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Coping With the Inchoate Direction of Policies in Education of Juveniles and Street Children in India.

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Abstract

According to the UNICEF India report 2020, interrupted learning impacted 286 million children, with school dropout rates skyrocketing due to covid (India U. , 2021). More alarming is the data from the year 2000, estimating 18 million street children in India, which was the highest in the world (Bellamy, 2000). 23 years hence and post pandemic, this number is inevitably much larger,and reaches 7%of all the child population of the world[1]. The large number is due to unemployment,rapid urbanization, large population, extreme poverty, increasing disparities in wealth, cutbacks in government social and educational budgets and child abuse (Bartlett, 1999) . We found that the magnitude of the population of children who fall into the category of juvenile street children remains nebulous at best with no official data available. This has led to paper policies that have norole in reality and stay as lip service at best. With limited knowledge of the numbers, there is an inherent impediment to making action plans and budget outlays. The objective of this paper is to study the data available regarding the education of street children, identify the legal framework available to them in India and prepare a concise report to help an actionable plan for adolescents on the street, deprived of education.

[1] Agarwal, R. (1999), "Street Children". Shipra Publications, New Delhi. P.23

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Introduction

Family plays a fundamental role in meeting the health and social care needs of children, and they function as intermediaries between home and educational institution settings. Risk and protective factors can be organized into three spheres of influence as per the 2021 report of UNICEF: home and caregiving settings; safety and security and healthy attachments in preschools, schools and communities; and large-scale social determinants– such as poverty, disaster, conflict and discrimination. (Fund, 2021).

The Comptroller and Auditor General of India (CAG) released an audit report on the Implementation of Right of Children to Free and Compulsory Education (RTE) Act, 2009 on July21, 2017. In 35 states/UTs, it was noted that the unutilized amounts ranged between Rs 12,259 crore to Rs 17,282 crore over the six year period[2]. (India C. a., 2017).

As per Note for Cabinet (October 2008), the financial requirement under the Act, based on population estimates in the age group of six to fourteen years, was estimated as 2.28 lakh crore for the period 2008-09 to 2014-15. As per Section 7(2) of the Act, the Central Government was to prepare estimates of capital and recurring expenditure for the implementation of the provisions ofthe Act. Regrettably, the Government has not allocated any separate budget for implementation ofthe Act till date. (India C. a., 2017).

Without legal framework, juveniles and street children will continue to be inconsistently identifiedby the systems, engendering gaps between education providers and difficulty connecting childrenwith services. Over the past thirteen years in India, states and legal systems have implemented policies to support juvenile and street children. The Right to Education Act 2009, which requires the government to delineate a national strategy for recognizing and supporting child education, haspotential to effect widespread change. An initiative to **recognize, assist, include, support and educate** street children has to have the commitment of leadership as well as financial backup andaction from all stakeholders to protect the adolescents at crucial moments of development.

[2] India, C. a. (2017). *Implementation of Right of Children to freeand compulsory Education Act,2009.* New Delhi:Ministry of Human Resource Development.

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Study Data And Methods Framework

We used a critical literature review to specify components of inclusion to the right to education. To align this work with government policies including organizational policies or administrative guidance to standardize actions,we studied both the government and non-government reports. Due to paucity of time, there were no surveys conducted. Processes are actions that affect delivery— for example, the manner in which educators interact with students. Solutions that modify the structure or process to include educators could, in turn, facilitate the optimal use of legal provisions and government policies to help juveniles with serious issues maintain independence and remain longer in their educational system.

Literature Review

More than 15 books, reports and datasets were leveraged to identify the terrain of solutions and indicators of reach and effectiveness of policies and action plans. These studies, reports and analyses were drawn upon, to form hypotheses, and prioritize our findings and highlight the differences seen in the ground realities.

The critical literature review was conducted to develop the analysis to figure out the effectivenessof solutions. The review included papers published from 1995 to 2022 that examined situation ofstreet children and their being included in or excluded from education and explored mechanisms for eliminating drop outs or in minimizing drop outs of the education system. All three authors reviewed papers at first the title and then the abstract level for eligibility, working to arrive at consensus and resolve discrepancies. We excluded papers that did not focus on street children while studying education systems.

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Classification of street children and juveniles

"Street children are those for whom the street (in the widest sense of the word, i.e. unoccupied dwellings, wastelands, etc.) more than their family hasbecome their real home, a situation in which there is no protection, supervision or direction from responsible adults." [3] The definition was accepted by UNICEF from Nandana Reddy (1992), Street Children of Bangalore: A Situational Analysis.

There are 3 categories defined by UNICEF:

1. Children on the Street: Who have homes and mostly return to their families at the end of each day.
2. Children of the Street: Who live on the street. They have occasional contacts with their families.
3. Abandoned Children: Children who have severed all ties with their families.

Juvenile meaning in the Indian constitution is if a child is below the age of 18 so under the Indian Laws, Section 2 (k) of the Juvenile Justice (Care and Protection of Children) Act,2000 defines "juvenile" or "Child" as a person who has not completed eighteenth year of age.

[3] Nandana Reddy (1992), Street Children of Bangalore: A Situational Analysis, National labour institute (NLI), NOIDA.

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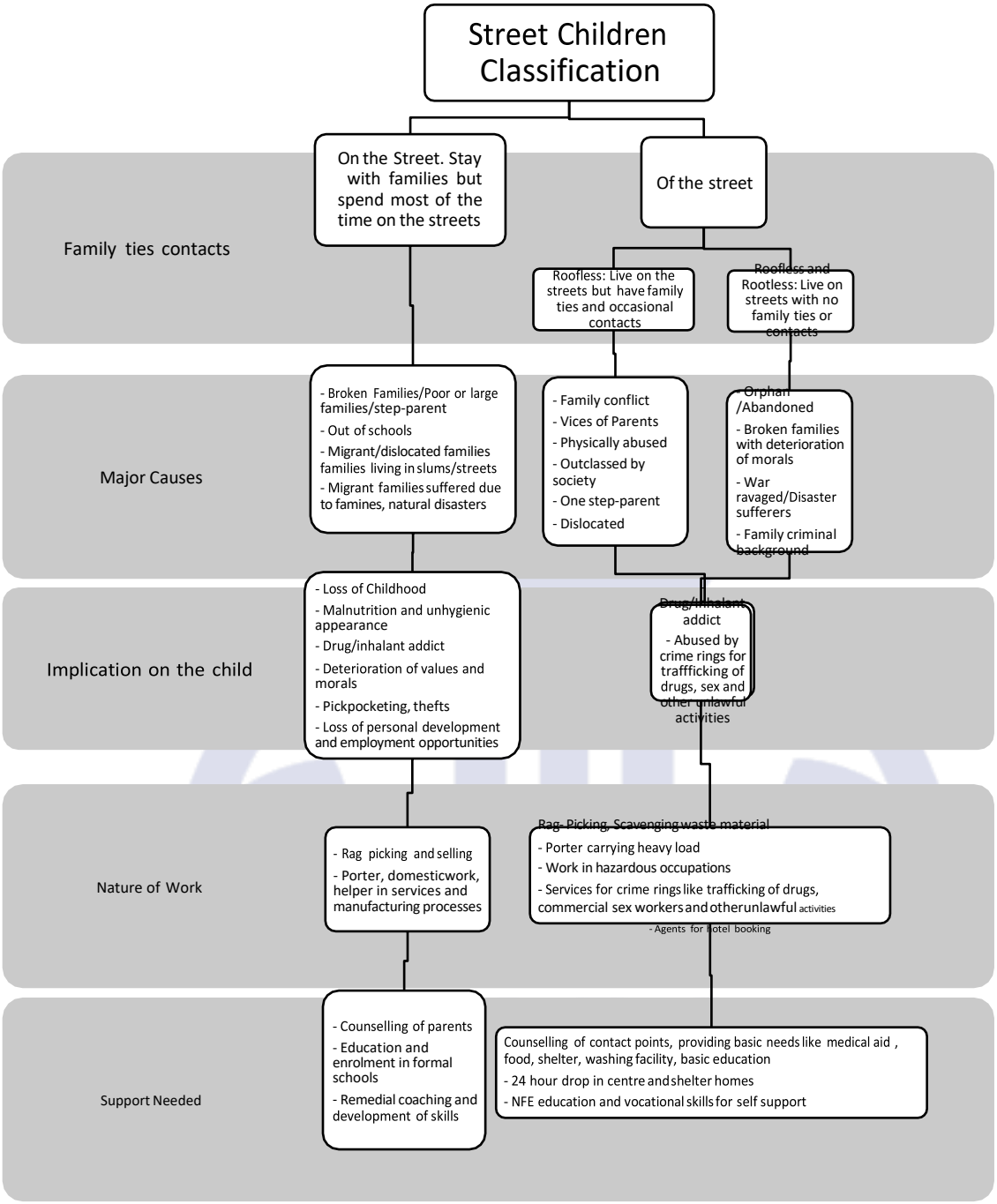

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Legal Provisions

The Directive Principles of State Policies in Part IV of the Indian Constitutions and the Fundamental Rights under Part III of the Indian Constitution provided for the protection of children and also mentions the duty of the Government, both Centre, and State, to take important steps for growth and encouragement of these sections. Article 24 of the Indian Constitution prohibits child employment in factories, mines or in any hazardous occupations. Article 39(f) describes the State's duties to protect children from exploitation and to ensure children the opportunities and facilities to develop in a healthy manner, and Article 45 mandates the State hasto provide free compulsory education for all children below 14 years. Article 45 prescribes free and compulsory education in line with the RTE act, 2009. In 1987, national policy for child labourwas made so that laws could be implemented strictly and there were several developments based on caste and poverty. However, the budget was slashed later that resulted in terminations of government programs.

In 2002, the 86th constitutional amendment inserted article 21A about free and compulsory education for children aged between 6 to 14 years and it was considered a fundamental right. National Commission for Protection of Child Rights (NCPCR) in 2006 framed the NCPCR rules constituting the National Child Rights Commission. This Commission was assigned with assessingcompliance with the Convention on the Rights of the child and further monitor the provision of free primary education for all children in the country and the protection of children against economic exploitation.

The upshot of this amendment was Right to Education (RTE) Act 2009, key features to this act inline with article 21A are

- Primary education must be free and compulsory
    - Appropriate state government must take make laws from this central government act Juvenile Justice (Care and Protection of Children) Act, 2015 came into force on 15 January 2016.

[4] Olga Tellis and Ors. v Bombay Municipal Corporation, 1986 A.I.R. 180(India).

Case Laws

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Olga Tellis v BMC[4] speaks about the society's responsibility where a case against the Bombay Municipal Corporation was filed for dislodging the children in one night thus neglecting the essentials arrangements including uninterrupted education required for such eviction.

In the case of Bandhu Mukhti Morcha[5], PIL was filed against the carpet industry where street children were induced into forced labor. The Court observed that India has obligations under the Universal Declaration of Human Rights (UDHR) and the Convention on the Rights of the Child to provide free primary education for all children in the country, and to protect children against economic exploitation. In an earlier case, M.C. Mehta v. State of Tamil Nadu & Ors. [[(1996) 6 SCC 756], it was adjudged to abolish all child labour and these judgements were referenced by the Court in orders to the States of Uttar Pradesh and Bihar. The orders included, directing the Statesto take steps to frame policies to progressively eliminate the employment of children below the age of 14; provide compulsory education to all children employed in factories, mining, and other industries; ensure that the children receive nutrient-rich foods; and administer periodic health check-ups.

In Sheela Barse[6] case, it was adjudged that although the Children Act was passed but it was not enforced in some States – The Supreme Court had directed that such beneficial statute should be brought into force and administered without any delay. Here a petition was filed by a social worker seeking release of children below 16 years who were detained in jails. The detention of children below the age of 16 years in jail would be deprecated under Article 39(f) of the Constitution of India The perspectives from cases adjudicating on street children's rights and the legal provisions havebeen consistent with the humanitarian approach of UDHR. The review of reports focusing on legal provisions and capacity of the government to further the policies initiated have spotlighted the cracks through which this vulnerable population slips through. What improvements could be madeto better include them have been discussed further. To integrate findings from legal provisions andgovernment policies, we identified conceptual categories from the critical literature review.

[5] Bandhua Mukhti Morcha v Union of India and Ors., 1984 A.I.R. 802(India).

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Limitations

This paper puts forth a definition of inclusive approach that might not resonate in all settings as well requires a large outlay as well as political and administrative will. Although the data was derived from literature review, due to paucity of time, there were no surveys conducted for in person interviews. Future studies could enhance this definition of inclusive approach by testing oradding components in different settings.

Discussion

Components Of Inclusive Education for Juveniles and street children

From the literature review, we identified five components of inclusive education: system-level policies for inclusion; clear definition of the educator's role; explicit involvement of families; assessment of educators' capacity; and mutuality in educator and guardians' communication. These components constitute structural and process aspects of education for street children. Evidence from the review illuminate how these components of inclusive education manifest in practice and point to challenges and solutions for including educators and guardians.

Structural Aspects

System-Level Policies For Inclusion:

Around three out of four street children, i.e., 71 percent, belonged to the 6 to 14 years age group, while 16 percent were from the 3 to 5 years age group and 12 percent in the 15 to <18 years age group in a study conducted in the Delhi NCT region[7]. Therefore 71% belonged to the age group that should be receiving compulsory education. It is the first step to **Recognize** the age group thatneeds education and the numbers that are current. Only 29% of total surveyed street children in Delhi reported having ever gone to school[8]. Policy makers offered few systemwide guidelines to include street children in NEP[9]. The Sarva

[6] Sheela Barse v State of Maharashtra 1983 AIR 378, 1983 SCR (2) 337

[7] Street Children In NCT Of Delhi - A Rapid Assessment ; kailash Satyarthi Foundation 2021[8] Street Children In NCT Of Delhi - A Rapid Assessment ; kailash Satyarthi Foundation 2021 [9] National Education Policy

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Shiksha Abhiyan (the Samagra Shiksha) and the Right to Education Act, India has made noteworthy steps in recent years in attaining almost complete enrolment in elementary education[10].One study[11] noted that integration of the children who had been enrolled through NEP was not easy and the academic performance was subpar especially where the admission was to private schools (25% reservation for RTE status in private schools). The barriers to integration have to be**recognized** where the children should have a **bridge course** beforethey are expected to participatein a curriculum and set up that has been alien.

Clear Definition Of Educators Role:

The educators role is too complex to define in a systematic way. The educators need to be **assisted** with training programs to ensure sensitivity as there may be cognitive dissonance between an educators expectations and a student's needs. At the same time, the educators have to be the champions, advocating for their students, who may have difficulty advocating for themselves.

Process Aspects

Explicit Involvement Of Families:

The psychological and social security of the children should be priority. Even though the child is living on the street or may be in a home for rehabilitation, the involvement of family will help in psychosocial well-being and making positive choices as regards formal education. An effort fromthe administration **to involve** the educator and the family will have a long term benefit to the betterment of the child.

Capacity for facility or NIOS:

Ensuring **support** that all children are into the Education either in Regular or Open mode. The education facility through NIOS may be made in such a way that children can continue with their education even after they are back to their family home after completing their term if in remand homes.[12]

[10] GoI-Ministry of Human Resources Development National Education Policy,2020

[11]Radhika J (2020) Can social integration in schools be mandated: Evidence from the Right to Education Act in India

[12]NCPCR (2018) A Report on Availability of Quality Education and VocationalTraining in Observation Homes (2017-18)

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Conclusion

Based on our findings, we suggest structure- and process-level solutions to guide development ofinclusive policies. Our suggestion is thus to **recognize, assist, include, support and educate.**

R -Recognize the numbers

A-Assist the Educators and families

I-Inclusion of families in decision making by the administration

S-Support by regular or open mode (NIOS)

E-Educate

Formal education cannot be replaced by non formal education as the basic ability to read writeand basic arithmetic is needed for the child.

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