Frequently Asked Questions on Alternative Care for Children in India

- An Overview of Concepts and Processes

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Foreword

Greetings from Terre des hommes Foundation and the Centre of Excellence in Alternative Care for Children! This FAQ is designed for all the child protection practitioners and actors working on ensuring alternative care for children in India.

The United Nations Guidelines for the Alternative Care of Children 2009 mention the purpose of Guidelines as: "…intended to enhance the implementation of the Convention on the Rights of the Child and of relevant provisions of other international instruments regarding the protection and well-being of children who are deprived of parental care or who are at risk of being so."

This book was published in the end of 2016 and the information in the following pages is based on the most recent legislation in India for child protection including the 2015 Juvenile Justice (Care and Protection of Children) Act (JJ ACT), 2016 Juvenile Justice (Care and Protection of Children) Rules (JJ Rules) and the newest foster care and adoption guidelines.

Our hope is that this book gives you a reference guide to keep on your desk or close by to be a guide on the various forms of alternative care. We were careful when designing the material to make sure it is relevant to you. To do this we spoke to stakeholders throughout India (over 14 states/ union territories) to learn about their view of alterantive care.

We offer this information on alternative care to you as the first step in learning. We ask you to please expand your knowledge on or all of these topics by speaking to your local Child Welfare Committee, referencing the JJ Act/ Rules), contacting us or speaking to colleagues/ child protection workers in India.

We believe that we all share a responsibility to keep children safe and protected in India. We can unite through information exchange and in this tone, this FAQ follows.

Contents

Key Words

Alternative Care, permanency, care and protection, UNCRC, Telangana, Andhra Pradesh, Gatekeeping, Foster Care, Kinship Care, Adoption, Institution, Family Preservation, best interest, United Nations Alternative Care Guidelines, best practice, family, child protection, family-like care, residential care, aftercare, suitability, necessity, de-institutionalize, care system, prevention, abandonment, relinquishment, suitability, placement, policy making, India, gate keeping, child rights, quality care.

Note: 'child' in this FAQ refers to a person who has not yet completed the age of 18.

Abbreviations

CARA	Central Adoption Resource Authority
CCI	Child Care Institution
CNCP	Children in Need of Care and Protection
CPCR Act, 2005	Commission for Protection of Child Rights Act, 2005
CWC	Child Welfare Committee
DCPU	District Child Protection Unit
DCPO	District Child Protection Officer
HELP	Tdh Partner NGO working in Telengana and Andhra Pradesh
ICPS	Integrated Child Protection Scheme
JJ Act, 2000	Juvenile Justice (Care and Protection of Children) Act, 2000
JJ Act, 2015	Juvenile Justice (Care and Protection of Children) Act, 2015
JJB	Juvenile Justice Board
NGO	Non-governmental organization
NIAC	Non-Insitutional Alternative Care
NIPCCD	National Institute of Public Cooperation and ChildDevelopment
OBC	Other Backward Caste
PO IC	Protection Officer - Institutional Care
PO- NIC	Protection Officer - Non-Institutional Care
SARA	Specialised Adoption Resource Agency
SCPCR	State Commission for Protection of Child Rights
UNICEF	United Nations Children's Fund
UNCRC	United Nations Convention on the Rights of the Child

Introduction

The number of children living separate from their biological parents or who are at the risk of separation is rapidly increasing in India. The causes for separation can be from death of one or both parents, displacement due to armed conflict and/or natural disasters, neglect or abuse at home, abandonment, trafficking, dysfunctional family structure or simply the inability of the family to provide care. To develop to their full potential, children need safe and stable housing, adequate and nutritious food, access to medical care, secure relationships with adult caregivers, nurturing and responsive parenting and quality learning opportunities at home, in child care settings and in school. Children's early experiences shape who they are and affect lifelong health and learning. Research shows that a large number of children face instability in their lives if they are deprived of their basic need to develop in family environment.

The preamble of the UNCRC states, "Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding". (UNCRC 1989). India ratified the UN Convention on the Rights of the Children in 1992. By signing this document India promised to the world that rights of the children will be protected by legislating National Law. The Juvenile Justice (Care and Protection) Act 2015 is the main law relating to children alleged and found to be in conflict with law and children in need of care and protection. It states that the primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be. Central Adoption Resource Authority Guidelines 2015 on Adoption, the Model Foster Care Guidelines 2015 and the Integrated Child Protection Scheme 2014 (ICPS), Integrated Child Development Services (ICDS) are few national schemes to improve the health, development and protection of children.

Purpose of Frequently Asked Questions (FAQ):

The Frequently Asked Questions are developed and designed to address three major topics of alternative care in India:
1. Alternative care concepts
2. Alternative care processes
3. Rights and responsibilities

The targeted audience of the FAQ are the actual practitioners and child protection actors who are responsible for promoting and providing alternative care options for children who are separated from family environment.

Methodology for developing the FAQs

The FAQ booklet that you are reading was developed to demystify the concepts of alternative care in the context of India. To assess the existing level of knowledge of child protection implementers, the Centre of Excellence in the Alternative Care of Children sent a SurveyMonkey survey to 1,839 child protection stakeholders across all of India. The survey measured the respondent's level of understanding of the concept of alternative care, their direct level of involvement in types of alternative care, and their knowledge of the legal framework at national and state levels that dictate the processes of alternative care.

It was evident by the survey results that while the concept of alternative care is increasingly being discussed in India today, confusion remains surrounding the terms, legal framework, and implementation. Please contact the Centre for a copy of the official report (info@alternativecareindia.org).

Following this country-wide assessment, the team developing this FAQ conducted a thorough review of the following national and international documents, which formed the basis of the content for this document.

Indian child protection and alternative care policies

- The Juvenile Justice (Care and Protection of Children) Act, 2015, and the Juvenile Justice Rules, 2016
- The Integrated Child Protection Scheme, 2009
- The Draft Model Foster Care Guidelines, 2016
- The Guidelines Governing Adoption of Children, 2015
- The National Policy for Children, 2013

International child protection and alternative care conventions and guidelines

- The United Nations Convention on the Rights of The Child, 1989
- The United Nations Guideline on the Alternative Care of Children, 2009
- The Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption, 1993

PART I: ALTERNATIVE CARE CONCEPTS

Understanding Alternative Care

What is care for children?

When we talk about caring for children, we mean to look after or provide for the well-being, health, maintenance and protection of the child. The concept of child care recognizes three fundamental truths:

1. Children require unique care and protection due to their age and developmental needs,
2. Children have specific, fundamental child rights, and;
3. Some children are more vulnerable and require more targeted focus to ensure that they are protected and that their child-specific rights are safe-guarded

Children are most vulnerable when they lack a protective family environment, are left alone or unsupervised by a caring adult. It makes them easy victims for exploitation, sexual abuse, trafficking, forced labour and other forms of harmful practices. This book focuses on those children living without parental care. Child protection efforts are most usually focused on preventing and responding to violence, neglect, abuse, and exploitation. We know that the forms of violence and deprivation of child rights do not affect all demographics of children equally. Some children for example those living without parental care, children in conflict with the law, and children affected by conflict can be more vulnerable to such violence.
This book focuses specifically on the first of those groups of children- children living without parental care.

What is alternative care for children?

Alternative Care can be understood as, "regarding the protection and well-being of children who are deprived of parental care or who are at risk of being so." Article 18 of UNCRC states that it is the prime responsibility of the parents to take care of their children and Article 20 (Children deprived of family environment) states that children who cannot be looked after by their own family have a right to special care and must be looked after properly, by people who respect their ethnic group, religion, culture and language; while Article 20 talks about the right of children to be cared for and protected if they are adopted or in foster care.

The UN Guidelines for the Alternative Care of Children (Sec II. General Principles and Perspectives) mentions family being the fundamental group of society and the natural environment for the growth, well-being and protection of children…The State should ensure that families have access to forms of support in the caregiving role…Children with inadequate or no parental care are at special risk of being denied such a nurturing environment. Where the child's own family is unable, even with appropriate support, to provide adequate care for the child, or abandons or relinquishes the child, the State is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations.

Basic Principle for alternative care:

- ●Keeping the child close to family/community
- ●Permanency of child should be the key goal
- ●Separation from family should be temporary
- ●Importance of keeping siblings together
- ●Institutionalization to be the last option

The field of alternative care in India is quickly growing stronger and gaining momentum in order to provide care and protection to every child. While some forms of alternative care in India are currently regarded as well established, such as institutional care, adoption, and informal kinship care, other forms of alternative care are still in early developmental stages. Foster care, formal kinship care, and sponsorship are examples of avenues of care which will need further awareness and implementation efforts across governmental and non-governmental sectors at all levels in order to create a continuum of services that are capable of meeting the needs of the most vulnerable children and families.

What is the difference between formal and informal alternative care?

Formal: Adoption, foster care, institutional care and after care	Informal: Kinship care and community-based care
Directed by competent governmental bodies, such as Child Welfare Committees (see CWC section)	The care is not ordered by any competent authority
Governed by processes outlined by law/ with standard izations	Typically these arrangements are with extended family, friends, or close community members
Potential to be financially supported by the State	No financial support
Paired with monitoring and evaluation processes	Not regulated
More data on the situation of children in such arrangements	Difficult to obtain data on numbers and the care situation of children in these arrangements
May be in a family-based setting or a residential setting (public or private)	

Who needs alternative care?

The Indian government has put forth in the JJ Act, 2015 which mentions the various categories of children that are in need of alternative care and/or experiencing one of the following situations:
?Homeless or in a severely inadequate home for his/her survival and developmental needs
?Child labourers
?Beggars
?Street children

?Residing with a person who abuses, exploits, or neglects the child or threatened to do so ?Residing with a person who is mentally or physically unable to care for the child ?Missing or run away child whose parents cannot be located ?Orphaned or surrendered by parents
?Addicted to drugs
?Trafficked
?Victim of armed conflict, civil unrest, or natural disaster
?Risk of marriage before attaining the age of marriage

What is the continuum of care?

The continuum of care is intended to explore each form of care that are available to children outside of the care and protection of their biological parents. It looks at the range of care options while emphasizing on the importance of family-based care. It is ordered by preference, in which the first preference is the option which is least disruptive to the child and most supportive for the child and family.

Alternative care takes several forms, and includes formal and informal care as well as temporary and permanent care. Alternative care comprises the alternative supports in different forms that may help in the strengthening the family situation and thus prevent separation of the child from the family. Which form of support or care is most appropriate will vary from case to case and is determined in accordance with the best interest of the child. See below for a brief description on each type of care in the continuum.

The continuum of care

Family strengthening/preservation- a short-term, intensive form of support that seeks to prevent the breakdown of at-risk families and the removal of a child from the home. These programs may include health, educational, mental health, or financial supports.

Sponsorship- A form of support in which qualifying at-risk families receive financial support from the government.

Kinship care- an arrangement, formal or informal, in which children are cared for by their blood relatives. Formal arrangements are those which are monitored and supervised by the CWC.

Foster care- a family-based form of alternative care in which a non-relative cares for a child who cannot immediately return to the family of origin. Foster care is temporary in nature, and should lead to a permanent family-based arrangement, whether in the family of origin, or another family if reunification is not possible or in the child's best interest

Adoption- an arrangement in which a child is legally registered with, and permanently cared for by a person or couple who is not the biological parent(s) of the child. The parent(s) assume the same legal rights and responsibilities of the adopted child as they would a biological child.

Aftercare- various supports for youth who are phasing out of care arrangements due to age (i.e. exiting institutions or foster care placements).

Child care institutions- a non family-based care alternative in which children live in large residential care facilities.

Who decides which form of alternative care is in the best interest of child?

It is the CWC who decides the form of alternative care which is in the best interest of the child based on the social investigation report submitted by DCPU, its observations and reports of legal and physiological counselor. The CWC should base the decision not solely on these factors, but must also take into account a careful consideration of the continuum of care. It should take into account what form of care is most suitable and necessary for the child.

What principles guide the decision making of the CWC?

The 'necessity' principle concerns the establishment of a robust 'gatekeeping' mechanism capable of ensuring that children are admitted to the alternative care system only if all possible means of keeping them with their parents or wider (extended) family have been examined.[1]

1 Moving Forward: Implementing the 'Guidelines for the Alternative Care of Children' The Centre for Excellence for Looked After Children in Scotland (CELCIS), 2012.

The 'suitability' principle entails the matching the care setting with the individual child concerned. This means selecting the one that will, in principle, best meet the child's needs at the time. This implies that within the system, there are different kinds of alternative care settings available and that they meet the minimum standards of care and protection.

What orders can the CWC prescribe?

A child is presented before the Child Welfare Committee voluntarily, or by mandate. The following decisions can be then made:

i. Inquiry/Social investigation - By DCPU within 15 days and final decision is made within 4 months
    i. Declaration that a child is in need of care and protection
    ii. Restoration - To parents or guardian
    iii. Placement With Children's Home or Specialised Adoption Agency for the purpose of adoption or for temporary care
    iv. Placement- With fit person for long term or temporary care in foster care
    v. Additional direction to institution or person regarding needs of child i.e. mental health, skills, etc.
    vi. Declaration that the child is legally free for adoption

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What is a Care Plan?

? ●This is an important document that keeps the idea of the continuum of care on the minds of those charged with making care and protection decisions for a child.

? ●Itoutlines the unique situation of the child and the family, and is to be consulted regularly to try to get the child into a permanent family-based environment as quickly as possible.

? ●The document is prepared in consultation with the child and parent/guardian if available in order to restore the child's self esteem, dignity and self worth and nurture him/her into a responsible citizen.

? ●The care plan serves as an important piece of documentation, informing the CWC, DCPU and NGOs as to what support and services have already been tried.

? ●The individual care plan guides the entire network of individuals/agencies for care and protection of the child to the best potential solutions for children and families.

According to the Draft Model Rules, 2016 under The Juvenile Justice (Care and protection of Children) Act, 2015 :-

'Individual care plan' is a comprehensive development plan for a child based on age specific and gender specific needs and the 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:

a)Health 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

What is the international and national legal framework for alternative care?

International

The international community has increasingly recognized the need to delineate child-specific rights. In recent years, more thought has been given to the specific vulnerabilities and needs of children outside of the care and protection of their biological families, or who are at risk of being so.

The conventions and guidelines discussed in this chapter will introduce the relevant alternative care policies put forth by the international community and their implications for India's alternative care system.

"Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding" (UNCRC, Preamble)

What is The United Nations Convention on the Rights of the Child?

In 1989, the United Nations put forth the Convention on the Rights of the Child (UNCRC). This document affirmed specific rights owed to every child across the globe and the role of governments as defenders of these child-specific rights. These rights include:

?Survival rights- basic needs needed for existence, including an adequate standard of living
?Developmental rights- age-appropriate play and stimulation, access to information, and freedom of thought
?Protection rights- freedom from abuses, and exploitation
?Participation rights- children's active say in their own life

The UNCRC stands as the first legally binding international convention in relation to the rights of the child. Countries who have ratified the convention must report their child rights progress every five years. Most importantly, the UNCRC declared that any action taken by governments, organizations, or individuals is to be carried out in accordance with the 'best interest of the child'. Determining the best interests of the child involves the consideration of all factors relating to the child's safety and well-being. In 1992 India ratified the Convention on the Rights of the Child, illustrating its commitment to the rights of its children. India is also signatory to Optional Protocols on involvement of children in armed conflict and sale of children, child prostitution and child pornography.

What is The United Nations Guidelines for the Alternative Care of Children?

In 2009, in order to underscore the objectives of the UNCRC and specifically address the needs of children outside of the care of family, the United Nations published the Guidelines for the Alternative Care of Children. This document outlines the necessity to make all efforts to stop family separation before it occurs, the measures to be taken upon family separation, and the determination and provision of alternative care if separation occurs. The UN Guidelines are not legally binding, but the acceptance by participating countries acknowledges the affirmation of their general guidelines.

Emphasizing the importance of the family, the UN Guidelines for the Alternative Care of Children state that the most fundamental group in society and the most natural environment for the growth and protection of children is the family. The family, then, must have access to the supports that allow them to thrive. According to the UN Guidelines for the Alternative Care of Children, poverty is not an accepted reason for family separation. Other notable aspects of these guidelines include:

?Removal of a child from a family should be a last resort and temporary ?Always keep siblings together when possible
?Keep children in or close to the community of origin when possible

?Create processes that promote children's rights to participation

National

The Constitution of India recognizes the rights of children by including several articles dealing with their liberty, livelihood and development of childhood, non-discrimination in educational spheres, compulsory and free education, prohibition on employment.

This chapter will familiarize the reader with the national child protection policies that speak of alternative care practices in India.

> "That state shall in particular, direct its policy towards securing… that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment."
>
> (Indian Constitution, Article 39.f)

Position of alternative care in India

The first Juvenile Justice Act 1986 was enacted to provide care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to and disposition of delinquent juveniles. In 2015, The Juvenile Justice (Care and Protection of Children) Act came into force and repealed the earlier Act.

The JJ Act, 2015 has two main purposes:

?Tosolidify processes for children in contact with the law
?Tosolidify processes for children in need of care and protection

Later in this book, each type of alternative care along with its prescribed rules and processes will be explained (see Chapter III). The JJ Act, 2015 lays down each one of these types of care, and so an understanding of the JJ Act, 2015 is fundamental in understanding the existing child protection structures in India.

The JJ Act sets forth Child Welfare Committees (CWCs) as the competent authorities governing the actions taken on behalf of children in need of care and protection. Every case dealing with care and protection of a child will be determined by the CWC. The JJ Act additionally establishes the District Child Protection Unit as the body charged with child protection implementation, including identification of children in need of care and protection and the promotion of alternative care systems. Both of these authorities will be explained.

What is the role of a Child Welfare Committee?

The state government shall constitute one Child Welfare Committee (CWC) in every district. The CWC consists of five members who will exercise the powers and discharge the duties conferred upon them in relation to children in need of care and protection. The tenure of CWC members is 3 years. It's a Bench and have the powers conferred by Cr.PC 1973 on a Metropolitan Magistrate or a Judicial magistrate of First Class.

The CWC has the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection and also provide for their basic needs and protection. The opinion of majority prevails but where there is difference of opinon, such opinion is recorded and in case of no majority the opinion of Chairperson prevails.

A child in need of care and protection is presented before the Committee. The CWC will conduct inquiries on all matters concerning the well-being of the child. This will include obtaining a social investigation report with the help of the District Child Protection Unit (DCPU) and NGOs. The CWC will then make decisions in the best interest of the child, based on social investigation reports, its observation and counselling reports.

What is the role of a District Child Protection Unit?

The District Child Protection Units (DCPUs) work at the district level under the District Magistrate to coordinate and implement issues of child rights and protection. The DCPU is headed up by a District Child Protection Officer who is supported by protection workers, social workers, a counselor, and an outreach worker. Each DCPU has enormous responsibility. The functions of the DCPU listed in the section 2 of the ICPS include:

?Ensuring the creation, monitoring, and adherence to the individual care plan for each child ?Identifying the children and families most vulnerable and in need of services
?Maintaining a database of children in need of protection at the district level and create mappings of the situation

?Maintaining a database of all children in institutional and non-institutional care
?Supporting and creating awareness of non-institutional family-based care, including sponsorship, foster care, adoption, and aftercare
?Establishing linkages between civil society organizations working for child protection and government agencies ?Organizing quarterly meetings with child protection stakeholders to assess child protection progress ?Implementing and monitoring guidelines put forth in the JJ Act and the ICPS

In summary, the DCPU is in charge of identification of need, promotion of services, coordination of actors, and implementation of the ICPS. Oftentimes, the DCPU will be a child and/or family's first contact with the formal child protection and alternative care processes. CWC and DCPU work in cohesion in the best interest of child after collecting information from all sources and couselling of the child. At the same time necessary support to family is also provided, in order to get the best outcomes for the child.

What are the implications of the National Policy for Children on Alternative Care?

The Government adopted a new National Policy for Children, 2013 which recognizes every person below the age of eighteen years as a child and covers all children within the territory and jurisdiction of the country. It recognizes that a multisectoral and multidimensional approach is necessary to secure the rights of children. The policy puts forth the following key priority areas-

?Education and development- equitable, high-quality education should be accessible to all children, including early childhood care for all those below 6 years of age
?Protection- children should be free from exploitation, and abuse and should grow up in a family-based environment
?Participation- children should be viewed as active stakeholders in their own lives, and decisions made on their behalf should involve their input
?Advocacy and partnerships- actors outside of the child protection field, including media, individuals, and communities should be part of the solution in the creation of responsive, participatory, child-sensitive services

?Coordination, action, and monitoring- governmental and nongovernmental agents in child protection should work in a synergy to provide optimum services and responses to children
?Research, documentation, and capacity building- a reliable and comprehensive knowledge platform should exist in regards to the situation of children in India, and child protection stakeholders should exhibit professional competencies ?Resource allocation- adequate funds must be allocated for the implementation of the requirements set forth by this policy ?Maintain a state level database of all children in institutional care and family-based care that is updated on a quarterly

basis
?Delineates the need for government-civil society partnership and the unique role of NGOs

How does the Integrated Child Protection Scheme (ICPS) relate to alternative care?

The Integrated Child Protection Scheme (ICPS) is the largest child protection scheme in India. The ICPS can be thought of as a one-stop-shop for everything you need to know about child protection mandates. This scheme puts forth lofty objectives of the ideal state of children in India, and while many of the visions put forth have yet to be realized, the scheme provides a goal for child protection that the country continues to work towards achieving.

The ICPS applies to all children, but places a special emphasis on vulnerable children, defining those as children in conflict with the law or in need of special care and protection. It is both preventative in nature, with provisions built in to try to curb child exploitation, abuse, and family separations, as well as reactive in nature, including provisions that assist those children who have already experienced such hardships. The intended result of this scheme is the creation of a safety net wide enough to reach out to the children most in need.

The ICPS is designed to be implemented at all levels- central, regional, state, and district. Specific objectives of the ICPS include:
?Greater country wide awareness on child protection and child vulnerabilities.
?Theenhancement of capacities of child protection service delivery persons and organizations
?Theexpansion and dissemination of information and data for child protection services
?Increased coordination between government and nongovernmental institutions through governmental-civil partnerships

?Increased support given to the most vulnerable families, on the basis that the family is the most important societal unit and the most natural environment for the development of the child
?Greater alignment with the UNCRC in using institutionalization of children as a last resort for children in need of care and protection.

What is Childline (1098)?

Childline was established in 1999 as a 24 x 7 telephonic outreach service for children who are in emergency situations or are being abused or neglected. When 1098 is dialed, the child, or an adult calling on his/her behalf, will speak to a Childline volunteer who will connect him/her to needed short-term or long-term resources. Anyone may contact Childline or CWC or DCPU if they feel a child is in distress.

What is the role of states?

Laws made by Parliament may extend throughout or in any part of the territory of India and those made by State Legislatures may generally apply only within the territory of the state concerned, Hence, variations are likely to exist from State to State in provisions of law relating to matters falling under State and Concurrent Lists of Constitution of India.

States may instead choose to use the central government document as it is or change the same to suit its unique situations and needs. One such example is the ICPS Scheme . The ICPS is a national level scheme, and many states have implemented it without any variation.

Types of alternative care

1. Family strengthening at a glance

Family strengthening, also known as family preservation, may take a variety of forms, but is generally considered as any formal services provided to vulnerable families with the ultimate goal of keeping the child in the family, provided it is in the best interest of the child. As we have discussed in the international and national documents regarding alternative care, poverty is not deemed an acceptable reason for child abandonment. Every child, as stated by the UNCRC and underscored in the ICPS and the JJ Act, has the right to family.

Family strengthening as per the Guiding Principals of the ICPS

?"Loving and caring family, the best place for the child: Children are best cared for in their own families and have a right to family care and parenting by both parents" (2.ii)

?"Prevention and reduction of vulnerabilities, central to child protection outcomes: A major thrust of ICPS will be to strengthen the family capabilities to care for and protect the child" (2.v)

"Institutionalization of children, the last resort: There is a need to shift the focus of interventions from an over reliance on institutionalization of children and move towards more family and community–based alternatives for care. Institutionalization should be used as a measure of last resort after all other options have been explored" (2.vi)"

2. Sponsorship at a glance

Sponsorship is a form of alternative care support, in which financial assistance is given to qualifying families for the care and support of the child. Families facing deep poverty or other constraints may feel that placing a child in an institution will give their child opportunities that they cannot provide. Sponsorship can be a vital resource for keeping vulnerable families together, and empowering parents to care for their own children.

Sponsorship and Foster Care Key Concepts
ICPS section 2.1

"Sponsorship and Foster Care assistance is not only cost effective in comparison to institutional care but it also:
I.   Prevents child destitution and offers holistic child protection;
II. Provides conditional assistance to ensure that the child continues his/her education;
III. Supports and supervises financial assistance to families and group foster homes;
IV. Offers child care within the family setting;
V. Preserves families and encourages parents to fulfill their responsibilities"

3. Kinship Care at a glance

Kinship care is the predominant type of care and protection of children in India and many other South Asian and African nations, especially those that are tribal-based in their history. With 83% of India being rural, the idea of joint family provides informal kinship care for a majority of India's children. State schemes such as PalanharYojana in Rajasthan and BalSapoganaYojana in Maharashtra promote and support kinship care.

What are the benefits associated with kinship care?

Kinship care has many benefits, with the most obvious being its cultural acceptability. Because of the deep roots of kinship care in India's history, there is a natural ease of understanding, and kinship care is often the first informal option pursued for the care and protection of separated children, both temporarily and permanently. Kinship care may allow the child to remain in his/her familiar networks as well as cultural and religious communities. The child may experience a stronger sense of identity and a feeling of stability than if he or she was removed from the kinship networks.

What are the risks associated with kinship care?

The informality of kinship care has associated risks due to its lack of documentation and monitoring. Families experiencing deep poverty may find that caring for an additional child is not possible or extremely difficult. When these families do not have access to support mechanisms and experience high stress, their children may become vulnerable to child labor, abuse or neglect. The phenomenon of urbanization in India often removes families from their traditionally large networks of kin care, thus leaving increasing number of nuclear families without local extended kinship support.

4. Foster Care at a glance

Foster care is a temporary care arrangement in which a non-relative couple provides care and protection for an orphaned child or a child who cannot temporarily or permanently return to his/her family of origin. Unlike adoption, a child in foster care remains the legal responsibility of the State and the biological parents. If it is determined that the child could return to the birth family contingent upon changes made in the family, the child may live with a foster family while the family receives supports.

Foster care should not be viewed simply as a backdoor to adoption for families wishing to adopt. Foster care arrangements may end in the reunification of a child with his/her family, or adoption with the foster caring family or another family. It is important to remember that the best interest of the child always takes priority above the wishes of potential carers.

Foster care provides an opportunity for a child in need of care and to receive love and support in a family environment. While this form of care is in its infancy stages in India, there is a growing demand for an expansion of family-based alternative care forms. (as evidenced by the JJ Act, ICPS, and the UNCRC).

What is the Foster Care Model Guidelines 2016?

The Foster Care Model Guidelines is the first set of guidelines to solely focus on foster care as a viable alternative care option for Indian children. By solidfying the foster care processes in accordance with the JJ Act and the ICPS, this newly developing form of family-based care is on its way to becoming another formal avenue in which the right of every child to a family can be realized.

These guidelines distinguish the categories of

- The Model Guidelines for Foster Care, 2016 were notified by the Government of India's Ministry of Women & Child Development on 11 November 2016;
- The new Guidelines further define the concept of Group Foster Care and strengthen the provisions of foster care for the children of India.
- The Guidelines derive strength from Section 44 of the Juvenile Justice (Care & Protection of Children) Act 2015 (the Act), Rule 23 of the JJ Rules (the Rules), 2016 and the United Nations Convention on the Rights of the Child (1989).

children who are eligible to become foster children, as well as who is eligible to be a foster carer. It also outlines the rights and responsibilities of all parties involved (see foster care rights and responsibilities page 45). Procedures of identification, placement, and monitoring are also discussed. A strict adherence to the processes put forth in regards to monitoring, record keeping, and evaluation, can help ensure that children who enter foster care are protected from abuse and exploitation.

Fundamental Principles of Foster Care
(Model Foster Care Guidelines, 1.4)

i. "Family or a family like environment is most conducive for a child and every child has the right to grow in such an environment;
ii. All decisions, initiatives and approaches falling within the scope of the present Guidelines are to be made on a case-by-case basis, with a view, to ensuring child's safety and security, and must be grounded in the best interests of the child;
iii. All decisions, initiatives and approaches falling within the scope of the present Guidelines must respect the child's right to be consulted and to have his views duly taken into account in accordance with his evolving capacities;
iv. Siblings and twins should preferably be placed in one family;
v. Recognizing that every child has the right to grow in a family environment, every attempt must be made to reunite the child with his biological family by strengthening the biological family through a planned process."

The Foster Care Model Guidelines rightly recognizes that this type of care in India is new and will require additional promotion, awareness, and training at the community-level as well as for all parties involved in foster care arrangements. These guidelines discuss the role of NGOs in this work, both in promoting awareness of this type of care, as well as in an active involvement with facilitating smooth placement transitions.
It is clear from the Foster Care Model Guidelines that the objectives of foster care are clearly guided by the best interests of the child and simultaneously keeps in mind the strengthening of the family.

5. Adoption at a glance

> "Fundamental principles governing adoption. - The following fundamental principles shall govern adoptions of children from India, namely, -
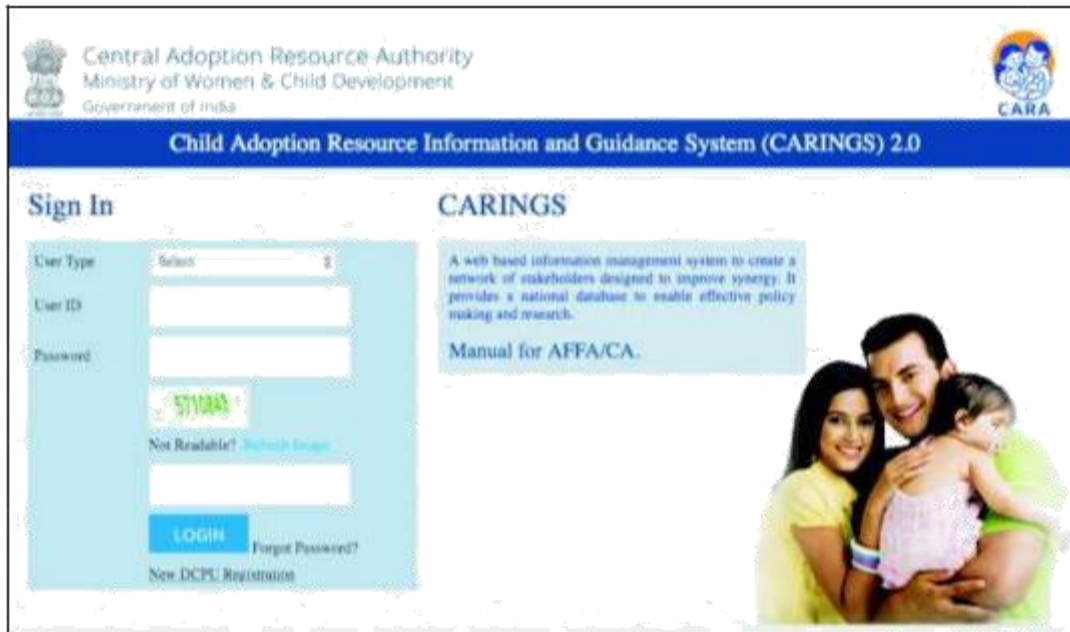>
> (a) the child's best interests shall be of paramount consideration, while processing any adoption placement;
> (b) preference shall be given to place the child in adoption with Indian citizens, with due regard to the principle of placement of the child in his own socio-cultural environment, as far as possible."
> (The Guidelines Governing the Adoption of Children, I.3)

Adoption is the act of a person or couple becoming the lawful caretakers of a child who is not their biological offspring, with all of the same rights, privileges, and responsibilities that are attached to a biological child. Due to its irreversible nature, adoption should only be pursued when reunification attempts with the family of origin are not possible or deemed to be not in the best interest of the child. Adoption allows the child to have a stable and loving family.

What are the Guidelines Governing Adoption of Children?

CARA was established in 1990 under Ministry of Social Justice & Empowerment with the responsibility of upholding the Hague Convention on Protection of Children and Cooperation in respect of inter country adoption of 1993. After the JJ Act, 2000 and its amendment in 2006, CARA was transferred to Ministry of Women and Child Development. The Guidelines Governing Adoption of Children (The Guidelines) were released in 2015. The revisions of this document provide for increased transparency and formalization of adoption processes for orphaned and abandoned children, or those declared such by the CWC.

In 2015 Child Adoption Resource Information and Guidance System (CARINGS) was established, an online data system of children who are eligible for adoption and potential adoptive parents. The intent of CARINGS was to improve documentation, as well as to cut down on delay times in placement through centralization of the process. Potential adoptive parents now directly fill out an application online, submit documents, and track their status.

The Guidelines put forth the timelines, the budget, and the actors involved in the adoption process. The roles and responsibilities of the District Child Protection Units, State Adoption Resource Agencies, and the Specialized Adoption Agencies are discussed (see adoption players page 41). Eligibility requirements of children for adoption as well as of potential adoptive parents are outlined in these Guidelines (see page 40).
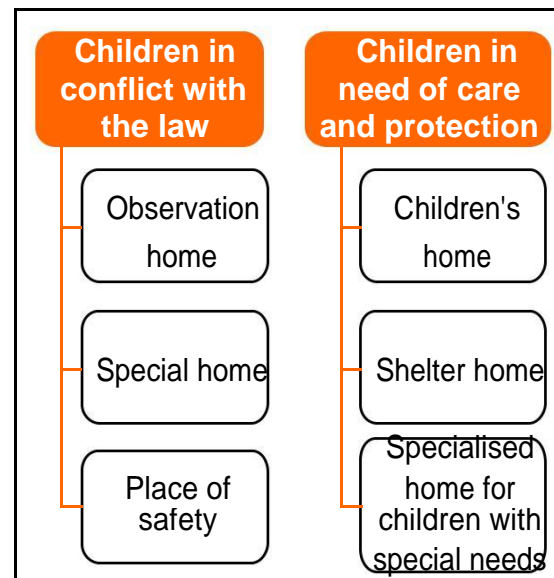
6. INSTITUTIONAL CARE AT A GLANCE

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

(Integrated Child Protection Scheme 2.vi)

Child care institutions (CCIs) are governmental or nongovernmental facilities that provide care to children up to the age of 18. CCIs are a necessary alternative on the continuum of care in India's current context, however it should be viewed as a last resort for children who are outside of the care and protection of their biological families.

What are the types of child care institutions in India?

India has several types of CCIs that provide care for different groups of children. Here we will describe the functioning of each type of institution as put forth by the JJ Act. The Juvenile Justice Act, 2015 demarcates two sets of child care institutions, first for children who are in conflict with law, and second for those children who need of care and protection.

Children in conflict with the law	Children in need of care and protection
Observation home	Children's home
Special home	Shelter home
Place of safety	Specialised home for children with special needs

Children in conflict with the law

?Observation home- a temporary care facility for children in contact with the law who are not placed under the care and protection of a parent during an ongoing inquiry

?Special home- a home for children who have been convicted of a crime, which is to provide basic facilities as well as counseling, training, and reintegration services

?Place of Safety- a facility which is attached to an observation home or special home that cares for children above the age of 16 who have committed more serious crimes

Children in need of care and protection

?Children's Home- facilities that provide long-term care to multiple children who are unable to be cared for in a family-based environment

?Shelter Home- short-term, crisis centers that provide temporary shelter and services to children who are vulnerable, such as street children, child substance abusers, or trafficked or runaway children

?Specialized homes for children with special needs- children with special needs may be provided care, protection, and individualized treatment based on diagnosis in a specialized unit of an existing CCI, or a separate specialized home.

7. Aftercare at a glance

Aftercare is any support, be it financial or programs and services, provided to youth aging out of formal alternative care, with the goal of a smooth re-integration into mainstream society. Children who have grown up solely dependent on caretakers and have been outside of traditional cultural and social networks may need additional assistance to become independent contributors to society.

PART II:
ALTERNATIVE CARE PROCESSES

This section of the FAQ contains the current processes of each type of alternative care in today's Indian context.

Family preservation/strengthening

Family preservation as a formal alternative care process is not being widely practiced in India, however the government and NGOs carry out various parts of family preservation. Examples of such services include: preventative health work, vocational training/skill development, any type of sponsorship, food security/nutrition programmes and schemes, sexual education, self-help groups, physical abuse awareness, and substance abuse awareness.

Often these services exist in isolation. In other words, specific services are done well with specific populations, but what is lacking is the idea of keeping a family together using a multi-dimensional approach. There is a need for more strategic and purposeful convergence of the above systems under the umbrella of family preservation.

Sponsorship

As per Integrated Child Protection Scheme (ICPS), sponsorship can be given in two situations:

- Preventative: The DCPU, with the support of voluntary child protection organizations, will identify families that are at risk of breakdown due to a lack of resources. These families may be provided with sponsorship support with the purpose of keeping a child in the family, maintaining health, and continuing education.
- Rehabilitative: An institution may approach the CWC or JJB and recommend that a child be returned to the family based on his/her individualized care plan and a review of the familial situation. These families may be eligible to receive sponsorship support to enable the family restoration

?The sponsorship amount is Rs. 2000 per month per child (maximum two children).
?Transfers are made from the DCPU to a bank account opened in the name of the child and operated by the child's
    guardian.
?The duration of sponsorship is determined on a case-by-case basis by the CWC, but is not to exceed three years. ?Families
receiving sponsorship support will be monitored by the DCPU or SAAs and subject to quarterly home and school
    visits.

Who is eligible for sponsorship?

According to Section 44 of the JJ Act 2016, the criteria for sponsorship includes

?The mother is a widow, divorced, or has otherwise been abandoned by
the family ?The parents are victims of a life-threatening disease
?The parents are incapacitated due to accident and are unable to physically or financially care for the child

The SFCAC will ask for relevant documents to further determine eligibility, such as a home and school report conducted by a social worker. More information on sponsorship can be found in section 45 of the JJ Act and Guidelines at www.wcd.nic.in.

What is the current situation

An amount of Rs,10,00,000 is allocated to every district for sponsorship under ICPS and also foster care. Formal and informal sponsorship is practiced in India by government and NGOs, however, the magnitude of support required is much higher than the budget allocated in this scheme.

Case Study of Sponsorship

Mamta was only 18 years old and pregnant with their first child when her husband passed away unexpectedly. With an alcoholic father, no mother, and sisters with families of their own, she had only her brother to turn to. Although he supported Mamta and her son, she was barely able to cover the bare necessities for the three of them. To add to the struggle, Mamta suffers from leprosy, alienating her from society and making it impossible for her to find work. Foster Care India came in contact with Mamta during one of the regular community surveys designed to identify and help vulnerable families. Mamta first weighed only 25kgs. After consulting a doctor, it was found out her low weight was the result of not only leprosy, but also poor nutritional intake. Her family could not afford to purchase the necessary medicines from private hospitals, and she did not qualify for subsidized help from the government. Foster Care India worked with Mamta to complete a sponsorship form that would enable her to have clinical check-ups to ensure overall health and would connect her with sponsors willing and ready to help financially. As a result of the support FCI connected her with, Mamta's health improved significantly. She now weighs 31kg and consumes protein tablets as well as nutritional food. Prior to FCI's intervention, Mamta's son frequently missed school due to her inability to provide adequate care for him. The 5 year old is now in an environment needed for suitable development and he can focus on his schooling.

(Source: Annual Report 2015, Foster Care India)

Kinship Care

Kinship Care is embedded in the culture of India, however, it is not formalized and regularized. Most kinship care is done by grandparents or relatives without the involvement of government or CWC or court.

Foster Care

Within the field of foster care, there are several Indian and international documents that establish adoption rules and guide processes:

?UN Convention on the Rights of the Child, 1981 [UNCRC]
?The United Nations Guidelines for the Alternative Care of
Children, 2010 ?The Juvenile Justice (Care and Protection of
Children) Act, 2015 ?The Model Foster Care Guidelines, 2016

The JJ Act, 2015 and the Model Foster Care Guidelines, 2016 defines two types of foster care: individual foster care and group foster care.

"Foster Care" means placement of a child, by the Child Welfare Committee (CWC) for the purpose of alternate care in the domestic environment of a family, other than the child's biological family, that has been selected, qualified, approved and supervised for providing such care;

"Group Foster Care" means a family like care in a fit facility for children in need of care and protection who are without parental care with the aim to provide personalised care and a sense of belonging and identity.

Group Foster is defined as a family setting where a group of unrelated children are placed with a set of parents which may/may not be having their own biological children. It is an intermediate and temporary arrangement suitable for children who are picked up from streets before placing them in individual foster care.

The Child Welfare Committee, in association with Specialized Adoption Agencies, identify fit children for both individual and group foster care based on the children's individual care plans. The Model Foster Care Guidelines states that a list of children that might benefit from foster care should be submitted by social workers of institutions.

Potential foster carers will submit an application along with references, and a home study will be conducted by the DCPU. After approval, the potential foster carers will be eligible for a match with a child. DCPU will do the matching and it will be approved by the CWC upon completion and satisfaction with interim meetings and outings arranged for the child and carers. Compatibility must be determined before a placement is made.

> **Importance of counseling**
>
> It is crucial that preliminary visits between the child and potential carers are handled with utmost care and take place in a child-friendly manner. Counseling and trainings should take place before, during, and after the placement for the child and the carers, ensuring comfort and understanding. Additionally, counseling and information should be provided to the biological parent(s), as the ultimate goal of foster care is family reunification, provided that it is in the best interest of the child. Therefore, it is important that the biological parent(s) understand their rights and responsibilities. The necessity of counseling and trainings for all involved parties cannot be understated given the newness of foster care in the current Indian context.

In accordance with the ICPS, foster carers may be provided with Rs. 2000/- per month, per child, to be used in the care and protection of the child. These funds must be requested and approved. The Model Guidelines for Foster Care states that the financial support should be transferred directly from DCPU to the bank account in the name of the child (to be utilized by the child and foster carer), at the beginning of every quarter. The amount is the same for children placed in group foster care.

Who is eligible for foster care?

The UN Guidelines for Alternative Care of children states that, "A pool of accredited foster carers should be identified in each locality who can provide children with care and protection while maintaining ties to family, community and cultural group." The Model Guidelines on Foster Care state that this should be maintained by the DCPUs and sent on to the CWCs. There is currently no such database, however the creation of such would greatly assist in the expansion of foster care as a viable family-based alternative for children in need of care. The Guidelines also put forth that the DCPU is charged with advertising for the recruitment of foster carers.

Eligible for Foster Care	Not eligible for Foster Care
●Children between 6 - 8 years who are not adopted within 2 years of being declared legally free. ●Children between 8 -18 years who are not adopted within 1 year of being declared legally free, ●Children with special needs of any needs who are not adopted within a year.	●Children between 0 - 6 yearswho are legally free f o r a d o p t i o n u n l e s s determined as eligible by t h e C h i l d W e l f a r e Committee.

Eligible for Group Foster Care	Not eligible for Foster Care
●Children between the age group of 6 -18 years who are staying in child care institutions and not been declared legal free. ●Children whose parents are terminally ill and unable to take care of their children. ●Children identified by DCPU ●whose parents are mentally ill and are unable to take care of their child; ●whose one or both parents are in jail; ●who are victims of physical, emotional or sexual abuse, natural /manmade disasters, agrarian distress and domestic violence etc.	⚘⚭⋊●⚍⚏ℿ▪ between 0 - 6 years of age who are legally free for adoption unless determined as eligible by the Child Welfare Committee.

Who is Eligible to become Foster Parents?

●Both the spouses must be Indian citizens;
●Both the spouses must be willing to foster the same child;
●Both the spouses must be above the age of 35 years and must be in good physical, emotional and mental health;
●Ordinarily the foster family should have sufficient income with to meet the needs of the child;
●●?the family members of foster care living in premises should be medically fit including HIV, tuberculosis or any other communicable disease and cancer;
●?Should have adequate space and basic facilities;
●Should be willing to follow rules laid down including regular visits to doctors, maintenance of child health and their records;
●Should be willing to attend foster care orientation programs organized by the DCPU;
●Must be without criminal conviction or indictment;
●should have supportive community ties with friends and neighbors

What is Sponsorship and Foster Care Approval Committee (SFCAC)?

The Sponsorship and Foster Care Approval Committees (SFCAC), established under the authority of Integrated Child Protection Scheme, are responsible for making decisions on applicability of foster carers to receive financial support (for preventative settings only). When there is a request for financial assistance, the DCPU will submit the proposal to the local SFCAC who will decide if the carers are approved for financial support. Final approval of the decision will be granted by the CWC. The SFCA is to consist of:

?DCPO
?Protection officer (non-institutional care)
?CWC member
?SAA representative
?Voluntary child protection organization representative (visual of the structure)

What is the current situation?

Foster care is a newly developing system in India, however the idea of foster care is a very old concept in India.

We all know the story of Lord Krishna who was raised by Yashoda and Nanda, the foster parents. Similarly, when Udaisingh was two years old, the king and queen were out of station and Udaisingh's foster mother Pannadhai learned that a warring city-state was approaching with the intention to kill Udaisingh. Pannadhai put her biological son in the place of Udaisingh and the warring city-state attacked and killed him. Udaisingh lived on to found the city of Udaipur. This story is one of thousands deeply woven in India's culture and traditions. In modern day, a majority of Indian citizens can reference the idea of kinship care or foster care in their own family history.

As early as the late 1970's, states began to draft foster care guidelines, inherently understanding that family-based care is an important part of the child protection system in India. However, those drafts remained drafts and were not passed into law (examples are Delhi and West Bengal). The first state official legislations, which was notified in the Gazette, were done in Goa and

Delhi in the late 2000s. These state legislations were followed by the Rajasthan Foster Care Rules released in July of 2014. Today foster care provisions are in national legislation (2016 Foster Care Guidelines). In the year 2016 there is a need for formalization of systems in our quickly developing world in order to keep children safe. The expansion and implementation of foster care is it a critical stage as the uninformed roll out of foster care programs can easily put children at risk if proper supervision at, monitoring , and family identification are not done.

Case study of Foster Care

Child 3 is a boy aged 4 years (although no documents of age proof exist). He had been rescued by Childline from begging and was admitted into the Sheshu Greha on X October 2015. The biological parents of Child 3 were not able to be traced in spite of investigation by Childline. Child A was then declared a prospective foster child because it was not known whether and when the biological parents would be found. Child A was found to be traumatized and also had a habit of chewing tobacco when he was admitted to the ShishuGreha. A psychological assessment conducted by a child psychologist through FCI revealed that Child A has above average intelligence, but is a little hyperactive. From the beginning, he was very keen to study and go to school. Foster Parents Background
They are both aged 52 and have been married for 12 years. The Foster Father is a teacher and the Foster Mother is a housewife. They do not have any biological children of their own. They had applied for adoption over 3 years ago and had not been successful. When they heard about foster care they were very clear about wanting to bring a child home and raise him/her well and provide him/her with a good education. Their preference was for a boy between 4 and 7 years of age. They have also expressed a wish to foster another child, preferably a girl.

Placement Process and FCI Role
The Foster Parents were given orientation training and a visits to their home was conducted; all work was done collaboratively between Foster Care India (FCI), the Child Welfare Committee and the Specialised Adoption Agency. FCI provided guidance regarding the application procedure and the required documents. The Foster Parents required extra support as they were required to submit some additional documents along with their application. Once the application was submitted, their police verification and home study was carried out. FCI accompanied the SAA Social Worker for the home study and provided special assistance in the drafting of the HSR (home study report) as the SAA Social Worker was new to the post. FCI remained in contact with the government department as well as the Foster Parents regarding the status of the application. The Foster Parents were

then matched with Child 3 and a meeting between them was facilitated. At this stage, the Foster Parents were told about Child 3's history. They were informed that if his biological parents were traced, that there is a chance he would be removed from their care and reunited with his biological parents. The Foster Parents understood this and were entirely willing to look after Child 3 for as long as they could.
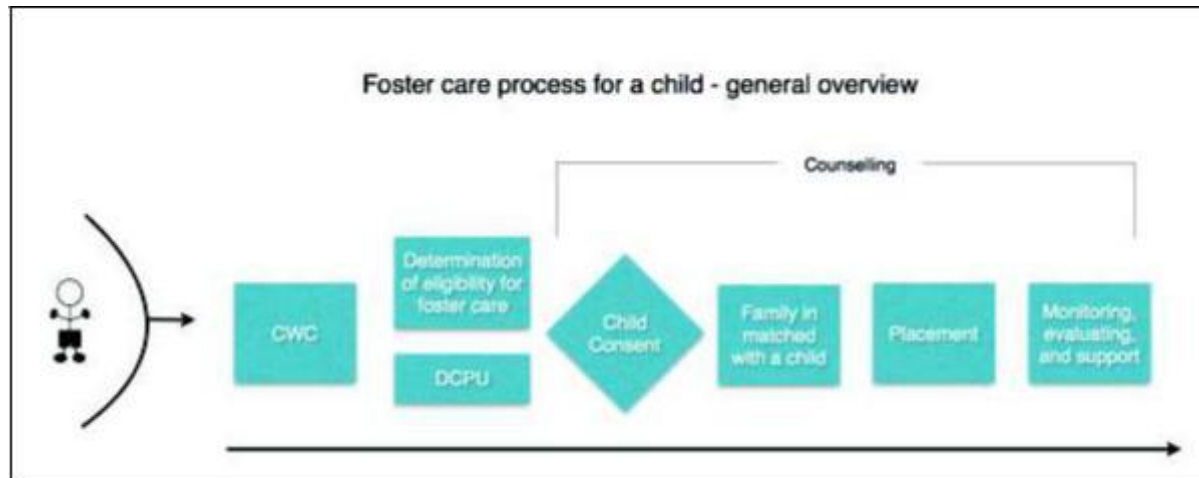
A pre-placement training was also delivered to the Foster Parents by FCI and the government social worker which covered topics such as Attachment and Separation, Positive Discipline and Adjustment (of the child in the home and community). FCI helped the Foster Parents prepare the documents for the placement i.e. the Affidavit, Bond and Agreement Letter. The medical of Child 3 was carried out by the ShishuGreha. Prior to placement, a Placement Toolkit was provided to the Foster Parents by FCI which comprised of Child 3's daily routine, a list of things he may require at home and emergency contact information for FCI and the relevant government department. Placement of child 3 was made on January, 2016. After successful completion of 6 months the child was given extension of 1 year from CWC.

Post placement, FCI continues to conduct two visits per month to the Foster Parents' home to monitor the progress of Child 3 and to provide them with any support they might require (such as advocacy for birth certificate of Child 3). The Foster Parents are required to submit a medical certificate and a photograph of Child 3 to SAA on a monthly basis. Foster parents are taking very good care of the child and making efforts for his holistic development. Child 4 was also produced in front the district collector. Collector was highly impressed seeing the performance of the child and gave best wishes to the foster parent taking care of the child.
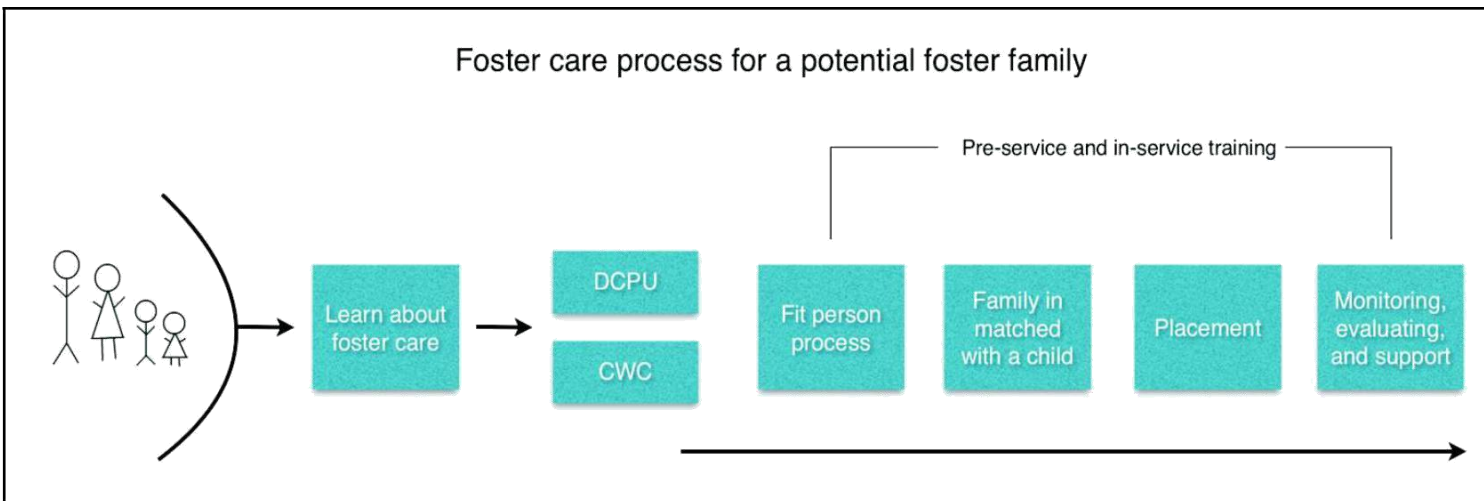
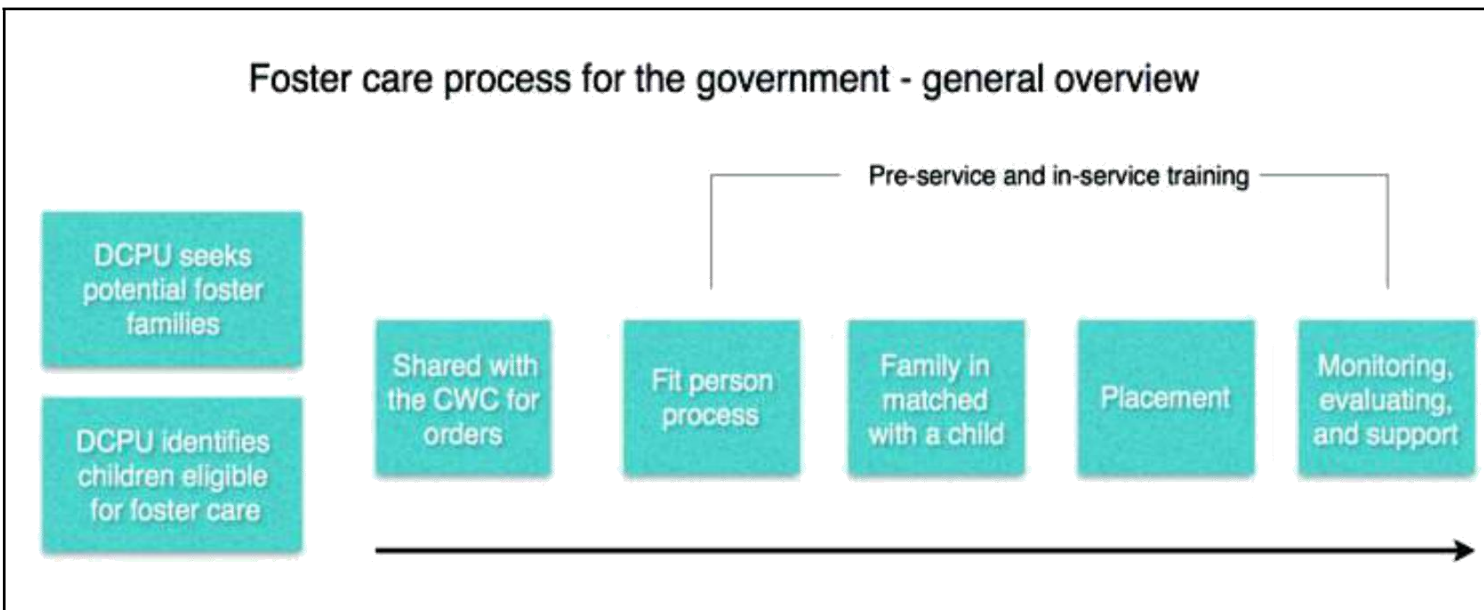(Source: Foster Care India, UNICEF Rajasthan, Udaipur District Government (CWC and SAA)

Timeline

?Identification of eligible children are brought forth to CWC and prospective foster carers undergo a Home Study Report

?After match is made, the child and carer are given a month of interaction in the presence of a social worker which includes visits to the institution, an outing, and a visit to the carers home.

?Ifcompatibility is established, CWC shall make final decision and within 15 days, an application should be submitted to SFAC if financial assistance is requested by the family

?Ifno financial assistance is requested, order will be given ordinarily within 60 days of the passage of the interim order, 75 days when financial assistance is requested

?Children, biological parent(s) (if applicable) and carers should receive pre-placement counseling and training ?As provided under ICPS, an Outreach Worker is to visit the family weekly in the first month, then monthly for the first quarter, and then every sixth months until the completion of the foster care arrangement

?The Outreach Worker will also visit the school monthly in the first quarter, quarterly for the first year, and then every sixth months until the completion of the foster care arrangement

Foster care process for a child - general overview

Foster care process for a potential foster family

Pre-service and in-service training

Learn about foster care → DCPU / CWC → Fit person process → Family in matched with a child → Placement → Monitoring, evaluating, and support

Foster care process for the government - general overview

Pre-service and in-service training

DCPU seeks potential foster families / DCPU identifies children eligible for foster care → Shared with the CWC for orders → Fit person process → Family in matched with a child → Placement → Monitoring, evaluating, and support

Adoption

Within the field of adoption, there are several Indian and international documents that establish adoption rules and guide processes:

- ?The Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption, 1993 (See Figure xx)
- ?The UN Convention on the Rights of the Child, 1981 (CRC)
- ?The UN Guidelines for the Alternative Care of Children, 2010
- ?The Guidelines Governing Adoption of Children, 2015
- ?The Juvenile Justice (Care and Protection of Children) Act, 2015

A child becomes eligible for adoption when the Child Welfare Committee declares a child legally free for adoption. The determination will be made that the child is an orphan, or has no one to provide care and protection to him/her. At which time, the matching process with prospective adoptive parents will begin. A photograph and pertinent information (child study, medical examinations, etc.) about the child will be uploaded into a database known as the Child Adoption Resource Information and Guidance system. The Special Adoption Agencies will use this database to prepare a match with eligible adoptive parents.

According to the fundamental principles of the Guidelines Governing Adoption of Children (2015), placement preference should be given to Indian citizens in order to preserve the child's Indian culture and social networks, to the extent possible within his/her best interests. The child should be granted as much participation in the process in accordance with age and maturity.

When an adoption match is made, a pre-adoption foster care period will begin.

Upon a successful pre-adoption foster care period, an adoption application will be obtained from the Court, and the adoption will be finalized. The child's overall well being will be monitored over the following two years as he/she adjusts to the new home and family.

Who are the actors involved in adoption

The JJ Act, the ICPS, and The Guidelines Governing the Adoption of Children outline the agencies at each level (central, state, and district) specifically charged with the promotion and monitoring of adoption and other forms of non-institutional care.

Agencies involved in Adoption		
Centralised Adoption Resource Agency (CARA) ?●direct involvement and drafting of policies relating to adoption of children, ?●creation of a centralised database containing the information of children eligible for adoption and potential adoptive parents, ?●support and supervision of SARA, ?continual improvement of the adoption system (both national and inter-country) through research and evaluation, ?●advocate for and create awareness regarding non-institutional forms of care for children. A complete list of responsibilities of CARA can be found in section 5 of the Guidelines Governing the Adoption of Children.	**State Adoption Resource Agency (SARA)** ? ●promoting and monitoring of non-institutional care. ? ●coordination with and support of the DCPU and the CWC, ? ●faciitation of the creation and support of Specialised Adoption Agencies at the district level (at least one per district), ? ●inspection of SAAs, and "…expedite de-institutionalisation of children through adoption and other non-institutional alternatives" (The Guidelines, 5.34.j). A complete list of responsibilities of SARA can be found in section 5 of the Guidelines Governing the Adoption of Children.	**Specialised Adoption Agency (SAAs)** ? ●District-level Child Care Institutions recognized by the State Government as the agencies responsible for producing children who are legally free for adoption before the CWC. ? ●These are the organizations that work most directly with implementation of adoption in coordination with the CWC. Their responsibilities include ? ●Preparing individual care plans for children, ? ●Conducting Home Study Reports as per the request of the CWC, ? ●Providing adequate counseling, pre-service, and in-service trainings to children, biological parents, and adoptive and foster care parents. SAAs are supervised by the State Adoption Resource Agency and the DCPU. A complete list of responsibilities of CARA can be found in section 5 of the Guidelines Governing the Adoption of Children.

What is the current situation?

India is gradually shifting its focus towards domestic adoption and the empowerment of Indian communities to care for their children.

The idea of adoption in India remains a sensitive subject as adopting a child in India often can be associated with stigma in cultures and communities. However, younger generations are adopting more, and the central government and state governments are working hard to pass legislation and policies that demand a more efficient, just, and safe adoption process for children and adoptive families.

Timeline

?Within 72 hours, advertise photo and information for tracing by DCPU
?SAA produce report to CWC after 30 days to say if anyone has approached to
claim child ?Declared eligible to adopt
?After 60 days, if the child cannot be placed, the child can be considered for inter-country adoption; after 30 days if the child is above five years or a sibling; after 15 days if the child has mental or physical disability
?Within 1 month of application into Adoption system (name above), home study completed (valid for two years)
?Within 10 days of the placement acceptance, pre-adoption foster care should begin and within 7 days, SAA should file adoption petition in the court
?Adoption proceeding case within 2 months
?Progress reports on a six month basis for two years

Institutional Care: Childcare institutions

A child is placed in child Care Institution either the Child Welfare Committee or the Juvenile Justice Board for care and protection into one of the aforementioned types of CCIs. The JJB is primary authority for placement of children who are in conflict with the law. While institutions are intended to be a last resort for children, the majority of Indian children who are not under the care and protection of their biological families are also cared for in institutional settings.
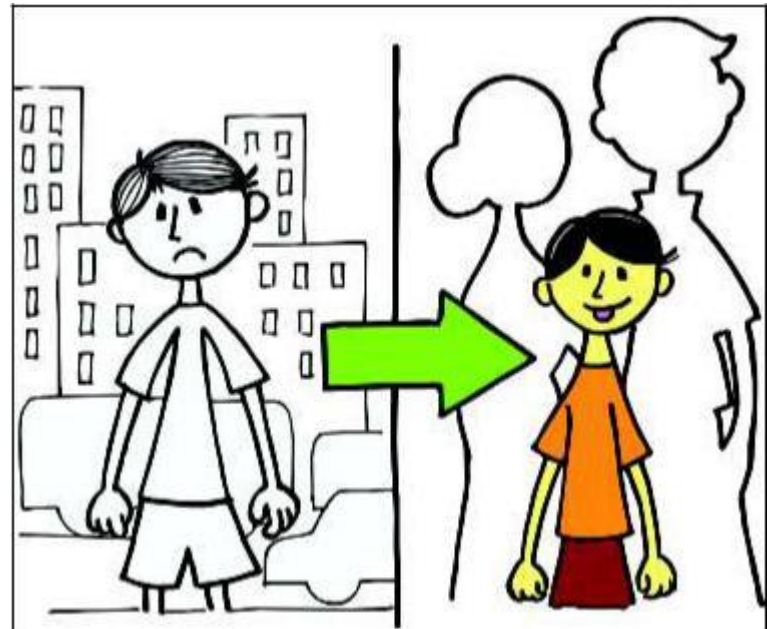
Before the placement of a child in a CCI, the JJ Act (V.27.9) states that a competent authority must conduct a detailed inquiry and assessment of the child and familial situation, and submit in writing whether or not it would be in the best interest of the child to restore him/her to the family. If a child is placed in a CCI, it is the duty of the Probation Officer/Welfare Officer to assist the child in the creation and maintenance of contacts with the family, as well as providing necessary support to the family. If it is deemed in the best interest of the child, the child has a right to visits with his/her relatives once per week.

The specific services that CCIs are required to provide to children are enumerated in detail in JJ Act, 2015. It is important to note that while institutions are a place of shelter and provision of basic survival needs, it is equally necessary that they provide developmentally appropriate stimulation, socialization, and learning, in order to prepare the children to return as healthy, wholesome individuals to their communities. CCIs should only care for the number of children that they have the capacity to give unique, individualized attention to, as per the needs of child.

When a CCI applies for official registration under the JJ Act, the State Government will determine the purpose and classification of the institution as well as the capacity. The registration of a CCI must be renewed every five years. During review, the Government will determine if the CCI has provided satisfactory rehabilitation and reintegration services as outlined in section 53 of the JJ Act. Staff members should complete appropriate training in child protection, and ongoing professional development should occur. Additionally, each child's individualized care plan is to be reviewed every sixth months to ensure that all attempts are being made to find a permanent, family-based environment for the child.

The JJ Act, 2015 outlines a more comprehensive set of rehabilitation and reintegration services that required to be adhered to by the CCIs. These services may include:

?basic requirements of food, shelter, clothing and medical attention

?equipment such as wheel-chairs, prosthetic devices, hearing aids, braille kits, or any other suitable aids and appliances as required, for children with special needs

?appropriate education, including supplementary education, special education, and appropriate education for children with special needs (The Right of Children to Free and Compulsory Education Act 2009 would apply to all children aged 6-14 years)

?skill development

?occupational therapy and life skill education

?mental health interventions, including counselling specific to the need of the child

?recreational activities including sports and cultural activities

?legal aid where required

?referral services for education, vocational training, de-addiction, treatment of diseases where required

?case management including preparation and follow up of individual care plan

?birth registration

?assistance for obtaining the proof of identity, where required

?any other service that may reasonably be provided in order to ensure the well-being of the child, either directly by the State Government, registered or fit individuals or institutions or through referral services [Section 53(1) JJ Act, 2015]

What is the current situation?

Institutions remain to be the predominant way of systemized care and protection of children in India. The laws, policies and schemes still cater to institutionalization of children, but are quickly including the ideas of family-based care.

Although institutions must be all licensed and regulated by the JJ Act, a large number of institutions in India remain unlicensed.

A quick growing cannon of evidence-based research discusses the harms of institutional care on children's outcomes. Although a country as big as India cannot immediately deinstitutionalize due to the large number of children in need of care and protection, there is a promising focus, evidenced by policy and practice in India, towards an adherence to the continuum of care and the idea that the best place for every child is with family when safe and appropriate.

Aftercare

The Integrated Child Protection Scheme states that the DCPU is responsible for identifying organizations to provide aftercare services to youth. These organizations may be eligible for grants to assist in the provision of needed services. The types of services that may be provided include:

?Vocational training
?Independent living skills
?Temporary financial assistance
?Entrepreneurial loans
?Counseling or mentorship

The CWC, in coordination with the DCPU, may make orders for a child to be placed in, or receive, aftercare services. Eligible children who are not ordered to receive such care may still receive aftercare services through voluntary organizations.

Who is eligible for aftercare?

Eligible youth are those ages 18-21 who received care and protection in an institution. There is no provision in the law yet for children aging out of non-institutional care alternatives, despite that the Model Foster Guidelines of 2016 states that children aging out of foster care should have access to such services

What is the current situation?

Currently aftercare in India's legislation is designed only for children in institutions. The idea of aftercare is relatively new to India, but is well provisioned in the JJ Act 2015. Some states have created specific aftercare guidelines that empower district-level government and nongovernment implementers to interpret and expand on the provisions for after care in the JJ Act. One example is After Care Guidelines of Rajasthan department of Child Rights.

What are the challenges facing alternative care in India?

The expansion of alternative care in India is not without its challenges. The current challenges include:

?Community-wide understanding of alternative care at all
levels ?Alack of data on alternative care
?Little convergence of systems in the alternative care field
?Few evidence-based models of alternative care
?Lack of direct guidance of alternative care processes and supports outside of child care institutions in
legislation ?Underdeveloped social work capacity
?Placements of children are not made using the continuum of care order, as child care institutions remain the
dominant form of care for children outside of their families

PART III:
RIGHTS AND RESPONSIBILITES

What are the rights and responsibilities of those involved in a foster care arrangement?

Rights and responsibilities listed are as per the JJ Act and the Model Foster Care Guidelines.

The child has a right to…
  ?Be given adequate attempts at placement with a family, regardless of social class, religion, or background ?An individual care plan and due individualized attention
  ?As much participation in the process as age and maturity allow ?Access to information regarding his/her biological family
  ?Placement preparation, including trainings and counseling
  ?Monitoring and evaluation throughout the process, ensuring accordance with the best interest principal and overall well-being

The biological parent(s) have a right to…
  ?Respect and dignity
  ?Confidentiality
  ?Adequate information to understand the care arrangement
  ?Regular visitations with the child, unless it is deemed to be not in his/her best interest ?Provision of services that make every attempt at reunification of the family ?Counseling

The foster parents have a right to… ?Non-discrimination in
the placement process ?Placement preparation,
including trainings and counseling ?Beheard and
respected
?Right to adopt the same child after five years of fostering if in accordance with the Guidelines Governing
Adoption of Children

The foster parents have a responsibility to…
?Undergo a home study and provide truthful information
?Respect the birth family and adhere to confidentiality
?Provide adequate care and protection for the child
?Support contact between the child and his/her biological family in consultation with
the CWC ?Ensure whereabouts of child are known at all time by updating changes
of address, etc. ?Share and discuss information regarding the progress of the child

What are the rights and responsibilities of those involved in an adoption arrangement?

Rights and responsibilities listed are as per the JJ Act and the Guidelines Governing the Adoption of Children.

The child has a right to…
?Begiven adequate attempts at placement with a family, regardless of social class, religion, or
background ?Anindividual care plan and due individualized attention
?Asmuch participation in the process as age and maturity allow
?Placement preparation, including trainings and counseling
?Monitoring and evaluation throughout the process, ensuring accordance with the best interest principal and
overall well-being
?Assistance with root search if ever requested

The birth parent(s) have a right to…

? A 60 day reconsideration period in which the child can be taken back

?Respect and dignity throughout the surrender process and beyond ?Confidentiality

?Full understanding and consent

?The implications and irreversibility of adoption

?The possibility of international adoption

?The potential of a future root search

The birth parent(s) have a responsibility to… ?Understand the irreversible nature of adoption ?Provide as much information on the child and family as willing

The adoptive parent(s) have a right to…

?Courtesy, information, counsel as needed

?Assistance with application process

?Pre-adoption counseling and supports

?Facilitation of placement with child

?Extended post-adoption services such as counseling, as needed

The adoptive parent(s) have a responsibility to…

?Undergo a home study and provide truthful information

?Respect the birth family

?Provide care and protection of the child equal to that of a biological child

What are the rights and responsibilities of child care institutions and the children residing in a CCI?

Responsibilities listed are as per the JJ Act and the ICPS.

The **child care institutions** have a responsibility to…
?Provide all services as per Chapter 7, Section 53 of the JJ Act, including:
- Basics- food, shelter, clothing, medical attention
- Equipment such as wheel chairs, braille kits, any accommodations for children with special needs •Appropriate education (In accordance to Right of children to Free and Compulsory Education 2009) •Skill development
- Occupation therapy and life skill education
- Mental health interventions, including child-specific counseling
- Recreational activities
- Legal aid, when required
- Referral services for education, vocational training, de-addiction treatment of diseases, when required
- Preparation and follow up of individual care plan
- Birth registration
- Assistance in obtaining proof of identity, when required
- Any other service required for well-being of child

?Beregistered under the JJ Act
?Adherence to capacity and purpose regulations as determined by the State government ?Subject to renewal every five years

Annexure 1: Relevant definitions

These definitions are verbatim definitions from the Juvenile Justice Act, 2015

?"abandoned child" means a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry;

?"best interest of child" means the basis for any decision taken regarding the child, to ensure fulfilment of his basic rights and needs, identity, social well-being and physical, emotional and intellectual development;

?"child in conflict with law" means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence;

?"child in need of care and protection" means a child

- who is found without any home or settled place of abode and without any ostensible means of subsistence; or • who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or • who resides with a person (whether a guardian of the child or not) and such person has injured, exploited, abused or

 neglected the child or has violated any other law for the time being in force meant for the protection of child; or • hasthreatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or • haskilled, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or

- who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or

- who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or

- who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or • who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or

- who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or • who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or

- who is being or is likely to be abused for unconscionable gains; or
- who is victim of or affected by any armed conflict, civil unrest or natural calamity; or
- who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;

?"child friendly" means any behaviour, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child;

?"fitfacility" means a facility being run by a governmental organisation or a registered voluntary or non-governmental organisation, prepared to temporarily own the responsibility of a particular child for a specific purpose, and such facility is recognised as fit for the said purpose, by the Committee, as the case may be, or the Board, under sub-section (1) of section 51;

?"fitperson" means any person, prepared to own the responsibility of a child, for a specific purpose, and such person is identified after inquiry made in this behalf and recognised as fit for the said purpose, by the Committee or, as the case may be, the Board, to receive and take care of the child;

?"inter-country adoption" means adoption of a child from India by non- resident Indian or by a person of Indian origin or by a foreigner;

?"registered", with reference to child care institutions or agencies or facilities managed by the State Government, or a voluntary or non-governmental organisation, means observation homes, special homes, place of safety, children's homes, open shelters or Specialised Adoption Agency or fit facility or any other institution that may come up in response to a particular need or agencies or facilities authorised and registered under section 41, for providing residential care to children, on a short-term or long-term basis;

?"serious offences" includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force, is imprisonment between three to seven years;

?"surrendered child" means a child, who is relinquished by the parent or guardian to the Committee, on account of physical, emotional and social factors beyond their control, and declared as such by the Committee;
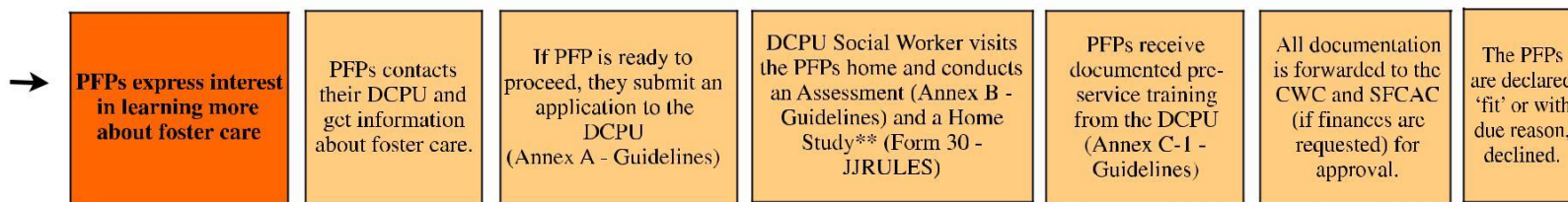
Model Guidelines for Foster Care, 2016.
Interpretation of the Government of India, Ministry of Women &
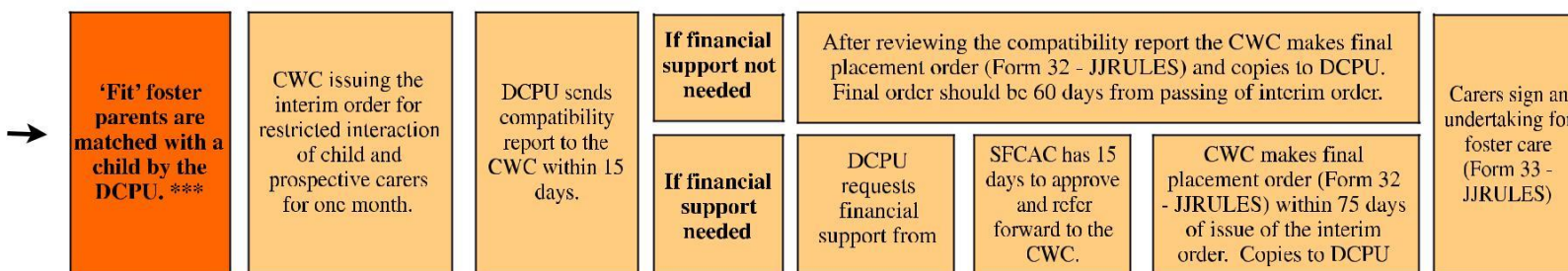*Child Development Released on 11 November 2016*

ABBREVIATIONS:

PFPs - Potential Foster Parents
DCPU - District Child Protection Unit
NGO - Non-Government Organisation
CWC - Child Welfare Committee
SFCAC - Sponsorship and Foster Care Approval Committee
Guidelines - Model Guidelines on Foster Care, 2016
JJRULES - Juvenile Justice (Care & Protection of Children) Rules, 2016

Process* - Interest / Application / Home Study / 'Fit' Person

| PFPs express interest in learning more about foster care | PFPs contacts their DCPU and get information about foster care. | If PFP is ready to proceed, they submit an application to the DCPU (Annex A - Guidelines) | DCPU Social Worker visits the PFPs home and conducts an Assessment (Annex B - Guidelines) and a Home Study** (Form 30 - JJRULES) | PFPs receive documented pre-service training from the DCPU (Annex C-1 - Guidelines) | All documentation is forwarded to the CWC and SFCAC (if finances are requested) for approval. | The PFPs are declared 'fit' or with due reason, declined. |

Matching / Final Order / Placement

| 'Fit' foster parents are matched with a child by the DCPU. *** | CWC issuing the interim order for restricted interaction of child and prospective carers for one month. | DCPU sends compatibility report to the CWC within 15 days. | If financial support not needed | After reviewing the compatibility report the CWC makes final placement order (Form 32 - JJRULES) and copies to DCPU. Final order should be 60 days from passing of interim order. | | | Carers sign an undertaking for foster care (Form 33 - JJRULES) |
| | | | If financial support needed | DCPU requests financial support from | SFCAC has 15 days to approve and refer forward to the CWC. | CWC makes final placement order (Form 32 - JJRULES) within 75 days of issue of the interim order. Copies to DCPU | |

* During the entire 'process' (the first horizontal line of action-steps) the DCPU is identifying children. Only once a child is identified for a 'fit' family does the process continue to the second line of action steps.

** For the Home Study to be complete, the PFPs generally must provide 7 pieces of documentation: Medical Check, Policy Check, Marriage Certificate, Income Certificate, Proof of Age, Address Proof and 2 personal references.

*** In order to be eligible for foster care, a child must have a complete individual care plan and child study report.

References and Guiding Documents

UNICEF 2006, What is Child
 Protection?http://www.unicef.org/protection/files/What_is_Child_Protection.pdf JJ Act, 2015, VII.37.a
United Nations Convention on the Rights of the Child, 2009
 Red save the children continuum of care book **
 Article 3- best interest UNCRC
Guidelines Governing the Adoption of Children II.3.A.
 Guidelines Governing the Adoption of Children, 2015
 Census 2011, India statistics
 Model Guidelines for Foster Care, 2016, 2.1.3.i
 Model Guidelines for Foster Care, 2016, 2.6
 UN Alternative Care Guidelines, 2009, VII.B.2.119
 Model Foster Care Guidelines, 2016, 2.1.7
 JJ Act, 2015, VI.38.1
 Guidelines Governing the Adoption of Children, 2015, I.3.b
 Guidelines Governing the Adoption of Children, 2015, III.11
 JJ Act, 2015, VI.54.vi
 ICPS Government Document, 2009, 6.2
 ICPS Government Document, 2009, 6.3
 Model Foster Care Guidelines, 2016, 3.5.IV
 Model Guidelines for Foster Care, 2016
Guidelines Governing the Adoption of Children, 2015, IV.30.2
Guidelines Governing the Adoption of Children, 2015, IV.30.3
 Model Foster Care Guidelines 1.2.vii

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Terre des hommes Foundation is the leading Swiss organisation for child relief. Founded in 1960, Tdh helps to build a better future for disadvantaged children and their communities with an innovative approach and practical, sustainable solutions. Active in close to 30 countries, Tdh Foundation develops and implements field projects to allow a better daily life for over 2.1 million children and their close relatives, particularly in the domains of health care and protection. Tdh has been a frontrunner in the field of Child Protection in India since 2005. It has worked to improve rehabilitation and reintegration mechanisms, system strengthening and building capacities of child protection actors, both Government and Non-Government. Currently Tdh Foundation works in the Indian States of Andhra Pradesh, Telangana, West Bengal, Jharkhand and Assam.

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The mission of Centre of Excellence in Alternative Care (India) is 'to translate policy into practice in the field of alternative care of children in India'. It aims to bridge the existing gaps between policies and practices in child care system in India and ensure that every child is living in a family environment by strengthening and implementing non institutional - alternative care options in India.

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