

CHILD CARE INSTITUTIONS IN INDIA

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“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”¹

The preamble of the United Nations Convention on the Rights of the Child, 1989, provides that, “*the full and harmonious development of a child’s personality depends on the family environment*”. Nothing is better for growth within a family, but if this is not possible due to certain circumstances, there is a need for institutional or non-institutional care facilities.

Beyond any doubt, children should be placed in child care institutions only when it is determined that returning the child to their parents or family would not be in the child’s best interests due to reasons such as: untraceability of parents, parents’ inability or unsuitability due to resource constraints, etc.

In India, the Institutional Mechanism for child protection is very comprehensive. As noted by the Hon’ble Supreme Court of India in its report titled “*Handbook on Child Rights and Law*” stated that, “*the framework related to child rights and their protection has evolved from relying on general provisions within the Indian Penal Code to create highly specific, child-centric legislative instruments that address protection, justice, care, and family life.*”²

As observed by Hon’ble Justice P.N. Bhagwati in the case of *Laxmi Kant Pandey v. Union of India*³, “*the Children are a ‘supremely important national asset’, and the future well-being of the nation depends on how its children grow and develop.*” To ensure the welfare of children in the child care institutions in India, a comprehensive system has been developed in India, and it could be discussed under national, state, district/block or village level as follows:

National Level: Several ministries at the national level collaborate to safeguard and promote the welfare of children in India. Key among these are the Ministries of Women and Child Development, Home Affairs, Labour, Education, and Health and Family Welfare.

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¹ The Preamble of the UNCRC, 1989.

² Centre for Research and Planning, Supreme Court of India, “*Handbook on Child Right’s and Law,*” page no. 94 (2025), available at:

<https://cdn.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2025/10/2025101472.pdf> (last visited on: Oct. 23, 2025).

³ (1984) 2 SCC 244.

Apart from ministries, several authorities are also operational at the national level, such as the National Commission for Protection of Child Rights, the Central Adoption Resource Agency and Child Line, which work under the Ministry of Women and Child Development.

State Level: The protection and welfare of children do not *per se* fall under the sole domain of any single ministry or department. In India, a collaborative approach is adopted, such as the Ministries of Women and Child Development, Home Affairs, Labour, Education, and Health and Family Welfare, which coordinate with various entities at both the national and state levels to ensure child welfare. The Ministry of Women and Child Development collaborate with the National Commission for Protection of Child Rights at the national level and its state counterparts, the State Commissions for Protection of Child Rights, State Child Protection Societies, State Child Protection Units, and State Adoption Resource Agencies.

Similarly, the Ministry of Home Affairs coordinates with state-level law enforcement agencies, including CID Crime, Railway Police, Missing Persons Cells, Cyber Cells, and Anti-Human Trafficking Units, to address child-related issues under various laws. The Ministry of Labour collaborates with Labour Commissioners and District Assistant Labour Commissioners, including District Task Forces, to fulfil its mandate. The Ministries of Education and Health, and Family Welfare work with relevant state-level entities to ensure the effective implementation of education and healthcare programs within child care institutions.

District, Block and Village Level: At the block level, the State Commission for Protection of Child Rights collaborates with the District Child Protection Unit, District Child Protection Committee, District Inspection Committee, and Sponsorship & Foster Care Approval Committee. The primary focus of the Sponsorship & Foster Care Approval Committee is on statutory support services, institutional care, and non-institutional care.

Statutory Support Services encompass the Juvenile Justice Board, Child Welfare Committee, Special Juvenile Protection Unit, Special Courts under the Protection of Children from Sexual Offences Act, 2012, and Children's Courts under the Commission for Protection of Child Rights Act, 2005. Institutional Care includes Observation Homes, Special Homes, Children's Homes, Open Shelters, Places of Safety, and Specialised Adoption Agencies, and Non-institutional Care encompasses Foster Care, Sponsorship, Adoption, Aftercare, and

Group Foster Care. The District Child Protection Unit also coordinates with the Block Level Child Protection Committee and Village Level Child Protection Committee.

To sum up, it could be noted that, to ensure the institutional care following authorities play a significant role:

- The Ministries of Women and Child Development
- The National Commission for the Protection of Child Rights
- The State Commission for the Protection of Child Rights
- District Child Protection Unit
- Sponsorship & Foster Care Approval Committee
- Statutory Support Services

Furthermore, in the field of child care and protection, the following entities have been statutorily implemented:

- Institutional Care: Observation Homes, Special Homes, Children's Homes, Open Shelters, Places of Safety, and Specialised Adoption Agencies
- Non-institutional Care: Foster Care, Sponsorship, Adoption, Aftercare, and Group Foster Care.

The abovementioned description provides a broader overview of the Institutional Mechanism for Child Protection in India. From a socio-legal point of view, the Juvenile Justice (Care and Protection of Children) Act, 2015, popularly known as the JJ Act, 2015, is the primary legislation for ensuring children's safety, security, dignity and well-being. Section 2 (21) of the Act defines '*Child Care Institution*', which includes:

- Children Home [Section 2(19)]
- Open Shelter [Section 2(41)]
- Observation Home [Section 2(40)]
- Special Home [Section 2(56)]
- Place of Safety [Section 2(46)]
- Specialised Adoption Agency [Section 2(57)], and

- A fit facility [Section 2 (27)] is recognised under this Act for providing care and protection to children who need such services.

The JJ Act allows the operation of the institutions mentioned above by both government and non-government organisations, subject to the '*mandatory registration process*'⁴ as mentioned under Section 41 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Even the registration is compulsory for institutions that do not receive government funds. It provides that, "*the State Government shall determine and record the capacity and purpose of the institution and shall register the institution as a Children's Home or open shelter or Specialised Adoption Agency or observation home or special home or place of safety, as the case may be*".⁵ Furthermore, it is important to mention that, as per Rule 21 of the Juvenile Justice Model Rules, 2016, "*the period of registration of an institution shall be five years, and it shall be subject to renewal every five years.*"

In the case of *Calicut Orphanage v. Union of India*⁶, it has been reiterated by the Supreme Court of India that, "*Section 41 of the JJ Act of 2015 requires registration of all institutions, whether run by the State Government or by voluntary or Non-Governmental Organisations.*" In this case, the Supreme Court of India has emphasised that the definition of 'child in need of care and protection' should be broadly interpreted to include all children requiring assistance, not just those in conflict with the law. Furthermore, the Act seeks to de-institutionalise child care and improve the welfare of children, necessitating registration for oversight. Recently, in the case of *Om Shanti Balakashram Balgraha, Naldurg v. State of Maharashtra*⁷, the Bombay High Court validated the directive of non-allotment of children in unregistered institutions.

The Act also prescribes the punishment for non-registration of such an institution under Section 42 of the Act, which prescribes that, "*those persons who are in charge of institutions and who fail to comply with the provisions of Section 41(1), shall be punished with*

⁴ Section 41 of the Juvenile Justice (Care and Protection of Children) Act, 2015 states that, "*all institutions, whether run by a State Government or by voluntary or non-governmental organisations, which are meant, either wholly or partially, for housing children in need of care and protection or children in conflict with law, shall, be registered under this Act.*"

⁵ *Ibid.*

⁶ 2017 SCC OnLine Ker 35927.

⁷ 2024 BHC 28830.

imprisonment which may extend to one year or a fine of not less than one lakh rupees or both".⁸

To ensure the compliance with norms for the protection and welfare of children, the Hon'ble Supreme Court of India in the case of *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India*⁹ has given order for social audit of child care institutions and mandated strict implementation of the JJA Act, regular inspections, and robust monitoring of child care institutions. It emphasised “*strengthening Child Welfare Committees, staff training, proper record-keeping, and public awareness to ensure the protection, rehabilitation, and reintegration of vulnerable children.*”¹⁰

⁸ The Juvenile Justice (Care and Protection of Children) Act, 2015, sec. 42

⁹ (2017) 4 SCR 625.

¹⁰ *Ibid.*