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Social Determinants of Wellbeing Children in Need of Care and Protection at Crossroads

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Abstract: ***The Juvenile Justice Act in India in the past two decades been amended several times to make it more child friendly and to preserve the dignity and best interests of the child. There have been notable changes with changes in nomenclature, increased age limits, adding categories and methods of restoration and continuing protections.***

This study takes up the issue of the children in need of care and protection and attempts to examine the relevance and application of the amended Juvenile Justice legislation in their lives. It focuses on children in need of care and protection for two reasons. Firstly, if they can be taken care of, will it prevent the emergence of children in conflict with law to some extent? Secondly, neglect of the youngest and the most vulnerable population is something that must be addressed urgently.

It is an exploratory cum descriptive study that aims to describe and examine the state and nature of the quality of life of children in need of care and protection in four State Government run correctional institutions in two districts of Delhi; West and North. Data was collected through semi-structured interview and observation method along with case studies. While examining in detail the socio-economic backgrounds of the children in institutional care under the Juvenile Justice Act in Delhi, there was an attempt to study the perceptions of the children about the institutional services. It sheds light on the factors that forced these children to leave their families and their entry into the institutions and their experiences outside and within the institutions.

An attempt to understand the Juvenile Justice System through the eyes of the institutionalised children now free and on the streets again adds a required dimension to this study, making it relevant all times. It helps to provide a fair picture of what the children on streets and in need, want from the institutions. If institutionalized services are serving their purpose or community based correctional services are a better option?

The findings of the study reveal various issues and challenges in the child care institutions while rehabilitating children.

Apart from bringing out some additional problems than what have been known so far, it helps in identifying new areas of research in this field – Similar exhaustive studies of juvenile institutions and street children in other States where the amended Juvenile Justice (Care and Protection of Children) Act has been implemented, (ii) Study of the NGO managed institutes under the Juvenile Justice System in the Capital and other states of the country to understand innovative strategies. Secondly, the information generated can be effectively used in future planning for the children.

The study advocates for the end of de facto criminalization of street children and by placing the relevant legislation outside the criminal justice system and by transferring, their care and protection to agencies — whether governmental or non-governmental — whose personnel are trained in social work, not correction. Greater emphasis, in particular, must be placed on the rehabilitation and personal development of former street children.

Keywords: Children; Child Care Institutions, Rehabilitation, Challenges

I. INTRODUCTION

With a population of more than 1.3 billion in 2019, India has the largest population of street children in the world. Even by conservative measures statistics reveal that 32 million children in India aged between 6-13 years have never attended any educational institution (Census of India 2011). Delhi government's survey report released in November 2020 has shown that there are as many as 0.2 million children (or 10% of the total) in the age group of 6-17 are out of school. Of them, 90,110 children had never attended school (1). The crucial question is 'What are these 1 lakh children in Delhi doing if not going to school?' They could either be sitting idle or loitering around on the streets or engaged in some work. If these children belong to families in distress, they have to earn to support their families. If they are without families and are a part of children living on the street, then again they have to earn in order to survive. These children are generally in the category of 'nowhere children' and in all probability most of them are working. This study takes up the issue of the children in need of care and protection and attempts to examine the relevance and application of the amended juvenile justice legislation in their lives. This study attempts to explore *what the needs of children in distress are and how best these can be provided. Is it necessary to put these children in institutions or can NGO experiments of organizing them around works*, such as garbage collection, running canteens and education for street children

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(Butterflies), the bare-bones bank sponsored by a local charity and run almost entirely by and for street children, offering the street children a safe place to stash the bits of money they earn, a better alternative and use forms of collective work to inculcate social responsibility work amongst the street children. Certain questions also emerged from the M.Phil research done on street children by the researcher in Sangam Vihar, one of the biggest unauthorised colonies of South Delhi. It analysed the situation and supported the belief that the problem of street children is deep rooted and has multiple dimensions. They are a floating population and are difficult to locate, leave alone count. This key proportion of at-risk children is not tackled due to a rigid definition. This is a serious anomaly in definition and therefore coverage and it is in these places where NGOs like Butterflies, Prayas have reached but not the state welfare services. The findings further revealed that the street children had their own resourcefulness and creativity, serving as key factors of any strategy to improve their situation. Even among the runaways or lost children there was a remarkable sense of solidarity. Peer groups devise strategies to counter the menace of local thugs, bullying policemen and cushion each other in times of need. This piece of work brought out the importance of not only their material but also emotional needs; the influence of adults they confront on road such as the employers, the area goons, the police and others. The issues for girl child were quite different and the most interesting finding was children's ability to create a collective amongst themselves, look after eachother and have their small dreams. Our present study focuses on children in need of care and protection both institutionalised and on the streets who have at some point of time experienced institutionalization for three reasons. Firstly, if they can be taken care of, will it prevent the emergence of children in conflict with law to some extent. Secondly, neglect of the youngest and the most vulnerable population is something that must be addressed urgently. And lastly for a practical reason, interaction and work is more feasible with this category of children than the children in conflict with law. Our review of the available reports on the implementation process relating to the Juvenile Justice System in India reveals that its direction and pace is not determined and guided by the needs and number of children requiring care and protection. The reasons for this fragmented scenario of implementation may be found in the status of the beneficiaries sought to be protected and the attitude of the state and society towards them. The beneficiaries of the JJS are children. The reason for making special provisions for their protection is that they cannot take care of themselves because of their mental and physical immaturity. For the same reasons, they are not capable of organising themselves and agitating for their rights (Periodic Surveys by National Nutrition Monitoring Bureau in 2005). Services and programmes for the welfare of juveniles under the JJS can be classified as supportive, supplementary, protective and substitute care. These services are provided through institutional programmes that we examine. It remains to be studied if the children in need of care and protection prefer institutionalization at the cost of their freedom. Comparative studies of the institutionalised children and their non-institutionalised peer groups are lacking. The legislation despite several amendments continues to be interpreted as before, putting emphasis on juveniles in conflict with law, neglecting different types of children in need of care and protection and treating institutionalization as the primary method of dealing with restoration.

These insights and our reading of the legislation throw a range of questions such as

- Given the scarcity of resources can the much amended juvenile justice legislation in India actually provide for the children in need of care and protection and which of the categories should get priority over the other?
- Secondly the quality of facilities provided and the administration of justice.
- To what level are they able to reintegrate the children in need of care and protection into the family and the larger society?
- The sensitivity of the administration towards identification of children in conflict with law and special services to this category as increasing the age means putting more hard core children in conflict with the more vulnerable category of children in need of care and protection.
- Last but not least the quality of life skills taught and their potential to help the children stand on their own outside the institutions.

These issues emerging out help us identify our research problem & develop a design for the research.
Following section elaborates the Methodology of the study. It details the purpose, the design and the research tools used to achieve the objectives.

II. METHODOLOGY

This being an exploratory study, it is descriptive to the extent that it is presenting observed facts and figures regarding the children within selected institutions and provides a full picture of the institutions and their working. The focus of the study being on the existing situation of children in various correctional institutions along with the causes that led them to be in that situation, a methodology to look through the institutional programmes and facilities available to meet the physical, emotional, educational,

social and rehabilitative needs of children were studied. It dwells upon the three phases of the study, exploratory phase, proper study and data analysis.

The respondents comprised of children in need of care and protection in the Children's Homes and the staff members of the institutions functioning under the Juvenile Justice System in Delhi. Hence, separate sets of Interview Schedules for the various categories of staff and children were developed. Limitations encountered during the course of study have also been put together at the end of this article. These few notable limitations to the study however do not hinder the main objectives of the study.

The scope and structure of the institutional services for the children in need of care and protection in Delhi had been critically examined. From the fifteen government run institutions in Delhi under the juvenile justice system, four institutions had been selected for the study, of which two were meant for boys and two for girls. All four of these institutions are Children's Homes, housing the children in need of care and protection. Basic facilities, welfare programmes, recreational arrangements, educational and vocational training, culture and disposal of cases had been critically evaluated.

Keeping in context the critical influence, of the family as well as the peer group, school, work environment and the community around them, on the development of a child, researcher examined in detail the socio-economic backgrounds of the children in institutional care under the Juvenile Justice Act in Delhi. Most importantly it attempted to study the perceptions of the children about the institutional services. It sheds light on the factors that forced these children to leave their families and their entry into the institutions and their experiences outside and within the institutions. The narratives and case reports of some of these children brought forth their real life experiences.

To develop a better understanding of rehabilitation of children in need of care and protection through institutionalisation versus community based mechanisms, children on the otherwise famous streets of Delhi i.e., Hanuman Mandir, Jama Masjid were interviewed. These were the children who were once institutionalised but now free and on the streets again. Focus of analysis was the once institutionalized street children's perception of the police and the functioning of institutions. It helped to provide a fair picture of what these children actually want from the institutions. If institutionalized services are serving their purpose or community based correctional services are a better option.Findings add a dimension to understanding the Juvenile Justice System by looking at it through the eyes of the institutionalised children now free and on the streets again.

Discussion section presents an analysis of the findings in the light of which it addresses some of the current policy debates about the future of the amended juvenile justice system. Bringing together some of the most important perspectives of the actual beneficiaries, it culls out some suggested modifications in the system.

A. Listing and Sampling

This section elaborates upon the situation of children within the purview of juvenile justice system and perceptions of street children who have experienced institutionalization at some point.

This study consisted of field research on correctional institutions, their working and the children within them to develop an insight into the existing situation of the children in various correctional institutions. We studied the perception of children in correctional institutionsof juvenile justice about their life, perceptions of the institutional staff, the attitude, perception and actions of the personnel and their interpretation of the law. Along with this, the life and perception of children on the streets, who had been in institutions at some point of time was also studied.

1) Listing of Statutory Institutions under the Juvenile Justice System

The area of present study was restricted to Delhi. ***S***election of Children's Homes meant for the 'children in need of care and protection' was decided by the following factors

- Geographical location
- Age groups – Home for childrenin need of care and protection in the age group 6-12 years & Home for childrenin need of care and protection in the age group 12-18 years.
- Children's Home for Boys & Girls under the JJS.

Given the criterion the following institutions were selected as per the purpose of our study

- Children's Home for Girls (I), Nirmal Chaya Complex, Jail Road, New Delhi.
- Children's Home for Girls (II), Nirmal Chaya Complex, Jail Road, New Delhi.
- Children's Home for Boys (I), Alipur,New Delhi.
- Children's Home for Boys (II), Alipur, New Delhi.

These statutory Homes have been set up under the Section-9 of the Juvenile Justice Act, 1986, to house and, look after the children sent under the orders of Juvenile Welfare Boards. Boys and girls are kept separately. The inmates are further sub-divided into two groups according to their age. The inmates are provided with facilities of free boarding, lodging, medical care, education and vocational training.

Drawing upon the major concerns of the life of institutionalised children, an interview schedule was formulated to record their age, sex and duration of stay in the institutions along with a set of questions pertaining to their social background, type of street children, occupation, education, reasons for institutionalisation, basic health, educational and recreational needs and future aspirations in and outside the institution.On an average each Home has a sanctioned strength of about 100 children. The actual strength however varies depending on factors like commitment by the CWC, restoration, etc.

Detailed interviews, participation in day activities and observations were used to study the life of the institutionalised children. There was an overall survey of 367 children. Use of a systematic sampling method for the purpose of this study was not possible. Some of the factors responsible for our being able to collect complete information from a lesser number of children if compared to the number of children approached were - many of the selected children for the study were not committed with their cases still pending in the Child Welfare Committees and once their cases were heard and if not found guilty or were bailed out by the parents, they were leaving the Children's Homes.

Secondly the child often goes by his moods and becomes reluctant to share any information and sometimes we were not able to contact same children available in the Home as they were either busy with activities or not inclined to talk. With these limitations we could contact more than half the total number of institutionalized children in all the four Homes (59%). Of this 59%, incomplete data made 16% of the interviewers giving us 43.41% coverage.

2) Selection of the Non-institutionalised Peer Group of the Institutionalised Children

The selection of street children was from streets of the city which are providing shelter to a large number of such children like *New Delhi Railway Station* and *Hanuman Mandir*, a big Hindu temple near the shopping centre Cannaught Place.

A lot of time was put in leveling with the children, like spending time with them on the streets. I visited the two locations almost daily (in the evenings and during the day time on Saturdays and Sundays) during a period of 8 weeks. Because of the children's mobility and changing survival strategies, the first step was to identify street children who were willing to participate in this research. With my prior experience of work with these children it did not surprise me that how relatively 'normal' these children are and how willing they were to befriend me.

It seemed they were eager for some attention and friendliness and most of the time they seemed happy to see me. Another criterion during the selection of street children was their contact with the juvenile justice functionaries. Since most of these children come in contact with the police, this was not a difficult criterion. However to identify children who have been institutionalised or had been apprehended by the police to Child Welfare Committee or Juvenile Justice Board had taken considerable time. On one occasion, a Sunday, I even took a few children out for lunch in a cheap nearby restaurant and we interacted while waiting for and then having meal. Sometimes children are corrected by their peers through comments like '*don't tell lies*!' for instance when answering questions about their age.

The children's answers provided the direction in which interviews proceeded and also the final analysis. For example, I compared the answers to questions like 'how is the behaviour of police with you? Have they ever scolded or physically abused you?' The analysis of the life experiences of these children along with the case reports of eightnon – institutionalised children form an important part of our study as many of these children were institutionalised before / had run away from the institution or were taken back by the family.Their views give an insight of the actual implementation of juvenile justice system as these children were not under the observation of any Child Welfare Officer/Care taker while expressing his/her views.

III. RESULTS

This study presents the key findings from a total of 367 respondents (Table (Table1),1), representing on an average 70% children from each of the four Homes, with a majority of them, 165 (61.7%) were males and the remaining 105 were females, so we got the balance response gender wise. The children who were living in the institutions came mostly from poor, broken and stressful homes both economically and socially. Their family background was critical in their abandonment and their present social and mental status.

Notably, maximum 321 (81.8%) were from urban background and rest 95 were from rural area.

A. Family Background

1) Children's Home - Combined

This section presents the consolidated analysis of both the Girls' and Boys' Home. Before coming to the Home these children had the following family distribution associated. 28.89% of children were having their both parents dead, 49.63 % of the children had their either of the parents dead or separated, 10.37% of them were living with both the parents and the remaining 11.11% were living with their relatives.

Out of the 28.89% of the children whose both parents were dead, 67.5 % were living on the street after leaving their parents and before being brought to the Home, 29.9 % were picked immediately from the street after leaving their parents and rest 2.6% were brought by the family to the Children's Home.

For the 49.63% of the children who had either of their parents dead or separated, 52.2% were living on the street after leaving their parents and before being brought to the Home, 46.3% were picked immediately from the street after leaving the parents and rest 1.5% were brought by the family to the Children's Home.

Of 10.37% of the children who were living with both the parents, 24.1% were living on the street after leaving their parents and before being brought to the Home, 72.4% were picked immediately from the street after leaving their parents and 3.5% were brought by the family to the Children's Home.

The remaining 11.11% who were living with their relatives, 26.7% were living on the street after leaving their parents and before being brought to the Home, 60.0% were picked immediately from the street after leaving the parents and rest 13.3% were brought by the family to the Children's Home.

One thing is certain that the death of parents sometimes begets strain and stress beyond the management of the child. ***Maya,*** *a 14 years old girl staying in the Children's Home for Girls – I, commented on her own situation,*

Both parents died when I was very-very young. Paternal Uncle and Aunt pushed me and my younger brother four years old out of the Home. I was only 8 years old then. We both came to Delhi city by boarding a train without ticket. We were living by begging on the streets of Delhi for more than a year, when one evening we were caught by the Police constable who brought us to the Children's Home.

*Maya does not want t*o go back to the street but she was not happy in the Home either. This was the situation with many other destitute girl inmates in the age group of 6-12 years. Though they had a difficult time in the Home but in the absence of a family/relative support they were compelled to remain institutionalised.

The situation with the boys was however different. As many of them expressed the desire to return back to the streets from where they were picked by the police.

One of the institutionalized boys in CHG – I who was living on the streets before being picked by the police shared his ba*ckground with us. **Manohar,** aged 12*, who has been in the Home from the past whole year, narrates the story of unemployment and then city based job of his father.

B. Occupation of Parents

Furthermore, the data revealed that 49.39% of the families of the institutionalised children, the mother had to go to workin 35.19% of the families of the institutionalised children, the economic conditions were so poor that even the siblings had to work for earning their bread. Employment of women, especially the mothers of small children did create problems and consequently contributing to the destitution and neglect of children.

C. Entry into Homes – Push Factors

Given this it would be insight giving and relevant to look at other reasons which forced information. The information provided by the rest is quite revealing. Nearly 30% left their native place or home on account of varied family reasons like parental discord/ill-treatment by the step-parent or alcoholic father and so on. Amongst the boys in the age group of 12-18 years, another important reason for leaving the family/hometown was in search of better employment (29.87%). Besides, there were 9.81% boys who admitted to have forsaken their homes on account of their involvement in delinquent or criminal behaviour. Another important reason responsible for children leaving their family, was either peer pressure or under the influence of strangers or neighbours. These were more so in the higher age group (12-18 years). This directs attention to the vulnerable nature of these children especially when they are deprived of a normal childhood and parental protection added by a sheer lack of basic educational and health facilities.

We tried to understand the reasons responsible for the preference for Delhi by the children who lacked adjustment and who decided to make a move for whatever reasons. This excluded the children who belonged to Delhi, where the Homes are established. Of the remaining 163 children, 11.85% children did not provide any information on the issue. Out of the remaining, 30.67% children mentioned that coming to this particular city was beyond their control as it was not decided by them as informed by some of the boys that the decision was in the hands of the person accompanying them. 12.88% children reported that they were transferred from other Home which was precisely from Home for younger children to the Home for higher age group. Nonetheless 43.62% children specified their views on choosing the destination city. The foremost reason was better job opportunities and other reasons like education or better life.

There were situations of lack of supervision and control especially in the case of the death of father.

In another case of a *12 years old girl* inmate of Nirmal Chaya, after the death of father, mother used to leave the only child with the neighbours who used to mislead her into wrong activities like stealing. Soon the mother discovered and brought the child to the Children's Home in Nirmal Chaya due to here financial incapability.

In one case in the Alipur Home for Boys – I, ***Suraj,*** *14 years old, when the mother went to stay with her brother, the latter was not well disposed to accept the children in the family. Suraj was often being punished by his mother's brother. Suraj left him and his mother, and stayed on the footpath; still worse, in another case the mother was actually asked to get rid of the child in order that she may be easily remarried. The child was then left in a market place by the maternal uncle.*

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Children in institutional care can be thus assessed to have undergone disturbing experiences and faced a variety of adverse circumstances. This is still truer for children who are from cities and villages rather than the one whose parents were in the institution itself.

D. Life before Commitment to Home

1) Educational and Working Status of Children

This section carefully looks through the various aspects of the life of the institutionalized children before coming into the purview of the juvenile justice system. It was observed that 48.52% children were not attending school and 40.74% were attending school and had done some schooling (see Tables-1). The proportion of illiterate children was higher in the Children's Home for Boys than in CHG-I & II. Equally important in this regard was 'skill development' among children prior to institutionalisation. The data reveals that it was absent among the children under study.

Table – 1: Educational and Working Status of Children

Homes	Only Working	Not working		Both Working & school	Don't remember	Total
		School	No school			
Children's Home for Girls – II (6 – 12 yrs old girls)	15 (17.85%)	32 (37.65%)	26 (30.59%)	4 (4.71%)	8 (9.41%)	85
Children's Home for Girls – I (12-18 yrs old girls)	-	10 (50%)	6 (30%)	-	4 (20%)	20
Total	15 (14.29%)	42 (40%)	32 (30.48%)	4 (3.81%)	12 (11.43%)	105
Children's Home for Boys – I (12-18 yrs)	54 (49.09%)	11 (10%)	10 (9.09%)	25 (22.73%)	10 (9.09%)	110
Children's Home for Boys – II (6-12 yrs)	15 (27.27%)	18 (32.73%)	5 (9.09%)	10 (18.18%)	7 (12.73%)	55
Total	69 (41.82%)	29 (17.58%)	15 (9.09%)	35 (21.21%)	17 (10.30%)	165
Grand Total	84 (31.11%)	71 (26.30%)	47 (17.41%)	39 (14.44%)	29 (10.74%)	270

2) Medical Antecedents

In the curative aspect of health services, we included general health status, diseases and treatment. The table-2 given below shows the information collected by the researcher from all the four Homes under study. Information on illness in the past few days requiring immediate attention of a medical practitioner, was obtained from 186 children from medical records of the Home.

Table 2: Health Problems of Institutionalised Children (in percentage)

Health / Medical Problem	Children's Home for Girls – I & II	Children's Home for Boys – I & II
Viral fever	24 (33%)	22 (19.64%)
Cough / cold	33(45%)	21 (18.75%)
Jaundice	22(3%)	18 (16.07%)
Typhoid	22(3%)	4(3.57%)
Dysentery	10 (14%)	32(28.57%)
Tuberculosis	15(2%)	15(13.39%)
Total	74	112

As the table-2 reflects that majority of the institutionalised children were not suffering from any serious illness. Among those who suffered from any disease, in Children's Home for Girls – I & II, majority were suffering from jaundice unlike the boys in the Children's Home for Boys. Among these ailing children, 38.7% visited a physician and underwent medical treatment. In this regard, many more children in Children's Home for Girls were provided such a treatment than in the Children's Home for Boys owing to the presence of an in-house dispensary in the Girls Home. In fact, 16.8% had to be hospitalized.

3) Behaviour – Pattern and Habits

It may be restated that early life experiences create a deep influence on one's thinking and behaviour. Often these give rise to general personality types. 56% of the institutionalised children were in a habit of going for watching movies.

Table – 3: Behaviour Pattern and Habits of Children prior to Admission to the Home

Homes	Nothing	Cinema	Gambling	Tobacco /smoking	Alcohol	Drugs	No response	Total
Total	95 (35.1%)	153 (56.6%)	42 (15.5%)	24 (8.8%)	14 (5.2%)	04 (1.5%)	21 (7.8%)	270

Next in this regard is gambling. Our findings revealed (see Table-32) that it was a habit only amongst the boys before institutionalization. 15.5% boys mainly in the age group of 12-18 reported that they used to gamble of and on before they were admitted to the Home.

Regarding the use of tobacco in smoking or chewing form, our findings revealed that children were also into smoking habit but it was limited to only boys 8.8% and then again only amongst the boys in 12-18 years age group. Gender variations in behaviour patterns before institutionalisation is much clear in these two habits. Only 5.2% boys in 12-18 years age group reported to the occasional or regular use of alcohol. Presumably most of them had country made liquor.

IV. DISCUSSION

In this study, I tried to do things in a reverse order, "If you have theory in your head, reality sort of bothers you. But if you come from reality, and what theory it fits, it's a completely different methodology." The emerging issues have been clustered in the following sub-groups:

A. General Issues

The current response to ensure effective child protection for juveniles in conflict with the law and children in need of care and protection in the country as defined under the Juvenile Justice (Care and Protection of Children) Act, 2015 is Child Protection Services (CPS) programme.

Its aim is to put in place a safety net of structures, services and trained personnel. While there is no separate and distinct budget for implementing the juvenile justice legislation, the Child Protection Scheme (CPS) is the main scheme which provides the financial resources for implementing various child protection laws, including the law on juvenile justice. To implement the CPS programme and protect the rights of these children, GoI provides financial support to states and Union Territories (UTs) to implement the scheme either by themselves or through suitable Non-Government Organisations (NGOs).

The Government of India had a budget allocation of Rs 725.00 crores for 2018-19 – a mere 0.05% of the total budget. GoI allocations for CPS remain low but have been increasing. In Financial Year (FY) 2020-21, GoI allocated `1,500 crore to CPS, an 11 per cent increase from the Revised Estimates (REs), but the same as the Budget Estimates (BEs) of FY 2019-20. Despite low allocations, release of funds has been even lower. In FY 2018-19, 79 per cent of GoI allocations were released. In FY 2019-20, till 16 December 2019, only 44 per cent of the REs had been released by GoI (2). Inadequacy in public spending on child protection and juvenile justice is reflected in the fact that on an average, in the last ten years, child protection received only 3 paise out of every 100 Rupees spent by the Union of India. Analysis of flagship programmes like the Child Protection Scheme, which is the vehicle for implementing juvenile justice and child protection, shows poor financial planning, abysmal funding and huge under spending. (264th Report of Department-Related Parliamentary Standing Committee on Human Resource Development, para 3.44, pg.39 as quoted in 'Budget for Children 2016-2017 - Not Even Halfway Through Its Demographic Dividend,' HAQ Centre for Child Rights)

As of March 2019, the primary intervention of this scheme is institutional care reaching out to 86 percent of total beneficiaries living in 1,476 Children Homes, followed by Open Shelters (10 per cent) and Specialised Adoption Agencies (4 per cent) (3). The overall focus of the implementation of ICPS scheme continues to be reactive and responsive; rather than being proactive, focused on prevention, ensuring justice and rehabilitation.

It is important to note that in FY 2017-18, CPS was brought under the Umbrella of Integrated Child Development Services (ICDS) scheme as one of its sub-schemes. The ICPS was designed as a flagship scheme in the Eleventh Five Year Plan to enable the creation of a protective environment for children through the creation of child protection mechanisms at every stage. To subsume one flagship scheme under another indicates the low priority given to children in need of care and protection. Both increase in crimes against children (by 53 per cent from 2013 to 2014) and by Children (48,230 juveniles were apprehended during 2014 as against 43,506 in 2013) make them even more vulnerable (4).

This limited approach leaves the child vulnerable and does little to bring the child back into a preventive protective framework. Ever since its launch, financial allocations in ICPS have indicated a trajectory of slow growth and consolidation.

Initial years of implementation were marred by low utilisations and delays in recruitment of human resources. It is therefore both justified and a welcome move that financial allocations for ICPS scheme have been substantially increased from Rs 725 crores (2018-19 budget estimates) to Rs 1,500 crores (2019-20 budget estimates). Yet, it is vital to understand and highlight that child protection services are neither the first nor the sole response mechanism for children in a vulnerable state.

Despite considerable economic and social progress since independence, a large number of children in India still live in inhuman and pathetic conditions. Unfortunately, with increase in incidence of child abuse, exploitation and violence, the well-being of our 442 million children and that of our country is questionable (5).

Another disturbing reality is the lack of any correlation between the number of children in India in need of care and protection and the reach of the JJ Scheme. Can it be taken that only 48,230 juveniles who came in contact with the protection system in the year 2014 and were offered institutional care and allied services, were the children in need of care and protection? (6) Our review has also shown that at present the estimates for such children are much larger. There is no reliable official data on the number of street children in the country, according to some 2013 estimates provided by the child maltreatment report in the country, there were around 100,000 street children in Delhi alone and an additional 300,000 in the major cities of India (Singhi et al., 294) (7). The 2010 census of street children in Delhi found that there are approximately 51,000 minors under 18. Almost all of them experienced verbal abuse and at least half were physically abused, mostly by parents/guardians, relatives/friends, the police or employers." (Singhi et al., 294). These estimates illustrate that domestic violence in any form plays a crucial role in determining a child's decision to migrate to the streets in India (8).

Over and above this, the children coming into contact with the limited system may not be the children for whom it was most designed that is, those in conflict with law. In reality, due to the nature of street children's visibility, their lack of power and prevailing negative attitudes towards them, street and working children are frequently brought into the institutions under the purview of the Juvenile Justice System without adequate reasons. The arbitrary nature of detention of street children in Children's Homes or Observation Homes needs to be underlined.

The legislation does not provide for strictly differentiating between children in need for e.g., street children and those who are indulging in illegal activities. The decision is taken after "suspecting" illegality and the task of "picking up" children is left to the most inappropriate personnel i.e. the police. Thus there is no direct mechanism for identifying street children and the method followed is using conflict to pick them up and then the justices system deciding in which category the child should be put in need or in conflict. This means that the legislation has no mechanism of reaching out to the children on the street unless and until they are suspected of illegality. This inadequacy of legislation has two serious implications. Firstly, despite a change in nomenclature, the Act does not reach the children in need at all unless suspected of guilt. Meaning there by that it waits or ignores them till they make a mistake. Secondly, the definition of "conflict" is vague and it is the police which define it. Our data shows that this in itself leads to corruption where working street children are often fleeced to be free and the picking up is determined by the quota that the policeman might have to fill of the work done or even an expression of his own frustrations and anger on a vulnerable, defenseless child. This lacuna of legislation needs to be seriously addressed.

Yet another issue is that even though there are separate institutions for keeping children in need (street children) and juveniles in conflict. When the child is being investigated to be put in the right category, he has no separate place to be housed. Hence, they stay in the Home for children and many a times juveniles in conflict enter these homes for children in need of care and protection and are left there for a long time. This leads to several problems of operations, exploitations and serious problems for young and vulnerable once who have no protection from these hardened characters.

Though the legislation has improved at the level of concepts, it has failed to device mechanisms which could concretize the concept of caring for children in need of care and protection. In the absence of adequate resource management of conflicts remains the most practicable way of maintaining law and social order and therefore the focus of attention of implementing institutions remains children in conflict with law and not those who need help. The very fact that the Act has been in existence since 2000, the exact estimates of these children remains vague till today.

From our exploration of the challenge of defining street children or even a child and by looking at the backgrounds of the institutionalized children it was clear that the street children do not necessarily mean that they have no family affiliation. They are those who have families with strained inter-familiar relationships and economic pressures and varying contacts with their families, those who are brought by family members themselves because they can't manage the child those who are lost and totally alone. In addition we found an interesting category of children who had created a family of friends with whom they live and of whom they take care and were taken care of. Very often they spend their earnings for their friends' needs (apart from children interviewed within and outside institutions), also identified during M.Phil work of the researcher focusing on Lives of Street Children in Sangam Vihar, an organised colony of Delhi. Logically then children who have links with the families need welfare and economic inputs for their families so that they become stable and capable of looking after the street child. The ones who are lost and have no families or are brought by them certainly need institutional care. However the category that constitutes its own social group as alternate family works and finds its place under the sun on the basis of legitimate labour is a category that requires innovative handling.

B. Issues in the Articulation of Legislation

The Juvenile Justice (Care and Protection of Children) Act 2000 (9)[1] covers all aspects of interaction between children and the legal system. Though there has been some improvement with the various amendments in the Act, certain ambiguities shall remain. Some illustrations are given in the following paragraphs. The basic reference point for law reforms were the UN Convention on the Rights of the Child (CRC) together with other instruments that set out the principles for 'full protection' (which calls law to become an effective instrument for the defence and promotion of human rights for all children and adolescents).

Definition of a uniform age of childhood remains elusive because though the Juvenile Justice (C & P) Act, 2000 had defined it to be 18, a consensus with other Acts is yet to be arrived which variously define the age of a child as 14, age under hazardous occupations and processes under the Child Labour (Prohibition and Regulation) Act, 1986, 18 and 21 under the Child Marriage Restraint Act, 1929, 16 in case of sexual assault and regarding age of consent for sexual intercourse by girls and so forth ('Who is a child? Laws not clear,' The Hindustan Times, New Delhi, 7 February, 2008). Surprisingly there is no linkage between the JJ (C & P) Act of Children) Act and other related legal provisions for children, such as child labour, primary education, sexual abuse, disabilities and health. *The missing relation between the JJ (C & P of Children) Act and other legislations has created a lacuna where important issues like the definition of child and adoption are left for judicial interpretation. In a free rein of judicial interpretation in most cases the rights of children get flawed rather than being upheld.*

[1] The remaining text uses the expression 'JJ Act' alternatively for Juvenile Justice (Care and Protection of Children) Act 2000

The new Act has increased the scope of the Act to cover all children who have not reached the age of eighteen years. The failure to engage with the CRC guidelines that suggest that all human beings under 11 years of age should be regarded as children and those between 11 and 18 years of age as adolescents has only exacerbated the problems related to 'difficult' adolescent boys and girls who are viewed as anything but 'children'.

Another issue related to the age of the children apprehended is the determination of the juvenility and implications of delay in this assessment. The CRC emphasizes the importance of conducting proceedings involving juveniles 'without delay to ensure the shortest possible duration of detention.' To ensure speedy proceedings, the JJ Act specifies that proceedings 'shall be completed within a period of four months from the date of (their) commencement,' but with exceptions if the 'period is extended by the Board having regard to the circumstances of the case and in special cases after recording the reasons in writing for such extension.' Extension is often given in case of juveniles in conflict with law. This was noted and confirmed by the Magistrate of the Juvenile Justice Board (JJB) – II and also the members of JJB-I. This is crucial because this is what determines the treatment meted out to the child. They are neither given the basic kit and bedding or almirah to keep their belongings nor are they given medical facilities. The delay results in the child in need of care and protection or the juvenile languishing in the Home premises during the pendency of case. The consequences of such a delay are grave, because there are situations when the convict is exceeding 18 years of age and even after having committed an offence of serious nature is housed with other children in the Home. At the same time there are cases of children who had not even committed an offence but due to the delay in determining their juvenility they stay with some hard core criminals in the Homes. The existence of such cases that do not have a proper justification violate the JJ Act mandate of a speedy justice. The children under the JJ Act should be granted bail as frequently as possible, or should be sent to the Special Homes for behaviour modification or probated in the community under the supervision of a Welfare Officer. Unfortunately mechanisms and reasons for bail/release on probation are not very well laid down leaving it often to the discretion of the magistrate/chairperson. These authorities are usually biased against the socio-economic backgrounds of these deprived children who are seen as the source of criminal activities. Magistrates/Chairperson often grant bail to those with parents who can provide landed surety but are less likely to grant bail to children of day laborers or those with a poor socio-economic background. These implicit bail and surety restrictions have resulted in the institutionalization of children along socio-economic lines, in violation of international conventions expressing anti-discrimination principles.

The JJ Act establishes Home Inspection Committees and State Level Advisory Boards to oversee the administration of juvenile justice, but in reality they have no authority as they are themselves under the Department of Women and Child Development, a national / state administrative agency. In this way there is no autonomy given to the agency meant for overseeing the institutions.

Children are themselves in a difficult situation in developing their own voice to represent their cases. In such situations the adults charge themselves with acting in the best interests of the children which presumes that adults can determine what the best interests of children actually are. As noted, a majority of children coming in purview of the JJ system belong to the lower socio-economic strata and are required to be represented by Child Welfare Officer at the initial proceedings, making their prospect of an appeal for the bail or release unlikely. Given the nature of authority which is primarily drawn from the government bureaucracy and the legal system, the Child Welfare Officer is not the right person to defend the children's rights as they are unfamiliar with legal proceedings and do not have any training in legal procedures. Therefore either they should be trained in these to make an effective defence for the child or there should be a system of providing public lawyers to represent the children. As of today, Child Welfare Officers simply place the cases in front of the judges and if the child is lucky to have a parent or an NGO support, he is defended by them.

Another lacuna in the Act has been it does not clearly lay down the protocols or procedures for dealing with children who are victims of criminal acts such as rape, abduction, violence or trafficking. The absence of a clear jurisdiction and system of providing community based rehabilitation to children under the Act thus becomes a major flaw.

As an improvement over the previous Act, the amendments to the Juvenile Justice (Care and Protection of Children) Act 2000 in 2006 have introduced more options for the restoration of child by introducing 'fit person' and 'fit institution' to the category of those who provide restoration comprising of parents, adopted parents and foster parents. However, there are no guidelines in the Act which confirm the State Rules to have inter-state and intra-state uniformity on these crucial parameters.

Another noteworthy innovation introduced in the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 has been, making adoption process secular and the adopted child to be conferred the legitimate rights over parents. At the functional level, amending the Act is not enough, there has to be more clarity about procedures and information, as how the law should be applied. It is not clear how this law would override the provisions of other personal laws. Even this progressive Act has some weaknesses that need to be addressed, for e.g., the Act is silent about the criteria for age difference between the adoptee and adoptive parents in case they are of opposite sex.

This is an essential factor for adoption, which should be considered seriously for the purpose of preventing child abuse and trafficking. Secondly, the Act does not specify the necessity of the consent of the spouse of the adopting parent within a marriage.
Despite some of the above discussed gaps in the much amended Act, it goes without saying that there have been positive efforts towards the improvisation of the legislation through a series of amendments suggested by the child rights activists, like minded NGOs and the rights enshrined in the International treaties like UN-CRC and Beijing Rules.
As pointed out in the general section, the Act falls short of defining clear mechanisms of reaching out to the child in need, in not conflict situations and in strictly separating the child in need from the hardened children in conflict with law.

V. IMPLICATIONS FOR FUTURE APPROACH TO INTERVENTIONS

Learning from the present study we make the following suggestions:

1) Most importantly, the Juvenile Justice Act needs to make a clear distinction between children 'in need of care and protection' and those 'in conflict with the law' and this distinction must be rendered complete and effective.
2) The de facto criminalization of street children must be ended by placing the relevant legislation outside the criminal justice system and by transferring, their care and protection to agencies — whether governmental or non-governmental — whose personnel are trained in social work, not correction. In addition, in cases where both options of re-uniting the child with his/her family and adoption prove to be inadequate or impracticable solutions, viable alternatives to detention, foster care, adoption must be devised. Greater emphasis, in particular, must be placed on the rehabilitation and personal development of former street children.
3) While some NGOs like Butterflies, Prayas, Care & Share are having experience in successfully running Children's Homes and some of them have been invited to help manage Observation Homes. It is certainly desirable that the government uses the models of these NGO run Homes and increasingly delegates the care and development of street children to civil society organizations.
4) *Fair Working* - 'Openness and Transparency' is a new goal emphasized by the Juvenile Justice Act. The work under Juvenile Justice Act has been carried for decades in Delhi, yet there has been no systematic evaluation of the work except for some reviews of the Homes by the Committees formed in response to the media reports on death or escape of the institutionalised children. Research is essential to obtain objective data regarding the function, programme, personnel, etc., of juvenile correctional institutions. The Directorate of Social Welfare itself may not have qualified persons to conduct research, but it can always invite persons from outside to undertake studies into the causes of escape from the institutions, treatment of children in the Homes and evaluate different aspects of work. A specific mention in the Act may provide enough force behind such action. It should be laid down in the law that the expenses involved in the conduct of research by the Directorate or by an individual or an organization approved by the Directorate, would be defrayed out of funds made available by the state government.
5) *Children's Voice - Children should not be seen merely as recipients of services or beneficiaries of protective measures, but rather as subjects of rights and participants in actions affecting them. This implies a change in the approach, also towards vulnerable children in research and decision making.* Care and rehabilitation cannot be pursued by depriving the children of their personal freedom. On contrary, such objectives can only be accomplished in places where the children can be motivated, where they can be provided with the means, the confidence, and the self-image they need to fully realize their potential, and where they can feel free, cared for, and loved. Above all, street children must be given their childhood back. The category of institutionalised and street children that constitutes its own social group as alternate family works and finds its place under the sun on the basis of legitimate labour is one that requires innovative handling. Institutionalizing them, asking their autonomy, taking away their livelihood is perhaps not the best way of handling this group. It is here that the work of NGOs like Butterflies, Akanksha, Care&Share, CINIAsha and other experiments where self management and self-care is taught and practice to make these children responsible citizens is something that needs to be expanded and taken up formally as a way of help of these children on the street. In the current system, the street children who are mostly unattached with no adults to vouch for them, are the easy targets be apprehended and sent to languish in the Homes, as they have often no one to bail for them.In this scenario, it is important to stress on the need for the recognition of the right to 'legal representation' for all children in difficult circumstances. This may alleviate the problems of the lack of child participation and accountability of the judicial proceedings by providing children with free legal aid who can object to inordinate delays or inappropriate behavior on the part of the Board/Committee. Section 23 of new Juvenile Justice Act, 2000 provides punishment for cruelty to child. Whoever, having the actual charge of or control over, a child causes him unnecessarily mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both (Bare Act, JJ Act, 2000).Notwithstanding this

section, the hard core treatment of the children in the Homes continues with no system of checks and controls and training orsensitisation of the Home staff towards the needs of children. Some times a child specific approach is needed to understand him/her and shape up to the requirements. A concerted effort has to be made to reorient attitudes of the Home staff with a special focus on the caretakers who spent maximum time with the children in these Homes. The Child Welfare Officers should be motivated to spend quality time in listening to the children beyond the preparation and maintenance of their files.

6) *Quantity or Quality* – There has been some improvement in the number of Homes and CWCs and JJBs with the implementation of the JJ Act 2000 further amended in 2006. As reported by NCPCR Sub Committee Report (2007-08), the utilization of funds has also been satisfactory (89.5% in 2002-03 and approximately 100% in 2003-04), and the funds for the next year are released without delay in the last month of the financial year. However the controlling Ministries release funds to the state governments without an evaluation of an effective utilization of the prior funds. The government policies for the staff appointment should be flexible to avoid the current situation of a high ratio of vacant posts against the sanctioned posts affecting the overall functioning of the Child Welfare Officers in place. The Directorate and the parent organizations should try to retain the services of experienced and capable staff by providing opportunities for advancement, improved working conditions and adequate incentives. Some turnover of the staff is inevitable in spite of sincere efforts. The filling up of the sanctioned posts of CWOs in Children's Homes would be of less gains in absence of a proper system of training and orientation of the staff and building in them sensitivity for the beneficiaries coming often from a difficult background and in need of individualized care and protection.The Directorate should evolve a system of regular staff meetings within the institutions where the minutes get documented and are available for the researchers or the review committee.

7) *Revisiting JJ Homes* - An audit of conformity of physical living conditions for each of the Homes should be undertaken. Clean drinking water should be a mandatory facility and toilets to have doors and running water facilities. One option that the Homes could explore is a tie up with Sulabh International or similar initiatives to outsource the sanitation management of institutions (NCPCR, GoI, 2008). The Homes should work in cooperation with the schools and vocational training institutions in a particular locality in giving education and other training to the institutionalized children. This would pave the way towards the mainstreaming of inmates and prevent their social exclusion during the period of institutionalisation. A properly organized follow-up of inmates is essential to improve institutional treatment programmes.

8) *Community Involvement*

a) Direct Involvement - In framing or amending procedures or rules, the opinions and suggestions of institutional heads should be solicited and given proper weight. The committee of visitors or such bodies appointed for each institution should include members from different fields of activities. The schools of social work & public health should be given proper representation in such bodies.

b) *Community Outreach* – With NGOs having a better acceptance and approachability in the community, it is important to strengthen their involvement in the community sensitisation process as well as in the rehabilitation of the institutionalised children. NGOs with a proven track record of working on the causes of street children like Butterflies in Delhi, Navjeevan Bal Bhavan in Hyderabad, Loreto Day School (Rainbow) in Calcutta and many more, can sensitize the local communities on child issues, child rights, Juvenile Justice Act 2000 and generate their due participation in the co-management of the activities of the Homes. They can be supported in organising workshops and awareness programmes for Superintendents of Children's Homes and Observation Homes on child rights, quality of care and treatment of children, speedy trials of children in Homes. With their community presence, NGOs can play an effective role in the reintegration of the children with their families by collaborating with the district level Child Welfare Committee or the Children's Home. This effort however must be backed by a regular follow up and counselling of the family in order to prevent the chances of child's way back to the streets.

Apart from the possible interventions above, our study of street children highlights the links between social disadvantage, poverty and backwardness. Therefore a pointer, to the need of poverty reduction as a central thrust demanding attention to rural development through a better implementation of various poverty elimination programmes like National Rural Employment Guarantee Act (NREGA), Minimum Wages Act, Gramin Vikas Yojana and so on. Also, confirms the need of strengthening family life through counseling, providing day care for children of working parents wherever possible.

The present study was exploratory in nature. Apart from bringing out some additional problems than what have been known so far, it helps in identifying new areas of research in this field. As a result of this study, three types of studies may be suggested: (i) Similar exhaustive studies of juvenile institutions and street children in other States where the new Act, Juvenile Justice (Care and Protection of Children) Act, 2000 has been implemented, (ii) Exhaustive study of individual institutions, to assess if the new Act has been implemented in its true spirit, and (iii) Study of the NGO managed institutes under the Juvenile Justice System in the Capital

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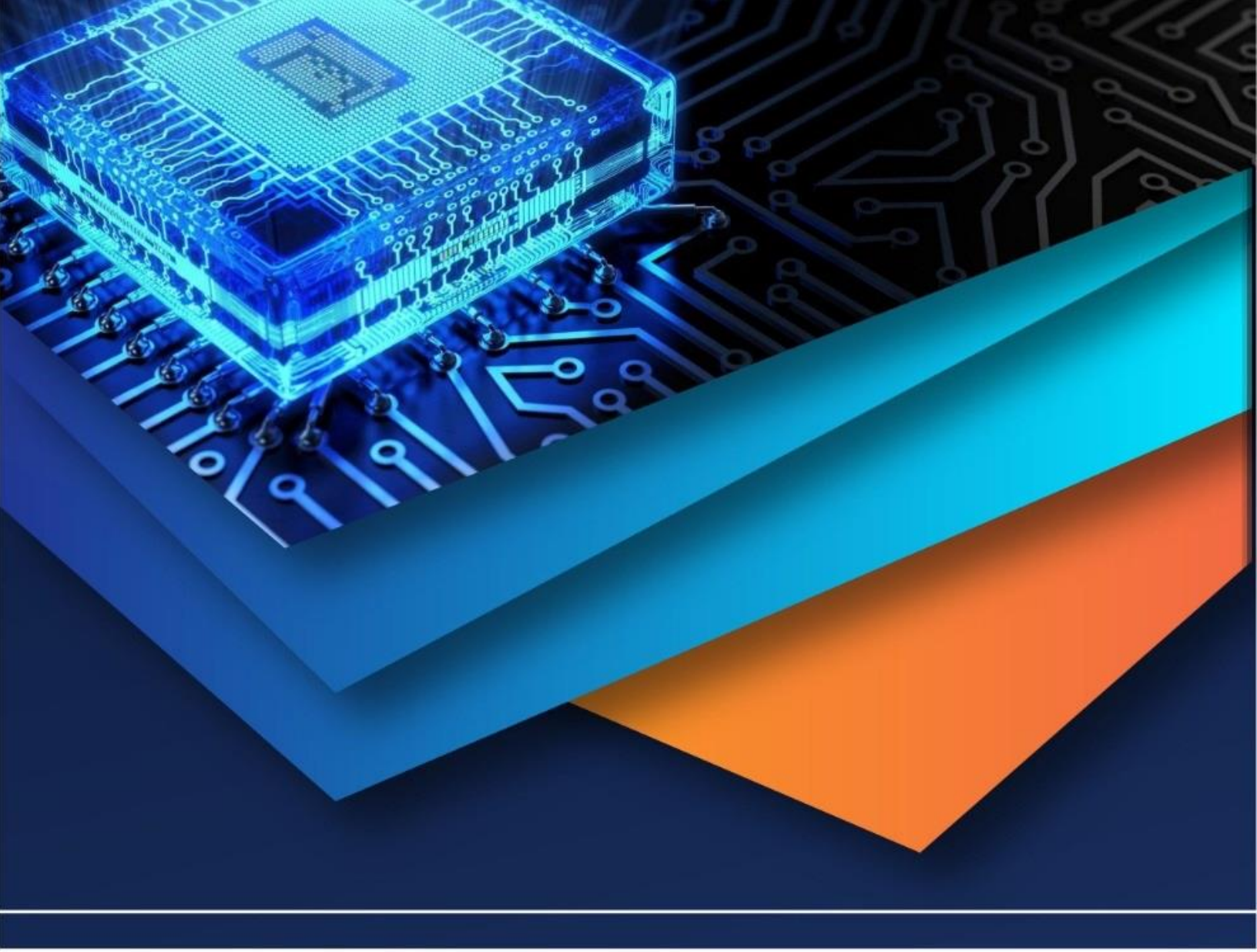
and other states of the country to understand innovative strategies. Secondly, the information generated can be effectively used in future planning for the children through some legislative reforms (identified), improvements in running of Homes and legal institutions by intervening at points identified by the study and through planning of better need based community programmes for the children in distress.

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ABOUT THE AUTHOR

Author has decades of experience of working with children in need and also institutionalized children managed by the state government and also by registered NGOs. She has worked with the UN system for nearly a decade. She has worked closely with the state government which added on her understanding of the administrative functioning of institutions. During her association with state government Women and Child Development department, it was interesting to note the passion of some of the government officers and inkling to work closely with the children and developing means towards their secure future, post intitutionalisation.



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