

# Institutional Care: Identification before Education

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## ABSTRACT

*This paper brings to fore the need to compile an accurate and comprehensive database for children living in institutional care. It addresses key issues like defining institutional care, identifying the various reasons behind children coming to live in institutional care and providing estimates pertaining to the number of children living in institutional care. It further explains why it is necessary to have a definite count of the number of children living in institutional care. The main reason being that unless these children are identified, no definite plan for provision of educational facilities for them will prove fruitful and consequently, the objective of the Right of Children to Free and Compulsory Education Act, 2009 will not be achieved.*

**Keywords:** Institutional Care, Children, Child care institutions.

## Introduction

The United Nations has estimated that India's population is going to surpass that of China around 2024 (Press Trust of India, 2017). Children i.e. any person below the age of 18 years (Juvenile Justice Act, 2015) would represent a considerable share of this population. Considering that crimes against children in India have risen by roughly 300% in a duration of six years since 2009 (Indo Asian News Service, 2017), the present child protection mechanism of the nation needs a thorough overhaul to reverse this dismal trend. A broad outline of a comprehensive child protection mechanism has been depicted in figure 1.

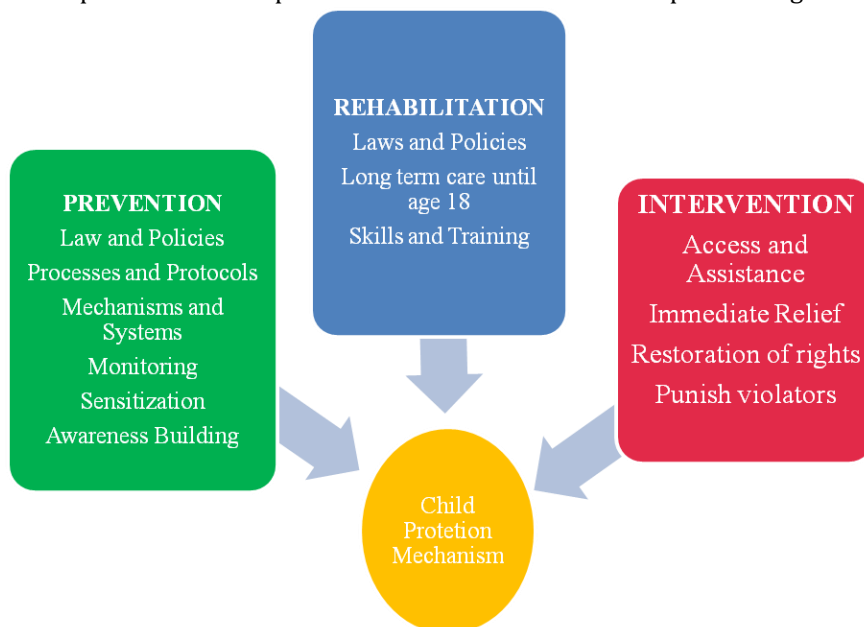


Figure 1. Child Protection Mechanism. Adapted from <http://childlineindia.org.in/child-protection-child-rights-india.htm>

Though every child needs protection, yet some categories of children have been identified as being more vulnerable by the Ministry of Women and Child Development (2014). The first such category is children in need of care and protection which includes certain categories identified by the JJ Act, 2015 comprising children who are working as labourers, victims of abuse, living on the streets, have no parents or guardians, among many others. The second category includes juveniles who have allegedly committed a crime under the Indian Penal Code. The third category includes children who are victims of or witnesses to

crimes. As these children face greater risk of harm and it is the State's responsibility to ensure their well-being.

For this purpose, many provisions have been made in the Constitution of India like prohibition of child labour (Article 24), provision of free and compulsory education to children (Article 21A), prohibition of trafficking and beggary (Article 23) and many others. A network of various authorities work in tandem at the national, state and district level to uphold the provisions of the Constitution. At the national level, authorities like the Ministry of Women and Child Development, Ministry of Human Resource Development, National Commission for the protection of Child's Rights, National Human Rights Commission frame and implement legislations and policies for child protection. At the state level, State Human Rights Commission, State Commission on the Protection of Child Rights, Juvenile Justice Board and the Child Welfare Committee (CWC) ensure the proper functioning of the child protection mechanism. In addition, many Non-Governmental Organizations also contribute to towards the cause of child safety and welfare.

### Child welfare committee

Among the various authorities enumerated above, the CWC plays a pivotal role in matters concerning children in need of care and protection. The JJ Act, 2015 requires the constitution of CWC in each district. Any child rescued from any precarious situation has to be brought before the CWC. The CWC then conducts an inquiry, takes action against the offenders and also, takes a final decision regarding the child. This decision usually involves placement of the child in some form of care arrangements. The major forms of care arrangements have been discussed in the following section.

### Care arrangements for children

When the parents of a child are not able to look after a child, a need arises in the society to device means of caring for such children (Rosenfeld et al., 1997). Following are some common ways employed to ensure the welfare of children in such cases:

**1. Parental care with support:** When the reason for the parent's inability to take care of the child is such that it can be rectified by some sort of support from others like monetary support in case of poverty, medical support in case of illness or crèche facilities in case of work commitments, it is in the best interest of the child that support be extended so that the child may continue living with her parents.

**2. Kinship Care:** In cases where parents cannot take care of the child even after all requisite support is available like in the case of death of parents, terminal illness, abuse by parent/s, the child may stay with her relatives. This arrangement is called kinship care and is often considered the next best alternative after care by parents because the relatives may have natural affection for a child belonging to their own family.

**3. Adoption:** When even the extended family refuses to or is unable to look after the child, the Government stands *in loco parentis* to the child i.e. it takes all legal decisions for the child in the capacity of parents. In such a situation, the Government tries to find families willing to adopt these children so that they get a permanent home and stable family care as per the Adoption Regulations (Ministry of Women and Child Development, 2016).

**4. Foster Care:** As adoption is not the norm in India, many children free for adoption, do not find permanent families. The next alternative is to place the child in foster care wherein the child resides with a family which is not her birth family on a temporary basis (National Institute of Public Cooperation and Child Development, n.d.). In this case, the legal rights on the child remain with his own family or the Government and therefore, the chances of the child's reunion with his own family are present unlike adoption.

**5. Institutional care:** Often used as the last resort (Hodgkin & Newell, 2008) due to its impersonal nature, institutional care is an arrangement where paid adults look after the child round the clock. Radhakrishnan and Rajasree (2013) have described institutional care as an arrangement where a group of unrelated children live together under the care of unrelated adults.

When a child comes to live in an institution, the institution becomes responsible for providing her all sorts of opportunities for her growth and development including food, clothing, shelter, medical facilities, educational facilities, recreational avenues, etc.

### Institutional care, not orphanage

Many institutions providing residential care to children are often labeled as orphanages but the term "orphanage" is a misnomer. Bulks of children living in institutional care have at least one living parent and in most cases the authorities are aware of this (Tobis, 2000). A study has estimated that a mere 0.3 per cent of orphans in India have actually lost both their parents (SOS Children's Villages Canada, 2011) while the rest are in reality are children who have been abandoned. A survey by the International Development

Cooperation (2001) also revealed that out of every 10 children living in institutional care in Asia, 9 have at least one parent alive.

**What are the different types of institutional care?**

The type of such institutions vary greatly with respect of their management (Government, non-governmental organization or individuals), philosophy (faith-based, social-service based), registration status (registered or non-registered) and scale of operations (international, national, state, local).

Registration of all child care institutions in the country is compulsory under the Juvenile Justice (JJ) Act, 2015 but regrettably scores of unregistered institutions are still operational. This presents a precarious situation as the operations of unregistered institutions escape the Government’s scrutiny. The various types of child care institutions recognized by the JJ Act, 2015 have been presented in figure 2.

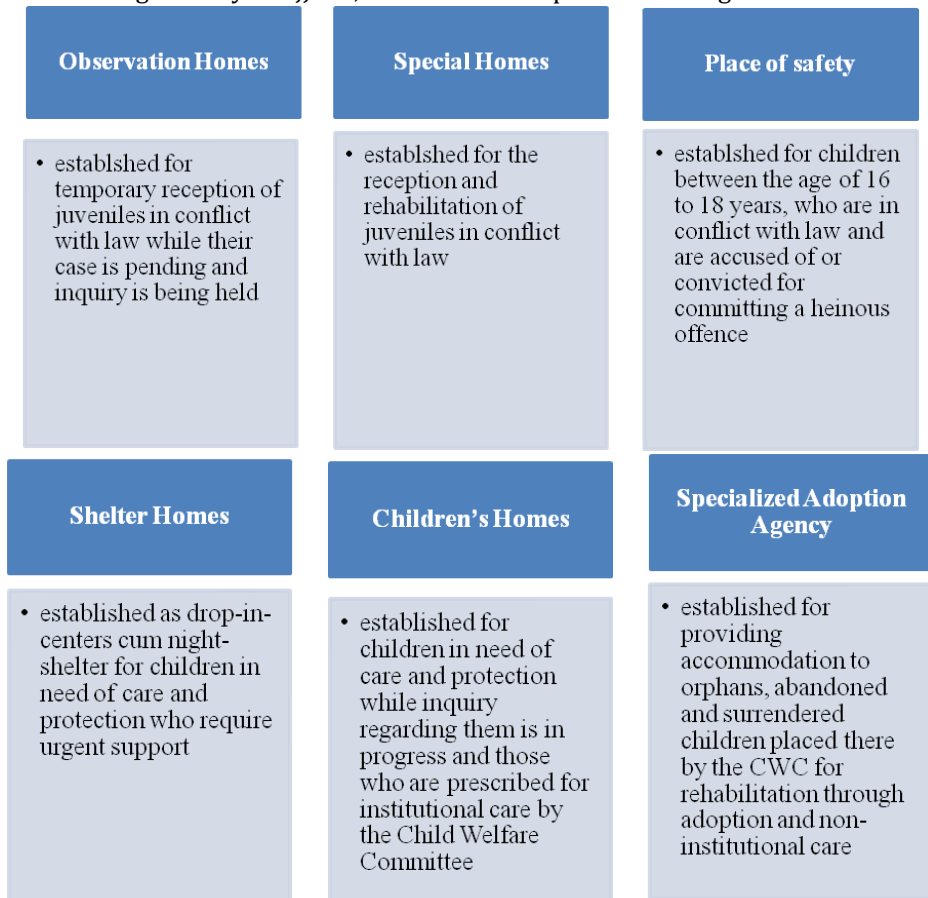


Figure 2. Various types of child-care institutions under the Juvenile Justice Act, 2015

**Why do children come to live in institutional care?**

The various factors that push children towards institutional care have been presented below:

- Abandonment by parents:** Parents may abandon their due to poverty (Mehindru as cited in Siddiqui, 1997), mental or physical challenges of the child (Times News Network, 2011) or to save family honour (in case of teenage pregnancies, convicted juveniles, etc.)
- Unavailability of parents:** Parents may not be available to look after the child due to constraints like migration for work, imprisonment (Srivastava & Singh, 2016), chronic ailments (Bhuvanewari & Deb, 2016), death of parents either due to natural causes or because of natural disasters like earthquakes (Sharma, 2003) or war, etc.
- Provision of improved living conditions:** Sometimes, parents deliberately send their children in institutional care as they feel that their ward will have access to better educational services there (Vasudevan, 2014) or in cases where widowed mothers want to avoid early marriages of their daughter.
- Abuse by parent(s):** Sometimes the child has to be forcibly taken from the parent/s in case any form of physical or emotional abuse is being inflicted on the child or if the child is being deprived of adequate

parental care. A survey in India has shown that two-third children in India have faced some form of physical abuse and the majority of these were physically abused by parents themselves (Ministry of Women and Child Development, 2007).

**4. Street Children:** The number of street children in India are estimated to be close to one crore (“Education and jobs quotas”, 2018). It includes children who ran away from their homes or were abandoned and their families could not be traced back.

### **How many children live in institutional care?**

Globally, close to eight million children are estimated to be living under institutional care (Pinheiro, 2006). In India, no accurate number in this respect is available. The number of children in need of care and protection are estimated to be around 176 million (Ministry of Women and Child Development, 2007). There is no exact information as to how many out of these have been steered towards institutional care.

Data collected from 19 states showed that only 123 child care institutions had registered themselves under the JJ Act, 2015 by June, 2011 while another 62 institutions which had not yet registered were identified (National Institute of Public Cooperation and Child Development, n.d.). However, in the wake of recurring instances of abuse of children in such institutions, the Centre Government has ordered an audit of over 9,000 Child Care Homes (Press Trust of India, 2018). These measures have resulted in the identification of 9,462 child care institutions, out of which 7,109 were registered (Press Trust of India, 2018). A recent estimate gauges the number of children in institutional care at 2.33 lakh (Nair, 2018). Nevertheless, no conclusive data is available and this demonstrates the grave lack of information regarding the number of such institutions and the number of children and adolescents living in there.

### **Why do we need to count the number of children living in institutional care?**

It is very unfortunate that crime against children is on an unprecedented rise in the country. There is a dire need to bring to book the exact number of child care institutions and the number of children residing in them because of the following reasons:

**To secure rights of children:** The number of children living in institutional care need to be identified in order to chalk out a mechanism to ensure that they are being accorded all their rights. The United Nations Convention on Child Rights recognizes four major categories of child rights, namely, right to survival, right to protection, right to participation and right to development. In India, education has been made a fundamental right by the Right of Children to Free and Compulsory Education Act (RTE), 2009. If children living in institutional care are not identified, the RTE Act’s objective of providing free and compulsory education to all children in the age group of 6 to 14 years will not be realized.

**To ensure better scrutiny of such institutions:** As numerous cases of child abuse in child care institutions have been reported from all parts of the country including Chennai (Lobo, 2018), Ahmedabad (Sharon, 2018), Muzzafarpur (Press Trust of India, 2018), Deoria (Pradhan, 2018), their identification will serve as the first step towards moving them through stringent scrutiny to ensure safety of children living there.

**To provide necessary aid:** When information relating to child care institutions and its residents will be available in the public domain, it will become easier to direct funds, educational services, health facilities, counselling services and career assistance to children living there.

**To move towards de-institutionalization:** Apart from counting the number of children in institutional care, it is imperative that the reasons behind their stay at the institution be recorded and reviewed periodically. This will ensure that the efforts to secure a familial environment for the child do not cease once the child reaches the institution.

### **What can be done?**

At the systemic level, the Ministry of Human Resource Development shall expedite the process of audit of all child care institutions and take stringent action towards offenders and non-compliers. Further, family-based forms of care must be promoted as against institutional care by providing incentives for kinship care and foster care.

At the societal level, families with children shall be extended all possible help to help them raise their children. Such help may include training of parents, monetary support, and provision of better child care services. In addition, adoption and fostering children in need of care and protection shall be encouraged and shall be accorded social acceptance. This shall, in turn, minimize the need for such institutions by providing a family-based institution for such children.

At a personal level, each citizen shall practice vigilance and report any child who seems to be in need of care and protection to a police station, CWC, any registered child care institution or by contacting Childline India Foundation on the toll free number 1098 which provides an emergency service for children.

## Conclusion

It is essential to reckon that children in need of care and protection do not cease to be vulnerable once they reach the doors of a child care institution. There is a constant need for supervision and monitoring of such institutions. Our nation cannot realize the goal of education for all if it cannot provide safety for all.

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