

Child Welfare Committees under the JJA 2000 Powers, Functions, Roles/Responsibilities and Legal Duties¹

S. no.	FUNCTION AND ROLE	RESPONSIBILITIES AND LEGAL DUTIES	RELEVANT LEGAL PROVISIONS
1.	<p>PREVENTION</p> <p>Role: Safeguard and promote functional families and safe environments for children</p>	<ol style="list-style-type: none"> 1) Be alert to potential indicators of abuse or neglect and take appropriate action 2) Be alert to the risks which individual abusers or potential abusers may pose to children 3) Pass orders to link children and their families to Government schemes that support families at risk. 	<p>Preamble: ‘An Act to... by providing for proper <i>care, protection and treatment</i> by catering to their <i>development needs</i> and by adopting a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their <i>ultimate rehabilitation through various institutions established under this enactment.</i></p> <p>Sec. 31:dispose of cases for the care, protection, treatment, development and rehabilitation of <i>the children</i> as well as to provide for their basic needs and protection of human rights.</p>
2.	<p>PRINCIPAL POINT OF CONTACT FOR CINOCAP</p> <p>Role: Competent Authority before which a child may be produced</p>	<p>Principal point of contact for children about whom there are child welfare concerns. They may be contacted by anybody who has concerns about a child, though the JJA 2000 lists specific persons through whom the child may be produced before it.</p>	<p>Sec. 31 and 32.1</p>

¹ Arlene Manoharan (MSW), Centre for Child and the Law, National Law School of India University, 2004. Reading material prepared for capacity building of CWC members organized by CCL in collaboration with the Department of Women and Child Development, Government of Karnataka.

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3.	<p>DISPOSE OF CASES FOR THE CARE PROTECTION TREATMENT DEVELOPMENT AND REHABILITATION OF CHILDREN AS WELL AS TO PROVIDE FOR THEIR BASIC NEEDS AND PROTECTION OF HUMAN RIGHTS</p> <p>Roles:</p> <ul style="list-style-type: none"> -Protector -Parens patria role of the state -Reviewing authority for cases in CINOCAP -Passing orders that require the specialized needs of children -Identifying alternatives for destitute children, i.e. Foster Care Adoption Sponsorship After Care Institutionalization in State or NGO run Homes 	<p>The welfare of children is a responsibility of the Child Welfare Committee working in partnership with other public agencies, the voluntary sector and services users and carers.</p> <p>It is the duty of the State through the CWC to both safeguard and promote the welfare of vulnerable children. They have a responsibility to children defined as ‘children in need of care and protection under Sec. 2d). These include children with special needs, children at risk of harm, children who need to be accommodated by the State in the Children’s Homes or through the restorative strategies.</p> <p>To minimize the scope of Police Intervention into the lives of children in need of care and protection</p>	<p>Sec. 31.1</p> <p>Rule 25.6: Any facts discovered by an inspection committee that appear to indicate that a violation of legal provisions concerning the rights of children has occurred shall be communicated to the CWC for further investigation.</p> <p>Rule 19.6: The CWC shall satisfy itself that the child has not been subjected to ill treatment or harassment either by the police or any other person who takes charge of the child for the purpose of bringing the child before the Committee.</p> <p>Rule 19.14: ...Escort by the Police shall be a measure of last resort with preference given to the Child Welfare Officers and officers attached to the SJPU</p> <p>Rule 21.3: After completion of the inquiry at the end of the four months, if the child is ordered to continue in the Children’s Home, the Committee shall carry out an annual <i>review</i> of the progress of the child....</p>

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	under the Act		
4.	<p>FAMILY PRESERVATION</p> <p>Role: Safeguarding and promoting functional Families</p>	<p>Work co-operatively with parents unless this is inconsistent with the need to ensure the child's safety. The CWC has a general duty to safeguard and promote the welfare of children in their jurisdiction. <i>Provided that this is consistent with the child's safety and welfare</i>, to promote the upbringing of such children by their families and by passing orders that require the Government to provide services appropriate to the child's needs. They should do this in partnership with parents and in a way which is sensitive to the child's needs, culture and language</p>	<p>Sec. 31.1 read with the CRC Art. 18 & 19</p> <p>Sec. 39.3: The CWC shall have the powers to <i>restore</i> any child in need of care and protection to his parent, guardian, fit person or fit institution....</p> <p>Sec. 33.3: After completion of the inquiry if the Committee is of the opinion that the said child has no <i>family</i> or ostensible support, it may allow the child to remain in the children's home....</p> <p>Sec. 41.1: The <i>primary responsibility</i> for providing care and protection to children shall be that of his family</p>
5.	<p>GATE KEEPING</p> <p>Role: Gatekeepers of the Welfare jurisdiction within the JJ system</p>	<p>CWC members are the gatekeepers of our state's services for children in need of care and protection. Inquiries need to determine whether the child is in need of care by the State. This care could be family based or institutional or in alternate family settings. (See Sec. 39). They must ultimately decide whether a family in crisis will be broken apart and children placed in state custody or whether institutional placement can be safely prevented through the reasonable efforts of other services</p>	<p>Sec. 33.3: After completion of the inquiry if the Committee is of the opinion that the said child has no family or ostensible support, it may allow the child to remain in the children's home....</p> <p>Sec. 41.1: The primary responsibility for providing care and protection to children shall be that of his family.</p> <p>Sec. 48 and 57: Transfer/referral of children to approved places</p>
6.	RESTORATION	The JJA 2000 recognizes the need for children to be restored to family settings rather than be housed in	Beijing Rule 19.1: The placement of a child in an institution shall always be a disposition

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	Role: To restore children	institutions.	of last resort and for the minimum necessary period. Sec. 39.3: The CWC shall have the powers to restore any child in need of care and protection to his parent, guardian, fit person or fit institution.... Sec. 39.1: Restoration of and protection to a child shall be the prime objective of any children's home or shelter home. Rule 29.d: Temporary foster care
7.	JUSTICE TO CHILDREN IN CARE PROCEEDINGS Role: Protector of constitutional and other rights	<ul style="list-style-type: none"> a) To take action on cases where there is a reason to suspect that a child is suffering or likely to suffer significant harm so as to safeguard or promote the child's welfare. b) Ensure fair, effective, child rights centric procedures with adequate procedural safeguards and competent representation for parents and children who appear in care proceedings. c) Responsibility to protect the rights of parties before the CWC and ensure safe, permanent homes for abused and neglected children. d) Ensure child participation in inquiries e) Receive complaints from children f) Collect prima facie evidence in cases of crimes against children, communicate to the Police to take appropriate action so that it is investigated and brought before the concerned Courts. 	Pro-actively aim to incorporate the CRC, the Beijing Rules and the UN JDL. Sec. 31.1 Rule 19 especially 19.6 Rule 25.6: Any facts discovered by an inspection committee that appear to indicate that a violation of legal provisions concerning the rights of children..... Rule 37.15.a), 37.15.b),37.15.d), 38.4.d) Rule 39.1: Probation Officer and Superintendents shall ensure that the rights of the child are protected. Rule 9.3: The CWC shall take into consideration the opinion of the child.... Prior to the disposal. Also Form X : Opinion of the child to be taken prior to release. Rule 37.1.e: CWC to be one of the authorities to receive complaints from children
8.	INQUIRIES	1.Co-ordinating assessments: Where a child is found	Sec. 31 and 33

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	<p>Role: To hold inquiries to determine</p> <ul style="list-style-type: none"> -whether the child is in need of care -the best course of action to be taken as a response -action to be taken in cases of misconduct 	<p>to be in need of care and protection by the State, under the JJA 2000, the CWC is responsible to co-ordinate an inter-agency plan to safeguard the child, which sets out and draws upon the contributions of family members, professional and other agencies. The initial inquiry period of 4 months is a critical time during which detailed assessments need to be ordered for cases of children in the Swagath Kendras, so as to enable an informed decision by the CWC as regards placement.</p> <p>2.Sharing contents of the reports made by the Social Worker if the CWC thinks it fit, and thereafter provide an opportunity to the child or his parent or guardian an opportunity of producing evidence as relevant to the matter stated in the report.</p> <p>3.Hold inquiries in cases of misconduct of children and pass appropriate orders</p>	<p>Rule 38.15.e</p>
<p>9.</p>	<p>PASS ORDERS FOR CINOCAP</p> <p>Role: To pass relevant orders</p>	<p>a) Collect, Share and help to analyze information so that an informed assessment can be made of the child's needs and circumstances</p> <p>b) To make competent professional judgements based on sound assessments on the child's needs, the parent's capacity to respond to those needs and the wider family circumstances</p> <p>c) To decide</p> <ol style="list-style-type: none"> 1. Whether a child had been abused or neglected and 2. If so whether the child needed to be removed from home or placed under supervision 	<p>Sec. 31</p>

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		<p>3. To make sure there is a safe permanent and stable home is secured for each abused or neglected child.</p> <p>d) Pass orders at various inquiries to ensure the welfare of the child.</p>	
10.	DECLARE A CHILD LEGALLY FIT FOR ADOPTION	Ensure necessary inquiries are done to determine whether a child is legally fit for adoption	Sec. 41.5
11.	<p>TO DISCHARGE, REFER OR TRANSFER A CHILD</p> <p>Role: Final authority to dispose of cases</p>	<p>-To pass an order of discharge or release if it is found to be in the best interest of the child, either absolutely or on such conditions as it may think fit to impose.</p> <p>-Transfer a child to another home under the Act, or to refer to an approved place/place of safety if the child is suffering from leprosy, is of unsound mind or is addicted to any narcotic drug or psychotropic substance.</p>	Sec 56, 57 and 58.
12.	<p>GRANT RELEASE OR LEAVE</p> <p>Role: Final authority to pass orders in CINOCAP</p>	<p>-On report of a probation officer or social worker or of Government or a voluntary organization, release a child permitting him to live with his parent or guardian or under the supervision of any authorized person named in the order, willing to take charge of the child to educate and train him for some useful trade or calling or to look after him for rehabilitation.</p> <p>-Grant leave for a maximum period of seven days, excluding the time taken in journey.</p>	Sec. 59.
13.	PASS ORDERS FOR MAINTENANCE BY PARENT/S	To pass an order requiring the parent or other person liable to maintain the child to contribute to his maintenance, if able to do so, in the prescribed	Sec. 60

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	Role: Final authority for CINOCAP	manner according to income	
14.	ENSURE THAT RECORDS OF PROCEEDINGS ARE MAINTAINED	To ensure that records of proceedings and decisions taken supported by evidence are maintained with the support of appropriate staff.	Sec. 29: Expected duty of Magistrates
15.	AMEND ORDERS REGARDING PLACEMENT, MISTAKES Role: Final Authority for CINOCAP	On receiving an application in this regard, the CWC may amend any order as to the institution to which a child is to be sent or as to the person under whose care or supervision a child is to be placed under this Act.	Sec. 55
16.	ENHANCE ORGANIZATION OF THE CWC:	The CWC Court should be organized to give cases sufficient status and resources. These cases should be handled efficiently so that the same member hears each case. CWC members need to be prepared to advocate for sufficient resources that will enable the CWC to function efficiently.	
17.	ENSURING ACCOUNTABILITY REGARDING ORDERS PASSED BY THE CWC	Since children are placed pursuant to CWC orders, the CWC has to determine whether such orders are followed. Communication may be made to the Executive to facilitate such action. Care should be taken to ensure that orders include specific action to be taken bearing in mind the fundamental rights of	Sec. 29.5: Powers conferred by the Cr.PC Rule 21.3: After the completion of the inquiry at the end of the four months, if the child is ordered to continue in the Children's home the CWC shall carry out an annual

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	Role: Overseer	children, supporting evidence to be provided etc. Regularly review the outcomes for the child in State institutions against specific shared objectives	review of the progress of the child in such home
18.	INSPECTION (SPONSORSHIP PROGRAMME) Role: Inspector	Inspect the relevant records on sponsorship One persons from the CWC/JJB is also a member of the Inspection Committee	Sec. 35.2 Rule 30.3.8 Rule 25.3.c
19.	CERTIFICATION OF INSTITUTIONS Role: Recognition authority	To identify suitable individuals/institutions who may be then found fit to receive children referred from the JJ institutions.	Rule 36.1: Any individual or a suitable place or institutions....may be recognized by the Competent Authority as a Fit person or Fit institution.
20.	UPGRADING THE JJ SYSTEM Role: Promoting effective service	The CWC has the power to issue instructions to institutions as part of the conditions required for certification as Fit institution.	Rule 34.4.b
21.	ADVOCACY Role: Advocate: Ensure that needed services for children and families are available and accessible.	Resource mobilization to fulfill its responsibilities. The members of the CWC must be prepared to advocate for sufficient officers and staff to be assigned to the Committee. This challenge may involve substantial effort by the members while recognizing that the risks of failing to take action are significant. The quality of the CWC's work will likely become the focus of public inquiry and criticism if the deficiencies persist	Rule 34.4.c

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22.	<p>JUDICIAL MAGISTRATE OF THE FIRST CLASS</p> <p>Role: Quasi-Judicial Magistrate</p>	<p>To respect the principle of ‘separation of powers between the Judiciary, Legislature and Judiciary’²</p> <p>To conduct hearings in a ‘child friendly manner</p> <p>- Contempt Proceedings: If orders not followed, to refer to Judicial Magistrate for action under Chapter X of the IPC</p> <p>Issue summons: to persons who are required to be present for an inquiry and do not come when requested for not following orders of a “Public Servant”</p> <p>To refer to Magistrate for action under chapter X of IPC for giving false evidence.</p>	<p>Sec 29.5 Powers conferred by the CrPC</p>
23.	<p>BUILDING LINKAGES AND CO-ORDINATION</p> <p>Role: Liaison and Networking</p>	<p>-To share insights and perspective through appropriate mechanisms so that local policies, protocols and procedures for inter-agency work to protect children is evolved.</p> <p>-To encourage and help develop effective working relationships between different services and professional groups, based on trust and mutual understanding</p> <p>-To ensure that there is a level of agreement and understanding across agencies about operational definitions and thresholds for intervention</p> <p>-To improve local ways of working in the light of knowledge gained through national and local experience and research and to make sure that any lessons learned are shared, understood and acted upon.</p>	<p>See Note on Linkages and Co-ordination, CCL-NLSIU</p>

² The CWC is instituted and dismissed by the State Government and the Executive also makes payments. This could prevent effective separation of powers when the CWC is using their powers as provided for by Sec 29.

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		<p>-To undertake case reviews and make sure that any lessons from the case are understood and acted upon, to communicate clearly to individual services and professional groups their shared responsibility for protecting children and to explain how each can contribute</p> <p>-To help improve the quality of child protection work and of interagency working through specifying needs of inter agency training and development.</p>	