Children in India: Problems and Prospects

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Abstract:

It is a dark reality in India as well as much of the world that despite keeping focus on the development of children, millions of them, including those who need more care and protection than the rest for physical and psychological reasons are growing up without it. In a developing economy like India, children often fall out of cracks of the very system that is designed to protect and give them justice but often justice is routinely delayed, even denied to the children who approach the system seeking care and protection; the system rather exposes them to the risk of transcending from the category of 'children in need of care and protection' to the category of 'children in conflict of law', as a very thin line demarcates the two categories of children. Therefore, children should be protected with due care so that they should not get indulged in criminal offences.

Key words: Juvenile, Neglected Children, delinquent children, Restorative Justice, Community Based Corrections.

Introduction

In India, a large number of children are neglected due to poverty and social inequalities. Earlier such children used to receive legal protection under the children Act 1960. Subsequently, the Indian parliament had enacted the juvenile justice Act 1986, which has uniformly been implemented throughout the country. The Act provides for the care, protection, treatment and rehabilitation of neglected, delinquent and socially maladjusted children. The Act defines a

juvenile as a child who has not completed the age of 16 years for boys and 18 years for girls. The Act has been amended in 2000 and the new and comprehensive Act has come into light in the form of Juvenile Justice (Care and Protection of children) Act, 2000. The Act applies to all the children who are below the age of 18 years irrespective of their gender. The Act deals with two kinds of children – children in need of care and protection and children in conflict with law (HAQ 2009).

As the children belong to two different categories the approach to deal with them also differs. For those who are in need of care and protection, the state has to provide proper care, protection and treatment by catering to their development needs, and to those who are in conflict with law the state has to adopt a child friendly approach in the adjudication and disposition of matters in the best interest of children along with their ultimate rehabilitation and reintegration into the society through various institutions mentioned in the legislation and that is also one of the objective of JJ Act, 2000 (Kumari 2004). Past researches in certain cities have presented a close nexus between the problems of neglected children mostly come from street children. Apart from the basic causes of poverty and deprivation, the rapid industrial growth and rural to urban drift of the poor in search of livelihood appears to be a major causative factor for the children who have no one to look after them. Those without support in order to sustain are left neglected and therefore, highly exposed to anti-social elements. Children of migrant families usually live in slums, find themselves often in a situation of stark deprivation in close neighbourhood of abundance. Denied of an equal sharing of socio-cultural and economic opportunities, they become vulnerable to various forms of abuse and exploitation and eventually find themselves into a culture of crime. Strains of urban life for the poor and working classes neutralise family as the primary institution for the care and protection of the child. Therefore, it is imperative to understand the socio-economic conditions of neglected children including various forms of

deviance and exploitation in order to tackle the problem in its full range. (Thilagaraj 2000).

Who are the Children in Need of Care and Protection?

There are several categories of children who really need care and protection. The first category are without any home or settled place and do not have any means to survive and the second category of children are those who have a person to live with; at times he/she may be one of his/her guardians and at times he/she is not related to him/her. This kind of children face threat to be killed or abused while the third category of children are those who are mentally and physically challenged and have no one to look after them. Apart from the above categories, there are children who have both parents to look after them but they are not fit to do the same. Some children are incapacitated so that they can beg alms and feed their so called caretakers. Some children are neglected by their parents and run away from homes and appear on the streets and railway stations committing small thefts and bagging alms. At times, children are the victims of armed conflicts, civil commotions and natural calamities. (Kumari 2007).

Separation of Neglected Children from Delinquent Children

The children who commit criminal acts are different from the children who do not have either parent, guardians or anybody else to look after them or if they have parents/ guardians but abused by them belong to two different categories and thus need separate treatment. Earlier, the legislation of JJ Act had not any provision to keep children in different institutions meant for their temporary stay. The shortcoming has been corrected under JJ Act, 2000, as the state has now ensured a complete separation between the two categories as now children in conflict with law are to be kept in the observation homes/

special homes and children in need of care and protection are to be sent to the children homes. (Kumari 2007). The JJ Act, 2000 has a provision that there shall be a separate competent authority to deal with children as follows.

Child Welfare Committee: CWC deals with all matters of children who are in need of care and protection under section 29 of JJ Act, 2000, whereas there shall be a Juvenile Justice Board (JJB) to deal with all the matters concerning children in conflict with law. Even if the child is accused of committing offences with an adult, the child must be tried separately in the juvenile justice board under section 4. (Bharucha 2008). The JJ Act includes the following children as children in need of care and protection.

Street children: by far the largest group are in the need of care and protection, children who are victims of crime and abuse: the biggest group denied care and protection, homeless children, orphaned children, trafficked children, children as sex workers, children of prisoners, children affected by conflict and natural disasters, children whose parents cannot or are unable to take care of them, children in bondage, children with disabilities and other special needs, children in institutional care, children affected by terminal diseases. (HAQ 2008)

Health Status of Children in India

Children in India are the most venerable population and facing innumerable problems right from their birth. It is widely acknowledged that the first six to eight years of a child's life are critical for the overall physical and cognitive growth and development as the pace of development in this early childhood stage is the most rapid. It has been said that the experience based brain development in the early years sets neurological and biological pathways that affect the health, learning and behaviour throughout the entire life. The total number of children in India as per census 2011, in the age group of 0-6 years is 159.8 million, about five million less than the 2001

census figures and marks a negative growth of 3.08 percent. The government has for many years tried to address the needs of young children or children in the early stage through programmes and schemes designed for early childhood care and education, primary among it is the nationwide Integrated Child Development Scheme (ICDS).

However, the indicators for the country on child health and access to pre-school education clearly show us that the situation of children in the early stage is still a matter of great concern. India contributes to more than 20 percent of child deaths in the world, where more than 1.83 million children die annually before completing their fifth birthday, most of them due to preventable causes or diseases. Four diseases namely respiratory infections, diarrhoeal diseases, other infections and parasitic diseases and malaria account for half of under five years of age (48 percent), while 43 percent are underweight. The population of children who are severely undernourished is also notable i.e, 24 percent. Every third malnourished child in the world lives in India and 150 million children are at risk of becoming malnourished. Moreover, every second child in India is underweight. India far lags behind from its neighbouring countries like Bangladesh and Sri Lanka as life expectancy at birth, infant and less than five mortality is concerned.

According to Juvenile Diabetes Research Foundation of India, there are about 1 million (10 lakh) juvenile diabetes in India. Every year 27 thousand diabetic children (2 to 14 years of age) around the world die of the disease where more than 12 thousand die in India itself. There is no count of how many die unnoticed and undiagnosed. It is estimated that India has 2.5 million people living with HIV/AIDS, there is no data available regarding the number of infected and affected orphans and vulnerable children due to this, and there is no defined strategy to curb the menace.

Educational Status of Children in India

India made a commitment to ensuring right to education when it adopted its constitution, but had to wait for many years for it to make it as a fundamental right. Despite flamboyant efforts taken by government it fails to bring back all the target population to the schools. Over half of children in India are either not attending school or dropping out before class eight. In rural areas, population of children out of school is twice that of urban. It has been observed that the children affected by HIV/AIDS face significant barriers to receive education, including in some areas being denied admission to schools.

Over the years, India has tried to provide access to education to its children through programmes both at central and state level and the most important among the central schemes are the flagship programme called Sarva Shiksha Abhiyan (SSA) and the Mid-Day Meal Scheme (MDM-Scheme). The SSA programme, the government's flagship programme aimed to achieve universal primary education (five years of schooling) by 2007 and universal elementary education (eight years of schooling) by 2010. But it failed to achieve the set target and it needs to be extended by another five years. Although promoting education for all, the programme is not designed to provide equal education for all.

The Mid-Day Meal scheme was centrally sponsored on 15th August 1995 with a view of enhancing enrolment, retention and attendance and simultaneously improving nutritional level among children. Besides addressing the serious issue of malnutrition in children, this also serves as an incentive to attract and retain students from the poorest families. However, despite its good intention, reports indicate absence of proper management structure in many states implementing the scheme. The reported average number of school days in which meals are provided varied widely as does the reporting on it. Moreover, there are reports of caste bias in the implementation of the MDM scheme as well as serious concerns regarding the quality of food served to the children. As per the UNESCO report, there are mainly three challenges that India needs to

address to achieve the goal of universal primary education by the 2015. United Nations Millennium Goal (MDG) target:

1. Providing primary education to socially marginalised minority groups.
2. Reducing the dropout rate in primary education.
3. Improving the quality of learning (UNESCO, 2008).

In the last 60 years, despite increased resources and several more commitments in policy and law, only half the number of children have been able to benefit this, which is also one of the main concerns. Despite a decline, the dropout rates are still too high to attain the status of universalization at the primary level of education. Although the transition rate from primary to higher levels shows improvement, especially in the urban area, that is not so in the rural areas. Needless to point out that more boys than girls made this transition.

There are some causes because of which children do not stay in school, such as economic constraints of poor children, the quality of teaching, irregularity in the meal provided to them, all these lowering down the level of enthusiasm among children to go to school. Access to school is also a reason, though the National plan of Action for children, 2005 clearly states that all children in the age group 6-14 years must have access to primary and upper primary schools or their alternatives within a distance of 1kms and 3kms respectively and all schools to have building, toilets, proper drinking water, electricity playgrounds, blackboards and other basic facilities with special attention to disadvantaged children. Different several mountainous regions and tribal areas lack access to primary schools even within the distance of 2 to 3 kms. A survey in 2010, conducted by National Coalition for Education found that more than 50 percent of population from backward caste groups are not served within the habitation in states such as Madhya Pradesh and Uttar Pradesh.

Overcrowding in the classroom, improper facilities of drinking water, toilets, absence of teacher from the classes, disinterest among them due to discontinuous payment also add

problems in the pathetic condition of school education in India. The strong correlation between lack of access to basic formal and quality education and the prevalence of child labour has been well established. Children who are out of school are at garden risk of being employed in comparison with children who are enrolled in school. States that are better at enrolment and retention also rank higher in curtailing child labour. Moreover, apart from indulging in child labour and other unwelcomed area children are also attracted towards criminal activity if they are not attending schools. The report of crime in India, published by NCRB , has explicitly mentioned that out of the total children involved in various crimes 7, 226 were illiterate and 13, 459 had education up to primary level. These two categories have accounted for 51.9% of the total children arrested during the year 2012 (NCRB 2012). The number of children who come under conflict with law are mainly those who are either dropped out or have never been to school (HAQ 2011).

Child Sexual Abuse

Sexual abuse cut across class, religion, caste or ethnicity. Even in educated, high- income families, sexual abuse might be frequent. There are many acts that do not come under the category of rape whereas only rape and sodomy can lead to criminal conviction. The word rape does not include boys and sodomy is tagged under 'unnatural offences'. Sexual abuse in the National Crime Research Bureau can be found under rape and incest, but it is only in the context of girls and the same does not provide any kind of data on sexual abuse of boys. It is frequently assumed that sexual abuse occurs predominantly among girls and this is a huge gap in data that needs to be corrected in view of the number of cases of sexual abuse of boys that one gets to hear of or deal with in practice by those dealing with violence against children.

There are some newspaper reports that reveal that boys

are abused in children's home over few years and state that they are not safe even in state care institutions. India has world's largest number of sexually abused children with a child below 16 years raped every 15th minute, a child below 10 every 13th hour and one in every 10 children sexually abused at any point in time (HAQ 2008). The incidence of minors getting raped in the country has been on the rise since the past six years. In 2012 the figure touched to 8,541 cases according to the data of National Crime Records Bureau (NCRB 2012).

Children in India as Child Labourers

Simply, child labour is a child protection issue and not a labour welfare concern and all the children in the workforce are children in need of care and protection under the JJ Act, 2000. While newspapers continue to cover stories about successful rescue operations of children trapped in labour, there is still no concrete mapping and identification of child labourers, very poor rates of rehabilitation and even poorer rates of prosecution of the accused employers. The fact that child labour is not even a cognizable crime under the child labour Act makes it difficult to prosecute the offenders. The absence of a law to deal with trafficking and ensured prosecution and conviction of traffickers further adds to the woes. Poorly functioning agencies that deal with child labour issues, bad or no coordination between departments, poor implementation of welfare schemes related to child labour and even the exploitive nature of families themselves sometimes brings many of the rescued children back into labour. It is been stated that because of the poverty and penury children usually get involved into work and this is the grey area from where children start to get involved in criminal activities too (HAQ 2008).

A large chunk of juveniles (52.9%) belonged to the poor families whose annual income was up to Rs. 25, 000. The share of juveniles from families with income between Rs.25,000 and Rs.50,000 was 26%. The share of juveniles hailing from income

group (Rs. 50,000-Rs 200,000) was 13.7%. Similarly the share of juveniles from families in income group (2 lakh to 3 lakh) and income group (Rs 3lack) was low at 5% and 1.6% respectively (NCRB 2012). According to the 2001 census, there are officially 12.9 million child labours in India, though child right activists claim that the actual figure is much higher. The child labours mainly trafficked from poor and underdeveloped states like Bihar, Jharkhank, Odisha, West-Bengal and Uttar Pradesh, wherein almost 90% of the reserved children spoke of physical and sexual abuse at the hands of their employers (Hindustan Times 2013).

Child Trafficking

Human trafficking is a group of crimes involving the exploitation of men, women and children for financial gains which is a violation of fundamental human rights. Victims are lured or abducted from their homes and subsequently forced to work against their wish though various means in various establishments indulge in prostitution or subjected to various types of indignities and even killed or incapacitated for the purposes of beginning and trade in human organs (NCRB 2012).

As there is no law defining human trafficking or child trafficking, most cases of trafficking get registered under different provisions contained in the IPC or special laws, as the case may be. It is expected that the police will be effective in using the law to book the traffickers, which seldom happens. Unfortunately, only national level data is made available by the NCRB on the various purposes of kidnapping of children therefore, it is very difficult to analyze the different purposes for which children are being kidnapped to arrive at some assessment on child trafficking as a crime (HAQ 2011).

Children in Conflict Areas

It is being observed that children are affected by violence. There are some 19 out of the 28 states of India that face internal armed conflicts, which are characterised by gross violation of international human rights and humanitarian laws, both by the security forces and the armed opposition groups. Be it Naxalites or government security forces, all are recruiting children in the on-going conflict in various parts of India. After recruiting children, they got training where they are taught to use weapons and explosives. Many children have dropped out of schools and become special police officers. Children are being victimised from both sides. Naxalites killed them because they are suspected Naxals.

Thus, children are growing up in an environment of violence, both in the private space and the public one. Statistics on children who are in conflict with law or have fallen into delinquency reveal they often come from a particular background, including growing up in violence and exclusion (HAQ 2008). Two months back Kerala police has arrested Let militants in the charge of recruiting youths for terror training and they all later on get life term imprisonment for the same (Philip 2013).

Media Violence and Children

Albert Bandura, a theorist, propounded the social learning theory in which he states that aggression is learned through a process called behaviour modelling. He argued that individuals, especially children, learn aggressive responses from observing others, either personally or through the media and environment. He stated that many individuals believed that aggression will produce reinforcements. There reinforcements can formulate into reduction or tension, gaining financial rewards, or gaining the praise of others, or building self-esteem. In the Bobo doll experiment, the children imitated the aggression of the adults because of the rewarded gained. If aggression is diagnosed early in children he believes that

children would reform from being adult criminals. He stated that aggression in children is influenced by the reinforcement of family members, the media, and the environment. (http//:www.criminology.fsu.edu/crimtheory/bandura.htm).

To the numerous factors contributing towards child delinquency, the media often adds another ingredient of a totally unattainable life style. They often present degrading sex and violence that are not wholesome even for fortunate children from a stable family background, who can guide T.V. viewing or interpret negative events when they are presented. Disadvantaged children are further disadvantaged with no one to limit and to interpret what they do watch. The electronic media makes a climate that tolerates violence, instant gratification without any concern for consequences. The extent of the destructive influence on the most vulnerable members of the audience is very great. The impulsive and undirected child sees violence as a solution to problems not only by the villains but also by the heroes. Explosion, fire fight with automatic weapons, knives assaults and so on is often presented in an atmosphere of stimulation and excitement (Hahn 1998). Television is a rich source for such learning in general and of violent behaviours, in particular. Violent programs supply children with many ideas for specific acts of violence. (Lemish 2007). Watching television does cause violent behaviour and that has been proved by numerous researches. Several studies since 1971 have suggested that television violence causes aggression among children. Psychologists Robert M. Liebert and Toyce Spafkin in their book *The Early Window* talk about the effects of television on children and youth; in 1988 they supported the idea that TV violence is a cause of aggressiveness, not that it is the cause of aggressiveness (Biagi 2010). Many critics note that T.V. violence is often glamorized; violent protagonists are portrayed as attractive and heroic, and the physical and emotional consequences of violent behaviour are underplayed or ignored. There has been a controversy about the role of violent media in modelling violent behaviours,

specifically physical aggression in young people (Seifert 2012). Research evidence suggests that some delinquent behaviour is a result of observing the actions of others, and many believe that television violence is more likely to lead to a more aggressive behavior. (Lawrence and Hesse 2010). A school boy of 15 years old in Chennai has stabbed his teacher to death. The boy was upset with the teacher who failed him in her subject and scolded him. He also had written remarks in his diary and this angered him. During questioning by the police, the boy said he had watched a movie "Agneepath" and got influenced by the hero of the movie by the way he took revenge from his enemies. (http//:www.thehindu.com/new/cities/chennai/student-stabs-teacher-to-death-in-chennai-school/article2874995).

Media violence is a major contributing factor and a public health problem that must be addressed by all available resources in the community, the schools and at home. Good parenting however is the greatest defence against the effects of media violence. The parents have to monitor their children from the ill-side of media and can mitigate the intensity of media portrayal of violence to protect children from this escalating public health issue. Parents should teach their children about exploitation, hate literature and violence so that children should know how to react when they see such materials. Moreover, children must not be set free to watch whatever and up to maximum period. The gadgets should be placed in a visible area at the home where it could be easier to monitor the time and content of the programme. Children should be taught media literacy skills. In this regard parents can help children distinguish between fantasy and reality, teach children that real life violence has consequences, help children understand how they are being targeted by media games manufacturers. (http://www.readperiodicals.com/201105/2469635161).

Across the world most of the children in conflict with law are essentially children who were denied their rights and access to education, health, shelter, care and protection for some

reasons. Many of the children who are in conflict with law are actually the children in need of care and protection. Moreover there is a thin line that demarcates between the need of care and protection and children in conflict with law (HAQ 2008).

The Downward Spiral: How a Child Becomes Vulnerable

What happens when a family or a community fails to protect a child? The child moves away from home, often supporting himself and bringing himself up as he knows best. These children are far more likely to participate in dangerous or criminal activities, get trapped in child marriage or drug addiction, and perpetuate the cycle of abuse or violence.

In many cases, runaways are rescued, taken into state custody and sent to state-run Children's Homes or, if they are accused of an offence, are sent to Observation Homes. But these institutions are often more harmful than helpful.
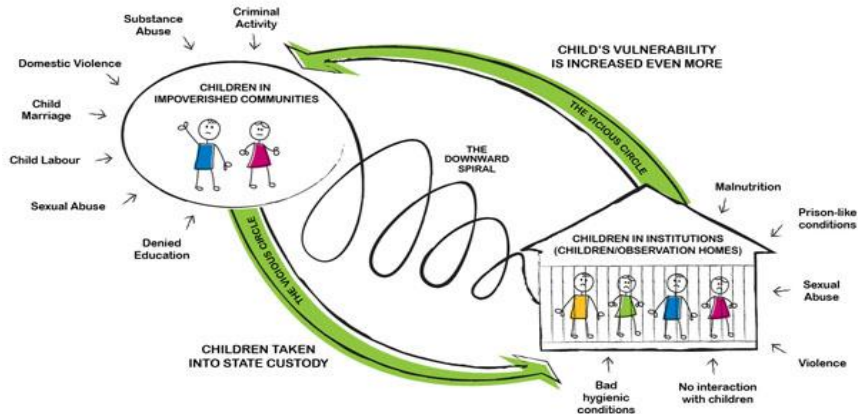
Although the Indian Juvenile Justice Act sets detailed requirements to ensure the child- friendliness of such homes, these are not put into practice. Harsh, jail like conditions, neglect and physical abuse are not uncommon. When these children are released, they return to the streets, to tough neighbourhoods or to malfunctioning systems of care and protection. They continue to be exposed to violence and abuse,

compelling them to engage in dangerous and harmful behaviour. Putting it simply, the situation is just as difficult, and the child even more vulnerable (http://aanganindia.org/the-problem).

Suggestions

Children in need of care and protection must be provided care and protection through all available resources: there are children's homes and welfare schemes run by the government of India to give them care and protection in a healthy and constructive environment but due to unawareness these children are forced to live on streets. Therefore in order to give services NGO's could be effective in making a link between the beneficiaries and the available government services. Effective implementation of right to education act, 2009, can also be a fruitful endeavour to stop the children to involve in other activities that later on prove harmful for them. It has been observed that a large chunk of children who are in conflict with law have no education at all or they have education of primary level. Therefore, in order to pave them on a constructive road, pushing them in schools would be an effective strategy to stop them to involve them in anti-social activities. One more concerned area of children from where they usually come under the purview of child labour. It has been observed that children in conflict with law belong to a particular background of lower family income. In order to search their livelihood they usually migrate from their home lands and do work to feed their family. This kind of children are more vulnerable to getting involved in anti-social activities. These children should be provided proper counselling, education, care and protection.

Restorative Justice as an Effective Delinquency Prevention Process

If once children come in conflict with law then, in that case,

instead of putting them into formal justice processes, a process of restorative justice should be there and, under it, collaboration for delinquency control with all segments of the community. It views justice system as involving the victim, the offender and the entire community in its processes. Above all, it views the proper response to crime as "community building". Everything that is done should be designed to restore the fabric of the community. The intervention should be seen as an opportunity to do "fabric repair". This new model is referred to as "restorative justice", and is focused on determining guilt and delivering appropriate punishment through an adversarial process, it is concerned with the broader relationship between offender, victim and the community. The focuses of judicial proceedings are no longer only to the offender, and the state is no longer the only party that addresses the problem. In this model, the community is effectively involved in deciding how to deal with the offender.

It should be decided how much punishment is required and what can be done to ensure that the offender is reintegrated into the community if this is at all possible. It focuses on justice through guilt, punishment and vengeance; a restorative system focuses on justice through enablement, empowerment and the real accountability. The foremost purpose of correctional intervention shall be to repair harm and injury caused by crime. Offenders must realize what harm they have done but soon after, their reintegration into the community must be stressed upon.

Community Based Corrections

In simple words, community based corrections have refereed to correctional programs and services that are administered in the community rather than in secure institutions. It also refers to various types of therapeutic, support and supervision programs forming a continuum of options for dealing with offenders within the community. There are two essential components of

community based correction: "diversion" and "reintegration" (Hahn 1997). Diversion is one of the forms of crime prevention; it is often used to describe pre-juvenile justice as well as post-juvenile justice, or activism. Some diversion programs are designed to suspend entry of children into formal justice process by favouring release or referral to alternate services- also known as secondary diversion. Past researches on diversion programs have shown positive results. Those programs that provide direct services have reported less engagement into the juvenile justice system by children and lowered recidivism rate when compared to youth processed through the juvenile justice system (Cox 2011). Wherein, reintegration is a process the positive aspects of offenders with the community get maintained, whereas all the negative ties are replaced by the new and positive ones. It is an intervention into the offender's life and community in order to prevent positive alternatives to law-violating behaviour. It is traditionally based on the premise that crime and delinquency are mainly the indicators of community disorganization and not generally evidence of the psychological, moral and behavioural problems of individual offenders. It also insists on the need to focus to a great extent on restoring the offender to the community by engaging the same in positive programming. This community oriented approach in positive intervention is emphasized whether the offender is in the community or in the institutions (Hahn 1997). The child right activists have demanded a comprehensive plan to rehabilitate and eventually reintegrate all the juveniles' offenders into the society. They believe most of the youth in conflict with the law are in need of care and protection; they come from a background of neglect, abuse and deprivation. Therefore they must be given a chance to get back to the society to which they belong (Perappadan 2013). Finally community participation can be the most important factor in order to give dues to the children. Community must be aware of the rights of the children and should also be involved at every level of policies made for the

welfare of the children.
Conclusion

Children in any society constitute the most vulnerable group that needs protection and is a responsibility of the states as well as the members of the society. Despite some commendable efforts and achievements in the field of welfare of children, it is an explicit fact that the majority of children in India are suffering, deprived of basic resources and needs required for an average human existence. Due to their own incapacity to fight for their right, the unprotected children in India is the collective failure of all. Unfortunately shortcomings remain, including poor implementation of the JJ Act, inadequate infrastructure and human resources involved in welfare of children. There is a need for greater impetus and investment of requisite human financial resources and necessary infrastructure by the government. Better inter-departmental linkages would benefit children as well, especially those rescued from child labour. Otherwise children will continue to fall prey to brutal violation of their rights.

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