LISTENING TO GIRLS
- States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

- For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The Stories

Every once in a while a particularly egregious story of violence and exploitation catches the attention and imagination of the media and thence the public at large. For instance, the tragic case of the two-year old girl, Falak, who died in New Delhi on March 15, 2012, after three cardiac arrests and six brain surgeries in a two-month battle to survive the battering she had received. Investigations into this child’s life reveal a story of collective and colossal failure - the failure to protect not one, but three lives that are now destroyed.

- The mother, a 22-year old, impoverished, illiterate woman, abandoned by her husband, lured to Delhi by a gang of traffickers, coerced into a “marriage” that earned the trafficker gang two lakh rupees, and finally duped into abandoning her three children, of whom Falak was the youngest. After all the damage was done, she was detained in a state-run welfare institution for women
- The fourteen-year old girl, who ran away from home to escape a violent father, who was sexually abused by her friend’s husband, who was forcibly trafficked for sex work, who was then ‘saved’ by a married man known to the gang who sold Falak’s mother, who was left in a flat and made to look after Falak all on her own for days on end, who eventually cracked under the pressure and apparently brutalized Falak and then took her to the hospital. The teenage girl is now detained in an institution for children in distress
- Baby Falak, two-years old, bashed, burnt, bitten, now dead

The questions that arise from a story like this are endless: What would it have taken to protect these children and this young woman? Was it possible to prevent the destruction of their lives? What is the protection that each one needed? Was there ever a moment when they could speak about what was happening with them to someone who could have helped?

Two people survived this tragedy. What will become of them now? How will we ensure that they are not further victimized and traumatized? By what means will they heal, and by what means will they re-enter the mainstream of life? Will anyone ask them what they want? Who will that be?

Making a Case for Listening

Every single day thousands of girls face some sort of violence, violation, hardship. They bear it quietly in their homes, in school, at the places where they work and on the streets. Sometimes they are rescued, sometimes they run away and get caught, and sometimes they do something more extreme like fall in love and go off with a man against their parent’s wishes.
At the point of ‘escape’, some or other adult, a policeman, a teacher, a social worker might intervene and bring that girl to a children’s institution, spaces notorious for being more like miniature jails, where she will be placed at least temporarily, for her protection. She will be brought before the statutory authority (Child Welfare Committee), who will make a decision on behalf of or about her – about her future, where she will live, who will take care of her, how they will take care of her, what kind of special service, if any, she needs*. Child Rights principles derived from the UN Child Rights Convention, the Indian constitution and other domestic and international laws are intended to guide these authorities to make these decisions carefully, with respect for the personhood of the individual child, and always in her best interest.

What's in a girl’s best interest?

Determining that best interest is a very tricky matter – it denotes making a decision that keeps the child’s views and interests at the center of any deliberation, and that ensures her physical, emotional, psychological and intellectual development. Key to making an assessment of what is in a child’s best interest is the process of listening to children - creating a safe space in which they are allowed to talk about themselves, their experience, their hopes, and their wishes for future placement.

Rehabilitation, in practice, takes place in two ways: in an institution (Children’s Home) if it is deemed that the child has no fit caregiver, or through reunification with the family. Indian law pertaining to the rehabilitation of children in distress emphasizes that institutionalization must be a measure of last resort. It recognizes that long-term institutionalization is potentially harmful to a child’s development and that family relationships and ties are very important for the well-being and security of the child. Therefore, the Juvenile Justice (Care and Protection of Children) Act (2000) and Rules (2007) emphasize the importance of family as the primary caretaker of the child and consider repatriation of the child to her birth family its first priority and preference when it comes to rehabilitation.

Theory and practice - Push and Pull

Within the Juvenile Justice system, we have seen this understanding play out in different ways.

- In a meeting with a State Department of Women and Child Development, authorities stated that the primary responsibility of Child Welfare Committees was to reunite children with their families.
- During a training and discussion, a Child Welfare Officer said she was only considered successful if she was able to convince the child and the parents that the child should return home with them.
- A Child Welfare Officer in a Girl's Home proudly claimed to have convinced more than 25 children to return home even though they had first expressed unwillingness.
- In conversations with girls rescued from exploitative and dangerous situations and housed in children’s institutions while awaiting a decision about their future, this is what we heard:
Kamla, Age, 14, From Uttar Pradesh:

After my father died, my mother married his brother... One day we all went to a wedding. I ate something over there and fell unconscious. That is the last thing I remember about home. A woman I don’t know brought me to Mumbai, and then I suppose she sold me... I have been here in the Home for a month, but I have not heard from my mother.

Farah, Age, 16, From Delhi:

He promised me he was going to marry me, so we ran away together. But that is not what happened, and instead he sold me. The police caught him and later they came and rescued me. I don’t like to think about him and why he did this. It’s hard to talk to anyone about it... In my house there was a lot of violence and abuse. I watched my mother and sisters being hurt since I was very young. Once my stepfather threw me off the terrace. There is violence everywhere, even here in this home it does not stop.

Susmita, From Kolkata:

I lived in Kolkata until my parents died in a car accident. Then I went to Samastipur (Bihar) to live with my uncle, aunt and two male cousins. My uncle did very bad things with me for a long time. Then he made me go with other men also. I tried to kill myself once, but they found me. Eventually my relatives made me leave their house and the police took me to a Children’s Home. I don’t know where I will go now.

Mamta, Age, 16, From Odisha:

I lived with my mother. There was only us two and we were very poor. Then a contractor gave us work in Hyderabad on a construction site. We were daily wage laborers and it was difficult to survive. Sometimes for money I would have to go with men. One day a man said he would take me back to Odisha, but instead he brought me to Bihar and kept me locked in a room. I managed to escape and was brought here by the police.

Clearly, girls who present themselves before authorities have escaped or been rescued from situations of grave exploitation. Frequently, the people closest to them were the ones who they were victimized by. For these children, is return to the family in their best interest? Statistics on sexual violence and rape inform us that upwards of 90% of perpetrators are people known to the victim. In the case of minors, this involves family - stepfathers, uncles, cousins, neighbors and guardians. For these children, is mediation with the family and returning to the scene of exploitation really in their best interest?
Moreover, what happens when a family has been complicit in selling a child? Or if a case has been filed against a family member what then are the repercussions for that child within the family home?

At a meeting with Child Welfare Officers in a Girl’s Home in New Delhi we heard complaints about girls being difficult and “constantly telling lies.” When we probed that statement we learned that many girls lied about the whereabouts of their families when authorities were trying to trace them in order to repatriate the girls. In a Girl’s Home in Mumbai a counsellor reported that girls she worked with were not willing to go home to their family and community. These girls are seen as ‘difficult’ ‘troublemakers’ and are routinely targeted by staff for punitive action.

**Their Stories**

Roopa’s story:

While in the sixth grade in school, Roopa ran away from home and went to Rajasthan. The police caught her and bought her to the Children’s Home. Roopa is very subdued and isolates herself in the Home. She is not willing to talk about her past or why she ran away. Although she clearly knows who her parents are and how to contact them, she remains completely unwilling to talk about them or let anyone know about their whereabouts.

Poonam’s story:

Poonam sits very quietly in the institution, refusing to interact with other girls. She comes across as withdrawn and depressed. Most of all, she refuses to talk about her family and doesn’t want to contact them. Poonam ran away from home for reasons unknown and was later found by the police and brought to a Children’s Homes. She says she wants work as a domestic help in order to find somewhere to live. She worries that she will be sent back her family.

Geeta’s story:

Geeta has been in the institutions for four months, but is very much alone. Her scarred and burnt face keeps the other girls far from her and also speaks of something terrible in her past. Although both her parents are home-based workers, Geeta claims she doesn’t know a contact number or address for them. She says she ran away from home with her sister after a fight. She was in the ninth grade at the time. There is nothing more Geeta wants to say about her past.

Girls trapped in Children’s Homes in a traumatized ‘post-harm’ state may not always be able to voice that they don’t want to return home. On top of that, the fact that the Children’s Home itself affords no relief from abuse, adds to the child’s confusion about what her options may be. It is not uncommon for
children in these circumstances to provide inaccurate information about themselves in order to stall for time. If we listen to the “lies of children” we may in fact hear that they do not feel safe at home, a crucial piece of information needed for a best interest determination.

Welfare Officers and Probation Officers in several states routinely complain that they cannot conduct home enquiries due to a lack of time and resources. Most worrying of all, girls everywhere tell us that they are rarely asked questions about their past life or about their aspirations and hopes for the future. In the stories that girls tell us – be they fact or fiction - lies the key to the child’s safety and happiness. Listening to girls is not an act of benevolence. It is her right to be heard, it is her right to be protected, and it is the duty of adults to safeguard those rights.

There is a scream that reverberates inside girls’ heads. It’s a silent scream and we will never hear it unless we learn to listen.

* The legislative framework for children in need of care and protection:
In India, the Juvenile Justice (Care and Protection of Children) Act, 2000, is the central legislation to administer to the needs of children in difficult circumstances (children in need of care and protection). When an apparently unsupported and distressed child is found anywhere – on the streets, at work, on a train – the law mandates that she be presented before a Child Welfare Committee. This committee is tasked with making an inquiry into the circumstances of the child’s life and determining the future course of action as to her rehabilitation.

A Children’s Home is the institution mandated by the Act to provide for the care, treatment, education, training, development and rehabilitation of children in need of care and protection. Children who are deemed in need, are kept in these homes for the duration of any enquiry regarding their status, and failing other attempts at reintegration, continue to live in them until they reach the age of 18.