Chapter 1

Introduction

“Every child is a sacred gift to mankind.” Every child is born blissful and radiates immense love for everyone who becomes part of his life. India has 400 million children, which is more than any other country in the world. But, unfortunately, our society is unable to reciprocate uniform level of care and protection to each young citizen. As one of the signatory of UN Convention on the Rights of the Child, Government of India had vowed to ensure rights to all children without discrimination. Yet, we are far from realizing it. It is not uncommon to find children living in poverty being deprived of their basic rights to survival, protection, care and opportunity to develop, and participate in the affairs of mainstream society. Furthermore, the situation of children living on streets is worsened by immense poverty, dismal environmental conditions and lack of protection mechanism.

The need to work for children was well recognized by both national and international agencies before many decades. But all the efforts put together were unable to make a mark in the problem. With the introduction of global market policy, industrialization and added pressure of expanding population has seriously affected the village economy. Thousands of families lost their household income and were pushed out of villages to the pavements in cities with hopes to survive. People, both from rural and urban areas are forced to diversify their livelihood options. Broadly speaking the growth of street families are the upshot of a vicious poverty cycle, unemployment and lack of coordination between rural and urban policy makers. With globalization and significant growth in economic sector, India has become one among the ten fastest developing countries of the world. The population scientists are expecting further sharp growth in urbanization by 2030. This will accelerate the process of migration and more families will be emigrating in the cities in search of alternative livelihood options. Consequently, this will result in the faster
increase of the number of families living on street as well. Though India is experiencing a high growth in urbanization, no comprehensive effort has yet been taken by the policy makers to absorb the steady inflation of poor families in urban areas. Thus, all the cities of India will have increased number of families settled in unauthorized lands and encroachments on the roadside. This process of rapid urbanization will have a negative impact on children, especially without an integrated policy approach and proper protection mechanism for the children of these families.

The problems of street-living families are not a new phenomenon in India, but still the children of these families are invisible in official records. In reality, very little attention has been given so far for the children of street-living families to ensure that the mark set by the universal standard was met. Children of these families live in appalling and inhuman conditions and are the victims of the social, economic and political complicacies. Living on the fringe of society and disadvantaged by the pressures of poverty and insecurities, children are exposed to various forms of physical, economical and sexual exploitations. Their basic minimum rights are grossly violated and they are debarred from the mainstream development of the society. Children are forced to take up adult responsibilities from their tender age to substitute their family pressure. Unfortunately, such children are the most vulnerable group struggling to survive without basic services and protection. In many cases, children are oppressed and exploited not only by others but also by their own family members.

For many years now, organizations have been talking about child protection from all kinds of abuses perpetrated against them by enforcing laws. After the ratification of UN convention on the rights of the child, Government of India amended various legislations among which Juvenile Justice (Care and Protection) Act, 2000, is one of the important legislations that gave a new dimension to child protection and juvenile justice system of the country. But in reality, violence against children of street families is an observable phenomenon. Because of immense poverty, ignorance and illegitimacy of stay, children’s rights are even violated by protective machineries of the State. They do not get fair treatment or services from the justice authorities, who are
legally responsible to protect every citizen’s rights. Thus, children resort to their own survival mechanisms and acquire different survival traits to satisfy their needs and protect their interest. These factors lead to personal, family and social disorganization which ultimately causes insanity, delinquency and other antisocial behaviours among street living children.

**Gaps in the existing system:**

Child Rights movements are not new in origin. We can track the history of child rights back from 1800s, which was initiated in United States. However the first effective attempt to promote children’s rights was the Declaration of the Rights of the Child in 1923, which was adopted by the League of Nations in 1924. In 1989, the legally binding Convention on the Rights of the Child was adopted by the United Nations. It laid down a universal set of standards and guiding principles to be adhered by all the countries to protect and safeguard rights of the children. It is most widely and rapidly ratified human rights treaty in history. In 54 articles the Convention incorporates the whole spectrum of human rights - civil, political, economic, social and cultural - and set out the specific ways these should be ensured for children and young people. This convention also respects and recognizes the protective responsibilities of parents, other primary groups of society and the cultural values of the children’s community. On the other hand it ensures the legal and other protective measures, before and after the birth of the child, against the family members and primary groups for ensuring protection of children against maltreatment. After this convention, all children were considered as a political, economic, socio-cultural as well as spiritual entity with their own rights. Consequently, the convention also recognized children’s right to participation in arenas where children can satisfy several aspects of their person-hood and grow up in as a responsible citizen of the country.

Unlike many other countries of the world, the Government of India ratified the convention in 1992 and amended various legislations to recognize children’s rights adopted in the convention. However, it seems that a change is taking place in the socio-legal system of the country. A separate Ministry for Women and Child Development, formed a draft scheme on Integrated Child Protection
Scheme was in place as on August 17th 2006. Further, the Bill Offences against Children Act, 2006, was drawn up by the Women and Child Development Department, under the central government’s Ministry of Human Resource Development.

Juvenile Justice (Care and Protection) Act, 2000, is one of the Acts that emphasize on children’s right to protection and participation and gave a new dimension to the Juvenile Justice System of the country. This act is considered as an umbrella of all the child related laws which offer more significance on treatment, care, protection and developmental needs of children by adopting a child friendly approach in the adjudication and disposition of the matters for the best interest of the children. For the first time in our country, an act has given focus on voice of the children towards identification and solution of their own problems and encourages children to produce themselves before the Juvenile Justice System in case violation of their basic rights.

Despite the enactment of all these legislations, a strong gap is extremely visible between the law enforcement bodies and primary beneficiaries. These policies and legislations on the whole suffered from weak implementation, owning to scant attention to the issues of child rights, resulting in scare resources, minimal infrastructure and inadequate services to address the problem. In the year 2005, total expenditure on children’s health, education, development and protection together amounted to just 3.86 percent in Government of India’s budget and rose to 4.91 percent in 2006-07. However, the shares of resources for child protection were an abysmally low of 0.034 percent in both 2005-06 and in 2006-07 financial years (ICPS Draft 2006). It reflects government’s attitude and negligence in child related issues, especially protection of the children.

Though, the Juvenile Justice Act encourages children and other primary beneficiaries to access the system but does not emphasize to ensure the services are physically accessible to the children. Among the law enforcement agencies, police has a decisive role in child protection by the implementation of juvenile justice system. They are the first persons to be called for intervention and have a very important role in investigation of cases. In the era
of this social modernization, the reaction of Indian police was found to be
halting to respond to the violation of rights of children because of the
unchanged core laws and administrative orientation. Indian police
administration continued to be oriented with the anachronistic model of British
administration and culture that confronts a dilemma and lack of commitment
to any specifies ideology of child rights and newly formed JJ Act.

Though the Juvenile Justice Act was amended in the year 2000, no guidelines
have yet been designed to equip police personnel to deal with child related
cases. Police personnel are still more concerned about punitive aspect of crime
rather than protective part. But on the other hand, the Juvenile Justice Act,
2000, talks about setting up a Special Juvenile Police Unit (SJPU) in every
district and city to coordinate and upgrade police to interface with the
children. Except for some States, a few personnel from each police station
have been identified as Child Welfare Officers and have been given additional
responsibility to deal with the child related cases. Thus, the core culture of
department administration confronts a dilemma and lack of commitment to child
protection.

In the Juvenile Justice Act, the priority has been given to the voice of the
children towards identification and solution of their own problems. However,
because of lack of orientation and administrative limitation, police do not
encourage children to directly lodge any complain without an adult. They are
not still oriented to give due respect to children’s opinion. They think children
take whimsical decision and any legal action should not be taken based on the
opinion of these innocent children. Police personnel are not trained enough to
deal with children. It has been routinely observed that police cannot earn the
trust of children and thus cannot establish communication with them. Hence,
priorities are not given to ensure children’s participation in identification and
solution of their problem in legal measurers. Furthermore, illegitimacy of stay
restrains street living families to access the required support from the law
enforcement machineries. Thus, children of these families are widely
discriminated and are also abused by the law enforcement authorities.
The act also talks about adoption of child friendly approach in the adjudication and disposition of the matters for the best interest of the children. But no standard operation protocol has been designed to make the system friendly so that children can take necessary support from the system when they are in crisis.

All the strategies adopted so far for the protection of children have domineering focus on institutional support and less focus on creating supportive and protective environment within the community to protect children from abuse. Furthermore, no comprehensive studies has yet been undertaken to assess the interface between the police and the children. We are all aware that success of any intervention depends upon the involvement of the primary beneficiaries. All the strategies, taken so far for the welfare of children are practically preconceived ideas of a particular class of people. Lack of coordination among lateral service provider as well as among non government agencies is an integral problem of planning and implementation of any programme in India which make these problems to continue eternally. Thus, none of the strategy taken so far for the welfare of the children yields any fruitful result in the solution of the actual problem.

**Purpose of the study:**

Against this backdrop, this study is an endeavour to understand the interface of Juvenile Justice Administration and the primary beneficiaries’ i.e. children and their parents. Among them, children living on the streets of Kolkata with their families have been selected as the core respondents. Among the gamut of whole juvenile justice system, the study only captures the interface of street living children with the police, which is one of the important agencies in Juvenile Justice Administration.

The study assumes that abuse of children living on street, as in any other developing countries, is a phenomenon, which is wide spread and their access to the legal system for justice, protection and care is poor. Efforts were made through this study to recognize different forms of abuse that children of street living families face; socio-economic conditions that build insecurities within the
children and their families. Attempt has also been made to understand the implementation of Juvenile Justice System for the protection of children of street living families. To understand these factors, the researcher has made an attempt to capture the views of children and their families towards their own rights; different abusive experiences that the children face; various protective mechanisms that their children and their families adopt for their own perception.

At the end, an attempt has also been made to draw together the opinion of families and their children towards an effective and friendly police system which can help them to access the legal system to safeguard their rights. Though it appears ambitious undertakings but the study is aimed to voice the opinion of children for the long term policy level changes.

In tune with the above background, the followings are the key objectives of this study which will guide this thesis.

- To elicit the socio-economic profile of respondents.
- To identify types of abuses being perpetrated against children both by family members and outsiders.
- To know the existing self-protection mechanism of children living on streets against violation of basic rights.
- To know the perception of children towards the existing law and order machinery and their opinion towards creating a child friendly police system.
- To ascertain the opinion of parents of deprived urban children regarding the enforcement of law to safeguard right’s of the children.
- To know the perception of parents towards abuse by family members and outsiders.
Significance of the study:

With globalization and significant growth in economic sector, India has become one of the top 10 growing economy in the world. The population studies anticipate sharp growth in urbanization and urban poverty by the year 2030. Realizing the problem of shrinkage of income opportunities, the Indian government had undertaken various industrial policies with the expectation to trigger employment opportunities within the village area through attracting foreign and domestic investments. The lack of harmonized attempt among the political parties to promote a balance between agriculture and industrialization, created political turmoil and halted the implementation of livelihood promotional initiatives in West Bengal.

In the face of rising demands of urbanization, more families will be attracted towards cities and will be forced to live in a disagreeable environment without support system for their children. And, protection of children of street living families would continue to be an important issue in near future unless a comprehensive understanding was developed and measures were taken. Also, the States like West Bengal would continue to suffer from the inflow of migrant population because of shrinkage of income opportunities in rural economy and Kolkata being an important location for commercial and communication in the North-East Indian states, Kolkata would continue to experience faster expansion of street living families.

Though, India is experiencing a high growth in urbanization, no comprehensive effort has yet been taken by the policy makers to absorb the steady inflow of poor families in urban areas. Thus, all the cities of India will have increased number of families settled in unauthorized lands and encroachments of the roadside. Consequently, this process of chaotic urbanization will have a negative impact on children. Without an integrated policy approach and proper protection mechanism for the children of these families, the issue is bound to deteriorate.
Scope of the study:

Kolkata has been selected as the universe for the study to get an overview of child abuse and protection issues in the context of children living with their families on the streets.

- This study offers an integrated perspective on the impact of socio-Legal structure of street living families on child abuse. It tries to understand perception of children and their families regarding child rights, different forms of abusive experiences and various types of protection mechanism adopted by the families and their children.
- It has been recognized in UN CRC that the primary responsibility of parents is to ensure the adequate standard of living to their children and responsibility of state to oversee and ensure that this responsibility is fulfilled. This study will give an overview of the environment which the street living families can offer to their children. Also it will encompass the socio-economic and legal constricts of these families that prevent them to fulfill their responsibilities.
- An attempt has been made in the study to understand different forms of violence that are faced by the children in different settings. In most of the cases, it may remain hidden as children are scared to disclose such incidences. Many a time, parents of the children also persuade to hide those to avoid social stigma. The study also surfaced different abusive experience of children perpetrated in different settings.
- An attempt has been made through this study to assess the interface between the children of street living families and police system, which are an integral part of juvenile justice system. The study reveals abusive experiences of the children subjected by the law and order machineries that are mainly responsible to protect children from abuses.
- Because of lack of faith on the protection machineries of the state, children and their families sought to develop their own protection mechanism to survive in the complex society. This study attempts to identify a few of these community based protection mechanisms adopted by these families to protect their interest.
• This study is an endeavor to understand the role of police system among the whole gamut of juvenile justice authorities in the protection of children of families living on the streets. This study also tries to draw together the expectation of children towards police system and voice their opinion on “child friendly approach” which has been recognized under Juvenile Justice (Care and Protection) Act, 2000.

• Though, participation of children is still tentative, uneven and relatively unevaluated but the researcher strongly feels that given the opportunity, the children can think and express what they think is fit for them. It is an initiative to involve children in identification of their own rights and issues affecting their interest. It is also an attempt to provide a space for children in decision making related to implementation of the law for their own protection. Thus, the outlook captured in the study reflects the need and understanding of children towards their own rights; perception of their own abuse and also record their recommendations towards creating a child friendly police system.

• This study analyses various aspects of Juvenile Justice Act and the Police Act of the country and tries to draw a synergy between these two acts for the effective implementation of Juvenile Justice System.

In summary, the study aims to voice for the children living with their families on the streets. They may be invisible in the policy papers but there is a hope and insight to bring about a long term change in the protection and overall development process though a synchronized effort. And this study is one more step in that direction.