

**Vulnerable
Children of
Maharashtra**
**A Report on the
Status of Children
Orphaned by
COVID-19**

**This report is
an independent,
non-commissioned
piece of work by
the Vidhi Centre
for Legal Policy,
an independent
think-tank doing
legal research to
help make
better laws.**

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Explanation of Relevant Terms

The Juvenile Justice (Care and Protection of Children) Act, 2015 (“JJ Act”) provides a rights-based legal framework that identifies authorities and procedures to ensure the care, protection and rehabilitation of children in conflict with law (“CCL”) and children in need of care and protection (“CNCP”). To clarify, the JJ Act defines a ‘child’ as a person under the age of 18 years. ¹

I. Categories of children

Categories of Children	Section under the JJ Act	Explanation
Abandoned Child	2(1)	<ul style="list-style-type: none"> Is a child deserted by their guardians² and is without family support. Form a part of CNCP.
Children in Need of Care and Protection (“CNCP”)	2(14)	<ul style="list-style-type: none"> Includes all children that need state intervention for their care and protection. Such as, children living in poverty, abandoned children or children that have been exploited for labour or trafficked. Also encompasses orphans as it mentions ‘children who do not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him’. Orphans are only a subsection of the different categories of children that are in need of care and protection.
Child Legally Free for Adoption	2(16)	<ul style="list-style-type: none"> A child that is confirmed to be without family support after an inquiry by authorities as required under the JJ Act.
Orphan	2(42)	<ul style="list-style-type: none"> A child ‘(i) who is without biological or adoptive parents or legal guardian; or (ii) whose legal guardians are not willing to take, or capable of taking care of the child’. No specific rights are provided under the JJ Act for orphans and all procedures as well as rights apply to CNCP uniformly. It is also important to note that the JJ Act definition for orphans includes any child that does not have a guardian to care for them (regardless of whether the guardian is alive or has passed away). Children whose guardians have passed away and are without family support as well as abandoned children are considered orphans.
Vulnerable Child	2(14)(ix)	<ul style="list-style-type: none"> Does not have a specific definition under the JJ Act. They form a part of CNCP. Children who might be inducted into drug abuse or trafficking.

¹ JJ Act, sub-section (12) of section 2.

² In this report, biological parents and legal guardians of children will both be referred to as guardians.

The report deals only with orphans for whom the guardians or the surviving guardian passed away due to COVID-19 or related complications. This is because the government schemes that we assess, are specifically targeted to these children. Unless indicated, any mention of orphans in the report only refers to these children.

From our experiences in the field, we understand there is a stigma attached to the word orphan. In this report, we use the term orphan in order to maintain its legal definition under the JJ Act.

II. Institutional and non-institutional care

The JJ Act provides a legal framework of institutional and non-institutional care for CNCP. Both these forms of care can be provided by non-governmental organisations (“NGOs”) as well as the government, but they have to be registered and monitored as per the JJ Act. The following are institutional care provisions for CNCP:

Categories of Institutional Care	Section under the JJ Act	Explanation
Child Care Institution (“CCI”)	2(21)	<ul style="list-style-type: none"> • A place that houses CNCP (it also refers to institutions for CCLs). • Includes children homes, Specialised Adoption Agencies, open shelters, observation homes, special homes or places of safety.
Specialised Adoption Agency (“SAA”)	2(57)	<ul style="list-style-type: none"> • A subsection within CCIs. • Recognised institutions that house CNCP that are between the ages of 0-6. • For the purposes of adoption of children above the age of 6, other CCIs have to form linkages with the SAAs.

Therefore, orphaned children can be placed in an SAA or in a children home depending on their age and there is no specific institution where only orphans are to be placed. The JJ Act however treats institutional care only as the last resort and offers non-institutional care (family-based care or the closest option that emulates it) over institutional care for children.

As per the JJ Act, and in line with the United Nations Guidelines for the Alternative Care of Children (2010) there are other forms of child protection available:

Categories of Non-Institutional Care	Section under the JJ Act	Explanation
Kinship care	-	<ul style="list-style-type: none"> • Has no definition under JJ Act • Arrangement of care for a child within their extended family.

		<ul style="list-style-type: none"> • It is the primary response for child protection outside parental care and occurs spontaneously when the child needs family support. • These care arrangements are not supervised by the JJ Act as the duty to inform the authorities about a vulnerable child only arises when the child 'appears or claims to be abandoned or lost', or the child 'appears or claims to be an orphan without family support'. When family support is available through grandparents and close relatives the child may not be produced before the relevant authorities. • Although kinship care arrangements are not usually monitored by the JJ Act, the authorities monitored children orphaned by COVID-19 who were placed with families to prevent any exploitation that may happen to these children during higher risk situations such as the pandemic.
Foster care	2(29)	<ul style="list-style-type: none"> • Provides care for children whose parents are unable to care for them temporarily due to illness, death or any other crisis situation. • It is different from adoption where the child severs all ties with their own natural parents and is adopted with all the legal rights that a biological child in the adoptive family would have had. • In foster care, the child's parents can visit regularly till the child is rehabilitated back to their home.
Sponsorship	2(58)	<ul style="list-style-type: none"> • Provides supplementary financial support to families that are unable to meet the needs of their children. While these children are sometimes sent to CCIs because their parents are unable to take care of their education or nutrition, the sponsorship assistance helps meet the medical, nutritional, educational and other needs of children and allows them to be cared for by their family instead of an institution.

The term kinship care and foster care can be used interchangeably as close relatives may not adopt the child but choose to foster them. However, for the purposes of this report, foster care will be referred to as the non-institutional care provided to children by non-family members.

III. Authorities

The following authorities play a role in the inquiry, rescue and rehabilitation of CNCP:

Categories of Authorities	Section under the JJ Act/ GR No.	Explanation
Child Welfare Committees (“CWC”)	27	<ul style="list-style-type: none"> • Empowered with judicial functions. • Take cognisance of children who have been produced before them and issue orders as to how the child can be rehabilitated. This can include arrangements for placement of the child by approving adoption and foster care arrangements. • Engage officers to perform social investigations and assess the fitness of caregivers and residential facilities for children who require care and safety.
District Child Protection Units (“DCPU”)	2(26)	<ul style="list-style-type: none"> • Ensure that various child protection programmes and laws are implemented effectively. • Responsible for the on-ground implementation and monitoring of the JJ Act. • Identify at-risk families and children who require care and protection. • Assist the CWCs in carrying out the required inquiries or orders.
District Task Force (“Task Force”)	Maharashtra Government Resolution dated 7 May 2021	<ul style="list-style-type: none"> • Constituted during the pandemic by all state governments as per orders from the centre. • A 10-member Task Force for each district that finds, rehabilitates and provides schemes to children orphaned by COVID-19. • Maharashtra set up a Task Force in all 36 districts. • Headed by district magistrates (“DMs”) and composed of commissioners of civic bodies, police chiefs, rural health officials, and other officers in the district. • Compiled data on children orphaned by COVID-19 in order to understand the measures required to protect these children.

IV. Schemes

The report looks at two schemes that existed for CNCP even before COVID-19:

- A centrally sponsored scheme, the Integrated Child Protection Scheme (“ICPS”) that provides INR 2160 monthly to CCIs for care of each child.³
- A scheme by the Maharashtra government, the Bal Sangopan scheme created in 2005 that provided INR 1250 to all families or extended families requiring sponsorship to take care of CNCP or orphans.⁴

³‘Welfare Schemes for Orphan Children’ (PIB press release, Ministry of Women and Child Development) <<https://pib.gov.in/PressReleasePage.aspx?PRID=1602395>> accessed 12 April 2022.

⁴Maharashtra Government Resolution dated 6 April 2021 <<https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/Marathi/202104081532439230.pdf>> accessed 12 April 2022.

Introduction

Since March 2020, through the course of the COVID-19 pandemic, there have been nearly six million mortalities worldwide.⁵ As a consequence, many children around the world have lost their caregivers.⁶

When children lose caregiver support, they are vulnerable and in need of care and protection from the state. One form of loss for them is evident in the lack of an environment where the child can grow and have access to basic health, education and nutrition. Another form of loss is loss of protection from them being forced into trafficking, child labour, child marriage and other criminal activities.⁷ These increased vulnerabilities are compounded during wars, natural disasters and epidemics where the effect on children and society is lifelong and intergenerational. Similar impacts were seen in the HIV/AIDS epidemic that occurred in the early 2000s, where nearly 14 million children lost a parent and were left without adequate emotional, financial and institutional support.⁸

During the pandemic, media outlets in Maharashtra reported that pictures of orphaned children were being illegally circulated on social media platforms for their adoption.⁹ The reports also suggested that the state should extend additional support to children that lost their guardians during COVID-19 as they required immediate legal and policy attention to ensure their protection.¹⁰

Thereafter, the state government provided resources for on-ground identification and continuous monitoring of CNCP along with providing additional relief measures for the safety, health and education of children who lost their guardians to the pandemic.¹¹ The central government also issued notifications to relevant government authorities to ensure adherence to the provisions of the JJ Act, the primary legislation that ensures care and protection of vulnerable children in India.

⁵Laura Rawlings and Philip Goldman, 'How action can help millions of children orphaned by COVID-19' (*World Bank Blogs*, 14 March 2022) <<https://blogs.worldbank.org/health/how-action-can-help-millions-children-orphaned-covid-19>> accessed 12 April 2022..

⁶Hannah Ritchie, Edouard Mathieu, Lucas Rodés-Guirao, Cameron Appel, Charlie Giattino, Esteban Ortiz-Ospina, Joe Hasell, Bobbie Macdonald, Saloni Dattani and Max Roser, 'Coronavirus (COVID-19) Deaths' (*Our World in Data*) <<https://ourworldindata.org/covid-deaths>> accessed 12 April 2022.

⁷Cansu Nar, '2021 Orphan Report' (INSAMER Report, April 2021) <<https://ihh.org.tr/public/publish/0/152/insamer-2021-yetim-raporu-eng-200425-n.pdf>> accessed 12 April 2021.

⁸Children: The Hidden Pandemic 2021 | A joint report of COVID-19 associated orphanhood and a strategy for action' <<https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/orphanhood-report.pdf>> accessed April 12 2022

⁹Nitin Jain, 'The pandemic's ruthless toll -- Covid orphans up for sale!' *India Today*, (New Delhi, 30 November 2021) <<https://www.indiatoday.in/india/story/covid-orphans-sale-illegal-adoption-sting-operation-video-1882630-2021-11-30>> accessed 12 April 2021.

'Aapan Jababdar Aahot?' (*Maharashtra Times*, 29 May 2021) <<https://maharashtratimes.com/lifestyle-news/relationships/asmita-chitale-talks-about-social-media-viral-message-about-fake-child-adoption/articleshow/83065890.cms>> accessed April 12 2022

'Anaath balkanna paraspar dattak ghyal tar khabardar' (*Akola*, 7 May 2021) <<https://www.esakal.com/akola/beware-of-orphaned-children>> accessed 14 April 2022.

¹⁰'Six children a minute left without caregivers from COVID-19 at risk of orphanages' (UN OCHA, 22 February 2022) <<https://reliefweb.int/report/world/six-children-minute-left-without-caregivers-covid-19-risk-orphanages>> accessed 12 April 2022.

¹¹Conversation with Women and Child Development Commissioner dated 5 October 2021.

Presently, India has more than 1.5 lakh children that have either been orphaned (due to COVID-19 or non-COVID-19 reasons), have lost a single parent, or have been abandoned during the COVID-19 pandemic. Maharashtra has the second highest number among states in India with approximately 20,429 children second only to Odisha with 26,318 such children.¹²

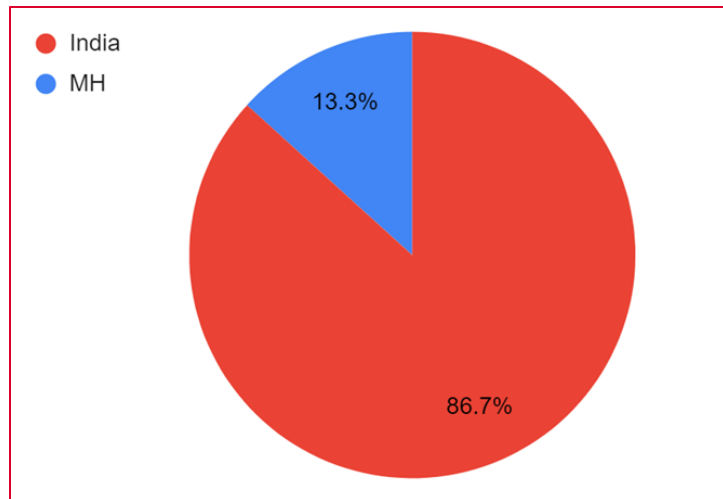


Figure 1: Percentage of children vulnerable during the pandemic in Maharashtra

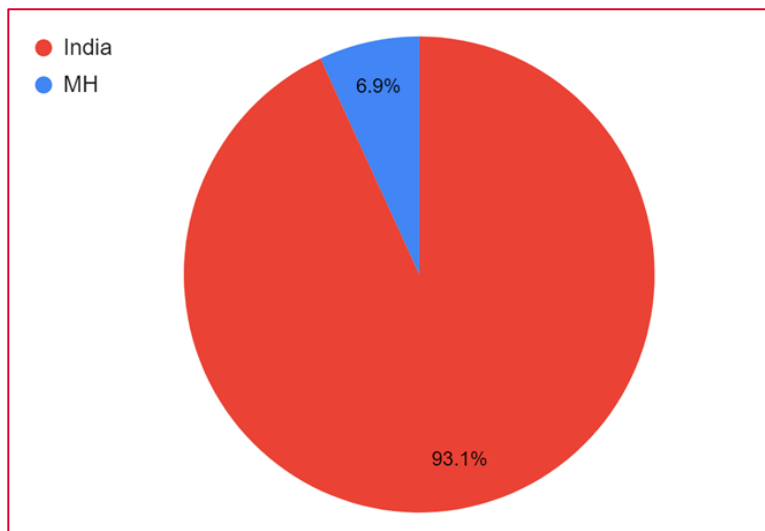


Figure 2: Percentage of children orphaned during the pandemic in Maharashtra

Out of the nearly 10,386 children orphaned in India, 718 children in Maharashtra were orphaned after their guardians died during the COVID-19 pandemic.¹³

Since a majority of the schemes during the pandemic were created only for orphans who lost both or their surviving guardians to COVID-19 (and not due to socioeconomic circumstances caused by COVID-19), we have conducted a survey of authorities under the JJ Act to analyse the on-ground implementation of these specific support measures. Our survey attempts to determine the efficacy of procedures in place to protect orphans as well as the reach and impact of the schemes on their health and education. Our findings also address issues such as the disproportionate emphasis on providing assistance to only children orphaned by COVID-19 and bottlenecks that existed before the COVID-19 pandemic that could have resulted in reduced monitoring of these orphans and delays in placing them for adoption or foster care.

¹²Mohana Basu, 'Not 19 lakh, but 1.5 lakh children have lost parents to Covid, India strongly refutes Lancet study' (The Print, 25 February 2022) <<https://theprint.in/india/not-19-lakh-but-1-5-lakh-children-have-lost-parents-to-covid-india-strongly-refutes-lancet-study/847171/>> accessed 14 April 2022.

¹³ 'Lancet Article Sophisticated Trickery Intended To Create Panic Among Citizens, Divorced From Truth And Ground Reality: Ministry Of Women And Child Development' Children' (PIB press release, Ministry of Women and Child Development) <<https://pib.gov.in/PressReleaseframePage.aspx?PRID=1802393>> accessed 12 April 2022 (The data is provided as of 15 February 2022).

Methodology

A combination of primary and secondary research methods has been used to answer different research questions.

We have analysed the JJ Act as well as Maharashtra’s Juvenile Justice (Care and Protection of Children) Rules, 2018 (“JJ Rules”).

We have listed and researched the guidelines and schemes provided by the central and state governments for children orphaned by COVID-19.

We also recorded the timeline of events related to orphan children from the start of the pandemic till date to provide a glimpse of the state response and discourse on the issue.

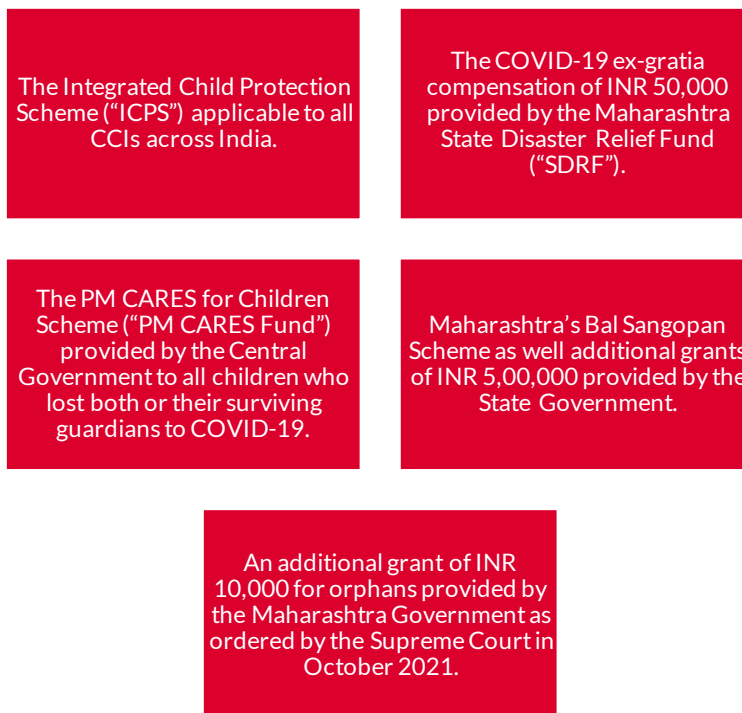
Additionally, to understand the on-ground implementation of the legislation, policies and schemes in Maharashtra we interviewed:

Authorities and Institutions	Percentage/Number Interviewed
CWCs	56% (22 out of 39) ¹⁴
DCPUs	66% (24 out of 36)
CCIs	20 out of approximately 450 ¹⁵

We contacted all CWCs and DCPUs across all 36 districts of Maharashtra. However, not all CWCs and DCPUs agreed to be interviewed and the available percentage reflects the numbers that agreed to speak to us.

We asked CWCs about their staffing and funding as well as the status of placing children orphaned by COVID-19. This included questions on adoption and foster care in the state. We also had questions on the monitoring mechanisms used during the pandemic. DCPUs were asked about administrative problems faced by them during and before the COVID-19 pandemic and whether there were any problems faced in implementing the schemes and home study reports. We asked both CWCs and DCPUs about their opinion on home-based care versus institutional care.

Figure 3: Schemes for children orphaned by COVID-19



¹⁴ Since some districts (36 in total) have more than 1 CWC, the total number of CWCs in Maharashtra is 39.

¹⁵ Conversation with Women and Child Development Commissionerate, Pune dated 5 October 2021.

For the CCIs we interviewed, they are representative of the entire geographical span of Maharashtra. Access to CCIs proved difficult and we were given limited permission to speak to management in only some CCIs. Permission to speak to children was denied across all CCIs in the state. Therefore, the number of CCIs interviewed is lower in number and information from them is presented in an anecdotal form.

CCIs were asked about the number of orphans and other CNCP that were placed with them during the pandemic and about how the education and health of orphans was managed during the pandemic. This was followed by questions on processes and procedures of placement of children in CCIs, along with monitoring mechanisms implemented by CWCs during the pandemic. We also asked questions related to funding and donations during this time. The questions for CCIs were repeated to differentiate their experiences during the first wave and the second wave of COVID-19 in India.

We also spoke to officials at the Women and Child Development Commissionerate, Pune as well as the Women and Child Development Department, Government of Maharashtra, Mumbai to receive data on the number of orphans and CNCP, and understand the basis for the implementation of the schemes.

Timeline

20 March 2020

As the pandemic starts, reports highlight the vulnerability of children

Within the first month of the pandemic, articles report the plight of vulnerable children stating that they are at a higher risk of being exploited due to halts in monitoring and policing activities, caregiver deaths, increased poverty and closure of schools.^{16 17} Since the pandemic is in its nascent stage, the articles focus on the vulnerability of children caused by precarious socio-economic circumstances, rather than COVID-19 mortality rates.

3 April 2020

Supreme Court takes suo motu cognisance of vulnerability of children during the pandemic

The Supreme Court orders that measures should be taken on priority to prevent the spread of COVID-19 to CCIs. It lays down measures to be taken by CWCs, DCPUs and state governments to protect orphans. It also lays down detailed preventive and responsive measures to be taken for other CNCP.¹⁸

30 April 2021

Secretary, WCD issues a letter to all Chief Secretaries of states¹⁹

The letter:

- Mentions a collaboration between the National Institute of Mental Health and Neuro-Sciences (“NIMHANS”) and another NGO, Samvad for providing counselling to children that are distressed.
- Directs DMs to ensure rehabilitation of children as per the JJ Act and the new pandemic protocols. Also directs DMs to collaborate with all government authorities (local police, DCPU, local child line unit and CWCs) to ensure normalcy is restored immediately for orphans.

¹⁶ ‘The Alliance for Child Protection in Humanitarian Action, Technical Note: Protection of Children during the Coronavirus Pandemic, Version 1’ (The alliance for child protection in humanitarian action, March 2019) <[https://www.unicef.org/media/65991/file/Technical%20note%20Protection%20of%20children%20during%20the%20coronavirus%20disease%202019%20\(COVID-19\)%20pandemic.pdf](https://www.unicef.org/media/65991/file/Technical%20note%20Protection%20of%20children%20during%20the%20coronavirus%20disease%202019%20(COVID-19)%20pandemic.pdf)> accessed 12 April 2022.

¹⁷ Protiva Kundu, ‘COVID-19 Crisis Will Push Millions of Vulnerable Children Into Child Labour’ (The Wire, 21 April 2020) <<https://thewire.in/rights/covid-19-crisis-will-push-millions-of-vulnerable-children-into-child-labour>> accessed 12 April 2022.

¹⁸ Order dated 3rd April 2020 in SMW(C) No. 4 of 2020, ‘In Re: Contagion of Covid 19 Virus in Children Protection Homes’ <https://main.sci.gov.in/supremecourt/2020/10820/10820_0_4_21584_Order_03-Apr-2020.pdf> accessed 12 April 2022.

¹⁹ Letter to Ministry of Women and Child Development (D.O.No.CW.II/5/2020-CW.II) <[http://cara.nic.in/PDF/DO%20dated%2030%20April%2021%20on%20Covid%20\(1\).pdf](http://cara.nic.in/PDF/DO%20dated%2030%20April%2021%20on%20Covid%20(1).pdf)> accessed 12 April 2022.

- Mandates the DMs and the State Commission for Protection of Child Rights (“SCPCR”) to submit a weekly report to the state government on the status of orphans. The state government is also required to send a weekly report to the Ministry of Women and Child Development (“WCD”).

5 May 2021

A Juvenile Justice Committee constituted by the Supreme Court asks for Task Force to be created in each district

The state governments are required to create a Task Force in each district and provide guidelines for the efficient functioning of the Task Force to ensure that CNCP during COVID-19 were identified and rehabilitated.²⁰

7 May 2021

Maharashtra constitutes its district task forces

As per the directions of the Juvenile Committee of the Supreme Court a task force is constituted at the district level under the chairmanship of the District Collector to take necessary measures for the proper care of the children admitted in the CCIs as well as the children who have lost both of their parents due to COVID-19.²¹

12 May 2021

Maharashtra releases guidelines for Task Force

Maharashtra releases guidelines which detail how schools, hospitals and the authorities under the JJ Act have to handle CNCP during COVID-19.²²

28 May 2021

Supreme Court directs district authorities to provide data on orphans

²⁰ Order dated 28 May 2021 in SMW(C) No. 4 of 2020, ‘In Re Contagion of Covid 19 Virus in Children Protection Homes’ <https://main.sci.gov.in/supremecourt/2020/10820/10820_2020_0_4_21584_Order_03-Apr-2020.pdf> accessed 18 April 2022.

²¹ ‘Government Resolution No. – Orphan –2021/ प्र. क्र.62/ का-08/’ (Maharashtra Government Department of Women and Child Development, 7 May 2021) <<https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/English/202106171652077530.pdf>> accessed 18 April 2022.

²² ‘Government Resolution No. – Orphan –2021/ प्र क्र 62/ का-8/’ (Maharashtra Government Department of Women and Child Development, 12 May 2021) <<https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/Marathi/202105121725070730.pdf>> accessed 18 April 2022.

The district authorities are directed to upload information on the number of orphans rehabilitated after March 2020 on an online portal provided by the central government.²³

29 May 2021

NCPCR launches portal and issues guidelines to track orphaned children and a central government fund is launched for support and empowerment of COVID-19 affected children²⁴

The National Commission for Protection of Child Rights (“NCPCR”) asks states to upload the data of children who have lost their parents on the newly launched Covid-Care link on the Bal Swaraj Portal.²⁵ It also releases a set of guidelines for state authorities to follow.

The PM CARES Fund, the central government fund, provides a:

- Fixed deposit of INR 10 lakh created in the name of the orphan. It will be used to give the orphan a monthly stipend once they turn 18 till the next five years. Once they turn 23, the remaining amount will be given as a lump sum.
- For children under 10 years, school education in the nearest Kendra Vidyalaya (“KV”) or education in private schools as a day scholar will be provided where fees as per section 12(1)(c) of the Right of Children to Free and Compulsory Education Act, 2009 will be provided by the PM CARES Fund.
- For children between 11-18 years, education will be provided by central government residential schools like Sainik School and if the child is placed under family care then the PM CARES Fund will also pay for their uniform and textbooks.
- For higher education they will receive assistance to get an education loan and PM CARES Fund will pay interest on the loan. Scholarships will also be provided for these children.
- The child will be enrolled as a beneficiary under the Ayushman Bharat Scheme, whose premium will be paid by the PM CARES Fund. A health insurance coverage of INR 5 lakh will be provided till the child is 18 years old.²⁶

30 May 2021

NCPCR warns of increasing child trafficking post-COVID-19 lockdown

A report by NCPCR raises concerns about increasing child trafficking during the COVID-19 lockdown. For preventive measures, NCPCR suggests that effort should be focussed on ‘source, transit and

²³Order dated 28 May 2021 in SMW(C) No. 4 of 2020, ‘In Re Contagion of Covid 19 Virus in Children Protection Homes’ <https://main.sci.gov.in/supremecourt/2020/10820/10820_2020_37_37_28035_Order_28-May-2021.pdf> accessed 12 April 2022.

²⁴ ‘PM CARES For Children- Empowerment of COVID Affected Children launched for support & empowerment of Covid affected children’ (PIB Press Release PMO, 29 MAY 2021) <<https://pib.gov.in/PressReleaseDetail.aspx?PRID=1722719>> accessed 12 April 2022.

²⁵National Commission for Protection of Child Rights (Bal Swaraj Portal) <<http://www.ncpcr.gov.in/baalswaraj/login>> accessed 12 April 2022.

²⁶PM CARES for Children Scheme Guidelines’ (PMO, 5 October 2021) <<https://pmcaresforchildren.in/public/web-design/images/guidelines.pdf>> accessed 12 April 2022.

destination hotspots'.²⁷ The commission further recommends providing vulnerable families with social protection cover to reduce the risk of a child getting trafficked.

1 June 2021

More than 1,000 orphans because of the pandemic

According to the NCPCR data more than 1,700 children lost both parents, while 140 had been abandoned and more than 7,400 had lost one of their parents to COVID-19.²⁸

2 June 2021

WCD releases guidelines regarding care and protection of children affected due to COVID-19 (in regards to previous letter dated 30 April 2021)

State governments are instructed to identify and track children in distress through outreach and surveys and update their database of children. They are also directed to publicise child helpline information, alert the police to monitor and prevent trafficking and maintain a database of children at risk.

The DM is designated as a guardian of vulnerable children, who should ensure their rehabilitation and create a district-level multi-departmental task force to map their needs. The DM is also responsible for ensuring children's rights on ancestral properties through proper oversight by the revenue and registration department. District police are instructed to be vigilant of illegal adoptions and trafficking. Children affected are to receive free education, benefits under existing schemes if possible, vocational training under Pradhan Mantri Kaushal Vikas Yojana and health insurance under PM Jan Arogya Yojana schemes.^{29 30}

7 June 2021

Supreme Court orders tough action against illegal calls for the adoption of COVID-19 orphaned children

²⁷ 'Preventing Child trafficking post lockdown situation due to Covid-19 pandemic' (National Commission for Protection of Child Rights) <<https://www.ncpcr.gov.in/showfile.php?lang=1&level=1&&sublinkid=2003&lid=1914>> accessed 12 April 2022.

²⁸ 'COVID: Thousands of Indian children orphaned by pandemic' (Deutsche Welle, 1 June 2021) <<https://amp.dw.com/en/covid-thousands-of-indian-children-orphaned-by-pandemic/a-57742069>> accessed 12 April 2022.

²⁹ Letter to Ministry of Women and Child Development (D.O.No-CW-11-30/12/2021-CW-II) <<https://wcd.nic.in/sites/default/files/Letter%20to%20Chief%20Secretaries.pdf>> accessed 12 April 2022.

³⁰ 'Govt issues guidelines for care of children affected by COVID-19' (The Economic Times, 3 June 2021) <https://economictimes.indiatimes.com/news/india/govt-issues-guidelines-for-care-of-children-affected-by-covid-19/articleshow/83200586.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst> accessed 18 April 2022..

The court directs state governments to take stringent action against private individuals and NGOs who invite people to illegally adopt these orphans.³¹ The order comes after the NCPCR raised an alarm on a spate of complaints about the illegal adoption of orphans through private individuals and organisations.³²

10 June 2021

Three states have the most children in distress due to COVID-19: NCPCR

Data by NCPCR reveals that Maharashtra, Uttar Pradesh and Rajasthan have the highest number of vulnerable children and orphans in the pandemic. NCPCR reports that 30,071 children were found to be in distress, having lost one or both parents or having been abandoned. This figure includes 15,620 boys, 14,447 girls and 4 transgender children. The data included both COVID-19 related deaths as well as other deaths that occurred during the pandemic.³³

17 June 2021

Resolution passed by the Maharashtra government to provide financial assistance to orphans

The state, in addition to the scheme of the PM CARES Fund, decides to provide financial assistance to orphans.

A lump sum amount of INR 5 lakh will be deposited (as a fixed deposit) in the child's name (available both, for children who were offered kinship care and also for children in CCIs).

The amount can be availed upon maturity, at the age of 21, if they are unmarried. The other requirement is that they need to be residents of Maharashtra.³⁴

22 July 2021

Lancet reports that over 1 million children lost a parent to COVID-19, including 1.1 lakh in India

The Lancet, a peer-reviewed medical journal, publishes a report stating that an estimated 15 lakh children globally face the loss of a parent or a caregiver (a grandparent or other older relative in their home) due to COVID-19, including over 10 lakh children who have already lost one or both parents. According to

³¹ Order dated 7 June 2021 in SMW(C) No. 4 of 2020, 'In Re Contagion of Covid 19 Virus in Children Protection Homes' <https://theleaflet.in/wp-content/uploads/2021/06/10820_2020_37_1_28059_Order_07-Jun-2021-1.pdf> accessed 18 April 2022.

³² Krishnadas Rajagopal, 'Supreme Court orders tough action against illegal calls for adoption of COVID-19-orphaned children' (The Hindu, June 08 2021) <<https://www.thehindu.com/news/national/sc-orders-tough-action-against-illegal-calls-for-covid-19-orphaned-children-adoption/article34759904.ece>> accessed 12 April 2022.

³³ 'Three states have the most children in distress due to COVID-19: NCPCR' (Careers360, 1 April 2022) <<https://news.careers360.com/covid-19-coronavirus-children-orphaned-abandoned-maharashtra-up-rajasthan-narendra-modi-sonia-gandhi-ncpcr-delhi-govt-west-bengal>> accessed April 12 2022.

³⁴ 'Government Resolution No. - Orphan - 2021 /प्र.क्र.49/का-03' (Maharashtra Government Department of Women and Child Development, 17 June 2021) <<https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/English/202106171652077530.....pdf>> accessed 12 April 2022.

the report, in India, an estimated 1.16 lakh children lost one or both parents.³⁵ The data does not match the information provided by the NCPCR or WCD.

27 July 2021

Supreme Court states that all children orphaned during COVID-19 should be covered under welfare schemes

The Supreme Court makes an oral observation that the centre's welfare schemes should reach all children who lost their guardians after the pandemic struck, and not limit its benefit to those children who lost their parents only to COVID-19.^{36 37}

The WCD clarifies thereafter that Bal Swaraj does not just take information on children orphaned by COVID-19 but all children orphaned during COVID-19.³⁸

27 July 2021

Supreme Court directs states to ensure children orphaned during pandemic are allowed to continue their education

The Supreme Court directs all states to ensure that orphans from March 2020 are permitted to continue in the same school, be it private or government, at least for the current academic year.³⁹

26 August 2021

Supreme Court gives directions to Maharashtra

The concerned authorities in Maharashtra are directed not to delay the process of identification of children requiring support and assistance. Maharashtra is also directed to ensure that the benefits announced by them under the Bal Sangopan Scheme reach eligible children in need.

³⁵ Anuradha Mascarenhas, 'Explained: Over 1 million children lost a parent to Covid-19, including 1.1 lakh in India' (Indian Express, 22 July 2021) <<https://www.indianexpress.com/article/explained/explained-over-1-million-children-lost-a-parent-to-covid-including-1-1-lakh-in-india-7414386/lite/>> accessed 12 April 2022.

³⁶ Avik Roy, 'Children orphaned during Covid-19 should be covered under welfare schemes: SC' (Hindustan Times, 27 July 2021) <<https://www.hindustantimes.com/india-news/children-orphaned-during-covid-19-should-be-covered-under-welfare-schemes-sc-101627378749600-amp.html>> accessed 12 April 2022.

³⁷ Srishti Ojha, 'Welfare Schemes Should Cover Children Orphaned During COVID & Not Just Who Became Orphans Due To COVID : Supreme Court' (LiveLaw, 27 July 2021) <<https://www.livelaw.in/top-stories/cover-children-orphaned-during-covid-not-just-orphans-due-to-covid-supreme-court-178237>> accessed 18 April 2022.

³⁸ 'Commission for Protection of Child Right' (PIB Press Release Ministry of Women and Child Development, 30 July 2021) <<https://pib.gov.in/PressReleasePage.aspx?PRID=1740743>> accessed 12 April 2022.

³⁹ 'SC directs states to ensure children orphaned during pandemic be allowed to continue education' (IndiaTV, 28 July 2021) <<https://www.indiatvnews.com/education/news-sc-directs-states-to-ensure-children-orphaned-during-pandemic-be-allowed-to-continue-education-722626>> accessed 12 April 2022.

4 October 2021

Supreme Court approves centre's compensation scheme for COVID-19 victims, states asked to release funds in 30 days

The Supreme Court approves the centre's scheme of granting INR 50,000 ex-gratia compensation to the family of those who died due to COVID-19 in India. No state should deny the ex-gratia compensation to the kin of such persons on the sole ground that the death certificate does not mention COVID-19 as the cause of death.⁴⁰

20 October 2021

Supreme Court Order creates new Maharashtra scheme for orphans

As a precondition to disburse INR 25 crore of the Maharashtra government lying with the court exchequer, the Supreme Court asks the state government to create a scheme that will utilise the money for the benefit of the state's children.

Therefore, an additional financial assistance up to the limit of INR 10,000 per child as a one-time fee will be provided for educational expenses like school fees, hostel fees, educational material/equipment for orphans. The Task Force will be given the responsibility of distributing the amount after scrutinising the need-based applications and submitting the report to the Women and Child Development Commissionerate, Pune.⁴¹

30 October 2021

Orphans do not increase number of adoptable children in India

According to an affidavit filed by the NCPCR, more than 3,600 children have lost their guardians as a result of COVID-19 and other causes since the start of the pandemic. However, the official figure quoted by the WCD is 600 orphans.

The Central Adoption Resource Authority ("CARA"), under the WCD, regulates the adoption of CNCP. While the average number of children in the CARA pool has been approximately 2,200 over the last five years, that number has dropped cited by CARA even further during the pandemic.⁴²

24 November 2021

⁴⁰ Aneisha Mathur, 'Supreme Court approves Centre's compensation scheme for Covid victims, states asked to release funds in 30 days' (India Today, 4 October 2021) <<https://www.indiatoday.in/india/story/supreme-court-approves-govt-compensation-for-covid-victims-1860446-2021-10-04>> accessed 12 April 2022.

⁴¹ Miscellaneous Application No. 377/2018 in SLP(C) No. 29645/2016, Danane Shweta Sunil and Ors. vs Union of India and Ors. <https://main.sci.gov.in/supremecourt/2018/4956/4956_2018_34_1_30740_Order_20-Oct-2021.pdf> accessed 12 April 2022

⁴² Avinash Kumar, 'India's adoption data: Intriguing, disturbing' (Hindustan Times, 30 October 2021) <<https://www.hindustantimes.com/opinion/indias-adoption-data-intriguing-disturbing-101635601389149.html>> accessed 12 April 2022.

Collector offices across Maharashtra swamped with queries on COVID-19 ex-gratia compensation

Collector offices across the state receive several queries about the INR 50,000 ex-gratia amount for family members of COVID-19 deceased patients. Most of them are from families who did not have death certificates that mention COVID-19 as the cause of death. There have also been complaints about the functioning of the district-wise grievance redressal committees tasked to assist such kin as per the directive of the Supreme Court.⁴³

26 November 2021

PM CARES Fund relief should reach children soon

After being informed that the DMs across India had received 4,148 applications and approved only 1,719 requests for coverage under the PM CARES Fund, the Supreme Court gave the central and state governments two weeks to report the status of relief granted to orphans under the PM CARES Fund.⁴⁴

30 November 2021

Supreme Court directs DMs to personally interact with children to review health and education

The Supreme Court directed that the DMs should expeditiously complete the review process for identification of children entitled to benefits:

*"The District Magistrate is required to interact with children personally and review health and education parameters. The DM has to ensure benefits reach the children. We are informed that a timeline of one month has been fixed in the scheme from registration for the approval to come from the Union of India. This timeline is not being followed by DMs. Any delay caused in identification by the Union of India for grant of benefits under PM CARES Fund would be to the detriment of the children who need assistance."*⁴⁵

28 February 2022

Registration for PM CARES Fund closes

The portal registration of children for the PM CARES Fund closed on 28 February 2022.⁴⁶ Maharashtra's schemes are still being continued.⁴⁷

⁴³Rupsa Chakraborty, 'Collector offices across Maharashtra swamped with queries on Covid ex-gratia' (Indian Express, 24 November 2021) <<https://indianexpress.com/article/cities/mumbai/collector-offices-across-maharashtra-swamped-with-queries-on-covid-ex-gratia-7638113/>> accessed 12 April 2022.

⁴⁴ Abraham Thomas, 'PM CARES relief should reach children soon: SC' (Hindustan Times, 16 November 2021) <<https://www.hindustantimes.com/india-news/benefits-under-pm-cares-should-reach-children-orphaned-by-covid-soon-sc-101637000544815.html>> accessed 12 April 2022.

⁴⁵ Sohini Chowdhury, 'COVID Orphans : Supreme Court Directs District Magistrates To Personally Interact With Children To Review Health & Education' (LiveLaw, 30 November 2021) <<https://www.livelaw.in/top-stories/supreme-court-suo-moto-children-in-need-of-care-and-protection-loss-of-parents-covid-five-states-directions-186591>> accessed 12 April 2022.

⁴⁶ PM CARES for children <<https://pmcaresforchildren.in/>> accessed 18 April 18, 2022.

⁴⁷ Conversation with State Women and Child Development Commissionerate, Pune dated 25 March 2022.

Findings

A. Schemes may not be provided to orphans due to the requirement of a COVID-19 death certificate

Questions have been raised about the veracity of WCD's data on children affected by orphanhood (orphanhood measures the effect on a child by the loss of even one guardian).^{48 49} This is due to the contradictory data provided by the central government compared with the data provided by the report on 'Global, regional, and national minimum estimates of children affected by COVID-19-associated orphanhood and caregiver death, by age and family circumstance up to Oct 31, 2021: an updated modelling study' ("**Orphanhood Report**"). The Orphanhood Report estimates that in the 20 months between March 2020 and October 2021, more than 3 million children across the world lost one or both their parents to the pandemic.⁵⁰ As per the report, the highest rate of orphanhood occurred between May to October 2021⁵¹. India, having approximately 19 lakh children affected by orphanhood, was reported as having the highest rate of orphanhood.⁵²

The data calculated by the Orphanhood Report is arrived at by modelling both excess mortality rates and COVID-19 mortality rates for India. The excess mortality rates provided reflect the rates of 'COVID-19 associated orphanhood', i.e., they also report on the orphanhood caused indirectly due to decreased access to health services or other restrictions placed on resources during the pandemic.

The data provided by the NCPCR, like the Orphanhood Report, also attempted to estimate orphanhood not just from COVID-19, but also from ancillary causes. However, its data reflected a significantly smaller number of 1.4 lakh children affected by orphanhood. This has resulted in a debate⁵³ about the efficiency of government measures to record and find vulnerable children and as a result report accurate data on children orphaned by COVID-19.

However, considerable attempts have been made by the government for collecting data of orphans by creating Task Forces to identify and rehabilitate children on the ground.

There is a possibility of some discrepancies in providing schemes for children orphaned by COVID-19 as despite the Supreme Court order, COVID-19 death certificates or proof of COVID-19 mortality was still required by hospitals for children and families to avail schemes. Nearly half the DCPUs, as well as news reports⁵⁴ mentioned facing difficulties in procuring these certificates and documents for orphans.

⁴⁸ 'Do not dismiss Lancet on Covid orphans data' (Deccan Herald, 11 March 2022) <<https://www.deccanherald.com/opinion/first-edit/do-not-dismiss-lancet-on-covid-orphans-data-1090453.html>> accessed 12 April 2022.

⁴⁹ 'Global, regional, and national minimum estimates of children affected by COVID-19-associated orphanhood and caregiver death, by age and family circumstance up to Oct 31, 2021: an updated modelling study' (The Lancet Child and Adolescent Health Vol 6, Issue 4, P249-259, APRIL 01, 2022) <[https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642\(22\)00005-0/fulltext](https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642(22)00005-0/fulltext)> accessed 12 April 2022.

⁵⁰ *ibid*

⁵¹ *Ibid*.

⁵² *Ibid*, page 6.

⁵³ 'Lancet Article Sophisticated Trickery Intended To Create Panic Among Citizens, Divorced From Truth And Ground Reality: report Of Women And Child Development' Children' (PIB press release, Ministry of Women and Child Development) <<https://pib.gov.in/PressReleaseframePage.aspx?PRID=1802393>> accessed 12 April 2022.

'Care informed by data: On children orphaned by the pandemic' (The Hindu, 04 March 2022) <<https://www.thehindu.com/opinion/editorial/care-informed-by-data-the-hindu-editorial-on-children-orphaned-by-the-pandemic/article65187592.ece>> accessed 12 April 2022.

⁵⁴ Varsha Singh, 'Covid-19 leaves trail of orphaned children & helpless widows' (Media India Group, 28 July 2021) <<https://mediaindia.eu/politics/covid-19-leaves-trail-of-orphaned-children-helpless-widows/>> accessed 12 April 2022.

However, the DCPUs interviewed also stated that they travelled to villages and cities to find such children and did not indicate any issues with identifying orphans or vulnerable children during the pandemic.

Suggestions:

- While reasonable attempts have been made to identify children orphaned during and also by COVID-19, death certificates should be provided with fewer administrative requirements so that schemes may be available.
- The process for children and family members to avail the ex-gratia compensation and the PM CARES Fund should not be restricted to providing proof of COVID-19 mortality.

B. An undue emphasis has been placed on children orphaned by COVID-19 that disregards concerns facing other vulnerable children

1. Creation of a category within a category

In a 2018 survey of CCIs conducted by the WCD across India, it was noted that abandoned children and children of single parents, and not orphans, formed the highest demographic of CNCP found in CCIs.⁵⁵ Even during the pandemic, this demographic has remained the same, as CCIs interviewed stated that the highest number of children placed during the pandemic were children of single parents with nearly half the CCIs mentioning abandoned children as the next category of children that were placed with them during the pandemic. It is important to note, however, that none of the CCIs interviewed noted a particular increase in children placed with them on account of the pandemic and all the CCIs had the capacity to take the children that were placed with them.

Keeping this in mind, one of the CWCs interviewed also stated that the greater portion of financial benefits were being provided to a small section of children and that the money should be provided to not just children orphaned by COVID-19 but to all orphans/other vulnerable children prospectively from 2020.

As per their reasoning, if the categorisation for providing funding was to compensate for additional difficulties caused by loss of a parent due to COVID-19, then compensation by the State Disaster Relief Fund (“SDRF”) was addressing that. A difference in benefits between children orphaned by COVID-19 and other orphaned or vulnerable children can be made while distributing disaster relief funds. However, that cannot serve as a category of differentiation for formulating child welfare schemes.

⁵⁵ ‘The report of the committee for Analyzing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care and protection of Children) Act, 2015 and Other Homes Volume-I: Main Report’ (Ministry of Women and Child Development, September 2018) < <https://wcd.nic.in/sites/default/files/CIF%20Report%201.pdf> > accessed 18 April 2022.

2. Loss of a primary caregiver

Globally, a disproportionate number of children lost their father as opposed to their mother during the pandemic. For every child who lost their mother, three children lost their father to COVID-19.⁵⁶ This trend was observed in Maharashtra as well where 22,760 children lost their father to COVID-19 and 2,678 children lost their mother to COVID-19.⁵⁷

It has been recorded that most households in India are run by male breadwinners.⁵⁸ While loss of either parent has a significant impact on a child, a greater portion of children losing their father may indicate that many families may suffer from financial instability after COVID-19.

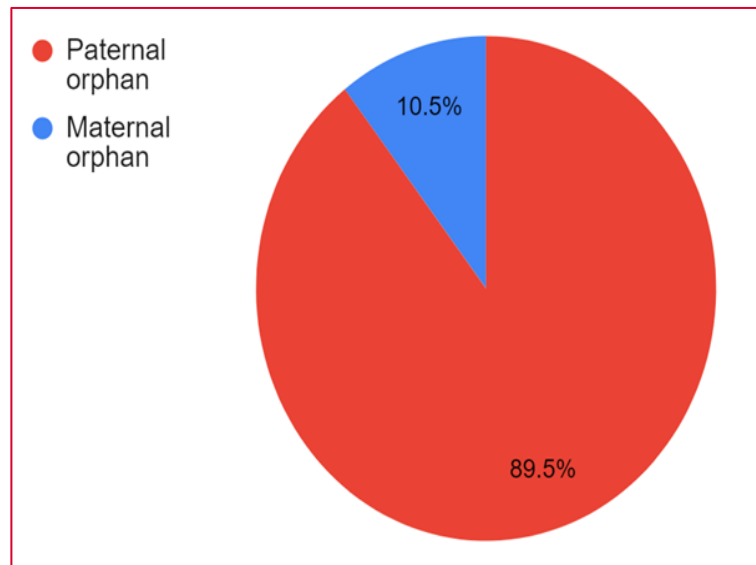


Figure 3: Loss of paternal orphans in Maharashtra is significantly higher than loss of a maternal orphan

The following schemes can be availed by children and widows:

- Maharashtra's Bal Sangopan scheme which gives a monthly deposit of INR 1250 to families of vulnerable children in need of sponsorship. (this is available for all children who are vulnerable, including children who have lost either of their parents)⁵⁹
- The SDRF's ex-gratia payment of INR 50,000 to family members who lost their kin to COVID-19. There is a possibility that despite the order by the Supreme Court, the amount is still not being provided to family members who are unable to produce the COVID-19 certificate. Therefore, this payment excludes many children whose parents may have died due to causes associated with the pandemic but not by COVID-19 itself.⁶⁰
- Additionally, the central government and state government are providing schemes for COVID-19 widows which includes financial assistance through the Sanjay Gandhi Niradhar Yojana and the Gharkul Yojana. The amounts from these schemes total to around INR 2000 per month.

Children orphaned by COVID-19 are eligible to avail the Bal Sangopan scheme as well as the ex-gratia compensation.

⁵⁶ 'Global, regional, and national minimum estimates of children affected by COVID-19-associated orphanhood and caregiver death, by age and family circumstance up to Oct 31, 2021: an updated modelling study' (The Lancet Child and Adolescent Health Vol 6, Issue 4, P249-259, APRIL 01, 2022) <[https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642\(22\)00005-0/fulltext](https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642(22)00005-0/fulltext)> accessed 12 April 2022.

⁵⁷ Conversation with State Women and Child Development Commissionerate, Pune dated 23 March 2022.

⁵⁸ Sakshi Gupta, 'Gendered breadwinner norms and work decisions' (Ideas for India, 8 March 2021) <<https://www.ideasforindia.in/topics/social-identity/gendered-breadwinner-norms-and-work-decisions.html>> accessed 18 April 2022.

⁵⁹ Maharashtra Government Resolution dated 6 April 2021 <<https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/Marathi/202104081532439230.pdf>> accessed 12 April 2022.

⁶⁰ 'Official Statistics on COVID-19 Not True': SC Directs Quick Payment of Ex-Gratia' (The Wire, 05 February 2022) <<https://thewire.in/law/official-statistics-on-covid-19-not-true-sc-directs-quick-payment-of-ex-gratia>> accessed 18 April 2022.

While it is difficult to compare two categories of vulnerable children to decide what financial assistance should be allocated to them, the provisions available to children who have lost their primary caregiver during the pandemic appear meagre in comparison to the financial assistance provided to children orphaned by COVID-19. The latter category of children is being provided funding for education, health insurance and a fixed deposit of INR 15 lakh in total along with the schemes provided for other children who have lost a single parent. This difference between the financial assistance provided is quite stark and contradicts with the spirit of the JJ Act, which does not differentiate between different CNCP and provides them similar rights and safeguards for their care and protection.

Suggestions:

- The Supreme Court has ordered that schemes should be made available for all children who lost their guardians during COVID-19 irrespective of the cause of death (whether by extending the schemes for children who lost their parents to COVID-19 or by providing other schemes). However, some parity should be ensured between the schemes offered to these children.
- Additional financial assistance should also be considered for children who lost either of their parents during the pandemic.

C. Problems pertaining to the functioning of authorities existed before the pandemic

To understand the effective implementation and monitoring of schemes for children orphaned by COVID-19, it is important to also understand the issues that affect the JJ Act's authorities, before and during the pandemic.

1. Delays in placing children and a lack of coordination between authorities

One CWC mentioned that while they attempt to speedily process orders, DCPU members often did not conduct inquiries about the background of the children (Social Investigation Reports or "SIR") or perform regular check-ups at homes where children were placed (Home Study Reports or "HSR"), despite receiving specific orders from the CWC. They expressed concern regarding whether the DCPUs were conducting HSRs for children orphaned by COVID-19 and determining whether the schemes were reaching them. A few other CWCs also provided statements to the effect that the DCPUs did not complete the work provided to them.

Two CCIs stated that CWCs do not pass orders promptly or review the status of children in CCIs regularly. However, the CWCs mentioned that they usually passed orders within days or within the same day that

In case of orphan and abandoned child, the Committee shall make all efforts for tracing the parents or guardians of the child and on completion of such inquiry, if it is established that the child is either an orphan having no one to take care, or abandoned, the Committee shall declare the child legally free for adoption:

Provided that such declaration shall be made within a period of two months from the date of production of the child, for children who are up to two years of age and within four months for children above two years of age

the child is produced before them with an SIR. The CWCs mentioned that a delay only happened in declaring a child legally free for adoption. They stated that it was the collection of evidence needed to ensure that the children had no family support that lengthened the process. However, the CWCs also affirmed the importance of taking time to conduct an inquiry, as placing a child in adoption or in foster care or sending them back to their family was a case-to-case decision which required relevant information to be sought and presented before them. It was clear however, from the interaction with the CWCs and the CCIs that the time period stipulated under section 38 of the JJ Act is not being followed.

Figure 4: Section 38 of the JJ Act

Some CCIs mentioned that it often takes one or two years to declare a child legally free for adoption, which is drastically longer than the time period stipulated under the JJ Act. Therefore, any delay in placing children orphaned by COVID-19 in foster care or declaring them legally free for adoption was not affected by the pandemic but due to delays in procedures that existed even before the pandemic.

Additionally, a delay in declaring a child legally free for adoption could raise the child's age by one to three years. Since people prefer to adopt children when they are very young, this can make it difficult for them to be adopted. The CWCs however did not state that a delay in declaring the child legally free for adoption resulted in a problem. The CWCs and even the news articles indicate that healthy children are usually adopted and that it is children with special needs that are overlooked during the adoption procedure. If age played a role in adoption, it was only to the extent that older children themselves refused to be adopted and chose to stay in CCIs till they were 18. According to them, if any orphan could be declared legally free for adoption, then the pandemic had no bearing on their chance of being adopted.

2. Shortage of funds and staff for authorities to function effectively

The difficulty in coordination and on ground implementation of the JJ Act appears to be caused due to problems of staffing, funding and training.

All DCPUs interviewed mentioned a shortage of funds and staff to conduct their work. They mentioned that they did not receive additional money to cover their travel costs and their honorariums had not been increased since 2019. They even mentioned that because of this many DCPU members left their jobs as the payment was unable to cover the costs of managing their homes. Some of the DCPUs specified that they relied on anganwadi workers or NGOs to continue their on-ground work.

CWCs, on the other hand, mentioned the problem of staffing, funding and of a short tenure. A few CWCs specifically discussed an absence of data entry operators to complete their tasks. Data entry operators are important for managing the case files, decisions and dates for the CWCs, without which a considerable administrative burden falls on the CWC members to accomplish these tasks on the side. 10 CWCs interviewed asked for an increase in tenure from three years as mandated by section 27(6) of the JJ Act to five years as that would help them familiarise themselves with the work, maintain continuity and effectively track and ensure the final rehabilitation of children.

Neither the CWCs nor the DCPUs mentioned issues regarding funding or staffing that specifically arose during the pandemic.

3. There is a shortage of funds for CCIs

A few CCIs interviewed have never received any grant money under the ICPS, a centrally sponsored scheme which provides INR 2160 monthly per child to CCIs. This is because there is no requirement for the state to fund recognised CCIs and a survey conducted by the WCD in 2018 had noted that only around 40% of the CCIs receive funding from the government.⁶¹

CCIs also saw a decrease in donations during the pandemic. News reports⁶² as well as almost all CCIs interviewed stated their donations had reduced during the first wave of the pandemic. Further, only two CCIs mentioned an improvement in donations during the second wave, leaving the other CCIs with a continuous reduction in donations throughout the pandemic.

More than half the CCIs, however, mentioned receiving state support in the form of masks and sanitisers during the pandemic.

⁶¹ 'The report of the committee for Analyzing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care and protection of Children) Act, 2015 and Other Homes Volume-I: Main Report' (Ministry of Women and Child Development, September 2018) < <https://wcd.nic.in/sites/default/files/CIF%20Report%201.pdf> > accessed 18 April 2022.

⁶² Shailee Dogra, 'Orphanages, destitute homes in trouble as funds dry up amid Covid pandemic' (Hindustan Times, 02 August 2020) < <https://www.hindustantimes.com/chandigarh/orphanages-destitute-homes-in-trouble-as-funds-dry-up-amid-covid-pandemic/story-ruc3vGezXP40GjDpyyjOzl.html> > accessed 18 April 2022.

Most CCIs however also noted an increase in expenditure as they saw an increase in hospital bills and purchase of online teaching and learning material for children in their institutions. This caused an additional strain on their resources.

4. Monitoring during COVID-19

As per section 30 (viii) of the JJ Act, CWCs are required to conduct 'at least two inspection visits per month of residential facilities' which house CNCP.⁶³ This process of physical monitoring and inspection was hindered during the lockdown period.

Instead of conducting physical inspections, CWCs monitored CCIs through video conferencing. Additionally, during the lockdown, as per the state WCD directions, only two CCIs per district were designated to take in children orphaned by COVID-19 so as to reduce the operational cost and health risk to children across different CCIs.⁶⁴

While some CCIs mentioned that physical inspection and monitoring had paused for around three months due to the lockdown, two CCIs stated that physical inspection and monitoring had paused for six months. All CCIs mentioned that the online monitoring was conducted frequently and stringently.

Suggestions:

- DCPUs form the backbone that implement the provisions of the JJ Act. They should be provided training and an increase in funding and resources to enable them to carry out orders by the CWC and ensure implementation of policies.
- The CWC's tenure and salary should be increased.
- The funding of CCIs should have been increased during COVID-19 to enable them to provide adequate care and education during the pandemic.

⁶³ JJ Act 2015, (viii) of section 30.

⁶⁴ 'Government Resolution No. - Orphan -2021/ प्र क्र 62/ का-8/' (Maharashtra Government Department of Women and Child Development, 12 May 2021) <<https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/Marathi/202105121725070730.pdf>> accessed 18 April 2022.

D. Family based care is better than institutional care

Out of the 788 children orphaned by COVID-19 in Maharashtra, 33 children, that is only 4%, were placed in CCIs.⁶⁵

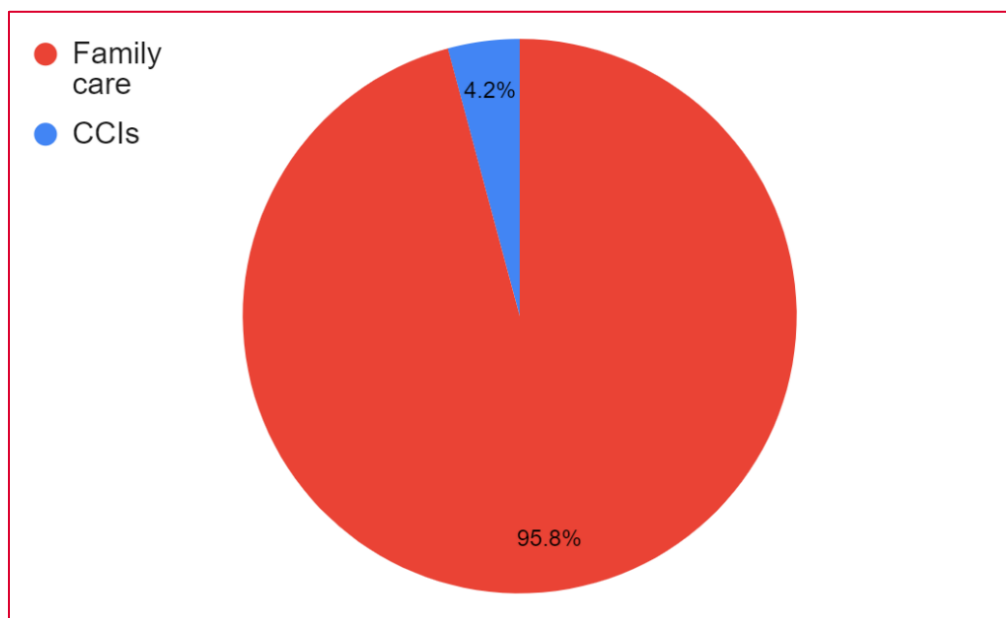


Figure 5: Percentage of children orphaned by COVID-19 placed in Maharashtra's CCIs

The concern reported in news articles that the number of children orphaned by COVID-19 was not being reflected in the CARA pool - was incorrect as the authorities ensured that the children were provided kinship care with their close relatives rather than being sent to CCIs or being declared legally free for adoption.

While the JJ Act prioritises, family-based care in its preamble, the decisions are to be made on a case-to-case basis. The significantly high number of children sent to kinship care may also signify an unnatural push to place children with their relatives while it may not be the wish of the child or in the best interest of the child to be placed there. This is especially concerning in districts where HSRs could not be conducted after placing the child with their extended family.

Based on conversations in the field, several CWC members mentioned that their first priority was to place children back in home care with any relatives, friends or persons willing to take in the children orphaned by COVID-19. Almost no children were brought into CCI care. The numbers provided by CWCs per district confirms this pattern.

CWC and DCPU representatives whom we spoke to also mentioned that in their opinion family care is better than CCIs for children as positive attention and attachments need to be formed which can happen through individual care for a child. For certain life and relational skills, CCIs cannot be a replacement for home-based care.

Some CWC members noted that CCIs are important but must be considered as a last resort only. India still has problems where parents who are unable to feed and educate their children, or parents who are in conflict with the law, place their children temporarily in CCIs for lack of other alternatives. Therefore, keeping the specific socio-economic conditions of India in mind, both CCIs and home-based care provisions need to be bolstered. While the state is required to support home-based care, CCIs also need to be strengthened to cater to children who are placed there for temporary or very specific reasons.

⁶⁵ Conversation with State Women and Child Development Commissionerate, Pune dated 23 March 2022.

While family care is more important than institutional care it is better to bolster both institutional and non-institutional care by having the adequate human resource power to monitor and address concerns of children in family care as well as ensuring that the last resort, that is institutional care, provides the emotional and physical needs of the child for their growth.⁶⁶

Suggestion:

- Deinstitutionalisation of childcare is important, but continuous home visits must be ensured even for kinship care to check if the child is being properly cared for.

E. Evaluation of schemes

DCPUs stated that for children whose documents had been verified, all schemes had been provided or were in the process of being provided. The earliest scheme to reach the children was the Bal Sangopan scheme. As for the COVID-19 schemes, the only schemes that are still being processed are SDRF's ex gratia compensation, the INR 5 lakh deposit and INR 10000 financial assistance by the state. However, even for these three schemes, nearly half the DCPUs interviewed had already processed the financial assistance. With the required documentation, none of the DCPUs mentioned any trouble in receiving or processing government fees from the centre or state government.

1. Education

A CWC member mentioned that the decision by the Supreme Court and the provisions of the PM CARES Fund assisted children in continuing their private schooling and in their placement at Kendra Vidyalayas. However, the CWC member did mention that without assistance from the DCPU and the CWC schools were not willing to allow the child to continue their education. Therefore, the provisions of the schemes are important as changing schools may add to the trauma faced by these children.

It was noted that most children that came to CCIs continued their education in private schools itself. Only three CCIs mentioned that children were transferred to government schools. All CCIs mentioned that the education of children was affected as there were continuous breaks in education due to the lockdown and that while they were being provided online schooling there was insufficient stimulation for their growth. CCIs mentioned that there was a dearth of funds to buy laptops and tablets for online education which was required during the pandemic.

Maharashtra has created a 1% parallel reservation for orphans in higher education and employment, provided that they fulfil the eligibility criteria for the seats and posts.⁶⁷ However, these posts have hardly been filled since they were introduced in 2018 as not many orphans fulfil the eligibility for these reservations.⁶⁸ Another reservation for orphans under CWCs, DCPUs etc. has also been created in January 2021,⁶⁹ but for both these reservations to be used, there is a need to ensure that the education provided to orphans enables them to work or study for these seats or posts.

⁶⁶ Sheila Ramaswamy and Shekhar Seshadri, 'The deinstitutionalisation debate in India: Throwing the baby out with the bathwater?' (Vol 19.2 Scottish Journal of Residential Child Care) <https://www.celcis.org/application/files/2816/2306/7079/2020_Vol_19_No_2_Ramaswamy_S_The_Deinstitutionalisation_Debate_in_India.pdf> accessed 12 April 2022

⁶⁷ 'Government Resolution No. -अमृजा-2011/ प्र.क्र. 212/ का-3/' (Maharashtra Government Department of Women and Child Development, 2 April 2018) <<https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/Marathi/201804021309138030.pdf>> accessed 18 April 2022.

⁶⁸ Conservation with Women and Child Development Commissionerate, Pune dated 5 October 2021.

⁶⁹ 'Government Resolution No. -Orphan -018/प्र.क्र.182/का-03/' (Maharashtra Government Department of Women and Child Development, 20 August 2019) <<https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/Marathi/201908201445006830.....pdf>> accessed 18 April 2022.

2. Mental health

Some of the CCIs stated that the process of creating an Individual Child Care Plan (“ICP”) became longer because they had to account for the child’s mental health. Two thirds said there was a need to provide mental health counselling. A few CCIs provided counselling through the hospital and got external help but most provided mental health counselling through the staff itself. While specific schemes in collaboration with NIMHANS and Samvad had been created for imparting mental health counselling for children orphaned during the pandemic, the CCIs interviewed did not make reference to these collaborations or schemes.

Suggestions:

- More awareness needs to be spread of the schemes for education and mental health.
- Counselling should be provided by trained counsellors and not as an ad-hoc facility by CCI staff.

F. No orphan was placed in foster care

12 CWCs mentioned an active foster care programme in their district. However, all the children orphaned by COVID-19 were sent to CCIs or to kinship care and none of them were placed in foster care. While group foster care facilities - where NGOs offer community foster care for children - have been functioning from before, the foster care programme where parents can register as foster care parents has only been in place since the past two years.⁷⁰ Till date about 40 children across the state have been identified to be fostered and some of the children are yet to be placed with their foster parents. Therefore, the foster care program is at its nascent stages and its working till date has had no intersection with children orphaned by COVID-19.

Suggestion:

- Strengthening the foster care program now can be of great benefit to build resilience of the system in times of crises.

⁷⁰ Shruti Ganpatye, 'Maharashtra kicks off foster care scheme: Women and Child Welfare department invites people to register online' (Mumbai Mirror, 4 August 2020) <<https://mumbaimirror.indiatimes.com/mumbai/other/maharashtra-kicks-off-foster-care-scheme-women-and-child-welfare-department-invites-people-to-register-online/articleshow/77343099.cms>> accessed 12 April 2022.

Conclusion

To ensure the safety of CNCP during high-risk periods such as that posed by the COVID-19 pandemic, we need to implement prevention and mitigation programmes. To this end, it is necessary to improve access to health and education, increase the availability of evidence-based recovery programmes, and target resources to children who are the most vulnerable.⁷¹

For preventive measures, the existing systems must be strengthened with proper training and funding aside and outside of a pandemic-like situation. After assessing the functioning of the authorities, we noted that a lack of funding, coordination and staffing was not caused by the pandemic and was inherent in the system. While none of the authorities interviewed stated that there were additional issues faced during the pandemic, a general strain on resources could have exacerbated the problems that affect the functioning of these systems. For example, one CWC member said that the DCPU members in their district did not usually follow their orders and regularly check up on orphans. While the lack of the DCPU's efficiency possibly stemmed from a general lack of resources to complete tasks allotted to them, it could have caused an issue in monitoring orphans during COVID-19 as well.

For mitigation processes and schemes, it was observed that the basis on which schemes for orphans were provided by the government appeared flawed. There was a consensus between authorities interviewed as well as people working in social organisations for child welfare that benefits offered to children orphaned by COVID-19 should be provided to all orphans from 2020 and additional financial benefits should also be provided to children of single parents as well. A categorisation discriminating between different orphans as well as other vulnerable children goes against the purpose of the JJ Act which extends the same provisions to all CNCP. While it is important to provide the orphans with as much assistance as possible, the occurrence of a pandemic or a natural disaster cannot override the importance of providing all children with relevant care and protection. The Supreme Court was required to intervene and ensure that equal benefits were provided to children that were orphaned during COVID-19 and not just by COVID-19. Even then, many schemes and their implementation are not in accordance with the Supreme Court orders.

While it is commendable that the government tracked and offered financial assistance to orphans with immediacy even during the pandemic, the schemes should have attempted to remedy a more systemic set of problems that were affecting child welfare rather than a blanket set of schemes that were offered to children orphaned during the pandemic. Further areas of research, such as those identifying bottlenecks in the system, especially in processes for locating orphaned children, and designating children as legally free for adoption could be important to addressing these systemic challenges.

⁷¹ Betty S Lai and Annette La Greca, 'Understanding the Impacts of Natural Disasters on Children' (Society for Research in Child Development, 13 August 2020) <<https://www.srcd.org/research/understanding-impacts-natural-disasters-children>> accessed 12 April 2022.

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