

POLICY MAPPING AND ANALYSIS REPORT



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**A Report of
Save the Children, India**

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FOREWORD

The Constitution of India guarantees every child the right to be safe and to be protected from all forms of abuse, violence, neglect and exploitation. This translates into every child in the country having access to basic rights of adequate food, shelter, family care, education, healthcare and play. And yet, when you look around you, in train stations, under flyovers, at traffic signals, you will see large numbers of children on the streets who, are denied of these basic rights, living in poverty, grappling with ill-health, homelessness and susceptible to all types of abuse and exploitation. These children, although visible all around us, often remain “invisible” in terms being able to access their basic rights.

At Save the Children we believe that street children require special attention and measures in order to ensure their rights and protection. While there are policies and programmes in place, there needs to be a comprehensive analysis of whether and how these are benefitting street children. The UK Government’s Department for International Development (DFID) supported project - “Strengthening policy and learning around the care and protection of street children in India” was aimed at understanding and addressing some of these challenges. We undertook a survey in 5 cities - Lucknow, Mughalsarai, Kolkata-Howrah, Hyderabad and Patna – to get an estimation of the number of street children in these cities as well as gain an insight into the quality of their lives. 35 life stories of street children were documented to understand their coping mechanisms on the street and good practices across a range of care models have also been documented. The other two activities under this project included supporting the implementation of ICPS

by strengthening Management Information Systems and establishing and running two transit homes (one each for boys and girls) in Mughalsarai to help children in transit access care, protection and learning. This document focuses on the policy framework and makes specific recommendations on how some of the existing gaps might be filled. It advocates for age-specific interventions, early intervention, and establishing a network of transit shelters equipped with basic facilities and services. It suggests that we explore family based alternatives to rehabilitation.

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Bidisha Pillai

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CONTENTS

List of Abbreviations	7
Credit	9
Executive Summary	11
Major Findings	15
1. Introduction	17
1.1. Definition and profile of street children	17
1.2. Major vulnerabilities of street children	19
1.3. Needs analysis of street children	20
2. Study Objectives and Methodology	23
3. Normative framework of government policy towards street children	25
3.1. Rights and protections for street children	25
3.2. The National Policy for Children, 2013	28
4. Analysing government interventions for street children	29
4.1. Interventions at the central government level	29
4.2. Interventions at the state government level	31
4.3. Interventions at the local government level	32
4.4. The experience of government interventions for street children	32
4.4.1. Interventions for children in need of care and protection	32
i. Juvenile Justice (Care and Protection of Children) Act	32
ii. Integrated Child Protection Scheme	34
iii. National Policies for Drug and Substance Use	38
iv. Commissions for Protection of Child Rights Act	39
v. Night Shelters for the Urban Homeless Programme	39
4.4.2. Interventions for out of school children	40
i. Right of Children to Free and Compulsory Education Act	40
ii. Sarva Shiksha Abhiyan Schemes for OOS children	40
4.4.3. Interventions for child workers	43
i. Child Labour (Prohibition & Regulation) Act and the National Policy for Child Labour	43
ii. National Child Labour Projects	44

5. International experience of policy making as regards street children:	
A short overview	47
5.1. Latin America and Brazil	49
5.2. Philippines	50
5.3. Learning from Brazil and Philippines	53
6. Recommendations and Conclusion	54
6.1. Street children: Ending a policy blind spot	54
6.2. Role of central government	55
6.3. Strengthening national and state commissions	56
6.4. Interventions at the state government level	56
6.5. Interventions at the local government level	57
6.6. Major state approaches recommended for street children	58
6.6.1. Designing age-specific interventions for street children	58
6.6.2. Phasing out of custodial childrens' homes	58
6.6.3. Establishing a large network of drop-in shelters with feeding, health-care, de-addiction and rehabilitative services	58
6.6.4. Establishing family based alternatives for street children	58
6.6.5. Establishing a large network of urban residential hostels for all street children	59
6.6.6. Continuum of care: RTE	59
Annexure: Comprehensive commentary on approaches recommended for street children	60

List of Tables

Table 1.1: Street children estimates in India and the world	19
Table 3.1: Rights and protection for street children	26
Table 4.1: National policies of relevance for street children	30
Table 4.2: Laws and institutions that exist to protect child rights	31
Table 4.1a: Number of child care institutions funded under the Integrated Child Protection Scheme	35
Table 4.2a: Details of open shelters funded under the ICPS	35
Table 4.3: Funds provided to state governments under the Integrated Child Protection Scheme	36
Table 4.4: Capacity and occupancy of child care institutions funded under the ICPS	37
Table 4.5: Per child expenditure* for NRSTCs, RSTCs and residential hostels (in rupees)	41
Table 4.6: Estimates of OOS Children	42
Table 4.7: Targeted enrolment of OOS Children in Non-residential Special Training Centres (NRSTCs), Residential Special Training Centres (RSTCs) and residential hostels in 2014-15	42
Table 4.8: Grants released to states under the NCLP scheme	45
Table 4.9: Children rehabilitated under the NCLP scheme	46
Table 5.1: Brazil - key indicators	48
Table 5.2: Philippines - key Indicators	51

LIST OF ABBREVIATIONS

BRICS	– Brazil, Russia, India, China and South Africa
CCI	– Child Care Institutions
CES	– Centre for Equity Studies
CARA	– Child Adoption Resource Information and Guidance System (CARA)
CID	– Criminal Investigation Department
CLPRA	– Child Labour (Prohibition & Regulation) Act
CPC	– Child Protection Committee
CPCR Act	– Commissions for Protection of Child Rights Act
CWC	– Child Welfare Committees
DCPC	– District Child Protection Committee
DCPO	– District Child Protection Officer
DCPS	– District Child Protection Society
DCPU	– District Child Protection Unit
FIR	– First Information Report
ICDS	– Integrated Child Development Services
ICPS	– Integrated Child Protection Scheme
IPS	– Indian Police Service
JJ Act	– Juvenile Justice (Care and Protection of Children) Act
JJB	– Juvenile Justice Board
KGBV	– Kasturba Gandhi Balika Vidyalaya
MoHFW	– Ministry of Health and Family Welfare
MoHRD	– Ministry of Human Resource Development
MoSJ&E	– Ministry of Social Justice and Empowerment
MWCD	– Ministry of Women and Child Development
NCLP	– National Child Labour Projects
NCPCR	– National Commission for Protection of Child Rights
NPCL	– National Policy on Child Labour
NGO	– Non Government Organisation
NHRC	– National Human Rights Commission
NIPCCD	– National Institute of Public Cooperation and Child Development
NRSTC	– Non Residential School Training Centre
NUHM	– National Urban Health Mission
OOS	– Out Of School
PCO	– Public Call Office
RPF	– Railway Protection Force
RSTC	– Residential School Training Centre
RTE Act	– Right to Education Act
SAA	– Specialised Adoption Agency

- SCPC** – State Child Protection Committee
- SCPS** – State Child Protection Society
- SFCAC** – Sponsorship and Foster Care Approval Committee
- SARA** – State Adoption Resource Agency - Child Adoption Resource Information and Guidance System (CARA)
- SCPCR** – State Commission for Protection of Child Rights
- SHO** – Station House Officer
- SJPU** – Special Juvenile Police Units
- SOPs** – Standard Operating Procedures
- SP** – Superintendent of Police
- SSA** – Sarva Shiksha Abhiyan
- UK Aid** – United Kingdom Aid Agency
- UNCRC** – United Nation Convention on Child Rights
- UNICEF** – United Nations Children’s Emergency Fund
- URH** – Urban Residential Hostel

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EXECUTIVE SUMMARY

The policy analysis was conceived as a part of evidence generation activity in a larger effort to strengthen and influence policy and learning around the care and protection of street children in India. It combined a desk review of national, state and local level policy environment along with field visits, stakeholder interviews in Lucknow, Patna, Mughalsarai, New Delhi, Hyderabad and Chennai. The target group consisted of street children, government officials, **MWCD, CWCs, MoSJ&E, MoHRD, MoHFW, NCPDR, SCPCR**, Police, and caregivers in institutional, non-institutional, government and non-government settings.

Initially, a policy mapping exercise was conducted that analysed different national policies of relevance to street children, within the framework of the **UNCRC**. This helped reveal the fact that there is no policy specifically dealing with street child issues. Most policies did not cater to street children as a target group with many not even explicitly mentioning them. The National Policy for Children, 2013 is the overarching policy that incorporates most of the provisions of the UNCRC. Street children get covered under interventions aimed at broader, vulnerable groups of children, especially those for children in need of care and protection, child labour and out-of-school children.

These children lead a tough life on the streets without adult protection. Most of them are engaged in hazardous work, and are dependent on this work for their day-to-day survival, with their fundamental rights being violated every day. The rights of a street child to survival, protection, education, health, nutrition, freedom from child labour and above all enjoying a normal childhood are enshrined in our constitution under various provisions. Acts passed by Parliament like the **JJ Act, 2000 as amended in 2006**, The Children's Act 1960, **CPCR Act 2005** and **RTE Act**

2009 guarantee fundamental rights to vulnerable children like street children, and institutions formed under these Acts like children's homes, observations homes and national and state CPCR provide the apparatus for fulfilment of those rights.

The ministries and departments of the central government are the primary authorities for instituting the aforementioned interventions or programmes with the responsibility of implementation with state and local governments. We find that there are wide disparities in implementation from one state to another. Also in the absence of common country-wide standards of operation, communication amongst state and non-state institutions across states and cities is missing, which is crucial since street children are a mobile population and travel across states.

Central schemes like the **ICPS**, provisions for Out-of-school (**OOS**) children, **URH** under **SSA** and **NCLP** which target vulnerable and disadvantaged children (**URH** specifically targets street children), have not been able to reach the hard-to-reach category of street children. These schemes suffer from poor design and implementation due to capacity constraints, inadequate budgetary allocation, poor utilisation of funds etc. Another lacuna is the insufficient information with regard to street children numbers and profile. Not enough emphasis is laid on gathering data and mapping of street children. Therefore, all state and non-state programmatic interventions put together, reach a very tiny sliver of street children, that too in a sporadic fashion.

An examination of international experience in policy making with regard to street children reveals that in countries like Philippines and Brazil, street children have been looked upon with scorn and contempt and credible

estimates of their actual numbers do not exist, a fate shared with India. Both these countries are signatories to the UN Convention on Child Rights and similar covenants.

The approach of the state in Philippines and Brazil is multi-pronged, focusing on the broad categories in which **UNICEF** defines street children. Close engagement with community and families (rehabilitative approach) in case of children of street families, street based approach of providing education, health & nutrition and vocational and life skills to children living on street with little/irregular contact with families. Lastly, institutional care, foster care and centre based approach towards children who are abandoned, orphaned or have severed ties with families. We also find non-government organizations playing a crucial role in implementation of government programmes.

Therefore, we recommend that the government put an end to this policy blind spot around street children and recognise the unique situation and vulnerability of street children. It put into place specific policy, legal framework, and programmes at all levels of government to comprehensively address their needs, rights and challenges, starting with a mapping of their numbers and profile across the nation.

This policy framework should make specific reference to various policies and laws, indicating how these should work for the needs and vulnerabilities of street children. These include the National Policy for Child Labour, 1987, the National Policy on Narcotics and Psychotropic Substances, 2012 and the National Policy for Drug Demand Reduction, 2014. Rules under the Juvenile Justice (Care and Protection of Children) Act must specifically contain a section about the protection of street children.

The Integrated Child Protection Scheme should contain sufficient resources to reach every street child with the family support, sponsorship, and supported foster care programmes. Also ensure efficient utilisation of funds in schemes pertaining to **CCIs** and open shelters which are of tremendous importance for street children. In fact, CCIs should be modelled more like residential hostels to be of relevance for children living and working on the street.

Right of Children to Free and Compulsory Education Act, 2009, makes education a fundamental right of every child between 6 and 14 years of age, and this includes street children. Provisions for out-of-school children should be made mandatory to include street children as regards establishment of Non Residential Special Training Centres, Residential Special Training Centres and Urban Residential

Hostels. Likewise, the SSA, the central government's flagship scheme for primary education, should contain sufficient funds for urban residential hostels, which can potentially reach the largest numbers of street children (as distinct from urban deprived children) with voluntary, non-coercive, rights based care. **RSTC** (residential special training centre) scheme under the SSA must be specially redesigned to cater to their particular needs. Educationists should be brought in to design high quality bridge courses to ensure mainstreaming of street children with regular schools.

Provisions under NCLP currently focus on children working in factories or similar settings. These should include the 'last' children, such as street children, slum dwelling and migrant children. They are engaged in hazardous employment like waste picking and scavenging, traffic light vending, begging and work in roadside stalls and hotels.

Major state approaches recommended for street children include designing age-specific interventions, as children of different age-groups have different needs. For children between 0-3 years of age, adoption may be a good option whereas for 9-14 years old community based approaches might be considered. Urban residential hostel might be an option for 15-18 year olds with an emphasis on vocational training. In some cases, street based approaches may also be suitable.

Phasing out of custodial children's homes should be considered and they should at most, function as short stay homes. The CWCs need to be carefully staffed through transparent appointments. Communications between CWCs should be strengthened, because street children often cross state borders after they leave home. **DCPU**s should also be made functional in every district.

Government should consider establishing a large network of drop-in shelters with feeding, health-care, socio-psycho counseling, de-addiction and rehabilitative services. It should provide a large number of drop-in shelters in all major urban railway stations and bus stations, as well as other points of assembly of street children. These shall be the first point of contact to both new and older street children.

Government should actively and widely promote family-based alternatives, like adoption, and state-supported foster care, and prepare appropriate schemes for these. However, except for very small children, the long-term future of the child must be based on the informed consent of the child.

The Department of School Education, Ministry of HRD, Government of India, must make a plan for opening sufficient urban voluntary residential hostels for all street children, in a maximum period of 3 years. These plans must be of sufficient scale to cover all street children. These may operate by sharing spaces with existing urban day schools, and could also be located in independent buildings, with children attending regular day schools.

We need to employ better ways of building contact and trust with the children on the streets, of running homes as places of security, love but also learning for life, and of attracting and supporting volunteers. Life skills education could serve as an orientation for this holistic educational model. Further, it also must be recognized that youth without homes and families would need support including for continuing education even beyond 18 years. Therefore, continuum of care and supported group living needs to be carefully looked into.

The children on the street or living and working on the street are mostly runaway from home due to trivial

issues, trafficked or missing or abandoned at some point of time. The intervention at various level often try to institutionalise without following the process as a result they remain confined to the institutions. The parents, particularly in case of missing, keep searching at public places, railway stations or bus stations. Unless the children rescued or intervened are documented and produced before the CWC, which is the ultimate authority to dispense the care and protection of children in difficult circumstances, and are photographed and uploaded on official web-links like missing children portal and khoya paya, enabling the parents and relatives to trace their children. Further, the institutionalization shall be a stop gap arrangement and ultimate aim has to be the address tracing of the families of the children and their voluntary reintegration after assessing the family situation by making use of the technocloy. Post reintegration follow up by the local DCPU needs to be assured so as to ensure that those children are enrolled in educational institutions and least possibility of recurrence of running away or trafficked.

MAJOR FINDINGS

Key findings emerging from the primary fieldwork and secondary research conducted for this study, are as follows:

1. Street children, like all other children, are guaranteed equal and non-discriminatory access to a range of crucial rights and protections under the Indian Constitution and the UNCRC. This normative framework for children's rights also acknowledges the need for special measures to ensure that children with specific vulnerabilities are able to access these rights.
2. The overarching policy framework for promotion of children's rights in India, as laid out in the National Policy for Children, 2013, is highly progressive and incorporates many of the rights and protections guaranteed under the Constitution of India and the UNCRC.
3. However, there are almost no policies, laws, programmes and budgetary allocations in India targeted specifically at street children. Instead, street children are covered under the ambit of interventions aimed at broader, vulnerable groups of children, specifically those for children in need of care and protection, child labour and out-of-school children.
4. Existing interventions for street children in India are, for the most part, instituted and funded by the central government, with responsibility for their implementation delegated to the state and local governments. As a result, there are significant differences in the functioning of these interventions across the country.
5. Irrespective of such local and state-level differences, measures for street children suffer from issues related to poor design and implementation, highly limited capacity and inadequate budgetary allocations. In such an environment, existing interventions struggle to reach out to the most vulnerable and marginalised groups of children, like street children.
6. All state and non-state programmes reach a very tiny fraction of street children with any kind of interventions. The stark reality is that street children survive very hard lives with very little help both from the significant adults of their lives and from the state.
7. A major official approach to street children is to lock them away in custodial institutions, which violate the rights, choice, dignity and spirit of street children. The option to keep them on the streets with informal street-based education and protection violates the street child's rights to comprehensive protection, freedom from work and mainstream education. Progressive approaches on these lines recently introduced by SSA have not taken off.



I. INTRODUCTION

Street children are a ubiquitous part of every big and almost every small city in India. They are visible everywhere in the Indian urban landscape, yet they are surprisingly missing and mostly invisible in most policies for child rights, protection, education, health, water, sanitation, and urban development and welfare policies in general.

Deprived of adequate and appropriate adult protection, education and health-care, street children survive precariously and often bravely in the unsafe environment of city streets. They subsist at the bottom of the social hierarchy in the country and are among the most vulnerable of all children. Despite being a highly visible group, they are often described as ‘invisible’ and ‘hidden’, as they do not have a legitimate identity, recognition or social status that can make them count.

All street children are child workers, mostly in the non-formal sector, and outside the purview of formal education and public health services. India being a signatory to the UNCRC and other international covenants and constitutional provisions guaranteeing rights and protection to disadvantaged children notwithstanding, the street child is mostly not reached, where reached is done so inappropriately, and slips in between the cracks and maze of rights and guarantees.

This review paper tries to map where, if at all, and in what ways the street child may be found in law, policies, and programmes of governments in India, the central or union government, and selected state and urban local governments. Since we find that the street child rarely figures in these official policy and legal documents, the paper further explores the extent and manner in which these laws, policies, and programmes at various levels of governments in India cover other categories of vulnerable children with who the street child partially overlaps. These are the legal categories of the ‘child in need of care and protection’ and child labour; and also the urban deprived out-of-school child. Every street child is all of these – a child in intense need of care and protection, a child worker, and an urban deprived out-of-school child – but by no means is every child in need of care and protection, every child worker and every urban out-of-school child a street child.

I.1. Definition and profile of street children

In this paper, we understand street children as children for whom the town or city street (in the broadest sense of the word, including unoccupied dwellings, parks, parking lots, wasteland, shop corridors etc.) has become her or his habitual abode and/or sources of livelihood, and who

are inadequately protected, supported and supervised by adults¹.

There are two broad categories of street children: children *on* the streets and children *of* the streets.

Children of the street are even more vulnerable than children *on* the streets, because they have no adult protection whatsoever. They are distinguishable from other children of the street as in all such children ties with family have been severed, either through death, displacement, or abandonment, or because the parent is in jail. They may have no parents or other significant care-givers, or maybe abandoned, or lost, or refugees. Alternately they maybe runaways, having escaped to the streets after running away from abusive, violent, alcoholic or irresponsible parents. Since they have no natural home or family to go back to, only the streets, they need comprehensive long term rights-based care for the entire duration of their childhood and youth.

Children on the street, as distinct from children *of* the street, work on the streets, but do retain live and regular contact with their families in the city, who may live on the streets or in slums. They usually return to them at night after work, or sometimes less frequently. However, because of extreme poverty, disability, substance abuse or irresponsible parentage, the children are left largely to their own devices to find their food and money for other needs; and/or the family depends on them to contribute as primary or secondary bread-earners to the family income. Sometimes they work together with their parents on the streets, especially in begging at traffic lights or religious shrines, or in street vending.

UNICEF sometimes also includes a third category, of **children at risk** — consisting of children of the urban poor who form the reservoir from which children living and working in the street emerge. But in this study, we consider only the first two categories as street children.

Children may make the streets their home because of grave family problems including such things as death or incarceration of a parent, alcoholism of father, strained relationships with stepparents, parent separation, abuse, incest, and family violence. Children with families who work on the streets may do so because of the extreme poverty and vulnerability of their parents, such as children of homeless mothers, or for some of the extreme family situations described earlier.

These children who live and work on the streets very early in life take on the full responsibilities of caring for

themselves and in many cases, their families and siblings as well. They often protect themselves by banding together in peer groups, which become like a support system for them.

Street children engage themselves in many trades, which can range from selling wares at traffic signals, water bottles at railway platforms, employment in roadside food stalls, garages, street vending, vending at traffic lights or other non-formal sector activity. They are often exploited by employers and the police, which make them an extremely vulnerable group. At an early age, all street children learn to earn and work: sometimes they learn to beg, at places of worship or traffic lights, or they forage in rubbish heaps not only for food but also for various materials that can be sold for recycling. As they grow older, girls may be drawn into casual street-based sex work, whereas boys may diversify from rag picking to working in garages and catering establishments, or as bus or railway porters, or traffic light salespersons, and sometimes in petty crime. Studies show that children on the street are more likely than those in regular contact with their families to earn money though illegal means.

In a country with a well-developed census system, and large-scale sample survey studies as well, it is remarkable how little is known with certainty about the full numbers of street children. Street children escape attention and counting in all official censuses and surveys, including the decadal censuses, official national sample surveys, as well as surveys of out-of-school children. Censuses are conducted around surveying people who live in 'census houses', and are not designed for people who are homeless. There are now one-night surveys of the homeless, but these are grave under-estimates, because homeless people are a highly mobile, difficult-to-find category, who survive by keeping out of sight of all state authorities. Census officials are not trained in the methodology of seeking out these populations, and also building trust with them.

The survey even more make invisible street children that street adults, because census officials are not at all oriented to finding and surveying what are in effect child-headed households, often of single children, who do not live in census houses. The reasons why no official statistics exist to the exact number of street children include the fact that they are powerless and very hard to reach. Street children are an extremely mobile group, part of the floating population in every city where they dwell. They usually do not have any proof of identification or residence; hence they do not exist in government records. Surveys by education departments of urban out-of-school children, as we shall see below, tacitly search for children who live with families and in homes who are not in school. Therefore they too mostly exclude street children.

¹ This definition of street children derives from but builds further on the definition by UNICEF (2005),

Table 1.1: Street Children estimates in India and the world

Sl. No.	Area Covered	Agency	Number of street children
1	Delhi	Save The Children survey 2011	50,923
2	Mumbai	TISS-ActionAid Census 2013	37,059
3	Hyderabad	Save the Children Survey 2016	28560
4	Kolkata – Howrah	Save the Children Survey 2016	21907
5	Patna	Save the Children Survey 2016	21968
6	Lucknow	Save the Children Survey 2016	10771
7	Mughalsarai	Save the Children Survey 2016	1399
8	All over the World	UNICEF 2003 ²	100,000,000
9	India	UNICEF 1994 ²	11,000,000
10	Bombay, Calcutta, Madras, Kanpur, Bangalore and Hyderabad	Indian embassy 2010 ²	314,700
11	Delhi	Indian Embassy 2010 ²	100,000
12	World	UN sources ³ , currently	150,000,000

Small mostly non-official surveys have been conducted in a few cities to ascertain the exact numbers of street children. Table 1.1 summarises the available data, or the lack of it, on street children.

The comprehensive failures of states to count and survey street children is why they are often referred as ‘hidden’ or ‘invisible’ despite their high visibility on the streets of the country. This officially ‘hidden’ nature of their existence contributes to substantially keeping them out of the domain of the government’s legal and programmatic interventions. As we discuss later, though they are not targeted directly in government interventions, they are generally considered to be part of the pool of the beneficiaries categorized as ‘child in need of care and protection’ or ‘out of school children’. Nevertheless, it is very important to cast a special lens on street children, as their unique vulnerabilities require singular and pointed targeting.

1.2 Major vulnerabilities of street children.

The fact that street children are out on the streets to fend on their own with little or no family support presents tall and unique challenges in their lives, including with respect to food security, health and nutrition, education, water, sanitation and health services, coping mechanisms, protection (from abuse), and work.

² <http://www.childlineindia.org.in/street-children-india.htm>

³ <http://www.unesco.org/new/en/social-and-human-sciences/themes/fight-against-discrimination/education-of-children-in-need/street-children/>

i Food security

A street child mostly does not know where his or her next meal would come from as there is no fixed place or time where and when she or he gets their meals. Also the quantity, nutrition or composition of food he or she gets to eat is not known or of choice. They often look for leftover food from hotels, restaurants, trains at railway stations, roadside food-stalls and garbage bins. Many instances of substance abuse happen as a result of un-satiated hunger.

ii. Health and nutrition

Street children are not able to meet their nutritional requirement owing to a lack of wholesome or adequate food available to them. They often suffer from nutritional deficiencies and malnutrition. Theirs is subsistence living, barely enabling them to survive. As per a study in Mumbai⁴, around 15 per cent children were addicted to substances like drugs, tobacco, whitener, shoe polish. In addition, one in four children admitted not taking regular meals due to lack of money, illness, injury or dependence on others. Most street children in India lack access to medical care, which is especially detrimental during times of illness or injury. They do not have appropriate winter clothing which makes them especially vulnerable to falling sick during cold winter months, besides falling prey to seasonal diseases as they are constantly exposed to the elements throughout the year. Lack of sanitation in their immediate surroundings, as many

⁴ TISS-ActionAid Census 2013

of them work as rag pickers spending considerable time close to garbage dumps, makes them susceptible to skin and vector-borne diseases.

iii. Education

Most street children have received very little or no education. As most of them lack any identity or residence proof, they generally slip through the cracks in the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (hereafter described as RTE) which guarantees education to all till the age of 14. As per a study in Mumbai⁵, around 24 per cent of street children in school going age were illiterate, while in Delhi approximately 50.5 per cent children were illiterate⁶. Children of the street (living and working on the street) are even much harder than children on the street to reach with regular mainstream education. RTE mainly guarantees free and compulsory education in neighbourhood government schools. The implicit assumption is that the main barrier to a child accessing education is the costs and distance of a school and admission barriers. But for a street child, the barriers are even more profound. The child does not have a home, and often does not have a family. Therefore merely a school in the neighbourhood will not actually be available to a child who still has to find her/his own food, clothes and a place to sleep at night.

iv. Water, Sanitation and Hygiene

There is no easy access to clean drinking water or water for bathing purposes for street children. They have to make do with public taps at different places, in particular at railway stations which are a major source of drinking water for them. Street children also lack restroom facilities, demonstrated by the fact that 26.4 per cent of the children used the roadside or railway line for their toilet. For water, the children reported asking restaurants or hotels for water (69.1 per cent) or using pipes and water taps (15.6 per cent)⁷. They can often be seen taking bath in public view. This lack of proper sanitation facilities and hygiene coupled with poor quality drinking water contributes significantly to their poor health.

v. Protection and abuse

A close examination of the lives on street for children throws up an appalling picture of abuse and lack of any kind of protection and sense of security amongst them which is crucial in healthy development of children. Over two out of five children report witnessing verbal, physical

or sexual abuse, torture, and forced starving⁸, but the real incidence is likely to be even higher because street children require an environment of trust if they are to share fully. Despite staying and moving about in peer groups, over 50 per cent spoke of some kind of abuse—verbal, physical and even sexual, sometimes at the hands of policemen⁹. As they have no social status and no adults to protect them, street children identify being physically threatened and intimidated by adults as the one factor that contributes most to the misery of living on the streets¹⁰. The primary reason for this is the scorn and loathing with which police and general public view them, reacting to them with hostility.

vi. Work and employment

Work or engagement in economic activity is a primary factor for existence and a common thread that unites not only street children in India, but across the world. They are mostly engaged in non-formal sector where they at times pick up odd jobs like selling wares at traffic signals or illegally bottled water and are often regarded as a nuisance by local authorities. It is difficult to estimate their numbers employed in big and small scale industrial units as access to them is difficult and often denied by employers. As per the Save the Children survey (2011) in Delhi, most of the children are engaged in rag-picking (20.3 per cent) followed by vending (15.18 per cent), begging (15 per cent), working in roadside stalls or repair shops (12.19 per cent), *dhabas* or informal eateries (6.24 per cent) and manufacturing units (1.22 per cent). Earning on an average about Rs 2,240 per month, over 57 per cent of the street children visit their homes periodically and hand over about half their earnings to parents, relatives, gang leaders and even the police.

1.3. Needs analysis of street children

A street child has similar needs and requirements as any other child, only his or her peculiar situation, which is representative of the larger malaise plaguing our society, prevents him or her from leading a normal life and enjoying a carefree and playful childhood. Street children in India have been described by some scholars as “a manifestation of societal malfunctioning and an economic and social order that does not take timely preventative action”¹¹.

⁸ TISS-ActionAid Census 2013

⁹ Save the Children study in Delhi, 2011

¹⁰ https://en.wikipedia.org/wiki/Street_children_in_India Chatterjee, A. (1992). "India: The forgotten children of the cities". Florence, Italy: Unicef. Retrieved February 20, 2012.

¹¹ https://en.wikipedia.org/wiki/Street_children_in_India Bose, A.B. (1992). "The Disadvantaged Urban Child in India". Innocenti Occasional Papers, Urban Child Series. Retrieved February 20, 2012.

⁵ TISS-ActionAid Census 2013

⁶ Save the Children study in Delhi, 2011

⁷ https://en.wikipedia.org/wiki/Street_children_in_India



Children living on the street have been forced to live by their wits on the street, find food, work or beg to get money, fight for whatever they need, fend off older bullies and all the time often carry a well of emptiness in themselves because the significant adults in their lives have failed them. They are typically extremely resilient and some of them bounce back even after severe maltreatment. They live in the present moment and get what joy they can, when they can.

In general, as noted, street children suffer from many denials and vulnerabilities: these include deprivation of responsible adult protection; coercion to work to eat each day; work in unhealthy occupations on streets like rag-picking, begging and sex work; abysmally poor sanitary conditions; inadequate nutrition from begging, foraging and food stalls; a range of psycho-social stresses; physical abuse and sexual exploitation; and exposure to hard drug abuse

The unique situation in which street children find themselves warrants specific solutions as well. These solutions can be arrived at after examining their specific needs and requirements. One of the imperative requirements is to conduct census in various cities to ascertain their exact numbers. Providing an identity to them will help in their targeting through government interventions and reduce their 'invisibility' or hidden' character. As street children are a floating population that moves often, they require a flexible, rights-based, comprehensive care approach in designing schemes that target them.

But it must also be remembered that children also have agency, and must be consulted in all decisions about their future. However, street children in particular often exercise agency against the significant adults of their lives, at great risk and cost to themselves, therefore work with street children must always be designed in ways that respect the agency, freedom and choice of the street child.



2. STUDY OBJECTIVES AND METHODOLOGY

The key objective of this study is to comprehensively map existing government interventions – law, policy and programmes - related to street children in India. Our aim is to evaluate how those interventions which are meant to serve the needs of street children, such as they exist, function in reality, and whether street children are actually able to access them. To this end, we also examine the factors which result in the exclusion of street children from such interventions, and consequently a denial of their rights. At the same time, positive examples of interventions that have been successful in reaching out to street children are also discussed.

Because our study showed at an early stage the sad reality that regrettably there are almost no government measures focused exclusively at street children in India, we decided to also look at laws, policies and programmes for categories of vulnerable children of who street children are an important sub-group. These include, inter alia, ‘children in need of care and protection’, a legal category mentioned in the Juvenile Justice Act, ‘urban

out-of-school children’, a programmatic category in Sarva Shiksha Abhiyan, and ‘child labour’ under the Child Labour Act. All of these generally identify street children as a crucial sub-group. All street children are ‘children in need of care and protection’, ‘urban out-of-school children’, and ‘child labour’. But not all ‘children in need of care and protection’, ‘urban out-of-school children’, and ‘child labour’ are street children.

Therefore the study aims to understand how the State provides for the care and protection of street children in India. This will involve an analysis of the following:

- i. Laws, policies, programmes and budget
- ii. allocations specifically targeted at street children

Laws, policies, programmes and budget allocations targeted at other categories of children which overlap significantly with street children.

For this study, we examined in detail policies, laws and programmes in which there is an **explicit mention** of

street children as a target group, either as the major focus of the policies, laws and programmes, or as a sub-set of these.

The study will look at such interventions at the level of the union government, as well as in three selected states (Bihar, Delhi and Telangana) and four selected local governments (Chennai, Hyderabad, Mughalsarai and Patna). These states and cities were purposively selected, to ensure diversity of geography, policy environment, experience and approach. Some key government departments of direct relevance to this study include the ministries of Women and Child Development, Human Resource Development, Labour, and Health.

Methodologically, the study used the United Nations Convention on the Rights of the Child (UNCRC) as a starting point to identify the key rights and protections guaranteed to all children, as well the Indian Constitution. Thereafter, tried to examine relevant laws, policies, programmes and budgets to evaluate whether such governmental interventions are able to ensure the

provisioning of these rights and protections for street children, in both letter and spirit. Indirect rights violations, wherein exclusions in certain areas, like housing and sanitation, have a follow-on impact on crucial rights like education and health, were also looked at.

The study attempted to combine detailed secondary research with field visits and stakeholder interviews in the selected study areas to arrive at a picture that details the government vision and strategy in tackling street child issues, institutional mechanisms in place and their functioning. In terms of primary research, we rely extensively on interactions with policymakers, government officials, social sector workers, activists and other stakeholders involved in the protecting of the rights of street children and implementing interventions of relevance to them. For secondary analysis, we look primarily at parliamentary questions raised in the Lok Sabha and Rajya Sabha, reports by the relevant Parliamentary Standing Committees, minutes of the Project Approval Board (PAB) meetings for relevant government programmes and existing research by organisations working on issues of street children.



3. NORMATIVE FRAMEWORK OF GOVERNMENT POLICY TOWARDS STREET CHILDREN

Rights accorded to children can be understood as enshrined within constitutional provisions for street children, United Nations Convention on the Rights of the Child (UNCRC) and international covenants ratified by India, as well as derived from the Indian legislations and law. Constitutional provisions guaranteeing rights and protection to everyone especially the disadvantaged, form the core of the normative framework guiding government policy towards street children.

3.1. Rights and protections for street children

Children's rights have been secured in a host of international covenants and treaties that India is a party

to, the most prominent of which is the United Nations Convention on the Rights of the Child (UNCRC). Many of these rights are also enshrined in the main text of the Indian Constitution and the Directive Principles of State Policy. Within this normative framework of children's rights, three crucial principles guide the state's obligations towards the care and protection of street children as depicted in *Table 3.1: Rights and protection for street children*: the right to life, equality and non-discrimination in access to rights, and special protections for children and vulnerable groups.

These rights enshrined in our constitution provide a clear basis for active state intervention to address needs of children on the street.

Table 3.1: Rights and protection for street children

Basic rights enshrined in constitution for care and protection of street children	
Right to Life	Article 21 provides for inherent right to life Judicial pronouncements interpreting right to life to include access to range of rights
Right to equality and non-discrimination	Articles 14 and 15 establish principles of equality and non-discrimination in access to various provisions
Special protection for children and vulnerable groups	Article 39(f) and 46 of directive principles of State Policy requires children develop in a healthy manner with freedom and dignity and protection from exploitation. Focus on education and economic interest of weaker sections Article 15 allows for affirmative action for children and socially and educationally backward groups
Specific rights guaranteed in constitution and of relevance for street children	
Rights related to Child Protection	Article 24 prohibits child labour Article 23 prohibits human trafficking Articles 20 & 22 deal with access to justice writ arrest and detention
Rights related to education and development	Article 21A guarantees free and compulsory education to all children in ages 6-14 years Article 45 requires early childhood care and education to all children
Rights related to survival, health and nutrition	Article 47 of directive principles of state policy It recognizes states duty to raise level of health, nutrition and standard of living of people

i. The right to life

Article 21 of the Indian Constitution and Article 6 of the UNCRC provide for an inherent right to life for all children, and oblige the state to undertake steps to ensure their survival and development. The Indian judiciary has, through its judgements, frequently interpreted the right to life to include access to a range of other rights and protections that are deemed necessary for life *with dignity*.

ii. Equality and non-discrimination in access to rights

Articles 14 and 15 of the Indian Constitution and Article 2 of the UNCRC clearly establish the principles of equality and non-discrimination in the application of their various provisions. They require the government to ensure equal and non-discriminatory access to rights for marginalised and vulnerable groups, who face high levels of discrimination.

iii. Special measures for children and vulnerable groups

Article 15 of the Constitution allows for special provisions and affirmative action for children and socially and educationally backward groups. Article 46 of the Directive Principles of State Policy, calls on the state to pay special attention towards promoting the educational and economic interests of the weaker sections of society. There are similar provisions under the UNCRC for special protection and assistance to particular categories

of children, including children who are deprived of a family environment (under Article 20). More broadly, Article 39(f) of the Directive Principles requires that the state direct its policy so that children can develop in a healthy manner and in conditions of freedom and dignity, and are protected against exploitation and moral and material abandonment.

Taken together, these three principles provide a clear basis for active state intervention to address the needs of children on the street, who face an acute denial of a range of rights that are crucial for their survival and development. Importantly, they also highlight the importance of special and targeted efforts to tackle the marginalisation and vulnerabilities of street children, in addition to existing interventions which deal children more generally. While the range of rights and protections guaranteed to children is quite broad, some areas of key relevance to street children are discussed here:

a. Rights related to protection

Child protection covers a broad range of rights, guaranteed under the UNCRC and the Indian Constitution, which are of crucial importance for street children. Article 32 of the UNCRC protects children from performing hazardous work or work that is likely to negatively impact their education, health and development. State parties are also required to institute a minimum age for employment and appropriate regulatory and enforcement mechanisms. Employment of children below fourteen years of age in hazardous work is also prohibited under Article 24 of

the Indian Constitution, and Article 39(e) of the Directive Principles of State Policy protects children from being abused and forced by economic necessity to enter occupations unsuited to their age or strength.

Prohibitions on human trafficking and forced labour under Article 23 of the Indian Constitution also apply to children. The UNCRC, under Articles 19 and 36, provides for strong protections for children against all forms physical or mental violence, abuse, neglect and exploitation, while Article 39 requires that the state provision for the physical and psychological recovery and social reintegration of child victims. There are provisions dealing with sexual exploitation and abuse of children (Article 34), and their abduction, sale and trafficking (Articles 11 and 35). Additionally, an optional protocol to the UNCRC deals specifically with the sale of children, child prostitution and child pornography. Article 33 of the UNCRC calls on state parties to protect children from the illicit use of drugs and psychotropic substances, and the use of children in their production and trafficking. For children placed in an institution, Article 25 of the UNCRC also provides for a periodic review of their situation.

In terms of access to justice, broad protections with respect to arrest and detention of individuals, and their

conviction for offences are guaranteed by the Indian Constitution (under Articles 20 and 22) and the UNCRC (under Articles 37 and 40). The CRC also lists a range of special protections for children with respect to the administration of juvenile justice, including protection from capital punishment and life imprisonment without possibility of release; the use of arrest, detention or imprisonment of children only as a last resort, for the shortest time possible and with due consideration to the specific needs of children; and the establishment of laws, procedures, authorities and institutions specifically applicable to child offenders.

b. Rights related to education and development

The right of the child to education, including free and compulsory primary education and access to different forms of secondary and higher education is guaranteed under Article 28 of the UNCRC. Article 21A of the Indian constitution guarantees free and compulsory education to all children from the age of 6 to 14 years, while Article 45 requires that the state endeavour to provide early childhood care and education to all children until they complete the age of six years. Importantly, both the



Indian Constitution and UNCRC look at education in broader terms, rather than purely in terms of access to schooling. Thus, Article 29 of the UNCRC lays down key guiding principles to ensure that the education results in the holistic development of children. Similarly, Article 31 guarantees a child's rights to rest and leisure, to engage in play and recreational activities, and to artistic and cultural freedom.

c. Rights related to survival, health and nutrition

Article 27 of the UNCRC recognises the right of a child to an adequate standard of living, particularly with regard to nutrition, clothing and housing, and calls on the state to provide the material assistance and support programs necessary for the fulfilment of this right to parents or guardians. Access to health services is specifically guaranteed under article 24 of the UNCRC, which also identifies major areas where state parties must take appropriate measures to ensure the full implementation of this right. Similarly, Article 47 of the Directive Principles of State Policy recognises the state's duty to raise the level of health and nutrition and the standard of living of its people.

d. The right to an identity

Articles 7 and 8 of the UNCRC guarantee the right of children to be registered immediately after birth, and to have and preserve their identity, including a name, nationality and family relations. The Registration of Births and Deaths Act, 1969 enables for official recording of birth of a child by a competent authority.

e. Rights and responsibilities of the family

While the Indian Constitution does not address the right to children to parental care, the UNCRC, under Article 18, explicitly recognises the primary responsibility of parents and legal guardians for the upbringing and development of the child, as long as they are deemed to be acting in his or her best interests. It also calls on the state to provide appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities. Article 9 of the UNCRC states that a child should not be separated from the parents against his or her will, except when this is considered necessary for the best interests of the child.

f. The right to be heard

While the primary responsibility of a child rests with the family, Article 12 of the UNCRC recognises the right of

a child to freely express his or her views on all matters affecting the child, and states that due consideration must be given to these views, in accordance with the age and maturity of the child. In particular, children have the right to be heard in any judicial and administrative proceedings which affect them.

3.2. The National Policy for Children, 2013

The National Policy for Children, revised most recently in 2013, is an overarching policy that is meant to guide and inform all government interventions affecting children. The policy is a generally progressive document in principle, which adopts a rights based approach to addressing the situation of children in India and incorporates many of the rights and protections guaranteed under the UNCRC. It emphasises that the best interests of a child must be the primary concern in all decisions and actions affecting them and that a child's own views must also be adequately considered. The rights of a child to grow up in a family environment and the need to support families in caring and nurturing their children are also reaffirmed in the policy. The policy identifies some key priorities, including survival, health, nutrition, development, education, protection and participation. It goes on to detail a range of efforts and measures that must be undertaken by the government in each of these priority areas.

While the National Policy for Children does not specifically mention street children, it recognises that children are not a homogenous group and that special efforts are required to respond to the needs of children living in difficult circumstances, who face multiple-dimensional vulnerabilities which require a specific response.¹² It also emphasises the need to tackle discrimination and ensure that all children have equal access to their rights.¹³ The policy thus places a clear obligation on the government to ensure that street children and other highly vulnerable categories of children are included within the ambit of its interventions.

Therefore we have a situation in which the over-arching international normative and policy framework contain many elements which are critical for street children. But as we will observe in the next sections, very few of these principles have been fleshed out and operationalised bearing in mind the unique situation and vulnerabilities of street children.

¹² Preamble of the National Policy for Children, 2013

¹³ Guiding principles of the National Policy for Children, 2013



4. ANALYSING GOVERNMENT INTERVENTIONS FOR STREET CHILDREN

There do not exist, at present, any government laws, policies or programmes that cater exclusively to street children and very few that even cater primarily to them. However, there are a few interventions targeted at sections of the child population where street children are represented in significant numbers – as noted earlier - children in need of care and protection, out-of-school children and child workers. Within many policies, laws and programmes aimed at these groups, street children have also been identified as a major sub-group to be targeted. Such interventions, *which make an explicit mention of street children*, are analysed in detail in this part of the report.

4.1 Interventions at the central government level

There is no specific national policy for street children in India. However, the principles of equal and non-discriminatory access to rights for all children and the need for special measures to ensure that vulnerable groups, like children on the street, are able to effectively access these rights have been clearly outlined in the UNCRC and the Indian Constitution. The National Policy for Children, 2013 also calls for these principles to be followed in the design and implementation of government interventions for children. Specifically, the policy makes an

Table 4.1: National Policies of relevance for street children

Types of Policies* targeting children	Names
Specifically mentioning street children [^]	National Policy for Children 2013 (Original Policy: 1974) Integrated Child Protection Scheme (ICPS revised) 12th Plan 2012-17 National Health Policy 2015 (Draft) RMNCH+A 2013 National Education Policy (Revised), 1992 (Original Policy: 1986) National Policy on Narcotics and Psychotropic Substances, 2012 National Policy for Drug Demand Reduction, 2014 National Plan of Action for Children 2005 (NPAC)
Targeting disadvantaged children in general, not specifying street children in particular	National Policy for Persons with Disability, 2006 National Policy for the Empowerment of Women, 2001 National Urban Sanitation Policy, 2008 National Skill Development Policy, 2009 National Disaster Management Policy, 2009 National Policy on Urban Street Vendors, 2009 National Policy on child labour 1987 National ECCE Policy, 2013 National Youth Policy 2014 National Nutrition Policy 1993
Do not mention children as a target group but identify disadvantaged families (socio-economic status, geographic location etc.)	National Housing & Habitat Policy, 2007 National Resettlement & Rehabilitation Policy, 2007

*Twenty National Policies of relevance for street children were examined for the purpose of the study

[^]Despite direct reference to street children in some policies, their specific challenges are not addressed for example, difficulty in reaching them, their protection and education.

explicit reference to street children in its categorisation of groups that comprise out-of-school children and children in need of care and protection as indicated in the *Table 4.1 National Policies of relevance for Street Children*

While the normative framework for children's rights in India as laid out in the National Policy is quite progressive, the challenge remains to ensure that these rights are truly accessible to all children, and particularly those groups of children who face an acute denial of their rights. In reality, street children find little mention in the range of central government interventions aimed at children. Recent national policies on substance use – namely, the **National Policy on Narcotics and Psychotropic Substances, 2012** and the **National Policy for Drug Demand Reduction, 2014** – do explicitly identify street children as a target group, but do not address adequately about how services for this hard-to-reach group of children should be organised. Besides these and the **National Policy for Child Labour, 1987**, there are no current policy interventions related to child protection, an area of crucial importance to street children.

Within the legal framework governing child protection issues in India, the **Juvenile Justice (Care and Protection of Children) Act** is the primary legislation dealing with children in need of care and protection and children in conflict with the law. Amendments made to the Act in 2006 explicitly identify street children as children

in need of care and protection. Here once again the challenge remains the specific interventions that would succeed in ensuring the care and protection of large numbers of these children with very specific challenges outlined earlier. With the launch of the **Integrated Child Protection Scheme** in 2009, the various institutions and provisions established under the JJ Act were brought under ambit of this flagship government programme for children in need of care and protection and children in conflict with the law.

The **National Policy on Education, 1992**, the primary document guiding the government's education policy in India, does not make a specific reference to the needs of street children. Instead, it focuses on non-formal education to meet the educational needs of school dropouts, working children, and other groups who cannot attend formal schools. However, ensuring equitable access to education for street children and other categories of out-of-school children is a major focus area for the **National Policy for Children**. With the passage of the **86th Constitutional Amendment** in 2002 and the **Right of Children to Free and Compulsory Education Act, 2009**, *mainstream* education is now a fundamental right of every child between 6 and 14 years of age (Please refer to Table 4.2 Laws and institutions that exist to protect child rights). This in turn has resulted in significant government programmes to ensure access to schooling for out-of-school children, through provisions for special training

Table 4.2: Laws and institutions that exist to protect child rights

Acts	Institutions
The JJ Act 2006 (direct reference to street children)	Juvenile Justice Board (JJB) Child Working Committees (CWCs) Observation Homes/Special Homes Shelter Homes and Children's Homes
The Children's Act 1960 (neglected and delinquent children)	Children's homes After care organizations Special Schools
Commissions for Protection of Child Rights 2005 (child in need of care and protection)	National and State Commissions for Protection of Child Rights, works as Civil Courts
Right to Education Act 2009 (disadvantaged group and weaker sections)	School management committees
Child Labour 1986 Orphanages Act 1960	

centres and urban residential hostels established under the **Sarva Shiksha Abhiyan** (hereafter SSA), the government's flagship scheme for primary education. The SSA urban residential hostels, as we shall observe, are in principle the largest and most significant example of a government policy which is designed to cater substantially to the specific needs and vulnerabilities of street children. Therefore, there is clear legislative basis for taking actions in support of street children in the country.

On the other hand, government interventions related to the survival, health and nutrition of children do not explicitly identify street children as a target group with specific vulnerabilities and needs. However, more recently, the **Draft National Health Policy, 2015** has proposed a special focus on street children and other vulnerable groups under the National Urban Health Mission (NUHM) and other efforts aimed at addressing the health care needs of the urban population. The Technical Resource Group set up by the Government of India in 2013 to suggest ways to make the NUHM more effective in reaching the urban poor, makes special mention of street children as a highly at-risk category, and suggests specific measures for street children, such as health-centres at railway stations and bus stands for street children.¹⁴ Similarly, the **National Mental Health Policy, 2014** states that special attention must be paid to vulnerable populations, including the homeless and children in custodial settings, who bear a disproportionate and higher burden of mental health problems. These positive efforts for the inclusion of street children within health policy

initiatives are however yet to be operationalised, in terms of the targeting of street children under relevant laws and programmes.

4.2 Interventions at the state government level

Under India's federal governance structure, states have the primary responsibility for the operationalisation of policies, laws and programmes initiated by the central government on items which are on concurrent or state lists in the Constitution. Many decisions related to the actual implemental of central laws and programmes for children are delegated to state governments. In addition, states can also choose to implement their own interventions for children in general, and vulnerable categories of children in particular. In all of their actions relating to children, state governments are expected to respect and uphold the principles and provisions of the National Policy for Children.

Among the states covered in this study – i.e., Tamil Nadu, Telangana, Delhi and Bihar – there were no examples of state-specific policies, laws and programme targeted at street children. Infact, the role of the state government seems to be largely restricted to implementing existing central government laws and programmes listed above to cater obliquely or partly to the needs of street children. However, there are significant differences from state to state in the performance of these interventions, in terms of the enforcement of laws, programmatic outcomes or related budgetary outlays. Such differences, which are discussed in detail in later sections, reflect the differing priorities and attitudes towards street children of individual state governments.

¹⁴The recommendations of this Technical Resource Group chaired by Harsh Mander are available at https://xa.yimg.com/.../groups/.../Final_Report_and_Recommendation_Technical_Resource_Group_30-04-2014.pdf

4.3 Interventions at the local government level

Local government bodies – municipal corporations in urban areas and *panchayats* in rural areas – also play a crucial role in ensuring that government interventions effectively achieve their intended objectives on the ground. Municipal corporations covered in this study – i.e., Chennai, Hyderabad, Delhi, Patna and Mughalsarai – were generally found to have an extremely limited role in relation to interventions for street children, restricted largely to implementing the directions of the state government. There are a few outstanding examples, like the Chennai municipal corporation's involvement in the Residential Special Training Scheme for out-of-school children, where local government bodies have taken a more pro-active stance in the implementation of existing central and state government programmes. Municipal corporations also have the primary responsibility for implementing the programme of night shelters for the urban homeless, established under Supreme Court directives in the Right to Food case; the central and state governments have a very limited role in this programme, but these have also tended to cater very little to rights-based approaches for street children.

4.4 The experience of government interventions for street children

As discussed in the previous section, government interventions do not exclusively target street children, but rather consider them as a sub-group of vulnerable categories of children, like children in need of care and protection, out-of-school children and child workers. The functioning of interventions catering to these groups is discussed in detail below, with an emphasis on understanding their impact on street children.

4.4.1. Interventions for children in need of care and protection

There does not exist a specific national policy for children in need of care and protection. However, the National Policy for Children recognises that a “safe, secure and protective environment is a precondition for the realisation of all other rights of children” and that children have a “right to be protected wherever they are”. The policy calls on the state to take special measures “to secure the rights and entitlements of children in need of special protection”, including their rehabilitation and reintegration; street children are explicitly identified in the policy as “children in need of care and protection”. Thus,

there is a clear policy basis for government initiatives targeting the care and protection of vulnerable groups of children, over and above those aimed at children more generally. Such initiatives for children in need of care and protection have been implemented primarily through the Juvenile Justice (Care and Protection of Children) Act and the Integrated Child Protection Scheme. To a lesser extent, policy interventions for child drug and substance use, institutions established under the Commissions for Protection of Child Rights Act and urban local government level initiatives for the homeless are also of relevance for street children.

i. Juvenile Justice (Care and Protection of Children) Act

The state in India, first accepted the legal responsibility to look after children without responsible adult protection almost a century back, in the 1920s, when the first Children's Act was enacted by the Madras Presidency in 1920 followed by Bengal in 1922, Bombay in 1924, Andhra (adopted the Madras Act), Delhi (1941), Mysore (1943), Travancore (1945), Cochin (1946) and Punjab (1949). But although the theoretical premise of such legislation was to provide vulnerable children care and protection by the state, its language and provisions were overlaid with the bias that the child who is deprived of family care is ‘bad’, or at least potentially bad, hence they need to be safely locked up, for the sake of the larger society as much as the child.

This attitude still defines the practice of our law for vulnerable children almost a century later, and their continued preference for custodialising children, or in other words involuntarily locking up these children in closed homes, even when the law does not require it. The colonial laws classified these children into different categories such as neglected, orphaned, destitute, vagrant and delinquent children. The neglected, orphaned, destitute and the vagrant children were sent to observation homes, classifying centres, approved schools, remand homes, orphanages, and fit persons' homes; and delinquent children were sent to certified schools, industrial schools, borstal schools and other reformatory institutions.

Later in 1960, the Parliament enacted a central law, the Children's Act, for the Group B provinces, which are now known as Union Territories, to safeguard the children from abuse and exploitation. However, most of the state governments did not enact their own law for the protection of children. As a result, there was no uniformity in how a child was defined and treated. Children were sent to adult jails in some states and were made to live

there with hardened criminals, defeating the very purpose of the law of helping these children's reform. There was no uniformity in terms of implementation of Children's Act in various states and UTs the country. There were differences specially the differential in cut off age defining child resulted into differential treatment to children in different states. Children were reportedly found in various states despite the Children's Acts prohibited the same. In view of this a journalist named Sheela Barse filed a Habeas Corpus writ petition in public interest in 1983 for demanding release of 1400 children illegally confined in various prisons. Consequently Supreme Court of India in Sheela Barse Vs. Union of India 1983 matter suggested the central government to introduce a uniform legislation for children across territories to remove such inequalities. With a view to providing a uniform pattern of justice to the juveniles (young persons) throughout the country, the Juvenile Justice Act (JJA) was enacted in 1986. The Juvenile Justice Act 1986 retained the basic features of the Children Act, 1960 including the sex based definition of child as well as complete prohibition of keeping children in prisons, jails, or police station under any circumstance.

The Act provided for the care, protection, treatment, development and rehabilitation of neglected children and laid down a uniform legal framework to ensure that no child under any circumstances is lodged in jail or kept in police-lock up. But the JJ Act, 1986 was criticised on many counts by child rights activists, most importantly because it laid too much emphasis on institutionalisation of children. The United Nations Minimum Rules for the Administration of Juvenile Justice, i.e. the Beijing Rules, 1985, states that, 'The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period'. Despite this and other experiences indicating that institutions were not the best place for a child to develop in a healthy manner, child rights lawyer Adenwalla affirms that 'children were incarcerated for long periods in closed institutions. Children viewed this incarceration as a punishment' (2002: 86).

Child rights activists also demanded that the law be brought into greater conformity with the UN Convention on the Rights of the Child, which was ratified by the Government of India in 1992. The convention (adopted by the General Assembly of the UN in 1989) emphasizes the social re-integration of child victims, to the extent possible, without resorting to judicial proceedings. The 1986 Juvenile Justice Act was therefore ultimately repealed, and was replaced by the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJA). The Juvenile Justice (Care and Protection of Children) Act (JJ Act) was

passed in 2000, with subsequent amendment in 2006, 2011 and 2015¹⁵. It aims to ensure that laws dealing with children in conflict with the law and children in need of care and protection are in the best interests of the child and are consistent with India's obligations under the UNCRC and other relevant international laws that the country is a party to.

There are many progressive features in the JJ Act 2000. One is that the definition of the term 'juvenile' and 'child' has been altered to mean a person who has not completed the 18th year of age. The term 'neglected juvenile' has been replaced with 'child in need of care and protection,' and the term 'delinquent juvenile' has been changed to a less stigmatised 'juvenile in conflict with law'. Street children are mainly in the first category, but sometimes they are also alleged to have entered into conflict with the law.

In the revised JJA, 2000, the letter of the new Act contains several opportunities in for non-institutional humane alternatives to deal with vulnerable children in need and in conflict with law, to provide them protection and care in families and in the community. One major opportunity contained in the JJA 2000 is the reference in Section 34 to the establishment of children's homes for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation. It is a major opportunity that the letter of the law acknowledges this principle. Section 39 of the JJA clearly lays down that restoration and protection shall be the prime objective of any children's home or the shelter home. It is explained that the child may be restored to parents, adopted parents and foster parents.

The Act is highly relevant for street children since it authorises district-level Child Welfare Committees (CWCs) as the statutory body responsible for dealing with all matters relating to cases of children in need of care and protection, a category which includes street children. A child in need of care and protection must be produced before the CWC, which may place him or her in a children's home or shelter home for the duration of an inquiry into the child's situation, or allow the child to remain in a home if it determines that this is in the best interest of the child. Children's homes and shelter homes may be run by the government or NGOs. In coordination with the CWC, the homes work towards the restoration of children under their care to parents, and where this is

¹⁵ With the 2015 amendments, the JJ Act of 2000 has been repealed and replaced with the Juvenile Justice (Care and Protection of Children) Act, 2015. Unless specified otherwise, 'JJ Act' is used to refer to the earlier Act.

not possible, to adopted or foster parents. There are also provisions under the Act for a sponsorship programme to provide families and homes with supplementary support to meet the needs of children in need of care and protection, and for the establishment of after-care organisations to support children once they have left a home.

The JJ Act also lays down a separate structure for dealing with juveniles in conflict with the law; this includes their handling by specially trained Special Juvenile Police Units (SJPU), district-level Juvenile Justice Boards (JJBs) for the prosecution of alleged offenses, observation homes for temporary reception of juveniles pending an enquiry and special homes for the reception and rehabilitation of convicted juvenile offenders. Special homes are intended as a last resort and to the greatest extent possible, the Act attempts the non-institutional rehabilitation of a juvenile who has committed a crime, through release after advice or admonition, directions to attend counselling or perform community service, payment of a fine, or release on probation of good conduct.

Since its passage, the implementation of the JJ Act has been beset by a range of issues. In particular, a number of decisions in relation to the implementation of the law were delegated to state governments, who were meant to issue rules in this regard. While the Central government has circulated model rules for the Act and its subsequent amendments, many state governments have been slow to issue their own rules or have adapted the model rules. As a result, crucial aspects of this law have not been applied uniformly across states, and there remains confusion among ground level functionaries, like CWC and JJB members, about the applicability and enforcement of its various provisions of the Act at the state level. There is also a lack of clarity about the roles and responsibilities of the CWCs and JJBs, which has invariably had an impact on their functioning.¹⁶ The poor implementation of the JJ Act's provisions and the limited capacities of the statutory bodies instituted under the Act have thus hampered its ability to address the acute and very specific vulnerabilities of children in need of care and protection. This is clearly evident in the high pendency of cases under the JJ Act. As per the latest available data for Delhi, there were 1,549 cases pending before CWCs and 621 cases before JJBs; in Bihar, total pending cases before CWCs and JJBs were 495 and 21,507 respectively¹⁷. The status in other states is unclear, since they have not submitted monitoring reports detailing the pendency of JJ Act cases.

¹⁶ Standing Committee Report on JJ Act, 2015 Amendments

¹⁷ Information from minutes of the FY 2014-15 ICPS Project Approval Board (PAB) meetings of individual states

In order to ensure better understanding and applicability of the law, Juvenile Justice (Care and Protection of Children) Act, 2015 incorporates several relevant model Central rules - for instance, those related to the inspection of homes and to the roles, responsibilities and powers of CWCs and JJBs - into the Act itself. It remains to be seen if these changes are able to ensure better implementation of the law at the state level.

ii. Integrated Child Protection Scheme

Prior to 2009-10 the Ministry of Women and Child Development was implementing a plan scheme named "An Integrated Programme for Street Children" for the welfare and rehabilitation street children under which funds were directly released to the NGOs. The scheme has been merged under the Integrated Child Protection Scheme (ICPS), launched in 2009, has been envisioned as a comprehensive scheme incorporating the entire range of interventions necessary for the effective and efficient protection of children, including the institutions established under the JJ Act. Key programmatic components of the ICPS include:

- a. Emergency outreach services through the Childline 1098 helpline
- b. Open shelters for children in urban and semi-urban areas
- c. Family based non institutional care through sponsorship, foster-care, adoption and after-care,
- d. Institutional care through children's homes, shelter homes, observation homes, special homes and specialised homes for children with special needs, and
- e. Grant-in-aid for specific need-based or innovative projects.

Crucially, the ICPS also establishes a clear mechanism for infrastructure and financial support to the statutory bodies established under the JJ Act, namely the CWCs, JJBs and SJPU. The implementation of scheme is monitored at the district level through a District Child Protection Society (DCPS), District Child Protection Committee (DCPC) and Sponsorship and Foster Care Approval Committee (SFCAC). There are also block and village level Child Protection Committees at the sub-district level. At the state level, the State Child Protection Society (SCPS), State Child Protection Committee (SCPC), State Adoption Resource agency (SARA) and State Adoption Advisory Committee monitor the implementation of various aspects of the scheme. In order to facilitate training and capacity building of functionaries, and relevant research and documentation, the ICPS also provides for the setting up of separate child protection divisions in each of the

Table 4.1a. Number of child care institutions funded under the Integrated Child Protection Scheme

	Government-run homes			NGO-run homes			Total
	For children in need of care and protection	For children in conflict with the law	Specialised adoption agencies	For children in need of care and protection	For children in conflict with the law	Specialised adoption agencies	
Bihar	3	11	-	6	-	10	30
Delhi	12	3	-	-	8	4	27
Uttar Pradesh	19	26	5	19	-	-	69
Tamil Nadu	38	8	-	195	2	15	258
Telangana	35	-	11	-	-	-	46
Andhra Pradesh	52	18	12	-	-	-	82
Total (All-India)	361	278	90	687	63	193	1672

All data is as of December 2014

Source: 'Shelter Homes', Lok Sabha starred Question No. 298, answered on 12 December 2014, Ministry of Women and Child Development, Government of India.

Table 4.2a. Details of open shelters funded under the ICPS

	Total	Existing	Newly approved (FY 2014-15)	Capacity	Occupancy	Occupancy rate (per cent)
Bihar	10	8	2	200	184	92.0
Delhi	14	14	-	385	393	102.1
Uttar Pradesh	30	11	19	275	NA	NA
Tamil Nadu	14	14	-	350	407	116.3
Telangana	12	3	9	75	NA	NA
Andhra Pradesh	14	14	-	350	384	109.7

Capacity, occupancy and occupancy rate are calculated for existing open shelters

Source: Minutes of the FY 2014-15 ICPS Project Approval Board (PAB) meetings of individual states.

four regional centres of the National Institute of Public Cooperation and Child Development (NIPCCD).

Financial norms for various components of the ICPS scheme were most recently revised upwards in April 2014. Key revisions include a rise in the child maintenance grant from Rs 750 to Rs 2,000 per month per child, increase in financial norms for construction and maintenance of a new home for 50 children from Rs. 77.61 lakh to Rs 129.85 lakh, increased financial support for a special unit of 10 children, for children with special needs from Rs. 4.22 lakh to Rs 10.48 lakh, greater flexibility in staffing patterns and enhanced cost of construction¹⁸.

The implementation of the ICPS has resulted in creditable improvement in the funding and monitoring of childcare institutions (CCIs), as well as in the functioning of statutory bodies like CWCs and JJBs. As of December 2014, a total of 1389 homes of various types and 283 Specialised Adoption Agencies (SAAs) were receiving funding under the ICPS. Of these, 639 homes and 90 SAAs were government run, while 750 homes and 193 SAAs

were run by NGOs (refer to Table 4.1a. Number of child care institutions funded under the Integrated Child Protection Scheme). While these numbers are steadily increasing, as funding for additional homes and SAAs is approved each year, it is quite evident that the existing child protection infrastructure is woefully inadequate given the scale of the issue. Under a very conservative assumption, that children in need of care and protection comprise 0.5 per cent of India's urban child population, there are approximately 642,000 such children in the country¹⁹. In contrast, in 2014-15, the ICPS supported a total of 85,069 children through homes and SAAs funded under the scheme²⁰.

Besides CCIs, open shelters in urban and semi-urban areas are an important component of the ICPS with direct relevance for street children. Such shelters, primarily established in partnership with NGOs, aim to provide care in a non-institutional setting for difficult-to-reach categories of children in need of care and protection, like children involved in begging, street children, child

¹⁹ Calculations based on 2011 Census of India estimates of children in urban areas in the 0-18 year age group

²⁰ 'Orphanages in the country', Rajya Sabha unstarred Question No. 1827, answered on 24 July 2014, Ministry of Women and Child Development, Government of India

¹⁸ 'Child Abuse in Orphanages', Rajya Sabha unstarred Question No. 129, answered on 7 May 2015, Ministry of Women and Child Development, Government of India

Table 4.3. Funds provided to state governments under the Integrated Child Protection Scheme (in lakhs)

	2011-12		2012-13		2013-14		Total (2011-14)		
	Sanctioned	Utilised	Sanctioned	Utilised	Sanctioned	Utilised	Sanctioned	Utilised	Utilisation rate (per cent)
Bihar	115	168	872	792	958	515	1,945	1,475	75.8
Delhi	342	335	1,094	319	405	502	1,841	1,156	62.8
Uttar Pradesh	2,142	1,272	1,662	1,609	1,109	1,009	4,914	3,890	79.2
Tamil Nadu	1,277	831	4,327	1,673	2,131	1,542	7,734	4,045	52.3
Telangana & Andhra Pradesh	2,038	1,084	1,689	1,953	1,207	NA	3,728	3,037	81.5
Total (all-India)	15,377	10,612	22,729	18,556	23,473	20,888	61,579	50,056	81.3

Utilisation rate for Telangana and Andhra Pradesh is for the 2011-13 period

Source: Source: 'Shelter Homes', Lok Sabha starred Question No. 298, answered on 12 December 2014, Ministry of Women and Child Development, Government of India.

substance users and child without adult protection. The ICPS provides for a financial allocation of approximately Rs. 20 lakh per year (and additional non-recurring funding of Rs. 5 lakh every five years) for the establishment of each such open shelter catering to 25 children. However, as with institutional care facilities, open shelters have very limited capacity and are only able to reach out to a small fraction of the population of urban vulnerable children (refer to Table 4.2a. *Details of open shelters funded under the ICPS*). Occupancy rates in open shelters in states covered in this study was close to or more than 100 per cent, reflecting significant demand for such shelters.

An analysis of the funding pattern of the scheme (refer to Table 4.3. *Funds provided to state governments under the Integrated Child Protection Scheme (in lakhs)*) illustrates that actual funds sanctioned and released to state governments under the ICPS have also been significantly below budgetary allocations, reflecting poor fund utilisation by states, including in states like Tamil Nadu and Delhi which have been relatively proactive in implementing the scheme. However, it is worrying that instead of making efforts to increase utilisation of allocated funds, the 2015-16 budgetary allocation for the ICPS has been left unchanged from the previous year, at Rs. 402.23 crores, against the projected demand of Rs. 700 crores²¹. It is therefore likely that both budgetary allocations and fund utilisation under the ICPS will be significantly lower than the total fund

allocation of Rs. 3,000 crores made to the scheme for the 12th Five Year Plan period (2012-17)²².

Concerns around the implementation of the ICPS extend beyond issues of limited capacity and poor fund utilisation. As a scheme, the aims of the ICPS were meant to be much broader than merely ensuring the proper functioning of CCIs and statutory bodies. Presently however, crucial aspects of the scheme of high relevance for street children, such as foster care, sponsorship programmes and after care for older children remain highly underdeveloped. There has also been little focus on the training and sensitisation of functionaries and awareness generation activities. As a result, despite its commendable aims, the ICPS lacks a structured mechanism to reach out to children in need of care and protection through proactive and sustained efforts for their identification, rescue and rehabilitation. Instead, interventions under the scheme remain almost exclusively reactive in nature, with a focus on institutionalisation of children.

Some key findings related to the ICPS, based on the primary fieldwork conducted for this study, include:

1. As Table 4.1a highlights, there are significant differences in the state-wise presence of NGOs under the ICPS; while states like Tamil Nadu and Delhi have been proactive in licensing NGO-run institutions under the JJ Act and providing them with ICPS funding, there are also states like Telangana and Andhra Pradesh, where not a single NGO was receiving such funds.

²¹ 'Demand for Grants 2015-16 (Demand No. 108) of the Ministry of Women and Child Development', Department-related Parliamentary Standing Committee on Human Resource Development, Two Hundred Sixty Eighth Report, Rajya Sabha Secretariat, New Delhi, April 2015

²² 'Funds under ICP Programme', Rajya Sabha unstarred Question No. 1819, answered on 24 July 2014, Ministry of Women and Child Development, Government of India

Table 4.4. Capacity and occupancy of Child Care Institutions funded under the ICPS

	Government-run homes			NGO-run homes		
	Capacity	Occupancy	Occupancy rate (per cent)	Capacity	Occupancy	Occupancy rate (per cent)
Bihar	700	753	107.6	600	304	50.7
Delhi	1610	861	53.5	750	618	82.4
Uttar Pradesh	2410	1991	82.6	-	189	NA
Tamil Nadu@	8600	4690	54.5	2440	1839	75.4
Telangana#	2220	1862	83.9	-	-	NA
Andhra Pradesh\$	4870	3957	81.3	-	-	NA

Unless specified otherwise, data is for all homes that receive ICPS funding. Newly approved CCI (i.e. for whom funding was approved for the first time in the 2014-15 PAB exercise) are also included if they are already functioning, like already operational NGO and government-run homes which had not received ICPS funding earlier.

@ Data is only available for 25 NGO-run homes out of a total of 184 such homes funded in the 2014-15 PAB exercise

Data is not available for 7 government run homes

\$ Data is not available for 7 government run homes managed by the juvenile welfare department

Source: Minutes of the FY 2014-15 ICPS Project Approval Board (PAB) meetings of individual states

- As a programme, the ICPS has definitely aided in the improvement of the existing infrastructure for child protection. Yet, the scheme is still very much in a scale up mode, even six years after its launch. In almost all states participating in this study, the mandated number of service delivery structures (SPSUs, SCPSs and SARAs at the state level and DCPUs at the district level) and statutory support services (district level CWCs and JJBs) have been established²³. However, staffing of these institutions remains a serious concern, with states particularly struggling to appoint requisite numbers of staff to DCPUs and support staff, like data entry operators, for CWCs and JJBs. In Delhi for instance, only 19 out of 48 DCPU positions have been filled, while there are also significant shortages of DCPU staff in Uttar Pradesh and Bihar²⁴.
- The CWCs are not a strong institution in every state. In many instances there is no direct communication between CWCs of one state and another.
- DCPUs are also not functional in every district. For example, in Delhi, 2 districts have been clubbed together. In Bihar, CWCs at the block and village level have not been formed
- Corruption is a big roadblock in any meaningful implementation of policies, especially at the level of state governments and district administration. CWC appointments were mostly political appointments in many states, Uttar Pradesh being one such state.
- Survey for vulnerability mapping is a key mandate for the District Child Protection Units. However, budget for the same under ICPS is a constraint. In addition, in states like Bihar, state-wise allocation now vis-à-vis district wise allocation earlier has made access to funds difficult. For example, Rs 30 lakhs for 38 districts in Bihar is inadequate.
- We find that at the ground level there is no convergence of NGOs and other institutions like SAA working on the subject of adoption in Uttar Pradesh. Childline and the SAA do not communicate directly and there is no sharing of information between them. There are issues as regards disbursement of funds to these adoption agencies. Some of the agencies are not receiving funding under ICPS and have to make own funding arrangements.
- Legal adoption formalities take at least 6 months with pre-adoption formalities taking around 4 months. In many instances adoption happens without completing a legal process which is against the law and in such cases there are issues related to sharing of property (reluctance to share property) with the adopted heir.
- Emergency outreach services through the Childline 1098 helpline are also facing issues of inaccessibility, especially after the advent of mobiles and vanishing of PCOs. Access to these numbers has become difficult for street children and the homeless.
- Government-run Child Care Institutions were following the custodial approach towards children particularly those in conflict with law and were stated to be worse than jails. However, there were examples

²³ There are a few exceptions, like Delhi, where DCPUs and JJBs are shared between districts

²⁴ Minutes of the FY 2014-15 ICPS Project Approval Board (PAB) meetings of individual states

of NGO run homes where children were not locked up and were willingly staying rather than running away.

11. Worryingly, despite the large presence of street children across the country and the limited available capacity for the residential care of children in need of care and protection, occupancy rates in CCI across states remain fairly low (refer to *Table 4.4. Capacity and occupancy of Child Care Institutions funded under the ICPS*).
12. Professional counsellors regularly visit government run CCI in Bihar and a demand has been raised for psychiatrists as well, as the children in the CCI are not as emotionally well-adjusted as children staying with families. There is a growing need for separate facility or special provisioning for children with special needs, as the current arrangements are considered inadequate. There is one such facility (with a capacity of 50 children) for physically challenged girls proposed to come up in Patna city. Tamil Nadu also operates separate CCI for children with special needs.
13. A need has been expressed for developing Standard Operating Procedures (SOPs) for CCI across states to reduce inter-state differences in implementation.

iii. National Policies for Drug and Substance Use

Street children are at a much higher risk of addiction to drugs than the general population, which makes interventions for tackling drug use of critical importance to them. Findings from a nationwide National Commission for Protection of Child Rights (NCPCR) study²⁵ in 2013 covering 4,024 children across 135 sites in 29 states and union territories, found that while tobacco and alcohol use was higher among children living at home, children living on the street reported much higher levels of inhalant use. Compared to children living at home, the age of onset of substance use was 1-1.5 years earlier among street children. A significantly higher proportion of street children also reported indulging in sexual behaviour under the effects of substances and in exchange for substances or money, as well as experiencing physical and psychological complications as a result of substance use. A summary of previous studies, compiled in the same NCPCR report, showed that use of substances was particularly high for street children, with between 40 and 70 per cent of such children across various Indian cities engaged in some form of substance use.

²⁵ NCPCR (2013), 'Assessment of pattern, profile and correlates of substance use among children in India', study conducted by National Drug Dependence Treatment Centre [NDDTC], All India Institute of Medical Sciences [AIIMS], New Delhi

While the National Policy on Narcotics and Psychotropic Substances, 2012 recognises street children as a high risk group, it does not address what can be done to protect street children from drugs, focusing instead on the sale of drugs to school children. The National Policy for Drug Demand Reduction, 2014, on the other hand, calls for the preventive education and awareness generation programme to include high risk groups like street children, who are not in the school system. It also identifies street children as a priority sub-group requiring special intervention and recommends restricting the sale of pharmaceutical drugs and other substances, including solvents, which are commonly abused by street children.

However, actual provisions for the rehabilitation of street children, and more generally, children engaged in substance use, remain minimal. Since the possession and consumption of narcotics is a punishable offense, children using drugs are generally viewed as juvenile offenders. In practice, the JJB releases children after receiving an undertaking from the parents or guardian that they will be admitted to a de-addiction and rehabilitation centre. However, since there are virtually no such centres for children, they have to rely on Integrated Rehabilitation Centre for Addicts (ICRAs) or other similar rehabilitation facilities which cater to adults.

Some key findings related to the government interventions for drug and substance use, based on the primary fieldwork conducted for this study, include:

1. By the government's own admission, there are no centrally maintained records of the number of observation homes with drug detoxification and treatment services for children²⁶.
2. There are no specific drug detoxification centres for children who are not in conflict with the law. Though there is a provision under the ICPS to designate at least one shelter home in each state for the care, detoxification and counselling of children affected by substance abuse, very few such specialised homes have been established so far.
3. One such drug detoxification centre is located in Delhi, but it receives no government funding through the ICPS. Hopefully, the increased focus on street children in recent drug policies will also result in the better implementation of these existing provisions for their rehabilitation under the ICPS.

²⁶ 'Drug detoxification centres in observation homes', Rajya Sabha unstarred Question No. 469, answered on 26 February 2015, Ministry of Women and Child Development, Government of India

iv Commissions for Protection of Child Rights Act

While the National Commission for Protection of Child Rights (NCPCR) and State Commissions for Protection of Child Rights (SCPCRs) set up under the Commissions for Protection of Child Rights Act (CPCR Act), 2005 deal with children's rights issues more broadly and do not specifically look at street child issues, they are mandated to look into matters relating to children in need of special care and protection, a category which is generally interpreted to include street children. These institutions have wide-ranging powers to inquire into violations of child rights, including the lack of implementation or compliance with relevant laws, policy decisions, guidelines and instructions. In addition, it is the designated grievance redressal and monitoring institution under the Right of Children to Free and Compulsory Education Act, the Protection of Children from Sexual Offences Act, and most recently, the Juvenile Justice (Care and Protection of Children) Act. While the CPCR Act provides for the creation of Children's Courts, the POCSO Act, 2012 recommended creation of Special Court and the appointment of a Special Public Prosecutor, in order to ensure the speedy trial of offences against children or of violation of child rights.

The NCPCR and SCPCRs have the powers of a civil court in relation to inquiries – this includes summoning people and examining them under oath, discovery and production of any document, receiving evidence on affidavits, requisitioning public records and examining witnesses or documents – which coupled with their broad mandate, allows them to intervene strongly in cases of child rights violations. The Commissions cannot take action against offenders, but they can make a recommendation to the relevant government authority or approach the courts with their findings. Despite the important role that the NCPCR and SCPCRs play, their functioning remains heavily dependent on governmental support, in terms of accepting and taking action based on their findings, as well as for their funding and the appointment of Commission members. The NCPCR has been without a chairperson, six members and a significant number of support staff since October 2014²⁷. While similar information on vacancies is not collated centrally for the SCPCRs, they likely face similar issues.

Some key findings related to the SCPCRs, based on the primary fieldwork conducted for this study, include:

²⁷ 'Shortage of Manpower in NCPCR and SCPCR', Rajya Sabha unstarred Question No. 2548, answered on 19 March 2015, Ministry of Women and Child Development, Government of India

1. There is a single SCPCR for both Andhra Pradesh and Telangana, even a year after the bifurcation of the states, and even this Commission is barely functional in Telangana state.
2. The performance of the SCPCRs also varies considerably from state to state based on the expertise and initiative of its members. Thus, the SCPCRs in Tamil Nadu and Delhi for instance have been quite active, using the broad powers they have to address child protection issues and conduct research in relevant areas, while in Telangana and other states, the Commissions function less actively.
3. Most of the cases Bihar SCPCR (established in 2010) deals in, pertain to the non-implementation of RTE. It has taken suo moto action in some cases especially that of special community (living in red light areas) children in Patna city. However, providing quality institutional care to children who cannot be rehabilitated with families remains a key challenge
4. SCPCRs, despite having immense powers like directing police to lodge FIRs in cases of violation of child rights, are not utilising their powers sufficiently because of heavy inter-dependence on government.

v. Night shelters for the Urban Homeless Programme

Lastly, an intervention of direct relevance for the protection of street children are the homeless night shelters, which have been established under a Supreme Court order in the Right to Food case. Such shelters, mandated by the Court to be operated in all major cities, are run by NGOs with funding from the local municipal corporation. Children generally stay in shelters being run for women and families, but in Delhi and Chennai, a few dedicated night shelters have also been established for older children under the programme. These shelters can play an important role in providing a safe place for street children to spend the night, in addition to connecting them with other relevant interventions like special training centres, non-formal education, child health care facilities and children's homes.

Some key findings related to the night shelter programme, based on the primary fieldwork conducted for this study, include:

1. At present, night shelters for children are few in number and operate largely on the initiative of individual NGOs. Moreover, night shelters for girls face security concerns as well.

2. A more structured approach to setting up sufficient numbers of such shelters in all cities, either independently or in co-ordination with the open shelters being operated under ICPS, has the potential to reach out to large numbers of street children.

4.4.2. Interventions for out of school children

An estimated 60.64 lakh children between the ages of 6 and 13 were out of school in 2014. This translates to an out-of-school rate of 2.97 per cent for children in the 6-13 year age group, a substantial fall from 4.53 per in 2009 and 6.94 per cent in 2005²⁸. While comprehensive statistics on educational attainment for street children are not available, they are likely to make up a significant proportion of the out-of-school population in the country. For instance, a 2008 study of Delhi's street children by Save the Children found that about half of them were illiterate, and only about 20 per cent had received some formal education²⁹. The multi-faceted nature of deprivation faced by street children means that their right to education cannot be guaranteed merely by admission into government schools. It is important to ensure that they also have access to appropriate residential facilities, which can provide the support and protection necessary to gain a decent quality of education.

i. Right of Children to Free and Compulsory Education Act

While the National Policy on Education is silent on the educational needs of street children, the National Policy for Children explicitly recognises them as out-of-school children. More importantly, the adoption of a rights-based framework to the provisioning of school education under the Right of Children to Free and Compulsory Education Act (RTE Act) obliges the government to pro-actively ensure that all children, irrespective of their socio-economic status or vulnerabilities, are able to access schooling. As a result, substantial government efforts have been made in recent years to bring the large number of street children and other categories of out-of-school (OOS) children in India into the formal education system. Under Section 4 of the RTE Act, dropouts and OOS children in the 6-14 year age group have the right to

receive special training, so that they can be mainstreamed into an age appropriate class. Such children are entitled to free schooling till the completion of their elementary education, even after they reach the age of 14.

As with most laws, the RTE Act gives wide discretion to state governments with regard to the implementation of its various measures. On the ground, states have operationalised the Act's provisions for special training of OOS children through the establishment of Non Residential Special Training Centres, Residential Special Training Centres and Urban Residential Hostels. These programmatic interventions are discussed in detail in the following section.

ii Sarva Shiksha Abhiyan schemes for OOS children

Under the Sarva Shiksha Abhiyan (SSA) programme for OOS children, government officials and NGOs undertake a yearly survey to identify school dropouts, street children, migrant children and other children in the 6-14 year age group who are not enrolled in schools. These children are admitted into Non Residential Special Training Centres (NRSTCs) or Residential Special Training Centres (RSTCs) where they receive special training and are thereafter mainstreamed into government schools. The RSTC scheme, a successor to the Residential Bridge Course Programme, previously undertaken under the SSA, is an extremely important intervention for street children, whose families lack adequate shelter or are otherwise unable to care for them. They are run by NGOs and may be located on the premises of government schools or in case of limited availability of schools in cities, in private buildings. The advantage of having centres within schools is that much of the infrastructure already exists and only limited additions, like toilets and a kitchen are required.

Under the RSTC scheme, the SSA provides funding support for an OOS child entering the centre for a specified period of time, which varies from state to state. The funding covers accommodation, living expenses, salaries for special trainers and costs associated with running the centre. By the end of this period or when the child reaches 14 years of age, he or she is meant to be mainstreamed into an age appropriate class in a government school.

The difficulty with this programme from the perspective of street children, is that after the bridge period, the child is supposed to be 'mainstreamed' by which it is understood commonly that not only would the child now attend regular school, but also return from the residential special

²⁸ 'National Sample Survey of Estimation of Out-of-School Children in the Age 6-13 in India', Draft Report submitted by Social and Rural Research Institute (SRI-IMRB) with technical guidance from Educational Consultants India Ltd. (EdCIL), September 2014

²⁹ Save the Children (2011), *Surviving the Streets: A Census of Street Children in Delhi*, New Delhi: Institute for Human Development and Save the Children

Table 4.5. Per child expenditure* for NRSTCs, RSTCs and residential hostels (in rupees)

	NRSTCs	RSTCs	Residential Hostels
Bihar	1,267-3,220	4,250-18,705	32,250
Delhi	6,000	20,000	34,683
Uttar Pradesh	3,000	-	-
Tamil Nadu	2,800-5,000	15,000-17,500	47,800
Telangana & Andhra Pradesh	500-1,900	11,300-15,100	34,658

*Per child expenditure for RSTCs and NRSTCs varies depending on the duration of the training programme. Per child expenditure for residential hostels is calculated by dividing total budgetary outlays by the targeted enrolment of children in such hostels
Source: Minutes of the FY 2014-15 Sarva Shiksha Abhiyan Project Approval Board (PAB) meetings of individual states.

training centre to live at home with her family. It does not envisage the situation of street children that they may not have a home, or a family, or both to return to.

Therefore a very major breakthrough from the perspective of street children, and potentially the most significant large government programme for street children is the SSA programme for Urban Residential Hostels (URHs) for urban deprived children. The scheme incorporates a clear understanding of the vulnerability of street children. It states: *'in urban areas there are a number of urban deprived children: homeless and street children in difficult circumstances, without adult protection, who require not merely day-schooling facilities, but also lodging and boarding facilities. Residential facilities may be provided for these children under SSA.' It continues: 'Children on the streets may suffer from many denials and vulnerabilities: these include deprivation of responsible adult protection, coercion to work to eat each day, work in unhealthy occupations like rag-picking, begging and sex work, abysmally poor sanitary conditions, inadequate nutrition from begging, a range of psycho-social stresses, physical abuse and sexual exploitation, and exposure to hard drug abuse. For such children SSA will provide support for residential facilities'*.

The preferred strategy of this approach is for redeploying public buildings and infrastructure. It notes that 'lack of buildings because of the high cost of real estate in cities is the severest bottle-neck to providing facilities for urban deprived, vulnerable children. The government can at best fund a few 'model' hostels, but this would not cover the tens of thousands of street children in every city. Most state and local governments have large unused and under-utilised buildings and infrastructure, which need to be redeployed and shared with street children.

The best and most economical approach, and one that has the potential to reach every street child, is to share spaces in existing schools that are vacant. Such buildings may need only small additions for toilets, bathing places and a kitchen. Such an approach also has the potential to lead to integration,

dignity and the learning hands-on of egalitarian compassion and pluralism'. It notes that this model has been adopted in Andhra Pradesh (now Telangana), where some residential schools for children without adult protection have been set up as part of existing schools in Hyderabad. This has been found to have many advantages: not only low costs, but the integration of children with families and homes with those who have been deprived, to the great pedagogic advantage of both. Many government schools also welcomed this, because it has pushed up the enrolment in the schools, and made them more viable.

However in practice, this programme - Urban Residential Hostels (URHs) for urban deprived children have also been funded by the SSA - has hardly taken off nationally, except for a very limited number of examples in Hyderabad, Chennai, Patna, Bangalore, Kolkata and Delhi. Unlike RSTCs, which provide support for a specific time period, children admitted to these hostels are covered till they reach the age of 14 (though the entry age can vary from state to state). While the URH scheme is envisioned as a residential hostel for children attending government schools, some states have allowed a special training component for children who cannot be mainstreamed directly into public schools; in such cases, prior approval must be obtained from the government.

The SSA guidelines state that URHs will be funded on the pattern of Kasturba Gandhi Balika Vidyalayas for residential schools for tribal girls. This has many problems, because KGBVs commence only from Class 5, whereas street children often need to be cared for, from a much earlier age, and costs in cities are much higher than in villages. As with the rest of the SSA, there is a 65:35 funding split between the centre and state governments for these schemes. However, the amount being spent on each child by the government is very low and in most cases, NGOs have to make up this shortfall with their own funds³⁰ (refer to Table 4.5. Per child expenditure for NRSTCs, RSTCs and

³⁰ Funding norms in Chennai and Telangana

Table 4.6. Estimates of OOS Children

	OOS children (SRI Estimates)	Newly identified OOS children under SSA (2013-14)	
		Total number	as per cent of estimated OOS children
Bihar	1,169,722	181,076	15.5
Delhi	85,084	9,809	11.5
Uttar Pradesh	1,612,285	78,099	4.8
Tamil Nadu	57,529	38,879	67.6
Telangana & Andhra Pradesh	107,829	67,805	62.9

Source: All India survey of Out-of-School children in the 6-13 years age group, Social Rural Research Institute (SRI), a unit of International Marketing Research Bureau, 2014

residential hostels (in rupees)). NGOs also have to deal with the irregular disbursal of funds under the scheme.

Crucially, both the RSTC and URH schemes lack a continuum of care, not catering to children outside the 6-14 year age group targeted by the SSA. Street children generally require residential care even after being mainstreamed into public schools or reaching the age of 14. There are other schemes, like Shishu Grihas for the care and protection of orphans, abandoned and destitute infants below 6 year of age, and Kasturba Gandhi Balika Vidyalayas (KGBVs), residential hostels and government and NGO-run homes for older children. However, the scale of these schemes is much lower than required and there remains a lack of convergence between them, making it difficult to transition from one to the other.

Some key findings related to these SSA schemes for OOS children, based on the primary fieldwork conducted for this study, include:

1. Across the states covered in this study, both identification and coverage of OOS children under special training schemes has been much below required levels. In most states, yearly surveys under the SSA identify a very small proportion of the total estimated population of OOS children (refer to Table 4.6. Estimates of OOS Children).
2. The major problem in operational terms for street children rarely being identified and counted as OOS is that in effect the surveys in all states tend to focus on those children who live with families and in homes, and list children in such households who are not enrolled in school. They have invisibilised children without homes and even more, children without active links with families, while identifying OOS.
3. Crucially, not even all OOS children identified by the SSA survey in a given year are actually enrolled into special training programmes. For 2014-15, the total targeted enrolment in NRSTCs, RSTCs and residential hostels, as a proportion of newly identified OOS children, ranged from 51.9 per cent in Uttar Pradesh to 88.3 per cent in Bihar (refer to Table 4.7. Targeted enrolment of OOS children in Non-residential Special Training Centres (NRSTCs), Residential Special Training Centres (RSTCs) and residential hostels in 2014-15). It is also important to note that these are targeted enrolment numbers provided by states at the time of the SSA budgeting exercise and actual enrolment is typically below this target. For instance, Bihar had targeted covering 2.34 lakh OOS through special training centres in 2013-14, but was actually able to enroll only 1.22 lakh children.

Table 4.7. Targeted enrolment of OOS Children in Non-residential Special Training Centres (NRSTCs), Residential Special Training Centres (RSTCs) and residential hostels in 2014-15

	NRSTCs	RSTCs	Residential hostels*	Total	Total enrolment (as per cent of newly identified OOS children)
Bihar	104,946	54,634	300	159,880	88.3
Delhi	5,553	250	300	6,103	62.2
Uttar Pradesh	40,569	-	-	40,569	51.9
Tamil Nadu	14,997	9,641	150	24,788	63.8
Telangana & Andhra Pradesh	35,434	450	3,100	38,984	57.5

*Residential hostels are not meant specifically for special training of OOS children, but in most states this intervention has also been able to reach street children through the establishment of residential hostels for urban deprived children. In the absence of disaggregated data, the table includes total numbers for both rural and urban residential hostels.

Source: Minutes of the FY 2014-15 Sarva Shiksha Abhiyan Project Approval Board (PAB) meetings of individual states

4. Bridge courses which are very important for mainstreaming children into regular schools were available in observation homes, but not in children homes in some states.
5. Much better pedagogic effort needs to go in from the best educationists to design high quality bridge courses. We were able to find some bridge programmes for children below 10. But the much harder to bridge group is children who have never been to school, or dropped out early, and are now over 10 years, and we could not find good quality bridge courses for this group of children.
6. Age and class/standard mismatch of children was a major constraint while mainstreaming children from CCIs in regular schools. In many instances, children were refused admission as they were older for the class they were eligible for admission, though by law admission cannot be refused.
7. It was also suggested that CCIs should be more on lines of residential hostel and a distinction should be made between reception centres, where new children were received and acclimatized, and residential facilities where older (in terms of stay at the CCI) were housed. Every batch of new children had an impact on the already resident children
8. Like most other schemes, norms for the operation and funding of RSTCs and URHs have been left largely to state governments, and differ significantly from state to state. For instance, in Tamil Nadu, a child admitted to an RSTC is eligible for SSA funding for up to two years, while in Delhi, Bihar, Telangana and Andhra Pradesh, RSTC funds are available for a maximum period of one year. Even this limited funding has been discontinued in Telangana since July 2014, since the state government did not seek SSA funds for RSTCs, focusing instead on NRSTCs and URHs. While Tamil Nadu does run a limited number of RSTCs specifically targeted at urban deprived children, unlike other states it does not operate residential hostels for urban deprived children. Uttar Pradesh, on the other hand, only receives funding for NRSTCs, which have little relevance for street children and other vulnerable groups of children who require special training in a residential setting.
9. The introduction of a special training component within URHs, which is important for OOS children before their mainstreaming into schools, has not been uniformly instituted across states. In such cases, the onus falls on NGOs to provide bridge courses after

school hours for children who need it. Similarly, the age of admission into URHs also remains at the discretion of the states. While URHs are able to provide better continuing care for children than RSTCs, since they support a child till the age of 14, they are very few in number and highly inadequate to meet the high demand for such a programme.

10. Across states, different levels of government are involved in running the scheme. In Chennai, for instance, the municipal government identifies NGOs to run RSTCs for urban deprived children and provides municipal school buildings for the centres. In Delhi and Telangana, the responsibility of running the scheme rests almost entirely on the state education department (in Delhi, the local government only provides support in terms of admitting children from classes 1 to 5 in corporation run schools).

4.4.3. Interventions for child workers

Government interventions for child workers do not make an explicit mention of street children. Therefore, for the purposes of this study, they have not been listed among the interventions targeted at street children. However, measures to deal with child labour are of very high relevance for street children, all of who work and the large majority of whom are engaged in hazardous employment like waste picking and scavenging, traffic light vending, begging and work in roadside stalls and hotels. Ensuring that child labour interventions are accessible to street children and other hard to reach groups, is particularly important in the context of recent statistics, which highlight a worrying 53 per cent increase in child labour in urban areas between 2001 and 2011³¹.

i. Child Labour (Prohibition & Regulation) Act and the National Policy for Child Labour

The Child Labour (Prohibition & Regulation) Act, 1986 (CLPRA) and the National Policy for Child Labour, 1987 (NPCL) lay the framework for government action to tackle this serious child protection issue. The CLPRA prohibits the employment of children below 14 years of age in certain hazardous occupations and processes, but exempts families employing their own children from this provision. To date, a total of 18 occupations and 65 processes have been designated as hazardous by the government, on the advice of a Child Labour

³¹ 'India will need 100 yrs to end child labour: CRY report', Press Trust of India, 11 June 2015, <http://indianexpress.com/article/cities/kolkata/india-will-need-100-yrs-to-end-child-labour-cry-report/>

Technical Advisory Committee constituted under the Act. For children engaged in non-hazardous work, the Act regulates working conditions, including hours and period of work, holidays and provisions for their health and safety. Employers who violate the provisions of the Act can be fined or imprisoned.

Like the CLPRA, the NPCL makes a distinction between child labour in a household setting, which is deemed as necessary for children to acquire specific skills, and children engaged in wage or quasi-wage employment outside the family, arguing that exploitation is more likely to occur in the latter situation. The policy also calls for action to address the root causes of child labour, such as amending legislation that allows employment of children on lower wages, tackling poverty, and improving coverage of child workers under existing government programmes.

This differentiation within the CLPRA and NPCL, between children employed within and outside the household, has resulted in a large loophole which leaves a significant proportion of child workers outside the purview of the law. It is difficult to determine whether a child being employed within the household is learning the family trade, as was the key intent of this provision, or is being exploited and denied an education. Such a differentiation has become even more difficult in recent years, as many industries increasingly outsource their processes to the household level³². There has also been an increase in part-time child work, which nonetheless has harmful impacts on the child's development. Unfortunately, the recent proposed amendments to the CLPRA do not provide for a blanket ban on child labour, allowing a child below the age of 14 to help his or her family after school hours or during vacations, if this is for the purpose of learning and not for commercial reasons. As the Parliamentary Standing Committee reviewing the proposed amendments to the CLPRA notes, such a provision will function as a loophole, as it is very difficult to determine if children are merely helping their parents or are working to supplement the family income³³.

While requiring every child below 14 years to study in regular school, the new amendment disturbingly seeks to legalise child labour in 'non-hazardous' work after school hours or during vacations. 'We don't want to redraw the social fabric of Indian society where children learn by participating in work with family elders,' a government official is quoted to declare. Another senior officer spoken to, asked, 'What is wrong with this? Should not

the son of a *lohar* or ironsmith learn to be an ironsmith, or of a weaver to be a weaver?' Our answer is – why indeed should the son of a blacksmith learn to be a blacksmith – or a rag-picker's daughter to pick waste? Why can't he learn to be a poet, and she a nuclear scientist, if these are where their dreams soar? And why can't your son or my daughter learn to be an ironsmith or a weaver? This amendment will not affect children of the streets with no family links, but can endanger street children who live with their families.

In addition to such definitional hurdles, enforcement of the CLPRA has been poor, especially with provisions for the prosecution of offending employers. Between 2009 and 2014, there were a total of 25,872 prosecutions were launched against employers under the Act, which resulted in 7,010 convictions, or a conviction rate of just 27.1 per cent³⁴. As with other child protection interventions, enforcement of the law rests with the state government and therefore a lot depends on the priority accorded to tackling child labour issues. Even in states like Delhi and Tamil Nadu, where labour departments, SCPCRs and NGOs have been pro-active in dealing with child labour issues and rescuing child workers, the primary focus has been on children working in factories or similar settings. It remains a challenge to reach out to the 'last mile' populations, such as street children, slum dwelling children and migrant children.

ii. National Child Labour Projects

At a programmatic level, the provisions of the CLPRA have been operationalised through the National Child Labour Projects (NCLP). Under this centrally funded scheme, children in the 9-14 year age group who are engaged in hazardous occupations are withdrawn from employment and enrolled in Special Training Centres, where they receive bridge education, vocational training, nutrition, healthcare and a monthly stipend. The children are thereafter mainstreamed into an age appropriate class in the formal schooling system. Children in the age group of 5-8 years are directly admitted to regular school. The NCLP is currently functioning in 270 districts with high prevalence of child labour, across 20 states. District-level project societies involving the district administration, relevant government departments, Panchayati Raj Institutions, NGOs, trade unions, etc. are responsible for the implementation of the scheme. A grant-in-aid scheme

³² Examples from the Save the Children study on child labour in the garment industry in Delhi

³³ Standing Committee Report on CLPRA amendments

³⁴ 'Prosecution for offences under Child Prohibition Act', Rajya Sabha Unstarred Question No. 1970, answered on 10 December 2014, and 'Eradication of Child Labour', Rajya Sabha Unstarred Question No. 251, answered on 25 February 2015, Ministry of Labour and Employment, Government of India

provides financial assistance to NGOs and Voluntary Organisations for rehabilitation of child workers in districts where the NCLP scheme is not operational.

Rehabilitation of rescued child workers through the NCLP scheme is presently taking place in 270 districts across the country, and selected districts in all states looked at in this study, with the exception of Delhi, are covered. However,

spending has lagged the total budgetary allocation of Rs. 64,500 lakhs (or approximately Rs. 12,900 lakhs per year) made to this scheme in the 12th Five Year Plan (FYP 2012-17). Between 2012-13 and 2014-15, total grants released to states under the scheme have in fact steadily declined; from Rs. 12,209 lakhs to Rs. 10,809 lakhs (refer to *Table 4.8. Grants released to states under the NCLP scheme (in lakhs)*)

Table 4.8. Grants released to states under the NCLP scheme (in lakhs)

	2012-13	2013-14	2014-15
Bihar	1,131.4	546.6	1,071.8
Delhi	-	-	-
Uttar Pradesh	1,225.5	1,467.0	1,103.7
Tamil Nadu	733.1	641.4	755.5
Telangana & Andhra Pradesh	821.6	610.2	790.4
Total (All-India)	12,209.8	11,035.5	10,890.9

Source: 'Schemes for Children under Risky Condition', Rajya Sabha unstarred Question No. 98, answered on 23 April 2015, Ministry of Women and Child Development, Government of India



Table 4.9. Children rehabilitated under the NCLP scheme

	2012-13	2013-14	2014-15	Total (2012-15)	Total child workers (2011 Census)
Bihar	1,162	3,736	14,028	18,926	451,590
Delhi	-	-	-	-	26,473
Uttar Pradesh	10,616	7,310	10,627	28,553	896,301
Tamil Nadu	3,671	3,436	3,391	10,498	151,437
Telangana & Andhra Pradesh	7,840	5,715	2,725	16,280	404,851
Total (All-India)	72,976	64,050	97,833	234,859	4,353,247

Source: 'Child Labour', Rajya Sabha unstarred Question No. 1969, answered on 13 May 2015, Ministry of Labour and Employment, Government of India

Across states, the coverage of children under the NCLP scheme has been only a small fraction of their estimated population of child workers (refer to Table 4.9. *Children rehabilitated under the NCLP scheme*). A total of 2.34 lakh child workers were rehabilitated under the scheme in the first three years of the 12th FYP period, from 2012-13 to 2014-15, which represents a very small proportion of the 43.53 lakh child workers counted in the 2011 census. It should also be noted, that these 2011 census estimates have been controversial due to a change in methodology which counts only main child workers in the 5-14 year age group. Accounting for marginal child workers i.e. those employed for 3-6 months a year, the total number of child workers in India almost doubles, from 43.53 lakh to 82.28 lakh.

Operationally, the NCLP has struggled to ensure the time-bound rehabilitation of rescued workers. One of the major factors hampering the functioning of the scheme, in addition to its limited funding, is a shortage of quality staff. An evaluation study of the project by the V.V. Giri National Labour Institute found that the doctors and master trainers had not been appointed in more than two-thirds of the surveyed districts. The report also found that the temporary nature and low salary for Project Directors (PD) posts was negatively impacting the functioning of the NCLP³⁵. Moreover, projects under the NCLP are typically non-residential in nature, which makes them less relevant for street children and other groups of children who, besides working, are also deprived of a family environment. Finally, the NCLP scheme's focus has largely remained restricted to the time-bound rehabilitation of rescued workers; for it to be truly effective, much greater efforts are necessary in areas like follow-up with child workers after their repatriation back to their families, counselling

of parents and employers, awareness generation, and playing a more active role in the enforcement of child labour laws, all of which are well within the purview of the scheme.

In districts where the NCLP is not active, there is no specific mechanism in place for rehabilitation of child workers and this responsibility falls largely on homes run under the ICPS or SSA Residential Special Training Centres. While there is a provision for grant-in-aid (GIA) to NGOs operating in non-NCLP districts, such interventions are highly limited. Over the period from 2011-12 to 2013-14, just Rs 1.25 crores was released as grant-in-aid to NGOs; almost 60 per cent of these funds were released in 2011-12 alone³⁶.

Overall, an alarmingly miniscule proportion of street children have been reached out to by state and non-state actors. Reliable data is not available, but it is our estimation that less than 2 per cent of street youth and children are reached by the custodial juvenile homes and less than 5 per cent by all governmental and NGO interventions. In Delhi, the national capital, for instance, there are, an estimated 50,000 street children. In a recent case in the High Court, it emerged that around 1200 are reached by custodial juvenile homes of the state government, and 1500 by all NGOs (but very few provide mainstream education and comprehensive residential care). There are also serious limitations to the conventional state approaches such as custodialising such children in un-free homes. NGO models are of uneven quality, and diverse approaches; those that have merit are often too cost intensive to be replicable on the scale which is a dire requirement.

³⁵ A.K. Satpathy, H. R. Sekar and Anup K. Karan, 'Rehabilitation of Child Labour in India: Lessons Learnt from the Evaluation of NCLPs', V.V. Giri National Labour Institute, 2010, Noida, as quoted in Manjur Ali (undated), 'Bottlenecks in Eradication of Child Labour in India', Mimeo.

³⁶ 'Schemes for Children Under Risky Condition', Rajya Sabha unstarred Question No. 98, answered on 23 April 2015, Ministry of Women and Child Development, Government of India



5. INTERNATIONAL EXPERIENCE OF POLICY MAKING AS REGARDS STREET CHILDREN: A SHORT OVERVIEW

UNICEF maintains that it is not possible to quantify the number of street children around the world, because of their 'invisible' nature, but they definitely run into tens of millions. A commonly cited estimate is that of 100 million street children across the world as of today, a figure reported by Consortium of Street Children, UK³⁷ citing UN sources. The causes³⁸ of this phenomenon are varied, but are often related to domestic, economic, or social disruption; including, but not limited to, poverty, breakdown of homes and/or families, political unrest, acculturation, sexual, physical or emotional

abuse, domestic violence, lured away by pimps or internet predators, mental health problems, substance abuse, and sexual orientation or gender identity issues. These causes result in children eking out their lives on streets. They shine shoes, wash and mend cars, sell lottery tickets, magazines and newspapers, carry goods, and peddle cigarettes and chewing gum. In many cases extreme poverty has forced them to become at least partially self-supporting.

That the street children phenomenon is linked to urbanization is evident from the fact that street children are believed to have existed in Roman cities as well as they were part of rapidly industrializing European cities in the 18th and 19th century. However, the attitude towards

³⁷ A consortium of related NGOs in United Kingdom

³⁸ https://en.wikipedia.org/wiki/Street_children Flowers (2010), p. 1

them has hardly changed. They were looked upon with scorn and hostility very much the same way as they are now. Currently the continents of Latin America, Africa and South Asia and Asia Pacific are home to largest number of street children who have become synonymous with the scum and squalor of unplanned growth and mushrooming cities not to mention dysfunctional families.

We shall examine Brazil and Philippines in greater detail to understand government policy towards street children. Brazil is part of the BRICS nations along with India and is witnessing fast growth and urbanization. Philippines on the other hand is also a developing Asian country which has a mixed demography and culture, similar to India.

Table 5.1 Brazil key indicators

Sl. No.	Indicator	Brazil	Comments
1.	Population	202.2 million (2014)	
2.	GDP (US \$ current)	\$2.346 trillion (2014)	Annual GDP growth rate of 0.4 per cent (2015). GDP growth in Brazil has slowed from 4.5 per cent in 2006-10 to 2.1 per cent over 2011-14 and 0.1 per cent in 2014.
3.	Poverty headcount ratio at US \$1.25 per day PPP (per cent of population)	4 per cent (2012)	Population below \$1.25 a day is the percentage of the population living on less than \$1.25 a day at 2005 international prices. As a result of revisions in PPP exchange rates, poverty rates for individual countries cannot be compared with poverty rates reported in earlier editions.
1.	Area in sq km	8,515,770	
2.	Population density (people per sq km)	24	
3.	Life expectancy at birth total years	74 (2013)	
4.	Gross National Income (GNI) per capita (PPP current international US\$)	\$ 15,900 (2014)	
5.	Income share held by lowest 20 per cent (2012)	3 per cent	The income of the bottom 40 per cent of the population grew on average 6.1 per cent (in real terms) between 2002 and 2012 (period of high growth), compared to an 3.5 per cent growth in income of the total population
6.	Inflation remains high	6.4 per cent (2014)	
7.	<p>In the decade 2003-2013, over 26 million people were lifted out of poverty and inequality was reduced significantly. However, after 2013 there was stagnation in poverty and inequality reduction. Brazil experiences extreme regional differences, especially in social indicators such as health, infant mortality and nutrition. The richer South and Southeast regions enjoy much better indicators than the North and Northeast.</p> <p>Due to prolonged drought, there is risk of water and electricity rationing in many parts of the country, which will impact economic activity and prices posing risk to real incomes, especially of the poor.</p> <p>Despite the achievements in poverty reduction over the last decade, inequality remains at relatively high levels for a middle <u>income</u> country. After having reached universal coverage in primary education, Brazil is now struggling to improve the quality and outcomes of the system, especially at the basic and secondary levels.</p>		

Source: World development indicators for countries: World Bank³⁹

³⁹ <http://databank.worldbank.org/data/reports.aspx?source=2&country=BRA&series=&period=>

5.1 Latin America and Brazil

Brazil⁴⁰ is believed to have the highest numbers of street children in Latin America. According to UNICEF estimates⁴¹, there are as many as 40 million street children in Latin America and about 8 million in Brazil's urban areas. It also has one of the most unequal distributions of wealth in the world: the top 20 per cent of the population receive 26 times the income of the bottom 20 per cent, and half the population survive on 14 per cent of the national income. Often, street children have been described as victims of 'economic violence'. To emphasize the above mentioned point, some key economic and social indicators for Brazil are presented below in *Table 5.1: Brazil key indicators*.

World Bank

Surveys of street children in Latin America suggest that their ages range from 8 to 17 years, with the average age on entering the street being 9 years. Girls form 10-15 per cent of street children, probably because of alternative strategies open to them such as mothering younger siblings, domestic employment, and prostitution. Several related economic, social, and political factors have been linked with the phenomenon of street children. Land reform, population growth, drought, rural to urban migration, economic recession, unemployment, poverty, and violence have all been held responsible as contributing factors to this phenomenon (As brought out in Table 6.1 highlighting key indicators for Brazil).

Most street-based children establish themselves on the street early on. They do intermittent, casual work such as hawking goods, cleaning and guarding cars, market work, begging, stealing, and prostitution. They form "near groups," which are less stable with more diffusely defined roles and territories and consequently more adaptable to the problems street life brings.

Mainstream health and social services are often regarded with suspicion by street children, mainly because so called welfare has historically been associated with punishment. Health services are rarely geared to the needs of street children. They are often run at times and places that make them inaccessible. Furthermore, street children

tend to tolerate adverse physical symptoms for long periods.

In Latin America, many people in the judiciary, the police, the media, business, and society at large believe that street children are a group of irredeemable delinquents who represent a moral threat to a civilized society. The most frightening manifestation of this view is the emergence of "death squads": self-proclaimed vigilantes, many of whom are involved with security firms and the police and seek to solve the problem by elimination.

In Brazil, a study set up by the National Movement of Street Children recorded 457 murders of street children between March and August 1989. Amnesty International has estimated that 90 per cent of the killings of children in Brazil go unpunished. São Paulo court figures show that the number of arrests of street children is increasing. However, despite the popular assumption that street children are all thieves, scant evidence exists about their involvement in illegal activities.

i. Government response

For years, many governments sought to discipline street children by imprisoning them. In the 1960s, the emphasis changed from a correctional approach to one of offering help. However, institutions and their staff remained the same and so called "assistance" and repression became intertwined. In the late 1980s the combination of the United Nations Convention on the Rights of the Child, greater democracy, and pressure from non-governmental organisations led some governments to introduce more enlightened legislation. In 1990, a new article based on the United Nations convention became law in Brazil. It has provisions pertaining to **children at risk or who have broken the law** and details rights to free movement and free education up until the age of 8 years

Nonetheless, an approach⁴² that **focuses not only on street boys and girls but also their families** is considered to be more efficient as it prevents children from ending up on streets. Following programmes reflect this approach:

1. *Project Curumim* was started in 1991 in Minas Gerais (one of Brazil's 26 states) focussing on poor families. This program is directed towards populations between 6 and 14 years old and provides guidance to school in addition to extracurricular activities such as sports, including the monitoring of school tasks in spaces designed for the proper development of children.

⁴⁰ Street children in Latin America Thomas J Scanlon, research fellow,^a Andrew Tomkins, professor of international child health,^a Margaret A Lynch, reader in community paediatrics,^b and Francesca Scanlon, clinical assistant^c a Centre for International Child Health, Institute of Child Health and Great Ormond Street Hospital for Children NHS Trust, University College London Medical School, London WC1N 1EH, bNewcomen Centre, UMDS, Guys Hospital, London, cDepartment of Child and Family Psychiatry, Horsham and Crawley Healthcare Trust, Horsham, West Sussex. Correspondence to: Dr T Scanlon mailto:dev@null Copyright © 1998, British Medical Journal

⁴¹ http://www.ipece.ce.gov.br/publicacoes/textos_discussao/TD_71_en.pdf

⁴² http://www.ipece.ce.gov.br/publicacoes/textos_discussao/TD_71_en.pdf

2. *Futura Project*, was created in 1992 in Rio de Janeiro. This project is directed to smaller children from 3 months to 7 years old and envisages a centre that gives shelter to children at risk or families which are unable to provide the necessary conditions for the normal development of a child. Furthermore, the project aims at reducing the rate of school failure and drop out of school in the early years of study.
3. The program *Children out of the streets and into the schools* was conceived on July 1996 with the objective of contributing to the social inclusion of adolescents and children that are found on the streets of Fortaleza city, Ceará State, whose families earn a monthly per capita income of one-fourth of the Brazilian minimum salary or less. The family of accepted participants receive a social inclusion allowance with certain conditions attached. like ensuring continued enrolment of children in part-time, actively participating in program activities and keeping children out of streets.

The non-government organisations in Brazil maintain that with adequate support, street children can be “rehabilitated.” The approach that has been most cited by them is the ‘Bosconia project’⁴³ which aims at rehabilitation through work and teaching values. However, some rehabilitation programmes have been criticised for being paternalistic and emphasising children’s passivity, failing to engage more established street children, and in the 1980s many non-government organisations set up outreach programmes. Outreach programmes are sometimes entirely street based, providing food and medical support and, more rarely, educational, psychological, and legal support. Others represent the first stage of a more individualised rehabilitative programme which aims to integrate the child back into the family. Other non-governmental initiatives are aimed at preventing children from going on to the street and involve building housing, sewerage systems, community centres, and nurseries and introducing work skills into schools’ curriculums.

ii. Street children for themselves

One of the more positive developments in recent years has been the contribution of street children themselves. Established in 1984, the Brazilian National Movement of Street Children played a large part in securing new legislation. Currently there are 75 local groups, with a total membership of 3000 voluntary educators working in about 400 projects. Media coverage of the organisation

⁴³<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1113205/#B2>

gives the Brazilian society an opportunity to see street children in a positive light, articulating their concerns and proposals (Refer to Text Box: *Street Child World Cup Football*).

Street Child World Cup football

The 10-day event took place in Rio De Janeiro, Brazil in 2014. It was backed by Save the Children and also endorsed by David Beckham, Sir Alex Ferguson, Gary Lineker and Archbishop Desmond Tutu. It was a lot more than football. The 230 or so participants (girls and boys) took part in a festival of arts, visiting Rio’s most famous sights and engaging in a conference on children’s rights. By the closing ceremony, they were expected to produce a “Rio rights declaration” of actions countries should take to help street children.

Source: <http://www.theguardian.com/world/2014/mar/28/street-child-world-cup-brazil>

Brazil now has progressive children’s rights legislation and a strong movement for street children, however there continues to be a tide of violence and human rights abuses against children, with apparent impunity for the aggressors. The public and the media still need convincing of the worth of street children and the contribution they can make to resolve the situation. The National Foundation for the Well-Being of Minors and the State Foundations for the Well-Being of Minors were the principal organizations that enacted restrictive programs regarding the issue. They were responsible for “giving restrictive asylum to abandoned children and delinquents” (Fernandes & Vaughn, 2008, p.675). With these institutions under reform, Non-Governmental Organizations (NGOs) are now the primary source of programs for street children. Many of these programs address factors such as homelessness, hunger, and social exclusion. As Fernandes and Vaughn (2008, p.675) explain, however, there are very few programs that focus on the reasons for becoming a street child.

5.2 Philippines

The Philippines is a developing country with one of the most dynamic emerging markets in the East Asia region. It is regarded as a newly industrialized country, which has been transitioning from being one based on agriculture to one based more on services and manufacturing. Goldman Sachs has included the country in its list of the “Next Eleven” economies wherein China and India have emerged

as major economic competitors. The Asian Development Bank is headquartered here.

It is a country grappling with high income disparities and rapid urbanization. The silver lining is the great focus on primary education as reflected in high enrolment

in primary education (Refer Table 6.3: Philippines – key indicators). Philippines has a simple literacy rate of 95.6 per cent, with 95.1 per cent for males and 96.1 per cent for females. Literacy in females is greater than in males. Education spending accounts for 16.11 per cent in the proposed 2015 national budget.

Table 5.2: Philippines - Key Indicators

Sl. No.	Indicator	Philippines	Comments
1.	Population	100.1 million (2014)	
2.	GDP (US \$ current)	\$284.6 billion (2014)	GDP growth of 6.1 per cent (2014). It's the fastest growing economy in East Asia after China
3.	Area in sq km	300,000	
4.	Population density (people per sq km)	336	
5.	Poverty headcount ratio at US \$1.25 per day PPP (per cent of population)	19 per cent (2012)	Population below \$1.25 a day is the percentage of the population living on less than \$1.25 a day at 2005 international prices. As a result of revisions in PPP exchange rates, poverty rates for individual countries cannot be compared with poverty rates reported in earlier editions.
6.	Life expectancy at birth total years	69 (2013)	
7.	Gross National Income (GNI) per capita (PPP current international US\$)	\$ 8300 (2014)	
8.	Income shared held by lowest 20 per cent	6 per cent	
9.	School enrolment primary (2014)	107 per cent	Gross enrollment ratio for primary school is calculated by dividing the number of students enrolled in primary education regardless of age by the population of the age group which officially corresponds to primary education, and multiplying by 100. Data on education are collected by the UNESCO Institute for Statistics from official responses to its annual education survey
10.	Inflation	4.1 per cent (2014)	
11.	<p>The country's progress in achieving the Millennium Development Goals (MDGs) is generally on track in improving gender equality in basic education and reducing infant and child mortality. It needs to intensify efforts in reducing poverty, achieving universal primary education and in improving child and maternal health. It also needs to address the lack of good jobs among low-income earners, especially those from rural areas where many poor people reside.</p> <p>As per the Philippines Development Plan (2011-2016) there will be renewed focus on Establishing effective and responsive social safety nets to assist those who are less capable of participating in economic activities, besides other aspects necessary for inclusive growth; namely better education, primary health care and nutrition and other basic social services;</p>		

Source: World development indicators for countries: World Bank⁴⁴

⁴⁴ <http://databank.worldbank.org/data/reports.aspx?source=2&country=BRA&series=&period=>

According to a 1998 report titled “Situation of the Youth in the Philippines”, there were about 1.5 million street children in the Philippines⁴⁵.

i. Government response

Human rights groups in the Philippines⁴⁶ maintain that summary execution of street children was an unwritten government policy to deal with crime, largely because of an ineffective criminal justice system and the tendency of the authorities to take shortcuts in the administration of justice. The execution-style killings were openly endorsed by local officials, strengthening the long-running suspicion that the death squads were formed by the government. Many street children were in danger of summary execution during the Marcos government era. In Davao City, 39 children in conflict with the law have been killed by vigilante groups since 2001. Most were killed after being released from police detention cells.

The Department of Social Welfare and Development estimates that there are around 250,000 street children in 65 cities around the country (as of 2010). Metro Manila alone has about 85,000 street children as of 2007. Childhope, a non-government organization specifically protecting street children, reveals that about 70 per cent of the street children most visible on the streets are boys.

The rights and welfare of Filipino children are governed by several existing laws and policies on children however, the “**Street Children Crisis Centre Act of 2010**” holds significance with regard to the welfare of street children.

The aforementioned Act declares the policy of the state to defend the rights of children to assistance, including the proper care and nutrition, and to provide them with special protection against all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development. Towards this end, it establishes a Crisis Centre for Street Children in every city or municipality in the National Capital Region and in every highly urbanized city in Luzon, Visayas and Mindanao regions of the country. Such crisis centre shall serve as temporary shelters and rehabilitation centre for the street children. It defines street children as those persons below 18 years of age and are living in the streets without supervision of adults, whether parents, relatives or friends. It lays down a comprehensive program for the street children which the crisis centre shall provide

⁴⁵ https://en.wikipedia.org/wiki/Street_children_in_the_Philippines

⁴⁶ <http://senate.gov.ph/lisdata/900975531.pdf>

ii. Programmatic approaches

Current efforts in dealing with street children can be grouped into three development approaches⁴⁷ based on the three broad categories of street children:

Community based programs. Programs of this type address the needs of street children within the family and community context and from the perspective of the residents. Preventive in approach, community-based program help communities identify their problems, mobilize their internal, as well as external resources, and involve themselves in the solutions.

Street based programs. Street-based programs are focused on children who are abandoned or have irregular contacts with their families. Agencies implementing this approach reach out to children right on the street where they live and work. This strategy recognizes the child’s need for survival, protection, and income, but ultimately, it aims to motivate and assist the child to go back to his family or to enter a temporary shelter.

Centre based programs. Centre-based programs are generally institution-based. The strategy aims to reach out to children who have run away from home, are totally orphaned or abandoned, or have severed ties with their families. This program involves setting up a “home” where children can find support and help. Drop-in centres usually provide children with hot meals, a space for the night, clothing, first aid/health examination, counselling, case work, work with families where possible, and a supportive and caring environment.

An alternative to residential care is the foster family care and adoption program for street children. It is a novel concept in the Philippines and has not been tried by many street children programs. Childhope Asia and Norfil Foundation, with support from Stichting Kinderpostzegels Nederland (SKN), started a foster care program for street children in 1995. Its purpose is not only to find foster homes for street children but also to train foster parents and strengthen the skills of social workers in foster care. Foster care is claimed to be an alternative to the overburdened residential centres and group homes.

iii. Philippine Education for All goals for 2015 and its implications for street children

The Philippines was a signatory⁴⁸ to the World Conference on Education for All (EFA), held in Jomtien,

⁴⁷ <http://www.streetchildrenresources.org/wp-content/uploads/2013/02/philippines-policy-street-children-education.pdf>

⁴⁸ Philippine EFA National Assessment Task Force, Report on the EFA Philippine Country Assessment (Manila: October 1999)

Thailand, in 1990. This global plan aimed to give every child in the world quality basic education by the year 2000. One of the initiatives under the Philippine EFA Plan is the establishment of alternative learning systems (ALS) encompassing non-formal and informal education. This has been partially fulfilled through validating the feasibility and viability of non-school-based learning channels. The alternative learning system makes it possible for **out-of-school youth including street children** as defined to be integrated into the learning system (Refer to Text Box: Mobile school for street children in Cebu City).

Mobile school for street children in Cebu City

Cebu is a province of the Philippines, in the country's Central Visayas region, and its prosperous port capital, Cebu City is an important centre of commerce, trade and education. Since August 1994, a Mobile School Project is being implemented here that provides children of urban poor families with opportunities to experience schooling. The program caters to 4-8 years old disadvantaged children from squatter areas. The program is said to be mobile because it uses government-owned buses to pick up children from their urban poor communities to be brought to an open space provided by Philippine Port Authority where the teaching-learning sessions are held.

ALS encompasses both the non-formal and informal sources of knowledge and skills such as those acquired in the church, at home, media and the environment. It is focused on all Filipino children, youth and adults who are out of school, particularly those who are illiterates, disadvantaged, and living in far-flung areas. It thereby ensures that more Filipino illiterates learn to read, write and develop basic life skill.

5.3. Learning from Brazil and Philippines

An examination of available information on street children in Brazil and Philippines indicates that there is dearth of

credible data and hard statistics on street children in these countries; a situation shared with India. Also, there is no specific policy or legislation on street children that comprehensively deals with their issues. However, laws have been framed dealing with rights of street children such as the 'Street Children Crisis Centre Act 2010' in Philippines. They have been identified and targeted as 'children in need of special protection including street children', 'vulnerable and disadvantaged children', 'children in difficult circumstances', 'children at risk' (Brazil) and 'abandoned children and delinquents' (Brazil).

In the past, street children have been looked upon with scorn and contempt in both these countries to the extent that 'death squads' were formed and summary executions of children was carried out by vigilante groups and local authorities as per unwritten policy of elimination and loopholes in legal system. However, both countries have progressive legislation now, wherein, street children are recognized as 'child at risk' and children in need of special protection'. Both countries are signatories to UN Convention on Child Rights and similar covenants.

The approach of the state is multi-pronged focusing on the broad categories in which UNICEF defines street children. Close engagement with community and families (rehabilitative approach) in case of children of street families; street based approach of providing education, health and nutrition and vocational and life skills to children living on street with little contact/irregular with families. Lastly, institutional care, foster care and centre based approach towards children who are abandoned, orphaned or have severed ties with families. We also find non-government organizations playing a crucial role in implementation of government programmes as well as undertaking new initiatives in this regards.

The key highlight from Brazil is the 'street child movement' undertaken by street children themselves to make their voices heard and claim their rightful place in society. Philippines has an enrollment rate of 100 per cent in primary education and it also has a comprehensive programme targeting out of school children, many of them being street children. Innovative education techniques like mobile schools are being used to target out of school children and street children in particular.



6. RECOMMENDATIONS AND CONCLUSION

More and more children are taking to streets for a variety of reasons. Street children, as observed, typically suffer from many denials and vulnerabilities: these include deprivation of responsible adult protection and care; coercion to work to eat each day; work in unhealthy occupations on streets like rag-picking, begging and sex work; abysmally poor sanitary conditions; inadequate nutrition from begging, foraging and food stalls; a range of psycho-social stresses; physical abuse and sexual exploitation; and exposure to hard drug abuse; and no access to medical care nor education.

Since street children often lack responsible adult protection, it is the legal obligation of the State to ensure their protection and rights to education, food, health care, and indeed to a safe and care-free childhood. In the absence of such support from families and the state, street children bravely, usually with groups of other street

children, negotiate the harsh adult world of the streets, the brutalised life of pavements, public parks, railway and bus stations, and waste dumps.

6.1 Street children: ending a policy blind spot

Street children constitute a numerically significant and extremely vulnerable set of children who inhabit most of our cities at continuous risk to themselves and in situations in which most or all of their rights are profoundly violated. Despite this, as we have seen, with the partial exception of one SSA scheme of Urban Residential Hostels in 2010, there are almost no laws, policies and programmes specifically designed for the rights of street children. There are some provisions for street children in which they are seen as sub-sets of other groups such

as children in care of need and protection, child labour or out-of-school children, but these do not address the unique challenges of a street child's survival.

Therefore, the first and paramount recommendation that we offer in this review is that this extraordinary and unconscionable policy blind spot should be acknowledged and corrected: the unique situation and vulnerability of street children should be recognised, and a **specific policy, legal framework, and programmes at all levels of government** should be developed to comprehensively address the needs, rights and challenges of the street child. This must begin with **sensitive participatory mapping** of the numbers and profile of street children in every urban centre in the country, updated periodically.

6.2 Role of central government

We have noted that there is in India, no legal, policy or programme framework specifically for street children. This should be corrected with a specific policy framework for street children, recognising their very specific and distinct conditions, vulnerabilities and needs. This should provide an overarching policy framework meant to guide and inform all government interventions affecting street children. Street children have legal rights like all children under various legal frameworks for child protection, right to education, right to food and liberation from child work. But they are mostly unable to realize these rights, because they face barriers unlike those of most other children, lacking the protection of homes but also in many cases of responsible adult care. The policy framework should delineate the many ways in which rights of street children are denied, reiterate their rights under various laws for the protection and rights of children indicating that governments need to take special measures to ensure that street children are able to access their rights under these laws. And the policy document should indicate programmes for street children that would help them access their legal rights, demarcating the roles of central, state and local governments within these. This next section suggests some of these necessary programmes for street children.

The central government must firstly lay out a **policy framework to guide the implementation of laws, and design of programmes for street children**. We have already observed what such a policy framework should contain. Overall, the policy framework must provide for respect of the agency and participation of the street child, and the principle that no decision should be taken about a street child without consulting and securing the voluntary consent of the street child.

This policy framework should make specific reference to various policies and laws, indicating how these should work for the needs and vulnerabilities of street children. These include the **National Policy for Child Labour, 1987, the National Policy on Narcotics and Psychotropic Substances, 2012 and the National Policy for Drug Demand Reduction, 2014**. The former should underline that no policy that accepts that street children will continue to live on the streets and work is lawful or acceptable. Drug policies should contain effective restrictions, inviting deterrent penal action, on the sale of substances like thinners and glue used by street children as drugs.

For protection of street children, rules under the **Juvenile Justice (Care and Protection of Children) Act** must specifically contain a section about the protection of street children, underlining the duty of the state to secure for every street child comprehensive, non-coercive, rights-based care and protection. The details of how this can be secured will be indicated below, and for this the **Integrated Child Protection Scheme** should contain sufficient resources to reach every street child with the family support, sponsorship, and supported foster care programmes indicated below.

The **National Policy on Education**, as we observed, does not make specific reference to the needs of street children. Both this and the policy for street children proposed above, needs to emphasise that with the passage of the **86th Constitutional Amendment in 2002 and the Right of Children to Free and Compulsory Education Act, 2009**, mainstream education is now a fundamental right of every child between 6 and 14 years of age, and that this includes street children. Likewise, the **Sarva Shiksha Abhiyan (hereafter SSA)**, the central government's flagship scheme for primary education, should contain sufficient funds for urban residential hostels, which as we shall argue, contain the potential to reach the largest numbers of street children with voluntary, non-coercive, rights based care.

Likewise, the **National Urban Health Mission (NUHM)**, in accordance with recommendations of the Technical Resource Group set up by the Government of India in 2013 for finding ways to make the NUHM more effective in reaching street children as a highly at-risk category, such as health-centres at railway stations and bus stands for street children⁴⁹. Similarly, the **National**

⁴⁹ This recommendations of this Technical Resource Group chaired by Harsh Mander are available at https://xa.yimg.com/groups/.../Final_Report_and_Recommendation_Technical_Resource_Group_30-04-2014.pdf

Mental Health Policy should indicate ways to prevent and address mental health problems of homeless street children and children in custodial settings.

The **RSTC scheme under the SSA** must be specially redesigned to cater to the particular needs of street children. Currently at the end of the special training, he or she is meant to be mainstreamed into an age appropriate class in a government school. The difficulty as we saw is that by 'mainstreamed' it is understood commonly that the child would attend regular school, but also live at home with her family. It must explicitly recognise the predicament of street children who they may not have a home, or a family, or both to return to. For such children, the scheme must provision for their automatic graduation to the SSA programme for **Urban Residential Hostels (URHs)** for urban deprived children.

However we noted that this programme - of Urban Residential Hostels (URHs) for urban deprived children funded by the SSA- has hardly taken off nationally. Sufficient funds must be provided by both central and state governments to cover all street children in a phased manner, not longer than five years.

Both the RSTC and URH schemes should be amended to include a continuum of care, catering to children outside the 6-14 year age group. Street children maybe on the streets before the age of 6, and most often require residential care even after being mainstreamed into public schools or reaching the age of 14.

Indian Railways network is a major stakeholder with respect to early rescue and restoration of street children. **SoPs** by the Railways have already been issued, under the direction of the Delhi High Court; they need to be properly implemented. It is a prevention strategy as well as it takes off street children before they have negative experiences on the street.

6.3 Strengthening National and State Commissions

The National Commission for Protection of Child Rights (**NCPCR**) and State Commissions for Protection of Child Rights (**SCPCR**s) set up under the Commissions for Protection of Child Rights Act (**CPCR Act**) should also be specifically charged with protecting the high-risk street children. Since these statutory bodies are the designated grievance redressal, monitoring and recommending institution for implementation of various child rights legislations, such as the Right of Children to Free and Compulsory Education Act, the Protection of

Children from Sexual Offences Act, and most recently, the Juvenile Justice (Care and Protection of Children) Act, they must act as apex empowered institutions, to hold all governments, central, state and local, responsible for ensuring that street children are able to access all their rights, to protection, education, and protection from sexual abuse and the obligation to work. The **CPCR Act** provides for the creation of Children's Courts and **POCSO Act** advocates designation of Special Courts and the appointment of a Special Public Prosecutor, in order to ensure the speedy trial of offences against children or of violation of child rights and these should be put in place. **NCPCR** and **SCPCR**s are the competent authorities to monitor the implementation of **POCSO Act**.

Despite the important role that the **NCPCR** and **SCPCR**s play, they remain heavily dependent on governmental funding, as well as appointments. These institutions must be made financially and administratively autonomous like the **NHRC**, and the process of appointments to these bodies are regular and based on transparent processes of seeking nominations or applications in the public domain, and the appointment should be made from these citing reasons in the public domain.

6.4 Interventions at the state government level

Policies, laws and programmes initiated by the Central government on items are implemented by state governments. With the greater fiscal devolution to states initiated by the central government since 2014, the role of state governments for designing, implementing and resourcing programmes for street children becomes even more crucial.

To begin with, state governments should be encouraged and supported to enact their own state policies for street children that build further on principles in the proposed national policy, and indeed take these further.

Because these are a very mobile, hard-to-reach and as we noted paradoxically invisible target group of most vulnerable children, state governments need to begin with a massive mapping exercise of street children, which should be updated every year. The state government then must design specific programmes for addressing the many vulnerabilities faced by street children indicated in this paper.

We have noted that all street children survive by work, much of which is unsafe and undignified. Once again, it must be recognised that all child work is unlawful until 14 years,

and even beyond this, child work in unsafe occupations is unacceptable. Even beyond what the law mandates, a child should be assisted to pursue mainstream education even beyond elementary levels, to secondary, technical and higher education. Across states, the coverage of children under the **National Child Labour Projects (NCLPs)** has covered only a small fraction of their estimated population of child workers. Even in states where labour departments and NGOs have attempted to end child labour with scrutiny and raids and rescuing child workers, we have noted that the primary focus has been on children working in factories or similar settings, neglecting the 'last' children, such as street children, slum dwelling children and migrant children. All these children are in hazardous work, and are dependent critically on this work for their day-to-day survival. They are engaged in hazardous employment like waste picking and scavenging, traffic light vending, begging and work in roadside stalls and hotels. It is critical therefore that labour departments are trained and resourced to ensure that child labour interventions are accessible to street children and other hard to reach groups.

The multi-faceted nature of deprivation faced by street children means that their right to education cannot be guaranteed merely by admission into government schools. It is important to ensure that they also have access to appropriate residential facilities, which can provide the support and protection necessary to gain a decent quality of education.

We have noted that under the **RTE Act**, state governments may operationalise their provisions for out-of-school street children through the establishment of **Non Residential Special Training Centres, Residential Special Training Centres and Urban Residential Hostels**. However these are not mandatory, therefore very small and stray investments in these centres have been made, and the large majority of street children remain deprived of their right to education. In addition, under RTE, Street Children should be mentioned alongside Urban Deprived Children as a separate category as many states do not recognize street children as urban deprived children.

In fact, **CCIs should be more on lines of residential hostel rather than separate and closed children's homes**. Drop-in centres are where new children were received and offered services, but they should be prepared for either family-based care, or residential educational and care facilities that the URH provides. Funding norms for RSTCs and URHs should be revised to enable good-quality comprehensive care in urban settings for street

children, as well as the continuum of care. Overall this program requires enormously higher funding potentially to cover all street children.

Funding and resource support is also required for **strengthening the MIS infrastructure in CCIs**. Electronic record keeping in CCIs needs to be accorded high priority. We need to have a robust database of children residing in Childcare institutions and should be able to identify street children living in the facility or have stayed in the facility for some time. It needs to be updated regularly. We can develop mechanisms wherein the MIS can be centralized and information across CCIs and institutions like Childline within states or across states can be accessed. This is especially useful from the point of view street children who are highly mobile.

Non-static centres like **mobile health units** especially in health and nutrition within ICDS need to be strengthened. It has been observed that street children do get counted in referrals but they are not taken into account when funds are earmarked for such non-static centres which can be very useful for street children.

Educationists should be brought in to design high-quality bridge courses. Some bridge programmes have been developed for children below 10. But the much harder to bridge group is children who have never been to school, or dropped out early, and are now over 10 years, and we could not find good quality bridge courses for this group of children.

Many street children will be much older than their classmates when they join school. We noted that in many instances, such children are still refused admission as they were older for the class they were eligible for admission, though by law admission cannot be refused. This needs firm correction.

6.5 Interventions at the local government level

In principle, local government bodies like municipal corporations can and should play a crucial role in providing rights-based services for street children. However, most urban local bodies at present lack almost completely the orientation, political will, capacities or resources to undertake such programmes. Our survey noted outstanding exceptions, like the Chennai municipal corporation's involvement in the Residential Special Training Scheme for out-of-school children, but these are rare.

Central and state governments must undertake a major programme for building capacities in urban local bodies

to undertake such programmes as drop-in shelters, feeding and health centres, Residential Special Training and Residential Hostels to cover all street children.

6.6 Major state approaches recommended for street children

In the light of our review, the following are the five main pillars of a proposed rights-based programme for street children, which should be binding on the central and all state and urban local governments (Detailed and comprehensive commentary on the following approaches is presented in **Annexure: Comprehensive commentary on approaches recommended for street children**):

6.6.1 Designing age-specific interventions for street children

For different age-groups:

- i. **For 0-3** years children of the street and abandoned children focus shall be on giving them for adoption and foster care. For children with street families, community based programmes are recommended. Sponsorship can also be explored.
- ii. **For 4-8** years children of the street and abandoned children, centre based programmes (CCIs) and, for children with street families, community based programmes are recommended, however centre based programmes can also be explored in some cases of children of street families. Supported foster care and sponsorship can also be looked at in this age-group, adoption may be difficult.
- iii. **For 9-14** years children of the street and abandoned children, centre based programmes are recommended whereas for children with street families, community based programmes.
- iv. **For 15-18** years children of the street and abandoned children, though URH is a better option, however even if some ties with families exist and engagement is possible then community based options should also be explored as children of 15-18 age group may want to connect with families. For children with street families, street based programmes might also be effective and may be used in conjunction with community based programmes.

All those children found on the street, irrespective of their age group, shall get care, protection, medical treatment, food, clothing, socio-psycho counselling

and education. Family being the best and safest place for any child, efforts are made to trace the families and reintegrate them with the parents or extended families. Proper documentation through established process and development of MIS through making use of the technology could help reintegrate the run away and missing children with their respective families.

6.6.2 Phasing out of custodial children's homes:

WCD should ensure the phasing out of custodial children's homes under the Juvenile Justice Act, 2000. These should be at best short stay homes, and Section 39 of the JJA 2000 should be enforced, which clearly lays down that restoration and protection shall be the prime objective of any children's home or the shelter home. Such restoration could be to the biological or extended family, if this is the wish of the child, and the family is willing, able and responsible. But in all other cases, restoration should be to carefully designed and supervised adoption and foster care options, or where these are not available, non-custodial residential schools established under SSA.

6.6.3 Establishing a large network of drop-in shelters with feeding, health-care, de-addiction and rehabilitative services:

State and local governments should provide a large numbers of drop-in shelters in all major urban railway stations and bus stations, as well as other points of assembly of street children. This should provide the point of first contact to both new and older street children. These drop-in shelters should play an important role in providing a safe place for street children to spend the night, in addition to providing or connecting them with other relevant interventions like feeding programmes, health centres, drug de-addiction services, special training centres, non-formal education, child health care facilities and children's homes. However, drop-in shelters should not be the final destination of these children, because a child's right perspective requires that the child be taken voluntarily to a safe location away from the streets, in which the range of children's rights are met, including to food, nutrition education and health-care.

6.6.4 Establishing family based alternatives for street children

Central and state governments, in consultation with WCD and NCPCR and the SCPCRs, should actively and widely promote family-based alternatives, like adoption,

and state-supported foster care, and prepare appropriate schemes for these.

Nonetheless, except for very small children, the long-term future of the child must be based on the informed consent of the child. This principle should indeed apply to all children, but more so to children of the streets, who have often taken brave and adult decisions to resist abuse, or work to support their families, and accept the consequences of their decisions.

6.6.5 Establishing a large network of Urban Residential Hostels for all street children

The Department of School Education, Ministry of HRD, Government of India, must make a plan for opening sufficient urban voluntary residential hostels for all street children, in a maximum period of 3 years. These plans must be of sufficient scale to cover all street children. These may be by sharing spaces with existing urban day schools, but can also be located in independent buildings, with children attending regular day schools. In addition,

systems should be established for quality of care within the residential hostels, to ensure a caring and safe social atmosphere.

6.6.6 Continuum of care: RTE

The JJ Act and child labour laws define and extend rights and protection to different age-groups of children. However, it is important that for street children, and for all children without adult protection, all of these laws extend rights to children from birth to 18 years uniformly. Further, it also must be recognised that youth without homes and families would need support including for continuing education even beyond 18 years.

There should be a policy of special stipends and scholarships for higher and technical education for these youths without adult protection, as well as assistance for supported group living until they complete their higher and technical education. Support to these children for technical and higher education should be on par with admission quotas, stipends and scholarships available for SC and ST children.





ANNEXURE: COMPREHENSIVE COMMENTARY ON APPROACHES RECOMMENDED FOR STREET CHILDREN

I. Phasing out of custodial children's homes

Although the introduction to the JJA 2000 mentions both the UN Convention and the Beijing Rules, it is telling that the drafting of the Act and even more its nationwide implementation is still dominated by the notions of institutionalisation. As pointed out by Maharukh Adeniwalla, 'The preamble of the new Act is in itself a contradiction. Whilst at certain places the preamble uses terms such as "child-friendly approach" and "best interest of the child"', it ends by stating its purpose as being the

"ultimate rehabilitation through various institutions established under this enactment." Institutions are once again preferred for the rehabilitation of children in need of care and protection, and children in conflict with the law' (Adenwalla 2002: 86).

Although the law has pushed the frontiers of alternate possibilities, it is true that institutionalisation continues to dominate the state response to children in care of need and protection and those deemed to be in conflict with the law. The *implementation* of the Juvenile Justice Act, 2000, in effect has tended to continue to limit state

response to very vulnerable children, to locking them away for extended periods behind high walls of prison-like institutions, with little or no concern for the child's emotional needs, the needs for personalised nurturing and caring, the child's education, best interests, and future.

Despite the elaborate systems of care and protection for the children in need that are laid down in the statutes and rule-books, growing up in institutions is not a happy experience for any child. In theory, the custodial guardian takes the place of the parents. However, in practice, children achieve neither emotional security nor material well-being in most children's homes. Institutions both for vulnerable children and those in conflict with the law are usually hidden from the public view and conscience, except for occasional scandals of extreme outrages which flicker briefly in the public eye before dying out.

In state institutions, boys and girls are usually segregated in large halls, and sometimes the same room doubles as a school. Their main adult contacts are the custodial staff, who come in during shifts. Due to the large number of inmates and pressure of work, and the impersonal character of government functioning, there is little scope for developing healthy trusting relationships between the staff and children. The dormitory is hardly conducive for children to develop close ties amongst themselves, as the atmosphere is charged with regimentation and competition. Under these circumstances, the child can hardly develop a positive self-image. Typically, most such institutions lack facilities for recreation and play, which are so vital to a child's happiness and growth. An austere life of cold and bare physical survival that is the fate of most institutionalised children.

Stringent budgetary provisions and lengthy bureaucratic procedures are often a major obstacle in procuring essentials like food, clothes, medicines, books etc. in the government run homes as well as in the non-government institutions. Children who escape from these homes also report routine siphoning of these goods for resale by some unscrupulous staff. Often the very building in which the children live is dilapidated, dingy and gloomy, and in urgent need of repair and maintenance. Most staff in such institutions is entirely untrained, not selected on the basis of aptitude or choice, demotivated, frustrated and underpaid. For the custodial staff, caring for the children is typically just a job and not a vocation. They mostly see themselves as being part of an administrative machine and discharge their duties in impersonal and mechanical ways. Emotionally, they have to cope with their own personal problems while looking after someone else's children.

Even in cases where they are not overtly abused, life for children in institutions is bleak, loveless and cold. Each child is unique, with his or her own special potentials, limitations, temperament and dreams. In the assembly-line environment of all large institutions – both government and non-government – the physical needs and security of a child can possibly be ensured, but personalised care is a casualty and the child's emotional and intellectual growth is gravely hampered. No institution can substitute the need of every child for the personalised environment of a caring family in a secure home. The solution is not to 'humanise' institutions for vulnerable children. It is to find alternatives to confining a child only because the state is charged with taking care of her.

Children who have been brought up in various state homes routinely describe these as 'children's jails', or sometimes *chillar* jails (*chillar* means 'small change'). Even though the confined children are physically provided for – food, clothes, schooling, and medicines – they rebel against the loveless environments intrinsic to all institutions. Many street youth testify to spending their entire childhoods being captured and then running away from one or the other institutions. Cut off from the larger community, behind their opaque walls, corruption and institutionalized systems of bullying and sexual and physical abuse are known to pervade these homes. The children raised in these homes are typically withdrawn or violent, and find it hard to integrate with the larger world into which they are ejected as soon as the state is not bound by the law to protect them.

It is both absurd and heartless for children to be locked up only because they have no one to protect them. It is argued that this is done for the sake of the child: if the child was free in the community, the state would be unable to protect the child from abuse, and therefore she is locked up for her own good. This is as illogical as saying that when a woman is gang-raped, and the state is unable to arrest her tormentors, instead they lock her up for her own safety. The state must find ways to protect the child who is in need of care in ways that respect the child's right to a happy and free childhood, while at the same time ensuring her protection, and her rights to food, education, health care, recreation, love and security.

In the JJA and ICPS, non-institutional humane alternatives to deal with vulnerable children in need and in conflict with law, should be encouraged, to provide them protection and care in families and in the community. Children's homes for the reception of children in need of care and protection should be seen as a short temporary measure during the pendency of any inquiry, and the aim is

for their care, treatment, education, training, development and rehabilitation, with restoration and protection as the prime objective of any children's home or the shelter home. The functioning of institutions under the law, as well as the ICPS, should work with the first objective that the child may be restored to responsible parents, adopted parents and foster parents, in accordance with the child's wishes. In coordination with the CWC, the homes should work towards the restoration of children under their care to parents, and where this is not possible or the child's choice, to adopted or foster parents. For children restored to destitute and homeless families, the sponsorship programme should be activated to provide families and homes with supplementary support to meet the needs of children in need of care and protection, and for the establishment of after-care organisations to support children once they have left a home.

The Integrated Child Protection Scheme (ICPS) should for these purposes have much higher budget allocations, with greater flexibility for innovation, and designing interventions based on the specific needs of various street children.

The CWCs need to be carefully staffed by appointments made transparently of experts with respect and empathy for children from highly disadvantaged backgrounds like street children. Communications between CWCs should be strengthened because street children often cross state borders after they leave home. DCPUs should also be made functional in every district. Convergence of NGOs and other institutions working on the subject of adoption should be ensured, especially strengthening linkages between Childline, CWCs and adoption agencies. Not many Indian families are willing to adopt older street children therefore legal adoption formalities for such families need to be streamlined and fast-tracked.

Government-run child care institutions mostly still follow the custodial approach towards children particularly those in conflict with law but also for children in care of need and protection, and these are worse than jails. These need to be phased out, and replaced by voluntary homes where children are not locked up; instead these should be places where children stay willingly rather than running away. For reaching large numbers, this can be accomplished by converging with Urban Residential Hostel Schemes of SSA, described in detail below.

Standard Operating Procedures (SOPs) for CCI across states should be developed to reduce inter-state differences in implementation and ensure child-rights based homes phasing out custodial jail-like homes.

2. Establishing a large network of drop-in shelters with feeding, health-care, de-addiction and rehabilitative services

We have noted the intense physical and sexual vulnerability of all street children, and even more of those who sleep without adult carers alone on the streets, and the denials of their rights to protection, food, nutrition, health-care, clean water, sanitation, and education. Creating safe spaces for these children to rest during both the day and especially at night are obviously of paramount importance for these children. 24 hour drop-in shelters are extremely important as contact points for all such children as long as they are on the streets, and can offer them partial solutions for their multiple rights' denials. But it must be recognised that these are not complete solutions, because the safety of the child can only be truly secured if the child can be moved to safe family, or if not available, institutional settings, because the street cannot be a safe place for any child. Drop-in shelters should not be the final destination of these children, because a child's right perspective requires that the child be taken voluntarily to a safe location away from the streets, in which the range of children's rights are met, including to food, nutrition education and health-care.

As noted, state and local governments should be mandated under both policy and law to provide to potentially cover all street children sufficiently large numbers of drop-in shelters in all major urban railway stations and bus stations, as well as other points of where street children are known to gather in large numbers. This should provide the point of first contact to all street children.

Each of these are low cost replicable interventions, with very modest staff and infrastructure needs, and are accessible and non-threatening to a child. These interventions need a small team of outreach workers. Children can also take up roles like peer counsellors, advocates, health educators and facilitators. The funds for such projects are mostly restricted to staff salaries and training programmes. There is low per child costs incurred to meet the basic needs of child, assuming that they take care of several of their own needs. Many of these interventions are run by NGOs but supported by government funding.

These drop-in shelters should play an important role in providing a safe place for street children to spend the day and night, in addition to providing or connecting them with other relevant interventions like feeding programmes,

health centres, drug de-addiction services, special training centres, non-formal education, child health care facilities and children's homes. These are described below.

i. Establishing Shelter Network: Homeless night shelters have been established under a Supreme Court order in the Right to Food case⁵⁰. Street children generally stay in shelters being run for women and families, but in some cities, a few dedicated shelters have also been established for older children under the programme. However, their numbers need to be greatly expanded. These centres may be run by local governments or NGOs, but both need to be adequately funded both for creation of infrastructure and running costs, by central and state government grants. There is funding for such drop-in centres also under the ICPS programme, and these need to be expanded. Funding is also available under the shelter programme of the NUHM. Capacities need to be developed of both local bodies and NGOs for such specialised work, as well as robust systems of third-party monitoring.

These drop-in shelters would have provisions for children to have lockers, showers and toilets that allow them to maintain sanitation and change their clothes, apart from feeding services mentioned earlier. These special health centres should also extend preventive and promotional health education to the children, educational and drug de-addiction services, as described below.

ii. Water, Sanitation and Hygiene: Since street children typically lack access to clean drinking water or water for bathing, or toilet facilities, as stated earlier, these should be provided to street children in the drop-in centres referred to earlier. These should be available free of cost to all street children, and not restricted to those who choose to reside in these shelters.

iii. Food Security: We noted that a street child is denied assured access to food of adequate quantity and nutrition, dependent instead on leftover food from hotels, restaurants, trains at railway stations, roadside food-stalls and garbage bins. They are excluded from ICDS and school feeding programmes. Early drafts of the National Food Security Bill contained the provision that no child should not be barred from any feeding programme on any grounds whatsoever, precisely to allow the most food-insecure children like street children to eat if they choose at ICDS and school feeding programmes. But the most effective

would be for all railway stations, bus stations and other places where street children congregate to run free feeding centres open to all street children without conditionality of any kind.

iv. Health and nutrition: Because street children are very health vulnerable due to very poor nutrition and sanitation and an unsafe lifestyle, apart from frequent drug use, the Technical Resource Group of the Urban Health Mission recommendation of a Health Station at major urban railway stations and bus stations should be built into all city health plans. These can be run by nurses and health workers, with referral services to higher health centres when doctors are required.

There must be specific drug detoxification centres for children, with special focus on children who lack effective and responsible adult protection. These should be available in every city, with adequate funding through the ICPS. These centres should be closely linked organically to other child-care interventions, so that a child who is freed from drug-addiction can graduate smoothly to other long-term interventions such as restoration, sponsorship, foster-care and urban residential special training centres and hostels.

v. Education: Because most street children have very little or no education, these drop-in centres may provide some non-formal education services. However, the Right to Free and Compulsory Education Act, 2009 (or RTE) guarantees mainstream education to all till the age of 14, and this includes street children. We will argue below that this requires residential training centres to bridge these children for their lost years of schooling, and for those children without families and/or homes, these may require a large complex of residential schools.

A Disclaimer

Whereas these are critical services for first-contact with these children, and to partner them and extend access to some of these basic needs, it is important to stress that these cannot be seen as the final destination of these children. There are some child-rights activists who indeed see these shelters as the best option for street children, even in the medium and long-run. We are afraid we cannot agree.

Those who recommend drop-in shelters and other street-based approaches not just for first-contact with street-based children but as preferred longer-term strategies base themselves on the premise that children and youth

⁵⁰ PUCL vs Union of India W.P. 196/2001

have the right to choose whether or not they wish to stay and remain on the streets; and should continue to retain their independent agency and economic independence, which they have fought for at a young age, and which they value highly. They have a sense of belonging to the streets, and find within it emotional and material satisfaction. According to this view, street life is a conscious choice of those children who find it as a better alternative to the betrayal of abusive relatives or parents (this is indisputable). It is also better than abusive state custodial homes (this is also indisputable). This choice of children should be respected. We should not impose our own beliefs regarding their need for adult protection, if it violates a child's own aspirations.

They strongly believe the child on the streets have acquired a certain set of skills and abilities, which harsh street life has taught him. As we have observed, they live life on their own terms. They negotiate with adults around them to earn a living for themselves and may also take care of their sibling and families. These skills are the basic survival skills that should not be taken away from these children, but instead these should constitute the base of working further with these children. It is assumed that taking children away from street life would in a way snatch away these basic survival instincts from children. On the foundations of what they have themselves learnt on the streets, what should be provided to the children is skill based training, to help them take up vocations in the course of time.

In summary, the basic premise of this approach is that we must respect the right of the child to choose being on the streets. It is based on building upon the survival skills that children have developed while being on the streets. Life of the streets also gives a lot of freedom to each child. They are not tied down to any routine. Educational programmes work on the sets of skills that they have already achieved, in the time and spaces that suit the child. For instance, children have not learnt counting in a classroom. But they know very well how to count the money they earn. They can do double and three digit additions, even though they have not been through graded classroom lessons. It also acknowledges their need for income, and respects their economic independence. It provides non-formal mode of education for children which provide enough time to earn as well. The income so earned can be saved through saving schemes offered by NGOs. Health care and counselling support is provided.

There is much to commend in this approach: its opposition to involuntary institutionalisation of children, and its respect for children's choice, dignity and agency.

But still we are unable to recommend it. We believe that the biggest disadvantage of this approach is that it in effect accepts that children will continue to work and live on the streets at an age when they should be in schools. While they get support from street based approaches, the non-formal education programmes may provide more chances of being literate than being formally educated. With almost no chances for higher education, they would as a result have limited options for careers later as adults, except in some low-end options like rag-picking and unskilled labour, or a career in crime. After the passage of the Right to Education Act, in fact an approach that supports the child being out of school is, in our opinion, no more a legally tenable option.

They would under this approach also continue to live on the streets, or in shelters. The street environment is stressful, dangerous and highly unhygienic. They also are denied access to nutritious food, and health care services. They grow up with many ailments, mental health problems born out of abuse and neglect, and often drug dependence. There is insufficient research, but we find a large number of such children die very early. We talk often of 'missing girls and women' in India. We believe that there are also 'missing street children and youth'.

Also on the streets, children are required to take decisions like adults. What they are missing is responsible and caring adult protection. The child continues to perform adult roles on the streets; they have discretion to spend their money. They start handling money at an age when they are not capable of choosing which option is better for them. For example, there are high chances of substance abuse among children. They are free to buy drugs on the streets. Even though a de-addiction programme may be provided, relapse of these habits can occur from time to time just because they have the freedom and money to buy it.

3. Establishing family based alternatives for street children

Child rights activists the world over believe, and we agree, that even the best-run open, voluntary, caring institution cannot substitute for a healthy, functional, caring family. Therefore it is important to advance models of rights-based care that enable as many street children as possible to stay with family or family-like situations.

Two caveats are however important at the start. The first is that in general, although we believe that even the best institution cannot substitute a family, this family does not necessarily have to be a biological family. We must be careful not to give greater moral weight, even by

implication and nuance, to a child's biological family. It is our experience that few children leave their homes lightly, or on whim. For the few who do, repatriation to their biological homes should be offered as an option to the child, but as only one option among others. We should trust that the child has good reason if she or he chooses not to return to their biological homes.

The second caveat is that except for very small children, the long-term future of the child must be based on the informed consent of the child. This principle should indeed apply to all children, but more so to children of the streets, who have often taken brave and adult decisions to resist abuse, or work to support their families, and accept the consequences of their decisions. We cannot make up our minds for the child without consulting her or him about what is possible, and what she or he wishes.

For runaway children, the option of returning to their biological family should always be open. If the child decides freely and voluntarily, without prompting and with consultation of the counsellor, to return to the biological home, this should be supported by due counselling of the child, and reassuring the child that they should feel free to return if things do not work out at home. Trained staff that the child trusts, should accompany the child to the biological home, and also support and counsel the family. The welfare staff should make 6-monthly unexpected home visits to be reassured about the welfare of the child, for at least 2 years after repatriation.

Let us now take the situation of a street child on the streets, who has a loving family, whose only difficulty is that the parent, often a single homeless woman, is homeless, destitute, and maybe disabled and surviving mainly on alms. Where indeed in these circumstances do the best interests of the children lie? The ideal is if we are able to support the family as a unit, and to help the entire family including the child to emerge from the conditions of homelessness and destitution. This can be assisted also with a programme of sponsorship. But we cannot for these children, close the offer to their parents of such residential hostels, as which do not separate the children from their families in terms of family bonds and respect. Middle class families often resort to boarding schools for special reasons; why should this be opposed for street children, especially when it can protect them from violent and unsafe environments. If the parents choose this, care should be taken to ensure that systems of transparency and participation which guard against the abuses of involuntary custodialisation, and nurture relationships with family or family members.

The second case is of children with active links with their families, but located in dysfunctional and abusive biological families that are not in the best interests of children. A child who is growing up needs a stable, secure environment with stable and reliable care givers. If the child is subject to abuse and violence within her family, then she needs to be placed before the Child Welfare Committee to take a decision in the best interest of the child.

The third is the case of children abandoned, orphaned, or those who have broken links with biological families. We again recognize that for a growing child, the family is the best institution, even with all its limitations. But this does not mean necessarily the biological family. There are several other options which we strongly believe in and will work towards: adoption, supported foster care, unsupported foster care, sponsorship, and supported group living.

For very small children who have no known parents, the best option is adoption, under the provisions of the JJ Act (which are more inclusive of varied faith groups than older adoption laws in the country).

For young children who have biological parents, but they are unable or unwilling to take responsible care of the child (because of incarceration, alcohol or drug abuse, physical violence, or extreme destitution), we need to explore the idea of paid or supported foster care, again under the provisions of the JJ Act. We need to select carefully, foster mothers or foster parents, and hire for them small homes near well established 'mother homes'. After being fully reassured about their character and parenting qualities, we can place 6 or a maximum of up to 8 children in their care. They would be paid per child an allowance of around half of the per child costs in a residential hostel. The satellite home will be closely supported by the 'mother' residential hostel, regularly visited by staff, and the child integrated not just in mainstream school, but also many co-curricular activities (and health and counselling care) of the mother home. Also with small children, even if the foster parents seem all right, it can be noticed if a child is not happy, and in that case it should be offered the alternative of returning to the residential hostel.

For very small children, these two options would be followed without the child's explicit consent. But for older children in the same circumstances as are listed above, the same options of adoption or supported foster care should be explored, but with the consent of the child.

4. Establishing a large network of Urban Residential Hostels for all street children

i. Non-custodial Comprehensive Care

We believe that the central, state governments and local governments should together pursue for street children approaches that attempt to secure the rights of the most vulnerable urban child - those who are forced to make the streets and railway platforms their home, and who earn by picking rags, begging or other street based work - by extending to these children voluntary comprehensive care in open residential homes. It believes that a child's rights to protection, education, food, health care and recreation must be upheld, but in ways that do not take away the freedom of choice of the child, in the ways state custodial institutions do.

The first step in strategies of this approach are to reach out to the most vulnerable urban child: those alone on the streets, in detention centres, or at great risk because of being forced to live on the streets, sexual and physical abuse, parents who are violent or substance users, or starvation. To these children, in the absence of responsible adult protection, or extreme parental poverty, the state must guarantee comprehensive, long term care to the child, and her rights to protection, love, food, health care, recreation and education.

ii. Operationalising non-custodial comprehensive rights based care

For what we describe as voluntary, non-custodial, comprehensive, rights based care, there can be two approaches followed by public authorities. If it is possible, family-based models are always preferable, of the kind described in Section 3 above. But for all former street children who cannot be covered for a variety of possible reasons by family-based models, the approach that we recommend is extending open voluntary comprehensive care residential hostels to all street children:

We favour this approach of non-custodial but comprehensive care residential hostels as the most scale-able approach compatible with the rights of every child to education, protection, food, health care, recreation and a secure and happy childhood. This approach is founded on the conviction that there are serious limitations to the conventional state approaches. If they provide long term care, these are by custodializing such children, locking them up in loveless environments, leaves them vulnerable

to abuse, loneliness and low self-esteem. Street children, more than others, long for freedom of choice and agency, and these homes rob these from them. On the other hand, although many NGOs provide valuable drop in services, and street based informal education, but the child goes back to the streets, with the violence and exposure to substance abuse and sexual abuse of their lives unchanged. RTE creates a constitutional responsibility on the state to ensure that every child enjoys a full childhood with whole-time education, free from the responsibility of work to provide for herself or for her family, therefore street based approaches which tacitly accept that the child will work and live in the unsafe environment of the street is not, in our opinion, any longer legally tenable.

The Residential Special Training Centres (RSTCs), under SSA of the Government of India, works best to mainstream working children who have impoverished but responsible families and adult protection. After an intensive scientifically designed residential bridge education, which includes curricular and life skill elements, the child is 'mainstreamed' into regular school after returning to her family. But street children often have no family to which they can or wish to return to, to pursue their education. Therefore with RSTCs, the child will be 'mainstreamed' back to her original life on the streets, which is very unfortunate. A child is not a 'project' but a precious life, and once we pull the child away from the survival strategies that the child has bravely developed on the streets, we have no right to send them back to the same situation, until the child or youth is ready for independent living.

We therefore believe that for street children who lack adult protection, the most scalable rights-based option is open voluntary non-custodial residential schools, which can enable these children to access their rights to education, protection, food and health care. These can be built on a large scale by integrating these in existing day schools, on the SSA URH instructions. This approach must endeavour to secure on scale the rights to protection, food, education, health care, recreation and love for all children who live and work on the streets. These would be through voluntary access of these children to community based residential homes for these children, with all meals, protection, bridge education, health care, healthy recreation, leading to regular schooling and the opportunity of eventual family integration. Since a child without adult protection on the streets cannot be expected to study, unless they have shelters in protected environments, health care including counselling and drug de-addiction, and they are fed nutritious food, these should

be seen as an integral part of the educational process for which ultimately the school department is responsible.

This approach is predicated on the wide expansion of voluntary open non-custodial residential hostels and schools. These are provided for in principle (but as we observed very little in practice) in the SSA programme for Urban Residential Hostels. It is welcome that Sarva Shiksha Abhiyan in its revised guidelines of 2010 has finally incorporated provisions for residential schools for urban street children, and children without adult protection. But these are still envisaged as an 'enabling' scheme. However, it is the legal duty of the State to ensure education to *all* street children. Therefore we believe it should be mandatory for the Central and State Governments to make plans to ensure within the time frame permitted by the Act to ensure that every urban street child is served by voluntary residential schools under SSA.

Detailed guidelines and manuals should be developed by MoHRD in consultation with WCD, for the best management of these non-custodial residential hostels for street children. An autonomous unit of experts should be created to build capacities of the staff of these hostels, and to ensure regular quality and financial audits. Each hostel should establish a system of regular Bal Sabhas of the children, in the presence of these external experts.

The Government of India, through SSA and other initiatives, has been able to work with state governments and citizen groups to expand significantly the availability of primary schooling at the doorstep of most children in the country. But there remains a stubborn core of children that an even more expanded network of schools would not be able to bring into school, even if the school is at the neighbourhood of where the children live. These are children who survive in the most difficult circumstances, and face formidable barriers to be able to access schooling. These include, along with disabled children, children of migrant workers, working children, urban street children. If the country is committed to bring these 'last' children through the doors of our schools, and to retain them there, this would require the development of strategies that recognise and address what are those barriers that block a child from walking into schools, and staying there. This is even more imperative in the light of the obligations created by the fundamental right to education.

This approach involves the following main steps:

A. COMMITMENT TO LONG TERM COMPREHENSIVE RESIDENTIAL CARE: The necessary but not sufficient conditions for street child to avail of their right to education is to ensure that they

access first their rights to shelter, security, assured and nutritious food, health care and love. Recognizing that children's basic needs must be met (i.e. food, shelter, health) before they can focus on education, we must integrate these services into its educational model. This is possible only with family-based models, or residential homes, which should be available to the child for his or her entire childhood and youth. These homes must be open and voluntary, if they are to actually hold the proud and freedom-loving street child. They are 'homes', not merely night shelters. A home is a place of security and basic comfort where one resides permanently whereas a 'night shelter' provides shelter only for the night and takes no responsibility for the children's well-being during the day. (Night shelters also tacitly accept that children will work during the day).

B. Model should be large scale and replicable:

The aim should be to have strategies which can potentially reach *all* street children, in the spirit of the constitutional commitment to extend education to every child, including surely those who are most vulnerable, at risk and deprived. This is possible mostly with literally hundreds of community based residential homes cum hostels for street children in every city and town.

C. Redeploying of public buildings and infrastructure:

The severest bottle-neck to such an expansion of networks of residential hostels for urban vulnerable children would be the availability of buildings, because of the high cost of real estate in cities. The government would be able to fund a few 'model' hostels if it sets out to build new hostels, but this would not cover the tens of thousands of street children in every city. But most state and local governments have large unused and underutilized buildings and infrastructure, which need to be redeployed or shared with the street children.

The best approach (and one that indeed has the potential of enabling us to reach *every street child*) is the share spaces in existing schools, that are vacant maybe 16 hours, and these are the very hours in which a street child is most vulnerable. This is the most economical model. The same building needs only small additions for toilets, bathing places and a kitchen. It also leads to integration, dignity and the learning hands-on of egalitarian compassion and pluralism.

But we can also rely on redeploying and refurbishing unused old buildings, with additions and alterations.

The state and municipal governments have many buildings that are unused and under-used which can be allotted and upgraded as residential homes. These can be old school buildings, or other municipal or other departmental buildings. Once refurbished, these homes can in turn serve as schools for children from the surrounding community.

D. Comprehensive holistic educational model:

For the street child, the hostel is also their only home, therefore education that a child derives otherwise from family and local community must be integrated consciously into their model. We need to develop methodologies and pedagogies to assist the street child who is now in our care, to best prepare the children for the formal school, for work in the modern economy, but most of all for a happy, healthy, responsible life. Our experience has shown that street children, who have the freedom to leave whenever they choose, need an exciting education programme, which appears to them to be relevant to their lives, before they will start to engage with the learning process. Likewise, we need to develop strategies for healing and building further the emotional and physical health of our children. We need to understand better ways of building contact and trust with the children on the streets, of running homes as places of security, love but also learning

for life, and of attracting and supporting volunteers. Life skills education as for instance developed by the Loreto schools could serve as an orientation for this holistic educational model.

5. Continuum of care

RTE has created rights of children in the age-group 6 to 14 years. But street children are both younger and older than this age. The JJ Act treats young people up to the age of 18 years as children. Child labour laws protect children mainly up to the age of 14 years, although recent amendments propose to extend protections from hazardous occupations to children between 14 to 18 years as well. It is important that for street children, and for all children without adult protection, all of these laws extend rights to children from birth to 18 years uniformly.

Further, it also must be recognised that youth without homes and families would need support even beyond 18 years. There should be a policy of special stipends and scholarships for higher and technical education for these youths without adult protection, as well as assistance for supported group living until they complete their higher and technical education. Support to these children for technical and higher education should be on par with admission quotas, stipends and scholarships available for SC and ST children.



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