

Summer 6-7-2019

Status of Children in Care Homes in Odisha A Socio-legal Analysis

Annapurna Pattnaik

SOA University, a.pattnaik82@gmail.com

Navaneeta Rath Dr

Utkal University, navaneeta.rath@gmail.com

Follow this and additional works at: <https://digitalcommons.unl.edu/libphilprac>



Part of the [Library and Information Science Commons](#), and the [Other Sociology Commons](#)

Pattnaik, Annapurna and Rath, Navaneeta Dr, "Status of Children in Care Homes in Odisha A Socio-legal Analysis" (2019). *Library Philosophy and Practice (e-journal)*. 2925.

<https://digitalcommons.unl.edu/libphilprac/2925>

Status of Children in Care Homes in Odisha

A Socio-legal Analysis

Annapurna Pattnaik

Assistant Professor in Law

SOA University

a.pattnaik82@gmail.com

Dr. Navaneeta Rath

Prof.in Sociology

Utkal University

Navaneeta.rath@gmail.com

Abstract

Children are the future of every country. They are presumed to be the backbone of every country. They have to enjoy their rights and should not be neglected and should not be suffered from the cruel and heartless society. Children happen to be the potential human resource of a country. so, providing an enabling environment to the children is the priority area in all national agenda. Children constitute the supreme assets of all the countries. The main motto of the country is to develop the national human resources. The population of children in India are more in number than the world. In 2011 census data states that 40% are children in India. The vulnerability of the children is thus very high in India. However, the incidence is higher among the groups like orphans, abandoned and destitute, missing and run away, abused, tortured and exploited children in India. The issues of these children are a multi-dimensional social problem and it is difficult to obtain an accurate and unambiguous picture of these children. Today the main problem is named as the psycho-social problems which lead to mental disorder, unhappiness and other mental problems. So, because of mental disorder and pitiable life these children such as the missing, runaway, abandoned and street children are the victims of many thing in our present society. So, the problems of these kind of children are the alarming issues in India. The general opinion of the public is that the runaway, destitute and abandoned children are involved in antisocial activities and they are the juvenile delinquents. The present study is an analysis of children staying in various orphan homes.

Key Words: Care Homes, Destitute and Runaway Children, Psycho-Social Problems

Introduction

“Behold, children are a gift of the LORD, the fruit of the womb is a reward.” This is the universal definition of the importance of children in this earth. They are the future of this planet. The socio-economic growth of the country is depending upon the intellectual young population, because they are the human resources of our country. Children are the future generation for every country. They are the mirror of the future world and it is wise to think about the mere welfare development of a child. The child should be educated and the orphan child should be reeducated in every country. A child is a person who gives glory and glitter for the family as well as nation. A child love is something very special and cannot comparable with anyone’ love. Through childhood days a man

can learn the simplicity, honesty, good character, love, intimacy and dedication. But there is innumerable runaway, missing, abandoned and street children who cannot get love and caring from the home or relatives and they are always in a miserable condition in our society. But all the children are not engaged in anti-social activities. It is a wrong notion which was spread all over the country that these children are engaged in all the antisocial works. Our general public has a bad impression on them and they hesitate to buy chocolates, biscuits and sweets for these kind of children in our society. Many people have a bad perception that they are the children of illegal peoples or the beggar's people. So, these kinds of children are always in mental trauma in our country.

Family background and responsibility

A child must get the love and affection from the family members or relatives. So, the home and the parent-child relationship play a crucial part in the life of a child. From that they learn the term discipline, character, personality and integrity etc. social security also provided by the family members or relatives in our society. In the broken homes where a child runs away from the family because there is lack of love and affection, or a child is missing because of any reason and the abandoned children are the result of the dead parents or because of divorce and poor condition of the family. So, death is the ultimate brutality for every child. Many children are abandoned because their parents cannot be traced. Many children are orphans when their parents are dead. So, justice cannot be given to these children who are orphans, destitute, runaway, missing and abandoned children. They cannot enjoy their childhood days and far from love, affection, care and protection. They are the unfortunate dregs of this consumerist society, alienated and ostracized by the society. They are the children who never know the joys and happiness of the childhood. Their innocent smile will melt everyone's heart.

Factors affecting the emergence of orphans, runaway, abandoned and destitute children

There are many factors responsible for the emergence of these kind of children. They are given below: -

A. Person Perspective

Psychological and sociological deprivations are the main cause which make a person runaway or abandoned. Divorce, death of anyone of the parents, exploitation, torture, born out of illicit relationship, poverty, natural disaster or vulnerable diseases etc. are the main important personal factors of these kind of children.

B. Society perspective

Due to the increase of industry, urban development and decrease of joint family and emerging of the nuclear family and globalization etc. are the main reasons where a man is more ambitious and runs after the money to fulfil the wants. He may neglect the family and the children and which forces the children to be destitute and runaway and abandoned in our society. The unmarried women are not sexually ignorant. In our patriarchal society all unmarried mothers feel guilty about their motherhood

and illegitimate children. They thought that these kinds of babies will be born deformed. A large number of unmarried mothers with poor family background and came from the divorce, broken and orphan family are exploited and suffered a lot and faced all kinds of vulnerability in their life. They have engaged with illicit relationship with others and also raped by others without consent and no one is there to look after them. Some of them also aborted and some throw their child in the dustbin or in front of the child care homes. They do not want to take the any burden in their life. There is no love and affection in their life and they are not accepted by our mainstream society. So the main reasons for the child to be destitute , abandoned, runaway or orphans are: broken homes, divorced family, parent separation, natural disaster, death of parents, ill-treatment by the step-parents and relatives, family exploitation, poverty, intoxication by the parents, gambling, low income of the family and conviction of either parent etc. so, these conditions have produced a large number of missing, runaway, destitute, orphan and abandoned children in our society.

From Economic Perspective

Those are the poor children, they basically came from low pay income family background and it is not possible for them to maintain themselves in the society with minimum food, clothing and shelter. The financial crisis forced them to leave and run away from their family to live in the society. They also beg in our society in order to survive in the earth. So, poverty is the main reasons which force a child to be run away and destitute in our society. So economic status played an important role in our society which compel the children to be abandoned, destitute and runaway

From Nature Perspectives

Because of natural disaster like drought, cyclone, flood, earthquakes, fire etc. are the main reasons which make a child destitute and abandoned in our society. Because of these factor a child is orphan and destitute and abandoned in the society. **Constitutional Provisions**

Indian constitution also highlights the need and significance of providing destitute and runaway and abandoned children protection and assistance.¹

There are many rights are claimed by the children such as:

- To enjoy their childhood
- To get free elementary education
- To get good mental and physical health
- To be heard
- To be treated equally

¹ Constitution of India 1950

The constitutional provisions are given below²: -

1. Article 14: says about “equality before the law or the equal protection of the laws within India”.
2. Article 15 (3): says about “prohibition of discrimination on the ground of religion, race, caste, sex or place of birth”.
3. Article 21: says about “no person shall be deprived of his life or personal liberty except procedure established by law”.
4. Article 21 (A): says about “free and compulsory education to all children of the age of six to fourteen years”.
5. Article 23: “prohibits trafficking of human beings and forced labour”.
6. Article 24: “prohibits employment of children below the age of fourteen years in factories, mines, or any other hazardous occupation”.
7. Article 25 - 28: “provides freedom of conscience and free profession, practice and propagation of religion”.
8. Article 45: “envisages that the state shall endeavor to provide early childhood care and education for all children until they complete the age of six years”.

Juvenile Justice (Care and Protection of Children) Act 2000

The Juvenile Justice Act (JJA) was enacted in 2000 in keeping with the standards for child protection provided by the UN Convention on the Rights of the Child. The JJA is a central legislation that requires each state in India to set up the infrastructure and protocols for implementations of the JJA provisions at the ground level. The JJA was amended in 2006 to further strengthen the juvenile justice process. However, the gap between policy and practice is wide.

This Act classifies children for the purpose of dealing with them into two categories namely Children in conflict with law (including those just allegedly so) and Children in need of Care and Protection. The children in conflict with law are to be dealt by the Juvenile Justice Boards (JJBs) usually shortly called as the ‘board’ and the children in need of care and protection are to be dealt by Child Welfare Committees (CWCs), usually shortly called as ‘committee’. The

Act makes it mandatory to have one Juvenile Justice Board in each district to deal with matters relating to juveniles in conflict with law and to establish one Child Welfare Committee in each district as the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care & protection and to provide for their basic needs and protection of human rights.

² Constitution of India 1950

The JJA recognises cruelty against children by people who have the charge of such children or control over such children as a special offence. Section 23 of this Act provides for punishment for cruelty to a child, which includes assault, abandonment, exposure or willful neglect that is likely to cause mental or physical suffering to the child. This law also helps to ensure care and protection of trafficked children and their restoration and reintegration with their family and community.

According to the JJA a child in need of care and protection means a child who does not have parents and no one is willing to take care of him or whose parents have abandoned him or who is missing and is a runaway child, whose parents cannot be found after reasonable enquiry. Therefore, missing children would come under the category of children needing care and protection, falling under the purview of this legislation.

Definition of a child

Definition of Child According to the UNCRC³, “ a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier. In India, various laws related to children define children in different age limits”. Article 1 defines⁴ “the holder of rights under the CRC as ‘every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier’”. Here the convention on child rights specifies that the age of the child limit of the child is 18 years. But it varies from Act to Act. Because under Factory Act the age of the child is 14 years. “Under the Indian Majority Act 1975 the age limit is 18 years”. Although India has permitted medical termination of pregnancy through legislation enacted in MRTP Act 1971⁵. Significantly,” Section 20 of the Indian Succession Act 1925⁶ gives the right to property to a child in the womb whose parent dies intestate and who is subsequently born alive— he/she will have the same right to inherit as if he or she had been born before the death of the parent”. The child labour (Prohibition and Regulation) Act, 1986⁷ defines “a child as a person who has not completed fourteen years of age”. The Juvenile Justice (Care and protection of Children) Act, 2000⁸ changed the definition of child to any person who has not completed 16 years of age. This amendment has made after the “Nirvaya Case in Delhi”. For all matters this definition of child defined by JJ Act is considered in all fields.

⁹“There are also other laws which are enacted by the Indian legislature on children issues basing on Child Marriage, Child Trafficking, neo-natal Care, Child Labour, Child Abuse, juvenile delinquents etc. Apart from the special enactments, government of India is also executed different plans and programmes for the betterment of the children in India. The national policy for children formulated

³ UNCRC Report

⁴ UNCRC 1989

⁵ MRTP Act 1971

⁶ Indian Succession Act 1925

⁷ Child Labour Prohibition Act 1986

⁸ The Juvenile Justice (Care and protection of Children) Act, 2000

⁹ www.clapindis.org

by government of India in 1974¹⁰ described children as a “supremely important assets”. This policy offered necessary facilities for the children once and before birth lay down that State ought to provide adequate services for children each before and once birth, and through the growing stages for his or her full physical, mental and social development. The measures prompt embrace amongst others a comprehensive health programme, supplementary nutrition for mothers and youngsters, promotion of education and recreational activities, special thought for kids of weaker sections and hindrance of exploitation of youngsters”.

There are some special laws for the protection of children in India. They are given below: -

¹¹Special Laws on Protection of Children in India

Sn.no.	Name of the Act	Objectives
1	“Guardians and Wards Act, 1890”	“This Act deals with the qualifications, appointment and removal of guardian of children by courts and is applicable to any or all children”.
2	“Child Marriage Restraint Act, 1929 (Amended in 1979)”.	“This Act lays down minimum age of marriage on each the sex and prohibits child marriage however it doesn't invalidate once marriage is solemnized.”.
3	“Hindu Adoption and Maintenance Act, 1956”	“This Act codifies the law of adoption and maintenance. This alternative provides for adoption of men and women. This act applies absolutely to Hindus, Buddhist, Jains or Sikhs by faith and to not Muslim, Christians. Parsee and Jews”.
4	“Immoral Traffic (Prevention) Act, 1956 (Amended in 1986)”.	“This Act prohibits human trafficking and severe punishment for those who are engaged in such activities
5	“Orphanages and other Charitable Homes (Supervisions and Control) Act 1960”.	“This Act provides for the supervision and control of Orphanages and Homes for Children”.
6	“Bonded Labour System (Abolition) Act 1976”.	“This Act purports to get rid of bonded labour and lead an independent life”.

¹⁰ National Policy for Children 1974

¹¹ www.Pecuc.org

7	“Child Labour (Prohibition and Regulation) Act, 1986”.	“This Act prohibits the engagement of children in any employment and regulates the conditions of labour of children in sure alternative employment”.
8	“Infant Milk Substitutes, (Regulation of Production, Supply and Distribution) Act 1992. (Amended 2003)”.	“The Act aims to safeguard and promote breastfeeding”.
9	“Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act 2003”.	“This Act provides regulation of the utilization of pre-conception and Pre-Natal Diagnostic Techniques for the aim of police investigation genetic or organic phenomenon disorders and for the hindrance of the misuse of such techniques
10	“Person with Disabilities (Equal Protection of Rights and Full Participation) Act, 1995”.	“This Act has ensured the responsibilities of the Central and State Governments with respect to services for disabled persons. The Act additionally speaks regarding education of children disabilities up to age of eighteen years”
11	“Juvenile Justice (Care and Protection of Children) Amendment Act, 2006”.	This Act deals with the laws concerning Juvenile in conflict with law and need of care and protection

Status of children in India

- Every year the birth rate of the youngsters is twenty seven million
- 40% of youngsters died in deficiency disease
- Two-thirds of children area unit victims of physical abuse
- 50% of them featured completely different sort of abuse and 2 hundredth of them featured the severe abuse in our society
- 1.83 million children die annually before finishing their fifth birthday
- 36% of children area unit suffered from varied diseases as a result of poor sanitation, unsafe water etc.

State of children in Odisha

- In each one thousand live births, seventy-seven children die before attaining one year archaic.
- 48 newborn infants die in each one thousand live births before 30-days of survival.
- 55.4% new born babies are under weight at the time of their birth.
- 62.71% of 0-3 years aged children are died by various diseases.

- Out of each a hundred registered children, thirty-two dropout are in school education and fifty-two % in tribal areas.
- sixty-eight children complete primary education.
- Twenty third of women area unit married before attaining the age of wedding of eighteen years. it's quite four-hundredth within the district of Odisha.
- one thousand children 0-14 years of aged suffered from various exploitation

Name of the Acts and their Objectives

Name of the Acts	Objectives
“Guardians and Wards Act, 1890”	“This Act deals with the qualification, appointment and removal of the guardians of children by courts and is applicable to all children irrespective of their religion”.
“Child Marriage Restraint Act, 1929”	“This Act deals with the minimum age of marriage and prohibits the child marriage”.
“Immoral Traffic(prevention) Act, 1956”	“This Act deals with the offences of procuring, inducing and taking a person for a sake of prostitution”.
“Orphanages and Other Charitable Homes (supervision and control) Act, 1960”	“This Acts provide for the supervision and control of orphanages and other care homes for children”.
“Child Labour (Prohibition and regulation) Act, 1986”	“This Act prohibits the engagement of children in certain kind of employment and regulate the conditions of work”.
J”uvenile Justice (Care and Protection of children) Amendment Act ,2006”	“This Act deals with the laws relating to juvenile in conflict with laws and children in need of care and protection”.

Statement of the problem

The board statement of the problem relates to a study of the status of children in child care homes and to determine the efficacy of the child care homes as becoming alternative family system for children without families.

Objectives

The study will be propelled by the following objectives:-

- To estimate the socio-economic profile of children in care homes.
- To tress out the rights enjoyed by the children in the care homes.
- To judge the physical, intellectual and moral development of the children in the care homes.
- To create a comprehensive understanding of the phenomenon and the problem of missing and run away children who stayed in care homes and legal framework dealing with it and the challenges in the implementation of the rules and regulations.
- To draw the attention of all concerned with child rights to focus their attention on the problem and take steps to combat the same.
- To solicit the opinion and suggestion to make the care homes better living places for the children.

Tools of Data Collection

The study will rely on sampling method. The study will take recourse to both primary and secondary methods of data analysis. This study is an attempt to study the deeper part of the problem of missing, runaway, abandoned and destitute children in different care homes. It is a multifaceted and complex problem. Here the researcher tried to find out the family background and environment and the situations and circumstances under which the child went missing and orphan. The main aim of the research is prevention of child abuse, neglect by family and exploitation and violence. This research also aims to identify the Govt. agency and law implementation agency, juvenile justice system and other organization those are working on the area of child rights and providing shelter homes to these kinds of children and their rehabilitation. The overall purpose of the research is to find out the problems and develop the information which will provide guidance to the policy makers and other authorities who will make law and take the preventive steps to provide a safer environment to the child in our society.

Data analysis

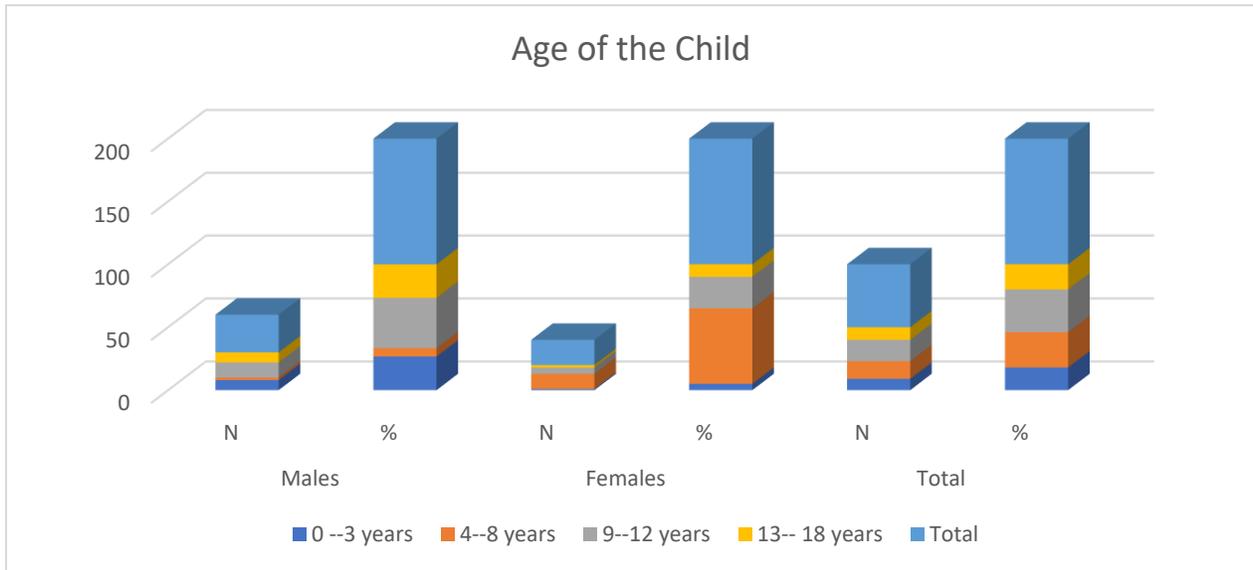
1. Background of the orphan children

Table 1

Age of the child when Orphan

Description	Males		Females		Total	
	N	%	N	%	N	%
0 -3 years	08	26.66	01	05	09	18
4-8 years	02	6.66	12	60	14	28
9-12 years	12	40	05	25	17	34
13- 18 years	08	26.66	02	10	10	20

Total	30	100	20	100	50	100
-------	----	-----	----	-----	----	-----

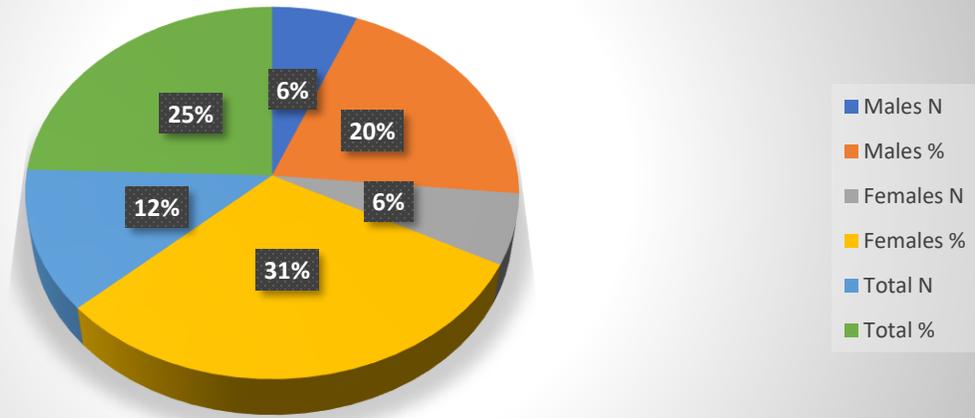


In this above table the researcher came to know that between 0-3 years 18% children, between 4-8 years 28%, between 9-12 years 34% and 13-18 years 20% were orphan.

Table 2:
Occupation of parents

Description	Males		Females		Total	
	N	%	N	%	N	%
Service	10	33.33	10	50	20	40
Daily wager	10	33.33	05	25	15	30
Self-employed	10	33.33	05	25	15	30
Total	30	100	20	100	50	100

Occupation of the Parents

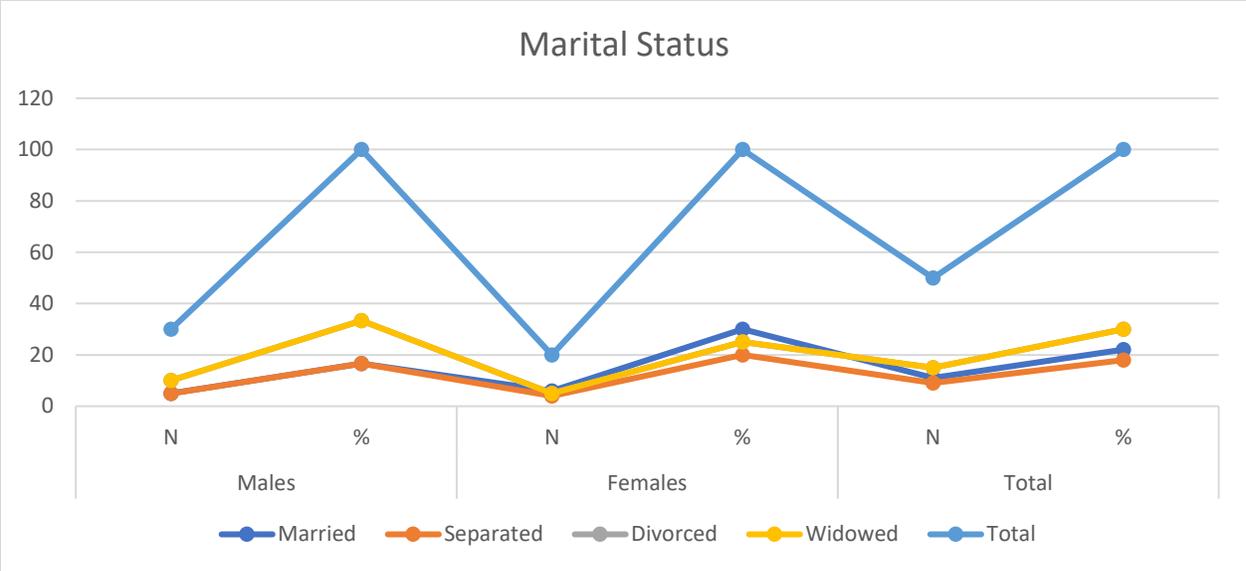


From this above table the researcher find out that the parents from service background 40%, from labour class 30% and from self employed 30% are the respondent's whose children were runaway or missing or abandoned and become orphans.

Table 3:

Marital Status

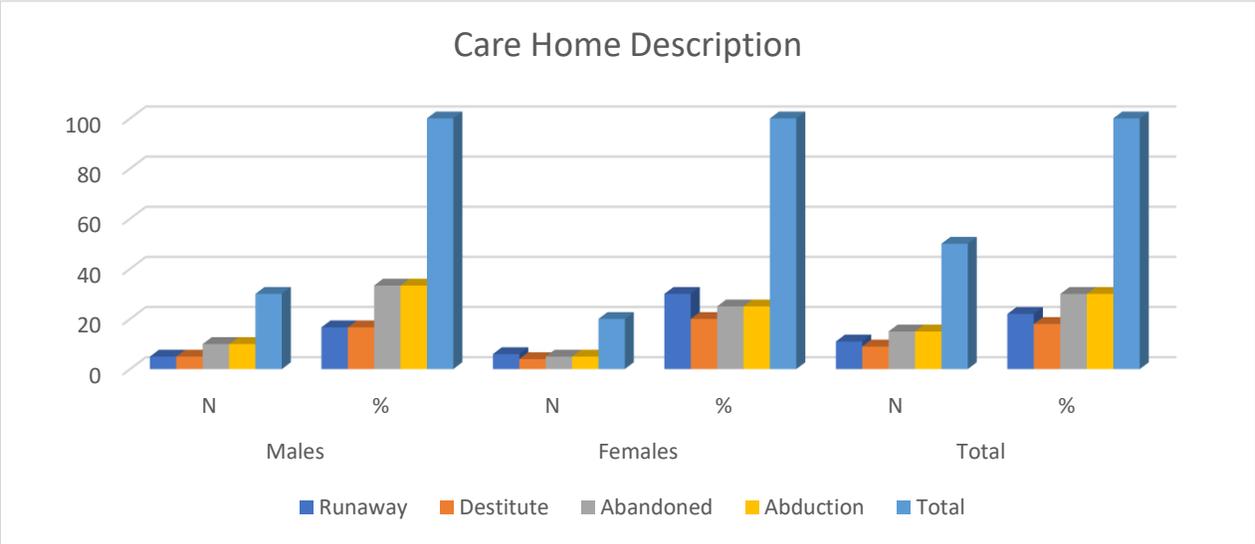
Description	Males		Females		Total	
	N	%	N	%	N	%
Married	05	16.66	06	30	11	22
Separated	05	16.66	04	20	09	18
Divorced	10	33.33	05	25	15	30
Widowed	10	33.33	05	25	15	30
Total	30	100	20	100	50	100



In this above table researcher came to know that 22% are married, 18% are separated couples, 30% are divorced and widowed. So because of the family disturbances many children were runaway, destitute and abandoned children.

Care home description

Description	Males		Females		Total	
	N	%	N	%	N	%
Runaway	05	16.66	06	30	11	22
Destitute	05	16.66	04	20	09	18
Abandoned	10	33.33	05	25	15	30
Abduction	10	33.33	05	25	15	30
Total	30	100	20	100	50	100



In this above table the researcher came to know that 22% were run away, 18% were destitute, 30% were abandoned and 30% were abducted.

Research Experience

Establishing trust and rapport with the respondents were the most important aspects of the study as the subject was very emotional and parents were reluctant to answer questions to a stranger with a questionnaire. Trust and rapport were built over time, almost always requiring several visits. Repeated meetings helped the researcher to establish trust and build relationships.

The researcher consciously worked hard to be accurate and objective, and to fairly and accurately record the responses of the parents as well as depict the lapses on the part of the system as it is. It was not part of the researcher's job to push an agenda, but rather to be relentlessly objective and prevent any sort of bias to seep in during the course of this study. The researcher's experience during the collection of secondary data was positive. The Government should work with the Police, NGOs and the civil society to ensure correct measures are in place for monitoring and assessment of performance on missing incidents. Furthermore, the Government, in conjunction with stakeholders, needs to develop a shared risk assessment model for practitioners to use across all sectors. It should scope the options for extending and improving the support available to families of the missing, identifying mechanisms by which every family gets the support it needs; and better information should be provided to families on the support available from Police, other agencies and NGOs.

Conclusion and suggestions

Significant progress can be made into tackling the problem of missing children episodes as evidenced by the work done in the developed countries by the law enforcement authorities and relevant agencies, as well as to reduce the reports of such cases by a proactive approach. It is extremely necessary to adopt strategic framework for a problem-solving approach. This will help to reduce the number of children going missing and lower the risk factor of harm coming to these vulnerable children. This can only be achieved by understanding the causes and circumstances surrounding the missing children episodes. A child going missing should be regarded as an indicator of other issues. Such incidents may lead to uncovering exploitative and criminal behaviour against vulnerable children and teenagers. There is usually a reason why a child goes missing. The police and other relevant authorities would have the opportunity to identify intervention measures by understanding the causes and reasons why the problem occurs. Furthermore, it will assist in drawing attention to creating safeguarding measures related to investigation of such crimes, and identification of the perpetrators of these crimes. Whilst there are numerous facets to the missing children phenomena, the efforts of all agencies involved can be grouped into achieving four key outcomes:

- Ensuring the immediate safety of the child who goes missing
- Resolving cases expediently
- Preventing children from going missing
- Support for the families left behind

References

1. Abrahams C, Mungall R. Runaways: exploding the myths. London: National Children's Home; 1992.
2. Agopian MW. Parental child-stealing. Lexington, MA: Lexington Books; 1981.
3. Agopian MW. The impact on children of abduction by parents. *Child Welfare: Journal of Policy, Practice, and Program*. 1984 Nov.
4. Archavanitkul K, Koetsawang P, Wanna J. Combating the Trafficking in Children and Their Exploitation in Prostitution and Other Intolerable Forms of Child Labour in Maekong Basin Countries: The Case of Thailand, Myanmar, and Laos. ILO; 1998.
5. Bajpai A. Child rights in India: Law, policy, and practice. Oxford University Press; 2018 Feb 15.
6. Biehal N, Wade J. Children who go missing: research, policy and practice.
7. Biehal N, Mitchell F, Wade J. Lost from view: Missing persons in the UK. Policy Press; 2003.
8. Booth RE, Zhang Y, Kwiatkowski CF. The challenge of changing drug and sex risk behaviors of runaway and homeless adolescents. *Child Abuse & Neglect*. 1999 Dec 1;23(12):1295-306.
9. Brennan T, Huizinga DH, Elliott DS. The social psychology of runaways. DC Heath; 1978.
10. Bourget D, Bradford JM. Homicidal parents. *The Canadian Journal of Psychiatry*. 1990 Apr;35(3):233-8.
11. Caputo T, Weiler R, Kelly D. Phase II of the runaways and street youth project: The Ottawa case study: Final report. Ottawa, ON: Ministère du Solliciteur général. 1994.
12. Chiancone J, Girdner LK, Hoff PM. Issues in resolving cases of international child abduction by parents. US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention; 2001 Dec.
13. Collins J, Powers L, McCalla M, Ringwalt C, Lucas R, RTI International, United States of America. Law enforcement policies and practices regarding missing children and homeless youth: Research summary. Washington, DC: US Department of Justice, Office of Juvenile Justice and Delinquency Prevention. 1993 Dec:5.
14. Cooper EF, Domestic Social Policy Division. The runaway and homeless youth program: Administration, funding, and legislative actions. Library of Congress, Congressional Research Service.
15. Website of NIPCCD : www.nipccd.nic.in

16. Website of DCPCR
17. Website of NCPCR
18. Website of Childline.
19. Website of UNICEF.
20. Website of Ministry of Women and Child Development:
21. Ross DP, Roberts PA, Scott K. Variations in child development outcomes among children living in lone-parent families. Human Resources Development Canada, Applied Research Branch; 1998 Oct.
22. Whitbeck LB, Hoyt DR. Nowhere to Grow: Homeless and Runaway Adolescents and Their Families. *Adolescence*. 1999;34(136):819.
23. O'Grady B, Vaillancourt B, Shout Clinic, Central Toronto Community Health Centres. Making money: The Shout Clinic report on homeless youth and employment. Central Toronto Community Health Centres; 1999.
24. Grogger J. Incarceration-related costs of early childbearing. In *Kids having kids* 2018 Oct 30 (pp. 231-255). Routledge.
25. Grindstaff CF. Adolescent marriage and childbearing: The long-term economic outcome, Canada in the 1980s. *Adolescence*. 1988 Apr 1;23(89):45.