-Institutional Services (PO-NIS).

21. Supervision and Co-ordination of Service Delivery Mechanism:
  - 21.1. Empower, equip and adequately fund MSCPAA to discharge the responsibility of monitoring, implementation and co-ordination of the Aftercare Programme in the State in all matters relating to supervision, monitoring, release of grants etc.; guiding and supervising ASAC working at the district-level except the final selection and approval of Aftercare Homes and Centers by NGOs (which can be done by the WDCD).
  - 21.2. Re-constitute MSPAA to shoulder the State-level responsibilities.
  
22. Individual Care Plan (ICP):
  - 22.1. Accord high priority to preparation and monitoring of ICP.
  - 22.2. Children should be involved in preparation of ICP.
  - 22.3. Duty-bearers such as social workers, counsellors, caregivers, DCPOs and CWC members require training and capacity building to prepare and implement these plans.
  
23. Frequent Transfer of Children:

Precautions must be taken by all CCIs, CWCs, DCPOs and practitioners to minimize inter-CCI transfers.
  
24. Preparation to Transition out of Care (Pre-Exit Training):
  - 24.1. Mandate a needs-based, child-centric and gender-specific Pre-Aftercare training programme for all children between the age group of 14-18 years, which should include continued quality education; vocational training, internships and apprenticeships; resilience-building through counselling; outcome based, collaborative planning for transition through information and knowledge sharing.
  - 24.2. Conduct certain training activities for imparting independent living skills such as nutrition & health, cooking, first aid, disaster management, household management (taking care of belongings, hygiene, financial management, etc).
  - 24.3. Give children increasing levels of household responsibilities depending on their caliber and aptitude.
  - 24.4. Impart training in Social Relationships and Interpersonal Skills by engaging long-term caregivers in CCIs in taking on parental duties and provide love and affection; encouraging peer mentoring and bonding through Alumni Associations; encouraging interaction with community members; encouraging them to remain in touch with either the organization, the caregivers or peers.



- 24.5. Impart training in managing personal finances and give information about working of Banks, Post-Office Savings Bank etc.
25. Education, Vocational Skills and Career:
  - 25.1. Motivate YCLs to acquire proper skills and achieve good academic performance
  - 25.2. Facilitate acquisition of vocational skills.
  - 25.3. Impress upon CClS to collaborate with the educational sector, corporate sector, volunteers and community members to design programmes geared towards developing academic aptitude, opportunities and vocational skills as well as financial aid and scholarships.
26. Essentials of Post-Exit Care in Outreach / Aftercare Institutions Setting:
  - 26.1. Reinforce some of the activities in the pre-exit stage when YCLs enter ACS and add a few new activities.
  - 26.2. Arrange short term training courses in independent living skills; in financial responsibility; English-speaking and legal literacy.
  - 26.3. Make available services of the District Legal Aid authorities to YAOs.
  - 26.4. Include in the centralized resource directory a list of vetted advisors who are willing to provide free /subsidized financial and legal services.
27. Access to mental health services:
  - 27.1. Convince YAOs that there is no stigma related to seeking psychological help.
  - 27.2. Provide access to affordable mental health professionals and related gender-specific services.
  - 27.3. Pay adequate attention to increasing awareness and sensitivity amongst the staff, caregivers, duty-bearers and the functionaries within the Aftercare-system about recognizing symptoms of distress and address them in a timely manner.
28. Associating YAOs with ACS:
  - 28.1. Facilitate formation of Block /District/State level network and association of YAOs. STAPI has proposed establishing National Alliance of YAOS and Maharashtra Alliance of YAOs.
  - 28.2. Use YAOs as a resource in formal JJ system to guide the work in CClS.
  - 28.3. Train YAOs to provide counselling to children who are in CClS; for conducting social audits; for managing CClS.

- 28.4. Establish a mechanism whereby the regulators at the District and the State level get continuous feedback from YAOCs about the availability and quality of ACS and suggestions for improvements.
29. Feedback, Monitoring & Evaluation:
    - 29.1. Define the role of Inspection Committee/ Visitors' Board and prescribe a format for reporting.
    - 29.2. Mandate the CCIs to appoint a visitors' board comprising of respectable persons from the local community, including retired teachers, retired government officers and ex- YCLs and display the names of the visitors for accessibility to the YLC.
    - 29.3. Train members of the visitors' board in identifying issues of YCLs and issues of Aftercare organization and in fixing the issues in a rehabilitative manner.
    - 29.4. Institutionalize a social audit with the participation of YAOs.
    - 29.5. Establish a forum for coordination and cross-sharing between DCPUs, CWCs, NGOs, other government departments and stakeholders needs to be established.
    - 29.6. Undertake objective evaluations of ongoing programmes to determine which services are provided, where and to what extent changes are necessary in the design of ACS programme.
  30. Capacity Building of caregivers:
    - 30.1. Develop a manual for Aftercare based on conceptual clarity on 'what is child vulnerability' and needs of YLCs with standard operating procedures.
    - 30.2. Develop syllabus for training of caregivers in the JJ system, including short-term refresher courses.
    - 30.3. Make available the Manual and Training syllabus on Internet.
    - 30.4. Offer training courses through online portals. Short refresher courses to caregivers can also be given.
    - 30.5. Arrange psychological counselling services for care givers in ACS and train them to deal with traumatic situations.





# Annexure- 1:

## Concept of Aftercare: Historical Evolution

1. Early20thCentury: It was recognized in India that some form of aftercare services was necessary to prevent the ex-inmates of prisons from relapsing into a life of crime, delinquency or dependence and to rehabilitate/ reintegrate them back in the community as productive and useful citizens. In that period, 'Discharged Prisoners Aid Societies' were formed in many provinces in the Country (with or without active support from the Government) with the object of social and economic rehabilitation of the released prisoners in the community.
2. Children's Laws: Certain enactments such as Madras Act (1920), Bengal Act (1922) and Bombay Act (1922), can be collectively called as 'Children's Laws'. These laws dealt primarily with juvenile delinquency, begging, child labour and prison reforms. The subject of proactive child protection and care was being dealt with in the Guardianship & Wards Act of 1890. The subject of 'Aftercare' was not emphasized in the laws except for correctional services like Borstal Schools setup under provisions of the Borstal Schools Act of 1928. The Bombay Presidency Borstal Association<sup>8</sup> was established in 1931 to cater to the needs of the children essentially in conflict with law, who were released from correctional institutions on probation under Bombay Children's Act and Bombay Probation Act, 1936. As a measure of prison-reform, 'Remand Homes' were established. These laws dealt with two categories of children viz. (i) young offenders and (ii) neglected and destitute. The Juvenile Courts handled the delinquents and the Child Welfare Board handled the neglected children.
3. Post-Independence Era: Indian Republic's commitment to safeguarding the rights of its children is enshrined in various key provisions in the Constitution of India such as Article 15 (3) of the Constitution, other Fundamental Rights and Directive Principles of State Policy, which, together guarantee special attention to children through special laws and policies that safeguard their rights and promotion of their development. The subject of 'Social Defense', which included care of destitute children and orphans was included in the Central List of the Constitution for purposes of administrative responsibility and funding.

4. Gore Committee on After-Care Programmes:

- 4.1. The Central Social Welfare Board in 1954 appointed the 'Advisory Committee on After-Care Programmes under the Chairmanship of Professor M. S. Gore to study, among other things, the nature and size of the problem of the adults and juveniles who have been discharged from correctional institutions; to determine the scope of after-care programmes for these individuals; to assess the extent to which the existing after-care services meet the needs of the situation and specify the manner in which they need to be developed.
- 4.2. An important recommendation made by the Gore Committee was that aftercare services should extend not only to ex-inmates but also to those suffering from physical or social handicaps. Thus, orphans, blind, deaf, mute, crippled persons, neglected and destitute children, deserted and helpless women and beggars should all receive the benefits of both institutional and non-institutional after care. By the very nature of things, each category of destitute would require a different service suitable for its peculiar needs. Thus, scope of the term 'aftercare' came to be enlarged as any programme or service organized for the rehabilitation of (a) inmates released from institutions or (b) persons suffering from physical or social handicaps on account of circumstances beyond their control.
- 4.3. In pursuance of the Gore Committee's report, a comprehensive aftercare programme for the released prisoners was launched during the Second and Fifth Five Year Plans at the instance of the Central Social Welfare Board and a few aftercare homes and shelters were setup in some states. However, these programmes continued to be primarily concerned with ex-prisoners and adolescent offenders.
- 4.4. The Children Act of 1960 (later amended in 1978) passed by Government of India provided for "care, protection, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children".

5. Juvenile Justice Act of 1986:

- 5.1. In the year 1986, Supreme Court's order in Sheela Barse Vs the Union of India 1986 3 SCC Cri 352 recommended uniform legislation for juvenile justice and further mandated that the legislation should contain provisions for rehabilitation of children accused of crime as well as those who were lost, destitute or abandoned.
- 5.2. In compliance with the directions of the Supreme Court and the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) of 1985, GoI enacted the Juvenile Justice Act of 1986, which repealed several other



'Children's Laws' enacted by the various State Governments and brought in a uniform legal framework for the system of juvenile justice in the country. Some provisions for upholding 'child-rights' were also incorporated. The word 'aftercare' was not defined in the JJ Act of 1986, but Section 13 described the nature and scope of aftercare services. The States were given the responsibility of making rules and undertaking schemes for aftercare services. The emphasis was still on juvenile offenders and lesser importance was given to child-rights, particularly of the destitute children and orphans.

- 5.3. Internationally, there was a gradual shift from the concept of 'child welfare' to 'child rights', which soon gained recognition in India. India adopted / ratified several international conventions such as the UN Convention on the Rights of the Child (UNCRC) 1989 (ratified in 1992), the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985, the UN Child Right Convention (1989); The UN Rules for the Protection of Juveniles Deprived of their Liberty, 1990; the Hague Convention on Inter-country Adoption, 1993 and the UN Guidelines for the Alternative Care of Children (2009). UNICEF and other international organizations as well as NGOs in India working in the field of child care lent a strong support to establishment of after care services for non-offender class of YLCs.

6. J.J. Act of 2000:

Indian Parliament enacted the Juvenile Justice Act of 2000 (amended later in 2006) to replace the JJ Act of 1986. This law recognized the primacy of non-institutional alternate child care practices such as adoption, foster care and sponsorship over institutional care. About after care services for YLCs, the provisions of section 13 of the JJ Act 1986 remained unchanged in the JJ Act of 2000 and 2006.

7. JJ Act of 2015:

7.1. The JJ Act of 2000 was reenacted by the Indian Parliament in 2015. This Act, for the first time, defines 'aftercare' in Section 2(5) and 'Orphan' in section 2(42). The provisions under sections 39(5) and 46 deal with financial support to help CNCP and Children in Conflict with Law leaving institutional care to reintegrate into mainstream society.

7.2. The Department of Women & Child Development of the GoI, which was working under the Ministry of Human Resource Development, was upgraded to a separate Ministry in 2006. In Maharashtra, an independent Department of Women & Child Development was established in the year 1994.

7.3. GoI promulgated the JJ Model Rules 2017 in order to operationalize the provisions of the JJ Act of 2015. Government of Maharashtra (GoM) also made State Rules in the year 2018 (MJJR).

8. Integrated Child Development Scheme (ICPS):

In 2009-10, Integrated Child Development Scheme (ICPS) (revised in 2017) was launched by the Ministry of Women & Child Development Department (MWCDD) of GoI as a flagship scheme for child protection and care. Its primary purpose is to create a central structure to provide oversight and standardization for pre-existing and evolving child protection schemes in India. ICPS is administered at the state level by state child protection committees and societies and at the district level by district child protection societies, among other institutions. ICPS contains some definitive provisions for aftercare services. However, in the realm of implementation, the achievements on this account remain less than spectacular.

9. National Policies:

9.1. Government of India (GoI) announced the Policy for Children in 1974 and came out with another Policy document in 2013. In both these documents the term 'Child' has been defined as a person who has not completed the age of 18 years, in conformity with the universal practice. However, in the JJ Act of 2015, provisions were included to deal with children in the age group of 16-18 years, who commit heinous offences.

9.2. GoI announced the National Policy for Children (NPC) in 2013, which reaffirms the Government's commitment to realization of the rights of all children. Following NPC 2013, various State Governments (including Maharashtra) have announced their own Policies for Children. Following the enactment of the Commission for Protection of Child Rights Act of 2005, the National Commission for Protection of Child Rights (NCPCR), a statutory body, was set up. The Maharashtra State Commission for Protection of Child Rights (MSCPR) was established in the year 2007. The National Health Policy 2002, National Charter for Children 2004, National Plan of Action for Children 2005 and Commissions for Protection of the Rights of the Child Act of 2005., Child Labour (Prohibition and Regulation) Act of 1986 (Amended in 2016), Right to Education Act of 2009 (Amended in 2012), and Prevention of Children from Sexual Offences Act, 2012 (POCSO) are some other important policy documents and legislations dealing with children.



- 9.3. The National Youth Policy 2014 (NYP) categorizes several types of disadvantaged youth including youth in institutional care, orphanages, correctional homes and prisons and advocates their inclusion in the shared solutions that may be devised and whose empowerment must be a priority for the government.
- 9.4. The National Plan of Action for Children (NPAC) 2016 has four key-areas: (i) survival, health and nutrition; (ii) education and development; (iii) protection and (iv) participation. It seeks to achieve convergence of ongoing programmes and schemes in the area of child rights and childcare.

# Annexure – II:

## Guidelines Issued by Govt of Maharashtra on Aftercare Services

### GUIDELINES FOR THE AFTERCARE PROGRAMME

#### Introduction

##### Importance of Aftercare

Aftercare is an important final stage in the continuum of care, as it ensures smooth rehabilitation and reintegration of a child in need of care and protection/conflict with law as she/he steps into adulthood. Preparing the youth leaving care for rehabilitation and social reintegration after they leave the care is an important area to work in India. However, due to inadequate planning and implementation of the aftercare programme, these children are usually among the most socially excluded and vulnerable people in society. The Aftercare Programme is necessary for children in need of care and protection and children in conflict with law who requires further assistance for completion of the process of rehabilitation from institutional care or attainment of self-sufficiency on their release from the child care institutions (CCIs). It is therefore necessary for the State Government to formulate guidelines to establish, manage and maintain the Aftercare Programmes in different districts.

##### International Policy for Aftercare

The United Nations (UN) Guidelines for the Alternative Care of Children (2009) recommend that for providing support for aftercare, “Agencies and facilities should have a clear policy and should carry out agreed procedures relating to the planned and unplanned conclusion of their work with children to ensure appropriate aftercare and/or follow-up. Throughout the period of care, they should systematically aim at preparing children to assume self-reliance and to integrate fully in the community, notably through the acquisition of social and life skills, which are fostered by participation in the life of the local community....The process of transition from care to aftercare should take into consideration children’s gender, age, maturity and particular circumstances and include counselling and support, notably to avoid exploitation. Children leaving care should be encouraged to take part in the planning of aftercare life.”



## National Mandate for Aftercare

### Juvenile Justice Act

According to Section 46 of the Juvenile Justice (Care and Protection of Children) Act (2015), “Any child leaving a child care institution on completion of eighteen years of age may be provided with financial support in order to facilitate child’s reintegration into the mainstream of the society in the manner as may be prescribed.” Section 27(1) of the Maharashtra State Juvenile Justice (Care and Protection of Children) Rules (2018) state that “The State Government shall prepare an aftercare programme for children who have to leave Child Care Institutions on attaining eighteen years of age by providing for their education, giving them employable skills and placement as well as providing them places for stay to facilitate their reintegration into the mainstream of society.”

Integrated Child Protection Scheme: The functions of the Integrated Child Protection Scheme (ICPS) of 2009 include supporting implementation of family-based non-institutional services that include aftercare by identifying suitable voluntary organisations that will run the Aftercare Programmes. These organisations shall formulate an aftercare programme for these children for a period of three years.

### Aftercare Homes in Maharashtra

According to the Economic Survey of Maharashtra of 2017-18 (p. 203) at present there are six Government and three NGO-managed Aftercare Homes in Maharashtra with a total intake capacity of 600 and 110 respectively. However, the number of beneficiaries in the Government managed Aftercare Homes, appears to be 123, that is about 20% of the intake-capacity. The Government provides grant-in-aid of Rs 1215 per month per resident of these homes for providing residential facilities, food, clothes, education, medical facilities, counselling, vocational guidance, etc.

### Guidelines for the Aftercare Programme

The Department of Women and Child Development (DWCD), Government of Maharashtra, has prepared these guidelines for running the Aftercare Programme in accordance with the following documents reflecting the national and state mandate:

The Juvenile Justice (Care and Protection of Children) (JJ) Act, 2015;

The Maharashtra State Juvenile Justice (Care and Protection of Children) (JJ) Rules, 2018;

The Integrated Child Protection Scheme (ICPS), 2009.

These guidelines for the Aftercare Programme comprise the following sections:

1. Definitions and Types of Aftercare
2. Objectives of Aftercare
3. Eligibility Criteria for Aftercare

4. Structures and Roles for Implementation of Aftercare

5. Funding for Aftercare

6. Selection of Aftercare Organisations

7. Procedure for Implementation of Aftercare

8. Case Management for Aftercare

9. Documentation for Aftercare

10. Monitoring and Evaluation for Aftercare

11. Termination of Aftercare

These Guidelines may be reviewed and revised based on its monitoring and evaluation.

**1. Definitions and Types of Aftercare**

1.1 Definitions of Aftercare

According to Section 2(5) of the JJ Act (2015), “aftercare” means making provision of support, financial or otherwise, to persons, who have completed the age of eighteen years but have not completed the age of twenty one years, and have left any institutional care to join the mainstream of the society.

In these guidelines, a child, after he/ she has entered the aftercare programme is referred to as “child” when below the age of 18 years, and on completing 18 years, is referred to as “youth”.

1.2 Types of Aftercare

According to Section 27(7) of the JJ Rules of Maharashtra (2018):

(1) The services provided under the aftercare programme through a group approach may include: (a) aftercare home; (b) community group housing or group home on a temporary basis for groups of six to eight persons;

(2) Other aftercare support services provided to children discharged from institution on attainment of eighteen years may include:

(a) provision of stipend during the course of vocational training or scholarships for higher education and support till the person gets employment;

(b) arrangements for skill training and placement in commercial establishments through coordination with National Skill Development Programme, Indian Institute for Skill Training and other such Central or State Government programmes and corporate, etc.;

(c) provision of a counsellor to stay in regular contact with such persons to discuss their rehabilitation plans ;

(d) provision of creative outlets for channelizing their energy and to tide over the crisis periods in their lives;



(e) arrangement of loans and subsidies for persons in aftercare, aspiring to set up entrepreneurial activities; and

(f) Encouragement to sustain themselves without State or institutional support.

As far as the housing is concerned, the ICPS emphasizes provision of community group housing on a temporary basis for groups of six to eight young persons. The ICPS also gives importance to provision for a peer counsellor to stay in regular contact with these groups to discuss their rehabilitation plans and provide creative outlets for channelizing their energy and to tide over the crisis periods in their lives.

## 2. Objectives of Aftercare

The objective of the aftercare programme is to prepare children exiting the JJ system to:

1. Sustain themselves during the transition from the protected institutional life of the JJ system to the independent community life;
2. Enable such children smooth transition from childhood to adulthood by participation in the community life;
3. Develop qualifications and skills for apprenticeship/ jobs/ livelihood/ entrepreneurship for socioeconomic self-reliance;
4. Develop life skills for self-esteem, emotional intelligence, communication skills and relationship skills; and
5. Develop day-to-day living skills, and citizenship rights and responsibilities for the youth such as financial literacy, identity documents, etc.
6. Ensure that the youth leaving care is freed of any stigma attached to their association with the juvenile justice system.

## 3. Eligibility Criteria for Aftercare

According to Section 27(2) of the Maharashtra JJ Rules (2018), “Any child who leaves a Child Care Institution may be provided aftercare till the age of twenty-one years on the order of the Committee or the Board or the Children’s Court, as the case may be, as per Form 38 and in exceptional circumstances, for two more years on completing twenty-one years of age.”

On completion of 18 years of age, the child turned into youth leaving care will be restored to their parents/ guardians if possible. Aftercare Homes will be provided only to those youth who are orphans, or do not want to return to the biological family, or are not advisable to return to the biological family when it is not safe for the child due to the family being guilty of incest/sale/ trafficking. However, the non-residential aftercare

services for personal, social and vocational guidance should be made available to all the youth exiting the CCIs until they are 21 years of age, based on their Individual Care Plan. Children in institutions for mentally and physically challenged children, run under the Department of Social Justice/ Welfare should also be eligible for the Aftercare Programme run under the ICPS after due verification and certification by the CWC.

#### 4. Structures and Roles for Implementation of Aftercare

4.1 The Maharashtra State Probation and Aftercare association will be strengthened and given role of Nodal agency to coordinate aftercare services at District Level under the supervision of the DCPU. Its tasks will be:-

1. Take action for implementation of orders by DCPU aftercare programme.
2. Guide the work of the PO NIC
3. Assist in Monitoring and Evaluation of the implementation of the aftercare programme
4. Implement After care programs/services for children.

The DCPU will be responsible for the implementation and Monitoring of the aftercare programs according to the directions issued by the State Governments/MSCPS from time to time.

The State Government/ MSCPS may be engage the services of NGOs/ Civil Society to implement/ monitor/ evaluate the Aftercare programs.

4.2 Protection Officer for Non-Institutional Services

According to the ICPS, under the supervision of the DCPO, the Protection Officer, Non-Institutional Care (PO-NIC) would ensure effective implementation of the non-institutional components of ICPS including aftercare. The PO-NIC shall carry out the following tasks for aftercare at the district level:

1. Prepare a resource directory for aftercare services available in the district and update it every two to three years.
2. Identify credible voluntary organizations to implement the aftercare programme;
3. Supervise and monitor the implementation of the aftercare programme;
4. Supervise the staff who are allocated the aftercare programme;
5. Conduct group workshops for the youth registered for the Aftercare Programmes, in the areas of life skills development and rights education, including financial literacy.
6. Create public awareness about the special needs of the youth leaving care in terms of education, skill training, employment, housing and community-based mental health support.
7. Encourage both the public and the private sectors, to employ youth from different care services, particularly those with special needs.



8. Form a network of the youth who have registered for the Aftercare Programmes and conduct at least one meeting in a year for obtaining their feedback.
9. Maintain the documents of the aftercare programme.
10. Track the children from CCIs to aftercare and from aftercare to mainstream or after their reintegration.

#### 4.3 Social Workers for Case Management

Aftercare requires the case management method at the individual level, for a one-stop or single-window approach, not only to ensure comprehensiveness and integration of services, but also for prevention of duplication of services, cost-efficiency, and continuity of care. It can provide individual-centered services that are tailor-made for each person's needs, preferences, and goals, through the stages of assessment, planning, intervention, monitoring, evaluation, termination and follow up carried out by the same person. The DCPU/NGO will appoint social workers to carry out case management as given in details later in the chapter.

### 5. Selection of Aftercare Organisations

According to the ICPS, the DCPU shall identify suitable voluntary organizations that will run such Aftercare Programmes. These organizations shall formulate an aftercare programme for these children for a period of three years. Some of the key components may include:

- i) Community group housing on a temporary basis for groups of six to eight young persons.
- ii) Implement capacity building programs to enable the child to have gainful employment.
- iii) Counseling services to sustain themselves without state support and move out of the group home to stay in a place of their own after saving sufficient amount through their earnings.
- iv) Provision for a peer counselor to stay in regular contact with these groups to discuss their rehabilitation plans and provide creative outlets for channelizing their energy and to tide over the crisis periods in their lives;
- v) Facilitate children/ youth availing benefits of various schemes such as scholarships, Education Loans, business/entrepreneurship Loans etc.

### 6. Preparation by CCI for Aftercare

#### 6.1 Preparation of the Child for Aftercare and Individual Aftercare Plan

According to the JJ Rules of Maharashtra (2018), throughout the period of care, the CCIs should systematically aim at preparing children from the age of 14/15 to assume self-reliance and to integrate fully in the community, notably through the acquisition of

education, vocational guidance and training, life skills and child rights education, by participation in the life of the local community.

There is a need to plan an orientation programme for children at the 14 years of age about life after exiting from the CCI. Children may be trained in daily routine and chores such as marketing, cooking, cleanliness, maintenance of living premises, budgeting and money management, independent commuting, etc. through exposure to visits in the community: banks, markets, post office, local hospital, Aftercare Home, etc. Every CCI will be required to incorporate these aspects for children of 14 years and above in their ICP & ensure its implementation.

The JJ Rules further mention that the Caseworker/Child Welfare Officer/Probation Officer prepares an Individual Care Plan (ICP) for each child in the CCI. The ICP shall aim to rehabilitate and reintegrate the child based on his/ her case history, circumstances and individual needs.

The ICP is defined by the JJ Rules of Maharashtra (2018) as: “individual care plan” is a comprehensive development plan for a child based on age and gender specific needs and case history of the child, prepared in consultation with the child, in order to restore the child’s self-esteem, dignity and self-worth and nurture him into a responsible citizen and accordingly the plan shall address the following, including but not limited to, needs of a child, namely:

- a) health and nutrition needs, including any special needs;
- b) emotional and psychological needs;
- c) educational and training needs;
- d) leisure, creativity and play;
- e) protection from all kinds of abuse, neglect and maltreatment;
- f) restoration and follow up;
- g) social mainstreaming;
- h) life skill training.

Children in institutions for mentally and physically challenged children run under the Department of Social Justice/ Welfare should also undergo such preparation.

## 6.2 Submission of the Individual Aftercare Plan

According to the JJ Rules (2018), the Probation Officer or the Child Welfare Officer or caseworker or social worker, shall prepare a post-release (aftercare) plan as part of the ICP and submit the same to the JJB or the CWC, two months before the child is due to leave the CCI, recommending aftercare for such child, as per the needs and wishes of the child. It may be prepared with active involvement of the children/ youth leaving care and comprise the services to be provided, keeping the best interest of the young person in mind.



The IAP may include the youth's need for accommodation, and services for personal, social and vocational guidance within a timeframe. The CWC shall on assessment of the IAP rule upon whether the child can be reunited with the parents/guardian or sent to After care home or any other suitable of action based on the Child's informed choice.

It is important that the aftercare services for young adults are provided in the familiar location where they have spent significant number of years and have opportunity to access the contact with the previous CCI which would support them to sustain their transition to the mainstream life, unless the child/youth want a different location.

Children in institutions for mentally and physically challenged children run under the Department of Social Justice/ Welfare should also undergo the same process of preparation of their Individual Aftercare Plan and approved by the CWC.

Before implementation of the order, the youth leaving care should be required to sign on undertaking that they will continue their education and not get married before the legal age.

### 6.3 Documents that Children/ Youth should be given on Exiting the CCI

Children should be given the following documents on exiting the CCI:

- (a) Reference letter;
- (b) Education-related documents: Mark sheets, School Leaving Certificate, etc.;
- (c) Certificates of any achievement, vocational skills learnt, etc.;
- (d) Health/ Medical case papers;
- (e) Aadhar Card, Pan Card, etc. identity documents;
- (f) Orphan Certificate if relevant;
- (g) Aftercare Plan;
- (h) List of personal articles and belongings that were given to the child during his/ her stay in the CCI and that the same have been handed over to him / her;
- (i) List of important contacts and welfare services such as the police, hospitals, lawyers, de-addiction services, help lines, shelters and hostels, job placement agencies, etc.

It is very important that when a child in conflict with law is exiting the JJ system, his/her records should be sealed or expunged to help them reintegrate with the society without stigma.

## 7. Case Management for Aftercare

### 7.1 Tasks by the DCPU Social Workers

The DCPU Social Workers may:

- Make monthly visits to the Aftercare Homes to monitor the implementation of the Individual Aftercare Plan report to the PO-NIC.

- Some meetings can be held in the DCPU for counselling and review of progress.
- Carry out Quarterly Inspection of the Aftercare Homes and submit to the PO-NIC.
- Evaluate when the case is ready for termination of aftercare placement and report to the PO-NIC.

## 7.2 Tasks by the Aftercare Home Social Workers

In aftercare, the youth are responsible for organizing their everyday lives. For case management, the Aftercare Homes will appoint social workers to carry out the following tasks:

- Facilitate the youth's transition from institutional care and adjustment in the new accommodation.
- Provide support and individual and group counselling to the youth.
- Provide career guidance and placement services.
- Encourage mentorship by a former beneficiary of the Aftercare Programme.
- Facilitate peer support and peer counselling, creative outlets, etc. for the youth.
- Guide the youth for starting a bank account and obtaining legal documents such as Aadhar Card, Pan Card, Election Card, ration card, etc.
- Provide inter-organizational collaborations to meet the varied health and legal needs of the youth.
- Provide the youth with linkages to governmental and non-governmental agencies/schemes that could provide support on completion of the aftercare programme.
- Facilitate the youth's vocational training, higher education, apprenticeship, or loans and subsidies for setting up entrepreneurial activities.
- Facilitate their placement in commercial establishments through coordination with the National Skill Development Programme, Indian Institute for Skill Training and other such Central or State Government programmes and corporate, etc.
- The one percent reservation to orphans from the 'open' category by the State Government can be used for education and employment of orphans, on producing the orphan certificate.
- Facilitate training in computer skills and communication in English.
- Encourage creative outlets for channelizing their energy and to tide over the crisis periods in their lives.
- Provide pre-marital counselling and support for youth for getting a marital partner through referral services.
- Prepare the youth for termination of the services and provide follow up support.



## 8. Documentation for Aftercare

### 8.1 Master Register

The PO-NIC will maintain the Master Register which will include the following data and progress of youth registered for the Aftercare Programme:

- Youth's name, sex and birthdates
- Address of the youth at the time of referral
- Source of referral
- Date of referral
- Priorities for immediate action
- Languages spoken
- Date of registration
- Date of CWC/JJB/ Children's Court Order
- Name of the Aftercare Home
- Name of the social worker allotted
- Date and reasons of termination of the service
- Remarks

### 8.2 Register of Disbursement of Aftercare Grant

### 8.3 Individual Youth File

The Aftercare Organisations receiving the aftercare grant shall maintain confidential Individual Youth Files which may include identity and date wise documents starting with the referral letter and ending with the termination letter, such as the following :

- Photograph of the youth
- Birth certificate
- Aadhar card number of the youth
- Referral letter
- Individual Care Plan
- Youth's medical report
- Youth's disability certificate
- Youth's educational status and name and address of the school/ college
- If youth is working, youth's work status, name and address of the employer
- Youth's bank account details
- Youth's family information (information about the youth's parents and siblings)
- Youth's household information (with whom the youth is currently staying)
- Family's ration and BPL cards
- The CWC/ JJB/ Children's Court Order
- Youth's Undertaking

- Quarterly and annual reports
- Date and reason for termination of the service
- Termination Order

#### 8.4 Confidentiality of Documents

For maintaining confidentiality of children, the above registers, files and reports should be kept in a secure location, with restricted access, such as a locked filing cabinet or digi-lockers. Children's individual files should be accessible only to the respective social worker and the PO-NIC. A code (that does not identify the child) maybe allocated to each case file and marked on the front of the case file (names should not be recorded on the front of case files). This supports confidentiality and tracking of individual cases. A list which links the case file codes with the children's names should be stored in a different location from where the files are stored.

### 9. Monitoring, Evaluation and Termination for Aftercare

#### 9.1 Indicators for Monitoring and Evaluation

Following are the monitoring and evaluation indicators for implementation of the youth's Individual Aftercare Plan:

- Participation by child/youth in the decision-making process.
- Youth continues education in a school/ college or undergoes vocational training.
- Youth is provided career guidance and placement services.
- Youth's needs for shelter, nutritious food and personal clothing and other belongings, care, health, recreation and cultural activities, etc. are met.
- Youth is protected from neglect, abuse and commercial exploitation.
- Services received by youth and family through one-stop and one-window.
- Youth is satisfied with the services received.

#### 9.2 Monitoring, Evaluation and Termination

The above indicators will be used for monitoring, evaluation and termination of each case and will be carried out as follows:

- The DCPU will monitor the progress of all children registered for aftercare with the help of the social workers and submit the quarterly and annual reports to the be reported to the CWC.
- The DCPU shall ensure that the master register and quarterly and annual reports are monitored and revise the Individual Aftercare Plan accordingly and request a revised order from the CWC/ JJB/ Children's Court if necessary.
- The DCPU will recommend termination of the Aftercare Programme to the CWC/JJB/ Children's Court when the youth turns 21 or before, in consultation with the youth. In



exceptional circumstances, termination may be recommended earlier or be extended for two more years on completing twenty one years of age, for justifiable reasons.

- The CWC/JJB/ Children's Court will examine the report of the DCPU/PO-NIC and if considers necessary, may meet the youth.
- The CWC/JJB/ Children's Court will pass the order for termination of the aftercare services for a youth, and a copy of the same will be shared with the DCPU for appropriate action.

**List of Forms for the Aftercare Programme included in the JJ Rules of Maharashtra, 2018**

Form 7: Individual Care Plan

Form 38: Order of Aftercare Placement

## Annexure – III:

### List of Participants for the Round table meeting

1. Mr. Prabhakar Karandikar
2. Mr. D.R Parihar
3. Ms. Ujjwala Patil
4. Mrs. Parinita Kanitkar
5. Mr. Tyagrajan Pillai
6. Mr. Chinmay Bhandari
7. Mr. Subhashchandra Wagholikar
8. Mr. Vijay Sarate
9. Mr. Sushant Sonone
10. Mr. V.B. Shete
11. Mrs. Sadhana Zadhuke
12. Mr. D.S. Kute
13. Mr. Mahendra Sambhush
14. Mr. Shrihari Ayeti
15. Mr. Aditya Charegaonkar
16. Ms. Surekha Rabkavi
17. Mr. Balaji Wagh



## List of Abbreviations & Acronyms

ACC	Alternative Care for Children
ASAC	Aftercare Services Advisory Committee
ACS	Aftercare Services
CARA	Central Adoption Resource Authority
CCI	Child Care Institution
CCL	Children in Conflict with the Law
CH	Children Home
CL	Care Leavers
CNCP	Child Need of Care and Protection
CWC	Child Welfare Committee
DCPS	District Child Protection Society
DCPO	District Child Protection Officer
DCPU	District Child Protection Unit
DWCD	Department of Women and Child Development (GoM)
DWCDO	District Women and Child Development Officer
ICP	Individual Care Plan
ICPS	Integrated Child Protection Scheme
JJB	Juvenile Justice Board
JJA	Juvenile Justice Act
GoI	Government of India
GoM	Government of Maharashtra
LC	Leaving Care
MSCPCR	Maharashtra State Commission for Protection of Child Rights
MSCPS	Maharashtra State Child Protection Society
MSPAA	Maharashtra State Probation and Aftercare Association
MWCD	Ministry of Women and Child Development (GoI)
NCBC	National Commission for Backward Classes
NCPCR	National Commission for Protection of Child Rights
OHC	Out-of-Home Care
PMJAY	Pradhan Mantri Jan Arogya Yojana
PRIs	Panchayat Raj Institutions
RPO	Rehabilitation cum Placement Officer
RTE	Right to Education Act

SECC	Social and Economical Caste Census 2013
ULB	Urban Local Bodies
UNCRC	United Nations Convection on Child Rights
UNGAC	The UN Guidelines on Alternative Care (2009)
UNICEF	United Nation International Child Emergency Fund
YAO	Young Adult Orphan
YLC	Youth Leaving Care



## References

<sup>1</sup> <https://www.togetherscotland.org.uk/news-and-events/news/2018/12/together-welcomes-announcement-that-the-un-general-assembly-s-2019-rights-resolution-will-focus-on-children-without-parental-care/>

<sup>2</sup> <http://cara.nic.in/PDF/JJ%20act%202015.pdf>

<sup>3</sup> The term 'J.J Act' will mean the J.J. Act of 2015 unless otherwise stated.

<sup>4</sup> [www.hindustantimes.com/mumbai-news/1-reservation-for-orphans-in-government-jobs-in-maharashtra/story-U6y8SFRkv6GwEKDeuvi4Tl.h](http://www.hindustantimes.com/mumbai-news/1-reservation-for-orphans-in-government-jobs-in-maharashtra/story-U6y8SFRkv6GwEKDeuvi4Tl.h)

<sup>5</sup> [http://cara.nic.in/resource/adoption\\_Statistics.html](http://cara.nic.in/resource/adoption_Statistics.html)

<sup>6</sup> [https://wcd.nic.in/sites/default/files/CIF%20Report\\_Vol-II.pdf](https://wcd.nic.in/sites/default/files/CIF%20Report_Vol-II.pdf)

<sup>7</sup> <https://timesofindia.indiatimes.com/city/delhi/college-fee-waiver-for-orphans-poor/articleshow/69588393.cms> Dated of 31st May 2019

<sup>8</sup> A Borstal is an institution in which adolescent offenders are detained and are given institutional training and other instructions and subjected to disciplinary and moral influences as would be conducive to their reformation.



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ICC Trade Tower, A Wing, 5th Floor, Senapati Bapat Road, Pune 411016.  
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