



AVANTIKA PUBLIC POLICY & LAW REVIEW

SCHOOL OF LAW AND PUBLIC POLICY

VOLUME 01, ISSUE 02
(June/July 2026)

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FOSTER CARE IN INDIA AND THE UNITED STATES: A COMPARATIVE LEGAL ANALYSIS

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Abstract: *Foster care as a legally recognised system of alternative family-based care for children deprived of parental support remains underdeveloped in India despite the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Guidelines for Foster Care, 2016. The United States, relatively has, extensively developed legal framework on foster care which was built over decades backed by substantive expenditure in billions of dollars. The United States, therefore, becomes a base not just for instructive best practices but also for cautionary lessons relevant to Indian law reform. This article comparatively analyses the legal frameworks, systemic challenges, judicial approaches, and reform approaches of both countries. The article is aimed at identifying certain best practices for strengthening India's foster care system, which is in its nascent stage despite existence of legal framework.*

Keywords: *Foster Care, India, USA, Alternative care, Child Care*

I. INTRODUCTION: THE PROBLEM OF INSTITUTIONAL BIAS

The history of childcare in both India and the United States is underlined by heavy reliance on institutional care, which has been the default tendency as reflexive response to child vulnerabilities. The pattern has been consistent i.e., removing the child from families, particularly in the US, and placing them in residential facilities rather than supporting alternative family-based arrangements. In India too, the vulnerable, orphaned and surrendered children, are placed in Child Shelter Homes, where they get basic facilities such as food and clothing. Foster care¹, as a concept, represents the corrective to this tendency, i.e., the recognition that a child deprived of parental care is best served not by an institution but by a family. India has significant number of children living in Child Care Institutions (CCIs) regulated under the Juvenile Justice (Care and Protection of Children) Act, 2015. In

¹ The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), s. 44.

comparison to children living in CCIs, the number of children in formal foster care placements is a miniscule fraction, which only confirms the presence of persistent institutional bias in the Indian child protection system. The United States, despite its comparatively mature foster care infrastructure, faces the similar structural problems because of unstable foster placements, where approximately 391,000 children are in foster care² at any given time, one-third experience at least three placement changes per year.³

Despite both countries having drastically varying financial resources and two vastly different legal systems, their challenges converge. India is a lower-middle-income Common-Law democracy with a nascent foster care framework, while USA is a high-income federal republic with the world's most extensively resourced child welfare system. This is itself analytically significant. It suggests that the problem of institutional bias in child welfare is not primarily a function of resources, but of systemic design, legal architecture, and political will. This article proceeds on that premise and attempts to draw functional comparison so that emerging best practices can be incorporated in the Indian legal framework and policy.

II. THE LEGAL FRAMEWORK: COMPARING FOUNDATIONS

India's foster care framework rests on a mix of legislation, policy and guidelines, where the Juvenile Justice (Care and Protection of Children) Act, 2015, provides the statutory basis for foster care placement, and the Model Guidelines on Foster Care 2024 specify implementation details. The legislation is supported by the Juvenile Justice Model Rules 2016, as amended in 2022. Section 44 of the JJ Act 2015 authorises the placement of children in need of care and protection with families who are willing to take care of them in accordance with the procedure provided in the Guidelines for Foster Care. The Ministry of Women and Child Development issued the Guidelines for Foster Care, 2016, to operationalise Section 44, specifying the eligibility criteria for foster families, the responsibilities of the District Child Protection Unit (DCPU), and the role of the Child Welfare Committee (CWC) in ordering and

² Statista, Foster Care Statistics United States (2023), available at: <https://www.statista.com> (last visited on Mar. 26, 2026).

³ Laurie Todd-Smith, "Improving the Foster Care and Adoption Systems in the United States" (America First Policy Institute, Jan. 8, 2024), available at: <https://www.americafirstpolicy.com/issues/improving-the-foster-care-a> (last visited on Mar. 26, 2026).

reviewing placements. These Guidelines were revised in 2024 and serve as administrative assistance to the statutory instruments. However, the guidelines are not uniformly implemented across states⁴ as they were administrative guidance, and provide no enforceable minimum standards for financial support, carer training, or post-placement monitoring.

The absence of a statutory foster care allowance is particularly significant. The Guidelines recommend a monthly allowance for foster families, but the quantum and delivery are left entirely to the discretion of individual state governments, resulting in wide inter-state variation. In many states the allowance has not been implemented at all, resulting in financial constraints upon families, making enforcement of foster care in India, even more difficult.⁴ Further, since the Guidelines are directory and administrative in nature, there is no judicial mechanism through which a foster carer can enforce entitlement to it.

The American framework, by contrast, is built on a series of federal statutes that have evolved over four decades. The Adoption Assistance and Child Welfare Act, 1980 established the requirement of reasonable efforts to prevent removal and promote family reunification. It also established federal funds for providing subsidies to foster families with the intent of providing permanent or stable families to children.⁵ It was later supported by the Adoption and Safe Families Act, 1997 with the aim of providing safe, healthy and permanent placement to vulnerable children.⁶ While the former statute revolved around family preservation, the latter prioritized welfare of children. The Adoption and Safe Families Act, 1997 also introduced strict timelines for permanency planning and required that every child in foster care have a written permanency plan.

These legislations were part of Title IV-E of the Social Security Act, which was passed to address wide range of social security programmes such as unemployment, disability rights, child welfare and retirement benefits etc. Title IV-E, in particular, authorises federal reimbursement to states for foster care maintenance payments, administrative costs, and training, an uncapped entitlement programme disbursing approximately five billion dollars per

⁴ Ian Forber-Pratt, “Foster Care in India from 2010 to 2024 - Policy and Humanity Lens”, INSTITUTIONALISED CHILDREN EXPLORATIONS AND BEYOND, Vol. 11 No. 2 2024, p. 216.

⁵ The Adoption Assistance and Child Welfare Act, 1980, ss. 101-107.

⁶ The Adoption and Safe Families Act, 1997, ss. 101-106.

year.⁷ The most significant recent reform within Title IV-E is the Family First Prevention Services Act, 2018 (FFPSA, 2018), which fundamentally restructured the federal child welfare financing architecture by extending Title IV-E reimbursement to cover prevention services. The focus on prevention services is a revolutionary step because it tries to prevent the situation which could render a child vulnerable. It can be treated as an important precursor to family preservation as it provides mental health support, substance abuse treatment, and parenting programmes to families at risk of entering the foster care system. These prevention services are provided for up to twelve months before a child is removed from home.⁸

The contrast between these two frameworks is stark. India's framework is thin, discretionary, and administratively fragile. The American framework, while complex and imperfect, is financially robust, procedurally detailed, and grounded in federal statutory authority. The critical lesson for India is not that it should replicate the American framework's complexity, which has produced its own pathologies, but that foster care cannot function without a statutory financial architecture that is uniform, enforceable, and insulated from state-level discretion. Another critical challenge which the American foster care system is facing, is the lack of community network and kinship support, which is naturally assimilated in the Indian society. The US legal framework prioritizes placement of children with relatives within the Social Security Act and is trying to develop a separate legal framework on kinship care, however, it lacks community network and natural kinship ties, which India has, and can use it to its advantage.

III. SYSTEMIC CHALLENGES: WHERE BOTH SYSTEMS FAIL

Despite the vast difference in resources and legislative maturity, India and the United States share a remarkably similar set of systemic challenges, suggesting that these are structural rather than resource-based problems.

A. Foster Carer Recruitment and Retention

⁷ The Social Security Act (42 U.S.C.), ss. 670-679c.

⁸ Jeffrey Waid and Mimi Choy-Brown, "Moving Upstream: The Family First Prevention Services Act and Re-imagining Opportunities for Prevention in Child Welfare Practice", CHILDREN AND YOUTH SERVICES REVIEW, Vol. 127 2021, p. 106098.

Foster carer recruitment and retention is a crisis in both systems. In the United States, the foster parent turnover rate runs between 30% and 50% annually.⁹ A study by the U.S. Department of Health and Human Services found that roughly one-half to two-thirds of foster parents discontinued their service within one year of having their first foster child placed in their home. Twenty-five percent of new foster homes stop providing care within four months.¹⁰ The poor retention rates are a reflection of several underlying causes such as high actual costs of care, insufficient financial support, unsupportive and over intervention of child welfare authorities and poor training to foster parents. These issues are a similar pattern in both the systems, with India having more deeper issues.

India faces these same challenges in a more acute form. The Guidelines for Foster Care, 2024, provide no mandatory training curriculum, financial support varying in several states with no mandatory legal obligation to pay, and no structured mechanism for ongoing support to foster families after placement. While the US faces foster family retention issue, India faces issues in recruiting the foster families because the public awareness about foster care as a legal option remains extremely limited.¹¹ It is aggravated by the social stigma attached to caring for a child who is not biologically one's own. This continues to deter potential foster families in India and reflects a deep aversion to this form of alternative care itself due to social and cultural conditioning.

B. Caseworker Capacity and Workforce Deficits

Caseworker capacity is equally problematic in both systems. In the United States, the median caseworker handles 55 cases per year but remains in post for a median of only 1.8 years, and up to 40% of child welfare caseworkers leave their jobs every year nationally.¹² This

⁹ Laurie Todd-Smith, "Improving the Foster Care and Adoption Systems in the United States", CENTER FOR AMERICAN CHILD, AMERICA FIRST POLICY INSTITUTE, January 8, 2024, p. 1, https://www.americafirstpolicy.com/assets/uploads/files/Research_Report__Improving_the_Foster_Care_and_Adoption_Systems_in_the_United_States.pdf (visited on February 5, 2026).

¹⁰ Deborah A. Gibbs, "Understanding Foster Parenting: Using Administrative Data to Explore Retention" (U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2004), available at: https://aspe.hhs.gov/sites/default/files/migrated_legacy_files/40496/report.pdf (last visited on Mar. 26, 2026).

¹¹ Ian Forber-Pratt, "Foster Care in India from 2010 to 2024 - Policy and Humanity Lens", INSTITUTIONALISED CHILDREN EXPLORATIONS AND BEYOND, Vol. 11 No. 2 2024, p. 216.

¹² Frank Edwards and Christopher Wildeman, "Characteristics of the Front-Line Child Welfare Workforce" 89 Children and Youth Services Review 13 at 13-26 (2018).

statistics highlights that the issue is not only limited to foster family retention but also to caseworker retention, which has serious consequences to foster care stability and child welfare. The frequent disruptions result in reassigning of case to some other workers, the children also experience disrupted relationships with the carers responsible for their welfare, and the quality of placement decisions deteriorates. India's situation is more severe still. The ratio of child welfare officers to children requiring protection is far below any defensible minimum, and the DCPU structure created under the Mission Vatsalya (earlier Integrated Child Protection Scheme (ICPS)) remains severely understaffed in most states.¹³ Even with the sanctioned strength being 12-15 members, the staff is usually limited to 2-3 officer per district, resulting in severe shortage of staff. This impedes foster family recruitment in India, awareness creation campaigns and other efforts required to execute alternative care on the ground. Without adequate caseworker capacity, no foster care system, however well-designed legislatively, can function effectively.

C. Placement Instability and the Aging-Out Crisis

Placement instability is the most damaging outcome of both systems' structural failures. In the United States, one-third of children in foster care experience at least three placement changes per year, a rate of instability that research published in the British Journal of Psychiatry has shown to be associated with double the risk of mental health problems.¹⁴ In India, the absence of a formal placement monitoring system means that data on foster placement stability is not even collected, rendering the problem invisible at the policy level.

In addition to the above, the children leaving care also face several issues. There is no smooth transition for children who turn eighteen and are ready to leave care to start their own independent lives. While the policy in the US is struggling, India does not have a well-designed framework to execute the leaving-care policy. The young people transition out of care-

¹³ Ankit Kumar Keshri and Therese Boje Mortensen, "Rebranding Child Protection Policies Undermines the Real Issues of Funding and Implementation: A Comparative Analysis of the Integrated Child Protection Scheme (2009 and 2014) and Mission Vatsalya (2022)" 12 Institutionalised Children Explorations and Beyond 210 at 214 (2025).

¹⁴ Cody Varnish, Alice R. Phillips, et.al., "The Relationship Between Placement Instability and Mental Health Among Care-Experienced Children and Young People: UK Systematic Review and Meta-Analysis" British Journal of Psychiatry 1 (2025).

institutional or alternative, without having the permanent family support, which can result into a feeling of immediate homelessness in them. They also face issues with getting an employment or get lower earnings compared to other young persons. This is a shared failure of both the countries. In the United States, approximately 20% of youth who age out of foster care experience immediate homelessness¹⁵, and those who turn 18 in care report 50% lower earnings and employment rates than comparable peers.¹⁶ In India, Section 46 of the Juvenile Justice (Care and Protection of Children) Act, 2015, provides for aftercare but contains no measurable outcomes framework, no minimum duration, and no linkage to education or employment milestones. Young people leaving Child Care Institutions in India face a transition to independence with minimal statutory support and little opportunities in the real world, which keeps them from getting assimilated into mainstream society in a dignified manner.

IV. THE ROLE OF THE JUDICIARY

The judicial role in foster care is substantially more developed in the United States than in India, and the American experience suggests that an activist judiciary is not merely desirable but necessary for holding governments accountable for systemic child welfare failures.

In the United States, federal courts have issued structural reform orders compelling state child welfare agencies to meet specific standards of practice. In *Connor B. v. Patrick*¹⁷, a federal district court retained jurisdiction over the state's child welfare system and required it to meet caseload limits, placement stability targets, and service delivery standards. These structural orders sustained over years of judicial monitoring and produced measurable improvements in outcomes that legislative reform alone had failed to achieve.¹⁸

The Supreme Court of the United States has also established constitutional floors for child welfare proceedings. In *Santosky v. Kramer*¹⁹, the Court held that before a state may

¹⁵ Patrick J. Fowler, Katherine E. Marcal, et.al., "Homelessness and Aging Out of Foster Care: A National Comparison of Child Welfare-Involved Adolescents" 77 Children and Youth Services Review 27 (2017).

¹⁶ Nathanael J. Okpych and Mark E. Courtney, "Does Education Pay for Youth Formerly in Foster Care? Comparison of Employment Outcomes with a National Sample" 43 Children and Youth Services Review 18 (2014).

¹⁷ 771 F.Supp.2d 142 (D. Mass. 2011).

¹⁸ Ibid.

¹⁹ 455 U.S. 745 (1982).

terminate the parent-child relationship, it must support its allegations of parental unfitness by at least clear and convincing evidence. The support of the Federal Court towards child welfare extended to reading due process clause in the US Constitution. In *Troxel v. Granville*²⁰, the Court reaffirmed the fundamental liberty interest of parents in the care and custody of their children under the Due Process Clause of the Fourteenth Amendment.

The courts in India also have had active role in protecting the interest of vulnerable and mistreated children through their judgments. However, an equivalent jurisprudence of structural judicial oversight in the foster care context, still evades the Indian courts. The Supreme Court and various High Courts have made important pronouncements on child rights generally, but the specific domain of foster care placements, permanency planning, and aftercare obligations has not been the subject of sustained judicial attention. Still, few judgments are still available which specifically address foster care in Indian context, such as *R. Arivazhagan v. The Secretary to Government*²¹, where the Madras High Court read Section 42(1) of JJ Act literally and held that foster care under the JJ Act can only be pressed into service where the children in question are to be given in adoption in the future. Since there was no intention to give the children in adoption, the Court set aside the CWC's order placing them in foster care and the declaration of the respondents as fit persons. This judgment exposed the legal gap, where the use of foster care, was restricted to pre-adoption stages only, forcing an eventual amendment later.

Similarly, in *Bachpan Bachao Andolan v. Union of India*²², the court noted that alternative forms of care such as adoption, foster care and sponsorship to children without family care, are rarely used options in India. The judgment is considered to be landmark in affirming the ICPS framework of family-based care as the preferred alternative to institutionalisation.

However, it should also be noted that the Indian High Courts possess ample jurisdiction under Article 226 of the Constitution of India to issue writ orders directing state

²⁰ 530 U.S. 57 (2000).

²¹ (2009) 2 MLJ 593.

²² AIR 2011 SC 3361.

governments to comply with their statutory obligations under the Juvenile Justice Act which includes payment of foster care allowances, training foster families, and implementing the Guidelines for Foster Care, 2024. This jurisdiction has not been systematically deployed. Public interest litigation targeting specific, measurable foster care obligations such as adequate staff with caseload limits, mandatory training timelines, allowance payment deadlines could be a powerful tool for driving the implementation that legislative reform alone has failed to produce.

V. PERMANENCY PLANNING AND KINSHIP CARE

One of the most consequential differences between the Indian and American foster care systems lies not in their legislation but in their underlying conception of what a child in need of care actually requires. The American system, shaped by the Adoption and Safe Families Act, 1997, operates on a model of legal permanency which is the idea that a child separated from birth parents needs a legally binding, permanent family relationship, whether through reunification, adoption, guardianship, or long-term foster care, as a matter of statutory right.²³ Every child in foster care in the United States is legally entitled to a written permanency plan within twelve months of placement, with a defined goal and a timeline for achieving it.²⁴

India, under the Juvenile Justice (Care and Protection of Children) Act, 2015, also intends to act towards best interest of the child but does not incorporate the language of permanency planning as a statutory right. The requirement of Individual Care Plans (ICP) with defined timelines, and a hierarchy of placement options does find its place in the Juvenile Justice Model Rules, 2016, which the childcare authorities are required to follow. The JJ Rules guide the Child Welfare Committee and other concerned officers from reunification through kinship care through foster care to institutional placement as a last resort. The result is a system that frequently defaults to institutional care not because it is the best option, but because it is the most visible and administratively convenient one.

The American experience with permanency planning also carries a cautionary lesson. The strict timelines introduced by ASFA, which required states to file for termination of

²³ Supra n. 6.

²⁴ The Social Security Act (42 U.S.C.), s. 675(5)(B).

parental rights if a child had been in foster care for fifteen of the previous twenty-two months²⁵, were criticised for prioritising administrative efficiency over the welfare of children from poor and marginalised families, where the root cause of parental incapacity was poverty rather than unfitness. The timelines disproportionately affected African American families, leading to a surge in terminations of parental rights in communities where poverty, not neglect, was the primary driver of family separation.²⁶ India must absorb this lesson carefully where any permanency planning framework it introduces must distinguish clearly between cases requiring intervention and cases requiring support, and must treat poverty as a ground for family support rather than family separation.

Perhaps the single greatest structural advantage India holds over the United States in child welfare is the continuing strength of its kinship care culture. India's joint family system, in which grandparents, aunts, uncles, and elder siblings historically and instinctively assume responsibility for children whose parents are absent, deceased, or incapacitated, constitutes a vast, community-embedded alternative care infrastructure that requires support and recognition rather than replacement.

In the United States, kinship care has grown as a formal category of foster placement, but it has grown within a formal, court-ordered, financially reimbursed framework that imposes the same bureaucratic demands on grandmothers and aunts as on unrelated professional carers. The result has been what scholars describe as the 'juridification' of kinship care where the drawing of informal family arrangements into a formal legal system with significant unintended consequences, including the imposition of home safety assessments, background checks, and court review processes on elderly relatives who are providing care out of love rather than professional obligation.

India's Juvenile Justice Act, 2015, recognises kinship care only implicitly, within the broader category of foster care under Section 44. There is no statutory definition of kinship care, no separate regulatory framework for it, no financial support specifically directed at kinship carers, and no mechanism for converting informal kinship arrangements into legally

²⁵ Supra n. 6, s.103.

²⁶ Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare* 103-118 (Basic Civitas Books, New York, 2002).

recognised and supported placements without drawing the family into the full formal foster care process. The formalisation of kinship care without adequate financial support and legal clarity creates fragmentation and hardship for carers.²⁷ This must serve as a cautionary lesson for India and India must heed before replicating the mistakes of more developed systems.

The appropriate legislative response for India is the creation of a distinct statutory category of kinship care, separate from formal foster care, that provides financial assistance, social worker guidance, and legal recognition to relative carers without requiring them to navigate the full formal placement process. This would bring India's law into alignment with the United Nations Guidelines for the Alternative Care of Children, 2010, which specifically endorse kinship care as the preferred form of alternative care and call on states to support it through dedicated financial and social service provision.²⁸

VI. ROLE OF CIVIL SOCIETY AND FAITH-BASED ORGANISATIONS

A dimension of the American foster care system that receives insufficient attention in comparative scholarship is the substantial role played by faith-based organisations (FBOs) in the delivery of foster care and adoption services. By some estimates, religious congregations, charities, and FBOs constitute the third-largest component of the non-profit sector in the United States, and faith-based agencies are among the most effective recruiters and retainers of foster and adoptive families, particularly for children with special needs.²⁹ The American debate about faith-based foster care culminated in the Supreme Court's unanimous decision in *Fulton v. City of Philadelphia*³⁰, which held that excluding a faith-based agency from the city's foster care programme on grounds of its religious convictions violated the Free Exercise Clause of the First Amendment.

²⁷ Prince N.C. Olokotor, et.al., "Rethinking Kinship Care in England and Wales: A Critique of Law and Practice" 141 *Journal of Law, Policy and Globalization* 70 (2024).

²⁸ UN General Assembly, Guidelines for the Alternative Care of Children, GA Res 64/142, GAOR, UN Doc A/RES/64/142 (Dec. 18, 2009), paras. 28-32.

²⁹ Avis C. Vidal, "Faith-Based Organizations in Community Development" (U.S. Department of Housing and Urban Development, Office of Policy Development and Research, Washington D.C., 2001), available at: <https://www.huduser.gov/portal/publications/pdf/faithbased.pdf> (last visited on Mar. 26, 2026).

³⁰ 593 U.S. 522 (2021).

India has a dense and historically embedded network of religious and community organisations, temples, mosques, churches, gurudwaras, and community trusts, that already provide informal care to orphaned and vulnerable children, often without any formal registration, state oversight, or financial support. The Juvenile Justice Act, 2015, and the Model Rules require Child Care Institutions to register and meet minimum standards, but they do not create a framework for formally partnering with religious and community organisations as recruiters and supporters of foster families. A structured public-private partnership model, under which the state contracts with registered religious and community organisations to recruit, train, and support foster families in their congregational communities, could significantly expand India's foster family pool at low cost, drawing on the social capital that these organisations already possess.

The CarePortal model in the United States offers a related innovation. This digital platform allows child welfare agencies to upload details of a family's urgent needs such as housing, food, furniture, childcare, generating real-time alerts to nearby churches and community organisations that can provide practical support. Between 2015 and 2022, the platform served 224,350 people, preventing many families from reaching the crisis point that would otherwise result in a child being removed from the home.³¹ India's existing community information infrastructure, mobile telephony networks, gram panchayat systems, and the dense presence of self-help groups under the National Rural Livelihoods Mission, provides a foundation on which a comparable technology-enabled early intervention platform could be built.

VII. TOWARDS A REFORMED FOSTER CARE FRAMEWORK FOR INDIA: RECOMMENDATIONS

The comparative analysis of India and the United States conducted in this article yields a set of recommendations that are concrete, evidence-based, and grounded in the specific legal and social context of India. They are not proposals to transplant the American system wholesale, which would be both impractical and undesirable, but to draw selectively on the

³¹ Supra n. 3.

structural innovations that have proved most effective, while learning from the failures that have proved most costly.

A. Elevate the Guidelines to Statutory Rules

The Guidelines for Foster Care, 2024, must be elevated from administrative guidelines to statutory rules enacted under Section 44 of the Juvenile Justice (Care and Protection of Children) Act, 2015. This elevation would give them the force of law, making their provisions, including minimum allowance rates, training requirements, and post-placement monitoring schedules, enforceable by courts. Without this, the Guidelines will continue to be treated by state governments as optional recommendations rather than binding obligations.

B. Create a Distinct Statutory Kinship Care Framework

A distinct statutory framework for kinship care must be created, separate from formal foster care, providing financial assistance and social worker support to relative carers without requiring them to enter the full formal placement process. This is the single most important structural reform India can make, given the strength of its existing kinship care culture. India's joint family ties are its greatest child welfare resource; the state's role is to strengthen them, not replace them.

C. Reorient Mission Vatsalya Funding Toward Prevention

The Mission Vatsalya's programme's funding priorities must be reoriented. Family strengthening services, crisis counselling, and short-term material assistance to at-risk families must be funded as primary child protection services, not as residual welfare additions. The inverse relationship between preventive spending and institutional care costs has been well documented³² and it establishes beyond reasonable doubt that early intervention is the most cost-effective child welfare investment a state can make.

D. Give Statutory Content to Aftercare

Section 46 of the Juvenile Justice Act, 2015, governing aftercare, must be amended to specify minimum entitlements such as housing support, educational assistance, and vocational

³² Jess Larkham and Anqi Ren, "A Long Road to Recovery: Local Authority Spending on Early Intervention Children's Services 2010/11 to 2023/24" (Pro Bono Economics, London, 2025).

training, for a defined period after a young person leaves care, linked to self-sufficiency milestones comparable to those adopted in twenty-three American states under their extended foster care frameworks.³³

E. Mandate NCPCR Outcome Assessments

The NCPCR must be mandated by statute to conduct five-yearly outcome-based assessments of each state's foster care implementation, with public reporting and mandatory corrective action plans for non-compliant states, modelled on the American Child and Family Services Reviews.³⁴

VIII. CONCLUSION

India and the United States face structurally similar foster care challenges despite their vast differences in resources and legal maturity. The American experience confirms that investment alone does not produce good outcomes for children, the right design, the right priorities, and the right institutional accountability mechanisms matter more than the size of the budget. India has the advantage of building its foster care system at a moment when the failures of more mature systems are well-documented and their lessons are available.

It also has the advantage of a cultural architecture of family and kinship care that no amount of state expenditure can manufacture. The joint family system, the tradition of extended kinship responsibility, and the dense network of community and religious organisations are not deficiencies to be corrected by a formal legal system. They are resources to be supported, recognised, and legally protected. The task is not to replace this architecture with a formal system imported from the West, but to give it the statutory foundation, the financial support, and the judicial enforceability that it currently lacks.

³³ Child Welfare Information Gateway, "Extension of Foster Care Beyond Age 18" (U.S. Department of Health and Human Services, Children's Bureau), available at: <https://www.childwelfare.gov> (last visited on Mar. 26, 2026).

³⁴ U.S. Department of Health and Human Services -Children's Bureau, "Child and Family Services Reviews Procedures Manual" (Administration for Children and Families, available at: <https://www.acf.hhs.gov/cb/training-technical-assistance/cfsr-procedures-manual> (last visited on Mar. 26, 2026).

The recommendations set out in this article such as elevating the guidelines to statutory rules, creating a distinct kinship care framework, reorienting Mission Vatsalya funding towards prevention, giving statutory content to aftercare, and mandating outcome-based assessments, are achievable within India's existing legislative architecture without requiring constitutional amendment. They require only the political will to prioritise the welfare of children deprived of parental care as a first-order obligation of the state, rather than a residual welfare concern.