

Still Out of Focus

Status of India's Children 2008



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Enakshi Ganguly Thukral
Bharti Ali
Emily Bild

THE PARADOX OF OUR TIMES

More knowledge, but less judgment

More experts, but more problems

More medicines, but less wellness

We've split the atom, but not our prejudice

We've higher incomes, but lower morals

We've become long on quantity but short on quality

These are the times of world peace, but domestic warfare

More leisure, but less fun; more kinds of food, but less nutrition

It is a time when there is much in the show window

And nothing in the stockroom

Excerpts from **The Paradox of Our Times** by

His Holiness the Dalai Lama

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We thank...

...The children of India who never let us give up hope by their sheer resilience against all odds, their ability to laugh and to bring laughter to us. Across the country, children are growing up facing the vagaries unleashed by nature and humans. They are dying of hunger and starvation in a world full of plenty, working in the most exploitative situations and taking on responsibilities that adults should shoulder, and losing life and limb to mindless armed conflict. And yet they smile and look up to the sky in hope. Their smile brings us hope in these bleak and uncertain times filled with violence and economic crisis.

...Ambika Kapoor, who was interning with us and went through piles of secondary sources to put into this report.

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...Sir Dorabji Tata Trust, which has provided the financial support for this report.

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...Last, but not the very least, our families – the ones at home, especially our own children whose rights invariably take a back seat in the course of our frenzied attempts to complete projects that HAQ finds important. Without their silent but constant support and forbearance, HAQ would not be able to function.

Enakshi Ganguly Thukral

Bharti Ali

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introduction

“I have come to realise more and more that the greatest disease and the greatest suffering is to be unwanted, unloved, uncared for, to be shunned by everybody, to be just nobody (to no one).”

Mother Teresa

That India is a land of paradoxes is an old adage. "There is no other country in the world that embraces such an extraordinary profusion of ethnic groups, mutually incomprehensible languages, topography and climate, religions and cultural practices, and levels of economic development. And yet, as we all know, India is more than a sum of its contradictions".¹ This is true in more ways than one. While a tiny per cent of the population argue and sweat over which car to buy next and why the new Nano car will revolutionise India, a large proportion sweat and toil to stave off hunger and starvation. Indeed, what is even more dismaying is the apathy with which these contradictions are accepted by the society at large. There is no shock or shame. There is just acceptance of this as a reality or dismissal as the price of growth and progress.

Evidence suggests that the poverty line should be revised to Rs. 840 per person per month, if it is redefined taking into account the total expenditure needed to cover the basic needs of nutrition, health care, clothing and shelter.³ Currently 68.5 per cent of India's population lives on less than Rs. 840 per month, which is below the minimum wages, in fact below the basic survival level.

HAQ's third status report on children coincides with the country's fast progress towards becoming one of the economic giants and the rush of development in preparation for the Commonwealth Games, even as terror, Naxalism and communal and ethnic violence is tearing away India's social fabric. It is also facing the challenges posed by natural disasters, and a global economic crisis that is threatening to become the worst since 1929.

Internationally, India is anxious to build on its image as a powerful emerging economy with enormous trade opportunities. To that end, there is a rush to participate in global events, whether it is film festivals or trade meets. Like China, India is planning its own party as it prepares for the 2010 Commonwealth Games.

There is a deliberate attempt to hide, even pretend non-existence, of the numerous problems. India had one of the highest number of casualties in terrorist attack in 2008. For decades, there has been armed conflict in the remote corners of the country. Thousands lost their lives and many more are suffering due to the impact on livelihood

In aggregate, the combined wealth of India's 40 richest people (billionaires) surged to \$351 billion, a bit more than double last year's \$170 billion, making them by far the wealthiest such group of all in Asia.²

LIVING ON THE EDGE

Jammu & Kashmir

Over 30,000 CRPF personnel are guarding Srinagar over the past two months. There have been over 12,500 protests this year in the state, five successful infiltration attempts, multiple encounters with terrorists, police firing at out-of-control protesters and curfew is a regular feature.

Delhi

A saffron-flag bearing mob attacked a Christian refugee camp in Peeragarhi on October 4, giving rise to suspicions that communal violence may begin here too. There has been escalating tension among Muslims after the encounter at Jamia Nagar.

Assam

The state has been continuously tense for the past two months. The tension began between Bodo tribes and Muslim settlers in the Udalguri district and then spread. So far 40 people have died

Manipur

A sitting legislator escaped a bomb attack on Sunday

MP

Four churches have been attacked in the state in the last three weeks. At least eight people died in communal riots in July

Maharashtra

Communal tension has been simmering in different pockets. On Sunday, police resorted to a lathi-charge and firing during a communal clash at Dhule. The violence continued and as a result 6 people died while 122 were injured. The state has witnessed several clashes between followers of Shiv Sena chief Bal Thackeray and Maharashtra Navnirman Sena chief Raj Thackeray in the ongoing tussle for power

Chhattisgarh

There have been 62 major shoot-outs between security forces and Naxalites this year

West Bengal

Following months of riots over Tata Motors' Nano plant in Singur, there have been three clashes between CPM workers and the Trinamool after Ratan Tata pulled out

Karnataka

Multiple attacks against Christians in three districts — Mangalore, Bangalore and Udupi — have continued over the past two months. Elderly Christian protesters were lathi-charged by police in the last week of September as a result of which the Centre pulled up the state. Last week Shivraj Patil sent a central team to take stock and followed it up with a visit

Orissa

There have been over 100 instances of attacks against Christians and Christian institutions. So far 35 people have been killed. The Home Ministry has issued over half-a-dozen letters to the state government asking it to curb communal violence. Even PM Manmohan Singh has been embarrassed in front of the international community during his US-France trip

¹ Shashi Tharoor. India as a Soft Power. IIC Quarterly 2008. India International Centre. pp. 32.

² Naazneen Karmali. India's 40 Richest. Special Report. 14 November 2007. http://www.forbes.com/2007/11/14/india-billionaires-richest-biz-07india-cx_nk_1114india_intro.html.

³ Mohan Guruswamy and Ronald Joseph Abraham, The Poverty Line is a Starvation Line, InfoChange India, Agenda, Issue No. 6, Hunger has fallen off the Map, October 2006. <http://infochangeindia.org/200610195662/Agenda/Hunger-Has-Fallen-Off-The-Map/The-poverty-line-is-a-starvation-line.html>.

caused by death or injury of the primary wage earners. However, now that violence has struck the heart of India, the country is finally waking up to it. Whether it is the Naxal insurgencies in central India, communal and ethnic violence, hate and discontent, to a large part all this can be attributed to an unequal distribution of resources.

People in several cities are still recovering from bomb-blasts; communal violence in Dhule (Maharashtra), Adilabad (Andhra Pradesh), Burhanpur (Madhya Pradesh) and ethnic violence in Kandhamal (Orissa) and Udalguri and Darang (Assam); Naxalism in 12 states; insurgency in Jammu & Kashmir and various states in the North Eastern Region, particularly Assam, Manipur and Nagaland.⁴ In all, children in 24 states are growing up affected by some form of conflict. Besides ethnic violence and Naxalism, Orissa, Bihar and Assam are trying to cope with floods that have rendered people homeless and destitute.



In all, children in 24 states are growing up affected by some form of conflict.

While the country is trying to come to terms with the additional pressure of violence, conflict and the impacts of natural disaster, prices continue to soar. The International Monetary Fund (IMF), while maintaining its growth projection for India at 8.75 per cent for 2007-08, has flagged the immediate need for fiscal consolidation and structural reforms to achieve inclusive growth in the face of growing income inequalities. Despite impressive revenue performance, the Fund said fiscal consolidation has stalled and public debt remains high, squeezing the fiscal space needed for public investment in physical and social infrastructure.⁵

According to estimates, the expenditure on basic non-food consumption items has increased dramatically between 1981-82 and 1999-2000. Expenditure on education of children has witnessed the largest increase for working class families. While an average working class family was spending around Rs. 25 per month on education of their children in 1981-82, the amount increased by around 1,150 per cent or by almost 12.5 times to Rs. 306 per month in 1999-2000. Similarly, expenditure on health care increased by 1,037 per cent and on housing by 935 per cent. The average family income on transport and communication has also increased by 1141 per cent during this period.⁶

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The influence of “corporatisation” of the social sector is there for all to see. Both the education and health care sectors are already seeing increasing privatisation. The raging debate over pre-cooked packaged food versus hot meals for children, first in the mid-day meal scheme and now in the Anganwadis, discussed in the chapter on early childhood, is a perfect example of this. Abdication of state responsibility is evident in the increasing moves to hand over the running of institutions, such as care institutions for children, to private bodies.

It is indeed unfortunate that the right to a clean and protected earth is today clashing with the right to food. The world’s poor are now caught up in a struggle between addressing the emerging problems arising from climate change and lower levels of food production. Recent estimates suggest that increased demand for bio-fuels accounts for 30 per cent of recent food price rises.⁷ India too is impacted by the global food crisis. It is once again the poor who are paying the price for indulgent and wasteful lifestyle choices made by the rich.

4 Hindustan Times, India in Turmoil, New Delhi, 7 October 2008; Hindustan Times, Singed by Communal Violence, 14 October, 2008 and Annual Report 2007-08, Ministry of Home Affairs. Government of India.

5 Paromita Shastri, IMF urges reforms for Inclusive Growth, The Mint 6 February 2008, www.livemint.com.

6 Network for Social Accountability. “How the Working Class has Performed in the Turbulent Years of Liberalization? Preliminary Analysis of the main findings of the Working Class Income & Expenditure Survey”. media@nsa.org.in.

7 The Times, Cut biofuel targets to feed the poor, leaders are urged, 3 June 2008.

Malnutrition and Starvation

The same country that has the resources to send an unmanned spacecraft to the moon is unable to save its children from starvation. The International Food Policy Research Institute in its Global Hunger Index 2008,⁸ ranks India 66 among 88 countries, showing that despite economic growth, the hunger scenario of the country is worse than about 25 Sub-Saharan nations and almost the worst in Asia, with only Bangladesh lagging behind it. According to the Global Hunger Index, over 200 million Indians are unsure about accessing their daily bread.

UNICEF has warned that the current global food crisis, with escalating food inflation, has placed more than 150 million children in India at risk of becoming malnourished.⁹ Food becoming expensive is having a severe impact on poor families, who have to cut back on the number of meals that they eat per day. This has a dramatic impact on child nutrition because children need to be fed frequently.¹⁰ Madhya Pradesh is the hungriest state in the country followed by Jharkhand and Bihar.¹¹ The slow progress in resolving the hunger crisis has been attributed to high population growth followed by slow income growth, high energy and bio-fuel prices followed by drastic change in science and technology, climate change, globalisation and urbanisation bringing changes in the pattern of food consumption, production and market. The current global financial crisis will further complicate the hunger scenario in the future by causing a shortage of availability of capital for agriculture and related activities, resulting in further food shortages.

The start of 2008 has seen increasing malnutrition in mostly western and mid-western parts of India.¹² It is expected that higher food prices will continue for several years since Asian economies have shifted their focus from agriculture to manufacturing. In West Bengal, the large-scale acquisition of land for industrial purposes is threatening to result in a food crisis in the state, as this will have a major impact on agricultural production and food security.¹³ Once again, the poorest children have been left to bear the brunt of India's development process.

Most victims of starvation are women and children from the Scheduled Castes (SC) and Scheduled Tribes (ST), with their deaths mainly due to discrimination in the food based schemes. Adding to this, the report of the UN Special Rapporteur on the Right to Food, Jean Ziegler, notes that discrimination in access to food, productive resources, evictions from land, and the lack of implementation of food based schemes persists, particularly in rural areas, despite laws prohibiting discrimination and untouchability.¹⁴

Starving children of 'shining' India

NEETA LAL

INDIA may well be 'shining' to the world at large but when it comes to its children's health, the picture is far from glossy. The recently released National Family Health Survey (NFHS-3), the third pan-India survey conducted since 1992 (covering 200,000 people from 15-54 years), highlights some sobering facts on this front. According to the survey, conducted between December, 2005, and August, 2006, a whopping 45.9 per cent of India's under-three kids are underweight, 39 per cent are stunted, 20 per cent severely malnourished, 80 per cent anemic while infant mortality hovers at 67 per 1,000. More than 6,000 Indian children below five years die every day due to malnourishment or lack of basic micronutrients like vitamin A, iron, iodine, zinc or folic acid. Overall, India hosts 57 million—or more than a third—of the world's 146 million undernourished children.

Shockingly, even sub-Saharan Africa has a better record of child malnourishment at 30 per cent while China records 8 per cent and Pakistan 37 per cent.

While sociologists rue India's iniquitous social development—despite six decades of independence—doctors are worried about its physical repercussions. Elaborates paediatrician Dr Suresh Kasam of Spring Meadows Hospital, New Delhi, "Malnourishment needs urgent attention in our country because during the first two years of a child's life, the problem is irreversible. It severely retards a child's cognitive, physical and emotional growth and has a cascading effect on his/her productivity in adult years."

"India should be worried," notes Werner Schultink of Unicef. "It is going to be difficult for India to use its human resources to develop the nation without making improvements on its health front." In Manipur, for instance—where the per capita income is Rs 12,230 (up from Rs 10,300 in the 1990s)—there is 28 per cent malnourishment, while Gujarat (with a per capita income of Rs 21,276) has 45 per cent. Similarly, Orissa's malnourishment figure is 50 per cent with a per capita income of Rs 10,103 while Maharashtra at Rs 24,736 has malnutrition levels of 51 per cent. Kerala's per capita income is Rs 21,310 and that of Karnataka, Rs 18,324 while their malnutrition levels are 27 per cent and 44 per cent, respectively. Similarly, the percentage of underweight children in Gujarat (one of India's richest states) had upped to 47 per cent from 45 per cent seven years ago. In Uttar Pradesh—India's most populous state—the percentage of anemic children under three had risen to 85 per cent from 74 per cent in 2001.

According to Minister of State for Women and Child Development Renuka Chowdhury, the problem of children's malnutrition can only be tackled through holistic, coordinated interventions in the areas of food security, health, sanitation, safe drinking water, nutrition, family welfare and poverty alleviation.

This would involve several steps, including the expansion of the current number of community development or anganwadi centres (AWCs) under the Integrated Child Development Scheme (ICDS)—from the current 600,000 to 1,400,000—and doubling of financial norms for supplementary nutrition from one rupee to two per beneficiary per day. Chowdhury also recommends that all SCST slums and hamlets be provided with AWCs.

However, 110 million children still remain outside the programme's ambit, which was meant to expand its reach gradually but has not because of India's population explosion. It is time to realise that tackling children's malnutrition is no child's play. It is a serious problem that needs to be addressed through greater synergy between the Centre, state and NGOs.—WFS



8 International Food Policy Research Institute. Global Hunger Index 2008.

9 BBC News, Food warning for Indian children, Damien Grammaticas, 13th May 2008, http://news.bbc.co.uk/2/hi/south_asia/7398750.stm.

10 Purnima Menon, Anil Deolalikar and Anjor Bhaskar. The India State Hunger Index: Comparisons Of Hunger Across States. International Food Policy Research Institute. October 14, 2008.

11 Purnima Menon, Anil Deolalikar and Anjor Bhaskar. The India State Hunger Index: Comparisons Of Hunger Across States. International Food Policy Research Institute. October 14, 2008.

12 AFP, Food prices hike increase malnutrition risk in South Asia: UNICEF, 14th May 2008, http://news.yahoo.com/s/afp/20080514/wl_sthasia_afp/inflationpovertyfoodnepalindiachildren_080514062945.

13 Mail Today, Buddha calls meet as Bengal panel warns of food crisis, Romita Datta, 16 April 2008.

14 Paradox of Hunger amidst Plenty. Report of the Special Rapporteur on Right to Food, Jean Ziegler, on His Mission to India (August 20-September 2, 2005. Combat LawVolume 5 Issue 3. June-July 2006.

The Great Divide in Education Persists

Despite its goal of ensuring every child in school by 2007, 7.6 million children continue to be out of school, according to the Ministry for Human Resource Development.¹⁵ Minimal infrastructure such as proper classrooms, desks, toilets and drinking water is missing in a large number of schools.

The number of girls enrolled into schools, both at the primary stage as well as the upper primary level, is less than boys and girls have a higher drop-out rate. As has been discussed in detail in the chapter on education, there are wide disparities between urban and rural school attendance and even greater disparities between the richest and poorest households.¹⁶ One in ten Muslim children is out of school, which means that the proportion of out of school children is highest in the Muslim community.¹⁷ As many as 25 per cent of Muslim children in the 6-14 year age group have either never attended school or have dropped out. This is higher than that of any other Socio-Religious Category considered by the Sachar Committee in its report. The incidence of drop-outs is also high among Muslims and only SCs/STs have a marginally higher drop-out rate than Muslims.¹⁸ Nearly one in ten (9.54 per cent) tribal children remain out of school and 8.17 per cent of Dalit children are not enrolled in school. Many who do manage to reach the schools drop out.

The discrimination faced by disabled children continues despite policy announcements on inclusive education. About 1.62 million disabled children are enrolled in elementary classes across the country, of which 1.24 million are in primary and 0.38 million are in upper primary classes. The percentage share of girls in all categories is about 41 per cent.¹⁹

A law on the Right to Education may become a reality with both the Group of Ministers and the Cabinet having cleared the Bill on 30 October 2008. The draft Bill to be placed before the Parliament is now available to the public. However, some of the earlier anomalies in the Bill do not seem to have been resolved, such as the process of justice for violation of the fundamental right to education, or the need for a common school system to ensure equal education for all children.

The great divide in education is also witnessed in the violence in the education system itself. Children are subjected to violence in schools in the name of discipline, sometimes leading to permanent impairments. Sexual violence, rape and sodomy also continue to defile the precincts of learning. Pressure on students results in suicides, and this is a growing phenomena. According to the National Crime Records Bureau, in 2006, 1,198 students up to the age of 14 years committed suicide. And the percentage of suicides due to failure in examination has gone up by 4.2 per cent between 2005 and 2006.²⁰ Recognising this, the examination Boards, such as the Central Board of Secondary Education, now sets up help lines before, during and after exams.

Table 1: Profile of Suicide Victims Classified According to Profession – 2006 (All India)

SI No.	Profession	Upto 14 years		
		Male	Female	Total
1	Student	562	636	1198

Source: NCRB, Accidental Deaths and Suicides in India, Table 2.6

Table 2: Suicides and their Share by Causes During 2004-2006 (All India)

SI No.	Cause	2004		2005		2006		% Variation in 2006 over 2005
		Suicides	% Share	Suicides	% Share	Suicides	% Share	
10	Failure in Examination	2496	2.2	2283	2.0	2378	2.0	4.2

Source: NCRB, Accidental Deaths and Suicides in India, Chapter 2, Table 2E

15 This information was given by the Minister of State for Human Resource Development, Shri M.A.A. Fatmi in reply to a question in Lok Sabha, Tuesday, April 29 2008.

16 95.7 per cent of children from the richest 20 per cent of households attend school, as compared with only 69.4 per cent from the poorest 20 per cent of households.

17 Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report, 2007. pp. 33.

18 Social Economic and Educational Status of the Muslim Community in India, A Report. (Sachar Committee Report) 06. Government of India. November 20, pp.58.

19 Arun Mehta, Elementary Education in India. Progress Towards UEE, Analytical Report 2005-06, Published in 2007, pp. 139.)

20 NCRB, Ministry of Home Affairs, Government of India, Accidental Deaths and Suicides in India, 2006, Table 2.6 and Chapter 2 - Table 2E.

The cooking, serving and eating of mid-day meals has once again reinforced that India is still a society bogged down by caste and religion. A survey of practices of untouchability in 565 villages in 11 states reveals that in as many as 38 per cent of government schools, Dalit children are made to sit separately whilst eating.²¹ Parents refuse to let their children eat food cooked by Dalit cooks, or on plates shared with Dalit children, or even sit with them. Newspapers report of children either being thrown out of schools because they are affected by HIV and AIDS or parents withdrawing their own children from schools which admit children infected or affected by the disease.

Unequal Access to Health Care

India lives with many unenviable health statistics: the highest TB prevalence in the world, over one third of the world's malnourished children and maternal and infant mortality rates which are embarrassingly high, even in relation to the country's poorer neighbour, Bangladesh.²² Infant and child mortality rates still remain cause for alarm. The rates are much higher in rural than urban areas across the country. SC and ST children have higher mortality rates. These are also higher among females. Estimates show that infant and childhood mortality among Muslims is slightly lower than the average. Of all the religious groups, Hindus have the highest infant and child mortality. The National Family Health Survey-3 (published in 2007), reveals that Scheduled Tribes and Scheduled Castes have a higher than average infant and child mortality rate. Disabled children and women are the least likely to seek health care.²³

There are also stark regional disparities – in general; states that lack social, welfare and health services also fail to adequately care for children with disabilities.²⁴ In addition to this, services for disabled children tend to be centred in the large cities, whereas the majority of children with special needs live in rural areas. Those suffering from mental health disorders face the worst stigma and social exclusion. Mental illness accounts for nearly one sixth of all health-related disorders, but India spends less than one per cent of its total health budget on mental health.²⁵

The increasing cost of health care is making access to health care even more difficult. It is the girl or the disabled child who is inevitably the last priority for health expenditure in an environment of scarcity.

Children Growing up Amidst Violence and Exploitation

Today's children are growing up in an environment of violence, both in the private space as well as in public. Violence against children includes abuse and exploitation, such as child labour and child trafficking, sexual abuse, child marriage, foeticide and infanticide, etc.

Ethnic and communal violence, state sponsored violence coupled with sexual abuse and exploitation are what children have to confront on a daily basis, in their personal lives or through the media. Needless to say, no one is safe.

Continuing armed conflict, whether in Jammu and Kashmir or in the northeast, has not only affected access to education, but has led to psychological trauma. Children grow up in an atmosphere of violence and are also sucked into it as perpetrators, as is the case of child soldiers in Manipur or Kashmir, or as part of the armed groups set up by Salwa Judum or the Naxalites.

Infant and child mortality rates still remain cause for alarm. The rates are much higher in rural than urban areas across the country. SC and ST children have higher mortality rates. These are also higher among females.



<http://www.indianexpress.com/news/a-weel-after/358109/>

21 Harsh Mander, Democracy Wall, 15 August 2006.

22 India Guide, Oneworld, September 2007.

23 Childline India, <http://www.childlineindia.org.in/cr-disability.htm>.

24 Ibid.

25 Ibid.

Children are being recruited to perpetuate violence in almost all the conflict regions of India. They are trained in the use of fire-arms and brainwashed into believing in and fighting for the “cause”. The state of Chhattisgarh has been increasingly in the news for using children as combatants and in other war activities. The Naxalite militants (fighting against the state of India), the Salwa Judum (state sponsored militia used in anti-insurgency operations) and the government security forces are all recruiting children (both boys and girls) to training camps where they are taught to use weapons and explosives.²⁶ In Manipur, Kashmir, Orissa and other states affected by armed conflict, it is the youth that is pulled in.

Schools remained shut during the weeks of protests following the Amarnath shrine controversy in Jammu and Kashmir in June 2008. Many children also participated in the demonstrations, putting them at risk of police retaliation. Children were also held hostage in Jammu by militants. Sources claimed that militants were using children as human shields, forcing the troops to stop firing on the house fearing human casualties, the sources said.²⁷ A number of children have been hurt or killed in the indiscriminate bomb attacks all over the country.



A large number of children face displacement whether due to violence or due to economic development projects. What is worse, be it Nandigram, Singur, Kalinga Nagar or POSCO, they are all part of India's new development model which breeds and perpetuates violence that spares no one. The fact finding report of the delegation deputed by the Calcutta High Court reports that on 14 March 2007, police personnel proceeded without any notice towards villagers who were offering prayers and started indiscriminately firing rubber bullets, killing bullets and tear gas. Several people were killed on the spot. This was followed by firing by members of a local political party who were dressed in uniform but with sandals on their feet. At least eight children were murdered indiscriminately and their bodies thrown into the nearby Chuniburi river.²⁸

There has been an increase of 26.7 per cent in cases of crimes against children in the country during 2006 over 2005,²⁹ and this is only on the basis of reported data. Of a total of 13,161 rape cases reported in 2006, a staggering 10,613 were pending trial at the end of the year.³⁰ In fact, out of the total 47,989 crimes against children reported in 2006, 38,013 (or 79.2 per cent) were pending trial at the end of the year.³¹ Lack of village and district level disaggregated data based on gender, caste, ethnicity, age etc. is the biggest bottleneck in the assessment of regional or sectoral trends for trafficking in children or for that matter any other crime against children.

Hard as it may be to believe in this day and age, child sacrifice, infanticide and child marriage remain realities faced by children in India.

There has been an increase of 26.7 per cent in cases of crimes against children in the country during 2006 over 2005

Child labour and child trafficking show no signs of disappearing from the country. If anything, there is an increasing commodification of children. Child workers work as much as and as long hours as adults, for no wages or a fraction of the adult wage in inhuman and in dangerous conditions with no bargaining power. The only way to resolve this situation, as has been demanded for over two decades now, and is now recommended by the National Commission for Enterprises in the Unorganised Sector, is to eliminate all types of child labour in agriculture as well as in unorganised, non-agricultural sector enterprises. But that requires political will which seems to be missing.

26 Human Rights Watch, *Dangerous Duty – Children and the Chhattisgarh Conflict*, July 2008.

27 Fleeing militants take family hostage in J-K. <http://www.expressindia.com/news/fullstory>.

28 Fact finding report of the delegation deputed by the Calcutta High Court 23 March, 2007, Nandigram: Horror Stories Emerge, Counter currents.org.

29 NCRB, Ministry of Home Affairs, Government of India, *Crime in India, 2006. Crimes against Children*, Chapter 6.

30 Ibid.

31 Ibid.

The UN estimates that 246 million children across the world are involved in exploitative labour and that 1.2 million children are trafficked each year.³² About one million children are exploited in the multi-billion dollar sex industry.³³ A US State Department report has placed India in the second worst category of its human trafficking watch list for the fifth year in a row, for allegedly failing to show evidence of increasing efforts to combat the problem³⁴ and described India as a: “source, destination and transit country for men, women and children trafficked for the purposes of forced labour and commercial sexual exploitation”.³⁵

The Great Gender Divide

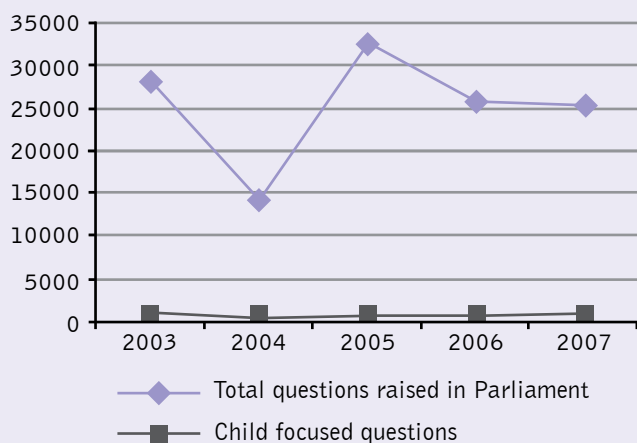
India's march towards modernisation is yet to bring incremental change in the lives of the girls of this country. Even as Indian women make it to the list of the 50 most successful women announced by the Wall Street Journal, get crowned beauty queens and work on space technology, it is curious how the new forms of discrimination and violence only get added on to what already persists. Therefore, sex-selective abortion, leading to falling sex ratios, and acid attacks are added on to older forms of violence such as female infanticide and honour killings. The statistics revealed in different chapters clearly go to show that a girl child is less likely to go to school or complete schooling than her brother, and is less likely to get medical attention. She is more likely to be abused inside and outside the home. The health policy continues with its emphasis on two-child norm, contributing to sex selective abortions resulting in declining female sex ratio. The root of discrimination lies in patriarchy and continuation of family. Among the Hindus, it is also to do with funeral rites being performed by the son. However, sometimes girls manage to break away and assert themselves.



Child Issues in Parliament

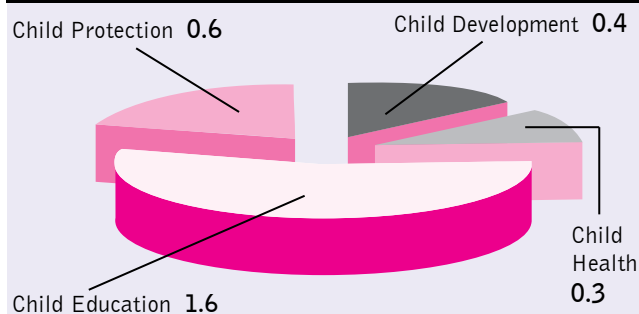
The interest in parliament on child related issues has remained a consistent three per cent since HAQ began undertaking its analysis in 2003. Is it because the legislators are not interested? Or is it because the parliamentary system ensures that this should be the time devoted to children and chooses the questions and interventions in parliament accordingly?

Fig. 1: Total Questions and Child Focused Questions Raised in Parliament



However, what is even more significant is the areas concerning children that catch the attention of the parliamentarians (MPs). It has been consistently the education sector that has received the most attention. Issues related to child protection

Fig. 2: Sectorwise Questions Raised in Parliament between 2003 to 2007



32 NCRB, Ministry of Home Affairs, Government of India, Crime in India, 2006. Crimes against Children, Chapter 6.

33 Ibid.

34 Howrah News Service, US watch list slams India for human trafficking, 6 June 2008.

35 US Secretary of State, Trafficking in Persons Report, 2008.

too have been an area of interest, particularly child labour, with up to 60 questions being raised a year (2003-04 and 2007) on this problem. Following the Nithari murders, there was a great rise in the interest in child abuse and crimes against children in 2007. Falling sex ratio, foeticide, juvenile justice and trafficking, particularly for sexual exploitation, and adoption, have also attracted the interest of our MPs.

Budget for Children

HAQ: Centre for Child Rights has been advocating for attention to budgets for children since it first undertook a decadal analysis of the Union Budget in the year 2001. Subsequently, the Ministry of Women and Child Development also initiated an exercise in child budget analysis in the year 2002-03, which was followed up in 2003-04, 2004-05 and then again in 2007-08. It was only in 2008-09 that child budgeting received recognition from the Finance Ministry, when the Minister for the first time mentioned it in as many words in his budget speech.

The share of budget for children in 2008-09 has increased to 4.98 per cent of the Union Budget as against 4.8 per cent last year. However, as we look at Statement 22 of the Expenditure Budget, we find that several major schemes that used to have allocations for children are missing from it, particularly in the education sector.

Health has consistently received low priority from the government. While there is an increase of Rs. 3.75 (0.21 per cent) crore in the health sector, there is a fall in the budget allocation for child health in proportion to the total budget in 2007-08 (from 0.268 to 0.244). The Economic Survey 2007-08 observes, that a majority of the states have introduced user charges for services in public health facilities. Even while stating that the access of poor and needy patients to health care must not suffer because of the levying of user charges, the Economic Survey 2007-08 acknowledges that India has one of the highest out-of-pocket household expenditure for health services, and that user charges further augment this expenditure (it has been calculated to be between 80-97 per cent).³⁶ India's public expenditure on health fell from 1.2 per cent of GDP (in 2003) to 0.9 per cent (in 2004),³⁷ putting the very survival of children at stake. What this means for the child, especially if the child is a girl or disabled or living in a remote tribal village, is a question that one needs to ask!

There was an increase of Rs. 904.2 crore (19 per cent) in the allocation of the government's flagship programme for the 0-6 year olds - the Integrated Child Development Services (ICDS). However, this increase is still not sufficient if the directions of the Supreme Court of India and the commitment for universalisation of the scheme is to be met. There is still a shortfall of 7.68 lakh Anganwadis.³⁸ On the other hand the government has increased the budget for supplementary nutrition from Rs. 2 per child to Rs. 4 per child, and to Rs. 6 per child for the severely malnourished. This is indeed a welcome step, even as the battle on pre-cooked food versus hot meals continues.

Further analysis of the budget figures shows that the allocation for the Mid-Day Meal scheme and Sarva Shiksha Abhiyan, the two flagship schemes in the education sector, was Rs. 19,849 crore in the 2007-08 revised estimates. In 2008-09, the allocation for both these schemes is Rs. 21,100 crore. This is an increase of 6.3 per cent in both the programmes. However,

"We will score another 'first' this year. A statement on child related schemes is included in the budget documents and Honourable Members will be happy to note that the total expenditure on these schemes is of the order of Rs. 33,434 crore."

....P. Chidambaram, Budget 2008-2009

Table 3: Budget for Children (BfC) - 2008-09

Share of Children in Union Budget	In per cent
Share of Development Sector, BfC in Union Budget	0.87
Share of Health Sector, BfC in Union Budget	0.24
Share of Protection Sector, BfC in Union Budget	0.06
Share of Education Sector, BfC in Union Budget	3.18
Share of Children in Union Budget	4.98

Source: Expenditure Budget Volume II, 2008-09

³⁶ Arti Rao, 10 October, 2006 in India Together- www.indiatogether.org; Ravi Duggal The out-of- pocket burden of healthcare -www.infochangeindia.org.

³⁷ UNDP, Human Development Report, 2007-08, pp. 265. http://hdr.undp.org/media/hdr_20072008_en_complete.pdf.

³⁸ At the end of 2007, 9.32 lakh Anganwadis were functional according to the Finance Minister's Budget Speech 2008-09. The requirement on the other hand, as per the Supreme Court's directives on Universalisation of ICDS is 17 lakh. Thus the shortfall comes to 7.68 lakh Anganwadis.

in the same period the collection through the education cess, which is levied primarily to support these two schemes, increased by 23.33 per cent. Clearly, the increase in the budget for these schemes is not proportional to the increase in the money generated through the education cess.

The allocation for the protection of children has increased from 0.045 per cent of the Union Budget to 0.056 per cent. While this increase is largely due to the increase in allocation for the Integrated Child Protection Scheme (ICPS) from Rs. 85.50 crore in 2007-08 to Rs. 180 crore, the very scheme is yet to take off even after two years of it having been sanctioned. The Ministry had requested for Rs. 3,000 crore to implement ICPS for five years. The Planning Commission, in its wisdom reduced this to Rs.1,000 crore over the Eleventh Five Year Plan period. This gives rise to three concerns. One: is this sufficient to protect all children? Two: is it sufficient to meet even the basic requirements of the law? The Juvenile Justice Law makes it mandatory to establish Child Welfare Committees(CWCs) and Juvenile Justice Boards (JJBs) in all 611 districts of the country. With the money now available, will it be at all possible to do this, given that one days' expenditure to just have all CWC and JJB members in place is Rs. 213,800 per day, without administration and infrastructure costs? Lastly, is it even sufficient to get an integrated scheme of this nature off the ground?

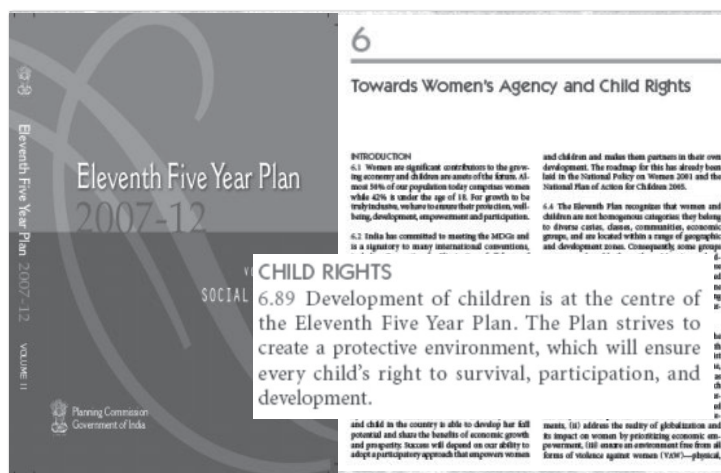
In the face of a global economic crisis and rising inflation, the number of poor below the 'real' poverty line is only likely to increase, while the budget for the overall social sector stands at a risk of being cut down, affecting children the most. In any case there is a general tendency to shift the burden of implementation of the government's commitments to non-state actors. Most schemes for children at least seem to be meeting that fate, with implementation of important schemes such as the National Rural Health Mission, the Reproductive and Child Health Programme, the Sarva Shiksha Abhiyan, the National Child Labour Projects and now the Integrated Child Protection Scheme falling in the laps of societies registered under the Societies Registration Act. In fact this makes it even more difficult to monitor the flow of funds and its utilisation, as budgets and performance of such societies do not get reflected in the government's budget related documents.

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Government Action

HAQ's status report this year coincides with the release of the Eleventh Five Year Plan document that has for the first time a chapter entitled: Towards Women's Agency and Child Rights. The section on child rights lays down a road map for the current plan period, one year of which is already over.

The most important feature of this plan is that it adopts the approach of creating a protective environment for children. This is indeed an important step, since a large proportion of our children have fallen out of the protective net and are hence unable to realise their rights and access services.



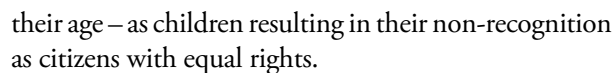
The plan lays particular emphasis on addressing discrimination and exclusion. It says, "The vision of the Eleventh Five Year Plan is to end the multifaceted exclusions and discriminations faced by women and children; ...The Eleventh Plan recognizes that women and children are not homogenous categories; they belong to diverse castes, classes, communities, economic groups, and are located within a range of geographic and development zones. Consequently, some groups are more vulnerable than others. Mapping and addressing the specific deprivations that arise from these multiple locations is essential for the success of planned interventions. Thus apart from the general programme

The first step in this regard for India would be to have a data-base specifically highlighting issues of children and exclusion. With issues concerning the Scheduled Castes and the Scheduled Tribes, minorities, the disabled and those affected by HIV and AIDS falling under the jurisdiction of different Ministries, the Ministry of Women and Child Development has a challenging task of ensuring convergence and coordination to meet this need.

HAQ: Centre for Child Rights has been analysing the government's commitment to its children using 'Budgets for Children' analysis as one of the tools. Other tools that have managed to keep a watch on government action and inaction in the last three years have been the use of the Right to Information Act and Public Interest Litigation, such as the one on the Right to Food, petitions challenging the constitutional validity of the Child Labour Act in the face of declaration of education as a fundamental right under Article 21 A of the Constitution of India.

Last, but not least, the National Coordination Group on Child Rights set up by the Ministry of Women and Child Development needs to become functional. The Ministry is certainly answerable to the UN Committee on the Rights of the Child on the functioning of this mechanism. But even before that, it stands accountable to children and the civil society groups engaging with the government on ensuring children their basic rights.

HAQ's last report⁴⁰ showed the extent to which Indian children remained "unprotected." With HAQ's mandate to mainstream children's issues into all development agenda, while working towards policy change and governance that ensures spaces for children, HAQ strives to draw attention to the most vulnerable and the most discriminated against in all that it does. This report thus examines exclusion and discrimination, given that the very first discrimination that children suffer is on account of their age – as children resulting in their non-recognition as citizens with equal rights.



39 Planning Commission of India, Eleventh Five Year Plan, Volume II, Towards Women's Agency and Child Rights, Approach to the Eleventh Five Year Plan, Chapter 6.
40 HAQ: Centre for Child Rights Status of Children in India Inc. 2005.

news about discrimination against orphan children supposedly infected with HIV and AIDS comes in from a village in north India.⁴¹

Right against discrimination

In the Constitution of India

- Right against discrimination (Article 15)
- Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment (Article 39 (f))
- Right of minorities for protection of their interests (Article 29)
- Right of weaker sections of the people to be protected from social injustice and all forms of exploitation (Article 46)

In the UN Convention on the Rights of the Child

Article 2 of the CRC entitles all children the enjoyment of all rights set out in the CRC without discrimination on various grounds, including race, colour, sex and religion.

Children from certain socio-economic backgrounds who are poor and belong to minority, tribal, Dalit or migrant backgrounds face discrimination in a number of ways. They are disproportionately represented among juveniles who are imprisoned, are less likely to be able to access education and health care services, more likely to be victims of violence and exploitation, or trafficked and recruited as child soldiers.

Discrimination is at the base of many child rights violations. Non-discrimination has therefore been recognised as the guiding principle of the UN Convention on the Rights of the Child as well as a fundamental right in the Indian Constitution. The present report concentrates on how discrimination still persists, preventing a large number of children from realising their rights.

Even though a rights-based approach demands addressing the root causes of a problem, when it comes to planning for children the impact of macro and micro developments in the country on children and their rights is seldom assessed and taken into account. For example, there is a clear link to be seen between children dropping out of school and taking to work due to parental ill-health and rising cost of health care. In this report we will see that 20 per cent of children have to take up jobs to supplement family income if the father has TB (pp. 75). Similarly, HIV/AIDS affected children are often compelled to drop out of school to supplement family income and meet health expenditures (pp 108). Unless all government policies and actions, be it the agricultural policy, the drugs policy, India's policy on displacement and rehabilitation, forest laws, mining policy and the like, are examined through a child rights lens, any attempt to address violation or denial of children's rights will stand defeated, leaving scope for more and more children to fall out of the social security and safety net.

"The story looks good till you begin to hear the stories of Dalits, tribals, ethnic minorities, women from the hinterlands of rural deprivation. Stories that you may never read in the newspaper, unheard stories of invisible people, people displaced from land and livelihoods, people who prefer to commit suicide rather than sell their dignity, children who go to bed hungry every single day. Two-thirds of the world's poor live in Asia. So is Asia shining? Is economic growth good for billionaires or billions of people?"

John Samuel, *The economics of violence: growth with inequality*, InfoChange, April 2008.

41 Godiyal Shailendra, Hindustan Times, Village, Family abandon HIV+ orphans, 6 November 2008.



**general measures
of implementation**

“Behind the bland government figures are the millions of young children working in roadside eateries, slaving away in glass factories, hunched up over carpet looms or sweeping and cooking in homes ... The children are a visible proof of the failure to implement the law, the inbuilt lacunae in the legislation itself and poor rehabilitation policies.”

The Deccan Chronicle, 60m Child Labourers in India, 12 June 2008.

A rights-based approach has the notion of individual citizens, including children, as rights holders and states as primary duty bearers. India has, by ratifying the United Nations Convention on the Rights of the Child, (CRC), agreed to ensure implementation of children's rights based on the principles of non-discrimination and best interest of the child.¹ While all children have equal rights, their situations are not uniform. Therefore, in recognising children's rights and entitlements as integral to the total national development canvas and effort, it must also be recognised that they are area-specific, group-specific, culture-specific, setting-specific and age-specific in their manifestation and in the interventions they demand. Else, the discrimination faced by children based on their caste, ethnicity, gender, physical and mental ability etc. will remain a challenge violating their fundamental right to equality. At the same time, childhood and the range of children's needs and rights are one whole, and must be addressed holistically. A life-cycle approach must be maintained.

There are several national laws and policies that address the different age-groups and categories of children in keeping with the spirit of Article 15 (3) of the United Nations Convention on the Rights of the Child, that allows enactment of special provisions for women and children.

Exclusion and Legal Rights

Despite all constitutional guarantees and legal provisions-including special measures for marginalised children – some children continue to be excluded. These include the Dalit children, the tribal children, girls and disabled children. In other situations, the very nature of the law, such as the Child Labour (Prohibition and Regulation) Act 1986, which allows for children to work in non-hazardous occupations and processes, becomes a vehicle for excluding children from realising their rights. The problem begins at birth, where the very right to identity and nationality of children is violated in the absence of an efficient birth registration system. And this is despite India having a comprehensive statute governing birth registration.

Despite all constitutional guarantees and legal provisions – including special measures for marginalised children – some children continue to be excluded. These include the Dalit children, the tribal children, girls and disabled children.

Constitutional guarantees that are meant specifically for children include:

- Right to free and compulsory elementary education for all children in the 6-14 year age group (Article 21 A)
- Right to be protected from any hazardous employment till the age of 14 years (Article 24)
- Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength (Article 39(e))
- Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment (Article 39 (f))
- Right to early childhood care and education to all children until they complete the age of six years (Article 45)

Besides, children also have rights as equal citizens of India, just as any other adult male or female:

- Right to equality (Article 14)
- Right against discrimination (Article 15)
- Right to life and personal liberty and due process of law (Article 21)
- Right to being protected from being trafficked and forced into bonded labour (Article 23)
- Right of minorities for protection of their interests (Article 29)
- Right of weaker sections of the people to be protected from social injustice and all forms of exploitation (Article 46)
- Right to nutrition and standard of living and improved public health (Article 47)

¹ The state does this by making legislation, policies and programmes. These are known as the general measures of implementation. While all children have equal rights, their situations are not uniform.

The government is planning to initiate several measures, including amending the relevant Central Act to make it more effective, to achieve 100 per cent birth registration in India by 2010 and claims that it has increased to nearly 64 per cent in the last few years. However, 9.3 million children in India still go unregistered every year.²

This chapter will focus on these excluded children as well as trace the changes in law, policy and programmes and schemes since the last report was published in 2005.

Separate Ministry for Women and Children

The Department of Women and Child Development was set up in 1985, as a part of the Ministry of Human Resource Development, to give the much needed impetus to the holistic development of women and children. With effect from 20 February 2006, the Department has been upgraded to a Union level Ministry under the independent charge of the Minister of State for Women and Child Development. The first Minister to hold charge is Ms. Renuka Chowdhury.³ This has brought consolidation of two major child rights issues under one Ministry to a large extent - early childhood care and child protection. Specific programmes on the elimination of child labour, programmes and schemes for disabled children, children affected by HIV and AIDS, schemes for protection of children belonging to the Scheduled Tribes and Scheduled Castes and other minority communities, however, continue to remain with different Ministries.

Plan of Action for Children

As per the national requirements to achieve the targets set in the World Fit For Children document adopted at the UN General Assembly in 2002, the National Plan of Action for Children was finalised in 2005 with the approval of the Union Cabinet. The last National Plan of Action for Children (NPAC) dates back to 1992.

Eight major parameters of the Plan are being regularly monitored at the Prime Minister's level. These parameters include reduction of Infant Mortality Rate (IMR), Child Mortality Rate (CMR), Maternal Mortality Rate (MMR), universal access to safe drinking water and sanitation, elimination of child marriage, elimination of disability due to poliomyelitis and reduction in proportion of infants infected by HIV and AIDS. The state governments are also preparing their State Plans of Action for Children. About 13 states have already prepared their Action Plans.⁴

National Commission for Protection of Child Rights

The Commissions for Protection of Child Rights Act, 2005 (4 of 2006) deals with the establishment of Commissions (both at the centre and state), and the creation of children's courts to look into matters affecting the rights of children.

The National Commission for Protection of Child Rights, a statutory body of the Government of India, was set up in March 2007 to protect, promote and defend child rights in the country. The present National Commission consists of a Chairperson and only two of the six members. So far three states – Goa, Sikkim and Delhi – have set up state commissions. While the Delhi State Commission has been

Child rights commission formed

DH NEWS SERVICE

NEW DELHI: Magsaysay award winner Shanta Sinha has been appointed the Chairperson of the National Commission for Protection of Child Rights, which would ensure proper enforcement of children's rights and effective implementation of laws and programmes relating to children. The National Commission for Protection of Child Rights, a statutory body no-

tified under an act of Parliament on December 29, 2006 would also have six members, who would be experts in the field of child health, education, childcare and development, juvenile justice, children with disabilities, elimination of child labour, child psychology or sociology and laws relating to children.

The need of such a commission was highlighted in the wake of the Nithari tragedy. The headquarters

of the Commission will be in New Delhi.

The Commission would examine and review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of child rights and recommend measures. It would examine all factors that inhibit the enjoyment of rights of most vulnerable children affected by terrorism, communal violence, riots, natural disaster, domes-

tic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures.

It would look into the matters relating to children in need of special care and protection including children in distress, marginalised and disadvantaged children, children in conflict with the law, juveniles, orphans and children of prisoners.

2 Livemint, Government plans steps for 100% birth registration, 11 May 2007, <http://www.livemint.com/2007/05/11152242/Govt-plans-steps-for-100-birt.html>.

3 Ministry of Women and Child Development, Government of India, National Report on "A World Fit for Children", 2007.

4 Ministry of Women and Child Development. National Report on "A World Fit for Children" Government of India, 2007. pp 3.

set up in September 2008 with one Chairperson and one member, Maharashtra, Karnataka and Madhya Pradesh have notified the Commissions but the members have not been appointed. Goa has also adopted the Goa State Commission for Children Rules, 2004.⁵

The Act provides the Commission/s with the authority to investigate into matters relating to law and policy affecting children, and to make recommendations for changes (section 13). The Commission/s has been empowered to examine all factors that inhibit the enjoyment of the rights of children. The Commission/s has been authorized to look into international treaties and the implementation of these instruments, to undertake and promote research in the field of child rights, spread child rights literacy among various sections of the society (by publication, media and seminars), to inspect or cause to be inspected any institution established by the government or voluntary organisation which are operating as juvenile homes/short stay homes/observation homes/rehabilitation homes etc, to inquire into complaints or take suo moto action.⁶

Children in the Eleventh Plan

The final Eleventh Plan Document 2007-2012 was only made available in the tenth month of the second year of this plan period. It was for the first time in the history of planned documents that a section titled child rights was included.

For the drafting of the Eleventh Plan, a Steering Committee for Empowerment of Women and Development of Children had been set up. For the first time, in recognition of the special attention needed for children, a Sub-committee on Children was constituted.⁷ Besides these, there were other working groups that were set up to deal with children related issues such as the working groups on Secondary, Higher and Technical Education; Basic Education and Literacy, which renamed itself as the working group on elementary education and literacy; Health of Women and Children. A task force to study the problems of childhood malnutrition was also constituted by the Planning Commission.

Budget for Children

The Ministry of Women and Child Development has been undertaking child budget analysis on budget for children since 2003. In October 2005 the Ministry (then the Department of Women and Child Development) had announced that it would be undertaking child budget analysis in the centre as well as the states at a national meeting called for this purpose. However, despite the government's stated commitment, this never found a mention in the Finance Minister's speech or the Finance Bill that was presented.

At a pre-budget meeting with the Finance Minister in 2008, HAQ once again presented him with a memorandum in which this was mentioned apart from the highlights of the report on child budget analysis. For the first time the Finance Minister took this matter seriously enough to make a mention in his budget speech, as well as include a separate statement in the Expenditure Budget.

"The vision of the Eleventh Five Year Plan is to end the multifaceted exclusions and discriminations faced by women and children; ... The Eleventh Plan recognizes that women and children are not homogenous categories; they belong to diverse castes, classes, communities, economic groups, and are located within a range of geographic and development zones."

Kids get a raw deal in budgets
Indices Reveal Children's Health, Education Haven't Got Desired Attention

Himanshi Dhawan | TNS

NO CHILD'S PLAY

● About 80% of Indian children continue to be anaemic, 47% are malnourished, the infant mortality ratio has remained at 67 per 1,000

● The all-India child sex ratio is 927 girls for 1,000 boys which puts the country right at the bottom of the chart internationally

halved from 16.3% to 8.7% in the same period. Healthcare has been given an even lower budget. Spending by states on an average has dropped from 4.4% in 2001-2002 to 3.8% in 2005-2006 with even progressive states like Delhi, Punjab, Kerala and Tamil Nadu reducing funds. Clearly, it's not the lack of resources. A study on the social sec

New Delhi: They form one-third of the population but their share in the Union budget is a mere 4.8%. Children under 15 years have become a blind spot for a nation rushing towards higher GDP growth. A quick glance of the social sector indices reveals that despite rapid growth, child nutrition has no mention in levels of 5 literacy as across the country. Significant for marginal expenditure the states' declined. About continue to be malnourished. The ratio has remained at 46 in 1,000 boys while at the bottom of the chart internationally. Nigeria is 6 If the

Recognising that children under 18 constitute a significant percentage of the Indian population, the government is committed to their welfare and development. This statement reflects budget provisions of schemes that are meant substantially for the welfare of children. These provisions indicate educational outlays, provisions for the girl child, health, provisions for child protection etc.

Expenditure Budget, Volume-I

⁵ Department of Women & Child Development. Notification 2-61(1)-97/Lcds/637(A).

⁶ For reference read Section 13 of Commission for Protection of Child Rights Act (CPCRA), 2005 as amended). rajyasabha.nic.in/bills-ls-rs/2006/LIIL_2006.pdf.

⁷ See <http://planningcommission.nic.in/plans/planrel/11thf.htm> for list of members.

National Policy for Children

The National Policy for Children in India is dated 1974. Since then the government has adopted two National Plans of Action for Children, dated 1992 and 2005 as well as a National Charter for Children, 2003. The Ministry of Women and Child Development has initiated the process of drafting a new policy for children.

Basic Health and Welfare

Very little has changed since the last report with respect to government action regarding health interventions for children in India. There is no specific law that deals with the right to health, nor is it yet a fundamental right. Article 39 of the Indian Constitution upholds that children are to be provided opportunities and facilities to develop in a healthy manner. Their health needs are covered under the larger governmental policies, programmes and schemes such as the National Health Policy, 2002 and the National Population Policy, 2000.

There is no specific law that deals with the right to health, nor is it yet a fundamental right.

ELEVENTH PLAN ■ 20 per cent of infants die after birth due to improper implementation of plans

Plan panel calls for plugging loopholes in child healthcare

EXPRESS NEWS SERVICE
NEW DELHI, JANUARY 20

India's child survival challenge

BIRTH RATE: 25
(in 2002)

2.7 crore
neonates to take care

U5MR: 95
(1998-99)

IMR: 60
(in 2003)

NMR: 40
(in 2002)

25 lakh die before completing 5 years

16 lakh die before completing 1 year

11 lakh die before 4 weeks of age

IE Graphics/B.K. SHARMA

If the 10th Five Year Plan has failed the country's children, most conspicuously in arresting infant and neo-natal mortality, can the 11th Plan do better?

This was the question that worried experts gathered for perhaps the first major consultation in the process of conceiving the 11th Plan. Planning Commission Deputy Chairman, Montek Singh Ahluwalia, said that India needed to be a little clearer on what really works for it.

"It is good to focus on inputs, but it is also important to focus on outputs," he observed, while addressing the two-day consultation, jointly organised by the Planning Commission, UNICEF and the Institute of Human Development, which ended on Thursday.

The present moment is full of contradictions, and the participants recognised this. While India is on the growth trajectory in economic terms and has the demographic advantage of having one of the youngest populations, it has to contend with a huge backlog of deprivations and great inequalities along regional, gender and community/caste lines. Health of the newborn was regarded a crucial area of neglect, with 50 per cent of infants dying within the 28th day; 20 per cent on the day of birth itself. The reasons for this vary from poor coverage of child health programmes to a tendency of concentrating on initiatives like polio-eradication at the cost of other, more important ones.

The participants argued that the focus on child health should shift to child-mortality reduction in the 11th Plan. This, they believe, is relatively easy to achieve through the deployment of a specially trained community-based child health provider — ASHA — in every village by 2012 (the last year of the 11th Plan), mandated to deliver healthcare at the doorstep.

Related to health was nutrition, a crucial aspect of child survival. Here too it was felt early childhood should be in focus. Since the family plays an important role at this stage, it was felt that initiatives in improving nutrition should be routed through the community and family.

On school education, there was a consensus that the flagship programme, the Sarva Shiksha Abhiyan, must continue, but should also focus on quality education. At the same time there must be the targeted enrolment of disadvantaged groups, like SC/STs, working children, children with special needs, even while educational opportunities are expanded for girls.

There was also a felt need for strengthening the school supervision system through independent institutional mechanisms; focusing on professional development of teachers, and creating more space for non-profit, non-state actors in elementary education.

Lack of access to water and sanitation severely impacts children's lives. Given this, there was concern over handpumps — once seen as a major infrastructure to reach potable water to every Indian — being in a state of disrepair and neglect as also a lack of investment in their maintenance. Since pipe water will remain a pipedream for millions, it is important to address this huge crisis.

Similarly, the provision of toilets was very unsatisfactory and child-unfriendly. An example from Pune, where a local school was converted into a community toilet, with the children driven to study under trees, highlighted the general reality.

The participants therefore called for ensuring that all households get sustained access to potable water in a phased manner.

As was mentioned in the last HAQ report,⁸ on January 4, 2004 the government approved the formation of a National Rural Health Mission (NRHM). The National Rural Health Mission (2005-12) seeks to provide healthcare to the rural population throughout the country with a special focus on 18 states, which have weak public health indicators and/or weak infrastructure. It seeks to improve access to rural people, especially poor women and children to equitable, affordable, accountable and effective primary healthcare. The goals are: a reduction in the Infant Mortality Rate (IMR) and Maternal Mortality Ratio (MMR); universal access to public health services such as women's health, child health, water, sanitation and hygiene, immunization, and nutrition; prevention and control of communicable and non-communicable diseases, including locally endemic diseases; access to integrated comprehensive primary healthcare; population stabilization, gender and demographic balance; revitalize local health traditions and mainstream AYUSH; and promotion of healthy life-styles.

The National Population Policy continues with its emphasis on the two-child norm which has been a major factor contributing to the sex selective abortions leading to falling female sex ratios.

Education Rights

Article 21 A of the Constitution declares education a fundamental right for all children in the 6-14 year age group. Keeping the 0-6 year olds out of the purview of this Constitutional guarantee has upset many child rights groups in the country, as once again the government has failed to follow the life-cycle approach and completely neglected the importance of cognitive development in early years while asserting Article 21 A in the Constitution as a fundamental right in 2002. Moreover, till date, there is neither a national law nor state laws in place to ensure implementation of this right, even though limited to the 6-14 year olds.

8 HAQ: Centre for Child Rights, Status of Children in India. Inc, 2005, pp. 21.

The Model Education Bill has been pending for several years now. The Group of Ministers (GoM) entrusted with the task of scrutinising the Right of Children to Free and Compulsory Education Bill 2008 (RTE) cleared it on 7 October 2008 and the Union Cabinet cleared the Bill on 31 October 2008. As per the Ministry's estimates, enacting the legislation would require an additional Rs.12,000 crores annually during the remaining years of the Eleventh Five Year Plan period, as the balance would be met from the funding from the on going Sarva Shiksha Abhiyaan – the programme to universalise elementary education.⁹

While India has ratified the UNCRC, the Constitution of India and other laws fail to even recognise Education as a 'right' of those aged 15 to 18 years. As a result, there is a break in the continuum for many children, who drop out after the elementary level for various reasons, including lack of adequate schools, teachers, infrastructure and investments beyond the elementary level.

India has for long had scholarships for children belonging to the SC/ST and other backward communities, in order to provide them educational opportunities beyond elementary level. These are largely pre-matric and post-matric scholarships. Residential schools also exist for Dalit and tribal children. In July 2008, scholarship schemes were announced for children belonging to minority communities, which also include pre-matric and post-matric scholarships covering tuition fees as well as scholarships for technical and vocational courses. Yet, the retention of children belonging to these communities beyond elementary level remains a challenge, as can be seen in the chapter on education.

There is also no law to check the privatisation of education, which only means that more and more children of the poor will continue to be deprived of this right in the years to come. On the other hand sub-standard SSA schools will never be able to attract poor parents to send their children to school.



Scholarship schemes for minorities approved

New Delhi: The Government has approved three scholarship schemes for students belonging to minority communities of India with 30 percent earmarked for girl students.

The scholarships were approved last week under the prime minister's new 15-point programme for the welfare of minorities.

"The minority affairs ministry has announced merit-cum-means based scholarship, post-matric scholarship and pre-matric scholarships for students from minority communities," a ministry official said.

The merit-cum-means scholarship is for students going for technical and professional courses at undergraduate and postgraduate level.

"Under this scheme, 20,000 new scholarships will be provided every year. Already 17,182 scholarships are sanctioned to 28 states and union territories," the official said.

The students of Class 11 to PhD level will be able to avail the benefits of post-matric scholarships provided by the ministry.

"The scholarships also cover technical and vocational courses. The government has targeted 1.5 million scholarships for the Eleventh Five Year Plan under this category," the official said.

The government has already announced 55,771 scholarships for students in 26 states and union territories. Of these, 57 percent will be given to girl students.

Under pre-matric scholarships, the admission fee and tuition fee will be reimbursed for students of Class 1 to Class 10 of minority communities.

"There are several other scholarships for providing coaching to students for professional courses," the official said. Prime Minister Manmohan Singh announced the welfare programme for minorities in 2005 with a vision to enhance opportunities for education for minority communities besides improving their conditions of living.

July 27, 2008, IANS

Right to Safety in Schools

Seven year old Rani is a student of class 3 in Kendriya Vidyalaya School in Chennai. She was carried away from her class by a man and sexually abused in the school laboratory in the presence of a woman teacher. When she cried, a cloth was stuffed into her mouth and she was told that she would be killed if she told any one. The National Commission for the Protection of Child Rights, which heard Rani's story at a Public Hearing organised in Chennai in January 2008, reports that 91 children had committed suicide due to mental, physical and sexual abuse during the last five years in Tamil Nadu alone.¹⁰ Every day the national newspapers carry news of children being beaten or abused in schools. Some even die. In Delhi, a child collapsed and died after having run many rounds of the school field as punishment; in Rajasthan, a student died after he was beaten by a teacher, and in Andhra Pradesh there was a report of a child dying after being subjected to electric shock by the teacher with the support of the school headmaster.¹¹ These are only a few examples. Yet only a few states/UTs in India have banned corporal punishment in schools. These include Tamil Nadu, Goa, West Bengal, Andhra Pradesh, Delhi, Chandigarh and Himachal Pradesh. In April 2006, officials in Bihar were considering prohibiting corporal punishment in schools, and in June 2006 it was announced that the Punjab government had decided to repeal article 191 of the Punjab Education Code, which permitted principals and headmasters to cane senior male students for misconduct.¹²

Only a few states/UTs in India have banned corporal punishment in schools. These include Tamil Nadu, Goa, West Bengal, Andhra Pradesh, Delhi, Chandigarh and Himachal Pradesh. In April 2006, officials in Bihar were considering prohibiting corporal punishment in schools, and in June 2006 it was announced that the Punjab government had decided to repeal Article 191 of the Punjab Education Code, which permitted principals and headmasters to cane senior male students for misconduct.

The Juvenile Justice (Care and Protection of Children) Act was amended in 2000 to include certain special offences against children and provide for punishment of offenders. Section 23 of the Act punishes a person having charge of or control over a child for cruelty that is likely to cause unnecessary mental or physical suffering. The punishment under this law is only six months imprisonment or a fine or both. Children in school are under the care and supervision of the school authorities, including the teachers. However, very few are aware of the application of Section 23 of the juvenile justice law in situations

where children are subjected to violence and abuse within the school premises.

HINDUSTAN TIMES, NEW DELHI, FRIDAY, SEPTEMBER 18, 2008

Lessons in horror at two schools in MP, UP

13-year-old burnt alive by classmates

G.K. Maheshwari
Vidisha, September 18

NIDHI DHAKAD, a 13-year-old Class VII student, was burnt alive allegedly by two of her classmates on Wednesday at Satpada Sarai village of Vidisha district in Madhya Pradesh. The reason: She protested against bullying by seniors at school.

But naib tehsildar Saroj Parihar, who took Nidhi's dying statement, refused to divulge anything, saying, "The matter is sensitive. I can't say anything about this."

Nidhi is reported to have said in her statement that two of her classmates and a Class IX student of the school were beating up another girl. When Nidhi protested, the three beat her up too. Around 12.30 pm, when she was returning home, the three allegedly followed her, caught her at a secluded place and set her afire after pouring kerosene. Neighbours tried to save her and informed her father. She was rushed to the district hospital where she died at 8.30 pm.

Nidhi's father, Kaluram Dhakad, alleged that the three girls used to torment Nidhi. He said, "I had informed teachers, but they did not take any action." However, neither Kaluram nor his wife Kamala Bai confirmed that the three girls were responsible for their daughter's death.

District police chief R.L. Prajapati said there were contradictory versions about how exactly the girl caught fire. "The truth will be known only after investigation," he told *Hindustan Times*. District education officer Manish Verma said: "I will also investigate if the teachers had ignored the girl's complaints about bullying against the three girls."

350 children locked up for 10 hours

Venugopal Pillai
Lucknow, September 18

FOR ALL 350 students of a government primary school in Jirha near Amethi in Sultanpur district Tuesday must have been the worst day of their lives in school.

The children were held prisoners in the school for more than 10 hours without food or water. This was the punishment meted out to them by headmistress Sudha Rani Pandey after she apparently found Rs 500 'stolen' from her purse.

About a dozen children fainted. The desperate students made several efforts to break open the wooden ventilators and iron grilles, but failed. Unconcerned, the school staff and headmistress left after locking the students.

Shaken over the incident, the Uttar Pradesh education department on Thursday suspended the headmistress.

Rajesh Mishra, father of Sanjana, a student of Class I, told HT on the phone from Amethi that the "act of desperation" on the part of the school was a fallout of occasional thefts on the school premises.

He said that on Monday a Shiksha Mitra working with the school reportedly lost Rs 250 while on Tuesday while the headmistress claimed to have lost Rs 500. The school staff suspected the children for both the thefts without even bothering to get into the details of complaints.

Worried parents from Jirha village and adjoining areas rushed to the school to hear shrieking and crying from inside the hall. Twenty parents broke open the wooden panes and freed the children.

Ignoring violence against children is bound to lead to the exclusion of many children from the education system, particularly the girl child, children with special needs and children from the marginalised sections. Yet, violence and abuse within the school premises cannot be seen only as a concern of the Education Department. Unless seen as a larger child protection issue, than one that should be left to the State Education Departments, corporal punishment will continue, pushing more and more children out of the a safety and social security net. Hence it calls for a move from the centre to ban corporal punishment as an act of violence against children through relevant legislative provisions or a separate law if required, rather than leaving it to the State Education Departments.

10 National Commission for Protection of Child Rights, Corporal Punishment and Child Suicide, Infocuss, Volume 1 No.3.

11 Ibid.

12 <http://www.endcorporalpunishment.org/pages/progress/reports/india.html#Prevalence>.

The Excluded Children

The Girl Child

The 1974 National Policy mandates that the state takes responsibility for children ‘both before and after birth’. This is further reiterated in the recent National Plan of Action for Children, 2005. However, the 2001 Census data and other studies illustrate the terrible impact of sex selection in India over the last decade-and-a-half. The child sex ratio (0-6 years) has declined from 945 girls to 1,000 boys in 1991 to 927 in the 2001 Census.

This threat to the very existence of the girl child led to the passing of the Pre-conception, and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act (PC&PNDT) 2003,¹³ which clearly prohibits sex selection, before or after conception and penalises those responsible for it, including doctors, and also provides for action against advertisements promising a male child.

Apart from the PC&PNDT Act, certain provisions in the Indian Penal Code can also be used for the prosecution of offenders in a case of female foeticide. These include:

- When death is caused by a person (Section 299 and Section 300)
- Voluntarily cause a pregnant woman to miscarry the unborn baby (Section 312)
- Act done with intent to prevent child being born alive or to cause it to die after birth (Section 315)
- Causing quick death of unborn child (Section 316)

Despite progressive laws and policies, female foeticide continues. In the 11 years of existence of the PNDT Act (now the PC&PNDT Act), the first conviction of a doctor came about only in March 2006.

For a girl child, if pre-birth elimination does not work, other methods are adopted to get rid of her. Infanticide is still prevalent in many parts of India. Here again the Indian Penal Code provides for the punishment of offenders under the following sections:

- Exposing and abandoning of child below 12 years (Section 317)
- Concealing the birth of child by secretly disposing her/his body (Section 318)

“Boys can go to school in a pair of shorts, even if they do not have a shirt. Girls cannot do that. They need at least a frock to cover their bodies. Otherwise they drop out of school. That is why in Orissa we have decided to provide girls with free uniforms under NPEGEL.”

An official in the Sarva Shiksha Abhiyan in Orissa

However, crime records indicate an increase of 5.4 per cent in incidence of infanticide in 2005 over 2004.

Recognizing that the girl child remains excluded from education, health and other opportunities, there are special programmes such as the Kasturba Gandhi Balika Vidyalaya; National Programme for Education of Girls at Elementary Level (NPEGEL); Kishori Shakti Yojana; Balika Samridhi Yojana, Ladli, and special provisions under the Sarva Shiksha Abhiyan to promote girl child education, as well as similar state level programmes.

The Young Child

For the first time in 2002, when India declared education as fundamental right of all children in the 6-14 years age group, it also recognised the importance of early childhood care and education for the 0-6 year olds as a directive principle for the state to follow. However, it left out this age group from the ambit of the 86th Amendment leading to a lot of protest from civil society groups.

While there is no law to guarantee that every child in this age-group receives adequate care, nutrition and a conducive environment for her/his growth and development, India has through its various policies and programmes focussed on

¹³ The PC&PNDT Act 2003 was earlier known as the PNDT Act of 1994 and this law has been in force since 1996.

the 0-6 year old children from poor families or those whose mothers are engaged in the unorganised sector. The National Policy for Children, 1974 recognises the need to provide for full physical, mental and social development of a child before and after birth as a distinct goal. In the 1980s, Early Childhood Care and Education (ECCE) for the 0-6 year olds came into focus as part of the National Education Policy of 1986.

The Government of India's main programmes in this regard have been the Integrated Child Development Services (ICDS) and the provision of crèche cum day care services, which are discussed in detail in the chapter on early childhood.

In addition to the crèche and day care services provided by the Ministry of Women and Child Development, some labour laws also make it mandatory for employers to provide crèches for children of women employed by them.

The Factories Act of 1948 expects industrial units employing 30 or more female workers to run a crèche for their children. Similarly, the Plantations Act of 1951 stipulates that every plantation employing 50 or more women workers should provide a crèche. The Mines Act of 1952 specifies that a crèche has to be provided wherever women are employed, regardless of their number, making it necessary, even if only one woman is employed. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 provides that in every industrial premise wherein more than 50 female employees are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of 6 years of such female employees. The Contract Labour Act of 1970 and the Inter State Migrant Workmen Act of 1979 also have legislative provision for crèches on the same model.¹⁴

In 2006, the Ministry of Women and Child Development planned to introduce a law for the provision of crèches by all establishments employing 20 or more women, and day care facilities by all schools. A small group of officials from the Ministry and NGO representatives was set up to work upon a draft of this proposed Crèche Bill called the 'Creches and Day Care in all Establishments and After School Care Services in Educational Institutions for Young Children'. This Bill, an initiative of the Joint Secretary of the Ministry, seems to have been stalled despite some consultations on it during 2006-07. The implementation of a law like this is already in question, keeping in mind that the employers are more likely to get rid of women employees than provide crèches for their children.

The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act (enacted in 1992 and amended in 2003) was adopted to regulate the production, supply and distribution of infant milk substitutes, infant foods, and feeding bottles in order to promote and protect breastfeeding for infants up to the age of two years. It focuses on curbing the unethical marketing of breast milk substitutes, and also ensures that the nutritional needs of the child are not overlooked in favour of commercial interests.

The controversy over the policy decision mooted by the Ministry of Women and Child Development, especially the Minister herself, for providing children in the crèches with dry food in the form of fortified biscuits and *panjiri* despite opposition from the Planning Commission as well experts and activists, continues. The Minister had sought the support of her Cabinet Colleagues in the Cabinet Committee to push her proposal through.

The Disabled Child

Of all persons living with disability, 35.9 per cent are children and young adults in the 0-19 age-group. Three out of five disabled children in the age-group 0-9 years are reported to be visually impaired. Movement disability has the highest proportion (33.2 per cent) in the 10-19 age-group. This is largely true of 'mental' disability also.¹⁵ Barely 50 per cent of disabled children reportedly reach adulthood, and no more than 20 per cent survive to cross the fourth decade of life.¹⁶ Although there is very little information regarding the nutritional

Barely 50 per cent of disabled children reportedly reach adulthood, and no more than 20 per cent survive to cross the fourth decade of life.

14 Op. cit. p1 (<http://www.indianngos.com/issue/child/government/rights/conventionontherights.htm>).

15 Office of the Registrar General of India, Census of India 2001.

16 Dr (Brig) M L Kataria, 'War against disability -- Fighting for the right of the child', May 29 2002, www.tribuneindia.com.

status of children with disabilities, disabled children living in poverty are among the most deprived in the world. Those who suffer mental disorders are much worse off, as there is still very little recognition of the problem. Disability remains a source of stigma for the child and the family. They face ostracisation and are looked down upon by the community. They face a combination of social, cultural, behavioral and physical barriers. Those suffering from mental illness or mental retardation are subject to the worst stigma and severe social exclusion. The disabled child remains excluded from services and programmes.

Disability increases the vulnerability of such children to violence, abuse and exploitation of various forms. They may be trafficked for begging or subjected to sexual abuse, denial of food, torture and cruelty arising from superstitious beliefs etc. Some of these stories are documented in the chapter on violence against children. In addition, seeking justice becomes even more difficult for such children. Our courts are not disabled friendly and our criminal procedures have nothing contained therein to ensure procedures that help a disabled victim child during investigation and trial e.g. ensuring expert help while talking to such a child during investigations as well as at the time of recording of evidence, cross-examination etc. There are no specific guidelines for medical examination of a disabled child who is a victim of sexual abuse, neither is there any special relief assistance for such children. HAQ's experience while providing legal aid to child victims of violence and abuse clearly points to the need for special attention to the disabled child in judicial matters and sensitisation of law enforcement officials as well as judiciary, given that as of now judicial handling of disabled victims is left to the sensitivity of the police personnel and judicial officers. The need for disabled friendly criminal procedures has perhaps not even occurred to our policy makers and planners. And all this despite the recognition of the needs and the rights of the disabled and laws against discrimination on the basis of disability, caste or sex (Article 15 of the Constitution and The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995).

While since the 1970s, various central government schemes – especially those for the universalisation of elementary education – have been advocating the inclusion of children with disabilities into the mainstream educational system, other support services for the disabled remain abysmal. These include basic services such as transportation, accessible basic facilities like toilets etc, health care and other support services. As a result, despite the schemes and programmes for inclusion in education, disabled children continue to remain excluded from schools. A study conducted by the National Centre for Promotion of Employment for Disabled People disclosed shocking facts of discrimination against those with disabilities. A survey of 89 schools across the country found that a mere 0.5 per cent of the total number of students were those with disabilities, though the Persons with Disabilities Act recommends a reservation of three per cent seats in institutions funded by the government. Eighteen of the schools surveyed acknowledged that they did not admit students with disabilities. Twenty per cent of the schools polled were not aware of the 1995 Disability Act at all. While girls comprised 41.6 per cent of the total student population, among children with disabilities, the percentage of girls was only 33.¹⁷

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17 Deepa A, Educating The Disabled, Included by law, but little else. India Together. 7 Jan 2006.

Programmes, Acts and Policies relating to the education of disabled children ¹⁸:

- The Integrated Education for Disabled Children Scheme, launched in 1974, to admit children with disabilities in regular schools;
- The District Primary Education Programme, 1985, which acknowledges the fact that universalisation of education is possible only if it includes children with disabilities;
- The National Policy on Education, 1986, which promotes the integration of children with mild disabilities into the mainstream;
- The Project Integrated Education for the Disabled, launched in 1987, which encourages all schools in a neighbourhood to enroll children with disabilities;
- The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which recommends making changes in assessment and curriculum, and removing architectural barriers, to support inclusion. It also recommends providing free books and uniform for children with disabilities;
- The National Trust for the Welfare of Persons with Autism, Cerebral Retardation and Multiple Disability, 1999, which recommends promotion of inclusive education;
- The Sarva Shiksha Abhiyan (SSA, 2000), which pledges that the “SSA will ensure that every child with special needs, irrespective of the kind, category and degree of disability, is provided education in an appropriate environment”;
- The Amendment to the Constitution in 2001, to make education a fundamental right for those in the 6-14 age group, which covers children with disabilities;
- The draft National Policy for Persons with Disabilities, which has a section on education, stating, “There is a need for mainstreaming (sic) of the persons with disabilities in the general education system through inclusive education.” It also mentions that children “learn best in the company of their peers”;
- A Comprehensive Plan of Action for Children and Youth with Disabilities, presented by the Union Minister for Human Resource Development, Arjun Singh, in March 2005. This Action Plan advocates inclusive education, and envisages making all schools “disabled-friendly” by 2020. In a statement to the Rajya Sabha in March 2005, Arjun Singh also said that selected schools will be converted into model inclusive schools, “in order to demonstrate what is necessary and possible; this exercise will then be extended to schools across the country.”
- Legislation in favour of inclusion has also been supported by circulars issued by various state and central boards of education, such as the CBSE (Central Board of Secondary Education) and the ICSE. In a circular issued in May 2005, the CBSE states that children with disabilities should have “barrier-free access to all educational facilities”, and that dyslexic students can study one language instead of two and any four of the subjects such as mathematics, science, social science, music and painting, among others. The ICSE provides extra time to students with disabilities to complete exams, as well as writers, if required. The children can also choose from a number of subjects such as yoga and physical training. Several state governments have similar policies for their boards. The Maharashtra board, for instance, gives students with disabilities extra time during tests, concessions while learning mathematics and the option of studying one language less than what is otherwise mandatory.

Child in Need of Care and Protection and Child in Conflict with Law

The Juvenile Justice (Care and Protection of Children) Act (JJA), which came into effect in 2000, was amended in 2006.¹⁹ The Amendments have, to some extent, addressed the discrepancies that were in the law. The most important amendment is that the matter of age of the child in conflict with law is now clear. The determination of age of the child will be based on the age at which he/she has committed an offence and not when he/she was apprehended. In other words, if the child has committed an offence when he/she was below 18 years of age, but apprehended as an adult, he/she will be tried as a juvenile in conflict with law.

Children in conflict with law are those who commit crimes, but cannot be treated as adults or through the legal machinery meant for adult criminals by virtue of their being under 18 years of age.

¹⁸ Deepa A. Educating The Disabled. Included by law, but little else, India Together, 7 Jan 2006.

¹⁹ Juvenile Justice (Care and Protection of Children) Act 2000 (recently amended again in 2006).

Under this law, Child Welfare Committees are meant to be set up in every district to receive children in need of care and protection and make appropriate orders for their rehabilitation, restoration and reintegration. As regards children in conflict with law, the law provides for the establishment of Juvenile Justice Boards that are meant to try all crimes committed by children and send them

to special homes for rehabilitation on conviction. Besides institutional care, the law also seeks to provide for alternative forms of care for children such as adoption, foster care, sponsorship and after care (for those above 18 and below 21 years of age, but in need of care and protection). The alternative forms of care are yet to gain popularity within the government and therefore very little effort is made to place children in such alternative forms of care. Of late, adoption has come to be considered a viable option, at least in cities like Mumbai, Hyderabad, Delhi, Chennai, Kolkata, Bangalore, etc. It must be remembered at this point that unless the contradictions between the personal laws that govern adoption matters and the juvenile justice law that allows adoption of all children in need of care and protection irrespective of their religious background is resolved, children given away in adoption will remain vulnerable to abuse and exploitation in the name of adoption.

The New Central Model Rules on the juvenile justice legislation were drafted and notified in 2007. Now some states have formed their own State Rules on the basis of the Central Model Rules.

Child Labour

India is known to have the highest number of child labour in the world. Despite a plethora of legislations, the situation has not changed due to inadequate implementation of these laws. Moreover, the continuance of child labour in the country stands in direct contradiction to the fundamental right to free and compulsory education for all children in the 6-14 age group.

Laws that may be used to protect working children and penalise those employing children or keeping them in bondage or trafficking them for labour include:

- Children (Pledging of Labour) Act, 1933 declares any agreement by a parent or guardian to pledge the labour of a child below 15 years of age for payment or benefit other than reasonable wages illegal and void. It also provides punishment for such parent or guardian as well as those who employ a child whose labour is pledged.
- The Bonded Labour System (Abolition) Act, 1976 prohibits forcing a person into bonded labour for debt repayment. The Act extinguishes all debt agreements and obligations. It prohibits creation of any new bondage agreement and discharges bonded labourers from all debts for which they were bonded. It also treats as bonded labour those who are working below minimum wages. Compelling a person to render bonded labour is punishable under the law. This includes punishment for parents who pledge their child or other family members to work as a bonded labourer.
- Child Labour (Prohibition and Regulation) Act, 1986 (CLPRA) prohibits employment of children below 14 years in certain hazardous occupations/processes and regulates it in certain other non-hazardous occupations/processes. After years of campaigning by groups and activists, the government banned employment of children as domestic workers or servants, in the dhabas (road-side eateries), restaurants, hotels, motels, tea-shops, resorts, spas or other recreational centres with effect from 10th October 2006. (Gazette Notification of 3 June

24-hour helpline for children in 72 cities

Special Correspondent

NEW DELHI: A toll-free telephone helpline for children in distress is now available in 72 cities.

Supported by the Women and Child Development Ministry, "Childline" number 1098 is available round-the-clock and it could be accessed either by a child or an adult, according to an official spokesperson.

On receiving a call, immediate assistance, including medical, shelter, restoration, rescue, sponsorship and counselling, is

• On receipt of a call, immediate assistance is provided to a child

• Service entrusted to Childline India Foundation

provided to a child. Subsequently, the child is linked to services for long-term care and rehabilitation.

The Ministry has entrusted the service to Childline India Foundation, a voluntary organisation.

"Childline" is available in

Agartala, Aurangabad, Chennai, Guwahati, Kanchipuram, Kozhikode, Nadia, Pune, South 24 Parganas, Varanasi, Shimla, Ahmedabad, Bangalore, Coimbatore, Hyderabad, Kanyakumari, Kutch, Nagapattinam, Puri, Thiruvananthapuram, Vijayawada, Ludhiana, Ahmednagar, Baroda,

Cuddalore, Imphal, Karaikal, Lucknow, Nagpur, Rourkela, Tirunelveli, Visakhapatnam, Akola, Bhopal, Delhi, Indore, Kochi, Mangalore, Nasik, Ranchi, Thrissur, Waynad, Allahabad, Bhubaneswar, East Midnapore, Jammu, Kolkata, Madurai, New Jalpaiguri, Salem, Tiruchi, West Midnapore, Alwar, Chandigarh, Goa, Jaipur, Kollam, Mumbai, Patna, Shillong, Udaipur, Agra, Amaravati, Gorakhpur, Kalyan, Kota, Murshidabad, Port Blair, Sholapur, Ujjain and Gurgaon.

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2008 No.S-27019/1/93-CL). In May 2008, the government added diving to the list and eight processes to the Schedule of prohibited occupations/processes. The processes include: exposure to excessive heat and cold, food processing, beverage industry, timber handling and loading, mechanical lumbering, warehousing and processes involving exposure to free silica and as slate, pencil industry, stone grinding and slate mining, stone quarrying and agate industry. While a total ban is still a dream, this was one baby step forward. For a list of hazardous occupations and processes under the CLPRA, see Annexure I in chapter on child labour on page 202. This list includes 15 occupations and 57 processes, but does not include diving and the eight processes prohibited in May 2008.

- The list of other labour laws that prohibit child labour and/or regulate working conditions for child labourers is as follows:
 - The Factories Act, 1948
 - The Plantation Labour Act, 1951
 - The Mines Act, 1952
 - The Merchant Shipping Act, 1958
 - The Apprentices Act, 1961
 - The Motor Transport Workers Act, 1961
 - The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
 - The West Bengal Shops & Establishment Act, 1963
- Juvenile Justice (Care and Protection of Children) Act, 2000, Section 26 punishes the employment of children in hazardous occupations, the procurement of a child for the purpose of any hazardous employment, the keeping of such child in bondage and withholding the child's earnings for one's own use. This Act applies to all persons below 18 years of age and hence both in terms of its reach and punishment prescribed for the offenders, this law can be more effective if applied.
- Relevant provisions under IPC that can be used to book a case of trafficking children for labour are:
 - buying or disposing of any person as a slave (Section 370)
 - habitual dealing in slaves (Section 371)
 - unlawful compulsory labour (Section 374)
- The Government of India has set up a Central Advisory Board on Child Labour by issuing a gazette notification; and is drafting a Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour.
 - The Child Labour (Abolition And Rehabilitation) Bill, 2006 (Bill No. CVII of 2006 by Syeda Anwara Taimur, As Introduced in The Rajya Sabha, on The 8th December, 2006) is pending. There are other efforts being attempted by civil society organisations.
 - The Ministry of Law has drafted a Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour. As it stands, the protocol is a mere statement of intent and not an action agenda. It is merely guidelines to be followed, with ambiguity at various points vis-à-vis the procedures and responsibilities of different actors and nothing contained therein to make it binding. It has no Financial Memorandum attached to it. Indeed, the very premise of the Protocol appears faulty as it assumes that children have no right to migrate and that India already has a law to check child trafficking. There are several other problems with it, as has been pointed out by activists and researchers working on this issue.

60,442 violators prosecuted for employing children: Renuka

Pioneer News Service | New Delhi

In an effort to check child labour, the Government has implemented a national project to look after children withdrawn from work. At least 60,442 employers have been prosecuted for employing children in violation of the provisions of the Child Labour (Prohibition and Regulation) Act,

1986, Minister of State for Women and Child Development Renuka Chowdhury told the Rajya Sabha on Monday.

The NHRC in collaboration with the UNIFEM and Institute of Social Sciences, New Delhi conducted an Action Research on Trafficking in Women and Children in India, report of which was released in August 2004.

As per the report, the number of children reported missing from States and Union Territories comes to an average 44,476 per year based upon the data compiled for the six-year period from 1996-2001.

Child Marriage

The Prohibition of Child Marriage Act of 2006 (PCMA) was notified on 10 January 2007 to overcome the failure of the former legislations in effectively dealing with the problem of child marriages in India and to put in place a comprehensive mechanism. This law overrides all provisions in the personal laws that allow for child marriages. It applies to all citizens of India irrespective of religion, within and beyond India. It does not, however, apply to the state of Jammu and Kashmir. It also excludes the Renoncants of the Union Territory of Pondicherry from its application. For them the French Civil Laws are applicable as they are treated as citizens of France. It makes solemnization of child marriages a cognizable and non-bailable offence.

This Act defines a child as any person who being a male has not attained the age of 21 years and being a female has not attained the age of 18 years. The Indian Majority Act on the other hand defines a minor as a person who has not completed the eighteenth year of age. The different definitions in the law create confusion in the implementation of provision relating to annulment of child marriages. Sub clause 3 of section 3 states that “the petition under this section may be filed at any time but before the child filing the petition completes two years of attaining majority”. Since the age of majority is 18 years, the question is when can a male child (person below 21 years as per PCMA) file a petition for annulment of marriage – after completing 21 years or on completing 18 years?

Unlike the earlier law, wherein a child marriage did not automatically become null and void, this law was clearly brought about to bring a change in the situation. Under the new law therefore, child marriage is a cognizable offence and a child marriage can be declared void. Moreover the law contains a provision for payment of maintenance to the minor girl until remarriage and for custody and maintenance of children born out of child marriages. It empowers courts to issue injunctions prohibiting solemnisation of child marriages and rule a child marriage null and void even after many years of the practice.

The Act under Section 12, clearly lays down that a child marriage will be declared null and void when the child is sold or trafficked for purpose of marriage or through marriage.

Child Trafficking

There is no one law or a comprehensive legal definition of child trafficking in India. Different laws address different purposes of child trafficking e.g. the Immoral Traffic Prevention Act declares procurement of minors for commercial sexual exploitation illegal. Similarly the Child Labour (Prohibition and Regulation) Act prohibits the employment of children in certain occupations and processes. But none of these laws actually address the trafficking component that brings children into labour situations or is used for further exploitation of the already vulnerable and abused.

Various sections relating to kidnapping and abduction in the IPC may be applied to a case of trafficking but that remains a subject of the understanding of the concerned police officials and the judiciary on the subject of child trafficking.

The Goa Children's Act is the only law that has provided a legal definition of the term and also provides for various punishments for the offenders. But here again the limitation is that it is only a state law.



Child Abuse

The Offences against Children Bill, 2005, drafted by the Ministry of Women and Child Development, has been in the process of discussion for some time. In its draft form it drew several criticisms from NGOs and other experts working on children's issues. There are several critiques of the draft of the Offences against Children Bill currently in circulation. The first is that it is too vast in terms of the kinds of offences it seeks to address through one umbrella legislation. The second is that, unlike the Immoral Traffic Prevention Act (ITPA), which extends to the whole of India,

this proposed legislation keeps the state of Jammu and Kashmir out of its scope. The third and most important one is that since many of the offences dealt with under the proposed bill are of a very serious nature, the criminality of those offences should be established through the main criminal law of the land i.e. the IPC and the Criminal Procedure Code not through a social legislation. This criticism is also in the light of the fact that India already has a strong juvenile justice law to deal with the social and reformatory aspects of a crime and that law could be strengthened further to ensure that human rights standards of child protection are met while rehabilitating a child victim. Moreover, both the Home Ministry and the Law Ministry are working on amendments in the Criminal Procedure Code (CrPC), and many activists feel that this is just the right time to seek appropriate amendments to ensure child-friendly legal procedures within the CrPC and the Indian Evidence Act. Since most criticisms seem to be falling on deaf ears, only time will tell what really lies ahead for the children of this country.

Following a case in which the child had been summoned by the Magistrate of a Delhi district court seven times in a row, the High Court of Delhi decided to take suo-moto cognizance of a letter sent by HAQ on this matter to a judge. It ordered for the development of guidelines for the handling of child sexual abuse cases.²⁰ (See Annexure)



'Policy Framework for Children and AIDS'
India
31 July 2007



Child Affected by HIV and AIDS

India's first Policy Framework for Children and AIDS was formulated and published by the Ministry of Health and Family Welfare and National AIDS Control Organisation (NACO) on 31 July 2007. The policy focuses on a life-cycle approach with a focus on the elimination of stigma and discrimination. Amongst the various strategies listed are – prevention by bringing behaviour change amongst adolescents, prevention of transmission from parents to children, paediatric care and treatment, protection and care of children and families affected by HIV and AIDS, including removal of stigma and discrimination and ensuring equal access to services. NACO's focus on behaviour change amongst adolescents through sex education and other such awareness programmes has come under great criticism for not being rights-based, for its tendency to address HIV and AIDS as a moral issue, and for ignoring children with different sexual preferences.

Adopted Child

Personal laws govern matters of maintenance, custody, adoption and other issues regarding the family environment. The government has been wary of amending personal laws lest some religious communities take offence, and many provisions remain that do not serve the best interests of the child.

An increase from Rs.500 to Rs.1,500, inflation and an increased cost of living have rendered inadequate the amount set aside for child maintenance under section 125 of the CrPc.²¹

Adoption of children in India continues to be defined by different personal laws. Inter-country adoptions are still governed by the Guardianship and Wards Act (1890) and the revised guidelines laid down by the Central Adoption Resource Agency (CARA) in 2006.²² Recognising the problems that arise, the Central Adoption Resource Authority (CARA) has evolved Guidelines for In-Country Adoption, 2004. However, trafficking of children for adoption using the gaps in the adoption process or in evasion of the due process has been a cause of concern for several years, and has been discussed in detail in the chapter on trafficking. The Draft Guidelines on Adoption of Indian Children Without Parental Care drafted by the Ministry of Women and Child Development, is a comprehensive document addressing the issues of adoption of children in diverse situations, but is yet to be adopted.²³

When the provision of adoption was included in the Juvenile Justice (Care and Protection of Children) Act, 2000, there was controversy regarding the rights conferred on the child given in adoption under this law. The courts were of the opinion that the juvenile justice legislation was for care and protection of orphaned, abandoned and surrendered children below the age of 18 years and hence the provision of adoption did not mean anything more than giving the guardianship of such a child to a fit person. Further, these children could be placed in adoption by the Juvenile Justice Boards instead of a regular district court or any other appropriate civil court. This controversy was done away with the amendment to the 2000 law which came about in 2006. The amendment clearly defined adoption as “a process through which the adopted child is permanently separated from his biological parents and becomes the legitimate child of his adoptive parents with all the rights, privileges and responsibilities that are attached to the relationship”. The Juvenile Justice (Care and Protection of Children) Rules, 2007 further specified the competent court for carrying out legal adoptions as a civil court which has jurisdiction in such matters and could include the court of a district judge, family courts and city civil courts.

Unlike the personal laws on adoption, under the juvenile justice law as it stands today, adoption is allowed to single parents, to parents who already have a child(ren) of same sex, and persons of all communities, irrespective of their religious background. In a very progressive move, the Court of District Judge in Delhi has granted adoption of a Muslim girl child to Muslim parents under Section 41 (6) of the Juvenile Justice (Care and Protection of Children) Amended Act, 2006 and Rule 33 (1) of the Juvenile Justice (Care and Protection of Children) Rules, 2007.²⁴

The personal laws tend to be gender insensitive. The custody laws for instance favour the father and grant the mother the status of a caretaker.

Police suspects adoption racket

By OUR CORRESPONDENT

Hyderabad, March 5: Cyberabad police suspect that a child adoption racket may be behind the recent kidnappings of male children in the city.

Three male children were kidnapped in Hyderabad and Cyberabad in February.

A special police team went to Mumbai three days ago to study similar occur-

rences there, but realised that the women kidnappers were not in vogue there.

Another team working under the Rajendranagar assistant commissioner of police Mahipal Reddy is exploring the possibility of child adoption institutions being behind the kidnappings.

The team is focusing on certain dubious institutions in Orissa and Chandrapur

“We don’t believe that the kidnappings are for ransom or any ritual. The kidnappers are targeting good-looking male kids apparently for selling them at a high price.”

allegedly involved in illegal child adoption.

Police have information about some organisations which are kidnapping kids and selling them under the pretence that they are abandoned children.

“We don’t believe that the kidnappings are for ransom or any ritual,” said Mr Mahipal Reddy.

The kidnappers are targeting good-looking male

kids apparently for selling them at a high price,” he added.

Police have sent emails to all NGOs working in the field of adoption with photographs of the victims and known details of the kidnappers.

However, so far the special teams haven’t got any concrete leads on the kidnappings which occurred in the city.

21 The words “not exceeding five hundred rupees in the whole” omitted by Act 50 of 2001, sec.2 (w.e.f. 24-9-2001). <http://www.vakilno1.com/bareacts/CrPc/s125.htm>.

22 CARA has revised the guidelines for inter-country adoption in 2006, following India’s ratification of the Hague Convention for the Protection of Children and Cooperation for Inter-country adoption in 2003.

23 <http://wcd.nic.in/cara.pdf>.

24 In the Court of Sh. Satnam Singh: District judge, Delhi, Guardianship Petition No. 497 of 2007, Church of North India vs. Mr. Syed Javaid Mujtaba Gillani.

Mothers can only be custodians if for any reason fathers are unable to be guardians.²⁵ However, Supreme Court judgements discussed in detail in HAQ's report of 2002²⁶ have declared that the mother is as much a child's natural guardian as the father, boosting the principle that the parent who can provide better care of the child should have custody.

The Integrated Child Protection Scheme

The Ministry of Women and Child Development has formulated a new centrally sponsored scheme for implementation in the Eleventh Plan period, to address the issue of child protection and build a protective environment for children through Government-Civil Society Partnership. This is called the Integrated Child Protection Scheme (ICPS). The ICPS brings together multiple vertical schemes under one comprehensive child protection scheme, combining existing child protection schemes of the Ministry and integrating interventions for protecting children and preventing harm.²⁷

Child protection scheme soon

Aarti Dhar

NEW DELHI: The Union Women and Child Development Ministry proposes to combine its existing programmes under an ambitious Integrated Child Protection Scheme (ICPS) to create a strong protective environment for children, diversify and institutionalise essential services and mobilise inter-sectoral response for strengthening child protection.

An appropriate authority for

child protection would monitor the implementation of these programmes. The ICPS aims to promote the best interests of the child and prevent violations of child rights through appropriate punitive measure against perpetrators of abuse and to ensure rehabilitation of all children in need of care and protection. This would be done by improving regulatory frameworks, strengthening structures and professional capacities at the national, State and district levels so as to cover

all child protection issues and provide child-friendly services. The existing protection mechanism primarily flows from the provisions under the Juvenile Justice (Care and Protection of Children) Act, 2000 and the National Plan of Action for Children, 2005. The Ministry also runs a programme for juvenile justice for children under difficult circumstances, Childline, Central Adoption Resource Agency and the National Child Labour Project.

The ICPS therefore broadly aims at:

- (i) Institutionalising essential services and strengthening structures
- (ii) Enhancing capacities at all levels
- (iii) Creating database and knowledge base for child protection services
- (iv) Strengthening child protection at family and community level
- (v) Ensuring appropriate inter-sectoral response at all levels

Source: www.wcd.nic.in

Other Non-child Specific Policies

HAQ has always maintained and reiterated that while special laws and policies are needed to address the special situations of children because of their age and vulnerability, it is critical to see the relationship between all important national policies and child rights. The most common and obvious policies are those related to development, land and resources. When all communities are affected by forest, agricultural and infrastructure policies, children too are impacted. Changing land use patterns that take away land from food-crops results in a fall in nutrition levels, as does the access to forest resources that communities have been dependent on. The current state of malnutrition of children bears testimony to this. Farmer suicides as a result of agricultural priorities renders children orphan or destitute, pushes the family into penury and forces children to go to work, in the absence of state mechanisms to take care of them.

Child rights must be mainstreamed into all national policies and impact on children made a core indicator.

Draft National Tribal Policy

The last report discussed the Draft National Policy²⁸ prepared by the Ministry of Tribal Affairs for the tribal communities, that seeks to accelerate the socio-economic development of Scheduled Tribes while at the same time

²⁵ Father is the natural guardian of the child under the Hindu Minority and Guardianship Act (1956); the mother has priority as a guardian only if the child is less than five years old. However, the mother is considered the natural guardian for a child born out of wedlock. Under Muslim Law the father is the sole guardian of the child though the mother has custodial rights. Shia Muslims give the mother custody over the male child up to the age of two years and the Hanafi school extends the upper age limit to seven years. However, all Muslim sects and schools of thought maintain that the custody of the girl child should be with the mother till puberty. Father is the natural guardian of the child under the Hindu Minority and Guardianship Act (1956); the mother has priority as a guardian only if the child is less than five years old. However, the mother is considered the natural guardian for a child born out of wedlock. Under Muslim Law the father is the sole guardian of the child though the mother has custodial rights. Shia Muslims give the mother custody over the male child up to the age of two years and the Hanafi school extends the upper age limit to seven years. However, all Muslim sects and schools of thought maintain that the custody of the girl child should be with the mother till puberty.

²⁶ Children in Globalising India-Challenging Our conscience. HAQ: Centre for Child Rights.2002.

²⁷ <http://wcd.nic.in/>.

²⁸ http://www.nepsindia.com/draft_national_tribal_policy_dis.html.

maintaining their distinct culture. This policy continues to be in the form of a draft even after two years. The policy lays stress on their socio-economic empowerment and documentation of rich traditional practices and the wisdom contained in tribal cultures. The draft policy addresses the problems of poverty, health, sanitation, environmental hygiene, nutrition and displacement in tribal communities by appropriate measures and provides a strong and effective relief and rehabilitation system to ameliorate the miseries of the tribal people. This policy is important for programmes addressing the needs of tribal children in the country and to ensure a reduction in disparities faced by them, compared to other children.

Forest Law

One could well ask, how is the forest law related to children? But over the years one can see connections. Apart from the loss of access to forest resources or eviction from traditional habitats, children are often apprehended for trespassing into reserved areas. In the absence of any information or knowledge on how they are to be treated, they are meted the same treatment as adults. Instead they need to be treated as children in conflict with law and produced before the Juvenile Justice Board.

Apart from the loss of access to forest resources or eviction from traditional habitats, children are often apprehended for trespassing into reserved areas.

In December 2006, the Government of India passed the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act to recognise the rights of the tribals over their forest lands. The Ministry of Law and Justice published the “Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the Gazette of India on 2 January 2007. This legislation marks the first time in India’s history that a law has been passed recognising the rights of forest communities.

However, it has been found that tribal communities continue to face eviction from their traditional habitat under the Forest Conservation Act of 1980. On 13 March 2007, as many as 118 Adivasi families were evicted by the Forest Department from a reserve forest land at Saralpara under the Haltugaon Forest Division in Kokrajhar district of Assam. The state government of Assam failed to provide them with any alternative resettlement. On 19 April 2007, the state government of Madhya Pradesh tried to evict tribal families from forest land at Ghateha village in Rewa district of Madhya Pradesh. The state government had served notice to about 3,000 tribals who were allegedly encroaching on the forestland. When the tribals tried to resist the eviction drive, the police opened fire on them, injuring many including women and children.²⁹

Land Acquisition and Rehabilitation of Displaced Persons

While the tribal communities constituted only eight per cent of the total population at 1991 census, they however comprised 55.1 per cent of the 8.54 million displaced people in India between 1950 and 1990. The majority of the displaced peoples were not rehabilitated. A survey released in December 2007 by Action Aid and Indian Social Institute stated that over 1.4 million people have been displaced from their homes in Andhra Pradesh, Chhattisgarh, Orissa and Jharkhand in the last ten years and 79 per cent of them were tribals.³⁰ As the Indian economy booms, it requires more land and resources. The potential victims of displacement are once again tribals and Dalits. Experiences of dislocation, urban and rural, have shown that state and project authorities often make little effort to ensure that the rights of the displaced are protected. Because children in displacement situations are more vulnerable than adults, they may need greater attention and support, but this has never been the case.

On 11 February 2008, the Parliamentary Standing Committee on Rural Development invited comments from the NGOs on the Land Acquisition (Amendment) Bill, 2007 and the Rehabilitation and Resettlement Bill, 2007 to be submitted by 22 February 2008. The short time period provided to the NGOs to submit comments shows the lack of sincerity on the part of the government to address these critical issues – displacement and lack of rehabilitation.³¹

29 State of India’s Indigenous and Tribal Peoples- 2008, Who are the Scheduled Tribes of India? Asian Indigenous & Tribal Peoples Network, 2008. pp. 27.

30 The Hindustan Times, 79 per cent land oustees tribals, 20 December 2007.

31 National Committee for Human Rights Treaty Monitoring in India, The problems of non-implementation of ESCR rights in India: The tribal dimension. A shadow report to the UN Committee on Economic, Social and Cultural Rights, May 2008.

Because displacement can lead to a violation of the rights of children in relation to their access to nutrition, education, health and other facilities, it calls for an impact assessment on children.

As with all generic laws and policies there is no special recognition accorded to children except to mention educational institutions as part of the social impact assessment and orphans in the list of vulnerable persons. In a letter to Shri Raghuvansh Prasad, the Minister for Rural Development, the Chairperson of the National Committee for Protection of Child Rights has pointed out that a review of the status of children in areas of displacement due to development programmes as well as disasters and conflicts, shows that most rehabilitation programmes do not take into account the impacts on children. Because displacement can lead to a violation of the rights of children in relation to their access to nutrition, education, health and other facilities, it calls for an impact assessment on children and their access to entitlements. This has to be gender and age specific.³²

Implementation of the UN Convention on the Rights of the Child

Reporting on the World Fit For Children +5

The year 2007 marked the mid decade point for the Plan of Action of “A World Fit for Children”. The Plan of Action is a commitment by world leaders from more than 180 countries to protect and promote children’s rights.

The Government of India, through its Ministry of Women and Child Development (MWCD), has reported on its progress in achieving the World Fit for Children goals at a follow-up to the Special Session on Children on 11 and 12 December 2007. The report was prepared in collaboration with the concerned Ministries and Departments involved in children’s issues at the Union level and all the state governments/UT administrations take action for gathering information to enable the MWCD to prepare an analytical report as per the requirement of UN. The Ministries/Departments and the state governments/UT administrations were provided with guidelines by the UN to prepare their information with participation of civil society, non-governmental organisations and other agencies involved in children’s issues. They were requested to use their own methodology as per their local needs and requirements in gathering information by involving all concerned and to furnish the same to Ministry of Women and Child Development for preparing the National Report.³³

Reporting to the Committee on the Rights of the Child

The Government of India is due to report for the third time to the UN Committee on the Rights of the Child. The government, facilitated by the Ministry of Women and Child Development, is in the process of writing its report.

The National Co-ordination Group on the Rights of the Child (NCG), which is meant to coordinate and monitor the implementation of the CRC and other national and international instruments related to child rights, has since its inception in 2004 existed only on paper to be reconstituted again and again, with a few meetings here and there. The NCG was first reconstituted in April 2005, whereafter it met in June 2005 and then in December 2005. The agenda under discussion was child health, which was left mid-way for the group to be reconstituted again in October 2007. Since then the NCG has met only once to discuss a list of indicators prepared by the Ministry of Women and Child Development for eight specified parameters chosen by the Office of the Prime Minister of India for monitoring the implementation of the National Plan of Action for Children launched in August 2005. Perhaps this NCG will be reconstituted once again as India gets into the mood for National Elections early next year!

Ratification of the Optional Protocols to the CRC and Reporting

India has, since HAQ’s last status report on India’s children in July-August 2005, ratified the two Optional Protocols to the CRC. The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography was ratified on 16 August

³² National Commission for Protection of Child Rights, Infocus, Volume 1 No.4.

³³ Ministry of Women and Child Development, Government of India, National Report on “A World Fit for Children”, 2007.

2005 and came into force on 16th September 2005.³⁴ The other Optional Protocol, on Children in Armed Conflict, was ratified on 30th November 2005, entering into force on 30th December 2005.³⁵ The first reports on the two Optional Protocols were due in September 2007 and January 2008. The Government of India had requested for submission of these reports along with the combined Third and Fourth Periodic report on the CRC together in July 2008.³⁶

Conclusion

Poor implementation of existing laws and absence of a comprehensive and common definition of the “child” continues to create confusion and dilemma as each law continues to define the child as “a child” under different ages. The Juvenile Justice Act, 2000 (recently amended again in 2006) defines a child as a person up to the age of 18 years, in consonance with the UNCRC. In India a driving license can only be acquired on completion of 18 years of age. A person below 18 years cannot enter into a legal contract. In fact a person below 18 years cannot even go to the court to seek justice unless his parents/guardians sign the ‘vakalatnama’ required in a court case. The age of majority giving a citizen the right to vote is also 18 years. Personal laws however follow a different rule in determining the age of majority. The age of marriage for girls is 18 years and for boys it is 21 years. The age of sexual consent on the other hand is put at 16 years as per Section 376 of the Indian Penal Code, which deals with the offence of rape. The child labour law recognises children only up to 14 years of age. The different definitions of the child under different laws clearly affect both the planning and programming for children and also leaves many of their problems unaddressed. It also leads to and perpetuates discrimination between children. For instance, a 16-year-old domestic worker cannot seek justice under the Child Labour (Prohibition and Regulation) Act and if her case is not booked under the Juvenile Justice legislation, there can be no justice for her at all. A case of custody of a child is governed by personal laws, which differ according to the religion of the child. This only allows for discrimination in the treatment of a Muslim child and a Hindu child on the same matter of custody.

'Judiciary should play pro-active role to protect child rights'

NEW DELHI, April 28. — Judiciary should play a pro-active role to ensure that the laws for protection of the child rights are enforced in right spirit, Chief Justice of Delhi High Court M K Sharma said today. Despite laws for prohibition of child labour, enforcement remains a big task, Sharma said, at PHDCCI seminar on "Corporate Social Responsibility". "In the last 14 years of my career as a judge in different states, I have never seen any one booked under the Child Labour (Prohibition and regulation) Act" he said. He blamed the enforcement agencies for remaining insensitive to the rights of the child in society. Labour Secretary Sudha Pillai, in her address, asked the corporate houses to help the government in eradication of child labour. "Government alone may not be able to deal with the problem and it needs help from all the stakeholders to fight the menace," Pillai said. PTI

Moreover, since India has failed to ensure for children even the basic civil rights and freedoms that citizens of a democratic country are entitled to enjoy, in the face of inadequate registration of births and without proper enumeration of children, the cycle of denial of the rights of children who figure nowhere is inevitable.

In the years to come, with the education system pushing children out of school, with limited facilities for early childhood care and development, growing consumerism and treatment of children as mere commodities, increase in migration from rural to urban areas, unequal distribution of food, privatisation of basic health services and increased prices of essential drugs etc. the violation of children's rights is bound to assume newer forms and manifestations and perhaps increase manifold. The situation of children affected by disasters, ethnic violence and conflict, displacement due to development projects such as the construction of dams and fly overs, forced evictions in the name of urban development and the like, is never addressed by any law or policy.

It is not law alone, but people who can make the difference. The attitudes towards children must change. Children need to be recognised as individuals and protecting their rights must become a value rather than a programme for implementation. The law is only a bonus, which again will not work if we fail to report and use it. We surely don't want a situation where children's rights and every single positive step towards it is directed by law. Imagine a situation where a legislation has to be brought in to ensure that parents get their children immunised. Think of a country where a law is required to curb the practice/trend of abandoning and surrendering children in cases of marital disputes, or for that matter a law is brought in to ensure that people report crimes against children and it becomes mandatory for every person to report such crimes or face penalty if they fail to do so!

34 http://www2.ohchr.org/english/bodies/ratification/11_c.htm, and http://www.bayefsky.com/html/crc_sc_ratif_table.php.

35 http://www2.ohchr.org/english/bodies/ratification/11_b.htm, and http://www.bayefsky.com/html/crc_ac_ratif_table.php.

36 Rao, Jyoti, UNICEF India Country Office, The History of Child Rights in India, http://www.unicef.org/india/children_3220.htm.

Annexure

Delhi High Court Guidelines for Dealing with Child Sexual Abuse

“The children by reason of their physical and mental status need special safeguards and care. Child victims of sexual abuse are to be treated with compassion and dignity. All concerned associated with Criminal Justice System need to be sensitized about their protective role to prevent further victimisation of child victims. To secure this end it is rendered imperative to lay down certain guidelines, which we do and direct as follows :-

Police

1. On a complaint of a cognizable offence involving a child victim being made, concerned police officer shall record the complaint promptly and accurately.
2. The investigation of the case shall be referred to an officer not below the rank of Sub-Inspector, preferably a lady officer, sensitized by imparting appropriate training to deal with child victims of sexual crime.
3. The statement of the victim shall be recorded verbatim.
4. The officer recording the statement of the child victim should not be in police uniform.
5. The statement of the child victim shall be recorded at the residence of the victim or at any other place where the victim can make a statement freely without fear.
6. The statement should be recorded promptly without any loss of time.
7. The parents of the child or any other person in whom the child reposes trust and confidence will be allowed to remain present.
8. The Investigating Officer to ensure that at no point should the child victim come in contact with the accused.
9. The child victim shall not be kept in the police station overnight on any pretext, whatsoever, including medical examination.
10. The Investigating Officer recording the statement of the child victim shall ensure that the victim is made comfortable before proceeding to record the statement and that the statement carries accurate narration of the incident covering all relevant aspects of the case.
11. In the event the Investigating Officer should so feel the necessity, he may take the assistance of a psychiatrist.
12. The Investigating Officer shall ensure that the child victim is medically examined at the earliest preferably within twenty four hours (in accordance with Section 164-A Cr.P.C) at the nearest government hospital or hospital recognized by the government.
13. The Investigating Officer shall ensure that the investigating team visits the site of the crime at the earliest to secure and collect all incriminating evidence available.
14. The Investigating Officer shall promptly refer for forensic examination clothings and articles necessary to be examined, to the forensic laboratory which shall deal with such cases on priority basis to make its report available at an early date.
15. The investigation of the cases involving sexually abused child may be investigated on a priority basis and completed preferably within ninety days of the registration of the case. The investigation shall be periodically supervised by senior officer/s.
16. The Investigating Officer shall ensure that the identity of the child victim is protected from publicity.

Medical Examination

1. In case of a girl child victim the medical examination shall be conducted preferably by a female doctor.
2. In so far as it may be practical, psychiatrist help be made available to the child victim before medical examination at the hospital itself.

3. The report should be prepared expeditiously and signed by the doctor conducting the examination and a copy of medical report be provided to the parents/guardian of the child victim.
4. In the event results of examination are likely to be delayed, the same should be clearly mentioned in the medical report.
5. The parents/guardian/person in whom child have trust should be allowed to be present during the medical examination.
6. Emergency medical treatment wherever necessary should be provided to the child victim.
7. The child victim shall be afforded prophylactic medical treatment against STDs.
8. In the event the child victim is brought to a private/nursing home, the child shall be afforded immediate medical attention and the matter be reported to the nearest police station.

Recording of Statement Before Magistrate

1. The statement of the child victim shall be recorded promptly and at the earliest by the concerned Magistrate and any adjournment shall be avoided and in case the same is unavoidable, reasons to be recorded in writing.
2. In the event of the child victim being in the hospital, the concerned Magistrate shall record the statement of the victim in the hospital.
3. To create a child friendly environment separate rooms be provided within the Court precincts where the statement of the child victim can be recorded.
4. The child victim shall not be separated from his/her parents/guardians nor taken out from his/her environment on the ground of 'Ascertaining voluntary nature of statement?' unless the parents/guardian is reported to be abusive or the Magistrate thinks it appropriate in the interest of justice.
5. Wherever possible, the IO shall ensure that the statement of the child victim is also video recorded.
6. No Court shall detain a child in an institution meant for adults.

Trial Court

1. It shall be endeavor of the Court to create a child friendly atmosphere while conducting its proceedings in respect of a sexually abused child.
2. Proceedings shall be conducted in camera and appropriate measures taken to ensure that the child victim is not confronted with the accused and the directions in this regard given by the Supreme Court in 2004 (5) SCC 518 'Sakshi vs. Union of India' are enforced.
3. Wherever possible the Court may resort to the recording of statement through video conferencing.
4. The Court may, if it so thinks fit, direct that the questions to be put by the accused in cross-examination to the child victim be given in writing to the Presiding Officer of the Court, who may in turn put the same to the victim in a language which is neither embarrassing nor confusing.
5. The Committal Court shall commit such cases to the Court of Sessions preferably within fifteen days after the filing of the chargesheet.
6. The concerned authorities are directed to inform themselves of the guidelines laid down by the Supreme Court in 1995 (1) SCC 14 'Delhi Domestic Working Women's Forum vs. Union of India and Ors.', 1996 (2) SCC 384 'State of Punjab vs. Gurmit Singh and Ors.' as also 2004 (5) SCC 518 'Sakshi vs. Union of India and Ors'. The above directions be promptly circulated to all concerned and put into practice to ensure that justice to the child victim does not suffer. The petition is accordingly disposed of."

R.S. SODHI, J.
B.N.CHATURVEDI, J.
AUGUST 14, 2007.
WP (CrL) No. 930/2007



early childhood

“Imagine what would happen if a gardener were to grow flowers by depriving them of sunshine and water for a few weeks, allowing anyone to trample on them, and then “catching up” with heavy doses of fertilizer. No doubt he or she would be considered singularly lacking in common sense. Something like this, however, is being done to Indian children. Most of them are left to their own devices until the age of six years, when they are finally herded into school. Yet the first six years of life (and especially the first two years) have a decisive and lasting influence on a child’s health, well-being, aptitudes and opportunities.”

Focus on Children Under Six, Citizens Initiative for Rights of Children Under Six, 2006

It is the early years of a child's life that lays the foundation for its life ahead. Unfortunately, despite the recognition of this very important fact, and despite some initiatives taken for them by the state as well as civil society, the indicators continue to cause concern.

HAQ's 2005 status report provided a detailed breakdown of the government's goals relating to the provision of Early Childhood Care and Education (ECCE, also known as Early Child Care and Development or ECCD) up until 2006. Despite the recognition of the importance of the need for intervention in the early years of a child's life, and demands made by experts and activists, it was kept out of the 86th Amendment to the Constitution in 2002, which makes right to education a fundamental right for all children between the ages of 6-14 years. It merely says, "The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."¹

The importance of ECCE

- It is a right
- 10.5 million children a year die from preventable diseases before the age of five
- Early childhood is a time of remarkable brain development that lays the foundation for later learning
- Investment in ECCE yields very high economic returns, offsetting disadvantage and inequality, especially for children from poor families
- 80 per cent of brain development happens before the age of three.

Aide et Action, Early Childhood Care and Education: Right from the Start, December 2006

The publishing of the report, Focus on Children Under Six² and the Bal Adhikar Samvaad held to release it, helped to bring the condition of the young children and their issues into the public debate. As has been so poignantly stated in the report, the repercussions of years of neglect of the young child are staring us in the face today. It is the result of this that we have half the population of India's children undernourished, anaemic and un-immunised against preventable diseases.

Despite the recognition of the importance to pay attention to early childhood care and education, half the world's countries have no ECCE programmes for children under three and where they do exist, the quality of these programmes is variable. In terms of financing, ECCE remains a low priority in most countries.³ Only 1.66 per cent of the total Union Budget was allocated to children under six in India in 2006 - 2007⁴ and this age group also receives little attention in the newspapers and in political debates in parliament. The only programme specifically addressing the care, education, health and nutrition concerns of children under six is the Integrated Child Development Services (ICDS). The supplementary nutrition provided to children through the Supplementary Nutrition Scheme and the Rajeev Gandhi National Crèche Scheme are other programmes that cater to the needs of the children below six years. There are interventions under the Sarva Shiksha Abhiyaan that aim to cater to the pre-school needs of children.

Despite the recognition of the importance to pay attention to early childhood care and education, half the world's countries have no ECCE programmes for children under three and where they do exist, the quality of these programmes is variable.

Situational Analysis of the 0-6 Age Group

According to the 2001 Census, the population of children aged 0-6 years in India is 164 million amounting to 15.93 per cent of the total population. The Census also revealed that over six million of these children are slum dwellers, where basic services seldom reach. There are approximately 60 million children in the age group 3-6 years.⁵ Of these around 34 million children are currently covered by pre-schooling initiatives either under the ICDS or other private initiatives.⁶ This leaves a large segment of about 26 million children in this age group excluded from any pre-school activities or early childhood intervention.⁷

1 http://www.ashanet.org/campaigns/rte/docs/relevant_articles_of_constitution.pdf.

2 Citizens Initiative for Rights of Children Under Six, 2006. <http://www.righttofoodindia.org/data/rtf06focusreportabridged.pdf>.

3 Id21, Assessing early childhood care and education, 28 November 2006, <http://www.id21.org/education/e1efa4g3.html>.

4 HAQ: Centre for Child Rights, Budget for children in India, 2007, pp.66.

5 Census, India, 2001

6 Ministry of Women and Child Development, Report by the Working Group on Development of Children for the Eleventh Five Year Plan, 2007, pp. 64.

7 Ibid, pp.64.

Un-covered and un-reached children are found in both rural and urban areas.⁸ In rural areas, they are located in isolated and remote hamlets, Scheduled Caste and Scheduled Tribe habitations and settlements of seasonal migrants roadside workers, construction and quarry workers, or in fishing hamlets.⁹ In urban areas they may be broadly identified as those living on pavements, in unauthorised settlements, small slums, as also the children of construction workers, temporary/seasonal workers, rural migrants etc. Children living in difficult circumstances like children of long term patients, children with special needs and children of sex workers, women prisoners, riot and disaster affected, refugees and displaced, orphanages and foundling homes, militancy affected children may also be identified as un-covered and un-reached children for early childhood education.¹⁰ This demonstrates how a programme designed to respond to the needs of the poor and marginalised is in practice failing to reach many of these target groups.

The young child in India is malnourished. There are 37 million children below the age of three who are underweight and the third National Family Health Survey (NFHS-3) found that almost 50 per cent of children under the age of five in India are moderately or severely malnourished.¹¹ This means that the state of child health in India is worse than that in Sub-Saharan Africa.¹² A recent study of malnourished children in India by Gragnolati et al (2006)¹³ is of the view that without a major shake up in policy and an improvement in the effectiveness of its implementation, the attainment of the MDGs in this regard by India looks extremely unlikely.¹⁴

The young child in India is malnourished. There are 37 million children below the age of three who are underweight and the third National Family Health Survey (NFHS-3) found that almost 50 per cent of children under the age of five in India are moderately or severely malnourished.

"Hunger is accepted in our village. It is hard to manage the children. By night they start crying and refuse to sleep [due to hunger]. We have no option. We beat them hard so that they cry for a while and are soon tired and that is how we put our children to sleep. Many have died of starvation here. Bahru Musahar's family is one example. His wife and two children died within four weeks of one another. His daughter Reena died when she was five-years-old. Then his wife Kismati Devi died, and soon his other daughter Hasna, who was nine-months-old: all within about four weeks of this year. Bharu has lost his senses now. This is not strange for us. Every year in July, August, September and October a few children die here due to malnutrition and acute starvation. No one cares for us."

People's Vigilance Committee for Human Rights, Uttar Pradesh, India & Asian Human Rights Commission, Hong Kong. January 6 2006. www.thesouthasian.org/archives/2006

"Despite extensive programmes like the Bal Sanjivani Abhiyan, a campaign aimed to bring down malnutrition, children in India continue to die. Madhya Pradesh remains one of the worst offenders in the last two weeks, 12 children have died in one village alone. A Korku couple lost their daughter to measles. She couldn't fight a common childhood infection because she was severely malnourished. She could barely stand even though she was three years old. "The doctor nor the Aanganwadi workers come. My child died due to measles," said Tota Ram, father of the victim. Twelve children, all between one and three, have died in the last two weeks in Kalna, a tribal village in Khandwa district. All of them were severely malnourished. The Aanganwadi worker, the most critical link in the battle against malnutrition is mostly absent. Distribution of daily nutrition is rare. Severely wasted children are not registered either. Records show that an acutely malnourished two-year-old weighs nine kg, but after being weighed for the first time, he weighs only 4 kg. "No one comes to take weight. Even if there is someone sick at home, we don't even know," said Basanthi, a villager. Nearly 700 km away in Satna district, 20 children have died in August. Malnutrition was the underlying cause in each and every case. The national family health survey reports that at least one million children below the age of five are severely malnourished in Madhya Pradesh alone."

Malnutrition kills 20 kids in MP village, Rubina Khan Shapoo NDTV. Sunday, September 07, 2008, (Khandwa)

8 Ministry of Women and Child Development, Report by the Working Group on Development of Children for the Eleventh Five Year Plan, 2007, pp. 65.

9 Ibid, pp. 65.

10 Ministry of Women and Child Development, Report by the Working Group on Development of Children for the Eleventh Five Year Plan, 2007, pp. 65.

11 National Family Health Survey-3, 2007 Nutrition and Anaemia, pp. 269.

12 Abhijeet Banerjee, Ford Foundation International professor, quoted in: Livemint.com, Half of India's will grow up stunted, says top economist, 21 May 2008.

13 Michele Gragnolati, Caryn Boedenkamp, Meera Sekhar, Monica Dasgupta and Yi Kyong Lee (2006): India's Malnourished Children: A Call for Reform and Action, The World Bank, Washington. In K R G Nair. Malnourishment among Children in India: A Regional Analysis. Economic and Political Weekly September 15, 2007. pp. 3797.

14 K R G Nair. Malnourishment among Children in India: A Regional Analysis. Economic and Political Weekly September 15, 2007, pp. 3797.

There has been only a one per cent reduction in the number of underweight children under three in the years between NFHS-2 in 1998-1999 (47 per cent) and NFHS-3 in 2005-2006 (46 per cent). In India, child malnutrition is mostly the result of high levels of exposure to infection and inappropriate infant and young child feeding and caring practices and has its origins almost entirely during the first two to three years of life.¹⁵ The first two years of a child's life are the key to later

development. After the age of two, much of a child's life is already permanently imprinted onto them, especially in terms of their future health.¹⁶ Children who spend their first two years undernourished face irreversible damage, including stunting, shorter height as adults, mental retardation, difficulty in school and with concentration and decreased birth weight in offspring.¹⁷ Children who are malnourished are also at a high risk of a number of vitamin deficiencies, including rickets, scurvy, anaemia, spina bifida, osteoporosis and a weak immune system leaving them susceptible to other diseases and illness.¹⁸

The latest National Nutrition Monitoring Bureau data (2006-2007) shows that even today there is a deficit of

Table 1: Underweight Children under 3 years (Per cent)

State/ UT	Underweight Children (Under 3 Yrs)	
	NFHS-2 (1998) (Per cent)	NFHS-3 (2006) (Per cent)
Andhra Pradesh	38	37
Arunachal Pradesh	24	37
Assam	36	40
Bihar	54	58
Chhattisgarh	61	52
Delhi	35	33
Goa	29	29
Gujarat	45	47
Haryana	35	42
Himachal Pradesh	44	36
Jammu and Kashmir	35	29
Jharkhand	54	59
Karnataka	44	41
Kerala	27	29
Madhya Pradesh	54	60
Maharashtra	50	40
Manipur	28	24
Meghalaya	38	46
Mizoram	28	22
Nagaland	24	30
Orissa	54	44
Punjab	29	27
Rajasthan	51	44
Sikkim	21	23
Tamil Nadu	37	33
Tripura	43	39
U.P.	52	47
Uttaranchal	42	38
West Bengal	49	44
All India	47	46

Source: Seventh Report of the Commissioners of the Supreme Court, November 2007, pp.15-16

Table 2: Nutrient Intakes of Pre-schoolers – National Nutrition Bureau (2006)

Age (years)	Intake (calories)	RDA (calories)
1-3	791	1240
3-6	1020	1690

Source: National Nutrition Monitoring Bureau data, 2006 - 2007



15 The Hindu, Undernourished children: a call for reform and action (source: World Bank), 23 June 2007.

16 Foreign Policy Association, The first two years of life are vital for children, but for 3.5 million it has been a miss, 19 January 2008, <http://children.foreignpolicyblogs.com/category/food-crisis-or-shortage/>.

17 Ibid.

18 Ibid.

about 500 calories in the intake of one to three year olds and of about 700 calories among the three to six year olds. There are also bound to be additional multiple vitamin and mineral deficiencies when there is a 40 per cent deficit in calories.

This shows that the magic figure of a 300 calorie deficit for the Supplementary Nutrition component under the Integrated Child Development Services (ICDS) scheme must be re-examined.¹⁹ The treatment of severely malnourished children under six must be the joint responsibility of the health department and the ICDS.

Current interventions

The National Plan of Action for Children 2005²⁰ lays down the following goals for the young child:

- To universalise early childhood services to ensure children's physical, social, emotional and cognitive development.
- To ensure that care, protection and development opportunities are available to all children below 3 years.
- To ensure integrated care and development and pre-school learning opportunities for all children aged 3 to 6 years.
- To provide day care and crèche facilities to parents in rural and urban areas.
- To promote innovative community based child care approaches and community based monitoring of key indicators, to support a continuing process of assessment, analysis and informed action at different levels, to improve young child growth and development outcomes.
- To expand the support services of crèche/day care services both in rural and urban areas and thus help reduce the burden of working/ailing mothers and of the girl child who is expected to bear the burden of sibling care.
- To ensure collection of disaggregated data on the 0-6 age group, its analysis and use for targeted planning and monitoring.

And to achieve these goals it plans:

- To universalise ICDS to cover all children below 6 years with specific attention to those who are malnourished and undernourished and those who have not been fully vaccinated, with special focus on the girl child.
- To address the health, nutrition, survival and learning and stimulation needs of children below 3 years by providing targeted services to them.
- To address the health, nutrition and developmental needs, including early childhood learning opportunities to the 3-6 years age group of children by enhancing the scope, quality and outreach of ECCD services.

Integrated Child Development Services

The Integrated Child Development Services (ICDS) was launched by the government in 1975 with the aim of improving the health and well-being of new mothers and children under six by providing health and nutrition, education, health services, supplementary food, and pre-school education. It is the world's largest early child development programme and reaches more than 34 million children aged 0-6 years and seven million pregnant and nursing mothers.²¹ The programme is implemented through a network of Anganwadi centres (AWCs) and there are currently more than 700,000



19 Paper prepared for Planning Commission, Strategies for Children under Six, 29 December 2007, pp. 15.

20 National Plan of Action for Children 2005. Department of Women and Child Development. Ministry Of Human Resource Development, pp. 14-15.

21 UNICEF, Under-nutrition – A challenge for India, http://www.unicef.org/india/nutrition_1556.htm.

AWCs across India.²² However, in the year preceding the 2007 National Family Health Survey–3, only 28 per cent of children were reported to have received any services from an AWC.

The ICDS scheme aims at improving the nutritional and health status of children below six years, and that of pregnant and lactating mothers within the vulnerable sections of society. Introduced in 33 projects on an experimental basis, the scheme was gradually expanded to 5,652 projects till the end of the 9th Plan. By July 31, 2005, a total of 5,632 projects with 7.41 lakh Anganwadi Centres had become operational. After that the scheme was further expanded to 467 projects and 1.88 lakh AWCs. However, according to the government's own estimates given in its Annual Report 2005-06, there was a shortfall of 10.7 lakh AWCs, as only 6.49 lakh AWCs were operational.²³ (See Table 1 in Annexure for details).

The shortfall in implementation of ICDS means that there are children who are un-reached and uncovered. Many others find the services inaccessible due to their socio-economic status.

How can malnutrition be removed from one of the most malnourished districts when the 187 anganwadi workers in the district have not received their meagre honorariums since 16 – 28 months and the amount meant for the oil, combs, medicines and toys for the children are being siphoned off?

Sachin Jain, Madhya Pradesh, Indian Express, February 2007.

This shortfall in implementation means that there are children who are un-reached and uncovered by the programme. Many others find the services inaccessible due to their socio-economic status.

Who Gets Left Out? The Young Child Who is Excluded

There has been a lack of systematic studies on ICDS and social exclusion. However, the Special Commissioners have received rich anecdotal data on the exclusion of Dalit children from feeding programmes and of the boycott by upper-caste families of ICDS centres run by Dalit workers. An analysis of the spread and coverage of the ICDS programmes also gives an indication of the habitations and the communities in them who remain un-reached or un-covered.²⁴

The Supreme Court in its order of December 13, 2006 has laid down that:

- The Government of India shall sanction and operationalise a minimum of 14 lakh AWCs in a phased and even manner starting forthwith and ending December 2008. In doing so, the central government shall identify SC and ST hamlets/habitations for AWCs on a priority basis.
- The Government of India shall ensure that population norms for opening of AWCs must not be revised upward under any circumstances. While maintaining the upper limit of one AWC per 1000 population, the minimum limit for opening of a new AWC per 300 population may be kept in view. Further, rural communities and slum dwellers

Weighed down: A child being weighed in a village

"Malgozha, home to 318 families and as many as 545 children under 5, has never seen an anganwadi; its children have never been weighed, their health is not monitored, their mothers are not counselled, nobody gets any supplements. The ostensible reason: there is no Class X pass woman in the community available to run an anganwadi. Shama Parveen, a class IX pass woman, is ready, willing, and by all local accounts, able. Her application was turned down. And that was it—no other woman, from a nearby village or town, was found to run an anganwadi in a village only a few kilometres away from the bustling pottery town of Khurja."

Anjali Puri. Hungry Tidings. Malgozha, Bulandshahr district, UTTAR PRADESH. Outlook. August 20, 2007



²² National Family Health Survey – 3, 20076. Child Health, pp. 253.

²³ Annual Report, Ministry of Women and Child, 2005-06, pp. 54.

²⁴ Report of the Commissioners of the Supreme Court.

should be entitled to an “Anganwadi on demand” (not later than three months) from the date of demand in cases where a settlement has at least 40 children under six but no Anganwadi.

- The universalisation of the ICDS involves extending all ICDS services (Supplementary nutrition, growth monitoring, nutrition and health education, immunisation, referral and pre-school education) to every child under the age of 6, all pregnant women and lactating mothers and all adolescent girls.

Despite the Supreme Court’s orders, that every habitation of 1,000 people is meant to have an AWC, in practice many parts of the country have no access to one and completely lack all ICDS services. As a result out of an estimated 60 million children in the 3-6 age group, around 26 million are not currently covered by ICDS.²⁵

Even in areas covered by an AWC, 75 per cent of children aged 0-71 months did not receive any supplementary food from the centre in the 12 months preceding the 2007 National Family Health Survey. Only a very small proportion (12 per cent) received supplementary food almost daily.²⁶ Further, more than 80 per cent of children did not receive a health check up from an AWC in the previous 12 months revealing that the AWCs are not reaching the children most in need of their services.²⁷

- Around 26 million children are not covered by ICDS.
- Only 12 per cent children have received supplementary food daily.
- 80 per cent children did not receive health check-ups in the anganwadi.
- Only 14 per cent of the AWCs are on record for providing services for children with special needs.
- 13 per cent OBC children , 10 per cent each of SC and ST and less than 8 per cent muslim children eligible for ICDS are benefiting from it.
- There are problems in access of girls to the services.

The failure of the ICDS scheme to reach the children most in need is also illustrated by the fact that although three per cent of India’s population falls into the physically challenged category, only 14 per cent of AWCs are on record for providing services to children with special needs.²⁸ Regarding overall coverage in UP, around 66 per cent families surveyed below poverty line and 31 per cent above poverty line received ICDS benefits and the level of Muslim beneficiaries was very low, at only eight per cent.²⁹

Table 3: Malnutrition Statistics by Caste/Tribe – India – NFHS-3 (Per cent)

	Scheduled Caste	Scheduled Tribe	Other Backward Classes	Other
Children under 3 years who are stunted	44.1	44.3	39.2	31.1
Children under 3 years who are wasted	20.5	25.7	18.9	16.4
Children under 3 years who are underweight	52.2	56.7	46.4	37.3

An analysis of the use of ICDS according to Socio Religious Categories undertaken by the Committee set up to study the Economic and Educational Status of the Muslim Community in India, A Report, (Sachar Committee Report)³⁰ shows that at the all India level the OBCs have an advantage with about 13 per cent of eligible children getting benefits compared with 10 per cent each of SCs/STs. Less than 8 per cent of Muslim children eligible for ICDS coverage were benefiting from it. While Kerala and West Bengal shows the greatest variation in terms of access to ICDS coverage, the coverage of Muslims is relatively better in Gujarat, Uttaranchal and Madhya Pradesh.

The results of the NFHS-3 survey reveal that the malnourished children under three among Scheduled Caste (SC) and Scheduled Tribe (ST) population is much higher than the rest of the population, showing the failure of the government’s schemes to reach these groups. Table 3 below reveals 52.2 per cent of SC children and 57.6 per cent of ST children under three years are underweight, compared to 37.3 per cent of children from non-SC/ ST population.

25 Ministry of Women and Child Development, Report by the Working Group on Development of Children for the Eleventh Five Year Plan, 2007, pp. 128.

26 National Family Health Survey – 3, 2007 Child health, pp. 255.

27 Ibid, pp. 258.

28 Hindustan Times (Lucknow edition), Funds crunch cripples ICDS, 12 February 2007.

29 Ibid.

30 Socio Religious Categories undertaken by the Committee. A Report. Government of India November 2006, pp. 180.

The Supreme Court, in its order dated 13 December 2006, directed all states to submit affidavits with details of all habitations with a majority of SC/ST households, the availability of AWCs in these habitations, and the plan of action for ensuring that all these habitations have functioning AWCs within two years.³¹ However, only nine states (Bihar, UP, Tamil Nadu, West Bengal, Madhya Pradesh, Goa, Gujarat, Assam and Orissa) have so far submitted this information to the Court³² and field reports suggest that many SC/ST habitations do not yet have an AWC. Further data needs to be collected by the state governments to understand the availability of AWCs in SC/ST habitations and also the number of SC/ST beneficiaries among all beneficiaries. Similarly, disaggregated data on the basis of the sex of the beneficiaries of Supplementary Nutrition Programme (SNP) must also be collected, to better understand the access of girls to these essential services.

There are currently strong disparities in the provision of early childhood education in rural and urban areas. Urban slums are under-represented in the Integrated Child Development Services.

Table 4: Total No. of Slums as per Census 2001 Data, Total Slum Population and Population of 0-6 years Children

Sl. No.	India / State / UTs	No of Towns	Total Slum population			Population in age group 0-6		
			Persons	Male	Female	Persons	Male	Female
	India	640	42578150	22697218	19880932	6070951	3162966	2907985
1.	Jammu & Kashmir	5	268513	143416	125097	28780	15260	13520
2.	Punjab	27	1159561	629326	530235	153731	84413	69318
3.	Chandigarh	1	107125	62762	44363	22395	11681	10714
4.	Uttaranchal	6	195470	103895	91575	31014	16310	14704
5.	Haryana	22	1420407	778734	641673	219001	119399	99602
6.	Delhi	16	2029755	1140334	889421	334949	174527	160422
7.	Rajasthan	26	1294106	681541	612565	226169	118938	107231
8.	Uttar Pradesh	69	4395276	2348679	2046597	715503	381288	334215
9.	Bihar	23	531481	282772	248709	93748	48131	45617
10.	Tripura	1	29949	15093	14856	3075	1570	1505
11.	Meghalaya	1	86304	43078	43226	10011	5051	4960
12.	Assam	7	82289	43472	38817	10388	5376	5012
13.	West Bengal	59	4115980	2220135	1895845	463074	238231	224843
14.	Jharkhand	11	301569	158532	143037	45816	23594	22222
15.	Orissa	15	629999	330054	299945	87681	44805	42876
16.	Chhattisgarh	12	817908	422096	395812	126259	64815	61444
17.	Madhya Pradesh	43	2417091	1269757	1147334	374127	195669	178458
18.	Gujarat	41	1866797	1020288	846509	294341	156197	138144
19.	Maharashtra	61	11202762	6137624	5065138	1573917	815596	758321
20.	Andhra Pradesh	77	5187493	2625745	2561748	684023	349124	334899
21.	Karnataka	35	1402971	714413	688558	207912	106690	101222
22.	Goa	2	14482	7469	7013	2167	1142	1025
23.	Kerala	13	64556	31699	32857	8645	4468	4177
24.	Tamil Nadu	83	2866893	1441437	1425456	342420	174767	167653
25.	Pondicherry	3	73169	36012	37157	9814	4911	4903
26.	A & N Island	1	16244	8855	7389	1991	1013	978

Note : 1. Himachal Pradesh, Sikkim Arunachal Pradesh, Nagaland, Manipur, Mizoram, Daman & Diu, D & N Haveli and Lakshadweep have not reported any slum during census 2001

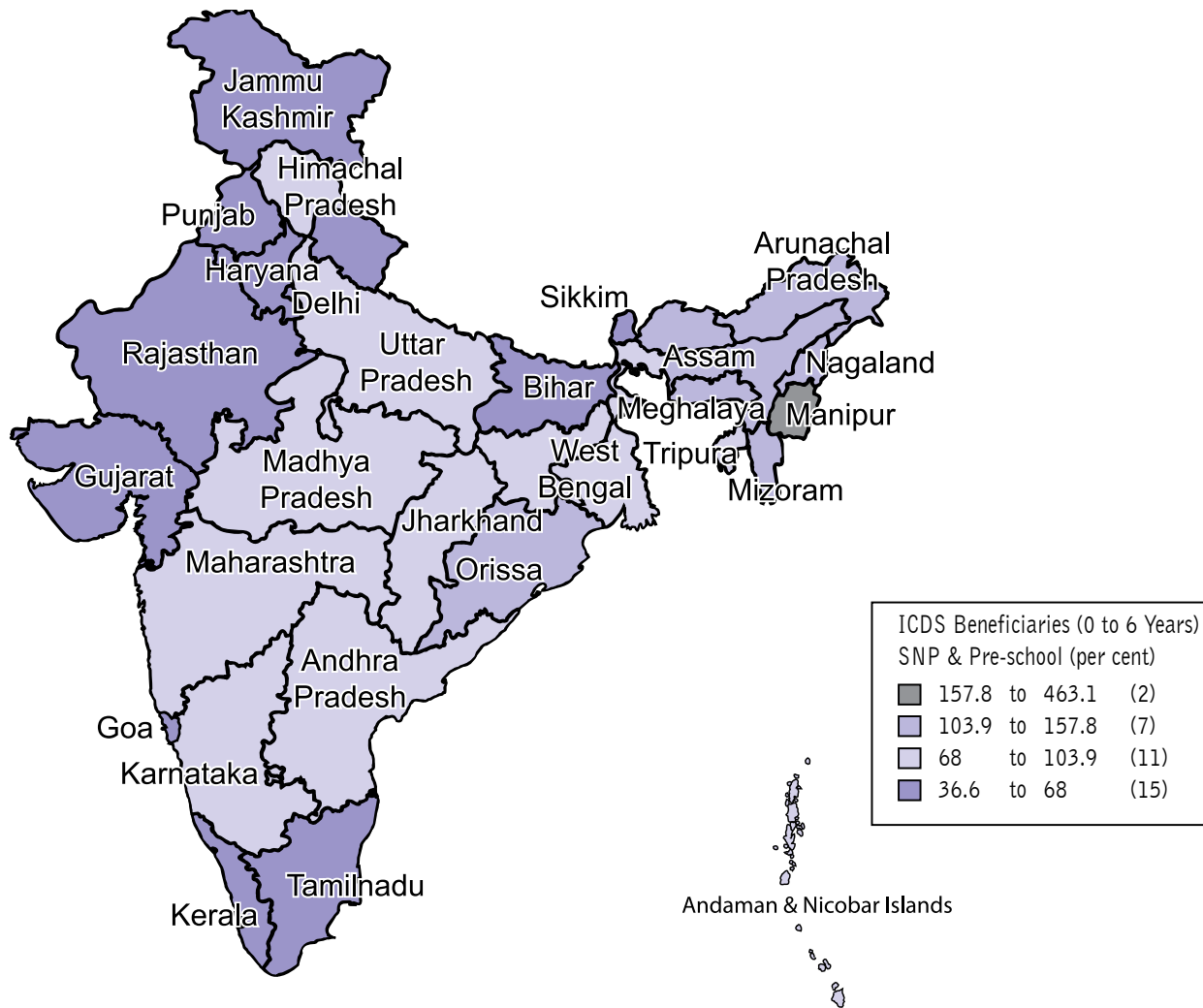
2. Delhi includes thirteen Census towns and U.P. and A.P. one each.

Source: Presentation to Members of the NAC on ICDS Scheme by Ministry of Women and Child Development (April 2006)

31 Dr N.C. Saxena, Commissioner and Harsh Mander, Special Commissioner of the Supreme Court in the Case: PUCL v. UOI and Ors. Writ Petition (Civil) No. 196 of 2001, Update on Compliance of orders related to ICDS and Some Further Recommendations, 30 August 2007, pp. 1.

32 7th Report of the Commissioners of the Supreme Court, November 2007, pp. 32.

Figure 1: Beneficiaries of ICDS (0 to 6 Years)



Prepared by HAQ: Centre for Child Rights (Data Source: www.wcd.nic.in)

There are currently strong disparities in the provision of early childhood education in rural and urban areas. As per the findings of a study conducted by the National Institute of Urban Affairs, though the share of urban population in the country is 27.78 per cent (expected to increase to 33 per cent), the corresponding provision of early childhood education facilities in these areas is insufficient. Urban slums are under-represented in the Integrated Child Development Services. (Out of total 5,671 sanctioned projects, 4,548 are rural, 763 are tribal and 360 are urban).³³ The report prepared by the Ministry of Women and Child Development for the Eleventh Five Year Plan highlights how greater access to ECCE in poor urban settlements needs to be accelerated.³⁴

Recognising that the urban child is as vulnerable as the rural child, the Supreme Court also directed that slum dwellers, along with rural communities should be entitled to an “Anganwadi on demand” (not later than three months) from the date of demand in cases where a settlement has at least 40 children under six but no Anganwadi.³⁵ However, the procedure set out by the government for the establishment of an AWC is so complicated and bureaucratic that it would be impossible to set up an AWC in the stipulated time frame of three months.³⁶

³³ 7th Report of the Commissioners of the Supreme Court, November 2007, pp. 65.

³⁴ Ibid, pp. 65.

³⁵ Dr N.C. Saxena, Commissioner and Harsh Mander, Special Commissioner of the Supreme Court in the Case: PUCL v. UOI and Ors. Writ Petition (Civil) No. 196 of 2001, Update on Compliance of orders related to ICDS and Some Further Recommendations, 30 August 2007, pp. 3.

³⁶ Dr N.C. Saxena, Commissioner and Harsh Mander, Special Commissioner of the Supreme Court in the Case: PUCL v. UOI and Ors. Writ Petition (Civil) No. 196 of 2001, Update on Compliance of orders related to ICDS and Some Further Recommendations, 30 August 2007, pp. 4.

The Commissioners state that orders may also be issued to ensure ICDS coverage for all disabled children and all children of migrant workers, who are currently neglected under the scheme.³⁷ These groups of children do not figure in the design of the ICDS programme. Most AWCs have not even conducted a disability survey.³⁸ There are also problems in terms of the ability of the scheme to reach girl children. As the programme does not have the critical component of day care in the package of services being provided, this impacts negatively on the education of the girl child since she is often made to stay at home to take care of younger siblings.³⁹

Supplementary Nutrition Programme

The provision of supplementary nutrition along with nutrition counselling is one of the most important interventions of the ICDS programme towards prevention and management of malnutrition. However, the current allocation for supplementary nutrition under the ICDS was too low for it to be able to provide nutritious food. The Commissioners recommended that the allocation must be increased to at least Rs. 3 per beneficiary per day for children under six, pregnant and lactating mothers and adolescent schools (to bring it in line with the norm for the mid day meal scheme in primary schools).⁴⁰ Further, the allocation for severely malnourished children should be higher at the rate of Rs. 5 per day. For children in the age-group three to six years, the Supplementary Nutrition Programme (SNP) currently consists of poor, cereal-based items that have little nutritional value.⁴¹

Table 5: Per Beneficiary per day Expenditure on SNP : 2006 - 2007

State/Union Territory	Expenditure on SNP in 2006-2007 (Rs. lakh)**	Total no. of SNP beneficiaries (woman & children)*	Per beneficiary per day expenditure (Rs.)***
Andhra Pradesh	20830.23	4103963	1.69
Chandigarh	211.75	40345	1.75
Chhattisgarh	7017.56	2096058	1.12
Dadra & N Haveli	88.43	13955	2.11
Daman & Diu	63	8392	2.5
Goa	303.58	54485	1.86
Gujarat	7781.86	2042347	1.27
Haryana	7273.83	1405833	1.72
Jammu & Kashmir	2811.91	522958	1.79
Karnataka	19116.76	3752367	1.70
Lakshadweep	77.64	7516	3.44
Madhya Pradesh	17159.58	4724630	1.21
Manipur	1778.5	314597	1.88
Meghalaya	2092.65	341873	2.04
Mizoram	1365.21	154963	2.94
Nagaland	1798.71	349376	1.72
Orissa	7977.99	4494394	0.59
Rajasthan	15722.1	3252132	1.61
Sikkim	521.77	41682	3.77
Tamil Nadu	6235	2384946	0.87
Tripura	1711.9	271947	2.10
Uttar Pradesh	79421.07	19345747	1.37

Source: 7th Report of the Commissioners of the Supreme Court, November 2007, pp. 24

37 Ibid, pp. 9.

38 7th Report of the Commissioners of the Supreme Court, November 2007, pp. 35.

39 Ibid, pp. 129.

40 7th Report of the Commissioners of the Supreme Court, November 2007, pp. 40.

41 Dr N.C. Saxena, Commissioner and Harsh Mander, Special Commissioner of the Supreme Court in the Case: PUCL v. UOI and Ors. Writ Petition (Civil) No. 196 of 2001, Update on Compliance of orders related to ICDS and Some Further Recommendations, 30 August 2007, pp. 5.

The spending was less than Rs. 2 per beneficiary per day in the majority of states – with Orissa spending the least, at Rs. 0.59 per beneficiary, per day.⁴² In Kendrapara district, Orissa, the SNP came to a grinding halt in 2007 as there was no grain left in more than a 1,000 ICDS centres to feed infants and their mothers.⁴³ Each day, poor women would head to the AWCs with their newborn children only to find the centre locked and empty. As many as 58,012 children and their mothers depend upon the food offered under the SNP, yet the social welfare department refused to comment on the exhaustion of foodstuff in the area.⁴⁴

Lower allocations, combined with poor utilisation of the resources, is responsible for children in the 0-6 years being deprived of ICDS services and supplementary nutrition. As mentioned in the Sixth Report of the Commissioners (December 2005); quoted in the Judgement of the Supreme Court (December 13, 2006) in the Writ Petition⁴⁵ over the years the funds allocated by the state governments for SNP has been low and the utilisation of allocated funds has also been poor. Till 15 February 2006, the extent of the utilisation of funds allocated for SNP was only 57.7 per cent for the country as a whole. Despite allocations made by the states and a corresponding grant given by the centre, huge amounts of money are being left unspent and rightful beneficiaries denied critically needed supplementary nutrition.⁴⁶ (See Table II in Annexure for details).

Further, shortfall in allocation required to cover all the children under six in the country under the SNP is about 60 per cent ⁴⁷:

Table 6: Shortfall in Allocation Required for SNP

Total Allocation	Total no. of Children under-6 (according to Census 2001)	Required Allocation*	Shortfall	Shortfall- in percentage
379321.76 lakhs	1578.6 lakhs	947178.87 lakhs	567857.11 lakhs	59.95

Funds crunch cripples ICDS

DESPITE THREE per cent of the State's populace falling in the physically challenged category, only 14 per cent aganwadi centres are on record providing Integrated Child Development Services (ICDS) to the special kids. Besides, only six per cent of them have availed referral medical services. Ironically, while most of the incapacitated live in the rural hinterland, services are available in urban areas.

This is the finding following social audit of ICDS in Uttar Pradesh, conducted by Forces and Plan International. An NGO representative in Lucknow says that management of funds for running these aganwadi centres is a major problem as the departments concerned do not release required funds.

ICDS is expected to train aganwadi workers about disability, and aganwadi centres are expected to provide referral services. But, the audit finds only 25 per cent aganwadi workers have been trained about disability and majority of the challenged beneficiaries enrolled at the centres have not received any medical aid.

As regards overall coverage of ICDS in UP, around 66 per cent below poverty level (BPL) and 31 per cent above poverty level (APL) beneficiaries are receiving services. The number of Muslim beneficiaries is only eight per cent.

Out of the total ICDS centres surveyed, 64 per cent are running on the premises of primary schools. Though advantageous from the point that children are developing a habit of going to school, these centres have inadequate space for conducting indoor and outdoor activities, says the audit.

ICDS is one of the challenges to combat malnutrition among young children, pregnant women and in lactating mothers but the survey finds that most of the centres are not aware about malnutrition gradation. That apart, keeping weighing records in almost 80 per cent centres is inadequate.

The Hindustan Times, Lucknow, February 12, 2007

42 7th Report of the Commissioners of the Supreme Court, November 2007, pp. 25.

43 The Statesman, No food grain stock for kids and expectant moms, 16 May 2007.

44 Ibid.

45 Sixth Report Of The Commissioners To The Supreme Court Of India, quoted in the Judgement on Writ Petition NO. 196 OF 2001, In The Supreme Court Of India. ORIGINAL JURISDICTION I.A. Nos. 34,35,40,49,58,59,60,61 & 62 .IN WRIT PETITION NO. 196 OF 2001 People's Union for Civil Liberties Versus Union of India

46 Ibid.

47 Ibid.

While none of the states are utilising the funds allocated to them for the purpose of SNP optimally, the percentage of utilisation is even less than 30 per cent in the states of Haryana, West Bengal and Punjab. In the case of Manipur it is intriguing as to where the funds have been spent as according to the data given by the Department of Women and Child Development, the number of beneficiaries under SNP is nil.⁴⁸

Despite the fact that a staggering 52 per cent of children under three are malnourished in UP, nutritious food meant for children under the ICDS scheme is siphoned off to be used illegally to feed the cows of the rich.⁴⁹ Powerful food mafias and corrupt officials siphoning off the food have led to poor implementation of the scheme – the money is being spent but the food is not reaching the children. The situation is no better in the nation's capital, Delhi, where in May 2006 it was revealed that a bureaucratic-supplier nexus in the delivery of food to the ICDS had effectively brought the whole scheme to a grinding halt.⁵⁰ The problems range from non-availability of any food supplies for months on end to the poor, often inedible, quality of the food supplied.⁵¹ In Delhi, approximately 436,000 children and 110,000 lactating mothers are beneficiaries of ICDS. However, the supply of food in this Rs. 250 million programme has been a problem for the past seven-eight years.⁵²

Based on recommendations made by the Supreme Court Commissioners, the ICDS norms have been recently revised. The allocation has been raised to Rs. 4 per child; Rs. 7 per severely malnourished child and Rs. 5 for lactating mothers.

Are Biscuits Enough to Fight Hunger? Hot Food vs. Pre-cooked Food

At the first instance one thinks, how can there be a debate about such a common sense matter? Of course it is fresh, hot food that every child needs! Yet the debate has been raging on this matter. The practitioners and planners are debating whether to give children hot food or pre-cooked meals in the form of fortified biscuits and *panjiri* (fried or roasted grain, mainly wheat mixed with some other fortification nutrients). If the purpose of supplementary nutrition is to fight hunger, under-nutrition and malnutrition, how can dry biscuits be a substitute? The Planning Commission, including its Chairperson, Montek Singh Ahluwalia had made it very clear that only hot and fresh cooked food must be given to children as supplementary nutrition. But the Ministry of Women and Child Development is firm in its demand for pre-cooked food for children. The Ministry of Human Resource Development had earlier rejected the proposal of pre-cooked meals for mid-day meals. So the Ministry of Women and Child Development turned its attention to the Anganwadi centres.

This debate clearly shows the self-interest of the corporates who see it as an opportunity to gain a huge market. In the absence of a clear policy framework for food fortification or micronutrient supplementation in the country, nor any guidelines on the kind of 'public-private partnerships' that can be entered into, in the food and nutrition sectors the vacuum is being used by several groups, often those with profit motives, to enter the large-scale programmes to tackle hunger and malnutrition such as the ICDS, Mid-Day-Meal-Scheme (MDMS) and Public Distribution System (PDS).⁵³ Instead of working towards ensuring that such diverse foods are available for every family, the solutions being offered are narrowly based on food fortification and micronutrient supplementation. These processes and technologies promote

15 states in dock over Anganwadi scheme

Satya Prakash
New Delhi, December 15

TAKING EXCEPTION to the non-compliance of its 2004 order on implementation of the Integrated Child Development Scheme (ICDS), the Supreme Court on Wednesday issued contempt notices to 15 states, asking their chief secretaries to explain within four weeks why action should not be initiated for the lapse.

A Bench of Justices Arjit Pasayat and S.H. Kapadia directed the chief secretaries of Bihar, Jharkhand, Madhya Pradesh, Manipur, Punjab, West Bengal, Assam, Haryana and Uttar Pradesh to personally appear before it to explain why its order was not implemented. It posted the matter for hearing after three months.

The order came on a PIL filed by Peoples Union for Civil Liberties (PUCIL) in 2001, seeking directions to the Centre and states for full and proper implementation of the ICDS. The states and Union Territories that issued contempt notices are Orissa, Uttar Pradesh, Sikkim, Arunachal Pradesh, Nagaland, Goa, Punjab, Manipur, Tamil Nadu, Andhra Pradesh, Mizoram, Haryana, Bihar, Delhi and Lakshadweep.

The court asked the chief secretaries of all states/UTs to file affidavits giving details of the steps taken for implementation of the

said order and indicate a time-frame within which the decentralisation of the supply of Supplementary Nutrition Programme through local community would be done. It also directed the Centre to sanction 3.5 lakh additional Anganwadi centres across the country for universalisation of the ICDS.

"The government shall sanction and operationalise a minimum of 14 lakh AWGs (of which 10.50 lakh are already sanctioned) in a phased and even manner starting forthwith and ending December 2008."

In October 2004, the court had ordered that "contractors shall not be used for supply of nutrition in Anganwadis and preferably, ICDS funds shall be spent by making use of village communities, self-help groups and mahila mandals for buying of grains and preparation of meals".

Court commutes death sentence to life

The Supreme Court commuted the death sentence awarded to one Aloke Nath of Kolkata to life imprisonment. Aloke is convicted of killing his brother 13 years ago.

The court also acquitted three other accused, including Aloke's wife Mamata, who was sentenced to life imprisonment. It held that the crime by the prime accused did not fall under the "rarest of rare crime".

satya.prakash@hindustantimes.com

If the purpose of supplementary nutrition is to fight hunger, under-nutrition and malnutrition, how can dry biscuits be a substitute?

48 Sixth Report Of The Commissioners To The Supreme Court Of India, quoted in the Judgement on Writ Petition NO. 196 OF 2001, In The Supreme Court Of India.

ORIGINAL JURISDICTION I.A. Nos. 34,35,40,49,58,59,60,61 & 62 .IN WRIT PETITION NO. 196 OF 2001 People's Union for Civil Liberties Versus Union of India.

49 Hindustan Times (Lucknow Edition), Children go hungry so cattle can eat, Rajesh Kumar Singh, 18 December 2006.

50 Mihir Srivastava, Feeding off starving children, Tehelka. 16 May 2006.

51 Ibid.

52 Ibid.

53 Commercial Interference in Tackling Hunger and Malnutrition motherchildnutrition.org/india/commercial-interference.html, 29 July 2008.

Let them eat biscuits!

"Biscuits are snacks - right? The Human Resources and Development (HRD) ministry in Delhi categorically ruled out biscuits to be served as mid-day meals to children of primary schools. Soon, the formidable biscuit manufacturers' lobby, which includes companies like ITC, Britannia, Parle and Hindustan Levers, roped in a relative of a central minister and scores of parliamentarians, to palm off biscuits as lunch.

The biscuit lobby was not fazed. They zeroed in on the Integrated Child Development Scheme (ICDS) instead. The ICDS provides nutrients to children between 0-6 years. Their aggressive lobbying has been opposed by civil society activists who do not want biscuits and other micro-nutrients to replace hot-cooked food in Anganwadi (government-run crèche) centres. The biscuit barons are driven by the desire to climb the Rs 52,000 crore gravy train that would give them access to a huge market. It would also provide them immunity from any kind of government ban in the event of a wheat crisis - which seems to be looming large on the country. In the past, whenever there has been a foodgrain crisis, biscuit manufacture is routinely stopped.

The lobby has now begun to aggressively cajole and lobby with the Ministry of Women and Child Development (WCD) to push biscuits to feed millions of children suffering from malnutrition....

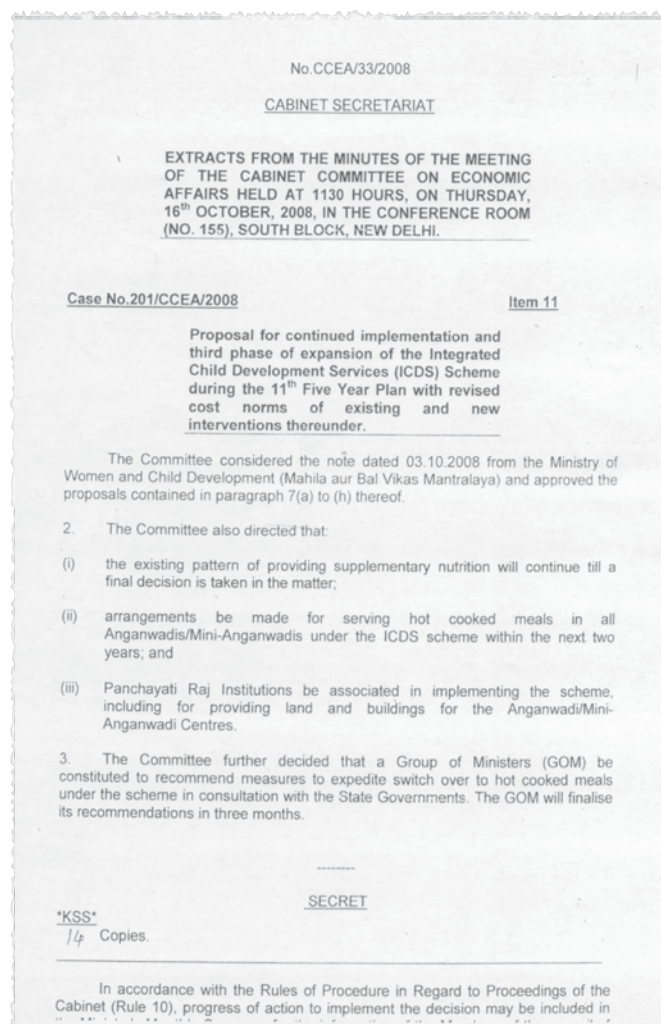
(Renuka) Choudhary felt that the children could not be given hot food as there was no infrastructure or clean drinking water for cooking. Her contention was rebutted by NC Saxena, food commissioner appointed by the Supreme Court (SC). He said, "Lakhs of children eat hot-cooked meals everyday. The water provided by the residents near the Anganwadis is used for cooking. Reasons the ministry gives in favour of packaged food is not valid."

Tanu Sehgal Delhi, Hardnews, <http://www.hardnewsmedia.com/2008/03/2129>

centralised production and procurement of food stuff and detract from local control and autonomy over diets.

There are many interested parties in this debate. The Global Alliance for Improved Nutrition (GAIN),⁵⁴ for instance, is one of the major groups that are lobbying for fortified food. They are linked with food and baby food corporations, and are lobbying with the government to introduce micronutrients into national nutrition policies and programmes. In India, GAIN is lobbying to introduce zinc in complementary foods and vitamin A for the newborn, as well as wheat flour fortified with iron in national food delivery systems such as Mid Day Meals, ICDS's Supplementary Nutrition Programme and the Public Distribution System. There is also pressure to introduce micronutrient enhanced ready-to-eat foods such as "Plumpy Nut" in food programmes.⁵⁵ We need to learn lessons from what has happened in other countries. In Kenya, GAIN worked with UNICEF to prevent diarrhoea through promoting hygiene and sanitation education in schools. As a result, UNILEVER managed to increase its sales of the soap Lifebuoy by 7 per cent. This raises the question of who will decide what Indian children should eat - health and nutrition experts from India, or corporate driven bodies from abroad.

GAIN is also in the process of setting up an "India alliance", which among other things, is expected to engage in "high level advocacy to create an Infant and Young Child Feeding (IYCF) friendly policy/ regulatory environment and removal of roadblocks in improving breast feeding



⁵⁴ For more information on the Alliance and its interventions in India see : <http://www.gainhealth.org/india-targeted-fortification-projects>.

⁵⁵ Ibid.

practices and increasing access to affordable complementary foods/ complementary food supplements in accordance with the regulations in the country....” The alliance would thus be expected to ask for friendly (or weaker?) legislations to allow for the market of complementary foods to grow.⁵⁶

GAIN is only one example. There are several other corporate interests that are involved, whose primary focus is market and profits. If the nexus between our policy-makers, particularly our politicians and the corporate interests, continues in this manner, the interests of children will continue to be neglected.

As this report was under preparation, the matter was taken to the Cabinet Committee, which has shown great wisdom and fortitude. It has recommended that hot cooked meals are served in the ICDS centres and have sought the involvement of the Panchayati Raj Ministry in this.

Implementation Problems

Anganwadi workers and helpers receive extremely low pay and have no job security, despite the fact that they are often over-loaded with tasks and carrying out crucial work for young children and their mothers. In July 2006, the All India Federation of Anganwadi Workers and Helpers organised a mass hunger strike for ten days to highlight the fact that they receive only a meagre honorarium (respectively Rs. 1000 and Rs. 500 per month) and have no job security or social security. Their demands included recognition as employees of the government.⁵⁷ However, despite the fact that the AWC workers and helpers form the basis of India's ECCD programme, the United Progressive Alliance (UPA) government refused to concede to their basic demands and continue to refer to them as social workers, as opposed to government employees.⁵⁸

Also in July 2006, the Office of the Commissioners of the Supreme Court issued an Order expressing serious concern over the lack of progress made by the government in the universalisation of the ICDS scheme and suggesting one year as the timeframe for extending ICDS to all Scheduled Caste/Scheduled Tribe hamlets and three years for universal coverage.⁵⁹ The Order also called on the government to raise the number of AWCs to

Commercial Interference in Tackling Hunger and Malnutrition

“Children’s hunger can be converted into corporate profits in many ways. The first is the way several food manufacturers, especially the biscuit manufacturers tried, when they attempted to replace meals with biscuits in the Mid Day Meal Scheme. Biscuits cannot become a substitute for food that is culturally acceptable, varied, adequate, energy dense, and with multiple nutrients. However, while they may do nothing for children’s hunger and malnutrition, given India’s large child population, these biscuits can earn their makers huge profits.”

<http://motherchildnutrition.org/india/commercial-interference.html>, 29 July 2008

Crackdown on corruption in anganwadis

India has one of the largest and oldest schemes to tackle malnutrition in children under six - the Integrated Child Development Services or the ICDS.

But the scheme, which is run through a large network of anganwadis all too often falls into a black hole - corruption and neglect proving to be the biggest stumbling blocks.

NDTV Correspondent, Thursday, February 8, 2007 (Mumbai):

Review implementation and submit reports to Centre: PM to States

Pioneer News Service | New Delhi

P rime Minister Manmohan Singh has directed all States to fine-tune the machinery and review impediments in the implementation of

India remains one of the highest in the world,” he said in the letters. Immunisation rate under

56 <http://motherchildnutrition.org/india/commercial-interference.html>, 29 July 2008.

57 Children’s Right to Food update, 25 August 2006.

58 T.K. Rajalaksmi, Burden without Benefit, Frontline, August 2006.

59 Dr N.C. Saxena, Commissioner, and Harsh Mander, Special Commissioner of the Honourable Supreme Court, in the Case: PUCL Vs UOI and ORS. Writ Petition (Civil) No. 196 of 2001, 19 July 2006.

1.4 million within three years and clarifying that the universalisation of ICDS means the universalisation of all ICDS services.⁶⁰ Contempt of Court notices were issued to the Chief Secretaries of five states (Rajasthan, Kerala, Bihar, Orissa and Himachal Pradesh) that were said to be the worst performers on the Anganwadi front.

ICDS Order and the Commissioners intervention in the Supreme Court, December 2006

Keeping in view the submissions made and considering the materials placed on record we direct as follows:

- (1) Government of India shall sanction and operationalize a minimum of 14 lakh AWCs in a phased and even manner starting forthwith and ending December 2008. In doing so, the Central Government shall identify SC and ST hamlets/habitations for AWCs on a priority basis.
- (2) Government of India shall ensure that population norms for opening of AWCs must not be revised upward under any circumstances. While maintaining the upper limit of one AWC per 1000 population, the minimum limit for opening of a new AWC is a population of 300 may be kept in view. Further, rural communities and slum dwellers should be entitled to an "Anganwadi on demand" (not later than three months) from the date of demand in cases where a settlement has at least 40 children under six but no Anganwadi.
- (3) The universalisation of the ICDS involves extending all ICDS services (Supplementary nutrition, growth monitoring, nutrition and health education, immunization, referral and pre-school education) to every child under the age of 6, all pregnant women and lactating mothers and all adolescent girls.
- (4) All the State Governments and Union Territories shall fully implement the ICDS scheme by, inter alia,
 - (i) allocating and spending at least Rs.2 per child per day for supplementary nutrition out of which the Central Government shall contribute Rs.1 per child per day.
 - (ii) allocating and spending at least Rs.2.70 for every severely malnourished child per day for supplementary nutrition out of which the Central Government shall contribute Rs.1.35 per child per day.
 - (iii) allocating and spending at least Rs.2.30 for every pregnant women, nursing mother/adolescent girl per day for supplementary nutrition out of which the Central Government shall contribute Rs.1.15.
- (5) The Chief Secretaries of the State of Bihar, Jharkhand, Madhya Pradesh, Manipur, Punjab, West Bengal, Assam, Haryana and Uttar Pradesh shall appear personally to explain why the orders of this Court requiring the full implementation of the ICDS scheme were not obeyed.
- (6) Chief Secretaries of all State Governments/UTs are directed to submit affidavits with details of all habitations with a majority of SC/ST households, the availability of AWCs in these habitations, and the plan of action for ensuring that all these habitations have functioning AWCs within two years.
- (7) Chief Secretaries of all State Governments/UTs are directed to submit affidavits giving details of the steps that have been taken with regard to the order of this Court of October 7 th, 2004 directing that "contractors shall not be used for supply of nutrition in Anganwadis and preferably ICDS funds shall be spent by making use of village communities, self-help groups and Mahila Mandals for buying of grains and preparation of meals". Chief Secretaries of all State Governments/UTs must indicate a time-frame within which the decentralisation of the supply of SNP through local community shall be done.
- (8) It is a matter of concern that 15 States and Union Territories have not submitted any affidavit in compliance with the order dated 7.10.2004. They are the States of Orissa, Uttar Pradesh, Sikkim, Arunachal Pradesh, Nagaland, Goa, Punjab, Manipur, Tamil Nadu, Andhra Pradesh, Mizoram, Haryana, Bihar and the National Capital of Delhi and the Union Territory of Lakshadweep. Within four weeks reply shall be filed through the concerned Chief Secretary as to why action for contempt shall not be initiated for the lapse.

The matters shall be listed after three months. Up to date statistic report shall be filed by the different States, Union Territories and the Central Government.

⁶⁰ Ibid, pp. 8.

Table 7: Status of Compliance

Order	Status of Compliance
Have a disbursement centre in every settlement (Nov. 2001); Increase the no of AWCs to 14 lakhs (Oct 2004 and Dec. 2006)	Presently 10.4 lakhs AWCs sanctioned. an additional 3.5 lakhs Centres must be sanctioned and operationalised by December 2008
Operationalise all AWCs immediately (April 2004) Operationalise 14 lakh AWCs by December 2008 (Dec. 2004)	Currently most of the sanctioned anganwadis have been operationalised. In order to meet the deadline set by the Court to sanction and operationalise 14lakh AWCs by December 2008. 3.5 lakhs more anganwadis must be sanctioned and the process of operationalisation of centres needs to be quickened
All SC/ST habitations to have an AWC (Oct. 2004) SC/ST habitations to be given priority (Dec. 2006)	SC/ST Habitation survey is yet to be conducted in most states. Field reports suggest that many SC/ST habitations do not have an AWC
Cover every child, pregnant and lactating mother and adolescent girl (Nov. 2001; Dec. 2006)	Presently, one third of children under six, one fourth of pregnant and lactating mothers and only 2.3 adolescent girls are being covered under SNP
All the State Governments/ Union Territories shall allocate funds for further, utilisation of ICDS on the basis of norm of one rupee per child per day, 100 beneficiarries per AWC and 300 days feeding in a year, i.e., on the same basis on which the Centre make the allocation. (Oct. 2004) Allocations later increased to Rs.2 per day for children under-6 (Dec. 2006) The Dec 2006 order also states that the allocated amount must be spent.	Shortfall to tune Rs.1200 crore (to be shared on a 50-50 basis between Government of India and State Governments) for SNP based on the norm of 100 beneficiaries per AWC this increses manifold when estimated are made for universalisation to cover every child (as directed by the Court in other orders). Further, utilisation of funds in 2005-06 has been 76% and the amount actually spent per day per beneficiary is Rs.1.27 (against the norm of Rs.2)
ICDS services not be restricted to BPL families (Oct. 2004)	Instructions to this effect sent to all state governments from MoWCD vide letter no.: 19-5/2003-CD-1 (Pt) dated 29.11.2005 and again reiterated in letter dated 7.3.2006.
The vacancies got the operational ICDS shall be filled (Oct. 2004)	As on 30.9.2006 of the 8048 CDPO posts sanctioned only 5406 were in position (37.3% positions vacant); of 41739 sanctioned posts of supervisors, onl 25085 were filled (39.9% posts vacant) and of the 946060 posts of AWWs santioned, 769582 were in position (18.6% vacant) 1.
Cover Slums under ICDS (Oct. 2004)	Presently, one third of children under-6, one fourth of pregnanat and lactating mothers and only 2.3% adolescent girls being covered under SNP
Contractors not to be used for supply of SNP (Oct. 2004)	Contractors still in use openly or indirectly in many states

Source: 7th Report of the Commissioners of the Supreme Court, November 2007, pp. 33.

ICDS in the Eleventh Plan

Several changes are being proposed to the ICDS scheme in the Eleventh Plan. The UPA proposes to contribute Rs. 9.4 billion for the promotion of exclusive breastfeeding, with the objective to raise nutritional and immunity levels of children and create awareness about the benefits of breastfeeding.⁶¹ The government also hopes to ensure that nutrition supplied to children under the scheme has better outcomes, so severely malnourished children will get dietary supplements in addition to hot cooked meals. Under the revised scheme, more AWCs can be created if the Panchayats so demand. This will be in areas where at least 40 children in plains and 20 children in tribal areas are not covered by an AWC.⁶²

The Ministry of Women and Child Development proposes to rededicate itself to promoting early childhood care for the survival and development of children through restructuring the ICDS programme implementation framework to better suit the needs of women and children and to strengthen the existing service delivery mechanism.⁶³ Their report

61 Sangeeta Singh, Govt to rejig child development scheme; focus on breastfeeding. Live Mint.Oct 24 2007. New Delhi. <http://www.livemint.com/2007/10/24233852/Govt-to-rejig-child-developmen.html>.

62 Ibid.

63 Ministry of Women and Child Development, Report by the Working Group on Development of Children for the Eleventh Five Year Plan, 2007, pp. 125.

for the Eleventh Five Year Plan also highlights the need to establish a monitoring system concerning early childhood education in every state/union territory administration at the sub national system level and at the national level.⁶⁴ This should cover all sectors (public, private and NGOs) to ensure quality coverage of early childhood education across the board.

The government feels it is doing enough in terms of the provision of early childhood care by operating the ICDS scheme. However, the scheme lacks the funding necessary to even begin to implement it effectively and low budgetary allocations have been one of the key factors responsible for the limited impact of the ICDS and related programmes so far. Between 2001 and 2005, the Ministry of Women and Child Development allocated a budget of Rs. 16.85 billion of which only Rs. 12.10 billion was actually spent.⁶⁵ If the government is serious about addressing malnutrition and improving child health, increased funds must be found urgently alongside improvements to the implementation of this programme to ensure that its benefits reach the sectors of the population most in need.

Crèche Facilities

The provision of crèches is an important intervention in addressing malnutrition in children under six, as they provide proper care and attention for children while allowing their mothers to go out to work.⁶⁶ The need for child care facilities for the children of working mothers has been emphasised in the National Policy for Children 1994, National Policy for Education 1986, National Policy for the Empowerment of Women 2001 and the National Plan of Action for Children 2005. The Parliamentary Standing Committee on the demand for grants in the year 2002-2003 has also pointed out that all sections of society should be able to access the services of crèches. With the breaking up of the joint family system and the increasing number of nuclear families, working women need support in terms of quality care for their young children.⁶⁷ According to the NSSO 55th Round Survey 1999-2000, there are around 106 million women in the work force, out of which 40-45 per cent are in the reproductive age group.⁶⁸ Day care support services are an essential requirement for these women. Crèche facilities are not only required by working mothers but also women belonging to poor families, who require support and relief for child care as they struggle to cope with their burden of activities, within and outside of the home.⁶⁹

Child Nurture – Starting Right

Development of children is at the centre of the 11th Plan. We are committed to ensure that our children do not lose their childhood because of work, disease or despair. We aim to give the right start to children from 0-6 years with effective implementation of the ICDS programme. It is to be a community based programme involving parent groups. The nutrition component has to have imaginative menus based on seasonal and regional variations. The scheme will nurture and strengthen pregnant and lactating mothers.

Currently the pre-school component of ICDS centres is very weak. Early Childhood Education (ECE) could be placed under the SSA. The ICDS centres will then concentrate on inculcating good health and hygienic practices among the children. For this it will be essential that these centres have toilets and drinking water. The elders of the community could be asked to visit the children on a weekly basis to narrate folk tales, poetry etc. which are often missing from the school curriculum. This would serve the dual purpose of enriching the child and making the elderly feel part of the education process.

Planning Commission, Towards Faster and More Inclusive Growth An Approach to 11th Five Year Plan



TOGETHER FOR THE FUNCTION: Union minister for women and child development Renuka Chowdhury and I&B minister Priya Ranjan Das Munshi at the inaugural function of World Press Freedom Day in New Delhi on Thursday. An Asian Age photograph

National Creche Scheme has proven inadequate

By NAMRATA BIJI AHUJA

New Delhi, May 3: The Union ministry of women and child development (WCD) faces an uphill task as far as its National Creche Scheme is concerned. Aimed at giving empowerment to the working women of the country, the scheme has proved totally inadequate when compared to the huge numbers of working mothers and their children.

A staggering 12,600 creches were supported by the WCD ministry reaching

on empowerment of women for the eleventh plan. This is when the actual requirement of creches to cater to the childcare needs of the 22 crore women in the informal sector alone is 800,000, according to the ministry's sub-group report for child protection in the eleventh five year plan.

Another major stumbling block in the concept of creches in India is the lack of expertise in child care and nutrition guidelines for the children left in creches by working mothers. "The

Besides training of creche workers, there is a felt need to set up new creches in uncovered areas," said a WCD ministry official.

Facing the demand for specialised training to creche workers for better management of creche centres, ministry ensured that such training proposals are underway to ensure that proper care is given to children in the age group 0-6 years in the absence of their mothers. In 2006, 30902 creches were sanctioned by the ministry. The ministry is also propos-

64 Ibid.

65 Indian Express, Maternal audit project taken up in several districts, Sachin Jain, 18 February 2007.

66 Paper prepared for Planning Commission, Strategies for Children under Six, 29 December 2007, pp. 14.

67 Press Information Bureau, Government of India.

68 Ministry of Women and Child Development, Report by the Working Group on Development of Children for the Eleventh Five Year Plan, 2007, pp. 129.

69 Ibid.

The Rajiv Gandhi National Crèche Scheme for Children of Working Mothers was launched with effect from 1st January 2006 to provide services to the children of age group 0-6 years which includes supplementary nutrition and emergency medicines. At present about 28,000 crèches are functioning under the scheme benefiting about 700,000 children.⁷⁰ Given the large number of children requiring early childhood education, this figure seems to be inadequate.⁷¹ This scheme must be expanded and the provision under the National Rural Guarantee Act for a crèche at the work site also needs to be implemented. Though crèches are mandated by law also in different areas like mines, plantations, factories, salt and dolomite mines, cigar making units, contract labour, inter-state migrant labour and construction sites, in practice very few crèches are being run in obedience of these laws.⁷² Further, whatever crèches are being run are in very bad shape.⁷³

The paper prepared at the request of the Planning Commission on 'Strategies for Children under Six' highlighted the need for crèches for children 0 – 6 years for the entire day. The paper recommended that, to begin with, 10 per cent of all Anganwadi centres should be converted to Anganwadis-cum-crèches, meaning that the centres would be open full-time and the workers would be present all day, as well as being given additional training on running a crèche.⁷⁴

A landmark judgement by the Supreme Court on prison reforms in April 2006 ordered the central and state governments to provide within three months crèches for children incarcerated with their mothers.⁷⁵ This was because the 1,000 or so children under six who were in prison with their mothers in India had previously received little in the way of early childhood care and development services. The court recognised the need of the child to be with its mother until the age of six and allowed women prisoners to keep their wards along with them till they attained the specified age. The infants will have provision for nurseries and other facilities required for their protection inside the prison.⁷⁶

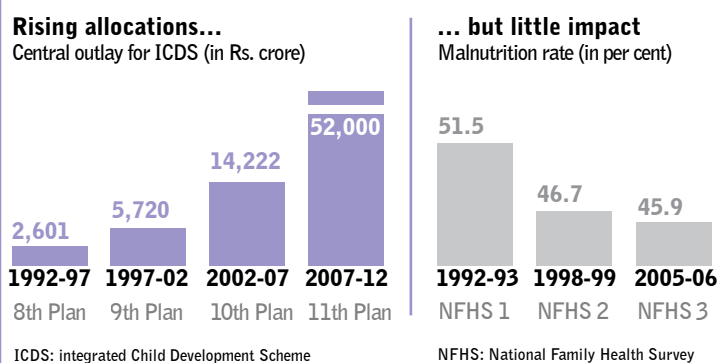
Budgetary Provisions

Despite various promises, spending for ECCD has not been a priority for successive Indian governments. In March 2007, a group of NGOs and academics wrote to the Prime Minister to express concern for the neglect of children under six in the 2007- 2008 budget. Despite claims of a commitment to the universalisation of ICDS, this is not reflected in the budget, where the allocation (Rs. 47.61 billion) has barely increased in real terms and not increased at all as a percentage of GDP.⁷⁷ This is in contravention of the Supreme Court judgement which requires the government to increase the number of anganwadis from 940,000 to 1.4 million by December 2008.

The National Advisory Council had recommended an allocation of at least Rs. 96 billion for ICDS in 2007-08⁷⁸ and the Planning Commission recommended raising the central allocation of the ICDS scheme to Rs. 520 billion in the Eleventh Plan, which is nearly four times more than in the Tenth Plan.⁷⁹ As per the



Figure 2: Delivery Failure



Source: Government of India

70 Economic Survey, 2007-2008, pp. 261.

71 Ministry of Women and Child Development, Report by the Working Group on Development of Children for the Eleventh Five Year Plan, 2007, pp. 129.

72 Ibid, pp. 129.

73 Ibid, pp. 129.

74 Paper prepared for Planning Commission, Strategies for Children under Six, 29 December 2007, pp. 14.

75 The Times of India, SC orders crèches, cradles in prisons, 14 April 2006.

76 Ibid.

77 Letter to Prime Minister, Neglect of children under six in the Union budget 2007-8, 5 March 2007.

78 Ibid.

79 India: Govt to rejig redevelopment scheme; focus on breastfeeding, Garry, http://www.breastfeeding.co.uk/index.php?option=com_content&view=article&id=390:india-govt-to-rejig-redevelopment-scheme-focus-on-breastfeeding&catid=37:world-news&Itemid=12

2007-2008 budget, the government of India planned to spend less than Rs. 50 billion on children under six, in spite of the fact that they represent 15 per cent of the population and compared to the Rs. 960 billion allocated for defence expenditure in the budget.⁸⁰

Conclusion

The need for interventions for the young child has been recognised and programmes have been designed to provide pre-school education, child care, nutrition and other facilities through the ICDS and the crèche scheme. However, the gaps are huge and have resulted in abysmal indicators, particularly related to nutrition and health. Indeed, the much touted ICDS is in the eye of the storm, not just for poor implementation and lack of universal coverage, but also because of the raging debate today on the pre-cooked vs. hot meal provision. Clearly, cross-sectoral interventions are urgently required if the needs and rights of the young child are to be realised.

⁸⁰ Ibid.

Table I: Status Report Of The ICDS

Statement indicating State wise number of ICDS Projects and Anganwadis (AWCs) Sanctioned and Operational as on 29.02.2008

Month report	State/UT	ICDS Projects						No. of Anganwadis						No. of Mini-AWCs sanctioned		
		Sanctioned upto 31.3.2005*	Sanctioned during 2005-06	Sanctioned during 2006-07	Total sanctioned upto 31.3.2007	Operational as on 29.2.2008	Sanctioned upto 31.3.2005*	Sanctioned during 2005-06	Sanctioned during 2006-07	Total sanctioned upto 31.3.2007	Operational as on 29.2.2008	In VIII Plan	During 2006-07	Total as on 31.3.2007		
02/08	Andhra Pradesh	363	13	9	385	385	56539	9562	7843	73944	69611	4211	3409	7620		
02/08	Arunachal Pradesh	58	21	6	85	85	2359	678	1240	4277	4277	0	0	0		
02/08	Assam	196	23	4	223	223	25416	6659	5007	37082	36849	0	0	0		
04/07-	Bihar	394	144	7	545	394	60813	19715	560	81088	80211	0	0	0		
02/08	Chhattisgarh	152	6	5	163	158	20289	9148	5500	34937	29355	836	1483	2319		
02/08	Goa	11	0	0	11	11	1012	0	100	1112	1112	0	0	0		
02/08	Gujarat	227	33	0	260	260	37961	3523	2695	44179	43104	0	0	0		
02/08	Haryana	116	12	9	137	137	13546	2813	833	17192	17192	0	252	252		
02/08	Himachal Pradesh	72	4	0	76	76	7354	10894	0	18248	18248	0	0	0		
05/07	Jammu & Kashmir*	140	0	0	140	129	18772	0	6711	25483	16409	0	0	0		
10/07	Jharkhand	204	0	0	204	204	24171	6683	1243	32097	31074	0	0	0		
02/08	Karnataka	185	0	0	185	185	40301	11313	2646	54260	54260	0	405	405		
11/07	Kerala	163	0	0	163	163	25393	3258	3464	32115	32115	0	0	0		
01/08	Madhya Pradesh	336	31	0	367	367	49787	9537	9914	69238	68306	2250	0	2250		
02/08	Maharashtra	372	44	35	451	416	62126	12864	9877	84867	75741	1881	7490	9371		
12/07	Manipur	34	0	4	38	37	4501	0	3120	7621	7621	0	0	0		
01/08	Meghalaya	32	7	2	41	41	2218	961	209	3388	3195	0	1234	1234		
02/08	Mizoram	21	2	0	23	23	1361	231	90	1682	1682	0	0	0		
02/08	Nagaland	54	2	0	56	56	2770	265	159	3194	3194	0	0	0		
02/08	Orissa	326	0	0	326	326	34201	3279	4217	41697	41697	1708	3111	4819		
02/08	Punjab	142	6	0	148	148	14730	2691	2748	20169	20169	0	0	0		
02/08	Rajasthan	257	17	4	278	278	35821	11041	1510	48372	48363	0	2681	2681		
12/07	Sikkim	5	6	0	11	11	500	488	0	988	988	0	0	0		
02/08	Tamil Nadu	434	0	0	434	434	42677	3049	1539	47265	47265	0	3168	3168		
02/08	Tripura	40	11	3	54	54	3874	2220	1257	7351	7351	0	0	0		
02/08	Uttar Pradesh	834	1	62	897	889	106059	31498	13170	150727	146785	0	0	0		
02/08	Uttaranchal	99	0	0	99	99	6658	1134	1872	9664	8834	0	2676	2676		
01/08	West Bengal	358	58	0	416	411	57540	17100	17512	92152	87665	0	0	0		

Continued on page 60

Table I: Status Report Of The ICDS (Contd.)

Statement indicating State wise number of ICDS Projects and Anganwadis (AWCs) Sanctioned and Operational as on 29.02.2008													
Month report	State/UT	ICDS Projects						No. of Anganwadis					
		Sanctioned upto 31.3.2005*	Sanctioned during 2005-06	Sanctioned during 2006-07	Total sanctioned upto 31.3.2007	Operational as on 29.2.2008	Sanctioned upto 31.3.2005*	Sanctioned during 2005-06	Sanctioned during 2006-07	Total sanctioned upto 31.3.2007	Operational as on 29.2.2008	In VIII Plan	No. of Mini-AWCs sanctioned
02/08	A & N Islands	5	0	0	5	5	527	94	51	672	672	0	0
02/08	Chandigarh	3	0	0	3	3	300	29	41	370	370	0	0
12/07	Delhi	29	5	16	50	50	3902	526	1678	6106	6106	0	0
12/07	Dadra & N Haveli	1	1	0	2	2	138	77	4	219	219	0	34
02/08	Daman & Diu	2	0	0	2	2	87	10	10	107	97	0	0
10/07	Lakshadweep	1	0	0	1	1	74	0	13	87	87	0	0
02/08	Pondicherry	5	0	0	5	5	677	11	0	688	688	0	0
	All India	5671	447	166	6284	6068	764454	181351	106833	1052638	1010912	10886	25943
													36829

Notes

*Subject to reconciliation of AWCs sanctioned by GOI in respect of States of Assam, Bihar, Jharkhand, Kerala, Nagaland, Punjab, Tripura, U.P. and West Bengal with State Government/ UT Administration.

*State Governments/ UT Administration which have not sent their consolidated report for February 2008, data of last report sent by them have been taken into account as indicated in column no. 2.

Based on State level consolidated reports sent by State Government/ UT Administration.

State Govt of Bihar has sent info of operational AWCs only thus rest info for Apr 2007.

Source: <http://wcd.nic.in/icdsimg/ICDS-Sanc-opera-0208-page%201.htm>

Table II: State Wise Number of Beneficiaries (Children 6 months - 6 years and Pregnant & Lactating Mothers (P&LM)) (as on 29.02.2008)

State/UT	Beneficiaries for Supplementary Nutrition					Beneficiaries for Pre-School Education		
	Children (6 months-3 years)	Children (3-6 years)	Total Children (6 months-6 years)	Pregnant & lactating Mothers (P&LM)	Total Beneficiaries (Children 6 mo-6 years plus P&LM)	Boys (3-6 years)	Girls (3-6 years)	Total (3-6 years)
Andhra Pradesh	1908652	2051959	3960611	994202	4954813	981642	983482	1965124
Arunachal Pradesh	96014	82100	178114	23552	201666	42916	43016	85932
Assam	1519445	1661218	3180663	630644	3811307	631454	608232	1239686
Bihar	1786099	1721778	3507877	710378	4218255	981475	955923	1937398
Chhattisgarh	1009919	763706	1773625	478403	2252028	401044	408845	809889
Goa	26137	20058	46195	11445	57640	10150	9934	20084
Gujarat	1115906	1128080	2243986	392902	2636888	619251	565008	1184259
Haryana	594828	455288	1050116	283819	1333935	241895	213393	455288
Himachal Pradesh	254285	192828	447113	99830	546943	87596	85290	172886
Jammu & Kashmir	262197	211708	473905	113341	587246	111716	100880	212596
Jharkhand	1019073	1119237	2138310	631892	2770202	559256	569454	1128710
Karnataka	1622885	1466020	3088905	739740	3828645	733521	733121	1466642
Kerala	521999	449617	971616	184428	1156044	229352	225885	455237
Madhya Pradesh	2052138	2070104	4122242	931045	5053287	1201102	1150292	2351394
Maharashtra	2647312	3003567	5650879	932850	6583729	1525740	1433822	2959562
Manipur	158140	156516	314656	54530	369186	74248	72486	146734
Meghalaya	141949	159978	301927	55367	357294	68580	68454	137034
Mizoram	56652	38246	94898	26255	121153	15002	14962	29964
Nagaland	169754	116108	285862	54535	340397	59230	57423	116653
Orissa	2020295	2059276	4079571	772677	4852248	561868	550587	1112455
Punjab	505245	523693	1028938	279209	1308147	282559	253748	536307
Rajasthan	1761532	1167724	2929256	780969	3710225	642123	627950	1270073
Sikkim	15821	947	16768	5489	22257	6914	6649	13563
Tamil Nadu	975571	1195794	2171365	530114	2701479	604502	591292	1195794
Tripura	128366	146462	274828	48893	323721	65856	63882	129738
Uttar Pradesh	9490615	8510655	18001270	3677541	21678811	4764661	4416439	9181100
Uttaranchal	258654	186642	445296	96134	541430	105216	104015	209231
West Bengal	2563192	2533858	5097050	808417	5905467	1142370	1132903	2275273
A & N Islands	10556	8805	19361	4305	23666	4184	4182	8366
Chandigarh	17831	14183	32014	6909	38923	7030	7153	14183
Delhi	341200	224909	566109	162375	728484	115780	107868	223648
Dadra & N Haveli	9628	7947	17575	2975	20550	3139	3058	6197
Daman & Diu	3798	3271	7069	1714	8783	1562	1709	3271
Lakshadweep	3044	2512	5556	1782	7338	1270	1242	2512
Pondicheery	23018	5695	28713	9482	38195	2586	2603	5189
All India	35091750	33460489	68552239	14538143	83090382	16886790	16175182	33061972

Source: Ministry of Women and Child Development, Annual Report, 2005-06.



health

“It’s partly poverty, it’s partly the collapse of health services, it’s a measure of a completely lopsided pattern of growth in the country.”

Jean Drèze

During the Bal Adhikar Samvad Convention on 19th December 2006 in New Delhi, Nobel Prize winner and eminent welfare economist, Professor Amartya Sen said, “It is now a clearly established reality that even after gaining high growth rate and increasing per capita income, we have failed to protect our children from hunger and diseases. I feel the question of resources is not the biggest one, a lot of money is being spent but the situation is not improving in accordance with the expenditure because our delivery systems are the worst, un-accountable and non-responsive towards the most marginalised, like children”.¹ Even among children, some are more marginalised than others. The girl child as we saw in the last report,² was the last to receive health care in the family, when resources were scarce. A socio-economic analysis of disease burden and access to health care also shows that children from some communities find it harder to access services than others and not surprisingly, carry the burden of ill health and even mortality.

India's Constitution mandates the State to provide basic health care to all its citizens. Despite this, as well as being signatory to the Alma-Ata Declaration (1978) on the provision of health care for all, the goal of ‘health for all’ remains elusive to the majority of Indians. The marginalised and poorer sections of society continue to suffer the major burden of diseases and death. India's progress towards providing health care for all and meeting the four health-related Millennium Development Goals (MDGs) remains slow.

These efforts are seriously hampered by the fact that India's public health expenditure at 20.7 per cent³ is the lowest in the region, lagging far behind Bangladesh (25 per cent), Pakistan (34.9 per cent) and China (45 per cent). Very few nations have a public health spending percentage (as a share of GDP) lower than India; the few countries that do include Myanmar, Burundi and Azerbaijan.⁴

Two - three per cent of GDP is considered to be the minimum that the government needs to spend in order to provide basic minimum health care to the entire population of India.⁵ Although in 2005-06, the government pledged to increase public health spending from the current 0.9 per cent to a minimum of two per cent in the next four years, expenditure of the central and state governments taken together remained static at around 0.99 per cent of GDP in 2007-08.⁶ When compared to India's current expenditure on defence – which is more than double at 1.99 per cent of GDP – the situation for health care looks fairly bleak.⁷ As per HAQ's analysis the budget for children in the health sector has been an average of 0.61 per cent from 2000-01 to 2006-07.⁸

Health-related Millennium Development Goals

- Goal 4: Reduce child mortality
- Goal 5: Improve maternal health
- Goal 6: Combat HIV / AIDS, malaria and other diseases
- Goal 7: Ensure environmental sustainability (reduce the number of people without access to clean drinking water and basic sanitation)

Source: UN Millennium Development Goals, 2000.



1 Indian Express, Maternal audit project taken up in several districts, Sachin Jain, 18 February 2007.

2 HAQ: Centre for Child Rights. Status of Children in India Inc. 2005. pp.50.

3 The Wall Street Journal, India's public health expenditure lowest in region, 16 April 2007.

4 The Hindu, The health of nations, 11 January 2006

5 Indranil Mukhopadhyay, 3% GDP on Health: An Illusive Promise, Health for the Millions, February-March 2008.

6 Ibid.

7 Laxman Behera. India's Defence Budget 2008 – 2009. Institute for Defence Studies. <http://www.idsa.in/publications/stratcomments/LaxmanBehera190308.htm>.

8 HAQ: Centre for Child Rights, Budget for Children in India. 2007.

Health Status

The right to health is also about equal access to health care services. However, an examination of the disease burden clearly shows that some groups are more vulnerable than others. There is an uneven distribution of the disease burden as well as access to health services across regions, socio-economic and religious categories. Clearly, discrimination and exclusion continue to affect children's health status. In this chapter, an effort has been made to identify who are the most vulnerable groups or who are left out because of their socio-economic status and other factors.

India lives with many unenviable health statistics: the highest TB prevalence in the world, over one third of the world's malnourished children and maternal and infant mortality rates which are embarrassingly high, even in relation to the country's poorer neighbour, Bangladesh.

India Guide, Oneworld, September 2007

Existing Scenario of Health

- Three completely avoidable child deaths occur every minute
- Every third malnourished child in the world lives in India (MWCD Report, 2007)
- Every second Indian child is underweight (MWCD Report, 2007)
- Nearly 8.5 million people are suffering from TB in India, every year 1.8 million new cases are found and almost 0.37 million die from TB (MoHRW Annual Report 2006-07)
- The latest estimate of HIV prevalence is as high as 0.28 per cent (NFHS-3)
- There is a shortage of 21,983 Sub-Centres, 4,436 PHCs, 3,332 CHCs as per 2001 population norm
- Ratio of hospital beds to population in rural areas is 15 times lower than that for urban areas
- 84 per cent of the expense on health care is out-of-pocket

Time Bound Targets on Health under Eleventh Plan

- Reducing Maternal Mortality Ratio to 1 per 1,000 live births
- Reducing Infant Mortality Ratio to 28 per 1,000 live births
- Reducing Total Fertility Rate to 2.1
- Providing clean drinking water for all by 2009 and ensuring no slip backs
- Reducing malnutrition among children of age group 0-3 to half its present level
- Reducing anaemia among women and girls by 50 per cent
- Raising sex ratio for age group 0-6 to 935 by 2011-12 and 950 by 2016-17

Source: Indranil Mukhopadhyay, 3% GDP on Health: An Illusive Promise, Health for the Millions, February-March 2008.

Infant and Child Mortality

India, along with several other Asian countries including Pakistan and Cambodia, is in danger of falling short of the MDG target to reduce the under-five child mortality rate to two thirds of the 1990 level by 2015. The 2008 Global Monitoring Report by the World Bank and the International Monetary Fund has also warned India about this. Inequalities of health are prominent in many countries with child mortality rates for the poor being two or three times higher than those for the rich.⁹ The infant mortality rate (death of a child under one year) is regarded as one of the most important indicators of the health status of a community, as infant mortality is the single largest category of mortality.¹⁰ Neonatal mortality

India has high levels of infant and under-five mortality in comparison to other countries at its level of per capita income and in comparison to neighbouring countries such as Sri Lanka and Bangladesh. Roughly 1.75 million Indian children die each year before reaching their first birthday.

⁹ Asian Development Bank, Inequality a major hurdle to education and health MDGs, 16 August 2006.

¹⁰ B. Singh, Infant Mortality Rate in India: Still a long way to go, The Indian Journal of Paediatrics, 2007.

(death of a child in the first four weeks of its life) presently constitutes nearly two-thirds of infant mortality and half of under-five child mortality in India.¹¹

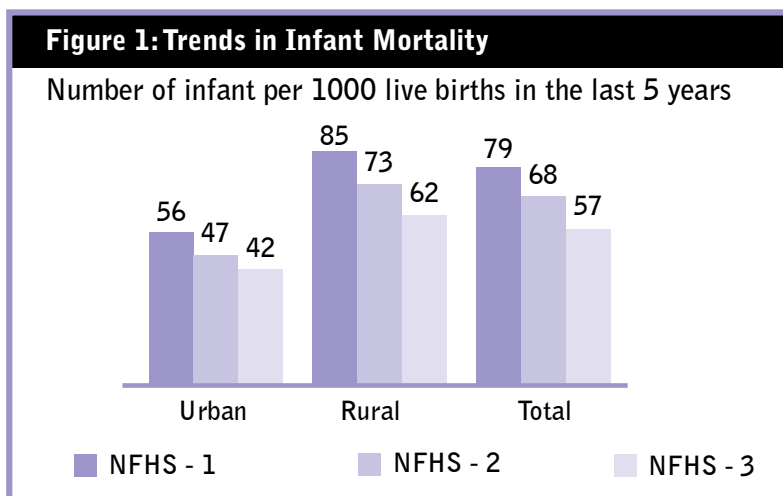
In the 1960s, the infant mortality rate in India was around 100 out of 1,000 live births. Despite rapid declines in both rural (69/1,000) and urban (40/1,000) areas, the infant mortality rate in India remains unacceptably high at 57 out of 1,000 live births. This means India is off-track to meet the target set in the Tenth Five Year Plan (2002 – 2007) to reduce the infant mortality rate to 45/1,000 – and will seriously struggle to meet its plans to reduce the rate to 28/1,000 by 2012.

To make matters worse, there are wide inter-state variations with states such as Kerala having a very low rate (14/1,000) whilst states such as Uttar Pradesh (83/1,000) and Orissa (96/1,000) remain extremely high. Within each state there are wide rural-urban variations.¹²

The NFHS-3 data shows that infant and child mortality rates decrease steadily with an increase in mother's schooling.¹³ The infant mortality rate is 70/1,000 for children whose mothers had no schooling, compared with 50/1,000 for children whose mothers had five to seven years of schooling and 26/1,000 for children whose mothers had 12 or more years of schooling. A similar picture can be seen in terms of household wealth. The infant mortality rate is 70/1,000 among children in households with the lowest wealth quintile, 58/1,000 in middle wealth quintile households and only 29/1,000 in the highest wealth quintile households.¹⁴

Female mortality rates amongst 0-4 year olds in India are 107 per cent of male mortality rates, compared to 74 per cent in Western Europe.¹⁵ This is because in India girls are frequently abandoned, deliberately neglected and underfed simply because they are girls. The rate in Rajasthan is a staggering 119 per cent. In Madhya Pradesh, statistics reveal that mortality rates for girls are higher than those for boys except during early infancy when girls have a biological advantage (see Table 1):¹⁶

Infant and child mortality rates are much higher in rural areas; among SC and ST; and among females.



Source: Fact Sheet. NFHS – 3, 2007

Table 1: Mortality Rates for Children, Madhya Pradesh

Sex of child	Neonatal Mortality Rate	Post Neonatal Mortality Rate	Infant Mortality Rate	Child Mortality Rate	Under - five Mortality
Male	67.3	29.8	97.2	49.4	141.7
Female	51.7	35.9	87.5	66.3	148.0

Source: Department of Health and Family Welfare, Madhya Pradesh, National Rural Health Mission – Programme Implementation Plan 2006 – 2012, <http://www.health.mp.gov.in/pip-nrhm.pdf>, pp 18.

11 World Health Organization, The principles and evidence base for state RCH-II Programme Implementation Plans, http://www.whoindia.org/LinkFiles/Child_Health_in_India_PIP_Doc_Chapter01.pdf, pp. 44.

12 B. Singh, Infant Mortality Rate in India: Still a long way to go, The Indian Journal of Paediatrics, 2007.

13 National Family Health Survey, Chapter 7, 2007, pp. 183.

14 Ibid.

15 i-india, Gender discrimination, http://www.i-indiaonline.com/sc_crisis_theproblem.htm#gender.

16 Department of Health and Family Welfare, Madhya Pradesh, National Rural Health Mission – Programme Implementation Plan 2006 – 2012, <http://www.health.mp.gov.in/pip-nrhm.pdf>, pp. 17.

Table 2: Early Childhood Mortality Rates by Background Characteristics

Neonatal, postnatal, infant, child and under-five mortality rates for the five-year period preceding the survey, by background characteristics and residence, India, 2005-06, and for NFHS-2 and NFHS-1

Background Characteristics	Neonatal Mortality (NN)	Postneonatal Mortality	Infant Mortality	Child Mortality	Under-five Mortality
URBAN					
Education					
No education	38.2	23.1	61.3	21.4	81.4
<5 years complete	39.9	13.4	53.3	6.5	59.4
5-7 years complete	31.4	16.7	48.1	7.5	55.2
8-9 years complete	25.8	5.4	31.2	4.7	28.7
10-11 years complete	16.2	8.3	24.5	4.3	28.7
12 or more years complete	19.4	4.2	23.6	4.7	28.2
Religion					
Hindu	30.9	13.3	44.3	10.9	54.7
Muslim	21.6	13.9	35.5	9.6	44.8
Christian	11.3	5.0	16.3	9.4	25.5
Sikh	*	*	*	*	*
Buddhist / Neo-Buddhist	*	*	*	*	*
Other	*	*	*	*	*
Caste / Tribe					
Scheduled Caste	35.0	15.7	50.7	15.5	65.4
Scheduled Tribe	29.0	14.8	43.8	10.4	53.8
Other backward class	26.4	15.8	42.2	12.9	54.5
Other	27.5	8.6	36.1	6.2	42.1
Wealth index					
Lowest	39.4	25.4	64.8	29.2	92.1
Second	40.8	21.6	62.4	21.5	82.5
Middle	32.0	17.8	49.8	16.4	65.3
Fourth	31.3	14.9	46.2	8.0	53.9
Highest	21.1	6.3	27.4	5.6	32.8
Total	28.5	13.0	41.5	10.6	51.7
NFHS - 2	31.7	15.4	47.0	16.9	63.1
NFHS - 1	34.1	22.0	56.1	19.6	74.6
RURAL					
No education	47.0	24.1	71.1	27.8	97.0
<5 years complete	50.5	18.6	69.2	15.8	83.8
5-7 years complete	35.8	14.4	50.1	13.3	62.8
8-9 years complete	35.1	11.6	46.7	6.1	52.5
10-11 years complete	35.0	10.5	45.5	3.0	48.3
12 or more years complete	20.0	9.6	29.6	2.3	31.8
Religion					
Hindu	43.3	19.7	63.0	20.9	82.5
Muslim	40.1	20.3	60.4	23.1	82.2
Christian	42.0	12.8	54.8	12.9	67.0
Sikh	34.3	11.7	46.0	8.7	54.3
Buddhist / Neo-Buddhist	(36.7)	(10.0)	(46.6)	(17.3)	(63.2)
Other	44.7	42.0	86.7	49.2	131.7

Background Characteristics	Neonatal Mortality (NN)	Postneonatal Mortality	Infant Mortality	Child Mortality	Under-five Mortality
RURAL (Contd.)					
Caste / Tribe					
Scheduled Caste	49.6	21.4	71.0	25.6	94.7
Scheduled Tribe	40.9	23.0	63.9	38.3	99.8
Other backward class	42.1	19.1	61.1	18.7	78.7
Other	38.1	17.5	55.7	13.3	68.2
Wealth index					
Lowest	48.8	21.9	70.7	32.5	100.9
Second	44.9	24.2	69.2	22.8	90.4
Middle	41.2	19.4	60.6	13.8	49.1
Fourth	32.4	9.9	42.3	7.1	49.1
Highest	24.3	9.2	33.6	2.7	36.2
Total	42.5	19.7	62.2	21.0	82.0
NFHS - 2	46.7	26.6	73.3	32.8	103.7
NFHS - 1	52.9	32.2	85.0	37.6	119.4
TOTAL					
Education					
No education	45.7	24.0	69.7	26.9	94.7
<5 years complete	48.4	17.6	66.0	13.8	78.8
5-7 years complete	34.5	15.1	49.5	11.5	60.5
8-9 years complete	32.0	9.5	41.5	5.6	46.9
10-11 years complete	26.9	9.6	36.5	3.6	40.0
12 or more years complete	19.6	6.3	25.9	3.9	29.7
Religion					
Hindu	40.3	18.2	58.5	18.5	76.0
Muslim	34.1	18.2	52.4	18.6	70.0
Christian	31.5	10.1	41.7	11.6	52.8
Sikh	35.9	9.7	45.6	6.8	52.1
Buddhist / Neo-Buddhist	43.0	9.8	52.8	17.1	69.0
Other	43.3	41.4	84.6	50.4	130.7
Caste / Tribe					
Scheduled Caste	46.3	20.1	66.4	23.2	88.1
Scheduled Tribe	39.9	22.3	62.1	35.8	95.7
Other backward class	38.3	18.3	56.6	17.3	72.8
Other	34.5	14.5	48.9	10.8	59.2
Wealth index					
Lowest	48.4	22.0	70.4	32.3	100.5
Second	44.6	24.0	68.5	22.6	89.6
Middle	39.3	19.1	58.3	14.4	71.9
Fourth	31.9	12.1	44.0	7.5	51.2
Highest	22.0	7.2	29.2	4.8	33.8
Total	39.0	18.0	57.0	18.4	74.3
NFHS - 2	43.4	24.2	67.6	29.3	94.9
NFHS - 1	48.6	29.9	78.5	33.4	109.3

Source: NFHS-3, Chapter 7, Infant and child mortality.

Note: all the estimates are for the five years preceding the survey (approximately 1988-1992 for NFHS - 1, 1994-1998 for NFHS - 2, and 2001-2005 for NFHS - 3). Totals include Jains, cases with missing information on education, religion, and caste / tribe, and cases in which the respondent does not know the cast / tribe, which are not shown separately.

(.) Based on 250-499 unweighted children surviving to the beginning of the age interval. * Rate not shown; based on fewer than 250 unweighted children surviving to the beginning of the age interval. ¹ Computed as the difference between the infant and neonatal mortality rates.

The Committee set up to study the Social, Economic and Educational Status of Muslims¹⁷ has noted that in the absence of reliable data on age-specific death rates by religion, one is constrained to look at differentials in early childhood mortality, estimates of which are available from surveys and censuses. It is useful to note that these estimates from different surveys, as well as indirect census-based estimates, show that infant and childhood mortality among Muslims is slightly lower than the average.

Indeed, the two main indicators, the infant mortality rate (IMR), which is the proportion of children dying before completing the first year of life, and under-five mortality rate (U5MR), which is the proportion of children dying before completing five years of age, are lower for Muslims than Hindus and hence also lower than the national average.¹⁸ Of all religious groups, Hindus have the highest infant and child mortality.

Table 2, taken from the 2007 National Family Health Survey-3, reveals how Scheduled Tribes(ST) and Scheduled Castes (SC) have higher than average infant and child mortality rates. The under five-mortality rate is 88.1 for SC children and 95.7 for ST children, as compared to 59.2 for other children, revealing how continued caste and tribal-based discrimination still plays a key role in terms of child survival.

A study by the NGO Samata, in Andhra Pradesh, documents infant mortality rates of 165 per 1,000 for tribal communities in Andhra Pradesh, compared to an average of 95 at the state level. This is a huge leap from the previous figure of 62 out of 1,000 in 2002 for tribal people. The under-five mortality is also extremely high, at nearly 50 per cent.¹⁹

Malnutrition and Hunger

High levels of malnutrition persist despite India's booming economy, which grew by an average of 8.5 per cent over the past four years. Child malnutrition continues to be a serious problem in India, which is home to one in three malnourished children in the world. The most recent National Family Health Survey reveals how the incidence of underweight children declined only one percentage point, to 46 per cent, in seven years.²⁰ The nutrition figures also showed a wide disparity among states. Whilst in Tamil Nadu the rates have steadily improved, bringing malnutrition down to 33 per cent, in central Madhya Pradesh they remain extremely high at 60 per cent.

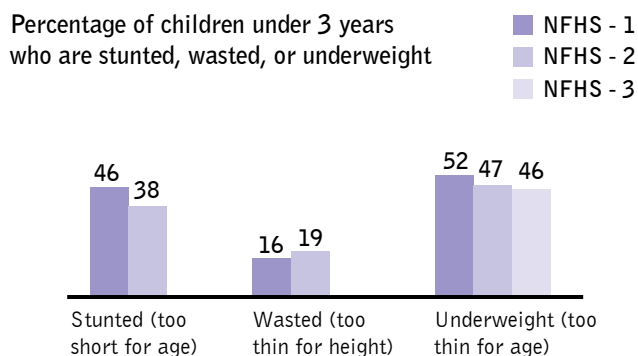
More than 50 per cent of children below five years of age in the villages bordering Bangladesh in district Nadia are either underweight or their growth has been stunted due to malnutrition.²¹ In Gudgudia, Orissa, the situation is no better. In April 2007, seven tribal children under the age of five were reported to have died from fever and malnutrition, following on from 13 infants dying due to malnutrition in one village in 2006.²²

Perhaps most shocking are the stories of starvation that emerged from the People's Tribunal on Starvation in eastern Uttar Pradesh in 2005. The interviews revealed

"Malnutrition is an outcome of insufficient food intake, impaired utilisation or depletion of nutrients due to repeated infectious diseases and parasites and low birth weight (LBW). While poverty and food insecurity contributes to malnutrition in India, some important causes, most of which are preventable, include improper and unsafe infant feedings and child care practices, gender disparity in distribution of food and general neglect of the girl child."

Mr. Onkar Singh Meena, District Magistrate of Nadia, West Bengal

Figure 2: Trends in Children's Nutritional Status



Source: Fact Sheet. NFHS - 3, 2007

¹⁷ Social Economic and Educational Status of Muslim Community in India, Government of India. A Report. November 2006, pp. 36,37.

¹⁸ Ibid.

¹⁹ Samata, A Study on the Status and Problems of Tribal Children in Andhra Pradesh, 2007, pp. 55.

²⁰ National Family Health Survey-3, Factsheet, 2007.

²¹ The Statesman, Malnutrition a major cause for worry, 25 March 2007.

²² The Hindu, 7 more children fall prey to malnutrition, 16 May 2007.

families on the brink of survival, living for days without food and beating their children to sleep to stop them crying from hunger.²³

Malnutrition is not only confined to the remote rural areas of India. In July 2007, state health officials confirmed that malnutrition had killed a six-month old in Mumbai's Aarey Milk Colony area.²⁴ State health officials also confirmed two additional cases of malnutrition, terming the phenomenon as "common" in the area's tribal settlements. When questioned, their parents said they could not afford to take their children to the hospital or to buy medicine. There are also claims that the state-run Aarey Hospital sends people away as soon as they realise they are malnourished.²⁵ Some 49 per cent of Mumbai's population lives in slums where chronic malnutrition is rife and 54.8 per cent of people do not get enough calories each day.²⁶

One of the major causes of malnutrition and hunger is food insecurity. The Targeted Public Distribution System (PDS) began in 1996 as a system of providing a basic minimum quantity of food grain and other food items at low prices to low-income, food-insecure and vulnerable populations. This clearly has a key role to play in promoting child survival and reducing malnutrition amongst the poorest and most marginalised children.

Recent evidence has revealed that targeting has led to high rates of exclusion of needy households from the PDS - excluding exactly the households most in need of subsidised food.²⁷ In rural areas, there is known to be a substantial overlap between the Scheduled Caste status, landlessness and poverty.²⁸ However, data taken from the 61st Round of the National Sample Survey shows that 70 per cent or more of SC households in the rural areas of Assam, Bihar, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan and Uttar Pradesh either had no Below Poverty Line (BPL) card or held an Above Poverty Line (APL) card, thus preventing them from accessing the PDS.²⁹

The Special Rapporteur on the Right to Food, Jean Ziegler, in his report based on his mission to India (August 20 - September 2, 2005) wrote that most victims of starvation are women and children of the Scheduled Castes and Scheduled Tribes, with their deaths mainly due to discrimination in the food based schemes. According to his report, this was because of discrimination in access to food, productive resources, evictions from lands, and a lack of implementation of food based schemes despite laws prohibiting discrimination and untouchability.³⁰

India's future goes to bed hungry

Three in four children in India are anaemic and one in three are stunted, found the National Family Health Survey-3, the largest ever health survey done simultaneously in 29 states during 2005 and 2006. With 21 per cent stunted children, Kerala has the best child nutrition indices. The worst is Uttar Pradesh, where 46 per cent children are underdeveloped, both physically and mentally, because they do not get quality food to eat.

Sanchita Sharma, Hindustan Times. New Delhi, 18 December 2006.



23 People's Vigilance Committee for Human Rights, Uttar Pradesh, India and Asian Human Rights Commission, Hong Kong, 2005.

24 Daily News and Analysis, Mumbai records death by malnutrition in Aarey, Sumitra Deb Roy, 21 July 2007.

25 Daily News and Analysis, Mumbai records death by malnutrition in Aarey, Sumitra Deb Roy, 21 July 2007.

26 World Socialist Web Site, Child malnutrition in the Indian state of Maharashtra, Karen Holland, 9 February 2006.

27 The Hindu, Public distribution system and social exclusion, Madhura Swaminathan, 7 May 2008.

28 Ibid.

29 The Hindu, Public distribution system and social exclusion, Madhura Swaminathan, 7 May 2008.

30 Paradox of Hunger amidst Plenty. Report of the Special Rapporteur on Right to Food, Jean Ziegler, on His Mission to India (August 20-September 2, 2005. Combat Law, Volume 5 Issue 3. June-July 2006.

Severe malnutrition has claimed the lives of around 125 children under six years of age in four districts of Madhya Pradesh since May 2008. According to a petition filed recently in the Supreme Court by the Right to Food Campaign, 64 Bhil tribal children have died of malnutrition in Satna district within the past four months. Similarly, Spandan, which works among the Korku tribe in the Khalwa block of Khandwa

Table 4: Ranking by Prevalence of Underweight Children (Per cent)

State	Prevalence of underweight children in country	Share of total underweight children in the world
Bangladesh	48	5.7
Nepal	48	1.2
Ethiopia	47	4.2
India	47	39.0
Timor-Leste	46	0.1
Yemen	46	1.1
Burundi	45	0.4
Cambodia	45	0.6
Madagascar	42	0.9
Eritrea	40	0.2
Lao People's Democratic Republic	40	0.2
Niger	40	0.8
Afghanistan	39	1.4

Source: UNICEF, 2006. State of the World's Children. Compiled from Tables 2 and 6

district, has reported the deaths of 39 children in 45 days. The Saharia Mukti Morcha, which works with the impoverished Saharia tribe in Shivpuri and Sheopur districts, said 16 children had succumbed to malaria in Shivpuri and five in Sheopur in the space of a few days, because their immunity was destroyed by severe malnutrition. Most children belong to abysmally poor tribal families whose daily earnings - when they are able to find work as labourers - rarely cross Rs 50-70.³¹ This is not the first time that children have been starving and dying in Madhya Pradesh. In 2006, UNICEF officials have claimed that the biggest reason for malnutrition is not lack of food, but instead social aspects such as the low social status of women, early marriage and little gap between the birth of children.³²

A similar picture can be seen in terms of people belonging to 90 per cent of rural ST households in Assam, 79 per cent in Arunachal Pradesh and 68 per cent in Chhattisgarh being excluded from the PDS.³³ In striving for "efficiency" by developing a narrow targeting system, the scheme has resulted in the exclusion of households that should be entitled to basic food security³⁴ – an issue which is becoming ever more serious in the wake of the current food crisis.

Table 3: Child Malnourishment in Indian States, 1998-99 and 2005-06

State	Malnourished Children (per cent)	
	1998-99	2005-06
Sikkim	20.6	22.6
Nagaland	24.1	29.7
Arunachal Pradesh	24.3	36.9
Kerala	26.9	28.8
Manipur	27.5	23.8
Mizoram	27.7	21.6
Goa	28.6	29.3
Punjab	28.7	27
Jammu & Kashmir	34.5	29.4
Haryana	34.6	41.6
Delhi	34.7	33.1
Assam	36	40.4
Tamil Nadu	36.7	33.2
Andhra Pradesh	37.7	36.5
Meghalaya	37.9	46.3
Uttaranchal	41.8	38
Tripura	42.6	39
Himanchal Pradesh	43.6	36.2
Karnataka	43.9	41.1
Gujarat	45.1	47.4
West Bengal	48.7	43.5
Maharashtra	49.6	39.7
Rajasthan	50.6	44
Uttar Pradesh	51.8	47.3
Madhya Pradesh	53.5	60.3
Bihar	54.3	58.4
Jharkhand	54.3	59.2
Orissa	54.4	44
Chhattisgarh	60.8	52.1
India	47	45.9

Note: The children are arranged in ascending order of per cent malnourishment among children in 1998-99.

Source: NFHS-2 and NFHS-3

31 NGOs allege 125 malnutrition deaths in MP. Infochange. The Economic Times, September 14, 2008. Hindustan Times, September 13, 2008. IANS, September 2008. <http://infochangeindia.org/200809167341/Poverty/News/NGOs-allege-125-malnutrition-deaths-in-MP.html>.

32 Geeta Pandey. Spotlight on India's malnourished children. BBC News. 2 May 2006, http://news.bbc.co.uk/2/hi/south_asia/4962880.stm

33 Ibid.

34 Ibid.

Although Muslims have a lower infant and child mortality rate, they are worse off than most other groups in terms of child under-nutrition. For instance, Muslims suffer from the highest rates of stunting and the second-highest rates of underweight children among all social groups. Muslims have amongst the highest incidence of child malnutrition in the Northeast. In the rest of the country, Muslim child malnutrition rates are observed to be lower than those among SCs and STs but higher than those among other Hindus in all other regions.³⁵

Exclusion of households from the public distribution system leads to food-insecurity, hunger and malnutrition. It is the Dalits and the tribals who constitute a large proportion of the excluded groups.

Table 5: Malnutrition Statistics by Caste/Tribe – India – NFHS-3 (Per cent)

	Scheduled Caste	Scheduled Tribe	Other Backward Classes	Other
Children under 3 years who are stunted	44.1	44.3	39.2	31.1
Children under 3 years who are wasted	20.5	25.7	18.9	16.4
Children under 3 years who are underweight	52.2	56.7	46.4	37.3

Malnutrition and the Current Global Food Crisis

UNICEF has warned that the current global food crisis, with escalating food inflation, has placed more than 150 million children in India at risk of becoming malnourished.³⁶ The price of rice has doubled between early 2007 and early 2008 and the price of wheat has increased over 130 per cent under the worldwide pinch. For every percentage point that the price of staple foods increases, the number of people who become ‘food-insecure’ increases by 16 million.³⁷ More expensive food is having a severe impact on poorer families, who have to cut back on the number of meals that they eat a day. This has a dramatic impact on child nutrition because children need to be fed frequently.³⁸

The world’s poor are now caught up in a struggle between addressing the emerging problems arising from climate change and lower levels of food production.

The quality and variety of food that families are eating is also changing with the current crisis. As meat is very expensive, many people have been forced to cut back on their consumption of meat, thus losing their protein source. The start of 2008 has seen increasing malnutrition in mostly western and mid-western parts of India.³⁹ It is expected that higher food prices will continue for several years since Asian economies have shifted their focus from agriculture to manufacturing. In West Bengal, the large-scale acquisition of land for industrial purposes is threatening to result in a food crisis in the state, as this will have a major impact on agricultural production and food security.⁴⁰ Once again, the poorest children have been left to bear the brunt of India’s development process.

‘Biofuels’ has become the buzz-word of recent months. The diversion of farmland for bioenergy has meant a reduction in the amount of food products being grown across the world. Biofuel uses the energy contained in organic matter – crops like sugarcane and corn – to produce ethanol, an alternative to fossil-based fuels like petrol.⁴¹ However, the heavily subsidised biofuel industry has been criticised for being immoral, as it is prioritising producing fuel for car engines over filling human stomachs.⁴² The world’s poor are now caught up in a struggle between addressing the emerging problems arising from climate change and lower levels of food production. Recent estimates suggest that increased demand for

35 Report on Social, Economic and Educational Status of the Muslim Community of India, Government of India. November 2006, pp. 43.

36 Damien Grammaticas. Food warning for Indian children. BBC News. 13th May 2008, http://news.bbc.co.uk/2/hi/south_asia/7398750.stm.

37 Indo Asian News Service, Inflation forcing 100 million more towards malnutrition: UNICEF, Prashant K. Nanda, 13 May 2008.

38 Damien Grammaticas. Food warning for Indian children. 13th May 2008. BBC News http://news.bbc.co.uk/2/hi/south_asia/7398750.stm.

39 AFP. Food prices hike increase malnutrition risk in South Asia: UNICEF, 14th May 2008, http://news.yahoo.com/s/afp/20080514/wl_sthasia_afp/inflationpovertyfoodnepalindiachildren_080514062945.

40 Mail Today, Buddha calls meet as Bengal panel warns of food crisis, Romita Datta, 16 April 2008.

41 BBC News, Bioenergy – fuelling the crisis?, Stephanie Holmes, 4 June 2008.

42 Ibid.

biofuels accounts for 30 per cent of recent food price rises.⁴³ At the June 2008 UN food summit, world leaders were urged to cut EU and US biofuel targets to divert more grain to tackle the global food crisis.⁴⁴ However, unless the right to food becomes a fundamental human right, enforced legally and socially, widespread hunger will remain across India and across the world.

Polio

Despite India's economic boom, it remains one of only four countries across the world where polio is endemic. New outbreaks of polio cases are appearing despite three decades of national immunisation plans. Although two years ago it looked like India was winning the war against polio and the disease might be wiped out by 2007, polio programmes are now in reverse in some parts of the country and the target date for the eradication of the disease has been pushed back as far as 2010.⁴⁵

Sadly for India, many more children are still walking into the polio trap as of 2007 and what awaits them is the crushing combination of social apathy, abysmally poor medical infrastructure and a resurgent disease that is flouting every attempt to eradicate it.

The Economic Times, 29 December 2007.

The 2007 World Social Forum on Health condemned the World Health Organization's (WHO) lack of transparency in acknowledging the failure of the Global Polio Eradication Initiative.⁴⁶ In 2007, an estimated 500 children across India were diagnosed with paralytic polio and this number does not include those carrying the virus without getting paralysed.⁴⁷ However, according to the government, only 169 cases had been reported up till 24 August 2007.⁴⁸ There can be no doubt that polio has affected children who have been vaccinated, demonstrating that there is no 'one shot' solution to controlling the disease. In the case of polio, a vaccination is unlikely to work in isolation of improvements in sanitation and the nutritional profile of affected populations.⁴⁹

In 1978, India adopted exclusive use of the Oral Polio Vaccine (OPV) following advice from the WHO, which said it would be most suitable for India's conditions. However, numerous doctors have started to question the efficiency of the OPV and one even goes as far as to say that had an injectable vaccine been used, polio would have been eradicated in India by 2000.⁵⁰ The example is given of Uttar Pradesh and Bihar. Children below five years old in these two Indian states are among the world's most vaccinated children. Almost 100 per cent of children have received four to 10 doses of OPV. However, out of the 676 new paralytic polio cases reported in 2006, 609 were in UP and Bihar.⁵¹

Tuberculosis

Tuberculosis (TB) is a common and deadly infectious disease caused by mycobacteria. Tuberculosis most commonly attacks the lungs (as pulmonary TB) but can also affect the central nervous system, the lymphatic system, the circulatory system, the genitourinary system, bones, joints and even the skin.^{52, 53} Six to eight per cent of the total TB cases are amongst children aged 0-14 years.⁵⁴ UP, Tamil Nadu, Maharashtra and Delhi are becoming increasingly vulnerable to the disease.⁵⁵

Children suffer both because they contract TB and because their parents have TB. Six to eight per cent of the total TB cases are amongst children aged 0-14 years.

43 The Times, Cut biofuel targets to feed the poor, leaders are urged, 3 June 2008.

44 Ibid.

45 The Economic Times. Polio outbreak jolts eradication campaign. 29 December 2007.

46 Statement from World Social Forum on Health. Nairobi. Kenya. 24 January 2007.

47 Ibid.

48 Rise in Number of Polio Cases. LSSQ222. 29 Sept.2007.

49 Times of India, Drop in the ocean, 23 September 2006.

50 The Economic Times. Polio vaccine: Is it time for course correction?. 29 December 2007.

51 The Economic Times. Polio outbreak jolts eradication campaign. .29 December 2007.

52 Wikipedia, Tuberculosis. <http://en.wikipedia.org/wiki/Tuberculosis>.

53 Dr. Anbumani Ramadoss, TB India 2005, Status Report RNTCP (Revised National Tuberculosis Control Programme): Central TB Division. Director General of Health Services. Ministry of Health and Family Welfare.

54 RSUSQ 3275, 4 May. 2007.

55 Hindustan Times. UP, TN, Delhi Children More Vulnerable To TB. 15 March 2007.

Table 6: Cases of TB in Children (0-14 years) in 2006

State	Number	Per cent	State	Number	Per cent
1 Andaman & Nicobar	135	17	19 Lakshadweep	0	0
2 Andhra Pradesh	2539	3	20 Madhya Pradesh	2298	4
3 Arunachal Pradesh	56	3	21 Maharashtra	6825	6
4 Assam	888	3	22 Manipur	276	8
5 Bihar	2174	4	23 Meghalaya	246	9
6 Chandigarh	225	12	24 Mizoram	82	5
7 Chhattisgarh	1309	5	25 Nagaland	189	9
8 D & N Haveli	15	5	26 Orissa	1486	4
9 Daman & Diu	1	0	27 Pondicherry	21	2
10 Delhi	5223	14	28 Punjab	1680	6
11 Goa	161	10	29 Rajasthan	4142	5
12 Gujarat	2690	5	30 Sikkim	183	16
13 Haryana	1395	5	31 Tamil Nadu	8255	11
14 Himachal Pradesh	229	2	32 Tripura	21	1
15 Jammu & Kashmir	219	2	33 Uttar Pradesh	10118	5
16 Jharkhand	1175	4	34 Uttarakhand	523	6
17 Karnataka	3078	6	35 West Bengal	4910	5
18 Kerala	1930	9	36 Grand Total	64697	6

Source: Paediatric TB. RSUSQ 3275, 4 May 2007

Recent studies conducted on the socio-economic impact of TB revealed that over 300,000 children are orphaned by the disease every year while over 100,000 women are rejected by their families once they contract the disease.

Thousands of children drop out of school on account of parental illness, while over 20 per cent of them have to take up jobs to supplement income, especially if the father has TB.⁵⁶

Anaemia

As many as 79.1 per cent of India's children between the ages of three and six, and 56.2 per cent of married women in the age-group 15-49 were found to be anaemic in 2006.⁵⁷ The head of UNICEF India's health division said that the situation for children had worsened in 16 Indian states over the last seven years. The worst affected states are Andhra Pradesh, where 79 per cent of children suffer from anaemia, Rajasthan, which has a figure of 79.8 per cent and Karnataka and Madhya Pradesh, where over 82 per cent suffer from anaemia. Even in Delhi, as many as 63.2 per cent of children are anaemic, only a slight decline from 69 per cent in the 1998-99 National Health Family Survey.⁵⁸

Anaemia is a deficiency of red blood cells, which can lead to a lack of oxygen-carrying ability, causing unusual tiredness and other health-related problems. According to the NFHS-3, India has the highest number of cases of anaemia in the world. The reasons range from the high cost of health care, poor food quality and the low status of women. The worst affected states are Andhra Pradesh, Rajasthan, Karnataka and Madhya Pradesh.

Oneworld South Asia, Anaemia a huge problem in India, 2007.

The prevalence of severe anaemia is higher in adolescent girls. One study carried out by the Union Ministry of Health and Family Welfare in Tamil Nadu with more than 1,000 girls aged between 10 and 19 revealed that 14 per cent were suffering from severe anaemia, 66 per cent from moderate anaemia and 19 per cent from mild anaemia.⁵⁹

In March 2008, the government responded to concerns about the huge number of children in the six months to 59 months age group suffering from anaemia, by announcing that it would take several steps, including providing supplementary and

⁵⁶ The Times of India. World TB Day: Women, Children Worst Hit. 24 March 2008.

⁵⁷ Oneworld South Asia. Anaemia A Huge Problem In India-NFHS-3. 2007. <http://oneworld.net/article/view/146731>.

⁵⁸ Ibid.

⁵⁹ The Hindu, Anaemia Affects 95 Per Cent Of Pregnant Women, 14 November 2007.

fortifying food and vitamin supplements to tackle the illness.⁶⁰ Prime Minister Manmohan Singh held a meeting with the Ministers for Women and Child Development, Human Resource Development, Rural Development and Health to develop a strategy to tackle the problem. A decision was made to introduce fortified food in mid-day meals and to extend the provision of iron and folic acid tablets under the RCH programme to children up to eighteen years.⁶¹

HIV and AIDS

Exact figures regarding HIV and AIDS prevalence among children are not available. According to an annual sentinel survey in 2007, it was estimated that around 70,000 children below 15 years of age were HIV infected. Out of them 22,000 children were registered under the Paediatric ART (Antiretroviral Therapy) initiative and 6,261 were clinically eligible children had started ART.⁶² Significantly, the 2007 UNAIDS epidemic update for Asia makes no mention of children. According to UNAIDS, there were 120,000 Indian children living with the virus in 2004. However, the National AIDS Control Organisation (NACO) estimated that there were around 60,000 new infections in 2005 alone and estimated that up to 250,000 children in India are HIV positive.⁶³ This is significantly higher than the figure of 70,000 children below 15 years infected by HIV recently quoted in response to a Parliamentary Question. The response added that out of these, around 22,000 have been registered under a paediatric Anti-Retroviral Treatment (ART) initiative and 6,261 clinically eligible children have been started on ART.⁶⁴

Who is affected by HIV and AIDS in India?

People living with HIV in India come from incredibly diverse backgrounds, cultures and lifestyles. The vast majority of infections occur through heterosexual sex, and most of those who become infected would not fall into the category of 'high-risk groups' - although members of such groups, including sex workers, men who have sex with men, truck drivers and migrant workers, do face a proportionately higher risk of infection.

Source: <http://www.avert.org/aidsindia.htm>

The adult national HIV prevalence was 0.36 per cent. Although the proportion of people living with HIV is lower than was previously estimated, India's epidemic continues to be substantial in terms of absolute numbers. Earlier figures that placed the number of people living with HIV at 5.1 million in India have now been revised and new, more accurate estimates indicate that approximately 2.5 million (2 million – 3.1 million) people living in India were living with HIV in 2006.⁶⁵

Any person can be infected by the AIDS virus. Discrimination, exclusion and stigmatisation are faced by all persons living with HIV and AIDS. Children are treated no better. However, within this life of vulnerability and stigma, some are more vulnerable than others.

Children from tribal populations face even less support, as there is currently no specific programme for addressing HIV and AIDS amongst tribal communities. Samata's report documents how with trafficking on the rise, the incidence of HIV and AIDS amongst the tribal population is also steadily increasing.⁶⁶ In many cases, tribal girls are trafficked and returned to their villages years later with full blown AIDS. Tribal children and women affected by HIV currently have no source of support from the government.

21,000 children are infected through mother to child transmission every year. Sexual abuse, violence against women and girls, and gender inequality make girls more vulnerable to HIV transmission. Other vulnerable groups include street children, child sex workers, children of sex workers, and children from lower castes. The incidence of HIV and AIDS amongst the tribal population is also steadily increasing.

Girls are especially vulnerable to becoming infected or affected by HIV and AIDS. Sexual abuse, violence against women and girls, and gender inequality make them vulnerable to HIV transmission. At the same time, given the

60 India eNews. Seventy per cent of children anaemic, government to take steps. 5 March 2008.

61 Ibid.

62 AIDS affected children and their education RSUSQ.1448. 24 Sept.2007.

63 The Hindu. Left out – Children with AIDS. Sarah Hiddleston. 31 May 2006.

64 Lok Sabha. Unstarred question number 1448, 24 August 2007. Monsoon Session- 2007.

65 UNAIDS. AIDS Epidemic Update 2007. Regional Summary. 16 April 2008.

66 Samata. A Study on the Status and Problems of Tribal Children in Andhra Pradesh. 2007. pp. 65,67 and 70.

gender discriminated society we live in, girls are more likely to be pulled out of school to care for sick family members and if they are living with HIV and AIDS themselves, they may be the last family members to receive medical care. Other groups of children in India that are especially vulnerable to HIV and AIDS are marginalised children such as street children, street children, children exploited for commercial sex, children of sex workers, and children from lower castes.⁶⁷

Children continue to be neglected in analyses of the HIV epidemic and it is very difficult to find accurate figures for the number of infected or affected children in India.

The MDG target to stabilise and reverse the rate of HIV infection remains a challenge in India. Drug-related transmission is commonplace in the poorer regions of the Northeast and in South India, and the high infection rate amongst sex workers is spreading the virus to women in rural areas.⁶⁸ These groups are the primary focus of the NACO.

An Indian delegation sits at the United Nations General Assembly Special Session (UNGASS) to review the 2001 Declaration on HIV and AIDS. The Declaration included commitments to prepare by 2003 and implement by 2005 strategies for special assistance for children orphaned by and vulnerable to HIV and AIDS and to roll out treatment and care.⁶⁹

The government has finally recognised the need to give adequate attention to HIV and AIDS.⁷⁰ The Policy Framework for Children and AIDS seeks to broaden the focus to address the needs of the overwhelming majority of children affected by HIV and AIDS in recognition of the fact that the virus is seen to have a profound and permanent effect on their lives. However, while the policy is for children up to the age of 18 years, the available age group data is only divided between below 15 years of age, 15- 49 and above 50 years.

Malaria

Malaria continues to ravage nations and rob children of their lives.⁷¹ Annually, malaria affects half a billion people across the world and kills two – three million people. A child is killed by the illness every 30 seconds. In India, 1.8 million people were affected by malaria in 2006 and on average 1,000 die from malaria each year.⁷² Children of one to four years constitute the most vulnerable age group.

Since malaria is a major contributory cause of death in infancy and childhood in many developing countries, the so called presumptive treatment of fever with anti-malarial medication is advocated in many countries where malaria is endemic.⁷³ The NFHS-3 found that of the respondents, only eight per cent of children with fever were given an anti-malarial drug and 13 per cent were given antibiotics.⁷⁴ Use of antibiotics and anti-malarial drugs amongst children increased with increasing education of the mother and increasing wealth status of the household.⁷⁵ This reveals how poor rural children continue to be left at the bottom of the pile in terms of access to simple life-saving treatment for malaria.

Malaria impacts the marginalised tribal communities that have little access to medical facilities. In India, the 7.8 per cent tribal population contributes to about 30 per cent of malaria cases of which more than 60 per cent are

Every day around 1,000 children die of diarrhoea in India, which means 41 children lose their lives every 60 minutes.

67 Renuka Motihar, Emerging Initiatives To Decrease The HIV Vulnerability Of Marginalized Children In India: The Example Of Children Of Sex Workers And Street Children, Health Exchange. 2005-1 http://www.kit.nl/exchange/html/2005-1_emerging_initiatives_to.asp.

68 Oneworld, India Guide, <http://us.oneworld.net/guides/india/development>.

69 The Hindu, Left out – Children with AIDS, Sarah Hiddleston, 31 May 2006.

70 Policy Framework for Children and AIDS, India, 2007.

71 Kounteya Sinha, Malaria Vaccine Kindles Hope, The Times of India, 19 October 2007.

72 Ibid.

73 National Family Health Survey – 3, Chapter 9 Child Health, 2007, pp. 237.

74 Ibid, pp. 238.

75 Ibid, pp. 238.

Plasmodium vivax cases – the most lethal type. This section of society also contributes to 75 per cent of all malaria deaths.⁷⁶

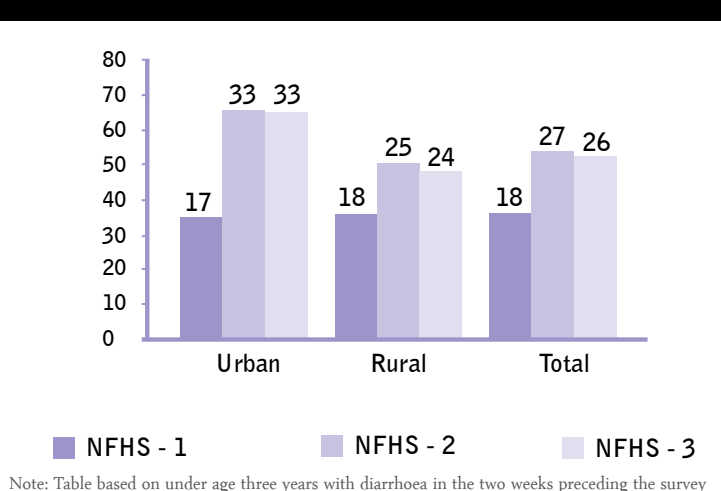
Diarrhoea

Diarrhoea continues to be one of the single most common causes of death amongst children under five worldwide, with children aged between six to 11 months most susceptible to diarrhoea. One out of every five children who die of diarrhoea worldwide is Indian.⁷⁷

Most deaths are caused by dehydration, which is easily preventable by taking oral rehydration salts. In response to this, the government launched the Oral Rehydration Therapy Programme in 1985-6 as one of its priority activities for child survival.⁷⁸ One major goal of this programme is to increase awareness among mothers and communities about the causes and treatment of diarrhoea. The NFHS-3 asked mothers of children

born during the five years preceding the survey a series of questions regarding episodes of diarrhoea suffered by their children in the two weeks prior to being interviewed. The survey found that advice or treatment was sought from a health care provider for six in 10 children who had diarrhoea.⁷⁹ Despite the Oral Rehydration Therapy Programme, the use of oral rehydration salts did not increase in urban or rural areas in the seven years between NFHS-2 and NFHS-3.⁸⁰ Worryingly, more than half of children (57 per cent) received neither oral rehydration salts nor increased fluids when sick with diarrhoea.⁸¹

Figure 3: Trends in Use of Oral Rehydration Salts (ORS) by Residence



Acute Respiratory Infection

Acute respiratory infection (ARI), including pneumonia, is one of the leading causes of child mortality throughout the world.⁸² This is caused by the high prevalence of malnutrition, low birth weight, and indoor air pollution in developing countries. UNICEF's 2006 report on pneumonia documents how of the 133 million childhood pneumonia cases around the world, India accounted for 44 million and China accounted for 18 million.⁸³ Over 1,090 Indian children under five years of age die every day from pneumonia, although the disease is not commonly talked about.⁸⁴ According to UNICEF's 'State of the World's Children' 2008 report, 19 percent of the total under-five mortality in India is due to pneumonia and the illness claims the lives of 399,000 children in India every year.⁸⁵ Whilst the pneumonia vaccine is commonly used in some countries (70 per cent in South Korea and over 40 per cent in Hong Kong), circulation in India is less than 10 per cent.

Pneumonia is a silent killer. It kills more children than malaria, AIDS, measles and injuries together do.

Marzio Babilie, head of children's health at UNICEF India

The NFHS-3 carried out research into the incidences of ARI in children(See Table 1 in Annexure). The survey found that six per cent of children under five had shown symptoms of ARI in the two weeks prior to the survey. The findings

⁷⁶ Centre for Science and Environment, Draft Dossier: Health and Environment, 2006.

⁷⁷ Indian Health News. Diarrhoea Claims Nearly 1000 Children In India Every Day, 19 September 2007.

⁷⁸ National Family Health Survey – 3. Chapter 9 Child Health, 2007, pp. 240.

⁷⁹ Ibid, pp. 240.

⁸⁰ Ibid, pp. 241.

⁸¹ Ibid, pp. 243.

⁸² Ibid, pp. 234.

⁸³ UNICEF/WHO, Pneumonia – The Forgotten Killer of Children, 2006, pp.10

⁸⁴ Prashant K Nanda, Pneumonia Kills Over A 1000 Indian Children Daily, 31 January. www.nerve.in/tags/unicef+india.

⁸⁵ UNICEF, State of the World's Children – Child Survival, 2008.

reveal that ARI affect children from all strata, irrespective of their socio-economic background. However, what does vary is the response to the illness, with urban children, boys, children of mothers with the highest level of education and those belonging to the highest wealth quintile being much more likely to be taken to a health facility for treatment or advice.⁸⁶ This demonstrates how even with illnesses that can affect all children, discrimination and poverty play a key role in terms of access to treatment – and can determine whether a child lives or dies.

The prevalence of ARI in children varies dramatically from one state to the next. Just over one per cent of children under five in Himachal Pradesh showed symptoms of ARI as compared to over 14 per cent in Tripura and 13 per cent in West Bengal.⁸⁷

Fluorosis

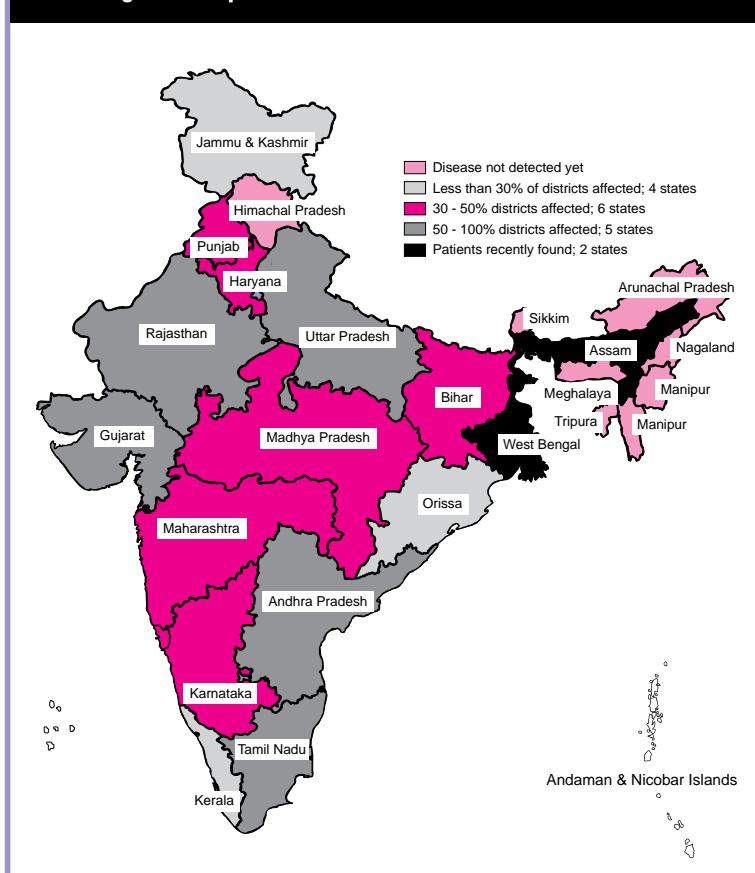
Fluorosis is a condition caused by a high level of fluoride content in drinking water and food products. Once affected by fluorosis, the person's bones and teeth get damaged permanently. Fluorosis is a problem in 19 states – Andhra Pradesh, Gujarat, Rajasthan, Karnataka, Orissa, Punjab, Maharashtra, Madhya Pradesh, Haryana, Bihar, Tamil Nadu, Uttar Pradesh, West Bengal, Kerala, Assam, Delhi, Jammu and Kashmir, Jharkhand and Chhattisgarh.⁸⁸ According to one report, an estimated 62 million people in India are affected with dental, skeletal or non-skeletal fluorosis.⁸⁹

Out of 29 countries known to have excess fluoride in drinking water, the number of people suffering from fluorosis in India is the highest in the world and that number is thought to be increasing. In 1999, the Fluorosis Research and Rural Development Foundation in Delhi claimed that of the estimated 62 million people adversely affected by fluorosis in India, six million of these were children below the age of 14.⁹⁰

In January 2007, there were reports of 386 confirmed cases of fluorosis in Sonbhadra district of Uttar Pradesh. This includes 98 children who have become handicapped by the disease. It is reported that the fluoride content in the water samples in the region showed at least five to six times the normal level, placing 36,000 people at risk from developing fluorosis if action is not taken. It is the most vulnerable sectors of society affected by fluorosis as the villagers are from various scheduled tribes and castes in UP. Because of this problem,

Out of 29 countries known to have excess fluoride in drinking water, the number of people suffering from fluorosis in India is the highest in the world. Although it is difficult to obtain recent statistics for the number of children, there can be no doubt that they are affected.

Figure 4: Fluoride Contaminated Supplied Water and Sufferings of People



Source: Fluorosis in Assam - India. D. Chakraborti, C.R. Chanda, G. Samanta, U. K. Chowdhury, S.C. Mukherjee, A.B. Pal, B. Sharma, K.J. Mahanta, H.A. Ahmed and B. Sing. *Current Science*, 78(12), 1421-1423, 2000.

⁸⁶ National Family Health Survey – 3. Chapter 9 Child Health. 2007. pp. 234.

⁸⁷ Ibid.

⁸⁸ UK Against Flouridation, India – to launch flourosis prevention, 8 March 2007.

⁸⁹ D. Chakraborti, C.R. Chanda, G. Samanta, U. K. Chowdhury, S.C. Mukherjee, A.B. Pal, B. Sharma, K.J. Mahanta, H.A. Ahmed and B. Sing, Fluorosis in Assam - India, *Current Science*, 78(12), 1421-1423, 2000. http://www.soesju.org/arsenic/misc_crip1a.htm.

⁹⁰ Ibid.

they are frequently rejected as manual labourers as they suffer from injuries caused by weak bones. Samithi, a local human rights organisation, has been approaching the UP state government to ask for action to address this problem for the past 10 years, but so far there has been no response from the government.⁹¹

It is impossible to obtain recent statistics for the number of children in India affected by this illness, particularly as it is difficult for doctors to diagnose fluorosis in children.⁹² However, evidence suggests that further research is needed to assess the full extent and effects of this disease and to address the situation where high levels of fluoride are found in the water.

Silicosis

Silicosis, an occupational lung disease caused by the inhalation of silica dust, continues to be a major killer in certain areas of Delhi, Gujarat and other parts of the country, where workers of stone-crushing and quarrying units are exploited by their employers and neglected by governments. Under the surface of prosperity in the nation's capital, lie buried stories of people who have built the city and are now condemned to a life of disease and death. In Lal Kuan, there are many stories of former mine and quarry workers who are unable to breathe and unable to work. Before crushing activities ceased, the village used to be covered by a thick layer of dust, being inhaled constantly by adults and children. The situation in this particular village came to light in 2001, on investigation by a local NGO, PRASAR who observed the high number of workers succumbing to the disease. After having exhausted all possibilities including writing to the Ministries concerned at both the state and central levels, PRASAR has now resorted to filing a Public Interest Litigation (PIL). Its petition before the Delhi High Court, which is being argued by the Human Rights Law Network, has sought directions from the court for the constitution of a committee for the detection of silicosis among the residents of Lal Kuan; the issuance of appropriate guidelines for the prevention and treatment of silicosis and other incidental diseases; the rehabilitation of persons and families affected by the disease; compensation to the families of workers who died after contracting the disease; and alternative employment to the family members of victims.⁹³

The impact of silicosis on children is very vital as more and more lands are brought under mining in the country and children continue to be living and even working in these areas.

In Lal Kuan, as with the Khambhat area of Gujarat, the homes of workers are located next to the mining sites, putting entire families at risk of silicosis.⁹⁴ A report by the Industrial Toxicology Research Centre into agate workers in Gujarat revealed that small children being taken to work by their mothers were inhaling the dust and experiencing breathing problems.⁹⁵

Maternal Mortality

Maternal mortality rates in India continue to be unacceptably high, with childbirth killing one woman every seven minutes in the country. UNICEF's State of the World's Children 2008 report states that maternal mortality remains unacceptably high in Sub-Saharan Africa and South Asia, with scant advances registered over the past decade.⁹⁶

Early marriage and early pregnancy, along with lack of pre-natal services and unsafe delivery, continue to be major causes of maternal mortality in the country.

The report continues to say that community health workers have been less effective in identifying and managing complications during childbirth. Reducing maternal mortality therefore requires the scaling up of skilled attendance at birth with referral systems for emergency obstetric care.⁹⁷

91 Hunger Alert, Government sleeps over 386 confirmed cases of fluorosis in Sonbadhra district of UP, 26 January 2007.

92 Fluorosis Research and Rural Development Foundation, http://www.fluorideandfluorosis.com/Organization/Information_Services.html.

93 The Hindu, Breath Of Death, T.K. Rajalakshmi, July 2004.

94 Ibid; and Enquiry Report by PUCL, Gujarat, Silicosis – A death trap for agate workers in Gujarat, 1 November 2007.

95 Enquiry Report by PUCL, Gujarat. Silicosis – A death trap for agate workers in Gujarat, 1 November 2007.

96 UNICEF, State of the World's Children – Child Survival, 2008.

97 Ibid.

The 2007 NFHS-3 found that almost one in five women who gave birth in the five years before the survey received no antenatal care, ranging from one per cent or less in Kerala, Goa and Tamil Nadu to 66 per cent in Bihar. The likelihood of receiving antenatal care increases sharply with the household's wealth index. Among mothers in households with the lowest wealth quintile, only 23 per cent received antenatal care from a doctor.⁹⁸

According to the survey, delivery of births by a health care professional has increased to 49 per cent, from 35 per cent in NFHS-1 and 42 per cent in NFHS-2. Still, the survey found that 37 per cent of deliveries were assisted by a traditional birth attendant and 16 per cent were delivered by a relative or untrained person.⁹⁹

Once again, tribal women suffer from a lack of basic health care facilities. Samata's report on tribal communities in Andhra Pradesh documents how maternal mortality rates are around 25 per cent, meaning that a staggering one in four women does not survive pregnancy and childbirth.¹⁰⁰ Almost all tribal girls get married by the time they attain puberty and 43.1 per cent of the pregnant women receive no antenatal medical care. More than 80 per cent of the women deliver their babies at home, unaided and unattended. Huge efforts need to be made to increase antenatal care and the use of skilled birth attendants for every woman across the country.

Disability

Disabled children still face discrimination at many levels in India, with many denied adequate health care facilities and huge numbers being excluded from education. The 2001 Indian Census reported that there are 21.9 million people in India who are disabled, and that there are seven million within the age-group 0-19 years who are living with a disability.¹⁰¹ This data includes people living with visual, hearing, speech, physical and mental impairments. One in every 10 children is born with, or acquires, a physical, mental or sensory disability. Shockingly, 75 per cent of these disabilities are preventable.¹⁰²

Disabled from birth, disabled children and disabled women are the least likely to seek health care. There is also stark regional disparity – in general, states that lack social, welfare and health services also fail to adequately care for children with disabilities. In addition to this, services for disabled children tend to be centred in the large cities, whereas the majority of children with special needs live in rural areas. Those suffering from mental health disorders face the worst stigma and social exclusion. Mental illness accounts for nearly one sixth of all health-related disorders but India spends less than one per cent of its total health budget on mental health.¹⁰³

The Integrated Child Development Services is expected to train Anganwadi workers about disability and the Anganwadi centres are supposed to provide referral services where necessary. However, a recent audit carried out in UP revealed that only 25 per cent of Anganwadi workers had received any training about disability and majority of the children enrolled at the centres with special needs had not received any medical care.¹⁰⁴

Childbirth kills 77,000 women in India each year

NEW DELHI: Every seven minutes you spend browsing through the paper, one woman dies in India due to complications in pregnancy or childbirth. That's 77,000 deaths every year. A report released on Saturday by the Registrar General of India under the Ministry of Home Affairs attributes the high percentage of deaths to rundown maternity services and mother-and-childcare centres and rural health facilities. The current survey also reports that there are 300 maternal deaths per one lakh live births despite the millennium target of bringing the number down to 200 by 2007.

Ginnie Mahajan, Daily News Analysis (DNA), Sunday, 11 March 2007

Indian society continues to treat disability with indifference, pity or revulsion. Low literacy, school enrolment and employment rates as well as widespread social stigma are making disabled people among the most excluded in Indian society and deter them from taking an active part in the family or community.

Childline India Foundation

98 National Family Health Survey-3. Chapter 8. Maternal Health. 2007. pp. 195.

99 National Family Health Survey-3, 2007, Maternal health factsheet.

100 Samata, A Study on the Status and Problems of Tribal Children in Andhra Pradesh, 2007, pp. 55.

101 Census of India 2001.

102 Childline India Foundation, <http://www.childlineindia.org.in/cr-disability.htm>.

103 Ibid.

104 Hindustan Times, Funds crunch cripples ICDS, Lucknow edition, 12 February 2007.

Environmental Threats

Environmental threats to children's health are widespread and are of growing concern with rapid, largely indiscriminate industrialisation leading to dangerous levels of contamination and pollution. This has been pointed out by Toxics Link, an NGO working on environment and toxic waste. Quoting the World Health Organization (WHO)'s classification of five mortality strata, they have noted that India is classified under the Sear-D category, that is, among the countries in the South-east Asian Region with high child and adult mortality Rates.¹⁰⁵

According to a report by the Centre for Science and Environment (CSE), more than 60 per cent of India's population succumbs to diseases and ailments every year, triggered by environmental causes.¹⁰⁶ The report explains how old pestilences like malaria, diarrhoea and malnutrition have increased their prevalence, whilst modern diseases such as cancers, cardiovascular ailments and asthma have risen sharply.

Every year in developing countries alone, an estimated three million people die prematurely from water-related diseases and two million people die from exposure to stove smoke inside their homes. The largest proportions of these deaths are infants and young children, followed by women. Most of these are from poor rural families who lack access to safe water, sanitation and safe household fuels.¹⁰⁷

According to the study "Trends of poisoning in children: the Indian perspective" presented by Prof S. K. Gupta, during the International Conference on Children and Environmental Health, the National Poisons Information Centre of the All India Institute of Medical Sciences, New Delhi, received a total of 233 paediatric poisoning calls from healthcare professionals of different cities in India. The poisoning calls were maximum in the age group of 1-5 years, followed by the age group of 6-12 years, infants and neonates. The most common sources were household products, followed by drugs and agricultural pesticides.¹⁰⁸

A study conducted by the Thiruvananthapuram-based NGO, Thanal, and the Periyar Malineekarana Virudha Samithi found that thousands of people living near Kuzhikandam creek in Eloor were afflicted with various diseases, including cancer and congenital birth defects.¹⁰⁹ The study also found that industrial pollution caused by discharge of hazardous chemicals, including DDT, hexachlorocyclohexanes, heavy metals, cadmium, mercury, endosulfan, chromium, copper, mercury, lead, toluene, manganese and nickel into Kuzhikandam creek had adversely affected the health condition of people in Eloor. Of the families surveyed, about 15 per cent of the residents had uncontrolled muscular movements and children in 20 families had learning disabilities. CSE's report concludes that policy makers are failing to recognise the link between environment and health, and that environmental health issues are falling between two stools.¹¹⁰

Health Services

The 2005 HAQ Status of Children report explained how child health has never really found its own space in the government's efforts to improve health care in India and is generally treated as an extension of reproductive health care programmes. In 2008, this is still the case, despite the fact that India's children continue to die of easily preventable and easily treated illnesses.

National Rural Health Mission

Launched by the Prime Minister on 12 April 2005, the National Rural Health Mission (NRHM) aims at undertaking architectural correction of the health system to enable it to effectively handle the increase in health spending from 0.9 per cent of GDP to the two per cent of GDP promised under the National Common Minimum Programme. It proposes to

¹⁰⁵ Toxics Link Factsheet . Number 22 / Sep 2004 <http://www.toxicslink.org/mediapr-view.php?pressrelnum=89>.

¹⁰⁶ Centre for Science and Environment, Draft Dossier: Health and Environment, 2006.

¹⁰⁷ Ibid.

¹⁰⁸ Conference booklet of the International Conference on Environmental Threats to the Health of Children: Hazards and Vulnerability, Bangkok, Thailand, March 3-7, 2002 in Toxics Link Factsheet Number 22 / Sep 2004.

¹⁰⁹ The Hindu, Study finds high incidences of diseases in Eloor belt, 17 October 2006.

¹¹⁰ Centre for Science and Environment, Draft Dossier: Health and Environment, 2006.

The key priorities and targets for health under the Eleventh Plan (2007 – 2012) are:

- To reduce the infant mortality rate to 28 and the maternal mortality rate to one per 1,000 live births
- To reduce the fertility rate to 2.1
- To provide clean drinking water for all by 2009 and ensure that there are no slip-backs
- To reduce malnutrition among children of the age group 0-3 to half its present level
- To reduce anaemia among women and girls by 50% by the end of the plan

According to UNICEF, the government of India's Action on Health involves three current priorities:

- Strengthen existing health systems by increasing the number of health workers
- Prevent newborn deaths through home-based medical visits
- Increase children's access to immunisation

restructure the delivery mechanism for health towards providing universal access to equitable, quality and affordable health care that is accountable and responsive to people's needs.¹¹¹ This programme promised a major upgrading of health centres and introduced a new line of health workers known as Accredited Social Health Activists (ASHA).

Evaluations have indicated an improvement as far as infrastructure and access to health care is concerned since the launch of the NRHM. Reports from several states show an increase in the number of patients visiting Primary Health Centres and Community Health Centres (CHC).¹¹² However, other reports have suggested that there is still a serious need to improve the rural health infrastructure, with only 63 per cent of CHCs having adequate infrastructure and just 14 per cent having adequate staff.¹¹³

The National Rural Health Mission has been criticised for being just a label for selected activities from existing programmes, with the only real 'new' component being the ASHA scheme.¹¹⁴ The government has also failed to allocate enough resources to the NRHM. If the resources provided for health were to be distributed on a per capita basis equitably, then rural health care should get around Rs. 175 billion per annum as opposed to the Rs. 100 billion it currently receives.¹¹⁵ This does not happen because the more expensive hospital services and the elaborate health bureaucracy continue to be located in the urban areas, showing continued urban bias.¹¹⁶ The overall NRHM strategy needs to be reoriented into a universal access framework for which financial resources need to be determined on the basis of the needs and demands of people.

ASHA - A Ray of Hope

The Accredited Social Health Activist is called by the acronym ASHA, which in Hindi means 'hope'. She must be a primary resident of the village with formal education up to the eighth class, and preferably in the age group of 25-45 years. She would be selected by the Gram Sabha through an intense community mobilization process, and provided with training. She would also be equipped with a drugs kit. After selection, ASHA will be given induction training for 23 days spread over a period of 12 months. Training manuals have been prepared. ASHA will be given periodic training, re-training and on-the-job training. She will act as a mobilizer, a facilitator and a link between ANM at sub-centre, anganwadi worker (under the Integrated Child Development Services programme) and the community, and play a major role in forging ownership of the community for the health programme. ASHA will be the first point of call for any health-related demands of deprived sections of the population, especially women and children, who find it difficult to access health services. She will ensure better access to universal immunization, safe delivery, newborn care, and prevention of water-borne and other communicable diseases, nutrition and sanitation. She will be accountable to the Panchayat, and will be entitled to receive performance-based compensation for providing health services.

Source: S K Satpathy and S Venkatesh, Human Resources for Health in India's National Rural Health Mission: Dimension and Challenges

111 S K Satpathy and S Venkatesh. Human Resources for Health in India's National Rural Health Mission: Dimension and Challenges. Regional Health Forum Volume 10 No 1, 2006 http://www.searo.who.int/LinkFiles/Regional_Health_Forum_Volume_10_No_1_03-Human_Resources_for_Health_in_Indias_National.pdf.

112 The Hindu. Ministry Draws Up Plan To Promote Rural Health Mission. Aarti Dhar. 19 March 2007.

113 Ibid.

114 Ravi Duggal. Financing the NRHM. Centre for Enquiry into Health and Allied Themes. Mumbai.

115 Ibid.

116 Ibid.

Reproductive and Child Health

The majority of child health services continue to be covered under the Reproductive and Child Health (RCH) programme that was launched in 1997 by the Ministry of Health and Family Welfare. The RCH programme incorporates the components covered under the Child Survival and Safe Motherhood Programme and includes an additional component relating to reproductive tract infections and sexually transmitted diseases.¹¹⁷ The programme aims to comprehensively integrate interventions to improve child health and was initiated originally to address each of the major factors contributing to high infant mortality rate and under-five mortality.

The components of child health care include:

- Essential newborn care
- Immunisation
- Nutrition
- Exclusive breastfeeding for six months
- Timely introduction of complimentary feeding
- Detection and management of growth faltering
- Vitamin A supplementation
- Iron supplementation
- Early detection and appropriate management of Acute Respiratory Infections, diarrhoea and other infections

The RCH programme has various components, such as the provision of emergency transportation, the supply of emergency obstetric care equipment and iron and folic acid tablets, and the provision of hiring private gynaecologist by public health facilities. However, the RCH Facility Survey conducted in 2000 reveals poor availability and utilisation of these provisions, showing that the programme implementation has to be improved for attaining its set objectives.¹¹⁸

The second phase of the RCH programme – known as RCH-II – commenced on 1st April 2005 and will run till 2010. The main objective of the programme is to bring about a change in three critical health indicators: 1) reducing the total fertility rate, 2) reducing the infant mortality rate, and 3) reducing the maternal mortality rate.

Integrated Child Development Services

As outlined in the chapter on early childhood, the Integrated Child Development Services (ICDS) was launched by the government in 1975 with the aim of improving the health and well-being of new mothers and children under six by providing health and nutrition education, health services, supplementary food, and pre-school education. However, its reach has been called into question on numerous occasions and the third National Family Health Survey (NFHS-3), indicates that only 28 per cent of children received any services from an Anganwadi centre (the network of centres through which the scheme is implemented).

Immunisation

Children in India continue to lose their life to vaccine-preventable diseases such as measles, which remains the biggest killer.¹¹⁹ The universal immunisation of children against six vaccine-preventable diseases (TB, diphtheria, whooping cough, tetanus, polio and measles) is crucial to reducing infant and child mortality. However, the NFHS-3 revealed that only 44 per cent of children aged 12-23 months are fully vaccinated in India – 58 per cent in urban areas and 39 per cent in rural areas.¹²⁰ This is only a two per cent increase from the 42 per cent of children that had been fully immunised during data collection for the National Family Health Survey-2 in 1998 - 1999 suggesting that urgent efforts must be made to address this issue and promote universal immunisation.

117 Ministry of Health and Family Welfare, Maternal Health Programme, <http://mhofw.nic>

118 World Health Organization, India Country Health System Profile, http://www.searo.who.int/EN/Section313/Section1519_10857.htm.

119 UNICEF India website. Health Overview. http://www.unicef.org/india/children_2355.htm.

120 National Family Health Survey – 3, 2007.

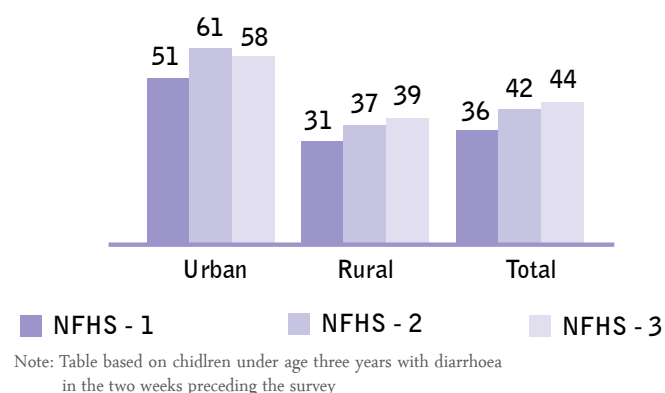
The NFHS-3 also revealed a continued gender bias in terms of immunisation, with mothers surveyed showing vaccination cards for 39 per cent of boys as against 36 per cent of girls. Not surprisingly, household wealth impacts strongly on immunisation. Only 24 per cent of children from households in the lowest wealth quintile are fully vaccinated, compared to 71 per cent of children from households in the highest wealth quintile.

The survey also revealed wide variations according to state, with some states, such as Tamil Nadu, having 80 per cent coverage of full immunisation as compared with Nagaland where only 21 per cent of children have been fully vaccinated.

Children from Scheduled Tribes (ST) are also less likely to receive immunisation than children not from Scheduled Tribes. In Madhya Pradesh, only 11 per cent

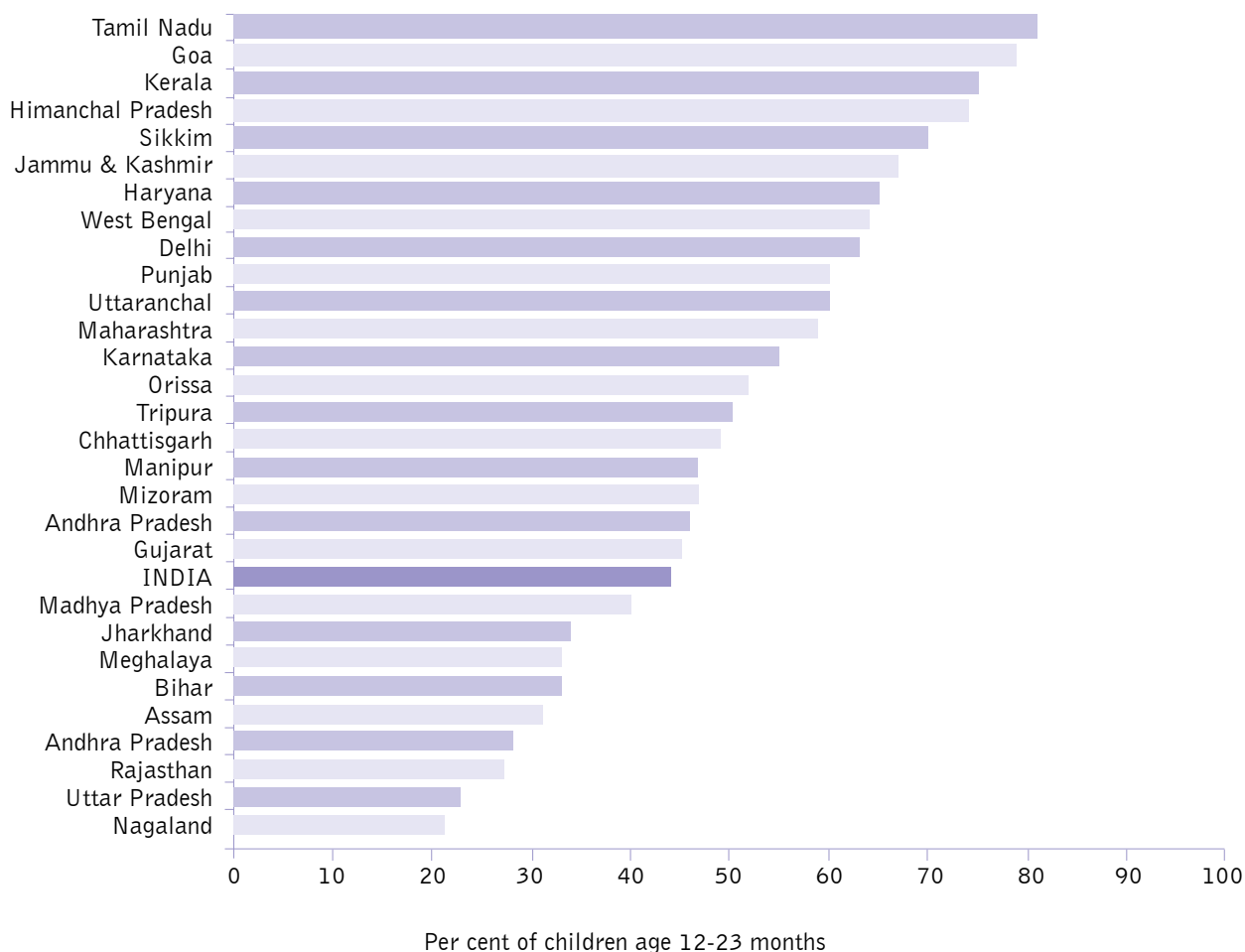
Figure 5: Trends in Vaccination Coverage

Percentage of children 12-23 months who have received all recommended vaccines



Source: Fact Sheet. NFHS - 3 (2005-2006)

Figure 6: Full Immunisation Coverage by State



Source: Fact Sheet. NFHS - 3 (2005-2006)

of ST children received vaccinations as opposed to 22.4 per cent in total Madhya Pradesh.¹²¹

In addition to these poor statistics on the level of immunisation in India, there have also been recent cases of children dying due to unsafe vaccines. In 2006, there were reports from Gorakhpur, Uttar Pradesh, of 10 children who died after receiving a Chinese vaccine for Japanese encephalitis.¹²² No tests had been carried out by the government to establish how safe the vaccine was. Then again in April 2008, four million doses of a measles vaccine were recalled by the government after four children died in Tamil Nadu following their inoculation.¹²³ These cases seriously call into question the safety of vaccinations being administered to children in India.

Only 44 per cent of children aged 12-23 months are fully vaccinated in India – 58 per cent in urban areas and 39 per cent in rural areas. Tribal children are less likely to receive immunisations. Less girls are likely to be immunised.

Rising Health Costs – Hitting the Poor the Hardest

The government is happy to boast of a target of one million overseas “medical tourists” a year by 2010 whilst its own public hospitals are scraping for funds and facilities. Staff vacancies remain unfilled and absenteeism is high, forcing patients to revert to private treatment that they cannot afford.¹²⁴ The provision of health care perhaps reveals most clearly the contradiction of the ‘two India’s’: whilst foreign tourists flock to the country to receive top medical attention in world class hospitals, the on-going discrimination and marginalisation of large pockets of India’s society means that many children continue to die on a daily basis from easily preventable and treatable illnesses due to a lack of access to primary health care services.

Although public spending on health is low, private spending is soaring. There are perhaps just 12 other developing nations in the world where private spending on health (as a share of GDP) is more than in India.¹²⁵ Nearly 80 per cent of the total health care costs are met through private expenditure and virtually all of the private expenditure is out-of-pocket (almost 97 per cent).

The increased privatisation of health care in India seriously reduces the availability of health care for the poorest and most marginalised sections of society. The economically deprived are bound to suffer in a private healthcare system.¹²⁶ The introduction of user fees and the increased privatisation of health care lead the poor to postpone seeking attention for medical conditions – and thus increases the probability of death from treatable illnesses.

According to a World Health Organization survey, 16 per cent of Indian families have been pushed below the poverty line by high health costs. These families have been made more prone to ill-health by their inability to access or afford clean water, sanitation and nutritious food. Lacking any kind of health insurance, more than 40 per cent of low-income families in India had to borrow money from outside the family in order to meet their health care costs and 12 per cent of families had to sell their assets to cover the medical expenses of family members. While the average expenditure on health of a middle-class Indian family is Rs. 116.7 a month, the figure rises to Rs. 202 for the poor, which is half their monthly income.¹²⁷

According to a World Health Organization survey, 16 per cent of Indian families have been pushed below the poverty line by high health costs. This means many children continue to die on a daily basis from easily preventable and treatable illnesses due to a lack of access to primary health care services.

121 Department of Health and Family Welfare. Madhya Pradesh, National Rural Health Mission – Programme Implementation Plan 2006 – 2012. <http://www.health.mp.gov.in/pip-nrhm.pdf>, pp 18.

122 NDTV. Chinese Vaccine Kills 10 Children In UP. 25 July 2006.

123 NDTV. India Recalls Measles Vaccine After Child Deaths. 25 April 2008.

124 Oneworld, India Guide. September 2007.

125 The Hindu, The Health Of Nations. 11 January 2006.

126 Surinder Jindal. Privatisation Of Health Care: New Ethical Dilemmas. Indian Journal of Medical Ethics. <http://www.issuesinmedicalethics.org/063or085.html>.

127 Hindustan Times. 16per Cent Of Indians Pushed Into Poverty By Rising Health Costs. 5 February 2007.

The push for increased participation of private sector entities in health care services is evident, for example, in Andhra Pradesh. In recent years, the state government has promoted the participation of the private sector in health and pioneered the 'user-fee' system in government hospitals. This systematic dismantling of the public health system has turned poor people to private hospitals at significantly higher cost. The result has been increasing health expenses, leading to rural indebtedness and impoverishment. Many people run out of money halfway through treatment. People are also driven to taking on loans that they cannot repay. Health spending is amongst the fastest-growing components of rural family debt.¹²⁸

Despite a crackdown by the Delhi government on private hospitals refusing to provide free treatment for the poor, several major hospitals in the capital still refuse to provide free treatment to the required number of patients. The Delhi High Court mandated that 25 per cent of patients should be treated free of cost and 10 per cent of beds in each hospital should be reserved for the poor. However, the reality is that patients are still being turned away and one hospital, Escorts Heart Hospital, was found to treat only 0.83 per cent of its patients for free.¹²⁹

Uneven Provision of Health Care

The provision of health care for children continues to be uneven and erratic. Discrimination exists at many levels in terms of both provision as well as access to health care for children in India.

Millions of children across India still do not have the basic right fulfilled to have their birth registered. Birth registration, the official recording of a child's birth by a government agency, is one of the most important events in a child's life. Birth registration establishes the existence of the child under law and provides the foundation for ensuring many of the child's rights, including access to adequate health care.¹³⁰ UNICEF's 2008 State of the World's Children report highlights how every year, 51 million births across the world go unregistered. These children are almost always from poor, marginalised or displaced families and the consequences for their health and well-being are often severe and long-lasting.¹³¹ Birth registration and access to health care are particularly closely linked, especially for children under five, as children are denied basic interventions such as vaccinations. Despite the fact that birth registration has increased in India in recent years, it still remains at only 64 per cent - meaning one in three children are not being registered.¹³² A total of 9.3 million children in India go unregistered every year, suggesting that urgent action must be taken on this issue to ensure that every child has this right fulfilled.

The prevalence of anti-female biases in Indian society and the systematic discrimination against girls is striking in terms of their access to health care.

Children born to poor rural families are likely to have the least access to affordable and good quality health care, in particular for the girl child. The prevalence of anti-female biases in Indian society and the systematic discrimination against girls is striking in terms of health. The National Family Health Survey-3 found that even in 2005-06, girls are less likely than boys to be immunised and families were found to seek treatment from a health care provider more often for boys than for girls.¹³³

Despite the recognition that the government's policy of two-child norm is leading to an increase in female foeticide and a falling sex ratio, which in turn is leading to the trafficking of girls into low sex ratio states, the government has drafted 'The Promotion of Two Child Norm Bill, 2006' to control population explosion by the state so as to make it commensurate with its economic and social development and with the ecological balance through incentives (Bill No. LXVIII of 2006).

128 Richa Nigam. Inequality in India: Income, access to health care and education for the poor. <http://infochangeindia.org/200501086156/Other/Development-Dictionary/Inequality-in-India-Income-access-to-healthcare-and-education-for-the-poor.html>.

129 Hindustan Times. Govt To Crack Down On Hospitals Not Treating Poor. 15 November 2007.

130 Human Rights Brief. Vol. 10 No. 3 pp. 32-35. Birth Registration: An Essential First Step Toward Fulfilling the Rights of All Children. Jonathan Todres. 2003.

131 UNICEF. State of the World's Children – Child Survival. 2008. pp. 22.

132 D K Sikri, Additional Secretary, Registrar General, 11 May 2007.

133 National Family Health Survey – 3, 2007, Chapter 9 Child Health. Page. 230 and 237.

Communities classified as belonging to Scheduled Castes and Scheduled Tribes report consistently lower levels of health achievements than the rest of the country and the tribal areas remain the greatest challenge for public health care delivery. The quality of services remains very poor as the services are aimed at peripheral care rather than qualitative care and the public health centres are barely adequate to meet the medical needs.¹³⁴ As Samata states in its report on tribal areas in Andhra Pradesh: “Bare-foot health service providers can never be a substitute for qualified medical doctors and hence the government’s efforts at reducing costs in the health sector through para-medical support cannot be accepted. It is the fundamental duty of the government to provide accessible and quality health care to all its citizens.”¹³⁵ With public health centres being so poorly equipped, tribal communities often have no alternative but to seek private health care at a cost that cripples them. A study by the Tribal Cultural Research and Training Institute showed that the average annual income of a tribal family was Rs. 4,327 and a massive 20 per cent of this was spent on health care.¹³⁶

Scheduled Castes and Scheduled Tribes report consistently lower levels of health achievements than the rest of the country and the tribal areas remain the greatest challenge for public health care delivery. Health spending leads to indebtedness.

Conclusion

Evidently, strong political will and greater financing is needed to ensure that child health becomes a priority in India. Quality health services need to be made available to all children in the country, irrespective of class, caste, gender and location. Widespread discrimination means that certain groups of children are still the most vulnerable to illness and disease – and still have the least access to reliable health services. China and India have significant impacts on regional and global numbers because of the size of their populations: in 2006, almost 2.5 million of the world’s under-five deaths occurred in China (415,000) and in India (2,067,000). It is therefore not surprising that the UN warned in August 2008 that the “global achievement of the health-related MDGs depends in large part on India’s success.”¹³⁷ Urgent action is needed to ensure that child mortality rates, malnutrition and preventable illnesses are all addressed and that Indian children are able to survive and enjoy good health and development.

Children’s Lives are Indispensable

Fifty seven out of every 1,000 children born in our country die before one; 42.5 per cent of children below 3 years are underweight; just 43.5 per cent children have been fully immunised and 69.5 per cent children under five are anaemic. The corresponding figures for tribal children are even worse with infant mortality rate (IMR) being 62 per 1,000; 54.5 per cent children under three being underweight; immunisation coverage at 31.3 per cent and anaemia prevalence among children at 76.8 per cent (NFHS-3 Report, 2007). Such poor nutritional status increases the vulnerability of tribal children to disease and infection. This reflects the absolute failure of the state in providing health and allied services to the most needy, considering the rapid strides that are being made in the field of medicine and science and the available knowledge on public health systems for preventive and curative health care.

Source: S K Satpathy and S Venkatesh, Human Resources for Health in India’s National Rural Health Mission: Dimension and Challenges

¹³⁴ Samata, A Study on the Status and Problems of Tribal Children in Andhra Pradesh, 2007. pp. 9.

¹³⁵ Ibid. pp. 62.

¹³⁶ Ibid. pp. 9.

¹³⁷ UNICEF. State of Asia Pacific’s Children. 2008, pp. 18.

Annexure

Table I: Prevalence and Treatment of Symptoms of ARI

Among children under age five, percentage who had symptoms of acute respiratory infection (ARI) in the two weeks preceding the survey and percentage with symptoms of ARI who recieved specific treatments, according to background characteristics, India, 2005-06

Background Characteristics	Children under age five		Children under age five with symptoms of ARI		
	Percentage with symptoms of ARI ¹	Number of Children	Percentage for whom treatment was sought from a health facility or provider ²	Percentage who recieved antibiotics	Number of children
Age in months					
< 6	6.2	5,127	70.7	14.6	319
6 - 11	8.1	5,276	76.9	11.9	427
12 - 23	7.1	10,419	69.0	12.7	743
24 - 35	5.8	10,383	68.7	13.8	602
36 - 47	5.0	10,829	67.4	11.6	536
48 - 59	4.0	10,835	62.2	10.7	431
Sex					
Male	6.0	27,626	17.7	13.2	1,647
Female	5.6	25,242	65.8	11.7	1,411
Residence					
Urban	5.1	13,665	78.1	15.5	691
Rural	6.0	39,203	66.3	11.7	2,367
Mother's Education					
No education	6.0	25,960	65.7	9.4	1,546
< 5 years complete	7.3	3,808	70.3	10.3	277
5-7 years complete	5.6	7,765	71.1	15.8	438
8-9 years complete	6.3	6,443	70.5	12.4	407
10-11 years complete	4.8	4,128	75.0	23.2	197
12 or more years complete	4.0	4,773	79.0	22.8	192
Religion					
Hindu	5.2	41,284	68.3	13.9	2,164
Muslim	8.6	9,085	70.6	9.0	783
Christian	3.4	1,058	48.8	12.6	36
Sikh	6.7	682	94.5	9.8	46
Buddist / Neo-Buddhist	3.1	352	(67.4)	(2.9)	11
Jain	8.6	87	*	*	7
Other	3.1	273	(49.6)	(23.1)	9
Caste / Tribe					
Scheduled Caste	5.3	10,817	73.5	9.8	573
Scheduled Tribe	4.6	5,022	57.4	12.6	231
Other Backward Class	5.5	21,321	68.1	14.0	1,162
Other	7.0	15,322	70.6	12.4	1,069
Don't know	7.5	205	*	*	15
Mother's current tobacco use					
Uses tobacco	7.3	5,314	60.5	10.7	386
Does not use tobacco	5.6	47,547	70.2	12.8	2,671
Cooking fuel					
Electricity or gas ³	4.2	9,586	79.8	18.2	398
Keorsene	4.4	1,131	82.1	20.0	50

Table I: Prevalence and Treatment of Symptoms of ARI (Contd.)

Background Characteristics	Children under age five		Children under age five with symptoms of ARI		
	Percentage with symptoms of ARI	Number of Children	Percentage for whom treatment was sought from a health facility or provider	Percentage who recieved antibiotics	Number of children
Cooking fuel (Contd.)					
Coal / lignite	6.9	925	(82.3)	(16.6)	64
Charcoal	5.6	201	*	*	11
Wood / straw ⁴	6.0	33,193	65.6	11.8	1,982
Animal dung	7.1	7,809	70.1	9.8	552
Wealth index					
Lowest	5.9	13,200	60.7	5.9	785
Second	6.9	11,671	67.0	12.2	805
Middle	6.2	10,492	70.1	12.1	650
Fourth	5.1	9,684	76.5	20.2	495
Highest	4.1	7,821	80.2	18.5	323
Total	5.8	52,868	69.0	12.5	3,058

Source: NFHS - 3, Chapter 9, pp. 235.

Note: Total includes children with missing informations on mother's education, religion, caste/tribe, mother's current tobacco use, and cooking fuel and children living in households using other cooking fuel, who are not shown separately.

() Based on 25-49 unweighted cases.

* Percentage not shown: based on fewer than 25 unweighted cases.

1 Symptoms of ARI (cough accompanied by short, rapid breathing which was chest-related) is considered a proxy for pneumonia.

2 Excludes pharmacy, shop, and traditional practitioner.

3 Includes LPG, natural gas, and biogas.

4 Includes grass, shrubs and crop waste.



education

“Despite a decline, the drop-out rates are still too high to attain the status of universalisation at the primary level of education. Although the transition rate from primary to upper primary levels shows improvement, children are still found to drop-out during this transition. Needless to say more boys than girls made this transition.”

Arun Mehta, Elementary Education in India. Progress Towards UEE.
Analytical Report 2005-06. Published in 2007

HAQ's 2005 status report described the history of education in India as 'one of unfulfilled commitment'. Whilst some progress has been made since the last report in terms of increasing enrolment, retention in schools remains a challenge. The law on the right to education has been pending for several years now.

Children drop out of school, or find themselves squeezed out of the education system because of the situation of the schools, as well as because of their own socio-economic status. Analysis of available data clearly indicates that it is some groups of children who find themselves excluded or pushed-out more than others. Many others are unable to make in-roads into schools because they are poor. This chapter will examine in detail who these "excluded" children are.

NEW DELHI: The law ministry has asked the HRD ministry to look into certain "crucial" aspects before introducing the Right to Education Bill which envisages free and compulsory education to children between 6 and 14 years. The Bill is likely to be introduced in the current session of Parliament. HRD ministry, for instance, has been told that the concept of private unaided schools giving 25% reservation to poor children could result in litigation. Law ministry raises queries on right to education Bill

Akshaya Mukul, Times of India, 5 May 2008,

Primary education, a problem area

What is the status of primary education in India?

Not very good. Though under the Sarva Siksha Abhiyan scheme the government has been able to bring children to schools, retaining them is a huge problem. As many as 31 per cent students drop out by the time they reach Class V. A primary reason for students leaving schools is poor teaching and learning standards in schools. Joint secretary in the HRD ministry

Kesav Desiraju says "something is wrong with quality of teaching in schools". Many schools lack basic infrastructure like blackboards, drinking water facility and teachers.

What are the areas of concern?

Participation of students from the weaker sections like Scheduled Castes, Scheduled Tribes and Other Backward

HT
FAQs

Classes, girls and Muslims is very less. Those who enroll from these sections also have a high drop-out rate. The government has not been able to attract them to education adequately. Many states do not have enough primary schools. Curriculum content is another problem area. Some academicians favour more local content to attract students, others say, effort

should be made for improving learning levels.

Isn't there enough money to support primary education?

The HRD Ministry spends about Rs 12,000 crore on Sarva Siksha Abhiyan every year for improving basic education. State governments have huge budgets for education. Ministries fund projects like the Integrated Child Development Scheme.

Chetan Chauhan

Shifting Goalposts

When India became free, she hoped to be able to achieve free and compulsory education for all children up to 14 years by 1960. As per the National Policy for Education (modified in 1992) and the Programme of Action, India was to achieve Universal Primary Education by 1995, which was subsequently shifted to 2000. The National Plan of Action for Children, 1992 had hoped to achieve universalisation by the end of the century, which when the new National Plan 2005 was adopted was aimed at "all children in school by 2005 and universal retention by 2010." It also states, "bridging gender and social gaps in primary education by 2007 and elementary education by 2010".

However, with over half – 52 per cent – of children in India either not attending school or dropping out before class eight,¹ we are still a long way from universalisation. At a policy forum on the right to education held in Delhi, April 2008, the Chair of the National Commission for the Protection of Child Rights (NCPCR), Dr. Shantha Sinha, also highlighted the need to move away from the current focus on targets to a focus on the universality of rights and added that all children have a right to a quality education.²

The SSA programme aimed to achieve universal primary education (five years of schooling) by 2007 and universal elementary education (eight years of schooling) by 2010. But now it needs to be extended by another five years, to the end of the Eleventh Five Year Plan (2011 - 2012).

1 Press statement, Discussion on Right to Education and Child Labour, National Forum for Policy Dialogue. New Delhi, 22 April 2008.

2 Shantha Sinha, Discussion on Right to Education and Child Labour, National Forum for Policy Dialogue. New Delhi, 22 April 2008.

Sarva Shiksha Abhiyan (SSA) is the government of India's flagship programme to achieve the universalisation of elementary education (up to age 14) and was launched in 2001. The programme originally aimed to achieve universal primary education (five years of schooling) by 2007 and universal elementary education (eight years of schooling) by 2010. However, the report of the Eleventh Plan indicates that SSA needs to be extended by another five years, to the end of the Eleventh Five Year Plan (2011 - 2012) in order to complete its unfinished agenda.³ The budget outlay for SSA was increased from Rs. 71.56 billion in 2005 – 2006, to Rs. 100.04 billion in 2006 – 2007.

The UNESCO 'Education for All' Global Monitoring Report 2008 once again ranked India in the lowest category, at 105 out of a total of 129 countries on its EFA Development Index.⁶ This is actually a drop of five points since 2007's UNESCO rankings.

Although SSA has achieved some success in terms of increasing enrolment figures, it has received criticism on a number of levels. Retention levels continue to be a huge problem, with as many as 31 per cent of children dropping out before class V.⁴ The Central Advisory Board of Education (CABE) committee report released in 2006 also questioned whether eight years of elementary education is adequate. It "can neither equip a child with the necessary knowledge and skills to face the world of work nor does it empower her to deal with the challenges of a globalising economy. What career avenues – professional or otherwise – are open to a child with merely eight years of elementary education?"⁵

India, Nigeria and Pakistan account for 27 per cent of the world's out of school children. The UNESCO 'Education for All' Global Monitoring Report 2008 once again ranked India in the lowest category, at 105 out of a total of 129 countries on its EFA Development Index.⁷ This is actually a drop of five points since 2007's UNESCO rankings. The index is based on factors such as the net primary enrolment rate and survival rate to grade five.

According to the UNESCO report, there are three main challenges for India if it is to achieve the goal of universal primary education by the 2015 UN Millennium Goal target:

1. Providing primary education to socially marginalised minority groups
2. Reducing the drop-out rate in primary education
3. Improving the quality of learning.⁸

UN Millennium Development Goals (MDG) commits governments to ensure that all boys and girls complete a full course of primary schooling by 2015. Despite scepticism surrounding the MDGs,⁹ they seem to have been accepted as targets by most countries of the world, including ours. In India, this means that all children must be enrolled in school by 2010 in order to meet this target. It is unlikely that India will be able to achieve its target of universal primary education by 2015 given the current numbers who continue to be out of school.

The Right to Education

The Right to Education Bill, introduced in 2005, sought to give effect to the 86th Constitution Amendment Act 2002, Article 21A, which states that: "The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine." However, the Bill has remained on the backburner.

In a controversial move in July 2006, the central government decided to abandon the Right to Education Bill and instead pass responsibility onto the state governments. This was viewed by many as the United Progressive Alliance abdicating its

3 Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report, pp. 2.

4 Hindustan Times, Primary education, a problem area, 9 November 2006.

5 India Together, Government stalling sec. school reforms, 24 August 2006, <http://www.indiatogether.org/2006/aug/edu-secschool.htm>.

6 UNESCO, EFA Global Monitoring Report, 2008. <http://unesdoc.unesco.org/images/0015/001547/154743e.pdf>. pp. 204.

7 Ibid.

8 Ibid, pp. 228.

9 See for example From Universal Values to Millennium Development Goals: Lost in Translation by Ashwani Saith. http://www.impactalliance.org/file_download.php.

responsibility and betraying the people by retreating from its constitutional obligation to provide education for all. The central government then circulated a model Right to Education Bill to the state governments, asking them to enact a law pertaining to its broad parameters.¹⁰ The model Bill missed out crucial clauses, such as the provision that private schools admit at least 25 per cent of children from weaker sections of society.¹¹

‘Dirty Dozen’ Flaws of the Draft Right to Education Bill, 2008

1. Lacks provision to compel the State to provide adequate funds.
2. Dilutes the Fundamental Right of children below six years to nutrition, health and pre-primary education by falsely equating it with ICDS.
3. Denies right to secondary and senior secondary education.
4. Shifts public funds to private unaided fee-charging schools to exacerbate commercialisation, exclusion and inequality.
5. Legitimises inequality through a multi-layered school system.
6. Permits violation of the neighbourhood principle by the government-run elite and private schools, allowing them to charge fees and screen and exclude children.
7. Continues discrimination against government school children as their teachers will still be deployed for census, elections and disaster relief duties.
8. Does not provide for the states/UTs to regulate private unaided schools, leaving them free to indulge in profiteering, anti-child practices and other violations.
9. Fails to guarantee child’s mother tongue as medium of education, even at primary stage. (For children of linguistic minority groups, this violates Article 350A.)
10. Contains subtle provisions that exclude disabled children from schools.
11. Opens space for private agencies to make money through questionable assessment.
12. Lacks guarantee of dignified salaries, professional development, promotional avenues and just social security for teachers and prevention of fragmentation of teachers’ cadre.

Dr. Anil Sadgopal, *Misconceiving Fundamentals, Dismantling Rights*, in TEHELKA, 14 June 2008.

In February 2008, the government set up a new committee to re-draft the bill, which was to be presented in Parliament in the Budget Session. The Group of Ministers (GoM) entrusted with the task of scrutinising the Right of Children to Free and Compulsory

THE HINDU

Committee to re-draft Right to Education Bill

Aarti Dhar

NEW DELHI: The Centre has set up a committee to re-draft the Right to Education Bill, 2005 by addressing the issues raised by the States and other stakeholders and introduce it in the budget session of Parliament. The Bill guarantees free and compulsory education to every child in the 6-14 age group. The eight-member committee, chaired by A.K. Rath, Union Secretary (School Education), held its first meeting here on Saturday. The committee comprises officials of the Union Human Resource Development Ministry and academicians. This comes a day after Prime Minister Manmohan Singh announced that the Bill would be introduced soon in Parliament, describing it as the “surest way of rapid inclusive growth.”

The major opposition to the Bill is due to the huge financial implications for the States — education being a subject on the Concurrent list. Concerns have also been raised over several provisions in the draft Bill, one of them being ensuring availability of a neighbourhood school to every child within three years of commencement of the Act.

In case of non-availability of a neighbourhood school, the State would have to provide free transportation to the child to the nearest school or free residential school facilities. The States must also provide special programmes in a neighbourhood school for non-enrolled children in the age group 9-14. The responsibility of enrolling children as they reach the age of six has been put on the parents/guardians, failing which they have to do compulsory community service.

Seeing the proposed legislation as an encroachment on their rights, the States are also opposing the National Commission for Elementary Education, as envisaged in the Act that would be a regulatory mechanism.

The Centre is also empowered to develop a national curriculum framework, develop standards for training and qualification of teachers for elementary education.

There is also a provision of reserving 25 per cent seats in schools for weaker sections, except in some category of schools. The School Management Committees will monitor the working of the school, plan and facilitate its development and manage the assets.

¹⁰ The Hindu, Shelving ‘Right to Education’ Bill a “betrayal”, say educationists, 21 July 2006.

¹¹ India Together, An entitlement with no law, 6 January 2007.

Education Bill 2008 (RTE) cleared it on 7 October 2008 and the Union Cabinet cleared the Bill on 31 October 2008. It has now been introduced in Rajya Sabha.

As per the Ministry's estimates enacting the legislation would require an additional Rs.12,000 crore annually during the remaining years of the Eleventh Five Year Plan period, as the balance would be met through funding from the on going Sarva Shiksha Abhiyaan - the programme to universalise elementary education.¹²

Group of Ministers clears compulsory education Bill

Special Correspondent

NEW DELHI: The Group of Ministers (GoM) – entrusted with the task of scrutinizing the Right of Children to Free and Compulsory Education Bill, 2008 (RTE) – cleared the draft legislation on Tuesday. The Bill is expected to be put up for Cabinet clearance next week.

run into trouble pertains the penal action prescribed case schools conduct admission tests or any other screening procedure. Similarly, there is a bar on charging admission fees. Equally contentious is the provision of having a School Management Committee in every school to make parents and the community stakeholders in the

Enrolment, Retention and Drop-out: What is the Correct Data?

Data on the enrolment of children in schools has always been a matter of great controversy. There are several estimates available at any given time. The data most readily available is the gross enrolment ratio or the GER. This does not reflect the retention of children in schools. In effect, what is needed are the Net Enrolment Ratios. Needless to say this is not done inadvertently. A comparison between the gross enrolment ratios and the drop-out ratios, and field level experiences reveal that not all children who enrol complete five years of primary school. Similarly, not all those who finish primary school finish elementary school or go on to complete secondary school. Gross enrolment ratios are a way of keeping the general public fooled into believing that the situation is improving.

The UN Statistical Office has provided estimates for the percentage of children enrolled in and completing primary school in 2005.¹³ Their estimates indicate that 94.6 per cent of children were enrolled in primary education in 2005 and 89.8 per cent of children were completing primary education. However, this contradicts many other estimates that suggest that the number of children not enrolled in or dropping out of school is much higher.

Adding to the debate surrounding the veracity of the data put out by the government is the latest report of the Comptroller and Auditor General. See Table I in the Annexure for inconsistencies between figures reported by the Ministry of Human Resource Development and those collected by the states.

What is therefore more indicative of the situation is to examine how many children are out of school. Despite its goal of ensuring every child was in school by 2007, 7.6 million children continue to be out of school, according to the Ministry for Human Resource Development.¹⁴

According to some other estimates, almost 21 million children, that is, close to 17 per cent of all children of primary school age (6-10 years), continue to be out of school. Of those in primary school, 52 per cent are boys and 48 per cent are girls. About one quarter of all children of primary school age live in urban areas and the remaining three quarters in rural areas.¹⁵

The country's only private survey of school education, Pratham's Annual Status of Education (ASER) report 2007, discovered a considerable decline in the percentage of out of school children in the 6 – 14 age group, from 6.6 per cent in 2006 to 4.2 per cent in 2007.¹⁶ The report highlighted the increase in enrolment levels, saying that the overall proportion of out of school children has dropped and that this decline is visible in all age groups and for both girls and boys.¹⁷

While the apparent survival rate has improved, more boys than girls survived up to class V, and the children enrolled in schools in urban areas were more likely to survive in school than their rural counterparts.

¹² The Hindu, Group of Ministers clears compulsory education Bill, Wednesday October 8, 2008.

¹³ <http://unstats.un.org/unsd/mdg/Data.aspx?cr=356>.

¹⁴ This information was given by the Minister of State for Human Resource Development, Shri M.A.A. Fatmi in reply to a question in Lok Sabha, Tuesday, April 29 2008.

¹⁵ International Education Statistics, Analysis by Friedrich Huebler, Tuesday, November 13 2007. <http://huebler.blogspot.com/2007/11/india-has-21-million-children-out-of.html>.

¹⁶ Times of India, Decline in number of out of school children: Survey, 13 January 2008.

¹⁷ Pratham, Annual Status of Education (Rural) 2007, pp. 44.

As the DISE report states, while almost 94 per cent of habitations have got access to primary and 89 per cent to upper-primary schools, it is important to see the retaining capacity of the education system; in other words, how many children are able to go through with their education without having to drop-out. This report analysed the survival rate, retention rate, average promotion rate, repetition and drop-out rate to gain an understanding of how many children continue to be in school.¹⁸

While the apparent survival rate has improved, more boys than girls survived up to class V, and the children enrolled in schools in urban areas were more likely to survive in school than their rural counterparts. A retention rate of 71 per cent indicates that about 29 per cent of children dropped out of schools before reaching grade V.¹⁹ The average promotion rate is 83.76 per cent and about 9.99 million children repeated elementary grades in 2005-06.

A shocking 32,000 schools have been exposed as having no students at all. A government survey, which covered 35 states and union territories, found that 2.92 per cent of the schools had zero enrolment. These institutions are mostly located in rural areas and are in the public sector. The main reason for zero enrolment is that these schools do not have teachers – 23,000 schools were yet to be provided with a teacher while 130,000 were single teacher schools.²⁰ Lack of teachers is a problem faced by many government schools across the country, even in the capital. A visit by the Convenor of the Right to Education Taskforce (RETF) to a government middle school in Delhi discovered that the school has 450 students but only one teacher.²¹ That there is low enrolment in schools and there are numerous single teacher schools is also a finding of District Information System for Education (DISE).²²

Despite reporting positive developments in terms of enrolments, the ASER 2007 report noted that teacher attendance had declined from 74.6 per cent in 2005 to 73.1 per cent in 2007.²³

A recent World Bank survey found that 25 per cent of government primary school teachers in India are absent from work. Only 50 per cent of teachers are

Table 1: Children Out of School

Sl. No.	State/ UT	Out of School children as on March 2007
1	Andhra Pradesh	264013
2	Arunachal Pradesh	30565
3	Assam	338834
4	Bihar	2119584
5	Chhattisgarh	123632
6	Goa	7699
7	Gujarat	134643
8	Haryana	238847
9	Himachal Pradesh	5624
10	Jammu & Kashmir	108560
11	Jharkhand	209662
12	Karnataka	174533
13	Kerala	20790
14	Madhya Pradesh	296979
15	Maharashtra	136892
16	Manipur	54351
17	Meghalaya	37234
18	Mizoram	4913
19	Nagaland	35335
20	Orissa	537841
21	Punjab	227645
22	Rajasthan	163894
23	Sikkim	3204
24	Tamil Nadu	103261
25	Tripura	15376
26	Uttar Pradesh	785524
27	Uttaranchal	22230
28	West Bengal	1357601
29	A & N Island	133
30	Chandigarh	5505
31	D & N Haveli	1614
32	Daman & Diu	201
33	Delhi	30001
34	Lakshadweep	168
35	Pondicherry	326
	INDIA	7597214

Source: Information provided by the Minister of State for Human Resource Development, Shri M.A.A. Fatmi in reply to a question in Lok Sabha, 29 April 2008, <http://www.educationforallindia.com/outofschoolchildren.htm>.

18 Arun Mehta, Elementary Education in India, Progress Towards UEE, Analytical Report 2005-06, Published in 2007, pp. 152

19 Ibid, pp. 156.

20 The Asian Age, 32,000 schools without students, 5 August 2007.

21 Ashok Agarwal. Govt. co-ed middle school – 450 students, single teacher, Report of the Right to Education Taskforce, 20 December 2005.

22 Arun Mehta. Elementary Education in India. Progress Towards UEE, Analytical Report 2005-06, Published in 2007, pp. 145.

23 Times of India, Decline in number of out of school children survey, 13 January 2008.

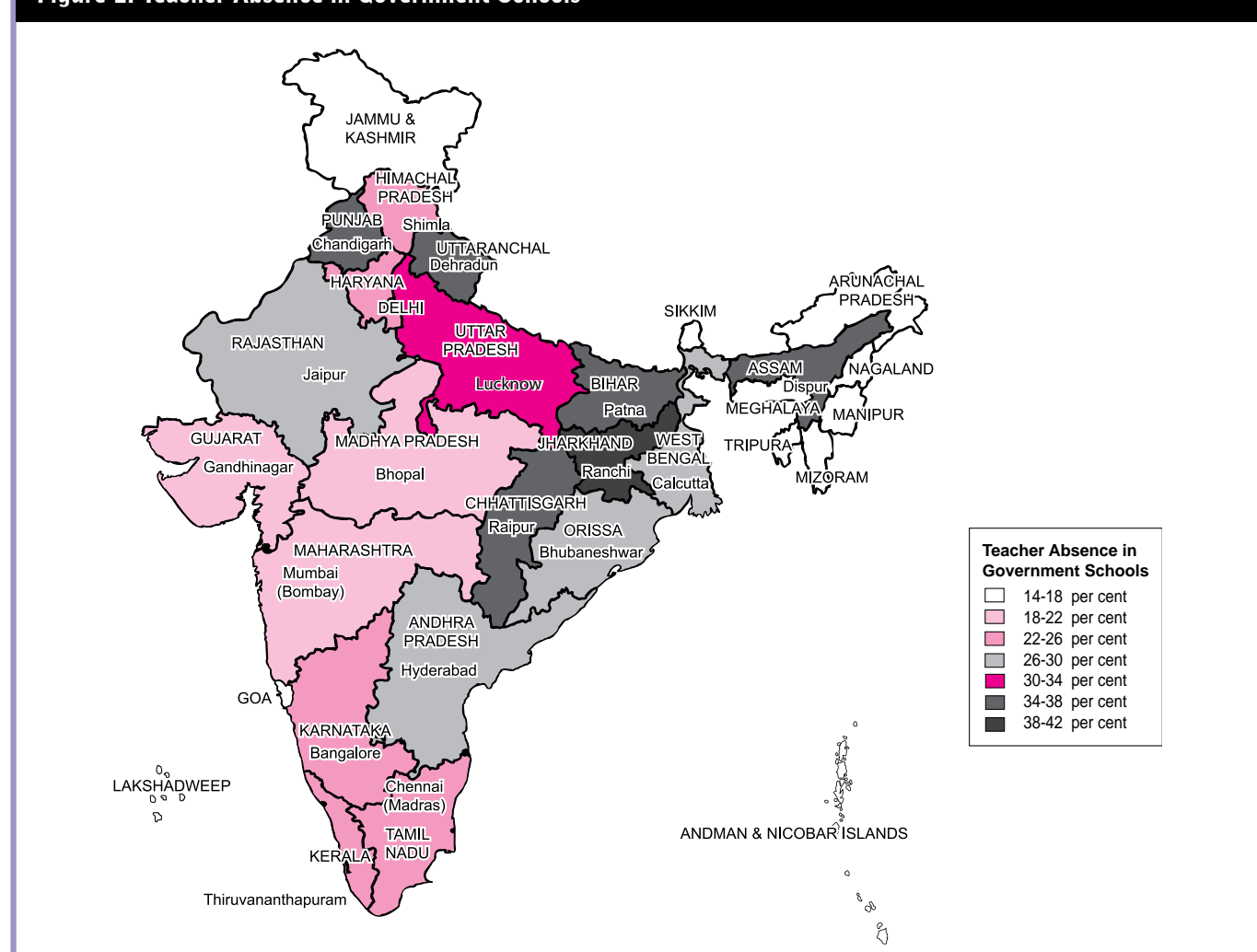
actually engaged in the act of teaching while at work, according to this survey. These statistics represent average numbers taken across many states. The numbers are not so harsh across all of India and several Indian states fare much better.²⁴ It is often argued that teachers are badly paid and hence unwilling to work. Breaking this myth, the survey found that better pay did not lower absenteeism. Older teachers, more educated teachers, and head teachers have better salaries but are also absent more frequently, according to a related research paper on absence among Indian teachers. Also contract teachers are paid much less than regular teachers but have similar absence rates.

Table 2: Children of Primary School Age Out of School (million), India 2000 and 2006

	2000	2006	Change 2000 to 2006
Male	13.0	9.5	-3.5
Female	16.4	11.2	-5.2
Urban	5.0	3.7	-1.3
Rural	24.5	17.0	-7.5
Poorest 20 (per cent)	9.4	9.8	0.5
Second 20 (per cent)	8.5	5.3	-3.2
Middle 20 (per cent)	5.2	3.1	-2.1
Fourth 20 (per cent)	4.3	1.7	-2.6
Richest 20 (per cent)	2.0	0.8	-1.3
Total	29.5	20.7	-8.7

Data sources: India MICS 2000, India DHS 2005-06. in International Education Statistics, Analysis by Friedrich Huebler

Figure 1: Teacher Absence in Government Schools



Source: Teachers Skipping Work, World Bank.

24 The World Bank. Teachers Skipping Work. <http://web.worldbank.org>.

Inadequate Infrastructure in Schools

Apart from lack of teachers, other serious problems remain on the supply side of education in India. Even the minimal infrastructure, such as proper classrooms, desks, toilets and drinking water is missing in a large number of schools. A letter from Social Jurist to the Chief Justice of India highlighted how Right to Education Taskforce (RETF) team visited 10 schools in the Noida area of Uttar Pradesh and found that besides overcrowded classes, the schools had multiple problems including broken window panes, no electricity, no or unsafe drinking water, insufficient furniture, improper toilet blocks and water logging in the schools during the rains.²⁵ Safety in schools is also a serious issue across the country, with reports of many children struggling to learn in crowded, unsafe classrooms.²⁶ Many schools across the country lack adequate sanitation facilities – some schools have no toilets at all, and others have toilets that are so unpleasant that children prefer to go outside rather than use them. This is a huge problem that prevents children, especially girls, from attending school.

Safety in schools is also a serious issue across the country, with reports of many children struggling to learn in crowded, unsafe classrooms.

A decrepit door opens into a tiny classroom in one corner of a slum settlement in Mangolpuri in north-west Delhi. A black sheet hanging from the wall passes off for a blackboard, but it's difficult to discern letters or numerals in the windowless room, which is dark despite the harsh sun outside. A fraying chair stands to the front of the room, presumably for the teacher who has not yet arrived, though it's almost an hour past 9am, when lessons are supposed to begin. There is no electricity, no water, benches or toilets, and no signs of students either.

Outside the shack, Sompal Singh, a middle-aged electrician who also doubles as the slum's community leader, attributes the absence of students to the summer heat. "The room doesn't have power," he explains. "There are no facilities in the classroom. We had to provide the chair for the teacher to sit."

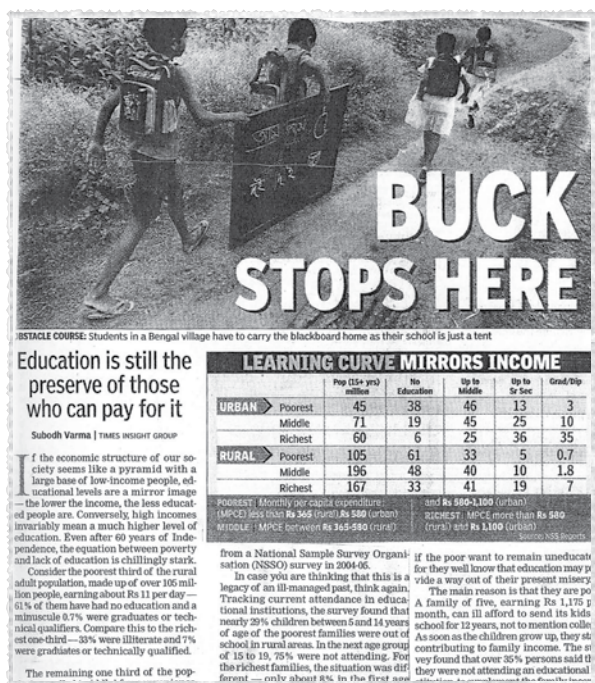
This one-room Non-Formal Education centre is run by a non-governmental organisation in Delhi as part of the central government's Sarva Shiksha Abhiyan scheme, meant to ensure all children are in school.

Deepa A, A bridge it is, but to where?, Excerpt from: India Together, 26 May 2006

Growing Dependence on Private Schooling

With the poor standard of many government schools, there is an increasing dependence on market forces to fill the educational deficit.²⁷

The National University of Educational Planning and Administration (NEUPA), formerly NIEPA, undertakes an educational survey as part of their District Information System for Education (DISE). As per the data collected by DISE, three out of every four students in elementary education are from government schools and 84.85 per cent of the schools imparting elementary education were government managed, which included those run by the Department of Education, Local Bodies and Tribal/Social Welfare Department. Further, irrespective of types of school, the percentage share of government schools has been lower than their share in the number of schools considered. About 79 per cent of the total independent Upper Primary schools are under



25 Social Jurist, Letter petition highlighting the deplorable conditions of the state run schools at Noida (UP) resulting in violation of the right to education of the children, 23 March 2007.

26 Right to Education Taskforce, Hundreds of primary students studying in dangerous classrooms, September 2006.

27 Richa Nigam, Inequality in India: Income, access to health care and education for the poor. <http://infochangeindia.org/200501086156/Other/Development-Dictionary/Inequality-in-India-Income-access-to-healthcare-and-education-for-the-poor.html>.

government management with 66.95 per cent of total enrolment.²⁸ However, its Analytical Report 2005 - 2006²⁹ is based on data collected from recognised schools only (there may be other children in schools which are un-recognised, EGS, alternative learning schools). This is important because in a recent study of enrolment of children in Punjab,³⁰ figures on enrolment of children in unrecognised schools show that the numbers are very large.

The ASER 2007 report shows how enrolment in private schools increased from 18.7 per cent in 2006 to 19.3 per cent in 2007.³¹ This rise in private school enrolment is particularly noticeable in the older 11 – 14 age group.³² According to the CAGE Committee, almost 25 per cent of secondary schools in India are now private, unaided schools, with students coming only from the privileged sections of society.³³ A huge 46 per cent of all secondary school students are attending private schools.³⁴

Enrolment in private schools increased from 18.7 per cent in 2006 to 19.3 per cent in 2007. This rise in private school enrolment is particularly noticeable in the older 11 – 14 age group.

Delhi is the only state that has reserved seats for poor students in private schools (referred to as public schools in India). In January 2004, the Delhi High Court passed an order saying that all schools should reserve 25 per cent of the seats for children from the poorest families. A Supreme Court order passed in April 2004 directed schools that had received land from the government at concessional rates to admit 25 per cent students from the economically underprivileged groups.

The proposed Right to Education Bill also proposed that the public schools should set aside 25 per cent seats for poor children in the vicinity, the idea being that letting an underprivileged child join a private school at the entry level would help in social inclusion.

Access Issues – Who's In and Who's Out?

Even as we see that the number of children out of school varies, it is important to dig deeper and examine who these children out of school are - either because they never made it through the doors of the school or because they were forced to drop out of school due to their circumstances. In this report, we have tried to focus on these “excluded” groups of children.

Exclusion is faced on the basis of gender, caste and ethnicity as well as religion. Even more important is the fact that the design of the SSA is itself flawed and designed to exclude children from “equal opportunity to quality education”. As has been pointed out in the last two status reports of HAQ, although promoting education for all, the programme is not designed to provide equal education for all. Much-advertised programmes, such as the Education Guarantee Scheme, promote parallel systems of education in which less qualified, under paid, local para teachers are replacing trained professional teachers. Also the practice of multi grade teaching, in which one teacher is responsible for teaching many classes, each of them overcrowded, continues, leading to children dropping out.

Non-formal education (NFE) centres are mainly meant for children who have been forced out of the mainstream school system, mostly because of their socio-economic circumstances. The central government is involved in providing two types of NFE centres: one run under the SSA (for those who do not have physical access to a school) and the other run under the National Child Labour Project. NFE centres tend to have very high drop-out rates, due to poor teachers who lack training, lack of facilities and funds and inadequate community involvement. NFE centres do not follow the curriculum used in the government school system and instead tend to use books that are easily available in the market. Therefore, children's

28 Arun Mehta, Elementary Education in India. Progress Towards UEE, Analytical Report 2005-06, Published in 2007, pp. 130-31.

29 Arun Mehta, Elementary Education in India, Progress Towards UEE, Analytical Report 2005-06. Published in 2007.

30 Ibid, pp. 119.

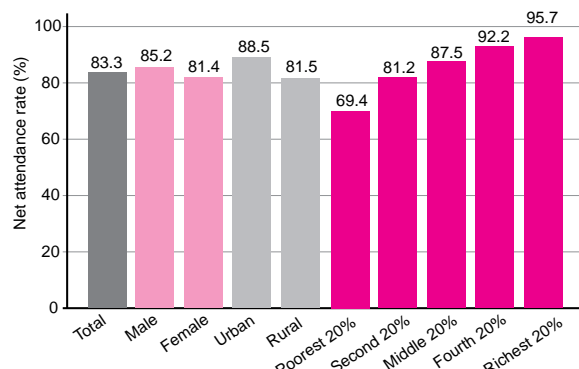
31 Pratham, Annual Status of Education (Rural), 2007. pp. 44.

32 Ibid.

33 Report of the CAGE Committee, Universalisation of Secondary Education, 27 June 2005.

34 Ibid.

Fig. 2: Primary School Net Attendance Rate (NAR), India 2006



Source: Friedrich Huebler, November 2007, huebler.blogspot.com

Data source: India Demographic and Health Survey 2005-06

- In rural areas 7.80 per cent of children are out of school against 4.34 per cent in urban areas;
- The proportion of children out of school is relatively higher among those in the age category 11 – 13 years (8.56 per cent) compared to those in the 6 – 10 years age category (6.1 per cent);
- Percentages of out of school boys and girls in the age group 6 – 10 years are 5.51 per cent and 6.87 per cent respectively. For the age group 11 – 13 years, the percentage of out of school children is relatively higher among girls (10.03 per cent) than boys (6.46 per cent);
- Amongst social groups, 9.97 per cent of Muslim, 9.54 per cent of ST, 8.17 per cent of SC and 6.9 per cent of OBC children are out of school;
- 69 per cent of the children are out of school: Bihar (23.6 per cent), U.P. (22.2 per cent), West Bengal (9 per cent), M.P. (8 per cent) and Rajasthan (5.9 per cent);
- Bihar (3.18 million), U.P. (almost 3 million), West Bengal (1.2 million), M.P. (1.08 million) and Rajasthan (795,000) have the highest number of out of school children.

Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report, 2007, pp. 12.

One in ten Muslim children is out of school, which means that the proportion of out of school children is highest in the Muslim community.³⁷ As many as 25 per cent of Muslim children in the 6-14 year age group have either never attended school or have dropped out. This is higher than that of any other socio-religious category considered by the Sachar Committee in its report. The incidence of drop-outs is also high among Muslims and only SCs/STs have a marginally higher drop-out rate than Muslims.³⁸

However, children from religious minorities are not usually included in incentive programmes such as scholarships. Of the various religious minorities, Muslims are the most disadvantaged when it comes to education. The Eleventh Plan Working Group report highlights the need to ensure that upper primary schools are located close to Muslim habitations to enable Muslim girls to continue their education. Social mobilisation is also needed to create the demand for education, particularly for older girls.³⁹ The government has approved three scholarship schemes for students belonging to the minority communities of India, with 30 percent earmarked for girl students. The scholarships were approved under the prime minister's new 15-point programme for the welfare of minorities. Under this scheme, 20,000 new scholarships will be provided every year. Already 17,182 scholarships are sanctioned to 28 states and union territories.⁴⁰

35 India Together, A bridge it is, but to where? Deepa A. 26 May 2006.

36 Ashok Agarwal, Discussion on Right to Education and Child Labour, National Forum for Policy Dialogue, New Delhi, 22 April 2008.

37 Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report, 2007. pp. 33.

38 Social Economic and Educational Status of the Muslim Community in India, A Report. (Sachar Committee Report) 06. Government of India. November 20, pp.58.

39 Ibid.

40 IANS, Scholarship schemes for minorities approved July 27, 2008. http://indiaedunews.net/Career/Scholarship_schemes_for_minorities_approved_5365/index.asp.

Table 4 : Literates as Proportion of Population by Age Groups - 2004-05

Age Group	Hindus			Muslims	Other Minorities
	Gen	OBC	SC/ST		
6 - 13 years	90.2	80.8	74.7	74.6	88.5
14 -15	95.7	87.5	80.0	79.5	91.9
16 -17	95.0	85.2	78.6	75.5	91.3
18 - 22 years	91.4	76.9	65.0	70.5	85.8
23 years & above	74.0	50.6	36.5	46.1	67.0
Total	80.5	63.4	52.7	59.9	75.2

Source: Estimated from NSSO 61st Round, Sch. 10 (2004-06). Social Economic and Educational Status of the Muslim Community in India, A Report, (Sachar Committee Report) November 2006. Government of India. page 54

There are 1,652 mother tongues spoken in India. Children from linguistic minorities also face difficulty and discrimination, as they are often unable to access education in their mother tongue. This is a particularly important issue in most of the inter-state border areas and places with a concentration of migrants with a different language background.⁴¹ The Indian Constitution allows linguistic minority groups to receive education in their mother tongue (Article 350). However, the large majority of children in India today begin school confronted by a language that is not their mother tongue and that they do not understand, making learning extremely difficult and impacting negatively on their overall learning.⁴² Under the SSA, only a few states such as Andhra Pradesh and Orissa have initiated bilingual or multilingual education strategies.⁴³

UNESCO explains how bilingual and multilingual education can have significant benefits for improving education quality and reducing repetition and drop-out, but implementation challenges remain across the world, particularly with regard to ensuring that there are enough trained teachers available that are proficient in the students' mother tongue.⁴⁴

Recognising that the challenge for SSA is to be able to address the needs for access and quality education for each and every child,⁴⁵ the Ministry of Human Resource Development's report for the Eleventh Plan Working Group highlights two main areas of focus for the Eleventh Plan period: (1) improvement of the quality of education, and (2) focus on disadvantaged and educationally backward areas and social groups that are lagging behind. They have stressed that equity issues need to become a central theme in the discussion and vision for quality improvement.⁴⁶

Balu Thanda in the Telangana region in Andhra Pradesh, a teacher who himself is a Lamabada (nomadic tribal who belong to that region) says that he does not ever explain to children in their own language i.e. Lambadi. The training given to him stresses that no teaching should be done in government schools in a language other than Telugu. However, children in standard I, II and III do not understand Telugu as it is not their home language. He demonstrates this by asking a girl from standard I to shut the window. While the girl looks at him blankly, another older child quickly explains to her in Lambadi what she is expected to do. "Look at that," he says. "The children will learn from among themselves."

Source: Save the Children, Giving space to our mother tongue, 20 February 2008.

Girls

Despite a recent increase in the number of girls attending school, gender discrimination is still evident in education in India. The traditional place of the woman is in the home and so many parents and children consider education for girls to be a waste of time, especially when the child can instead be working or performing domestic chores.⁴⁷ Only 38 per cent of Indian women are literate and, at 64 per cent, the gender parity in literacy rates amongst Indian women and men is one of the most unequal in the world.⁴⁸

41 Ibid. pp. 35.

42 Save the Children, Giving space to our mother tongue, 20 February 2008.

43 Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report, 2007, pp. 34.

44 UNESCO, Global Monitoring Report, 2008, pp. 147.

45 Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report, pp. 19.

46 Ibid, pp. 19.

47 i-india. Gender discrimination. http://www.i-indiaonline.com/sc_crisis_theproblem.htm#gender.

48 Ibid.

HRD focus stays on girl child education

Urmi A Goswami
NEW DELHI

GETTING the girl child into school and keeping her there continues to be a focus area for the ministry of human resource development in its drive to universalise elementary education. The ministry has now decided to set up an additional 1,000 Kasturba Gandhi Balika Vidyalayas to ensure that girl children, especially from the weaker section, are not deprived of an education. The additional schools will come at an investment of Rs 229 crore, of which the Centre's share is Rs 172 crore. This takes the number of Kasturba Gandhi Balika Vidyalayas (KGBV) from 1,180 to 2,180.

The KGBVs were set up as schools with board-

ing facilities at elementary level for girls belonging predominantly to the Scheduled Castes (SC), Scheduled Tribes (ST), other backward classes (OBC) and minorities in remote areas. These schools have been part of Sarva Shiksha Abhiyan (SSA), National Programme for Education of Girls at Elementary Level (NPEGEL) and Mahila Samakhya. Financing of the KGBVs are the same as norms for SSA, that is a 75:25 sharing ratio between the Centre and state governments.

Of the 1,180 Kasturba Gandhi Balika Vidyalaya sanctioned till now, 771 are already in operation. The Centre has invested Rs 317 crore in the scheme. Of these 302 KGBVs are in areas with more than 25% or substantial Muslim population. In the 771 functional KGBVs, 27% of the enrolled girls are from the Scheduled Tribes,

27% are from the Scheduled Castes while 29% are from the OBCs.

As envisaged, the scheme aimed at according priority to girls from SC, ST, OBC or minority communities, they would constitute at least 75% of the intake. After which girls from families below poverty line would be considered.

The KGBVs are to be set up in blocks identified Educationally Backward Blocks (EBBs), as per census data of 2001. The rationale behind setting up these residential schools was to ensure that girls from economically disadvantaged and socially backward areas had access to quality education. The programme, under its new name, has been cleared and will result in setting up 500 to 750 residential schools in educationally backward blocks over the remainder of the tenth plan period.



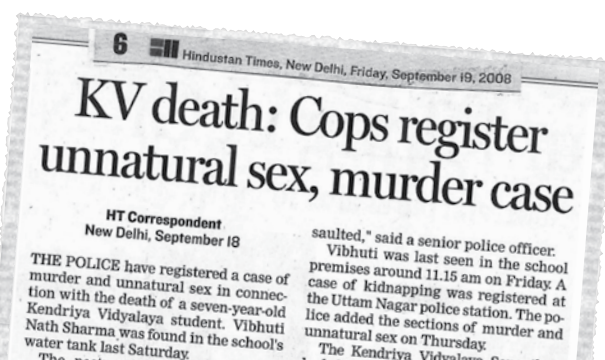
Top Priority: Girl students

The number of girls enrolled in schools, both at the primary stage as well as the upper primary level is less than boys. The average of 604 districts in 2005-06 indicates the Gender Parity Index (GPI) of 0.91 in primary school and 0.83 in the upper primary stage. As mentioned earlier, and can be seen from Table II in the Annexure, boys out-number girls at both levels of education.

The reasons for fewer girls than boys in schools of course lie in patriarchy. Besides, getting girls into school is only the first hurdle; once they are there, greater efforts need to be made to retain them through systematic monitoring of education quality.⁴⁹ But lack of toilets and distance from the home are other major reasons, particularly in the light of increasing levels of crimes against girls, sexual abuse and assault cases within the schools, as will be seen in the chapter on violence in this report. According to information collected by DISE, not a single state has provided common toilets and toilets for girls to all of its schools. In 2005-06, 52 per cent schools covered under DISE across 604 districts had common toilets in school, whilst only 37.40 per cent schools had separate toilets for girls.⁵⁰

The Eleventh Plan Working Group Report calls for urgent action to be taken to develop multiple strategies to enable girls to go beyond the primary stage.⁵¹ The report recommended that a school sanitation programme in both rural and urban areas should be considered, as well as a general focus on creating a girl-friendly classroom and environment. It has recommended that the special schemes to promote girls' education – National Programme for Education of Girls at Elementary Level (NPEGEL) and the Kasturba Gandhi Balika Vidyalaya Scheme to provide educational facilities for girls belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes, minority communities and families below the poverty line in Educationally Backward Blocks – both be continued in the Eleventh Five Year Plan.⁵² Success must be measured on the quality of education provided to girls, for

Lack of toilets and distance from the home, particularly in the light of increasing levels of crimes against girls, sexual abuse and assault cases within the schools are reasons for high drop-out among girls.



Shakila Parvin, the mother of 14-year-old Shama, one of the students in the class, gives another reason why she does not plan to send her daughter to school. "The secondary school is 10 km away and there's no transport here. It is not safe for my daughter to travel alone."

While there are 622 primary schools in the district, there are only 159 schools catering to the secondary level — a distressing gap that continues to impact negatively on the education of girls.

Deepa A, India Together, Govt stalling on secondary school reforms, 24 August 2006.

NEW DELHI: Perturbed by the increasing number of cases of sexual harassment within schools, a working group report by the ministry of women and child development (WCD) on 'empowerment of women' has recommended implementation of the "Vishaka guidelines" in schools for girls and teachers.... Organising "awareness programmes in schools so that girl students gain confidence in reporting such cases" is suggested.

Himanshi Dhawan, Govt takes up issue of sexual abuse in schools, 25 Nov, 2006, TNN

49 Ministry of Human Resource Development. Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report. pp. 39.

50 Education Statistics from DISE, 2005 – 2006.

51 Ministry of Human Resource Development. Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report. pp. 39.

52 Ibid.

example through achievement rates in examinations and transition to the next level, as opposed to being regarded simply in terms of enrolment rates.

The need is to engender the whole education system. Engendering the education system involves not just establishing girl friendly schools but also creating gender awareness in the educational system so that the entire educational environment is sensitive to the needs of girls. UNESCO's 2008 Global Monitoring Report highlighted the need for learning content that promotes real gender equality.⁵³ In India, more than half the illustrations in the average primary school English, Hindi, Mathematics, Science and Social studies textbooks depict only males and only six per cent show only females. Plus these pictures continue to show men and women in stereotyped roles, for example with men dominating commercial, occupational and marketing situations.⁵⁴

Dalit and Tribal Children

India continues to be divided by caste and tribe. Despite all promises and efforts towards affirmative action, data clearly reveals that Dalit and tribal children continue to be denied equal access to education. Even when they do reach school, they often find themselves excluded, alienated and discriminated against, forcing many of them to drop out.

According to the Eleventh Plan Working Group the share of SC students in total enrolment was only 20.72 per cent at the primary stage and 19.42 per cent at the upper primary stage. For ST students, share in total enrolment was 11.75 per cent at the primary stage in 2005–2006 and 9.28 per cent at the upper primary stage.⁵⁵

Drop-out rates too remain high amongst SC and ST –59.42 per cent for SC and 70.05 for ST in 2003 - 2004 for classes I-VIII.⁵⁶ Needless to say the proportion of SC and ST girls dropping out of school is even higher.

Nearly one in ten tribal children remain out of school and one in twelve Dalit children are not enrolled in school. Many who do manage to reach the schools drop out.

In Kalyanpatti, Bihar, Dalit children are actually banned from school because of caste prejudice. Students explained how they attended school but were beaten by their teachers and forced to leave. The one government school in Kalyanpatti was previously located in a Dalit colony, but since it was moved to an upper caste area Dalit children have been barred from entering the school premises. In another school in Rohtas district, Bihar, the school committee secretary took away the utensils so that the Dalit cook could not make the mid-day meal for the students. The fund meant for the construction of a lavatory was also removed by the secretary for fears that once it was completed, Dalit students would use it. These examples illustrate the extent of prejudice and discrimination still faced by SC students across India.

CNN-IBN, Dalit kids barred from Bihar school, 8 September 2007.

On Independence Day, Rigzyan Saifil, the District Magistrate of Orai, handed over Mata Prasad Dixit, Amod Kumar, Dinesh Khushwaha, all three teachers of a primary school in Majeeth village of Rampura block to the police. During a surprise school visit, he was told by students and parents that the teachers would regularly throw plates with mid-day meals (MDM) at Dalit children, make them sit apart from the rest of the class and cane them with a separate stick, washing their hands soon after. Saifil had made the check on receiving informal complaints. Sanjeev Kumar, a class four student in a government run primary school of village Bhagwanpura of Jalaun district says his teacher does not permit him to sit on the mat. "The Thakurs and Brahmin students in my class ask me to keep away from the mat. My teacher asks me to sit on the ground. In school during mid day meal (MDM), we are forcibly seated very far and in the last. The children from the general castes don't like to play with us. If I go to the teachers for checking the home work or class work, they see it without touching it. Kumar is lucky his teachers do not thrash him.

Puja Awasthi , Caste discrimination persisting in U.P. schools, 17 Aug 2007, <http://www.indiatogether.org/2007/aug/edu-caste.htm>.

53 UNESCO, Global Monitoring Report, 2008, pp. 102.

54 Ibid. pp. 102.

55 Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report, 2007, pp. 3.

56 Ibid. pp. 14.

Recognising the gravity of the situation, in 2007, the Comptroller and Auditor General of India (CAG) came out with a Performance Audit of Educational Development of Scheduled Castes (SC) and Scheduled Tribes (ST) in India (Report No.14 of 2007). Examining two indicators of educational development, i.e. gross enrolment rate (GER) and gross drop-out rate (GDR),⁵⁷ the audit report highlighted, among other things, alarming gaps in policy implementation in the Universalisation of Elementary Education (UEE) for the SC and ST children.

The CAG report found that the gap in GDR between general candidates and Scheduled Caste and Scheduled Tribe candidates, which was 6.7 per cent and 15.1 per cent in 2001-02, deteriorated to 10.4 per cent and 16.6 per cent in 2003-04 respectively. The range across states was between 0.04 to 28.98 per cent in 2003-04 among SC children. Similarly, the drop-out rate for ST boys & girls also increased in 2003-04 in several states with reference to 2001-02.⁵⁸ See Tables III, IV, V and VI in Annexure for details on the decline in the gross enrolment and drop-out ratio of Scheduled Caste and Scheduled Tribe girls and boys.

Caste based Students Strength Chart – on the wall of the principal's room of the Government, Co-ed Middle School, Block - A, Metro Vihar, Holambi Kalan Resettlement Colony, New Delhi

Category	SC	OBC	Book Bank	Muslims
1310399 TOTAL	108	10	10	10
VII A	95	6	-	5
G.VII B	51	2	-	17
G.VI A	82	2	-	15
VI B	100	2	-	13
Boys Girls Total	108	10	10	10

The CAG concluded that implementation of the educational schemes by both the Ministries was not satisfactory. Weaknesses in financial management such as inaccurate/ unrealistic budgeting, non-utilisation of funds, inter-state imbalances in release of central assistance, non-availing of central assistance, unspent balances, delayed/short/non release of funds and diversion of funds were noticed across all the schemes. In respect of the Pre-matric scholarship scheme for the children of those engaged in unclean occupations and Post-matric scholarship scheme, deficiencies at the implementation stage included short coverage of beneficiaries, payment of scholarship to ineligible beneficiaries, delays in payment of scholarship, excess payment of scholarship, deficiencies in the system of selection of beneficiaries etc. In the case of the 'Scheme for the establishment of Ashram schools in tribal sub-plan areas', construction of schools was delayed in several cases and maintenance of schools was not given enough priority by the state governments. Effectiveness of the scheme for 'Upgradation of Merit of Scheduled Castes and Scheduled Tribes' suffered due to delays in release of funds. Implementation of the Book Bank scheme suffered from lacunae such as short establishment of book banks, procedural irregularities in the purchase of books, purchase of inappropriate books and delays in purchase. The 'Scheme of Hostels for SC/ST community students' suffered due to delays in completion of construction, lack of facilities, non-utilisation of facilities etc. In respect of the 'Coaching and allied scheme for STs and for weaker sections including SCs, OBCs and Minorities', deficiencies included defunct PETCs, inadequate number of sessions, non-availability of basic facilities, poor record maintenance etc. In respect of schemes implemented through NGOs, funds were not recovered from blacklisted NGOs and NGOs deviated from the conditions governing sanction of grants-in-aid. Funds were sanctioned for projects in unidentified districts. Appropriate monitoring mechanism was absent for pre and post matric scholarship schemes, the state governments did not ensure submission of periodical reports/returns regarding various schemes from the implementing authorities. Neither of the two Ministries prepared databases of beneficiaries for monitoring purposes. Inspection was not conducted in a systematic manner and independent evaluation was not conducted at the Union Government level and in most of the states. Internal audit of the schemes was also not conducted at the Union level and also in many states.

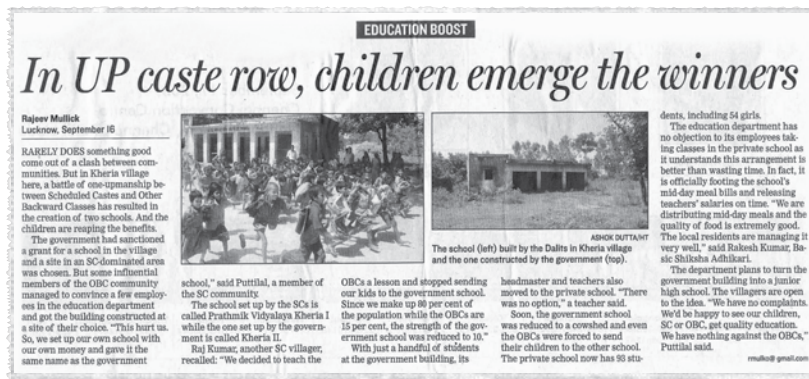
Besides facing discrimination in terms of access to education, many SC and ST students continue to face discrimination and harassment in schools due to their social status. They are made to sit separately, eat separately or after others, and are treated with contempt. Dalit children are also often made to undertake cleaning duties.

⁵⁷ Gross enrolment ratio is the percentage of the estimated child population in the age group 6 to 14 years enrolled in classes I-VIII. Since the enrolment in these stages may also include underage and overage children, the total percentage may be more than 100 per cent in some cases. The GER of both Scheduled Caste and Scheduled Tribe boys and girls in 2003-04 decreased with reference to 2001-02 in several states. <http://www.nsa.org.in/Policybrief/27072008GERGDRforSCST.htm>. Accessed on 13 August 2008.

⁵⁸ <http://www.cag.gov.in/html/reports/civil/2007> and <http://www.nsa.org.in/Policybrief/27072008GERGDRforSCST.htm>. Accessed on 13 August 2008.

The vastness of the country, and the remoteness of the tribal villages, combined with no roads and transport is an important reason for children not being able to access schools. In its report on tribal communities in Andhra Pradesh, the NGO Samata documents how the universal right to education is still denied to many tribal children. There are many villages located in the hills that do not even have primary school facilities. The tribal welfare budget is falling far short of the expenditure needed to provide quality and out-reach to all tribal communities and the present school curriculum has no inclusiveness or relevance to tribal life.⁵⁹

Recognising these factors, the Eleventh Plan Working Group Report recommends the establishment of hostels for educationally deprived communities so that ST children are able to access post-primary education.⁶⁰ It has recommended that learning be made appropriate and relevant for tribal children, for example by developing teaching materials which incorporate the life situations that children can relate to and making appropriate education provisions for nomadic tribal groups and families who migrate seasonally.⁶¹



The Working Group has also recognised the need to tackle discrimination in schools and says that the effort towards building inclusive schools, where teachers understand and are sensitive to issues of social disadvantage, must be an integral part of teacher education.⁶²

Disabled Children

In 2001-02, the government made education a fundamental right for children. However, it put the onus of a child's education on the parents, making education the responsibility of parents, not the state. In a country like India, where a large section of the population lacks the means to send their children to school, the government's dilution of its own responsibility towards providing education is a big blow. For the disabled children, who any way face exclusion, it becomes even more difficult.⁶³

About 1.62 million disabled children are enrolled in elementary classes across the country, of which 1.24 million are in primary and 0.38 million are in upper primary classes. The percentage share of girls in all categories is about 41 per cent. One in every three-disabled child enrolled have some problem in moving (29.03 per cent), 21 per cent are visually handicapped, 10 per cent are hearing impaired, 12 per cent have speech disability and 17 per cent have mental disability. Other disabilities constitute about 12 per cent.⁶⁴

A child with disabilities would appear to be twelve times as likely to be out of school as a child in the general population.

A 2006 Report to the Committee on Economic, Social and Cultural Rights states that 55 per cent of the disabled population of India is illiterate and only nine per cent complete secondary education.⁶⁵ The Third Joint Review Mission of Sarva Shiksha Abhiyan in its latest figures states that out of the total population of out of school children, the disabled are the largest in number, constituting nearly 38.11 per cent of the total population.⁶⁶ The Review

59 Samata, A Study on the Status of Tribal Children in Andhra Pradesh. 2007. pp. 5.

60 Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report, 2007. pp. 33.

61 Ibid. pp. 34.

62 Ibid.

63 Anita Ghai, Education in a globalising era: Implications for disabled girls, Social Change, Vol. 36, No.3, 2006, pp. 161-176.

64 Arun Mehta, Elementary Education in India. Progress Towards UEE, Analytical Report 2005-06, Published in 2007, pp. 139.

65 Government of India. Report to Committee on Economic, Social and Cultural Rights. October 2006. pp. 5.

66 Source: <http://ssa.nic.in/monitoring/mainjrm03.asp>.

Mission further states that on the basis of the survey, a child with disabilities would therefore appear to be twelve times as likely to be out of school as a child in the general population.⁶⁷

In 2004, the government launched an 'Action Plan for the Inclusive Education of Children and Youth with Disabilities', which pledged to make education 'disabled-friendly' by 2010.⁶⁸ This was followed by the government's National Policy for Persons with Disabilities in 2006, which recognised that education is the most powerful vehicle of social and economic empowerment and pledged to improve identification of disabled children, provide them with the right kind of learning materials and ensure they successfully complete their education.⁶⁹ However, the policy has been criticised for providing no roadmap in terms of how these provisions will be provided on the ground.⁷⁰

Sarva Shiksha Abhiyan (Education for All)⁷¹ claims to follow a policy of 'zero rejection', attempting to provide for the education of children with special needs including those with severe or profound disabilities.⁷² Despite this claim, the education of disabled children continues to be neglected and huge numbers of disabled children remain out of school. The percentage of disabled children, both in primary and upper primary classes, is below one per cent of the total enrolment in school⁷³ (see Table VII in Annexure). While there has been huge progress, even today only 17.14 per cent of schools provide ramp access (only 4.63 per cent schools provided ramps in 2002-03).⁷⁴

Girls with disabilities face a double disadvantage – and double discrimination. Table VII in the Annexure shows how in virtually all states and across all age groups, fewer disabled girls than boys are attending school. The Eleventh Plan Working Group Report argues that there is a real need to work out more flexible and need based education for girls with disabilities.⁷⁵ The report also advises that the financial norm of Rs. 1,200 per child should be increased to Rs. 1,500 per child – though the exact amount of funds should be modified according to different levels of needs.⁷⁶ However, the CABE committee assumes 2.7 per cent of children to be disabled and 0.3 per cent to be severely disabled and a requirement of Rs 2,000 per child per year in the former case and Rs 50,000 in the latter case to meet the educational costs of these disabled children.⁷⁷

The Right to Education Bill 2005 stated that children with "severe or profound disability, [who] cannot be provided elementary education in a neighbourhood school, shall have the right to be provided education in an appropriate alternative environment as may be prescribed".⁷⁸ However, the Bill has been criticised for failing to provide clarity regarding the rights of children with disabilities and how these will be implemented.⁷⁹

HIV Positive Children

In 2004, Human Rights Watch published a report entitled 'Future Forsaken' which documented abuses and discrimination against HIV-positive children in India. It explained how these children faced significant barriers to receiving education, including in some cases being denied admission to schools.⁸⁰ The government had received 34 reports of discrimination faced by children with AIDS from Kottayam, Kerala; TaranTaran, Punjab; Sangli, Maharashtra in 2007. The teachers in Kerala explained that parents of the other students had threatened to withdraw

67 Ibid.

68 UNICEF, Government of India announces plan to make education disabled-friendly by 2020, Ami Vitale, 2004.

69 Government of India, National Policy for Persons with Disabilities, 2006.

70 HAQ's Submission On the right to education of children with disabilities to Vernor Muñoz UN Special Rapporteur on the Right to Education United Nations - Human Rights Council.

71 Sarva Shiksha Abhiyan (Education for All) makes a provision of Rs.1200/- per child for the inclusion of disabled children, as per specific proposal, per year is there. The interventions under SSA for inclusive education are identification, functional and formal assessment, appropriate educational placement, preparation of Individualized Educational Plan, provision of aids and appliances, teacher training, resource support, removal of architectural barriers, research, monitoring and evaluation and a special focus on girls with special needs.

72 Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report, 2007.pp. 36.

73 Arun Mehta, Elementary Education in India. Progress Towards UEE, Analytical Report 2005-06. Published in 2007, pp. 139.

74 Ibid. pp. 101.

75 Ministry of Human Resource Development, Chapter on Elementary Education (SSA and Girls Education) for the XIth Plan Working Group Report. 2007. pp. 37.

76 Ibid. pp. 37.

77 India Together, Right to Education Bill. 2005, M R Madhavan and Ruchita Manghnani.

78 Right to Education Bill. 2005.

79 India Together, Right to Education Bill. 2005, M R Madhavan and Ruchita Manghnani.

80 Human Rights Watch, Future Forsaken: Abuses against HIV/AIDS affected children in India, 2004.

their children from the school if the HIV-positive children were allowed to attend.⁸¹ A similar incident also occurred in West Bengal when parents demanded that a Baruipur primary school expel children suspected to be HIV-positive.⁸² The West Bengal Board of Primary Education fortunately refused to give into the demand, but this shows the extent of fear and discrimination against HIV-positive children and suggests a need to educate communities more effectively about HIV and AIDS.

In addition to this discrimination by schools, HIV-positive children are often compelled to drop out of school to supplement the family income, as health expenditure for HIV-affected families is much higher than for non-HIV families.⁸³ This points to the failure of the welfare system to respond to the basic needs of education and healthcare and suggests a need for measures which guarantee effective support for the families affected by HIV and AIDS.⁸⁴

Corporal Punishment

Violence in school, in the form of 'corporal punishment' continues to be widespread across the country. The UN Convention on the Rights of the Child (UNCRC) states that: "States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention."⁸⁵ Despite being a signatory to the UNCRC, India has no national law to address corporal punishment and violence against children in schools. However, there is a gradual movement towards corporal punishment in schools being considered unacceptable and it has now been banned in several states, including Andhra Pradesh, Tamil Nadu and West Bengal, as well as Chandigarh and Delhi.⁸⁶

Violence against children in schools has been increasingly catching the attention of the media. In October 2007, the Directorate of Education in Delhi announced that it was to set up Special Committees in each district to inquire into



all cases of abuse in schools, including sexual exploitation, corporal punishment and child abuse of any kind.⁸⁷ This came the day after a 14 year old girl was hospitalised in Gurgaon after being brutally thrashed by her teacher for passing a notebook to her classmates.⁸⁸ The girl suffered severe stomach pain following her beating. It also followed on from reports of a student who was stripped in a government school.⁸⁹ In 2006, a 10 year old boy in Punjab was allegedly thrashed mercilessly by his teacher with a wooden duster and stick simply because he was not wearing his uniform properly and had shoes without laces.⁹⁰ And in Andhra Pradesh, there have been reports of a school teacher who subjected her students to electric shock treatment.⁹¹

Despite the fact that these individual incidents are making headlines now in the Indian media,

81 BBC News, India school 'rejects' HIV pupils. 6 June 2007.

82 The Times of India. Throw out HIV kids: Parents, 26 August 2007.

83 The Hindu, Distress compounded. 9 August 2006.

84 Ibid.

85 United Nations, Convention on the Rights of the Child, Article 28.

86 Manitham, Corporal punishment in Chennai schools: A study, Tashi Yangzom Bhutia. July 2006. pp. 8.

87 Hindustan Times, In Delhi, education department sets up panel to look into cases of abuse. Amitabh Shukla, 3 October 2007.

88 Hindustan Times. Gurgaon girl in hospital after thrashing in school, Sanjeev K. Ahuja. 3 October 2007.

89 Hindustan Times, In Delhi Education Department Sets up Panel to look into Cases of Abuse, Amitabh Shukla, 3 October 2007.

90 NDTV. Boy thrashed mercilessly by teacher, Vikram Chowdhary. 10 October 2006.

91 National Commission for the Protection of Child Rights. Corporal punishment in schools. August 2007.

The National Commission for Protection of Child Rights directs the education departments of all the States to ensure the following:

1. All children are to be informed through campaigns and publicity drives that they have a right to speak against corporal punishment and bring it to the notice of the authorities. They must be given confidence to make complaints and not accept punishment as a 'normal' activity of the school.
2. Every school, including hostels, JJ Homes, shelter homes and other public institutions meant for children must have a forum where children can express their views. Such institutions could take the help of an NGO for facilitating such an exercise.
3. Further a box where children can drop their complaints, even if anonymous has to be provided for in each school.
4. There has to be a monthly meeting of the PTAs or any other body such as the SEC/VEC to review the complaints and take action.
5. The PTAs are to be encouraged to act immediately on any complaints made by children without postponement of the issue and wait for a more grave injury to be caused. In other words the PTAs need not use their discretion to decide on the grievousness of the complaint.
6. Parents as well as children are to be empowered to speak out against corporal punishment without any fear that it would have adverse effect on children's participation in schools.
7. The education department at all levels - block, district and State are to establish procedures for reviewing the responses to the complaints of children and monitoring the action taken on the same.
8. All the States are to intimate to the Commission on the action taken regarding above directions within two months.

corporal punishment remains deeply ingrained in the school system as a means of discipline. However, all forms of corporal punishment are a fundamental breach of human rights.⁹² The National Commission for the Protection of Child Rights (NCPCR) has developed a series of recommendations regarding corporal punishment.

The NCPCR Chairperson, Shantha Sinha, wrote to all chief secretaries recommending that there be no gradations while judging corporal punishment – “small acts” should not be condoned as they lead to gross violations and a slap can be as detrimental to the child's rights as grievous injury.⁹³ Numerous paediatricians have documented the adverse effects that corporal punishment can have on a child. Humiliating a child in front of his or her classmates can have a profound effect on a child's personality and may trigger serious inhibitions, even later in life.⁹⁴

Emergencies Affect Education

Many children in India continue to have their education interrupted by emergencies affecting their communities. In the Naxal affected areas in the north of the country, the conflict between the state and Naxalites has affected the provision of education in several places due to protracted violence. Many government schools have been converted into relief camps.⁹⁵ Schools have also been targeted by armed groups. In October 2006, Naxalites blew up three school buildings, including a primary school, a middle school and an ashram school, in Koitpal village, Dantewada district, Chhattisgarh.⁹⁶ An ashram school was also attacked by Naxalites in Chhattisgarh in March 2007, when 30 schoolgirls were woken up in the night to gunshots and the sounds of grenades exploding.⁹⁷ The National Commission for the Protection of Children's Rights (NCPCR) has recommended to all parties that schools should be recognised as “zones of peace”.⁹⁸ However, attacks continue on schools in conflict-affected areas.

Many children in India continue to have their education interrupted by emergencies affecting their communities.

At least 100,000 displaced people have resettled in camps in southern Chhattisgarh.⁹⁹ A survey conducted by a local NGO suggests that around 40 per cent of the children aged between six and 16 residing in camps are not attending school.¹⁰⁰

92 Ibid.

93 The Indian Express, Insulting a child also corporal punishment, 12 August 2007.

94 The Hindu, Corporal punishment in schools. M. Raghuram, 6 July 2007.

95 Asian Centre for Human Rights. Chhattisgarh government and Naxalites urged to talk, 17 March 2006.

96 Asian Centre For Human Rights, Naxal conflict in 2006, January 2007. pp. 9.

97 Hindustan Times, A night of horror for 30 schoolgirls, S. Karimuddin, 16 March 2007.

98 National Commission for the Protection of Child Rights. Visit to Dantewada (Chhattisgarh) and Khamman (Andhra Pradesh) to investigate status of health and education of children affected by civil unrest, December 17-19 2007. March 2008.

99 Human Rights Watch, India: End state support for vigilantes, 15 July 2008.

100 Human Rights Watch, Dangerous duty: Children and the Chhattisgarh conflict, July 2008. pp. 50.

The Asian Centre for Human Rights visited Kasoli and Nelsanar camps in January 2007 and found that educational facilities remained non-existent.¹⁰¹ The government has permitted local NGOs to take children from camps to other towns or cities in Chhattisgarh for their schooling.¹⁰² However, this has meant that in some cases, such relocation has separated children from their parents who are residing in the camps.¹⁰³ Families therefore have to make the difficult choice between educating their children or keeping the family together.

Similar problems can be seen in Tripura, where the children in the Bru Internally Displaced Persons' camps are not receiving education. Over 5,000 children have been denied the right to education, which has resulted in an entire generation of Brus in the past eight years missing out on an education.¹⁰⁴

In Assam, the state government decided to open primary schools under the Education Guarantee Scheme of the Aam Sarba Siksha Abhiyan Mission in 1999 in every relief camp in the state. However, the fact that the displaced people in the camps face acute livelihood risks also infringes heavily on children's education. With parents searching for daily-wage jobs, children are often left behind in the camps to fetch water and fuel-wood, cook, look after younger siblings and search for food. These responsibilities leave them with little time for their studies and consequently only the youngest children attend school. Thus there are high drop-out rates in the schools that do function in these areas. For example, at the Jaypur Mangalajhara Regional Middle English school, in Jaypur relief camp, while 120 students were enrolled in Class I, only one-fifth as many (24) were enrolled in Class IV. There are also serious issues regarding the quality of education provided by these schools. In Karbi Anglong relief camp, three schools run under one tin-roof shed, with an acute shortage of teaching materials. The students' exam results have been poor – but in such difficult conditions, how can one expect better results?¹⁰⁵

Besides being affected by conflict, the provision of education in India is also frequently interrupted by natural hazards, such as heavy flooding, which occurs each year due to monsoon rains. In severe cases of flooding, schools are often closed either because they have been submerged or damaged, or because they are used as temporary shelters for people who have lost their homes.

Mid Day Meal Scheme

The Mid Day Meal (MDM) scheme, or National Programme of Nutritional Support to Primary Education, was launched by the central government in 1995 and involves the provision of a free cooked meal to all children in classes I-V of government and government-aided schools. Along with tackling the serious issue of malnutrition in children, this also serves as an incentive to attract and retain students from the poorest families. In June 2006, the scheme was revised and the calories provided from the meal were increased from 300 to 450.¹⁰⁶

In October 2007, the scheme has been further revised to cover children in upper primary (classes VI to VIII) initially in 3,479 Educationally Backwards Blocks (EBBs). Around 1.7 crore upper primary children are expected to be included by this expansion of the scheme. It is proposed that the programme be extended to all areas across the country from 2008-09. The calorific value of a mid-day meal at upper primary stage has been fixed at a minimum of 700 calories and 20 grams of protein by providing 150 grams of food grains (rice/wheat) per child/school day.

Mid-day meal faces starvation
Govt plans to double price of foodgrains meant for children's welfare scheme

Chetan Chauhan
 New Delhi, September 18

THE MID-DAY meal scheme, which provides much-needed nutrition to lakhs of children all over the country, faces an acute crisis. The Department of Food and Public Distribution, headed by Agriculture Minister Sharad Pawar, has told the HRD ministry that from now on wheat and rice for this scheme will cost almost double. Also, it would not be possible to provide foodgrains for any future expansion of the scheme, the ministry was told.

Only last Thursday the Cabinet approved the proposal to expand the mid-day meal scheme to the upper primary level in schools. The HRD ministry will now have to buy grains at what is called the 'economic rate' which is about Rs 12,000 per metric tonne, compared to Rs 6,500 per metric tonne (the Below Poverty Line Rate, at which foodgrains for the scheme was being bought till now). "Economic rate means that the Food Corporation of India will provide foodgrains at a no-profit no-loss basis, slightly less than the market rate," an official said.

Of the total food basket for the scheme, covering 9.5 lakh primary schools, 30 per cent is wheat and 70 per cent is rice. In the last financial year, the ministry procured 19.80 lakh tonnes of rice and 5.47 tonnes of wheat.

FOOD FOR THOUGHT

DEMAND	SUPPLY
12 crore children in 9.5 lakh schools have mid-day meals.	21 lakh tonnes of rice and about 7 lakh tonnes of wheat used up in 2006-07
Additional 3 crore children to be covered in 3,477 educationally backward districts	Will get doubled, from Rs 5,650 per metric tonne to Rs 12,000 per metric tonne
100 grams of wheat and rice needed per child	

Continued on Page 12

Table VIII in the Annexure shows that whilst a number of states now have universal coverage of MDM, other states such as Bihar (with 67.9 per cent coverage) and Jharkhand (with 69.2 per cent) still have large numbers of children not

101 Asian Centre For Human Rights, Naxal conflict in 2006. January 2007, pp. 21.

102 Human Rights Watch, Dangerous duty: Children and the Chhattisgarh conflict, July 2008. pp. 52.

103 Ibid. pp. 53.

104 Asian Centre for Human Rights, Despair in Bru IDP camps in India, 27 February 2006.

105 India Together, In Assam's conflict zones, a battle to secure futures, 14 August 2007.

106 Seventh Report of the Commissioners of the Supreme Court, November 2007, pp. 43.

receiving their free cooked meal. Most worryingly, these tend to be the states with the highest number of poor children who would benefit most from the mid day meal. The reasons given by the state governments for failing to achieve 100 per cent coverage tend to be either that children are refusing to eat their meals, or that the scheme has not yet been extended to the private-aided schools. However, when Seventh Report of the Commissioners of the Supreme Court looked at the utilisation of food grains, it discovered that in the year 2005 – 2006 only 76.8 per cent of the grain allocated for the MDM scheme was actually used by the state governments. Since the allocations are based on estimates of enrolments and attendance, this means that either not all institutions/children were covered by the scheme or that the quality of the scheme was compromised in that not enough quantity of food was given to the children.¹⁰⁷

Table IX in the Annexure shows the state-wise allocation and offtake under the MDM scheme. Based on these calculations, it is estimated that had children been given 100 grams of food grain a day for 220 days in a year, then only 65.7 per cent of the enrolled children in primary schools would have been covered by the scheme in 2005 – 2006.¹⁰⁸

Reports of 'caste bias' in the implementation of the MDM scheme continue to be a matter of serious concern. The Department of Human Resource Development found that caste discrimination in serving food exists in several states such as Haryana and Karnataka.¹⁰⁹ Another survey of practices of untouchability in 565 villages in 11 states reveals that in as many as 38 per cent of government schools, Dalit children are made to sit separately whilst eating.¹¹⁰ The Seventh Report of the Commissioners of the Supreme Court also expressed concern about continued reports of caste discrimination during the serving of the meals, when children are made to sit separately, or served smaller meals, or given different plates. Discrimination is also seen in the appointing of cooks. In spite of an order from the Supreme Court that preference should be given to SC/ST cooks, it is still seen that the majority of schools do not do so.¹¹¹

In 2007, the government announced that it would extend the MDM scheme to upper-primary schools in 3,479 Educationally Backward Blocks from 1 October 2007 and across the country from 2008 – 2009. A sum of Rs. 73.24 billion was provided in the 2007 – 2008 budget for the MDM scheme, representing a 37 per cent increase from the previous year.¹¹² However, with the increase in global wheat and

Caste bias in the MDM scheme continues to be a matter of serious concern. Survey of practices of untouchability in 565 villages in 11 states reveals that in as many as 38 per cent of government schools, Dalit children are made to sit separately whilst eating or given different plates.



Picture courtesy: Action Aid. <http://www.indiatogether.org/2007/aug/edu-caste.htm>

107 Ibid. pp. 46.

108 Seventh Report of the Commissioners of the Supreme Court, November 2007, pp. 53.

109 Times of India, Caste bias in mid-day meal scheme, Akshaya Mukul, 13 August 2007.

110 Harsh Mander, Democracy Wall, 15 August 2006.

111 Seventh Report of the Commissioners of the Supreme Court, November 2007, pp. 63.

112 WebIndia 123. Mid-Day Meal Scheme extended to upper primary stage, 22 October 2007.

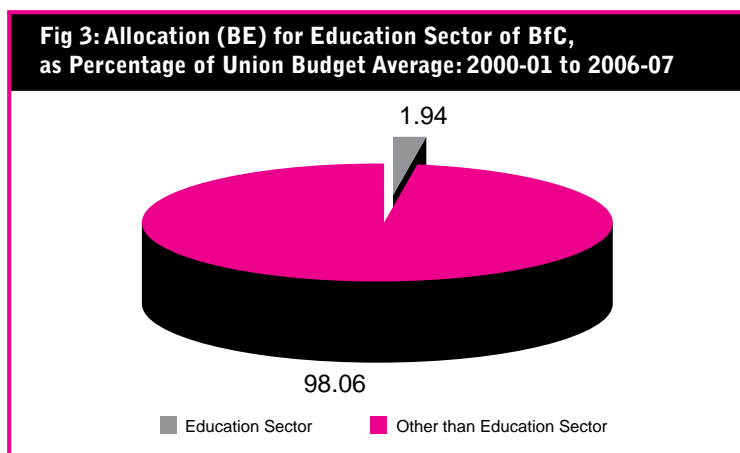
rice prices the scheme faces an acute crisis. According to the Department of Food and Public Distribution, the scheme will now cost almost double, as the grains will have to be bought at around Rs. 12,000 per tonne, compared to the Rs. 5,650 per tonne they were previously paying.¹¹³

There are also still serious concerns in many places regarding the quality of food served to the children under this scheme. Lack of a varied menu and failure to provide a sufficient amount of vegetables and fruit,¹¹⁴ concerns about hygiene and numerous reported and unreported cases of children falling sick after their meal, all undermine the purpose of the scheme and continue to pose major concerns.¹¹⁵ One parent, on seeing that the quality of the rice being distributed was of the kind he used to feed his chickens, instructed his child not to eat the food. He said: “Even though I am a poor man, I don’t allow my children to consume such low quality food.”¹¹⁶

A key issue is that the MDM is only served to children who are currently in school, whereas the most vulnerable children remain out of school, for example working as child labourers or living on the street.¹¹⁷ The Seventh Report of the Commissioners of the Supreme Court recommends that the scheme be expanded to cover all children of school-going age, irrespective of whether they are going to school, in order to ensure that all children benefit from this vitally important nutrition programme.¹¹⁸

Budgetary Commitments to Education

HAQ’s analysis of the Budget for Children over a seven year period (2000-01 to 2006-07) has shown that the allocation (BE) for children’s education, up to secondary education, stands at an average of 1.94 per cent of the Union Budget during the seven-year period of study. And in terms of sectoral allocation (BE) within the budget for children, education has received an average of 63.09 per cent during this period.¹¹⁹ Despite national commitments to increase expenditure to six per cent, current spending on education is around 3.8 per cent of the total GDP in India.¹²⁰



Source: HAQ: Centre for Child Rights.

'Spend more on education'

Ministry seeks additional Rs 80,000 cr

It wants an additional Rs 40,000 crore for its flagship Sarva Shiksha Abhiyan and midday meal programmes. There is also a huge variance between the ministry demand and commission projection for secondary and adult education. Only in the area of higher education is the difference in...

HRD ministry hopes for more funds on back of SSA success

Around 70% Of Budgetary Allocation For Sarva Shiksha Abhiyan Already Spent

Umi A Goswami

The government's flagship elementary education programme, Sarva Shiksha Abhiyan, seems to be on track. At the end of December 2006, the programme had spent and accounted for 70% of its annual allocation. In the first nine months of the current fiscal, nearly Rs 10,000 crore of the budgeted Rs 13,750 crore has been spent. The ministry of human resource development hopes that the good show will result in increased allocation for the forthcoming fiscal.

In the first nine months of the current fiscal, the programme has already utilised Rs 9,743 crore, that is 75% of funds available, which is at Rs 13,015.91 crore.

agreement problems and local body elections, which meant that funds couldn't be disbursed. In the case of states like Punjab, which has spent 67% of the available funds, the spend could...

Bihar, too, showed signs of slowdown, but ministry officials say this is because the Centre's share was released only in November. Madhya Pradesh, too, slowed down for the same reason. Nonetheless, both states have registered better utilisation of funds. Ministry officials say that the improvement in utilisation of funds can be attributed to better project management and a stable team, which has been implementing the project at the ground level.

The steady growth in spending on the Sarva Shiksha Abhiyan comes at a time when the Planning Commission has cut back funding for the programme. For the forthcoming fiscal, the Commission has indicated that programme will be given Rs 8,000 crore, which with a 50:50 would mean that the annual budget for

HIGH SCORES

State	In Rs Cr		In %	
	Funds up to 30/09	Exp up to 31/12	Exp vs Funds (30/09)	Exp vs Funds (31/12)
Assam	399	44	399	11
Bihar	1115	509	1000	50
Chattisgarh	400	209	419.7	53

113 Hindustan Times, Mid-day meal faces starvation. Chetan Chauhan. 16 September 2007.

114 Seventh Report of the Commissioners of the Supreme Court, November 2007. pp. 63.

115 Ibid.

116 Kangla Online, SSA and mid-day meal scheme not meeting standards, Thingbaijam Dhamen. 22 December 2006.

117 Seventh Report of the Commissioners of the Supreme Court, November 2007. pp. 69.

118 Ibid. pp. 69.

119 HAQ: Centre for Child Rights, Budget for Children in India, 2007.

120 UNDP, Human Development Report 2007-2008, Fighting Climate Change: Human solidarity in a divided world, pp.267.

Conclusion

Available data on school enrolment and attendance is notoriously unreliable and often fails to paint an accurate picture of the situation. Whilst recent statistics reveal that some progress has been made in terms of school enrolment in India, drop-out rates remain high indicating serious retention issues. In addition, the SSA scheme's policy of promoting parallel systems of education has meant that children across the country are being denied the equal opportunity to a quality education. The fact that the Right to Education Bill has remained on the backburner for nearly three years seriously calls into question the government's commitment to providing a quality education for every child in India.

Despite the fundamental right against discrimination and government's professed measures for affirmative action, the fact on the ground is that children continue to face exclusion from the education system because of their socio-economic status. Huge challenges remain for ensuring that girls, SC and ST children, disabled children and children from linguistic and other minorities are able to complete their schooling. Worryingly, the proportion of out of school children is highest in the Muslim community leading to the government announcing special scholarships. To ensure that all children in the country receive a quality education, budget allocations for elementary education, and even more importantly its optimum utilisation, is critical.

Annexure

Table I: Inconsistencies Between the Figures Reported by the Ministry and those Collected in States

Sl. No.	State/ UT	Years	Enrolment		Difference
			Provided by Ministry	Figures collected in States	
1	Chhattisgarh	2002-03	2889116	2829000	60116
		2003-04	2828582	2783000	45582
		2004-05	2828582	2839000	-10418
2	Gujarat	2002-03	3259341	5036000	-1776659
		2006-07	3548712	6132000	-2583288
3	Dadra & Nagar Haveli	2006-07	32251	33824	-1573
4	Haryana	2006-07	1872490	1613000	259490
5	Himanchal Pradesh	2002-03	639974	614156	25818
		2003-04	614847	590351	24496
		2004-05	590351	577998	12353
		2005-06	577998	555378	22620
		2006-07	555378	530016	25362
6	Jharkhand	2004-05	3335485	3193000	142485
		2005-06	4101554	4263000	-161446
		2006-07	4280489	5054000	-773511
7	Karnataka	2003-04	5349540	4603200	746340
		2004-05	5126042	4850053	275989
		2005-06	4962764	4649605	313159
		2006-07	4653694	4413471	240223
8	Kerala	2003-04	2166510	2163763	2747
		2004-05	2116354	2128222	-11868
		2005-06	1907000	2099522	-192522
		2006-07	2029411	2065785	-36374
9	Maharashtra	2005-06	9779283	9441000	338283
		2006-07	9258736	9179000	79736
10	Daman & Diu	2005-06	15300	13719	1581
		2006-07	27800	14185	13615
11.	Orissa	2003-04	4632000	4588000	44000
		2004-05	5151000	4497000	654000
		2005-06	5156000	4386000	770000
		2006-07	5002000	4192000	810000

Table I: Inconsistencies Between the Figures Reported by the Ministry and those Collected in States (Contd.)

Sl. No.	State/ UT	Years	Enrolment		Difference
			Provided by Ministry	Figures collected in States	
12.	Chandigarh	2002-03	41720	42520	-800
		2003-04	45250	44699	-2179
		2004-05	42366	52604	-10238
		2005-06	56500	55818	682
		2006-07	59993	61014	-1021
13	Rajasthan	2002-03	7177718	7178000	-282
		2003-04	7678153	7678000	153
		2004-05	7662192	7661000	1192
		2005-06	10215570	7335000	2880570
		2006-07	7696898	6960000	736898
14	Tamil Nadu	2002-03	5401644	5390000	11644
		2003-04	5529945	4306000	1223945
		2004-05	4305932	3992000	313932
		2005-06	4152167	3817000	335167
		2006-07	4875103	3651000	1224103
15	Tripura	2002-03	459981	459981	0
		2005-06	525645	520610	5035
16	Uttar Pradesh	2002-03	14855697	16032000	-1176303
		2003-04	16374832	16995000	-620108
		2004-05	16996916	18143000	-1146084
		2005-06	18644467	18654000	-9533
		2006-07	18719628	18619000	100628
17	Uttaranchal	2002-03	821057	810722	10785
		2003-04	787193	784911	2282
		2004-05	811204	1136493	-325289
		2005-06	779596	1144478	-364882
		2006-07	779826	1163178	-383352
18	West Bengal	2002-03	9764181	10262726	-498545
		2003-04	10268683	10876525	-607842
		2004-05	10326600	10722722	-396122
		2005-06	10886311	10569154	317157
		2006-07	9247449	10443354	-1195905
19	A & N Islands	2002-03	34517	34107	410
		2003-04	31704	31059	645

Source: Report No. 13- Performance Audit of National Programme for Nutritional Support to Primary Education Mid-day Meal Scheme.

Table II: Percentage of Boys & Girls Enrolment in Primary & Upper Primary Classes : 2005-06

State/UT	Primary I-V (6-11yrs)			Upper Primary VI-VIII (11-14 yrs)		
	Boys	Girls	Gender Parity Parity-Index	Boys	Girls	Gender Parity-Index
Andaman & Nicobar	50.88	49.12	0.97	53.06	46.94	0.88
Andhra Pradesh	50.63	49.37	0.98	52.22	47.78	0.89
Arunachal Pradesh	52.59	47.41	0.9	53.28	46.72	0.87
Assam	50.72	49.28	0.97	51.18	48.82	0.95
Bihar	55.64	44.36	0.79	61.13	38.87	0.62
Chandigarh	54.52	45.48	0.83	53.62	46.38	0.86
Chhattisgarh	51.39	48.61	0.95	53.91	46.09	0.84
Dadra & Nagar Haveli	53.04	46.96	0.89	59.27	40.73	0.69
Daman & Diu	53.70	46.30	0.86	53.87	46.13	0.86
Delhi	52.95	47.05	1.02	53.2	46.8	1.08
Goa	52.64	47.36	0.92	53.05	46.95	0.89
Gujarat	53.03	46.97	0.89	55.84	44.16	0.78
Haryana	52.64	47.36	0.9	51.86	48.14	0.93
Himachal Pradesh	52.38	47.62	0.92	52.62	47.38	0.91
Jammu & Kashmir	54.05	45.95	0.85	55.29	44.71	0.79
Jharkhand	52.5	47.5	0.9	55.92	44.08	0.76
Karnataka	51.39	48.61	0.95	51.89	48.11	0.91
Kerala	50.6	49.4	0.96	51.75	48.25	0.91
Lakshadweep	52.25	47.75	0.91	57.59	42.41	0.74
Madhya Pradesh	51.15	48.85	0.96	55.78	44.22	0.76
Maharashtra	52.52	47.48	0.91	53.2	46.80	0.87
Manipur	50.35	49.65	0.98	50.81	49.19	0.96
Meghalaya	49.56	50.44	1.02	47.97	52.03	1.1
Mizoram	51.49	48.51	0.93	51.02	48.98	0.95
Nagaland	51.00	49.00	0.97	50.53	49.47	0.99
Orissa	51.83	48.17	0.93	53.83	46.17	0.85
Pondicherry	48.40	51.60	1.07	48.79	51.21	1.05
Punjab	53.66	46.34	0.86	53.28	46.72	0.86
Rajasthan	53.21	46.79	0.88	61.8	38.20	0.59
Sikkim	50.31	49.69	0.99	46.89	53.11	1.17
Tamil Nadu	51.72	48.28	0.93	51.95	48.05	0.9
Tripura	52.33	47.67	0.91	51.26	48.74	0.93
Uttar Pradesh	52.23	47.77	0.92	54.69	45.31	0.82
Uttaranchal	50.51	49.49	0.99	51.24	48.76	0.94
West Bengal	50.45	49.55	0.98	51.03	48.97	0.95
All India	52.21	47.79	0.92	54.20	45.80	0.84

Source: Report No. 13- Performance Audit of National Programme for Nutritional Support to Primary Education (Midday Meal Scheme Annexure 5)

Table III-A: Decline in the Gross Enrolment Ratio of SC Boys in Selected States (Per cent)

State/UT	SC Boys			Decrease with Reference to 2001-02	
	2001-02	2002-03	2003-04	2002-03	2003-04
Andhra Pradesh	100.31	94.31	92.94	6.0	7.37
Arunachal Pradesh	87.59	0	0		
Assam	105.41	90.30	68.09	15.11	37.32
Bihar	80.81	59.55	70.81	21.26	10.00
Chhattisgarh	97.70	111.10	100.72		
Goa	68.41	96.62	98.19		
Gujarat	106.34	102.91	74.99	3.43	31.35
Haryana	79.86	85.16	80.32		
Himachal Pradesh	90.06	117.27	96.77		
Jammu & Kashmir	91.28	77.09	81.03	14.19	10.25
Jharkhand	68.55	66.02	63.53	2.53	5.02
Karnataka	107.02	105.34	107.01	1.68	0.01
Kerala	89.55	111.76	93.22		
Madhya Pradesh	112.60	103.45	105.52	9.15	7.08
Maharashtra	108.24	115.34	101.71		7.53
Manipur	88.84	84.92	113.32	3.92	
Meghalaya	94.88	108.10	88.87		6.01
Mizoram	99.43	0	0		
Nagaland	0	0	0		
Orissa	108.74	97.18	82.98	11.56	25.76
Punjab	100.93	87.33	95.15	13.60	5.78
Rajasthan	108.83	107.22	89.33	1.61	19.50
Sikkim	76.49	100.37	73.46		
Tamil Nadu	97.94	95.27	108.88	2.67	
Tripura	100.69	100.34	105.84	0.35	
Uttar Pradesh	79.83	71.54	74.58	8.29	5.25
Uttaranchal	101.34	101.35	104.59		
West Bengal	106.63	88.40	113.82	18.23	
A & N Islands	0	0	0	0	
Chandigarh	80.31	58.67	65.69	21.64	14.65
D & N Haveli	109.35	112.46	100.12		9.26
Daman & Diu	99.47	116.07	99.01		0.46
Delhi	62.57	59.09	61.32	3.48	1.25
Lakshadweep	0	0	0		
Pondicherry	98.60	119.43	118.00		

Source: Comptroller and Auditor General of India. Performance Audit - Report No. 14 of 2007

Table III-B: Decline in the Gross Enrolment Ratio of SC Girls in Selected States (Per cent)

State/UT	SC Girls			Decrease with Reference to 2001-02	
	2001-02	2002-03	2003-04	2002-03	2003-04
Andhra Pradesh	93.73	91.07	90.14	2.66	3.59
Arunachal Pradesh	85.47	0	0		
Assam	89.44	85.33	66.02	4.11	23.42
Bihar	47.34	37.30	47.05	10.04	0.29
Chhattisgarh	81.21	97.70	91.42		
Goa	62.46	90.26	105.82		
Gujarat	94.43	100.19	72.80		21.63
Haryana	77.71	83.67	82.22		
Himachal Pradesh	82.03	112.48	104.26		
Jammu & Kashmir	70.50	70.90	81.49		
Jharkhand	42.73	45.27	45.57		
Karnataka	97.68	100.46	94.17		
Kerala	85.55	107.36	89.58		
Madhya Pradesh	89.38	87.07	88.26	2.31	1.12
Maharashtra	100.81	112.05	99.94		0.87
Manipur	78.26	80.94	109.20		
Meghalaya	93.54	112.57	92.24		1.30
Mizoram	95.06	0	0		
Nagaland	0	0	0		
Orissa	87.44	87.67	95.92		
Punjab	100.31	89.53	100.72	10.78	
Rajasthan	48.30	85.87	73.45		
Sikkim	74.02	105.93	77.46		
Tamil Nadu	88.45	98.54	102.23		
Tripura	89.85	93.67	103.59		
Uttar Pradesh	42.56	43.91	46.04		
Uttaranchal	100.11	97.48	105.67	2.63	
West Bengal	91.99	82.10	107.54	9.89	
A & N Islands	0	0			
Chandigarh	74.41	59.62	61.33	14.79	13.08
D & N Haveli	100.30	112.46	104.96		
Daman & Diu	72.49	123.97	97.61		
Delhi	54.23	62.83	61.24		
Lakshadweep	0	0	0		
Pondicherry	86.50	113.65	114.87		

Source: Comptroller and Auditor General of India. Performance Audit - Report No. 14 of 2007

Table IV-A: Increase in the Gross Drop-out Rate of SC Boys in Selected States (Per cent)

State/UT	SC Boys			Increase with Reference to 2001-02	
	2001-02	2002-03	2003-04	2002-03	2003-04
Andhra Pradesh	75.37	74.00	71.18		
Arunachal Pradesh	56.25	0	60.00		3.75
Assam	73.09	72.21	72.56		
Bihar	89.27	88.59	89.31		0.04
Chhattisgarh	0	0	0		
Goa	83.62	78.57	57.56		
Gujarat	69.05	70.29	69.42	1.24	0.37
Haryana	58.86	59.55	52.25	0.69	
Himachal Pradesh	46.18	44.64	47.70		1.52
Jammu & Kashmir	72.20	72.53	62.94	0.33	
Jharkhand	0	0	0		
Karnataka	67.81	65.49	64.13		
Kerala	32.46	28.89	26.13		
Madhya Pradesh	67.68	70.22	71.55	2.54	3.87
Maharashtra	54.07	54.68	51.48	0.61	
Manipur	58.76	54.62	18.68		
Meghalaya	74.16	73.91	74.27		0.09
Mizoram	0	0	0		
Nagaland	0	0	0		
Orissa	73.09	66.23	72.32		
Punjab	61.10	62.91	63.75	1.81	2.65
Rajasthan	78.02	76.95	78.53		0.51

Source: Comptroller and Auditor General of India. Performance Audit - Report No. 14 of 2007

Table IV-B: Increase in the Gross Drop-out Rate of SC Girls in Selected States (Per cent)

State/UT	SC Girls			Increase with Reference to 2001-02	
	2001-02	2002-03	2003-04	2002-03	2003-04
Andhra Pradesh	80.21	78.93	75.93		
Arunachal Pradesh	54.55	0	58.82		4.27
Assam	69.55	68.94	68.87		
Bihar	91.92	90.97	91.46		
Chhattisgarh	0	0	0		
Goa	84.35	78.98	59.40		
Gujarat	80.78	81.21	80.47	0.43	
Haryana	71.48	66.57	63.83		
Himachal Pradesh	50.22	46.92	48.46		
Jammu & Kashmir	70.20	68.58	60.84		
Jharkhand	0	0	0		
Karnataka	70.16	68.19	69.44		
Kerala	21.62	18.19	16.51		
Madhya Pradesh	79.85	82.66	80.01	2.81	0.16
Maharashtra	62.24	63.05	55.89	0.81	
Manipur	64.77	62.88	19.64		
Meghalaya	82.00	80.77	79.88		
Mizoram	0	0	0		
Nagaland	0	0	0		
Orissa	79.18	79.48	75.09	0.30	
Punjab	60.89	63.88	64.83	2.99	3.94
Rajasthan	87.57	86.07	87.65		0.08

Source: Comptroller and Auditor General of India. Performance Audit - Report No. 14 of 2007

Table V-A: Decline in the Gross Enrolment Ratio of ST Boys in Selected States (Per cent)

State/UT	SC Boys			Decrease with Reference to 2001-02	
	2001-02	2002-03	2003-04	2002-03	2003-04
Andhra Pradesh	90.43	95.58	83.15		7.28
Arunachal Pradesh	108.29	103.90	97.77	4.39	10.52
Assam	104.62	75.20	73.90	29.42	30.72
Bihar	83.69	45.23	84.17	38.46	
Chhattisgarh	106.37	94.87	107.43	11.50	
Goa	102.66	71.74	0	30.92	
Gujarat	106.15	95.66	87.88	10.49	18.27
Haryana			0		
Himachal Pradesh	89.83	115.12	111.41		
Jammu & Kashmir	39.54	39.54	70.60		
Jharkhand	104.25	74.60	94.26	29.65	9.99
Karnataka	104.21	101.39	96.82	2.82	7.39
Kerala	93.99	101.50	110.30		
Madhya Pradesh	84.75	73.85	90.65	10.90	
Maharashtra	101.88	99.90	110.91	1.98	0.97
Manipur	98.03	95.27	112.63	2.76	
Meghalaya	94.27	72.30	84.81	21.97	9.46
Mizoram	113.54	103.38	105.47	10.16	8.07
Nagaland	86.28	58.96	64.07	27.32	22.21
Orissa	107.90	80.86	92.24	27.04	15.66
Punjab	0	0	0		
Rajasthan	102.72	100.36	91.69	2.36	11.03
Sikkim	81.31	100.59	109.90		
Tamil Nadu	92.84	98.43	121.39		
Tripura	97.36	101.41	106.43		
Uttar Pradesh	82.70	122.92	74.72		7.98
Uttaranchal	90.79	97.74	88.33		2.46
West Bengal	96.48	90.57	70.99	5.91	25.49
A & N Islands	80.67	99.60	108.48		
Chandigarh	0	0	0		
D & N Haveli	111.75	101.75	100.63	10.00	11.12
Daman & Diu	106.16	113.84	102.85		3.31
Delhi	0	0	0		
Lakshadweep	99.16	111.92	109.46		
Pondicherry	0	0	0		

Source: Comptroller and Auditor General of India. Performance Audit - Report No. 14 of 2007

Table V-B: Decline in the Gross Enrolment Ratio of ST Girls in Selected States (Per cent)

State/UT	SC Girls			Decrease with Reference to 2001-02	
	2001-02	2002-03	2003-04	2002-03	2003-04
Andhra Pradesh	76.48	88.70	74.13		2.35
Arunachal Pradesh	89.45	92.00	82.54		6.91
Assam	94.14	70.96	76.45	23.18	17.69
Bihar	56.26	24.45	71.47	31.81	
Chhattisgarh	90.16	79.35	104.32	10.81	
Goa	77.15	58.82	0	18.33	
Gujarat	95.29	90.11	90.33	5.18	4.96
Haryana	0	0	0		
Himachal Pradesh	76.31	103.26	112.02		
Jammu & Kashmir	0	25.15	52.96		
Jharkhand	78.06	55.23	74.98	22.83	3.08
Karnataka	97.12	89.77	90.80	7.35	6.32
Kerala	92.60	97.14	107.60		
Madhya Pradesh	61.51	55.39	67.95	6.12	
Maharashtra	92.99	90.52	95.10	2.47	
Manipur	82.50	93.14	103.68		
Meghalaya	93.00	77.57	90.49	15.43	2.51
Mizoram	92.60	105.33	97.46		
Nagaland	65.00	57.89	56.31	7.11	8.69
Orissa	72.59	68.51	87.09	4.08	
Punjab	0	0	0		
Rajasthan	45.26	81.63	78.46		
Sikkim	81.10	103.30	118.50		
Tamil Nadu	92.45	108.21	93.95		
Tripura	79.47	90.10	95.63		
Uttar Pradesh	54.26	116.22	48.87		5.39
Uttaranchal	92.15	101.25	94.99		
West Bengal	62.44	71.47	63.38		
A & N Islands	59.43	100.27	72.72		
Chandigarh	0	0	0		
D & N Haveli	75.95	89.39	85.46		
Daman & Diu	82.45	106.96	103.22		
Delhi	0	0	0		
Lakshadweep	82.72	96.33	96.16		
Pondicherry	0	0	0		

Source: Comptroller and Auditor General of India. Performance Audit - Report No. 14 of 2007

Table VI-A: Increase in the Gross Drop-out Rate of ST Boys in Selected States (Per cent)

State/UT	SC Boys			Increase with Reference to 2001-02	
	2001-02	2002-03	2003-04	2002-03	2003-04
Andhra Pradesh	75.37	74.00	71.18		
Arunachal Pradesh	56.25	0	60.00		3.75
Assam	73.09	72.71	72.56		
Bihar	89.27	88.59	89.31		0.04
Chhattisgarh	0	0	0		
Goa	83.62	78.57	57.56		
Gujarat	69.05	70.29	69.42	1.24	0.37
Haryana	58.86	59.55	52.25	0.69	
Himachal Pradesh	46.18	44.64	47.70		1.52
Jammu & Kashmir	72.20	72.53	62.94	0.33	
Jharkhand	0	0	0		
Karnataka	67.81	65.49	64.13		
Kerala	32.46	28.89	26.13		
Madhya Pradesh	67.68	70.22	71.55	2.54	3.87
Maharashtra	54.07	54.68	51.48	0.61	
Manipur	58.76	54.62	18.68		
Meghalaya	74.16	73.91	74.27		0.09
Mizoram	0	0	0		
Nagaland	0	0	0		
Orissa	73.09	66.23	72.32		
Punjab	61.10	62.91	63.75	1.81	2.65
Rajasthan	78.02	76.95	78.53		0.51
Sikkim	88.94	88.14	89.12		0.18
Tamil Nadu	54.69	56.66	64.23	1.97	9.54
Tripura	74.95	74.44	76.61		1.66
Uttar Pradesh	66.73	62.13	73.78		7.05
Uttaranchal	0	0	0		
West Bengal	83.47	83.47	76.46		
A & N Islands	0	0	0		
Chandigarh	79.82	80.74	87.15	0.92	7.33
D & N Haveli	38.89	27.78	54.90		16.1
Daman & Diu	1.85	0	29.58		27.73
Delhi	81.05	80.23	76.27		
Lakshadweep	0	0	0		
Pondicherry	23.56	25.46	24.86	1.90	1.30

Source: Comptroller and Auditor General of India. Performance Audit - Report No. 14 of 2007

Table VI-B: Increase in the Gross Drop-out Rate of ST Girls in Selected States (Per cent)

State/UT	SC Girls			Increase with Reference to 2001-02	
	2001-02	2002-03	2003-04	2002-03	2003-04
Andhra Pradesh	80.21	78.93	75.93		
Arunachal Pradesh	54.55	0	58.52		4.27
Assam	69.55	68.94	68.87		
Bihar	91.92	90.97	91.46		
Chhattisgarh	0	0	0		
Goa	84.35	78.98	59.40		
Gujarat	80.78	81.21	80.47	0.43	
Haryana	71.84	66.57	63.83		
Himachal Pradesh	50.22	46.92	48.46		
Jammu & Kashmir	70.20	68.58	60.84		
Jharkhand	0	0	0		
Karnataka	70.16	68.19	69.44		
Kerala	21.62	18.19	16.51		
Madhya Pradesh	79.85	82.66	80.01	2.81	0.16
Maharashtra	62.24	63.05	55.89	0.81	
Manipur	64.77	62.88	19.64		
Meghalaya	82.00	80.77	79.88		
Mizoram	0	0	0		
Nagaland	0	0	0		
Orissa	79.18	79.48	75.09	0.30	
Punjab	60.89	63.88	64.83	2.99	3.94
Rajasthan	87.57	86.07	87.65		0.08
Sikkim	86.22	86.34	90.11		1.89
Tamil Nadu	59.95	57.44	63.13		3.18
Tripura	77.57	77.06	78.62		1.05
Uttar Pradesh	73.56	76.18	90.21	2.62	16.65
Uttaranchal	0	0	0		
West Bengal	86.91	86.91	78.11		
A & N Islands	0	0	0		
Chandigarh	75.17	75.92	80.53	0.75	5.36
D & N Haveli	37.14	34.09	33.33		
Daman & Diu	4.92	0	33.90		28.98
Delhi	75.33	73.58	77.30		1.97
Lakshadweep	0	0	0		
Pondicherry	27.82	26.25	23.06		

Source: Comptroller and Auditor General of India. Performance Audit - Report No. 14 of 2007

Table VII: Enrolment of Children with Disability : 2005-06

State/UT	Classes I-V (6-11 yrs)				Classes VI-VIII (11-14 yrs)				Classes IX-XII (14-18 yrs)			
	Boys	Girls	Total	GPI*	Boys	Girls	Total	GPI*	Boys	Girls	Total	GPI*
Andaman & Nicobar Isl.	163	118	281	0.72	93	64	157	0.69	256	182	438	0.71
Andhra Pradesh	32560	24564	57124	0.75	93	64	157	0.71	256	182	438	0.74
Arunachal Pradesh	654	421	1075	0.64	112	72	184	0.64	766	493	1259	0.64
Assam	16842	11932	28774	0.71	1895	1560	3455	0.82	18737	13492	32229	0.72
Bihar	57301	34470	91771	0.60	10531	5415	15946	0.51	67832	39885	107717	0.59
Chandigarh	138	102	240	0.74	106	118	224	1.11	244	220	462	0.90
Chhattisgarh	12090	8924	21014	0.74	4953	3207	8160	0.65	17043	12131	29174	0.71
Dadra & Nagar Haveli	61	42	103	0.69	15	12	27	0.80	76	54	130	0.71
Daman & Diu	26	33	59	1.27	10	13	23	1.30	36	46	82	1.28
Delhi	2333	1792	4125	0.77	1096	832	1928	0.76	3429	2624	6053	0.77
Goa	176	92	268	0.52	53	32	85	0.60	229	124	353	0.54
Gujarat	28231	18921	47152	0.67	9119	5917	15033	0.65	37350	24835	62185	0.66
Haryana	8299	5369	13668	0.65	4113	3204	7317	0.78	12412	8573	20985	0.69
Himachal Pradesh	5215	3487	8702	0.67	3254	2205	5459	0.68	8469	5692	14161	0.67
Jammu & Kashmir	10358	6022	16380	0.58	3577	2157	5734	0.60	13935	8179	22114	0.59
Jharkhand	11223	8541	19764	0.76	1865	1314	3179	0.70	13088	9855	22943	0.75
Karnataka	44349	32838	77187	0.74	18573	11952	30525	0.64	62922	44790	107712	0.71
Kerala	28130	20845	48975	0.74	17250	13810	31060	0.80	45380	34655	80035	0.76
Lakshadweep	313	282	595	0.90	35	30	65	0.86	348	312	660	0.90
Madhya Pradesh	60814	49093	109907	0.81	15222	9241	24463	0.61	76036	58334	134370	0.77
Maharashtra	114427	8478	199165	0.74	39146	28499	67645	0.73	153573	113237	266810	0.74
Manipur	1213	880	2093	0.73	149	97	246	0.65	1362	977	2339	0.72
Meghalaya	1725	1390	3115	0.81	216	225	441	1.04	1941	1615	3556	0.83
Mizoram	2077	1488	3565	0.72	455	423	878	0.93	2532	1911	4443	0.75
Nagaland	2033	1426	3459	0.70	287	256	543	0.89	2320	1682	4002	0.73
Orissa	45693	35009	80702	0.77	10394	7412	17906	0.72	56087	42521	98608	0.76
Pondicherry	319	183	502	0.57	323	320	643	0.99	642	503	1145	0.78
Punjab	4791	2948	7739	0.62	2758	2122	4880	0.77	7549	5070	12619	0.67
Rajasthan	71614	44628	116242	0.62	21436	10468	31904	0.49	93050	55096	148146	0.59
Sikkim	300	226	526	0.75	58	45	103	0.78	358	271	629	0.76
Tamil Nadu	25194	17474	42668	0.69	14832	10126	24958	0.68	40026	27600	67626	0.69
Tripura	1875	1237	3112	0.66	704	508	1212	0.72	2579	1745	4324	0.68
Uttar Pradesh	94800	65654	160454	0.69	20400	14180	34580	0.70	115200	7934	195034	0.69
Uttaranchal	3711	2602	6313	0.70	1002	668	1670	0.67	4713	3270	7983	0.69
West Bengal	43468	30774	74242	0.71	13143	9304	22447	0.71	56611	40078	96689	0.71
Total	723898	512993	1236891	0.71	227281	152684	379965	0.67	951179	665677	1616856	0.70

*GPI: Gender Parity Index

Source: Arun C. Mehta, Elementary Education in India, Progress towards UEE, Analytical Report 2005-06, 2007, Delhi, NUEPA.

Table VIII: Percentage of Children Enrolled in Government Schools (Including private-aided and EGS/AIE Centres) who are Beneficiaries of Mid Day Meal Scheme 2006-2007

State/UT	Enrolment	MDM Beneficiaries	% enrolled children who are beneficiaries
Andhra Pradesh*	6700878	6700878	100.0
Arunachal Pradesh*	218905	218905	100.0
Chandigarh*	59993	59993	100.0
Chhattisgarh*	3104573	3104573	100.0
Delhi*	1142020	1142020	100.0
Himachal Pradesh*	530016	530016	100.0
Jammu & Kashmir*	975954	975954	100.0
Manipur*	299859	299859	100.0
Meghalaya	627596	627596	100.0
Mizoram	93192	93192	100.0
Orissa*	5002269	5002269	100.0
Punjab*	1466299	1466299	100.0
Rajasthan*	7335359	7335359	100.0
Sikkim	102520	102520	100.0
Uttar Pradesh*	18644467	18644467	100.0
Uttaranchal*	779826	754785	96.8
Gujarat*	5278984	5036021	95.4
Haryana	1573698	1443761	91.7
West Bengal	10205750	9195381	90.1
Kerala	2160354	1909491	88.4
Karnataka	4413471	3852508	87.3
Madhya Pradesh	8914634	7611372	85.4
Maharashtra*	9440846	8054552	85.3
Assam	4700623	3525467	75.0
Tamil Nadu	4968668	3647086	73.4
Jharkhand	5200283	3597579	69.2
Bihar	12638427	8581264	67.9

Source: Seventh Report of the Commissioners of the Supreme Court, November 2007, pp. 45- 46

Table IX: State-wise Allocation and Offtake Under Mid Day Meal Scheme (2005-2006)

State/UT	Rice		Wheat		Total		Per cent Offtake
	Allocation	Offtake	Allocation	Offtake	Allocation	Offtake	
Mizoram	1.84	2	0	0	1.84	2	108.7
Uttaranchal	14.18	14.69	0	0	14.18	14.69	103.6
Andhra Pradesh	114.1	115.4	0	0	114.1	115.4	101.1
Kerala	28.22	27.62	0	0	28.22	27.62	97.9
Himachal Pradesh	11.45	10.85	0	0	11.45	10.85	94.8
Meghalaya	10.04	9	0	0	10.04	9	89.6
Tamil Nadu	76.59	68.42	0	0	76.59	68.45	89.3
Sikkim	2.13	1.89	0	0	2.13	1.89	88.7
Gujarat	33.96	30.3	33.96	29.59	67.92	59.89	88.2
Tripura	9.88	8.46	0	0	9.88	8.46	85.6
Madhya Pradesh	46.46	37.66	144.62	125.24	191.08	162.9	85.3
Uttar Pradesh	225.1	190.6	110.87	95.61	335.97	286.21	85.2
Delhi	10.08	9.36	10.08	7.25	20.16	16.61	82.4
Orissa	104.11	85.57	0	0	104.11	85.57	82.2
Haryana	14.4	16.21	14.34	6.93	28.68	23.14	80.7
Manipur	6.54	5.24	0	0	6.54	5.24	80.1
West Bengal	205.42	161.99	0	0	205.42	161.99	78.9
Jharkhand	82.69	64.16	0	0	82.69	64.16	77.6
Pondicherry	0.88	0.65	0	0	0.88	0.65	73.9
Assam	92.13	67.54	0	0	92.13	67.54	73.3
Karnataka	107.83	79.91	5.03	2.55	112.86	82.46	73.1
Nagaland	3.76	2.75	0	0	3.76	2.75	73.1
Bihar	218.07	157.02	0	0	218.07	157.02	72.0
Maharashtra	207.81	149.59	0	0	207.81	149.59	72.0
Arunachal Pradesh	4.54	3.13	0	0	4.54	3.13	68.9
Rajasthan	58.83	31.93	137.28	90.4	196.11	122.33	62.4
Jammu and Kashmir	18.76	8.77	0	0	18.76	8.77	46.7
Andaman and Nicobar Island	0.67	0.25	0	0	0.67	0.25	37.3
Punjab	12.8	3.05	15.26	5.71	28.06	8.76	31.2
Daman and Diu	0.3	0.09	0	0	0.3	0.09	30.0
Dadra and Nagar Haveli	0.61	0.17	0	0	0.61	0.17	27.9
Goa	1.41	0.11	0	0	1.41	0.11	7.8
Chandigarh	0	0	1.01	0	1.01	0	0.0
Lakshadweep	0	0	0	0	0	0	
India	1777.88	1364.38	472.45	363.28	2250.33	1727.66	76.8

Source: Seventh Report of the Commissioners of the Supreme Court, November 2007, pp. 47 – 48



violence

**“No violence against children is justifiable;
all violence against children is preventable.”**

Paulo Sérgio Pinheiro, Independent Expert, The United Nations Study on Violence against Children in 2003.

In India, as in many other countries, child protection continues to remain largely unaddressed.¹ In 2006, the nation was shocked as details emerged of serial murders in the Nithari area of Noida. The skulls and bones of 17 missing children were uncovered in a sewer behind the house of a factory owner, although the police suspected that at least 31 children had been victims of the heinous crimes.²

Although crimes against children regularly makes news in the media, it was the first time that the nation woke up to a situation this grave as many more similar incidents began coming to light and became a topic of household discussion. The escapism connected to abuse, however, continues. It always happens to someone else's child!

In the year 2006, Uttar Pradesh reported the highest number of child murder cases (426), accounting for 29.4 per cent of the total cases reported in the country. Not surprisingly, Nithari is in Uttar Pradesh.

Source: Crime in India, 2006, NCRB

Violence against children includes abuse and exploitation, such as child labour and child trafficking, which have been dealt with in separate chapters. All other forms of abuse and violence, such as sexual abuse, child marriage, foeticide and infanticide, have been included in this chapter.

This chapter will provide an update to the 2005 HAQ status report by looking at:

- Crimes against children – statistics provided by the National Crime Records Bureau
- Physical abuse
- Sexual abuse
- Female foeticide
- Child marriage
- Children in conflict areas
- Government interventions to tackle abuse

India has the world's largest number of sexually abused children. It has also the largest number of working children. Child abuse and violence against children have emerged as one of the most crucial and alarming problems in this country. Factors such as growing industrialisation, liberalisation, urban bias, inter state and rural-urban migration, economic poverty, breakdown of family and community values and support systems etc., have resulted in children being the most marginalised and vulnerable victims.³

An atmosphere of tolerance of violence against children is pervading in the Indian society today. Protectors have turned abusers themselves.

Physical abuse, especially corporal punishment, in the pretext of disciplining, continues unabated. Indeed the Chair of the National Commission for Protection of Child Rights (NCPCR)⁴, has spoken about how an atmosphere of tolerance of violence against children is pervading in the Indian society today.⁵ People even have difficulty in acknowledging and recognising that violence against children exists in multiple forms. Since its establishment, the NCPCR members have found themselves repeatedly grappling with issues of institutional violence against children. Protectors have turned abusers themselves, and institutions set up to give refuge to street children, children with special abilities, girl children and orphans are often exposed as perpetrating violence against their wards.⁶

Poor law enforcement frequently makes a mockery of existing laws aimed at protecting children from abuse. Despite evidence presented to the Government and a request for it to intervene, it took over 24 hours of passing the buck before

1 Ministry of Women and Child Development, India- Building a Protective Environment for Children, 2006.

2 Wikipedia, Noida serial murder investigation.

3 Report of the Committee Investigating into allegations of large Scale sexual abuse, rape and murder of children in Nithari village of NOIDA (UP), Ministry of Women and Child Development, Government of India, Shastri Bhawan, New Delhi, Dated: 17.1.2007.

4 The National Commission for Protection of Child Rights (NCPCR) is a statutory body of the Government of India and was set up in March 2007, under the Commission for Protection of Right Rights Act, 2005, to protect, promote and defend child rights in India.

5 The Hindu, Sensitise society to rights of children: Shantha Sinha, Tamil Nadu edition, 25 November 2007.

6 Ibid.

47 children who were allegedly being sexually abused in a Ghaziabad ashram were finally rescued.⁷ Incidents such as this highlight the need for effective law enforcement to protect India's children from all forms of abuse.

Following the focus of the current status report, this chapter aims to identify the children who are more vulnerable to victimisation and violence because of their marginalisation.

Extent of the Problem

Before focussing on India's failure to protect its children and what needs to be done, it is important to state that as a nation, India does not even have an exact enumeration of children that need special protection. Available data is limited to crimes that get reported to the police. There are some micro and macro studies that do provide estimates or projections, but for years on end India has quoted and used these very estimates while planning for children. In other words, what is available by way of data on violence against children is largely estimates that cannot be relied upon any longer and these too leave out many categories of affected children. Even the recent National Study on Child Abuse undertaken by the Ministry of Women and Child Development in partnership with UNICEF, Save the Children and Prayas in 2007, reflects several methodological problems inherent in the study. Moreover it projects data that is not only restricted to 13 states but is also contradictory in many respects.

In its last Concluding Observations on India's Report, the UN Committee on the Rights of the Child had stated, "The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, social status (Scheduled castes and tribes, or religious community) and urban and rural area and make it publicly available. This system should cover all children up to the age of 18 years with specific emphasis on those who are particularly vulnerable. It further encourages the State party to use these indicators and data for formulation of policies and programmes for the effective implementation of the Convention".

CRC/C/15/Add.228, 30 January 2004, Committee on the Rights of the Child, Thirty-fifth Session, Consideration of Reports submitted by States Parties under Article 44 of the Convention, Concluding Observations: INDIA.

Lack of data and the need for database management, beginning with creation of a Management Information System (MIS) to be able to track vulnerable children, was first acknowledged by the Government of India in the National Plan of Action for Children 2005 (See footnote number 8).⁸ Some of the recent studies and policy documents of the Ministry of Women and Child Development also reiterate the same.

Lack of data adversely affects planning of appropriate access and nature of services required for children.

One of the Expected Outcomes spelt out by the Ministry in its Working Group Report submitted to the Planning Commission of India for the Eleventh Five Year Plan (2007-2012) is – "Child Tracking system to be in place by the mid-term of the Eleventh Plan for missing children, child labour, children in institutions and alternate care systems and crimes against children to inform planning of services and prevention at district and state levels".

The data available with the National Crime Records Bureau constitutes a miniscule of the total crimes/violence committed against children.⁹ The reason for this is that very often crimes against children are either not reported, nor cognizance taken. Some crimes against children are not covered under existing legislations.

The National Crime Records Bureau (NCRB) does not compute data for all the offences listed in the box. In fact offences under the Child Labour Prevention Act (CLPRA) and Pre-Conception & Pre-Natal Diagnostic Techniques Act

7 <http://www.mail-archive.com/greenyouth@googlegroups.com/msg01088.html>

8 Extracts from the National of Action for Children 2005, Department of Woman and Child Development, Government of India:

pp. 31 – Child protection, Children in Difficult Circumstances, Objective 11.2.16 – "To develop a system of constant and authentic data collection about the extent, magnitude and nature of children in especially difficult circumstances and vulnerable children; and also put in place a system of tracking and monitoring of all interventions made for the benefit of such children".

pp. 49, Mobilising resources, Implementation of the Plan and Monitoring, 20.3 – "...A comprehensive system would be developed and operated to collect and analyse disaggregated data on children, based on age, gender, cultural and socio-economic grouping, and special needs and circumstances. Disaggregated data and analysis would be used to assess progress in achievement of child rights goals. A range of child-focused research will also be supported to gather data and understanding in areas where information on the situation is inadequate".

pp. 49, Mobilising resources, Implementation of the Plan and Monitoring, 20.4 – "Efforts will be made to strengthen the existing data collection mechanisms so that quality data on various measurable development indicators is generated and used for programme assessment and improvement as well as for monitoring progress in achievement of goals".

9 Ministry of Women and Child Development, Study on Child Abuse: India 2007.

1. Crimes against children punishable under the Indian Penal Code (IPC) are:

- Foeticides (Crime against a foetus): Section 315 & 316.
- Infanticides (Crime against newborn child) (0 to 1 year): Section 315.
- Exposure & Abandonment (Crime against children by parents or others to expose or to leave them with the intention of abandonment): Section 317.
- Concealing the birth of child by secretly disposing her/his dead body: Section 318
- Kidnapping & Abduction:
 - Kidnapping for exporting: Section 360.
 - Kidnapping from lawful guardianship: Section 361.
 - Kidnapping for ransom: Section 363 read with Section 384.
 - Kidnapping for camel racing etc.: Section 363.
 - Kidnapping for begging: Section 363-A.
 - Kidnapping to compel for marriage: Section 366.
 - Kidnapping for slavery etc.: Section 367.
 - Kidnapping for stealing from its person (under 10 years of age only): Section 369.
- Procurement of minor girls (for illicit intercourse): Section 366-A.
- Importation of girls from foreign country: Section 366-B
- Selling of girls for prostitution: Section 372.
- Buying of girls for prostitution: Section 373.
- Rape: Section 375 & 376 (2) (f)
- Unnatural Offences: (Sec. 377 IPC)

2. Crimes against children punishable under 'Special and Local Laws' are:

- Immoral Traffic Prevention Act, 1956 (where minors are abused in prostitution).
- The Prohibition of Child Marriage Act, 2006
- Child Labour (Prohibition & Regulation) Act, 1986 [CLPRA].
- Juvenile Justice (Care and Protection of Children) Act 2000, as amended in 2006.
- The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act and Rules, 1994 (as amended up to 2002) [PC&PNDT Act]
- Karnataka Devadasi (Prohibition of Dedication) Act, 1982
- Andhra Pradesh Devadasi's (Prohibition of Dedication) Act, 1986
- Goa Children's Act, 2003

(PC&PNDT) Act have never been enumerated. Registration of crimes under these laws is also poor. As far as local laws are concerned, the respective states maintain their own set of data and therefore the NCRB does not reflect it. For instance Karnataka and Andhra Pradesh maintain their own data on offences related to the Devadasi tradition. Similarly, data on crimes registered under the Goa Children's Act is maintained by the state government of Goa only.

In addition to the child specific offences listed above, the NCRB does provide information on some other IPC crimes as well within the chapter on crimes against children. These include murder (302 IPC) and suicide or abetment to suicide (abetment by other persons for commitment of suicide by children – Section 305 IPC). However, data on importation of girls (Sec. 366-B IPC), molestation (Sec. 354 IPC), dowry deaths (Sec. 304 B), eve teasing or sexual harassment (Sec. 509 IPC), torture and cruelty (Sec. 498-A IPC), crimes registered under the Immoral Traffic Prevention Act and the Indecent

Representation of Women (Prohibition) Act is only available in the chapter on crimes against women and that too without age segregation. To get a true picture of crimes against children, NCRB needs to present disaggregated data on all offences enumerated by it in terms of gender, caste and age. Also, some data is only available at the national level. For instance, while age-specific data is made available for various purposes of kidnapping, this is only national level data. Clearly, any analysis of the situation of crimes against children on the basis of information published by the NCRB remains inadequate in many respects.

Table 1 (A): Child Murder and % Variation in 2006 over 2005					
Sl. No.	Crime Head	Year			% Variation in 2006 over 2005
		2004	2005	2006	
1	Murder	1304	1219	1324	8.6

Source: Crime in India 2006, NCRB

Table 1 (B): Child Murder and % Variation in 2006 over 2005					
Sl. No.	Crime Head	Year			% Variation in 2006 over 2005
		2004	2005	2006	
1	Murder	1212	1304	1327	1.8

Source: Crime in India 2005, NCRB

Another important reason for not being able to fully rely on NCRB data is the discrepancies seen in the presentation of the same information in the different Crime in India publications as well as under different tables within the same publication. In the 2005 publication of Crime in India, in Table 6-A, data on child murder (1,327 cases) is different from what is stated in the detailed Table 6.1 (1,219 cases). Similarly in the 2006 publication, data on child murder given in Table 6-A (1,324) is different from the narrative (1,450)¹⁰ that explains this table.

The Tables 1A and 1B taken from the 2005 and 2006 publications on Crime in India highlight the discrepancies in information provided for the same offence and the same year i.e. 2005.

Vulnerability and Victimisation: the Different Facets of Violence against Children and Issues of Concern

Crimes Against Children

Despite inadequacy of data and discrepancies, one has to critically examine the crime records to reflect on the situation of children in India. Crime in India 2006 being the latest crime publication available, presents a rather grim picture of violence against children.

The NCRB had reported 14,975 cases of various crimes against children in 2005 as compared to 14,423 cases during 2004, suggesting an increase of 3.8 per cent.¹¹ As against this, the NCRB reported a total of 18,967 cases of crimes against children in the country during 2006 suggesting an increase of 26.7 per cent over 2005.¹²

There has been a 26.7 per cent increase in reported crimes against children in 2006 over 2005 while the conviction rates have fallen. There may be many more cases that go unreported or unregistered

Even while concerned about this huge increase in crimes against children in only one year, it must be remembered, as was mentioned earlier, this data is based only on crimes that are reported. There are many more that go unreported, either because the victims and their families do not report them or the police refuse to file a complaint and register a FIR to keep their statistics lower.

¹⁰ NCRB, Ministry of Home Affairs, Government of India, Crime in India 2006, Crimes against Children, Chapter 6, – “A total of 1,450 cases of child murder were reported in India in 2006 against 1,327 cases in 2005 resulting in an increase of 9.3 per cent in the year”. 2006.

¹¹ NCRB, Ministry of Home Affairs, Government of India, Crime in India, 2005, Crimes against Children, Chapter 6.

¹² Ibid.

Disposal of Crimes by Police and Courts

In 2005, the conviction rate at the national level for crimes against children stood at 35.7 per cent.¹³ The conviction rate for 'Selling of Girls for Prostitution' was highest at 53.3 per cent, followed by Murder cases (42.7 per cent). Out of 19,728 persons arrested for crimes against children, only 4,475 persons were convicted representing 38.5 per cent conviction rate of persons arrested.¹⁴

In 2006, the conviction rate at the national level for crimes against children fell slightly to 35.4 per cent.¹⁵ The conviction rate for 'Infanticide' was highest at 45.5 per cent, followed by murder cases at 43.3 per cent. Only 4,669 out of the 23,546 persons arrested for these crimes were convicted, representing a 39.8 per cent conviction rate.

Out of a total of 13,161 rape cases reported in 2006, a staggering 10,613 were pending trial at the end of the year. In fact, out of the total 47,989 crimes children reported in 2006, 38,013 (or 79.2 per cent) were pending trial at the end of the year.¹⁶ The fact that many cases fail to result in a conviction – and that high numbers of cases are reported as 'pending' – continues to act as a deterrent for children and their families to report cases of crimes and undermines their faith in the Indian justice system.

Some Violent Crimes Against Children: Age and Gender Dimension

Table 3 shows that amongst the three violent crimes against children, as enumerated by the NCRB, kidnapping has taken the maximum toll on children below 18 years, followed by murder. Number of girls kidnapped has been far greater than boys (2,946 in 2005 and 4,701 in 2006).

All violent crimes against children call for investigation into the purpose of the crime, categories of children worst affected and their geographical location. Amongst children, most victims of murder were in the age group of 15-18 years (38.9 per cent in 2005 and 42.5 per cent in 2006) and below 10 years (37.9 per cent in 2005 and 40.0 per cent in 2006).

A high rate of murder of children below 10 years certainly raises an alarm. In both the years, amongst

Table 2: Incidence & Rate of Crimes Committed against Children in States and UTs during 2006

S.No.	State / UT	Incidence	Percentage Contribution to All India Total
1	Andhra Pradesh	1386	7.3
2	Arunachal Pradesh	27	0.1
3	Assam	252	1.3
4	Bihar	66	0.3
5	Chhattisgarh	1238	6.5
6	Goa	54	0.3
7	Gujarat	977	5.2
8	Haryana	462	2.4
9	Himachal Pradesh	136	0.7
10	Jammu & Kashmir	85	0.4
11	Jharkhand	112	0.6
12	Karnataka	276	1.5
13	Kerala	553	2.9
14	Madhya Pradesh	3939	20.8
15	Maharashtra	2841	15.0
16	Manipur	54	0.3
17	Meghalaya	71	0.4
18	Mizoram	35	0.2
19	Nagaland	14	0.1
20	Orissa	154	0.8
21	Punjab	329	1.7
22	Rajasthan	951	5.0
23	Sikkim	35	0.2
24	Tamil Nadu	353	1.9
25	Tripura	41	0.2
26	Uttar Pradesh	1767	9.3
27	Uttaranchal	51	0.3
28	West Bengal	432	2.3
Total (States)		16691	88.0
29	A & N Islands	9	0.0
30	Chandigarh	64	0.3
31	D & N Haveli	15	0.1
32	Daman & Diu	3	0.0
33	Delhi	2160	11.4
34	Lakshadweep	0	0.0
35	Pondicherry	25	0.1
Total (UTs)		2276	12.0
Total (All-India)		18967	100.0

Source: Crime in India 2006, NCRB.

¹³ NCRB, Chapter 6, Crimes against children, 2005.

¹⁴ Ibid.

¹⁵ NCRB, Chapter 6, Crimes against children, 2006.

¹⁶ Ibid.

Table 3: Some Violent Crimes Against Children

Some violent crimes against children	2005 (gender break-up of victims below 18 years of age)			2006 (gender break-up of victims below 18 years of age)		
	Male	Female	Total	Male	Female	Total
Murder	965	636	1601	1056	667	1723
Culpable Homicide not amounting to murder	268	75	343	174	66	240
Kidnapping	789	2946	3735	937	4701	5638

Source: Based on statistics provided by the NCRB, 2006.

girls, the most vulnerable have been girls below 10 years of age and amongst boys, those between 15-18 years of age, though between 2005 and 2006 there has been a significant increase in murder of boys in the 10-15 year age category also.

Table 4: Age-wise Segregation for Murder (Per cent)

Victims of murder	2005			2006		
	Male	Female	Total	Male	Female	Total
Up to 10 years	19.7	18.1	37.9	21.9	18.1	40.0
10-15 years	13.7	9.5	23.2	16.2	9	25.2
15-18 years	26.8	12.1	38.9	27.9	14.6	42.5

Source: Based on statistics provided by the NCRB, 2006.

As regards culpable homicide not amounting to murder, most child victims fall in the 15-18 years age category; more boys than girls have been victims of this particular crime; and the overall numbers have certainly gone down between 2005 and 2006 as can be seen in Table 5, except for girls in the up to 10 years age category, where it has increased from 5.5 per cent in 2005 to 7.6 per cent in 2006. All these figures need to be analysed by the NCRB to substantiate the reasons for increase or decrease.

Table 5: Age-wise Segregation for Culpable Homicide Not Amounting to Murder (Per cent)

Victims of culpable homicide not amounting to murder	2005			2006		
	Male	Female	Total	Male	Female	Total
Up to 10 years	14.0	5.5	19.5	8.2	7.6	15.7
10-15 years	16.6	4.1	21.0	14.3	5.0	19.2
15-18 years	47.5	12.2	59.8	28.3	6.7	35.0

Source: Based on statistics provided by the NCRB, 2006.

The number of child victims of kidnapping increased substantially between 2005 and 2006. The most vulnerable age-group with respect to cases of kidnapping has been 15-18 years, with girl victims out numbering the boys significantly. Of the total child victims of kidnapping, 1,949 (52.2 per cent) girls in this age group were kidnapped in 2005, as against 290 (7.8 per cent) boys. This figure rose to 3,355 (89.8 per cent) for girls, showing a leap of 72 per cent in 2006. The police often tend to explain the increase in kidnapping of girls in the 15-18 age group as a rising trend in girls eloping with their boyfriends leading to a complaint against the boy by her parents for kidnapping and also rape. In a news report that appeared in country's leading national daily, The Indian Express, the Punjab Director General of Police NPS Aulakh for instance is reported to have said, "...However, 395 out of 760 cases of kidnapping were related to elopement..."¹⁷ Unless documented along with court based evidence, it is difficult to draw such conclusions, although data on kidnapping does

17 Express news service, 'Crime graph up due to dera row', Posted: Jan 11, 2008 at 2325 hrs IST, <http://www.expressindia.com/latest-news/Crime-graph-up-due-to-dera-row/260049/>.

Table 6: Age-wise Segregation for Kidnapping (Per cent)

Victims of kidnapping	2005			2006		
	Male	Female	Total	Male	Female	Total
Up to 10 years	6.8	4.0	10.8	8.0	7.0	15.0
10-15 years	6.6	22.7	29.2	8.2	29.0	37.3
15-18 years	7.8	52.2	59.9	8.9	89.8	98.7

suggest that the majority of cases of kidnapping of children below 18 years of age is for the purpose of marriage (2,621 out of 3,549 cases in 2006). Besides, even if there is an increase in the number of girls eloping, stories of them being sold off by their boyfriends or being duped and dumped later on are not unheard of, and the kidnapping related data of the NCRB further corroborates this as kidnapping for illicit intercourse records the second highest number of cases amongst total cases of kidnapping of children below 18 years (676 out of 3,549 cases in 2006). There are, on the other hand, instances of girls being happily married to the 'alleged kidnapper', though this generates a debate on whether such child marriages should be allowed to continue or declared null and void. In Bangalore, the Child Welfare Committees receiving such minor girls in their care and protection, have taken the course of getting the two married once they reach the legal age of marriage, provided they continue to stick by their decision to be with each other. However, not all such girls are produced before the Child Welfare Committees set up under the juvenile justice system in India. Often it is the regular courts dealing with the case that decide such matters, without carrying out a proper home study to ascertain that the girl will be safe in her own family once restored back or, without ensuring in any other way that the girl will not be subjected to cruelty and harm if restored to the family.

Horror of India's child sacrifice

Akash's mother found her son's mutilated body

In India's remote northern villages it feels as if little has changed. The communities remain forgotten and woefully undeveloped, with low literacy and abject poverty.

...Lured with sweets

I was led by locals to a house that is kept under lock and key. ... In one corner is the evidence we had come to find: blood-splattered walls and stained bricks. It is the place where a little boy's life was ritually sacrificed. Those who tortured and killed Akash Singh did so in a depraved belief – that the boy's death would offer them a better life. ... The family was told he was lured away with sweets and begged his captors to set him free. "First they cut out his tongue," his grandmother Harpyari told me. "Then they cut off his nose, then his ears. They chopped off his fingers. They killed him slowly."

'Profiting from fear'

The woman who abducted Akash lived just a few doors away. She claimed to be suffering from terrible nightmares and visions. It was then she turned for guidance to a tantric, or holy man. It was under his instruction that she brutally sacrificed the boy – offering his blood and remains to the Hindu goddess of destruction....

... Unreported

We visited the jail where those accused of murdering Akash were being held. The prison warden told us of over 200 cases of child sacrifice in these parts over the last seven years. He admitted many of the cases go unreported because the police are reluctant to tarnish the image of their state. He told us incidents of child sacrifice are often covered up. Many of those killers are behind bars - but, chillingly, others poisoned by the same sinister beliefs remain at large.



Akash's mother found her son's mutilated body



Those suspected of killing Akash Singh are in jail

Navdip Dhariwal, BBC correspondent, northern India

As regards kidnapping of younger children, several instances have come to notice about children going missing, only to have been sacrificed for black magic or superstition. Unfortunately there seems to be no legal provision to handle this problem except for section 508 of IPC, which in itself has nothing more to offer than suggesting penal action for making someone believe that he or she could be harmed in some way as a result of some kind of a divine displeasure. While this provision is non-cognizable, bailable, envisaging punishment of a year with fine, or both, it's not enough to handle such problems in a country of believers, where occult practices are rather common.¹⁸ Usually it is the girls who are victims of child sacrifice by childless couples or those wanting sons.

Child Sexual Abuse

There are some crimes that are specific to girls and some others specific to boys. Often sexual abuse is seen as something that affects girls only, whereas it cuts across all gender and all castes, classes and ethnic groups. The NCRB unfortunately does not provide data on the sexual abuse of boys. In the case of girls, sexual abuse is booked primarily as rape and age-group wise data is available on the number of victims of incestuous rape as well as rape other than incest. Clearly, the increase in cases of rape (43.5 per cent increase) is in the 14 to 18 years age category, while all other age groups show a decline in the number of rape victims between the years 2005 and 2006.

Table 7: Victims of Incest by age group

Victims of Incest by age group (girls only)	2005	2006
Up to 10 years	36	24
10-14 years	64	55
14-18 years	164	112

Table 8: Victims of Rape other than Incest

Victims of rape other than incest (girls only)	2005	2006
Up to 10 years	521	488
10-14 years	1110	1026
14-18 years	2180	3252

Table 9: Total Victims of Rape

Total victims of rape (girls only)	2005	2006
Up to 10 years	557	512
10-14 years	1174	1081
14-18 years	2344	3364

Alarming rise in rape of minors: Police data

MUMBAI: In a shocking trend, the number of minors becoming victims of rape this year has shown a sharp increase vis-a-vis those above 18 years, according to statistics with the Mumbai police.

On Monday, an eight-year-old girl from Antop Hill became the latest victim. She was raped by a laundry shopowner, who offered her sweets and took her to an empty house in the neighbourhood.

For long, rape victims from across the city have been referred only to the police hospital at Nagpada by the cops for medical examination. Doctors and activists now plan to appeal to senior IPS officers to refer victims to the four super-specialty hospitals in Mumbai, which are well-equipped to deal with such cases. This is because the expertise of doctors from the super-specialty hospitals in handling such cases is high. There is better collection of evidence, assistance of laboratory aids and psychological counselling offered at these hospitals.

According to the statistics maintained by the police, 10 cases were reported in January where minors had been targeted. This number surged to 11 in the month of February, while the girls targeted above the age of 18 years remained constant at 5. In March, there have been five cases of rape involving minors and four involving those above 18 years.

Activists working for victims of child abuse say that the IPC is not sufficient to deal with sexual assault cases. They have been demanding an amendment in the existing laws for speedy trials and strong conviction, when the rape victim is below 15 years, so that it acts as a deterrent.

Nitasha Natu, The Times of India, 8 May 2008.

18 Deswal Rajbir, This woman killed four kids practising black magic: Can we stop it?, ANTA: Oct 19 2008, Made Popular Oct 20, 2008, <http://rajbirdeswal.instablogs.com/entry/this-woman-killed-four-kids-practising-black-magic-can-we-stop-it/>.

Discrimination and Sexual Abuse

Although sexual abuse spans caste and class, reports continue of girls from Scheduled Castes being raped by upper caste youths across the country. In Piparia, Madhya Pradesh, a 16 year old Dalit girl was burnt to death in 2006 after she refused to withdraw the case against an upper caste youth who had allegedly raped her four years ago. This followed reports of an increase in violence against Dalits in the area.¹⁹ In May 2008, in the Bamnagar area of Uttar Pradesh, a 13 year old Dalit girl was allegedly raped by an upper caste youth at gun point. According to police, the girl was sexually assaulted in a jungle. Although her father lodged a complaint with the local police, the accused has not been caught.²⁰

While all forms of child abuse cut across caste and class barriers, discrimination on grounds of gender and caste undoubtedly rule the crime and abuse roster.

In March 2008, in Madhya Pradesh, a 17 year old Dalit girl was burnt to death for resisting a molestation attempt by four youths.²¹ This was the second case in the space of a week of a Dalit girl being burnt alive for opposing an attempt to molest her. According to NCRB, in 2006 Madhya Pradesh reported 335 cases of rape of Scheduled Caste women by men of other castes accounting for 27.5 per cent at the national level and highest number of cases of rape of Scheduled Tribe women by men of other castes and tribes (284) accounting for 40.6 per cent cases of the total cases in the country.²² There have also been reports from Rajasthan of rape of Dalit girls. In October 2006, a Dalit girl was allegedly gang-raped by three men in the presence of her brother whilst they were waiting at a bus stand in Sikar district. And in November 2006, a Dalit girl from Class 9 was allegedly gang raped by two youths in Ajmer.²³

These incidents – examples of many similar stories from across the country – illustrate the vulnerability of girls and women from Scheduled Castes, who still continue to face sexual violence in India on grounds of their social status. India has some very strict laws to deal with offences against persons belonging to the Scheduled Castes and the Scheduled Tribes by

Status shouldn't be criterion in rape cases: SC

NEW DELHI: The Supreme Court has held that courts should not be influenced by the socio-economic status, religion, race, caste or creed of the accused or the victim in rape cases.

While punishing an accused in a sexual assault case, a Division Bench, comprising Justices Arijit Pasayat and P Sathasivam, in its judgment said the gravity of the offence should be the only consideration in the sentencing policy of the courts.

Madan Singh was sentenced to ten-year imprisonment by the trial court for raping a ten-year-old girl on August 29, 1999 in Rajasthan. The Rajasthan High Court, however, remitted the sentence to seven years.

The apex court, while setting aside the judgement of the High Court, noted, "The measure of punishment in a case of rape cannot depend upon the social status of the victim or the accused. It must depend upon the conduct of the accused, the state and the age of the victim and the gravity of criminal act. Crimes of violence upon women need to be dealt with an iron hand. The socio-economic status, religion, race, caste or creed of the accused or the victim is irrelevant considerations in sentencing policy."

The apex court said the protection of society and deterring the criminal is the avowed object of the law and that is required to be achieved by imposing an appropriate sentence. "The courts must hear the loud cry for justice by society in heinous cases of rape on innocent helpless girls of tender years as in this case, and respond by imposing of a proper sentence. Public abhorrence of the crime needs reflection through imposition of appropriate sentence by the courts. To show mercy in such a heinous crime would be a travesty of justice and the plea for leniency is wholly misplaced," the court said. Justice Pasayat while writing the seven-page judgment for the bench allowed the appeal of the Rajasthan government.

Daily News and Analysis, February 03, 2008.

19 CNN-IBN, Dalit girl burnt for identifying rapist, Hemender Sharma, 26 November 2006.

20 The Hindu, Dalit girl raped, 3 May 2008.

21 Thaindian News, Dalit girl burnt alive for resisting rape, dies, 7 March 2008.

22 NCRB, Ministry of Home Affairs, Government of India, Crime in India, 2006. Crimes against Scheduled Castes and Scheduled Tribes, Chapter 7.

23 Centre for Human Rights, India Human Rights Report 2007: Rajasthan, http://www.achrweb.org/reports/india/AR07/rajasthan.htm#_Toc167011647.

India has some very strict laws to deal with offences against persons belonging to the Scheduled Castes and the Scheduled Tribes by persons other than those belonging to such castes/tribes. Yet the crime continues unabated and there are many victims who are not even aware of the law.

persons other than those belonging to such castes/tribes. There are also special courts to deal with such offences. Yet the crime continues unabated and there are many victims who are not even aware of the law. In the year 2006, HAQ: Centre for Child Rights dealt with two cases of rape of minors belonging to the Scheduled Castes, where neither the police nor the court felt the need to file charges against the accused under The SC/ST (Prevention of Atrocities) Act 1989. Subsequently, petitions were sent to the National Commission for the Scheduled Castes and Scheduled Tribes also, which did not take the matter seriously and was of the view that the accused, who did not belong to a Scheduled Caste, committed the offence without any motive to demean a particular caste or for want of establishing their social status.

Over the years, the Supreme Court of India too has time and again admonished atrocities against the weaker sections of society by the upper castes and the powerful. However, social biases and patriarchy along with no fear of law decide the fate of the most marginalised and the vulnerable.

Sexual Abuse Amongst Boys

A study carried out in Chennai revealed that, contrary to popular belief, boys (48 per cent) were more often sexually abused than girls (39 per cent).²⁴ Not only is the number of abused boys more, they are also the victims of the worst forms of sexual abuse. As many as 21 per cent of boys who were abused suffered from trauma resulting from a severe form of abuse. In comparison, only 11 per cent girls were severely abused.

Sexual abuse of boys is perhaps an even greater social taboo than abuses against girls, so frequently goes unreported. It is not just street boys who are victims of sexual abuse. Even those under state care are not safe. In the past couple of years there have been several newspaper reports of incidences of boys being abused in children's homes. In May 2007, five minor boys were allegedly sodomised in a children's home in Delhi. All of the boys were under 10 years of age.²⁵ News reports of sexual abuse of boys in some of the orphanages in Goa run by foreigners or frequented by foreign tourists are also available for public scrutiny.

According to the Study on Child Abuse: India 2007 carried out by the Ministry of Women and Child Development, Government of India -

- One of every two boys is sexually abused.
- More boys than girls face various forms of sexual abuse.
- 48 per cent boys and 30 per cent girls face sexual abuse.
- Nine out of 13 states reported higher percentage of sexual abuse among boys than girls.

A Trial Court judgement in December 2006 branded sodomy and rape equal under the law, with Delhi's Chief Metropolitan Magistrate stating: "There is no reason why sexual assault on a male child should be treated differently from a similar act committed on a female child."²⁶ However, until the issue of sexual abuse against boys becomes less of a taboo in Indian society, incidents will continue to occur behind closed doors and remain unreported – with children continuing to remain vulnerable to abuse and perpetrators remaining free to re-offend.

Unfortunately different courts deal with cases of sexual abuse of boys differently, pointing to a need for widespread sensitisation of the judiciary in such matters. In a recent case of paedophilia involving two British Nationals, the High Court of Maharashtra acquitted the accused despite ample evidence and testimonies of the victims, who lived in a shelter home for street children run by the two men.²⁷ This case is discussed in greater detail in the chapter on

²⁴ ACR Weekly Newsletter, Vol. 5, No. 15, INDIA: 42% Chennai kids are sexually abused.

²⁵ Delhi Crime Watch, Five minor boys sodomised in children's home, 4 May 2007.

²⁶ The Times of India, Rape, sodomy equal before law? Dhananjay Mahapatra, 25 December 2006.

²⁷ Beddoe Christie, Return to Sender, British child sex offenders abroad - why more must be done, pp 12, ECPAT UK, 2008. http://www.ecpat.org.uk/downloads/Return_to_Sender_2008.pdf.

trafficking. Sexual abuse of boys in coastal areas and tourist destinations is indeed a serious issue as the government, including both central and state governments, are unlikely to address the menace seriously, given that it is linked to tourism which is one of the most promising industries generating huge revenues. The challenge is equally great in other cases of child sexual abuse as the law is weak, enforcement is poor and mind sets are orthodox and closed to the reality.

For sexual abuse of boys, India only has Section 377 of the IPC under which cases get registered. This legal provision relates to unnatural sexual offences and sex with boys is seen as part of it. Even in this day and age our law enforcement agencies continue to have a limited and skewed understanding of child sexual abuse, particularly sexual abuse of boys. Being seen as an 'unnatural offence' is in itself a reflection of the taboos attached to the sexual abuse of boys and the archaic mind sets that are not willing to accept this stark reality. What is worse is when people working in the field of social welfare and development, particularly child psychologists, too see it as a manifestation of perversion.²⁸ And if that is to be accepted, India ought to be worried about being branded as a perverse society because the incidence of sexual abuse of boys is certainly on the rise.

There is a petition pending before the High Court of Delhi for reading down of Section 377 to exclude sex between consenting adults. While India's Health Minister supports this view on the grounds that this legal provision criminalises homosexuality, thereby posing a challenge for the country in its fight against HIV and AIDS, the Home Ministry is against the repeal of Section 377 or its modification, on the grounds that such a move would be against "public morality" and would encourage delinquent behaviour and "unnatural sex".²⁹ Such debates around Section 377 of IPC substantiate the need for specific and clear provisions to deal with sexual abuse of boys. But until then, Section 377 is the only law, however archaic and colonial it might be, that can be used to seek justice for boys who are victims of sexual abuse. Moreover, what should worry India is not public morality, but the fact that it fails to provide a protective environment to its children, a space for boys to share their pain and suffering, a mechanism to ensure justice to all children irrespective of gender, caste and religion. Instead of positive discrimination, India has since independence only promoted an appeasement policy to the detriment of all weaker sections of the society.

How Safe are Our Children?

It is not just child sexual abuse or sexual abuse of boys that India has failed to provide for. There is no legal definition for 'child abuse' in any of the national legislations, which makes it difficult to gather information on the subject and also to book the perpetrators. Goa is the only state that has dared to define child abuse in the Goa Children's Act, but that is a state law and does not apply across the country.

The Ministry of Women and Child Development's National Study on Child Abuse: 2007, declared that in India as in many other countries, there has been no understanding of the extent, magnitude and trends of the problem of child abuse.³⁰ Although not completely reliable, the picture of child abuse presented in this study is quite telling.

28 The Hindu, Crimes against boys a matter of concern, 16 December 2006.

29 Tandon Aditi, The Tribune, Anti-gay law: will it go?, 23 August 2008.

30 Ibid.



Major findings from the Study on Child Abuse: India 2007

Physical abuse

- Two out of three children were physically abused.
- Over 50 per cent of children in all the 13 sample states were being subjected to one or the other form of physical abuse.
- Out of those children physically abused in family situations, 88.6 per cent were physically abused by parents.
- 65 per cent of school going children reported facing corporal punishment.
- 62 per cent of the corporal punishment was in government and municipal schools.
- Andhra Pradesh, Assam, Bihar and Delhi consistently reported higher rates of abuse than in all forms as compared to other states.
- Most children did not report the abuse to anyone.

Sexual abuse

- 53.22 per cent children reported having faced one or more forms of sexual abuse.
- Andhra Pradesh, Assam, Bihar and Delhi reported the highest percentage of sexual abuse among both boys and girls.
- 21.90 per cent child respondents reported facing severe forms of sexual abuse and 50.76 per cent other forms of sexual abuse.
- Out of the child respondents, 5.69 per cent reported being sexually assaulted.
- Children on the street, children at work and children in institutional care reported the highest incidence of sexual assault.
- 50 per cent abuses are by persons known to the child or in a position of trust and responsibility.
- Most children did not report the matter to anyone.

Emotional abuse and girl child neglect

- Every second child reported facing emotional abuse.
- Equal percentage of both boys and girls reported facing emotional abuse.
- In 83 per cent of cases parents were the abusers.
- 48.4 per cent of girls wished they were boys.

When Protectors Turn Abusers

Besides incest, some of the most unfortunate manifestations of child abuse that one finds in the country today are the ones where children suffer at the hands their own protectors. This includes:

- Female foeticide and infanticide
- Child marriage
- Domestic violence
- Custodial rape

As we know, many of these do not get recorded and enumerated as the perpetrators are invariably those meant to protect children. Traditionally, the Indian society is a fairly conservative society, where children continue to be treated as extensions of their parents. Thus, what the parents or caregivers do for them or to them is often perceived as beyond any questioning. Only in recent times, studies have thrown light on the need to protect children from abuse even at home, breaking the myth of home as the safest haven.

Female Foeticide: Discrimination Against the Girl Child Continues

Statistics reveal that 80 per cent of India's districts have recorded a decline in sex ratios of children since 1991.³¹ The worst offender is Punjab, where the ratio of girls has dropped from 875 in 1991 to 798 girls for every 1,000 boys in 2001. Punjab is closely followed by Haryana, which has recorded a 60-point drop from 879 girls in 1991 to 819 in 2001. Chandigarh, Himachal Pradesh and Uttaranchal also follow closely behind. Delhi, with all its cosmopolitan pretensions, has registered

³¹ Dhawan Himanshi, The Times of India, Sex ratio just keeps getting worse, 10 December 2006. <http://timesofindia.indiatimes.com/articleshow/756369.cms>.

a 47-point drop from 915 girls to 868. The all-India average is 927 girls for every 1,000 boys which puts the country right at the bottom of the global chart, below Nigeria (965) and Pakistan (958). Only China, with 832 girls, ranks below India.³² Demographic trends indicate that the country is fast heading towards a million female foetuses aborted each year.³³

The NFHS-3 discovered that women who had ultrasounds whilst pregnant were more likely to give birth to boys, indicating that ultrasound testing was carried out for sex selection in many cases.³⁴ Wealthier, highly educated women and pregnant women with no living sons are much more likely to have an ultrasound test than other women. The wealthiest parts of the country have the worst sex ratios. Beside Punjab's shocking figure, South Delhi – one of the most affluent localities of the capital – has only 760 girls for every 1,000 boys.³⁵

In spite of the amended Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (PC&PNDT Act) 2003, recent studies show that medical practitioners continue to disclose the sex of the foetus to parents, thereby facilitating the elimination of unwanted children through abortions.³⁶ The number of ultrasound clinics is also found to have multiplied over the years, and the higher the number of clinics in the districts, the higher the decline in child sex ratio. A report by the Gokhale Institute of Politics and Economics established a clear correlation between the number of sonography centres and a decline in child sex ratio in Maharashtra. A huge 78 per cent of these clinics are registered in the 'rich' western Maharashtra districts of Mumbai, Pune, Nashik, Sangli and Kolhapur the very regions that witnessed a decline in female sex ratio.³⁷ Female foeticide is most prolific in the wealthier cities and states where people have both the access and money to misuse technology.

Missing Girls		
Child sex ratio: Girls per 1000 boys (0-6 years)		
State	2001	1991
Punjab	798	875
Haryana	819	879
Chandigarh	845	899
Delhi	868	915
Maharashtra	913	946
Uttar Pradesh	916	927
Bihar	942	953
Tamil Nadu	942	948
West Bengal	960	967

All India average: **927** girls

Only **Kerala, Pondicherry, Lakshwadeep** have seen improvement in girl-boy ratio

Source: Unicef State of the World Children Report

Statistics reveal that 80 per cent of India's districts have recorded a decline in sex ratios of children since 1991. Girls are being trafficked to low sex ratio states to provide brides for men.

Man dies of shock as wife bears baby girl

BALASORE : A man in Orissa was so shocked after he heard that his wife had given birth to a girl child that he fell to the ground, hit his head against a wall and succumbed to his injuries. Akshaya, who was a father of a two-year-old daughter, was expecting a male child this time round, said Balaram. Akshaya, a graduate in law, was working as a contract labourer in the Nilachal Steel company in Jajpur district. He was married in 2003.

He had no other physical complications such as blood pressure or stress. Doctors who treated him said he died of head injuries and shock.

The Times of India, 30 August 2006.

The incidence of female foeticide is also more prevalent in urban areas than rural areas. In Punjab, for example, the number of girls in rural areas is 799 per 1,000 boys as against the urban record of 796.³⁸ Poor women from the east of India and Bangladesh are now being trafficked to Punjab, Haryana and other states to provide girls for marriage.³⁹

³² Ibid.

³³ The Hindu, Save the girl child, Sumita Thapar, 18 March 2007.

³⁴ National Family Health Survey-3, Maternal health, 2007.

³⁵ The Hindu, Save the girl child, Sumita Thapar, 18 March 2007.

³⁶ Infochange, The richer the district, the poorer the sex ratio, January 2006.

³⁷ Ibid.

³⁸ The Times of India, Sex ratio just keeps getting worse, 10 December 2006.

³⁹ Infochange, Challenges in implementing the ban on sex selection, Sandhya Srinivasan, March 2006.

Women-starved Kutch gets brides from Bengal and even Bangladesh

BHADRESHWAR (BHUJ), APRIL 10 : If you thought that women trafficked out of Bangladesh and the bordering districts of West Bengal find their way only to the sex trade, then think again. Many among such girls from the eastern part of the subcontinent are now being sold off as brides in the women-starved western district of Kutch in Gujarat. It has been merely ten months since Mumtaz Mogal has been married off to Salim Mogal, a shepherd in Bhadreswar village.

The 16-year-old girl from Bankura district of West Bengal is already seven months pregnant and trying to cope with the new culture and language. Like Mumtaz, Masura, Samina, Ruksana and many other Bengali girls like her from the Indo-Bangla border areas are now finding their way here as brides. "Our father was too poor to arrange for our marriage back home," said Ruksana Adam, who claims to be from Bankura district in West Bengal. "It was at that point, a man called Zafar from our area met our father and got me married here," Ruksana added. Married for four years, this woman in her early twenties now has a daughter. Her sister Afsana, who is in her teens too found her way to Kutch a couple of years back and has a son.

"A lot of girls are being brought in here as well as in the Banni region," said Meena Rajgore from the Kutch Mahila Vikas Sangathan. "While they claim to hail from Kolkata, many of them are from Bangladesh too," she added. "In many communities here there is a tradition of early engagement, the ones who do not find a bride early are often forced to stay without a wife till very late. Mostly such people procure wives from Kolkata or Bangladesh," she said, adding that many widower Muslims of the region too procured their second or third wife through agents.

In Bhadreswar, an agent called Zafar has been in the business of getting girls from West Bengal and Bangladesh for about a decade. "I know that this man has been getting girls from Bengal, but I could not meet him in spite of a lot of efforts," said Ibrahim Sale Majaliya, a leader from the fishing community in the village. "He speaks many languages, Bengali, Gujarati, Kutchi and Marathi," said Ruksana, who further pointed out that Zafar periodically visits West Bengal to procure girls from the poor families. According to villagers, Zafar brings girls from 'Kolkata' for the eligible bachelors in lieu of money. The girls met by this reporter also testified the 'Zafar connection' to their relocation.

"We paid about Rs 40,000 for getting our-sister-in law, Madina," said Ishaq Juma Kumbhar, a villager from Bhadreswar. The earlier three wives of his brother Ramjo Siddique Kumbhar had eloped, and Samima, who claims to be from Niyamatpur in Asansol has been living with him for the last six months. Another sister-in-law, Samima who is also from the same area got three of her sisters married off in nearby villages. "I came to Bhadreswar five years back, now three of my sisters too are married here," she said.

When this reporter met the girls, barring one (Mumtaz Mogal), the rest of them betrayed east Bengali accent in their diction, while talking. "Yes they get girls from all over, Asansol, Ramnathpur, Khulna," said 25-year-old Razia, who feigns to have forgotten her mother-tongue. Now married to Ari Ahmed Suranji in Bhadreswar, who works in Dubai, Razia was earlier married to a man in Bhuj and has two daughters from him.

D P Bhattacharya, Indian Express, April 11, 2008

There are numerous challenges to implementing the ban on sex selection. For a case to be brought to court under the PN&PCDT Act, they must rely heavily on documentation and records – something which centres involved in sex selection are likely to avoid. The sex selection industry is run by medical professionals who have shown little interest in 'putting their house in order'. No associations of medical professionals have taken a strong stand against the unethical use of diagnostic procedures.⁴⁰ A television journalist, who travelled across four states and more than 13,000 km to do a series of sting operations, discovered that more than 100 of the 140 doctors she met were prepared to do a sex selective abortion, some as late as the seventh month.⁴¹

In addition to these challenges, there is a fine balance to strike between ensuring women's right to abortion while opposing sex selection – the monitoring of clinics to track the sex ratio of female foetuses could threaten the tenuous access to abortion that women have today.

Along with an increase in female foeticide, there have been continued cases of newborn baby girls dumped in hospitals. In the period between August 2004 and December 2007, 13 baby girls were dumped at AIIMS hospital in Delhi. In 2007

40 Infochange, Challenges in implementing the ban on sex selection, Sandhya Srinivasan, March 2006.

41 The Hindu, Save the girl child, Sumita Thapar, 18 March 2007.

alone, seven abandoned girls were reported from AIIMS showing that Delhi's obsession with the boy child continues despite the skewed sex ratio.⁴² In April 2008, a couple were arrested in Mumbai for abandoning their daughter despite a DNA test confirming that the four-month old infant was theirs.⁴³

The number of cases of foeticide, infanticide and exposure and abandonment of children recorded by the NCRB also shows a substantial increase between 1999 and 2006, with foeticide showing an over 45 per cent increase between 2005 and 2006.

Table 10: Cases of Foeticide, Infanticide, Exposure and Abandonment

Crime Head ↓ / Year →	1999	2000	2001	2002	2003	2004	2005	2006
Foeticide	61	91	55	84	57	86	86	125
Infanticide	87	104	133	115	103	102	108	126
Exposure & Abandonment	593	660	678	644	722	715	933	909

Source: Crime in India, 1999-2006, NCRB.

On the other hand, the prosecutions and convictions under the PC&PNDT Act as well as Sections 315, 316 and 317 of the IPC on Foeticide, Infanticide and Exposure and Abandonment, have been very low.

What was known as the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994, was amended in 2003 to be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 2003. One of the main objectives to change the law was to bring the violators to book. Despite some reports coming in, the impact of the new law is not yet visible.

Table 11: Disposal of Cases by Courts of Crimes Committed Against Children during 2006

Crime Head	Total No. for Cases for Trial Including Pending Cases for Previous year	Cases Withdrawn by Govt.	No. of Cases				Pending Trial at the end of the year
			Compounded or Withdrawn	In which Trials Completed			
				Convicted	Acquitted or Discharged	Total {{(6) + (7)}}	
Foeticide (Sec.315,316 IPC)	113	0	0	5	28	33	80
Infanticide (Sec.315IPC)	221	0	0	15	18	33	185
Exposure and AB Andonment (Sec. 317 IPC)	824	0	3	12	45	57	764

Source: Crime in India, 2005-2006, NCRB

Case of the missing daughter

...Few convictions

With these findings as the base, Sunil Gulati recently examined the economic aspects of sex ratio and found that there was a positive correlation between amenities affecting the status of women and sex ratio. "Amenities data for 46 districts in North India and 593 districts of India was subjected to co-relational and regression analysis. We found that villages with lack of amenities like rooms, drainage, bathrooms, telephone, proper cooking fuel, clean drinking water source, bank account, etc, had very poor sex ratio. Seventy eight per cent stoves in Haryana's rural households haven't been cleaned in ages," says Gulati, stressing the need for government policies that enhance the status of women. "That coupled with strict implementation of the PCPNDT (Preconception and Prenatal Diagnostic Techniques) Act, 1994, can help," he says.

Aditi Tandon , The Tribune: Saturday, January 26, 2008

⁴² The Times of India, 13 newborn girls dumped at AIIMS, Ambika Pandit, 15 February 2008.

⁴³ Mohan Gopu, The Indian Express, DNA holds the key to this tale of two cities and three babies , 18 April 2008. <http://www.indianexpress.com/news/dna-holds-the-key-to-this-tale-of-two-cities-and-three-babies/298841/1>.

The Eleventh Five Year Plan sets out a target of raising the sex ratio for the 0-6 years age group to 935 by 2011-12 and to 950 by 2016-17. The government's two-child norm policy continues to be heavily criticized for its role in encouraging female foeticide. As described by one commentator: "the famous family planning slogan, Hum do hamare do, mathematically adds up to only three possibilities – that people have two sons, two daughters, or one son and one daughter. Two daughters are usually not acceptable – culturally or economically – because they have to be married off. While one son and one daughter are tolerable, the ideal situation many families strive for is two sons. When a vast majority of people are poor, with no health or social security, sons make the best survival strategy."⁴⁴

The government's two-child norm policy continues to be heavily criticized for its role in encouraging female foeticide.

In January 2008 the Ministry for Women and Child Development announced that it was launching a conditional cash transfer scheme to address the issue of falling sex ratio and discrimination against the girl child. The scheme involves paying cash transfers to the family of the girl child on the condition that her birth is registered, she attends school and she remains unmarried until the age of 18.⁴⁵ The scheme will first be implemented as a pilot project in 11 blocks in the country, including Sirhind in Fatehgarh Sahib (Punjab), which has the lowest child sex ratio of 766 per 1,000 males as per the 2001 Census.

Some states have already implemented policies to tackle the falling sex ratio and work towards achieving the targets set in the Eleventh Plan. Haryana initiated the Ladli scheme in August 2005, with the objective to raise the status of the girl child in the family and in society and to provide girls with the right to birth and the right to survival. The scheme was introduced to combat the menace of female foeticide, improve the declining sex ratio of females and increasing the number of girls in families. Under the scheme, all parents resident in Haryana will be provided with a financial incentive of Rs. 5,000 per year for up to five years whose second girl child is born on or after of 20th August 2005, irrespective of income or number of sons.⁴⁶

Policy makers and planners continue to grace the nation's disgrace...

In February 2008, the Delhi Cabinet approved the financial arrangement for the implementation of the Ladli scheme to tackle the female foeticide problem in the capital. The government proposes to provide Rs. 10,000 on the birth of a girl child, as well as Rs. 5,000 on her admission to Class I, Class VI, Class IX, Class X and Class XII. To be eligible for the scheme, the girl should have been born in Delhi on or after 1 January 2008.⁴⁷



Child Marriage

Child marriage is one of the worst forms of violence, which not only violates the basic rights of the girl child but also exposes her to sexual violence, unsafe motherhood and sometimes resultant death. Yet this violence is sanctioned by social norms in India, which still encourage child marriage. According to a 2006 government survey, around 45 per cent of girls are married before the legal age of 18 and almost 30 per cent of boys are married before they reach the legal age of 21.⁴⁸

There are stark variations in marriage patterns across the country. Of women aged between 25 and 49 in Madhya Pradesh, over half (52.6 per cent) were married before the age of 15.⁴⁹ In Bihar, 51.0 per cent of women were married

44 InfoChange, The two child norm only leads to female foeticide, Madhu Gurung, November 2004.

45 The Tribune News Service, Coming: New deal for the girl child, Aditi Tandon, 17 January 2008.

46 Economic and Statistical Adviser, Planning Department, Haryana, Economic Survey of Haryana 2005-2006.

47 The Hindu, "Ladli" scheme for girls ready to take off, 26 February 2008.

48 Reuters, India's underage brides wedded to tradition, Nita Bhalla, 15 May 2007.

49 SANLAAP, Under-age marriage in rural West Bengal, 2007.

before 15, in Uttar Pradesh 49.7 per cent, in Andhra Pradesh 48.9 per cent and in Rajasthan 47.8 per cent. A huge 80 per cent of the women in these states were married before the legal age of 18 – Madhya Pradesh (78.5 per cent), Bihar (83.9 per cent), Uttar Pradesh (79.6 per cent), Andhra Pradesh (79.8 per cent) and Rajasthan (81.5 per cent). However, by contrast, the median age of marriage in Goa, Mizoram and Manipur is 22 – 23 years and 20 years in Kerala, Nagaland, Punjab and Sikkim.⁵⁰

In 2006, an NGO called SANLAAP carried out a survey on under-age marriage in five districts in rural West Bengal. Out of the total 1,376 married women surveyed, 229 (16.64 per cent) were married before the age of 14, while another 759 (55.16 per cent) were married before reaching 18. Out of the 229 women married before 14 years of age, almost half (49.78 per cent) belonged to the lowest income families.

The survey showed that the age of marriage increases along with income group – women from the lowest income group were far more likely to be married before the age of 14 (49.78 per cent) as compared to only 0.44 per cent in the highest income group. It also revealed how Muslim women and women from Scheduled Castes were significantly more likely to be married before the age of 14.⁵¹

Culture and tradition continue to play a key role in early marriage. In Rajasthan, for example, high rates of underage marriage make a mockery of the law, which has banned child marriage since 1929. Every year, on the festival of Akha Teej, scores of child marriages take place in keeping with a tradition dating back several centuries.⁵² In one huge child marriage ceremony, four brothers got seven of their children married – the youngest bride was two, the eldest groom 13. Many Panchayat members not only refuse to oppose such marriages but actively support them.

Discrimination against girls still continues to play a key role in child marriage. The girl child has always been considered as a burden, and the attitude of society has always been to 'get rid of her' as soon as possible. Poor families are often motivated by having to pay a lower dowry if the bride and groom are children.⁵³

Others attempt to justify the decision to have their daughter married off underage as a desire to protect her from sexual violence. However, the act of marriage merely legitimises the violence. Marriage, by its very institution, imposes certain social responsibilities on the persons in it. It also provides the legal sanction for engaging in sexual activity and procreation. This amounts to sanction for child sexual abuse and rape.

Child marriage is a blatant violation of children's human rights. All children have the right to:

- Childhood
- Opportunity to develop into a complete and full human
- Exercise a choice in matters concerning them
- Care and protection regardless of social and economic situation
- Actions that are in their best interest determined by their age, ability, gender and location.

HAQ: Centre for Child Rights, Child Marriage in India: Law and the Protocol for Action, Draft Protocol on The Prohibition of Child Marriage Act, 2006, submitted to the Ministry of Women and Child Development Government of India, 2007. Unpublished.

The age of marriage increases along with income group – women from the lowest income group were far more likely to be married before the age of 14 (49.78 per cent) as compared to only 0.44 per cent in the highest income group.



50 Ibid.

51 Ibid.

52 Hindustan Times, Tradition mocks at law in Rajasthan, Vinod Vithal, 8 May 2008.

53 HAQ: Centre for Child Rights, Child Marriage in India: Law and the Protocol for Action, Draft Protocol on The Prohibition of Child Marriage Act, 2006, submitted to the Ministry of Women and Child Development Government of India, 2007. Unpublished.

Besides rendering girls vulnerable to sexual abuse and violence, child marriage significantly reduces their opportunities to complete education and endangers their health by encouraging early pregnancy. Child marriage also puts girls at risk of contracting HIV and AIDS.⁵⁴ Girls are often married to older men and the unequal balance of power makes them less able to negotiate the use of condoms to protect them from infections.

In the drafting of the Bill for action against child marriages (which is discussed in more detail below) the current UPA government was allegedly concerned about a strong reaction from the proponents of customs and traditions in India.⁵⁵ This shows that even in the 21st century, the country faces a conflict between protecting the rights of girls from abuse and violence and protecting customs and traditions.

In 2005 122 cases were registered under the Child Marriage Restraint Act, 1929, and 99 cases in the year 2006.⁵⁶ As with all other child related offences, the rate of prosecution and convictions has been poor even under this law.

Table 12: Disposal of Cases of Child Marriage in 2006

Crime Head	Total No. for Cases for Trial Including Pending Cases for Previous year	Cases Withdrawn by Govt.	No. of Cases				Pending Trial at the end of the year
			Compounded or Withdrawn	In which Trials Completed			
				Convicted	Acquitted or Discharged	Total {{(6) + (7)}}	
Restraint Act. 1978	448	0	2	14	27	41	405

Source: Crime in India, 2006, NCRB

The Prohibition of Child Marriage Act, 2006 was passed in January 2007 as the Child Marriage Restraint Act, 1929 only dealt with preventing child marriages from taking place and had failed to book the offenders and address the problem. The new law was designed to address not just child marriages but also incidental acts such as trafficking and issues such as maintenance of children born out of a child marriage, which may occur when prohibition is possible. The 2006 law also provides for annulment of marriages. While certain child marriages are declared null and void such as marriage by force, coercion or by way of kidnapping and trafficking, all other marriages are merely voidable at the option of a contracting party who was a child at the time of marriage. It enables a person who was married as a child to file a petition asking for the marriage to be nullified, but the said petition must be filed within two years of attaining majority or otherwise by the aggrieved party's parents/guardians.

This has been widely criticised by activists. Given the social pressures surrounding child marriages, this is very unlikely to happen. Child marriages will only be void in cases of "compulsion" and trafficking, thereby acknowledging customary and traditional marriages as valid. Despite the stringent punishments outlined in the Act, many children will continue to be forced into marriage with little opportunity for escape and the number of cases filed under the Act is expected to be minimal.

The Prohibition of Child Marriage Act, 2006 – the law lays down punishment with imprisonment up to 2 years or fine of up to Rs. 1 lakh or both for:

- Whoever performs, conducts, directs or abets any child marriage
- A male adult above 18 years marrying a child
- Any person having charge of the child, including
 - Parent or guardian
 - Any member of an organisation or association promoting, permitting, participating in a child marriage or failing to prevent it.

HAQ: Centre for Child Rights, Child Marriage in India: Law and the Protocol for Action, Draft Protocol on The Prohibition of Child Marriage Act, 2006, submitted to the Ministry of Women and Child Development Government of India, 2007. Unpublished.

⁵⁴ The Sentinel, Child marriage puts girls at risk of HIV/AIDS, 30 April 2005.

⁵⁵ SANLAAP, Under-age marriage in rural West Bengal, 2007.

⁵⁶ NCRB, Ministry of Home Affairs, Government of India, Crime in India 2006, Chapter 6.

Domestic Violence

‘Corporal punishment’ is lawful in the home in India, meaning that children have very little legal protection from domestic violence. An Offences Against Children (Prevention) Bill was drafted by the Ministry of Women and Child Development to address various forms of child abuse including violence at home. The Bill had been under discussion for some time and then perhaps got lost in some administrative files. Although the Indian Penal Code applies to every citizen, including children, and contains provisions that could cover many forms of physical abuse, it is seldom ever used against parents.

Moreover there are no procedures laid down in the Criminal Procedure Code on how to deal with such matters, who is liable for reporting such cases, can a child report, what action is expected from police when reports of abuse at home are received, is there a need for some social welfare agency to be the first contact point for such an abused child etc. This is precisely what led to the exercise of formulating a separate law to deal with offences against children. Unfortunately, the draft Bill as it were, was inadequate in many of these respects.

This gap in the law continues to ‘justify’ acts of violence against children in the home. The 2006 UN Study on Violence Against Children observed how: “Eliminating and responding to violence against children is perhaps most challenging in the context of the family, considered by most as the most “private” of private spheres. However, children’s rights to life, survival, development, dignity and physical integrity do not stop at the door of the family home, nor do States’ obligations to ensure these rights for children”.⁵⁷

Numerous newspaper articles continue to report incidents of severe violence – and even the killing – of children in the home by their parents or guardians.

Father held for champ’s death - Tales erupt of a history of brutality

On Monday, Deepak allegedly hurled a hard object at his son when he was leaving a practice game of table tennis at home as he was feeling unwell. Deepak had a history of punishing his son whenever the sub-junior champ would lose a table tennis match.

The father’s act of fury on Monday felled Biswadeep, leaving the boy writhing in pain on the floor. Even then, Deepak refused to act ... Papia finally rushed her son to hospital, only for him to be declared dead, having succumbed to “internal injuries”. “The boy could have been saved if his father had summoned a doctor in time,” said superintendent of police Gupta, adding that Deepak was even known to lash his son with electric wires.

Tales of parental pressure and brutality poured out on Tuesday. Arun Kumar Kar, president of the local Niranjani Pally Colony Committee, said: “You cannot imagine how he used to torture Biswadeep. Last winter, he had tied him to a lamp post and beat him mercilessly till we intervened. We were not harsh on him as he had been diagnosed with cardiac ailments and had even got a pacemaker implanted.”

Another neighbour, Raghu Das, recounted how last year, Biswadeep had run away to his house and sought shelter for two days, fearing his father’s fury following a defeat in a table tennis tournament. ...

The Telegraph, Wednesday, January 10, 2007



Teenaged table tennis champ Biswadeep's mother Papia (left) being consoled after her son's body was brought home on Tuesday. Papia has lodged a complaint with police against husband Deepak, blaming him for the death.

Due to absence of a legal provision to deal with neglect, abuse and violence against children at home, many such forms of violence do not ever get enumerated. When India passed a law on domestic violence in 2005, it failed to address domestic violence against children. Children suffer both direct and indirect violence and abuse at home. Cases of incest clearly

⁵⁷ United Nations General Assembly, Report of the independent expert for the United Nations study on violence against children, Article 38, 29 August 2006.

suggest some of the gravest forms of direct violence and so do instances of corporal punishment as highlighted in this section. Neglect, often in the case of girls, is yet another form of violence. Little has been done to recognise and address the harm done to a child's psyche as silent spectators of brutal beatings and violence in the family. What happens to their mothers affects them too. Whether it is the parents' ambitions vis-à-vis their children, an act of 'disciplining', alcoholism, domestic violence against their mother, or sheer neglect, children continue to become victims and their sufferings go unheard. In its approach towards building a protective environment for children, the Ministry of Women and Child Development recognises the need for mapping of areas to identify potentially vulnerable families and families with risky behaviour, where children are more vulnerable or likely to come into vulnerable situations, strengthening the families and family environment.⁵⁸

The Integrated Child Protection Scheme, which was formally accepted by the Planning Commission of India and the Ministry of Finance for the Eleventh Five Year Plan states, "A strong element of prevention will be integrated into programmes, converging the provisions and services of various sectors on the vulnerable families, like livelihood support (NREGS), SHGs, PDS, health, child day care, education, to strengthen families and reduce the likelihood of child neglect, abuse and vulnerability".

Unfortunately, the scheme is yet to take off and the budget of Rs. 1,000 crore for a period of five years is certainly not adequate to meet the aims and objectives of ensuring a protective environment for all children.

Custodial Rape

If children are not always safe in the family, they are not safe in the hands of the state either. The section on violence against boys has highlighted sexual abuse of children in institutional care. Like boys, girls too are subjected to various forms of inhuman and degrading treatment in institutions.

Besides sexual abuse in custodial institutions, rape by police too has been on the rise. On 12 April 2008, three policemen in Ludhiana raped a 16-year-old girl behind the deputy commissioner's house.⁵⁹ They were later dismissed. On 24 April 2008, an 11-year-old girl was dragged into a car and raped by a traffic police constable and a property dealer at around 2:30pm from near Shahbad Dairy locality in outer Delhi.⁶⁰ Earlier in February 2008 three Railway Protection Force personnel had raped a minor in Kanpur in Uttar Pradesh. In October 2008 again a report of a minor raped by a cop from Uttar Pradesh appeared in the news.

Although the NCRB records tell a different story, they once again reflect on the inadequacy and reliability of data produced by this body. In April 2005, rape of a 16 year old in a police station in south Mumbai by a 30 year old police constable Sunil More was described as 'shocking and shameful'.⁶¹ A few months later another minor girl was raped, this time a 15-year-old rag picker, who was picked up by a policeman, Chandrakant Pawar, near Mumbai's international airport in Sahar and allegedly raped by him.⁶² The NCRB has failed to have taken these into account while giving details on custodial rape for the year 2005 and 2006. Table 13.5 in Chapter 13 of Crime in India 2005 records five cases of custodial rape from Jharkhand, one from Tamil Nadu and one from Andhra Pradesh. The Mumbai cases are neither to be found in the list of custodial crimes for 2005 nor in the list of pending cases or fresh cases for 2006. Crime records for 2007 and 2008 are not yet available.

In 1983, Section 114-A was introduced in the Indian Evidence Act by an amendment, laying down that the court shall presume lack of consent in cases of custodial rape. For some time the activists felt that this had put the burden of proof on the accused. But that is not true as the amended law rules out the question of consent of the victim only if sexual intercourse by the accused is proved and the victim states that she did not consent. "The legal position is

58 Ministry of Women and Child Development, Government of India, India: Building a Protective Environment for Children, 22 July 2006.

59 NDTV Correspondent, Delhi cop rapes minor girl in moving car, Friday, April 25, 2008, (New Delhi) <http://www.ndtv.com/convergence/ndtv/story.aspx?id=NEWEN20080047845>.

60 Ibid.

61 Special Correspondent, The Hindu, Outrage over rape of minor, Sunday, 24 April 2005.

62 Kalpana Sharma, Rape and the media, Opinion, India Together, 26 April 2006. <http://www.indiatogether.org/2006/apr/ksh-rape.htm>.

not that the accused has to prove his innocence in cases of custodial rape. The prosecution has to first establish the fact of sexual intercourse. The entire gamut of lodging a first information report (FIR), medical examination, recording of statements by the police and depositions in court have to be gone through. Delays in lodging FIRs, delays in medical examinations, inconsistencies in FIRs, contradictions in statements made to the police and testimonies in court remain prime factors in the accused's defence".⁶³

While changes in law and its implementation seem slow to come by, there are certain categories of children who are worst affected by custodial violence and need immediate attention. The Ghaziabad orphanage incident discussed in the section on child sexual abuse in this chapter, also brought to light the fact that children with special needs suffered the most. On March 4, 2007, a policeman was booked for raping a minor Dalit girl in Mainpuri in Uttar Pradesh. This surely is not the only incident of its kind. Communal violence too has seen violence against girls of certain communities. The other situation that demands attention is that of children living in conflict areas.

Children in Conflict Areas

At present, 19 out of 28 states of India face internal armed conflicts which are characterised by gross violations of international human rights and humanitarian laws both by the security forces and the armed opposition groups. For decades, Assam, Arunachal Pradesh, Mizoram, Nagaland, Meghalaya and Tripura in North East India and Jammu and Kashmir faced internal armed conflicts. In the last couple of years, the Naxalite movement or ultra left wing movement led by Maoists has spread to 11 states including Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu, Uttar Pradesh and West Bengal.⁶⁴ These internal conflicts have affected large sections of the population and have had a particularly detrimental effect on children. Children have been attacked directly in conflicts and have been recruited by warring parties, both state and insurgent groups, as child soldiers.

Owner of Ghaziabad orphanage arrested

Ghaziabad/Lucknow: The owner of an orphanage from where 47 girls, allegedly physically and sexually abused, were rescued was on Friday arrested on charges of rape and criminal assault. Authorities shifted the girls to homes in Meerut and Mathura.

District Magistrate M. K. Sundaram said a case was filed against him under sections 354 (assault or criminal force with intent to outrage modesty of a woman), 376 (rape) and 504 (intentional insult) of the IPC. He said the 11 `` girls, six of whom are over 18 years of age and the rest above 15, will be medically examined on Saturday".

A counter-complaint was also lodged at Sihani Gate police station against the NGOs and a Delhi-based journalist. In his complaint, Balnath claimed that "nothing wrong" was happening inside the ashram and only the woman reporter stirred up the row after visiting it last week.

The Hindu Online edition of India's National Newspaper, Saturday, Dec 02, 2006

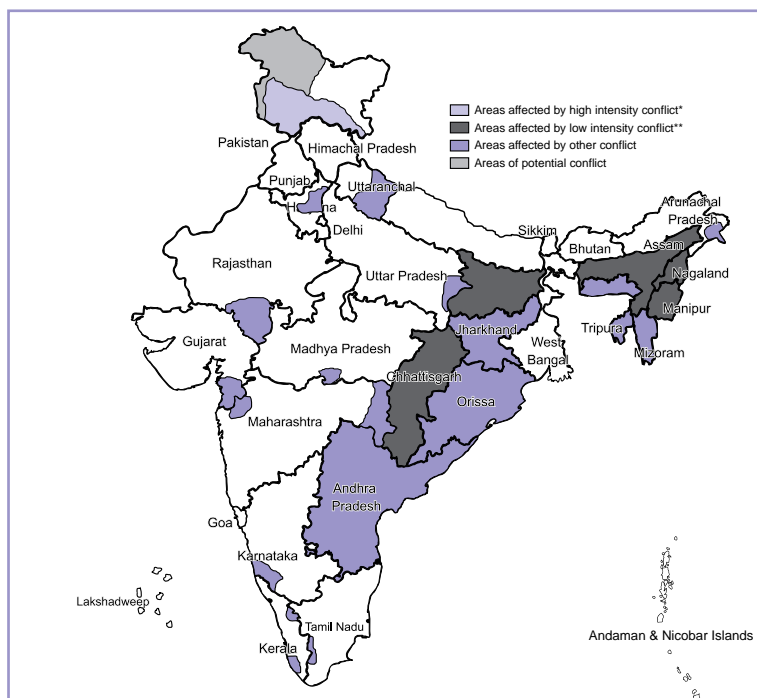
Special children suffering

The ashram contains several dormitories. In a ward here, mentally challenged orphans are kept locked.

NDTV found Neela, a young girl, who was badly bruised and in tattered clothes. Around her, the stench was unbearable.

The special needs children at the ashram have never met a doctor or a therapist. But what they suffer on a regular basis is far worse.

www.ndtv.com



Note: * Casualties more than 1000 per year. ** Casualties between 100 and 1000 per year
Source: Institute for Conflict Management & South Asia Terrorism Portal, November 2007

63 Shukla Rakesh, InfoChange News & Features, Flaw in the law: Custodial rape, inadequate evidence and acquittal, March 2004. <http://infochangeindia.org/20040307141/Women/Analysis/Flaw-in-the-law-Custodial-rape-inadequate-evidence-and-acquittal.html>.

64 Asian Centre for Human Rights, No succour for the victims of the armed opposition groups in India, 10 May 2006.

Children growing up in conflict become vulnerable to abuse and exploitation, are forced into labour because the family falls into distress, and even grow up to be violent themselves. Being enlisted as child soldiers is part of that.

Child Soldiers

Among all the conflict regions of India the state of Chhattisgarh has been increasingly in the news for using children as combatants and in other war activities. The Naxalite militants (fighting against the state of India), the Salwa Judum (state sponsored militia used in anti-insurgency operations) and the government security forces are all recruiting children (both boys and girls) to training camps where they are taught to use weapons and explosives. According to a recent report by Human Rights Watch, there are no clear estimates of the number of children used by these different parties, nor the number of children who have been killed while participating in the conflict in Chhattisgarh.⁶⁵

Children have been attacked directly in conflicts and have been recruited by warring parties, both state and insurgent groups, as child soldiers.

Jackboots Too Large For Them

Militant groups in Manipur are forcibly recruiting children to fill their ranks, reports

Teresa Rehman

SUBADANI, 40, a distraught mother lies in her bed, insensate. At times she whispers plaintively "I want my son back". While conducting a frenetic search for her youngest son, AK Ajay, missing since July 6, she fainted and had to be hospitalised. Later, the militant group, People's Revolutionary Party of Kangleipak (General Secretary) (PREPAK (GS)) delivered a shocker. Ajay, the 13-year-old student in Class 8, was one of many "recruits who had joined out of their own volition", they claimed.....

Meanwhile, there are parents across Manipur who remain traumatised. N. Mohila, a vegetable vendor and mother of 14-year-old Ningombam Sharda, lies in shock at RIMS hospital in Imphal. Sharda and her classmate Longjam Jenevi, who had vanished mysteriously, recently appeared on a local cable television channel claiming that they were safe in PREPAK's hideout. Jenevi's mother Bidyapati Leima claims that her minor daughter was lured by the militant group and wants her back. What will be the fate of the child soldiers of Manipur?

Tehelka Magazine, Vol 5, Issue 30, Dated Aug 02, 2008



Abduction or recruitment? Over 20 children have gone missing in the past few months and many more cases may be unreported
Photo: Sukham Nanda

The children, some as young as 14, are sent as frontline combatants by Naxalites and allegedly used as shields during operations against security personnel. The Naxalites have a front organisation named Bal Mandal (Children Division) to carry out its activities.⁶⁶ All former Naxalites interviewed by Human Rights Watch in 2008 stated that they joined different Naxalite wings when they were children. Naxalites repeatedly pressure parents into sending their children into Naxalite ranks.⁶⁷

The Salwa Judum and the government security forces are also involved in the recruitment of children in hostilities. A team from the Asian Centre for Human Rights (ACHR) visited the Bangapal relief camp and interviewed nine minor girls who claimed that they were below 16 years and were recruited as Special Police Officers (SPOs). These girls informed the ACHR team that they are being given training in fighting tactics, including the operation of guns and other activities such as spying.⁶⁸ Although Chhattisgarh police have not actively recruited new SPOs since March 2006, Human Rights Watch found that children who were appointed earlier continue to serve as SPOs.⁶⁹

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which was ratified by the government of India on 30 November 2005, urges State parties to ensure that persons who have

65 Human Rights Watch, *Dangerous Duty – Children and the Chhattisgarh Conflict*, July 2008.

66 Asian Centre for Human Rights, *The Adivasis of Chhattisgarh: Victims of the Naxalite Movement and Salwa Judum Campaign*, 17 March 2006.

67 Human Rights Watch, *Dangerous Duty – Children and the Chhattisgarh Conflict*, July 2008.

68 Asian Centre for Human Rights (ACHR), *Weekly Commentary and Analysis*, 22 March 2006.

69 Human Rights Watch, *Dangerous Duty – Children and the Chhattisgarh Conflict*, July 2008.

not attained the age of 18 years are not compulsorily recruited into their armed forces. However, it is clear that the state government of Chhattisgarh has been “recruiting or using” persons below 18 years of age in hostilities.⁷⁰

ACHR found that 3,200 Adivasi boys and girls had been recruited as Special Police Officers (SPO) in Dantewada district alone as of 4th March 2006, at a fixed honorarium of Rs 1500 to each per month. Many SPOs have not been paid any honorarium.⁷¹ Despite the Union Home Ministry reportedly issuing directions not to recruit persons below 18 years as SPOs, the National Commission for Women stated, following its visit to Dantewada in December 2006, that many of the tribal boys and girls who were recruited as SPOs to fight Naxalites “appear to be minors”. During its visit to the relief camps in January 2007, the ACHR also found the continued recruitment of under-aged children as SPOs. ACHR informs that the District Collector’s office confirmed that a total of 4,048 persons including 3,749 male and 299 females have been recruited as Special Police Officers as of 31 December 2006.⁷²

In July 2008, Manipur police chief Y. Joykumar Singh said that “about 30 or more children are believed to be missing from different parts of the Imphal valley although many cases have not been reported to the police. So far, 13 cases of abductions have been registered.” Radheshyam Singh, police chief of Imphal East district said “it is certain that these children were lured or kidnapped by various outlawed militant groups.”

Manipur Conflict in India on UN’s Margins Despite Child Soldiers, Impunity and Press Restrictions

There have also been reports of children being recruited as child soldiers in Orissa. In April 2008, the Hindustan Times reported how video CDs on Maoist training recovered by the Orissa police showed Naxals relying on children as young as eight to help them send messages, track police movements and fight “class enemies”. A 12 year old and 14 year old boy admitted having spent 15 days in a reserve forest receiving firearm training. Children from poor families are particularly targeted as they are promised a better future and an opportunity to live in dignity. Young girls also join as a way to escape being forced into early marriages and other forms of exploitation.⁷³

Violence Against Children in Conflict Areas

Children frequently become injured and killed during attacks in conflict areas. During the violence in Nandigram, West Bengal, on 14 March 2007, even children were not spared. As at least 3,000 heavily armed police stormed the Nandigram area, several eyewitnesses reported the shooting of young children and one doctor claimed to have encountered many cases of injury amongst children between nine and 12 years of age.⁷⁴ The Association for Protection of Democratic Rights (APDR) report claims that: “Children were murdered indiscriminately by police firing, bodies have been thrown into the nearby Chuniburi river.”⁷⁵

Assault on children – Nandigram, 14 March 2007

The people of Garchakraberia were very vocal in talking about the murder of children. An extremely brutal incident was repeated by a number of people. This was a case of a young child being torn from limb to limb. A woman claimed she had seen the incident herself, with two policemen killing the child and throwing the body into a water body. Several other people also claimed to have witnessed the incident. Asked questions about the identity of the victims, the respondents replied that they were trying to save their own lives and were in no position to make inquiries. People interviewed at Sonachura remarked that many people had taken along very small children and infants, and had to drop such children when running in fright. Some women were also reported to have died along with their children. A truckload of earth was dumped on the portion of the road that had been cut, and this was done so suddenly that many of the children who had fallen in due to the tear gas and shooting were to remain underneath that huge load of soil. Samad mentioned the testimony of a woman we could not meet, according to whom, at Adhikaripara a young boy of about 7-8 years had run to her for safety, but the thugs took him away and slit open his throat with a big knife. Kamallata and her husband rescued their two children from the mud deposited on the bank of the canal, where they had hidden for 4 days.

Excerpt taken from: Sanhati, A brief report on Nandigram, May 2007

70 The Adivasis of Chhattisgarh Victims of the Naxalite movement and Salwa Judum campaign Asian Centre for Human Rights, 17 March 2006

71 Asian Centre for Human Rights (ACHR), Weekly Commentary and Analysis, 22 March 2006.

72 Asian Centre for Human Rights, Naxal Conflict in 2006, 10 January 2007.

73 Soumyajit Pattnaik, The Hindustan Times, Child soldiers

74 People’s Tribunal on Nandigram, Executive Summary of the Report, May 2007.

75 Fact finding report of the delegation deputed by the Calcutta High Court, 23 March 2007, www.countercurrents.org/nandigram-report230307.htm.

In Chhattisgarh, there have been incidences where children have become unwittingly caught up in the Naxalite violence and there have been occasions where the children of Salwa Judum cadres have been targeted. Swayam Mala, Ex-Sarpanch of Darbhaguda village told the Asian Centre for Human Rights: "On the night of 23 February 2006, Naxalites came to my residence searching for me on the accusations that I was initiating development projects in the village. Not finding me, they killed my son Swayam Kanna, who was studying in class eight."⁷⁶

There have also been reports of children killed by violence in Jammu and Kashmir. In Manglote village, in April 2006, a group of armed opposition groups herded villagers into the house of Gilu Devi and fired indiscriminately, killing many on the spot.⁷⁷ The militants killed two of her five children who were sleeping in the adjoining room, including her two year old daughter. Children are also frequently killed during grenade attacks in Kashmir, particularly in the targeting of public transport. On 24 July 2008, two children were among five killed during a grenade attack on a bus in the capital city of Srinagar.⁷⁸ Children all too often in India fall victim to indiscriminate attacks on civilians by various political groups.

SHRC seeks police report in Bandipora rape case

Srinagar, June 29: The Jammu and Kashmir Human Rights Commission on Friday sought a detailed report from the Director General of police on the alleged attempt by two army men to rape a 17-year-old girl in Bandipora district. Taking a suo-moto cognisance in the case, chairman of the Commission Justice (ret'd) M Y Kawoos asked DGP Gopal Sharma to furnish a detailed report by or before July 30, a spokesman of the commission said. The two-army personnel accused of attempting to rape a minor girl inside her house at Kunan in Bandipora on Tuesday are in police custody. The court of Chief Judicial Magistrate Bandipora has ordered recording of the victim's statement under Section 166 CrPC, who was medically examined and the report is awaited. Police have registered a case against the two soldiers at the police station Bandipora on Wednesday following protests by locals who thrashed the accused and paraded them naked. People alleged that the soldiers dressed in civilian clothes and posing as militants, barged into the house of Mohammad Rafiq Khan in Kunan-Bandipora and tried to rape the girl. The victim alleged that the soldiers have beaten her up and tore her clothes.

Agencies; Posted online: Friday, June 29, 2007, <http://www.expressindia.com/news/fullstory.php>

Government Initiatives on Child Protection

Envisaged as part of the much publicised new scheme under the Eleventh Plan – the Integrated Child Protection Scheme (ICPS)- this outcome seems still far away given that the scheme is yet to take off and has several other ambitious components with very little budget (Rs. 1,000 crore altogether for five years). It aims at creating a protective environment for children so that they do not fall out of the protective net and become 'children in difficult circumstances'. Up until now, all the government's initiatives had been directed to children who were already in distress.

A growing awareness of the extent of violent crimes against children in the country and poor conviction rates led the Ministry for Women and Child Development to draw up the Offences Against Children Bill, 2005. However, the Bill has received a serious setback as it has been rejected by the Law Ministry, which claims that the Bill is just a repetition of provisions in other laws. The Law Ministry claims that offences of sexual and physical abuse against children are covered under different sections of the Indian Penal Code and Code of Criminal Procedure, 1973. However, the Ministry of Women and Child Development has touted the proposed bill as a major weapon to prevent repeats of incidents such as the Nithari killings. It strongly feels that this important Bill would ensure stringent punishments for offences against children and would bring India on par with the United Nations Convention on the Rights of the Child.⁷⁹



76 Asian Centre for Human Rights, Chhattisgarh government and Naxalites urged to talk, 17 March 2006.

77 Asian Centre for Human Rights, No succour for the victims of the armed opposition groups in India, 10 May 2006.

78 Reuters Alertnet, Children among five killed in Kashmir attack, 24 July 2008.

79 Hindustan Times, Law Ministry rejects bill for child protection, 4 September 2007.

On the issue of holding parents responsible, there was much outrage when the Government of India proposed to punish parents for not sending their children to school. That was understandable as the state was trying to penalise parents for not being able to fulfill its own responsibility of ensuring accessible and quality education for all and eliminating child labour. Instead of punishment, positive measures were suggested by civil society groups that could make parents more responsible. While this may have been the stand of civil society groups when it came to education, the question before us now is about violence against children by their own parents and caregivers, which certainly deserves different treatment. There is no doubt that the state does not support parents in meeting their obligations; instead it makes certain basic rights inaccessible. But when it comes to violence, there can be no excuse to justify it even if it involves parents and caregivers.

Conclusion

The foremost thing required is the understanding of the fact that as a country with the highest child population in the world, and one that wishes to rest on the laurels of its human resources, it is essential for India to put in place the protective environment that children deserve without any further delay. In 2006, HAQ: Centre for Child Rights helped the Ministry of Women and Child Development put together its position and perspective paper on child protection. This came out in the form of a publication called, 'India-Building a Protective Environment for Children', dated 22 July 2006. For the first time the government was able to take a holistic view on child protection. The document clearly acknowledges the need to make child protection a priority.

Recognising that child protection remains a huge challenge in India, the Ministry of Women and Child Development has proposed to combine its existing child protection schemes under one integrated scheme – the Integrated Child Protection Scheme (ICPS). This will be a centrally sponsored scheme but implemented through the states/UTs. In the 2008 – 2009 budget, the ICPS received an allocation of Rs. 2 billion. This is a significant rise from the Rs. 855 million allocated for the scheme in the budget 2007 – 2008. Yet it is not sufficient to provide children with a protective environment.

'Child protection' needs to be accorded the highest priority in both the centre's and state's policies, programmes and schemes. Since it is a state subject, the states have a far greater responsibility of ensuring implementation of the country's political commitments towards its children.





juvenile justice

“I want to go to a proper hostel where I can study and play like other children. I don’t like it here. The older boys beat us and trouble us. The caretaker too beats us if we don’t listen to him.”

Sonu, 13-year-old, living in an observation home

India has had interventions on juvenile justice through the first Children's Act, 1960, then the Juvenile Justice Act, 1986 and presently the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the JJ Act). This Act was amended in 2006¹ and the Juvenile Justice (Care and Protection of Children) Rules 2007 were notified on 26th October 2007.

Unlike in most other countries in the world, the juvenile justice system, based on the law in India, is designed to address two categories of children: (a) those in conflict with law, and (b) those in need of care and protection, which includes children who are begging, in prostitution, neglected children, or abandoned children, abused children and street children – all of whom have different needs and vulnerabilities.

The very basis of a successful juvenile justice system rests on a sensitive, trained team of implementers with an infrastructure to support it so that the children are “handled” sensitively and can be reintegrated into society. That is why it needs to be backed by a force of sensitised and capable judiciary, police and social workers. It is clearly laid down in the law that each district must have a CWC (Child Welfare Committee) and a JJB (Juvenile Justice Board). The JJB will be chaired by a designated First Class Judicial Magistrate who is the Principal Magistrate of the JJB.

In addition, children also need legal representation to ensure justice. Does the current situation in India reflect this? Since much of the information available in the other chapters is about children in need of care and protection (children who are abused and exploited, such as victims of sexual violence, trafficking, child marriage etc.) this chapter will concentrate more on the mechanism of juvenile justice in the country and the children who are in conflict with law.

Implementation of the Juvenile Justice Law

Establishment of JJB and CWC

As per the 2006 amendment in the law (Section 4), every district in the country must have a Child Welfare Committee (CWC) and a Juvenile Justice Board (JJB) within one year from the notification of the new Act. Which means by the time this status report was published, all the 611 districts in the country should have had a functional CWC and JJB. The Ministry's website does not have an updated list. The government itself admits that many states and union territories in the country have not established any JJB.² In many other states the numbers of JJB are inadequate to deal with the number of juveniles who are brought before law for justice.³

The government itself admits that many states and union territories in the country have not established any JJB. In many other states the numbers of JJB are inadequate to deal with the number of juveniles who are brought before law for justice.

One of the primary reasons is the fact that despite amendment to the law, there are several problems that seem to remain, resulting in its poor implementation. Firstly, the lack of clarity on the role of the social workers on the Juvenile Justice Board which has been discussed later in detail when describing the findings of the state visit.

Secondly, the lack of resources is a major roadblock in enforcing the mandate of the law. The allocated budget for all interventions that are required for children in need of care and protection as well as those in conflict with law in 2008-09 was Rs. 262.7 crores. The specific programme for juvenile justice entitled Prevention and Control of Juvenile Social Maladjustment has been allocated a measly Rs. 18 crores! (See Table 1 on page 168). HAQ has calculated that one day's expenditure on just the members alone, if all CWCs and JJBs are to be in place, amounts to Rs. 213,800 per day (based on the norm of Rs.500 per member per sitting, with a minimum number of three sittings a week), leaving aside other administration costs, and the salaries of all the Principal Magistrates.

1 The Juvenile Justice (Care and Protection of Children) Amendment Act, 2006.

2 Integrated Child Protection Scheme, Draft Scheme as on 17/08/2006.

3 Ibid.

Table 1: Budget for Implementation of Juvenile Justice (Rs. Crore)

Programmes & Schemes	2004-05 (BE)	2004-05 (RE)	2005-06 (BE)	2005-06 (RE)	2006-07 (BE)	2006-07 (RE)	2007-08 (BE)	2007-08 (RE)	2008-09 (BE)
Other Schemes of Child Protection ⁴	23.60	17.50	30.55	16.10	19.00	17.50	30.30	24.90	30.80
Prevention & Control of Juvenile Social Maladjustment	18.90	18.90	0.01	20.43	23.00	21.85	18.90	21.78	18.00
Swadhar	2.70	3.69	5.50	5.50	7.00	7.00	13.50	13.50	18.00
Short Stay Home	15.00	14.40	15.00	15.00	15.90	15.72	15.90	15.90	15.90
Integrated Child Protection Scheme (ICPS)	New Scheme						85.50	38.50	180.00
Total	60.2	54.49	51.06	57.03	64.9	62.07	164.1	114.58	262.7

Source: HAQ: Centre For Child Rights, 2008-09

Thirdly, the magistrates, social workers and police are not well trained to deal with cases involving juveniles resulting in ineffective functioning of the juvenile justice system.⁵ Lastly, there are not enough probation officers to handle the cases. This results in poor follow-up and unfair decisions based on cooked-up Social Investigation Reports (SIR) filed by probation officers. Inadequate or bad SIR is one of the main reasons for denial of bail by the JJB leading to overcrowding in observation homes.⁶

Visits to some of the states too revealed that not all districts in the states have a JJB or CWC, nor are the existing ones effective.

The following information is based on visits to some of the states:

- Of the 29 districts in **Karnataka** as on August 2007, there were 8 JJBs and 28 CWCs in the state and 14 more JJBs were reported to have been approved and sanctioned. While the CWCs operate from the children's homes except in Bangalore, the sittings of the JJBs are held within the court premises. Out of 140 members appointed to the 28 CWCs in the state, 47 are women. As far as eight JJBs are concerned, of the 16 social worker members, 10 are women.
- Of the 35 districts of **Maharashtra**, 28 had Juvenile Justice Boards (JJBs) and 29 had CWCs till August 2007. Mumbai is the only district with two JJBs – one for Mumbai Rural (which was established only on 9 April 2007) and the other for Mumbai City. This is because of the large number of cases that needed to be dealt with. Apart from Mumbai City, in all the other districts, separate First Class Judicial Magistrates (CJMs) were yet to be appointed for the JJBs. The role of the Principal Magistrate JJB had been given as an additional charge to the Chief Judicial/Metropolitan Magistrate or any other First Class Judicial Magistrate of First Class of the district. There were no social workers in the Mumbai City JJB at the time of the visit of the National Commission for Protection of Child Rights (NCPCR) team.⁷ The CWCs in Maharashtra had 1334 sittings during the period April 2006 to August 2006, in which 7058 cases were reported to have “been handled” and 3606 remained pending. The social workers did not see any role for themselves

HAQ has calculated that one day's expenditure on just the members alone, if all CWCs and JJBs are to be in place, amounts to Rs. 213,800 per day (based on the norm of Rs.500 per member per sitting, with a minimum number of three sittings a week). This does not include administration costs and salaries of all the Principal Magistrates.

⁴ The other schemes include Scheme for Street Children, Scheme for Welfare of Working Children and children in need of care and protection, Shishu Griha Scheme (erstwhile Homes for Infant and Young Children for Promotion of In-Country Adoption), Central Adoption Resource Agency Scheme for Rescue of Victims of Trafficking.

⁵ In Focus, National Commission for the Protection of Child Rights, February 2008.

⁶ Till the case is not decided, Children in Conflict with Law are kept in an Observation Home. In the course of the hearing, if the Child in Conflict with Law is found to have committed an offence and is to be punished, he/she is sent to a Special Home.

⁷ Draft Report Submitted by Bharti Ali, HAQ: Centre for Child Rights to the National Commission on Protection of Child Rights, August 2007.

as the JJB deals with criminal legal matters and the social worker members are not empowered to undertake judicial proceedings or pass orders, although their signature on the final order is a requirement. According to the Chief Justice of Maharashtra, directions had been issued for appointment of a regular Magistrate for JJBs headed by a CJM. He agreed that pendency of cases in Pune was too high.⁸

- For the 23 districts in **Assam**, two JJBs and 23 CWCs had been notified in August 2007. The JJB in Guwahati is located in the District Court itself and one of the trial courts bears the board “Principal Magistrate-Juvenile Justice Board,” and deal with cases from Bongaigaon, Golpara, Dhubri, Kokrajhar, Nalbari, Barpeta and Kamrup districts. The social workers who were meant to be part of the Board were not appointed till August 2007. A second JJB in Jorhat dealt with the cases from all the other districts.⁹
- Of the 70 districts of **Uttar Pradesh**, only 17 had JJBs as of September 2007. All these 17 JJBs were located inside the observation homes. The JJB in Lucknow, Uttar Pradesh sat for two days in a week and there were over 3,000 cases pending.¹⁰

- **Delhi** has four CWCs and two JJBs. Despite a lot of improvement in the functioning of the juvenile justice system in the last two years, there are several problems that remain. While the JJBs have, with the intervention of the High Court Committee on Juvenile Justice, succeeded in reducing over crowding in the Observation Homes, and increased the number of bail orders, the pendency of cases remains an issue of concern. The Delhi government that provides the welfare officers and probation officers and is responsible for the infrastructural requirements, constantly remains at logger heads with the juvenile justice system. The number of welfare and probation officers is inadequate, as is the infrastructure in the homes and institutions. The staff of these institutions do not co-operate and in some instances even bypass the CWC through whom the children are to be sent to homes for children in need of care and protection. Judicial representation of children, both victims of crime as well as those in conflict with law, remains inadequate with few lawyers available. Indeed, pro-bono representation seems to have become a thing of the past with increasing corporatisation of legal firms.

Judicial representation of children, both victims of crime as well as those in conflict with law, remains inadequate with few lawyers available. Indeed, pro-bono representation seems to have become a thing of the past with the increasing corporatisation of legal firms.



Establishment of Special Juvenile Police Units (SJPU)s)

Despite the JJ Act providing for the establishment of Special Juvenile Police Units (SJPU)s at the district level and designation of a Child Welfare Officer (CWO) from the police force in every police station to deal with children in conflict with law, the situation remains grim. In many states the CWOs have not been designated and the SJPU)s are not fully established. Even where they have been established, there is lack of awareness within the police department itself. The police department actually finds it difficult to designate any one police officer as the CWO as they need the entire force for all kinds of duties imposed on them, varying from VIP movement to general law and order. The CWOs, wherever they are, are also handling other cases in addition to those registered under the JJ Act and therefore find it difficult to run from one court to another and also be present in the JJB with the concerned child. To expect them not to be in uniform when they bring a child in conflict with law to the JJB, which is a legal requirement under

⁸ Ibid.

⁹ HAQ visit in August 2007.

¹⁰ HAQ visit in October 2007.

the JJ Act, is simply out of question in under such circumstances. Besides, CWOs and members of the SJPU who are appointed need appropriate training and sensitisation to be able to do justice to their role and to the children. The law also provides for two social workers in the SJPU, who are yet to be appointed in most places.

Although the Model Rules lay down the roles and responsibility of the social workers, in practice there continues to be ambiguity on how these two social workers are to be appointed, who shall appoint them, who they will report to and what their role will be. This is because what the rules expect is not very practical in the current situation in our country (see Table I in Annexure for details of implementation of juvenile justice).

Juveniles in Conflict with Law

It was September 2005 when Mahesh, aged about 16 years, was picked up for mobile theft in Delhi. The police produced him before an adult court, from where he was sent to Tihar Jail (prison for adults). But who was to know all this as the police did not bother to inform his family. His parents searched for him wherever possible till some neighbours told them that he had been picked up by the police. On approaching the concerned police station they got no information. For over a fortnight Mahesh's mother had no information about her son. Scared and worried, she kept praying for his safety. The neighbours had not lied... It was the police that kept them in the dark as about a fortnight later they read a local newspaper reporting a case of mobile theft involving four youths, one of whom was Mahesh. The police were approached again but to no avail. Not knowing what to do, Mahesh's mother came to a member of HAQ: Centre for Child Rights whom she happened to know. It was found that while the other three young men (who were over 18 years of age) involved in the reported incident had managed to get a bail, Mahesh continued to remain in Tihar jail. The FIR listed his age as 19 years, when he was only 16, and the police had clearly failed in their duty to inform his parents, as required by law. HAQ immediately moved an application in the court for transferring the case to the Juvenile Justice Board, commonly referred to as "Bachhon Ki Adalat" or "Bal Nyayalay", meaning the Children's Court that deals with matters pertaining to children in conflict with law. Mahesh's school leaving certificate was submitted as the proof of age. The case eventually got transferred to the JJB and Mahesh too was transferred from Tihar Jail to an Observation Home for Boys (OHB), which is

Nothing is an offence if a child below the age of seven years does it. Criminal responsibility of a child has to be assessed on the basis of maturity and understanding in the case of children between the age of seven and twelve.

Mahesh's story typifies the condition of the juvenile justice system in the country. While statistics reveal that it is the poor and illiterate children who are in conflict with law, it is important to ask the question whether it is the poor that are "criminals" or the poverty they live in that makes them often hungry and desperate. More importantly, as the story of Mahesh reveals, the society criminalises the poor and illiterate boys taking advantage of their already vulnerable situation. Thus often begins a vicious cycle that many children find hard to break out of.



Amardeep Sada (right) at his house in Manupur Mushahar village in Bihar. He was produced in court on Friday for allegedly strangling three children.

At 9, he is a 'serial killer'

B.K. Singh

B.K. Singh
Begusarai, June 1

NINE-YEAR-old 'serial killer' Amardeep Sada, who allegedly strangled three kids during the last one year here, has been arrested.

Amardeep was produced in the court here on Friday where chief judicial magistrate (CJM) A.P. Tripathy ordered to send him for medical checkups to ascertain his mental condition and other behavioural tendencies.

Earlier, a team of doctors examined Amardeep, son of Puno Sada of village Manupur Mushahar under Bhagwanpur police station, confirming his age.

According to the police, Amardeep allegedly strangled to death six-month-old Khushboo, daughter of Phulchand Sada of village Manupur Mushahar last Tuesday. The victim's mother Chunchun Devi, when found the child missing, alerted the villagers and a search operation was initiated. During questioning, Amardeep admitted that he had killed Khushboo and buried her in a nearby field. Later, the body was recovered from the spot.

Prior to this, Amardeep had allegedly killed his six-month-old sister and nine-month-old cousin at his maternal uncle's house. The modus operandi was similar in all three cases, the police added. The boy will be sent to the civil hospital here for more tests, police added.

एक साल में कर देते हैं बच्चों को अपराध में ड्रेंड

आलोक वर्मा, नई दिल्ली

स्केल से 18 वर्ष की आयु के बच्चों को किराये पर हाथ्य करने व उनसे कम उम्र के बच्चों को कई कुख्यात अपराधों में शामिल करने का प्रशिक्षण दिया जा रहा है। बच्चों को शिक्षा व संस्कार का पाठ पढ़ाने के बजाय कोमर्सी चोरी उड़ाने का प्रशिक्षण खालकर श्रीलंका से पलायन कर यहाँ बस गए वैसे लोग दे रहे हैं, जिन्होंने अपराध को ही व्यवसाय बना रखा है। अपराध करने का प्रशिक्षण एक साल का होता है। इस दौरान उन्हें तीन तरह की परीक्षाएँ देनी पड़ती हैं। उसके बाद उन्हें अपराध करने के लिए छोड़ दिया जाता है।

ऐसे बच्चों को आठ साल की उम्र में पकड़ लिया जाता है और 14 साल की आयु तक अपराध करने के बाद वह छोटे अपराधों की दुनिया से दूर रह कर बड़े अपराधों को अंजाम देने में जुट जाते हैं या फिर प्रशिक्षण होने वाले बच्चों के लिए नई योजनाएँ बनाते हैं। इस बात का खुलासा दिल्ली पुलिस के

रजिस्ट्रार द्वारा पिछले दो सालों में किए गए सर्वेक्षणों से पता चल रहा है। बच्चों को अपराध गुरु बनाने वाले स्कूल मिलनी संख्या में चाल रहे हैं, इसकी जांच चल रही है। दिल्ली पुलिस के स्केल ने वर्ष 2004 में लोनी दास व मोहन को व अव... एव व उनके चार संयोजकों को गिरफ्तार किया है। उनसे पूछताछ में जो कुछ सात लाख, वह बाल अपराधियों की बढ़ती दुनिया की ओर इशारा करता है। इनसे पूछताछ में पता लगा है कि श्रीलंका में अश्वति का माहौल होने के बाद वहाँ 1977 में कुछ परिवार वहाँ से पलायन कर श्रीलंका के रामेश्वर में बस गए। वर्ष 1978 में इनमें से कुछ परिवार दिल्ली आ गए और विभिन्न इलाकों में बसती बना ली। इन परिवारों के

कने में शिक्षा है। दरअसल इन परिवारों ने अपराध को ही रोजी-रोटी का जरिया बना रखा है। आसन्न जनवरी पर इनका आर्थिक समीक्षा निर्धारित है। बच्चों को उनके लिए वह हथियार साजित होते हैं जिन्हें आगे कर कानून का खतरा कम हो जाता है। इसीलिए इन परिवारों के मुखिया या आर्थिक साजिश से लेकर बच्चों को अपराध के लिए प्रशिक्षित करने का काम करते लगे हैं। दर असल बच्चों को अपराधों के लिए प्रशिक्षण देने वाले बच्चों का सारा पैसा अपराध करने के बच्चों का पालन करते हैं। इन बच्चों को एक साल के प्रशिक्षण के दौरान सबसे पहले सखी या फल आदि उठाने के लिए प्रेरित किया जाता है। अपराधों करने की दिशा में यह पहला कदम होता है।

परीक्षा में सफल होने वाले बच्चों को दूसरी बार में फलवक से पकड़वाया जाता है। अपराध करने की दिशा में भी जब यह गुरु नहीं खोले तो इन्हें इस परीक्षा में कामयाब माना जाता है। इसमें आठ माह गुजर जाता है। तीसरी व अंतिम परीक्षा में प्रशिक्षु बच्चों से दुकानों से छोटी-मोटी चीजें उठवाई जाती हैं और इस बार पुलिस के हाथों जासूसों का पकड़वाया जाता है। अगर वह इस बार भी बिना राज खोले बाइर आ जाता है तो उसे कामयाब माना जाता है। अगला चरण है। उसकी तरह के ही पांच बच्चों को साथ सखी करने होते हैं। सखी करने वाले बच्चों को एक-दूसरे को कुछ दूर गाड़ी में बैठे होना है। मोर्के पर गाड़ी से बंग उड़ते व अन्य किसी वाहन के चार पहलू बच्चों को नुट्टे गए सामान को सखी हाथ कर लेते हैं और सामान इनके हाथ हिस्से करता है। सखी के पांच बच्चों के एक-दूसरे को-बाप और एक सखी का होता है। इसी तरह पर इन्हें सेपमरी व अन्य वाहन में भी

the place where children in conflict with law are kept till their inquiry is over and the matter is decided by the JJB. Living in an observation home for boys was clearly not the best thing to have happened to Mahesh. This observation home was also a special home housing 'convicts'. While Mahesh chooses to be silent on his experience in the OHB, his eyes speak eloquently. The first time Mahesh's parents went to see him, which was more than a month after being taken into custody by the police, there was no end to his tears. It was unbelievable to find a boy, who otherwise displays a very macho image of himself, breaking down completely. He repeatedly articulates one aim in his life, punish the policemen who caught him, locked him up and beat him, and then sent him to Tihar Jail where the adult inmates abused him. Mahesh's story is the story of most children in conflict with law in this country. It reflects the callous treatment that they receive from the system leading to further criminalisation of the young minds.

Incidence

The main source of information for details on children who are in conflict with law is the 'Crime in India' statistics brought out by the National Crime Records Bureau (NCRB) based on records collected from police stations across the country. Despite changes in the law to avoid stigmatisation of children, the NCRB continues to use the term 'arrested' for children in conflict with law. However, unlike in earlier years, it does also use the term apprehended in some places, just as 'charge sheets' continue to be filed.

According to the NCRB there has been a marginal increase in the share of crimes committed by Children in Conflict with Law to total IPC crimes reported in the country. In 2005 there had been an 11.3 per cent increase in Crimes under the Indian Penal Code (IPC) as can be seen in Table II of the Annexure. The National Crime Records Bureau attributes this increase partly to the increase in the age of delinquent boys from 16 to 18 years as per the new definition of juveniles (see Table IV A & B in the Annexure). (Children up to the age of seven do not bear any criminal liability;

Chenchu Hasda was 14 years old when HAQ brought out its first status report. He had been arrested as part of the rioting mob that killed a missionary, Graham Staines and his two sons in Orissa. No one will know the truth of whether he was actually a part of the group who lit the fire that burnt Graham Staines and his sons. He says he did not, but the courts found him guilty. Having spent a year in an adult jail, he was finally moved to an observation home after a petition was filed by activists. On turning 18 years, he was shifted back to the adult prison, where he stayed till he was recently released at the age of 22 years. Condemned and convicted for an offence that was completely politically motivated and in which he played no role, Chenchu is today an illiterate, unskilled and broken young man who looks at his future bleakly and helplessly.

Riots are politically motivated actions. Children do not initiate them. Instead they get embroiled in them even as adults lead them. As many as 1,672 children have been apprehended for rioting. Indeed the children pulled into riots and conflicts must be seen as victims of adult violence rather than as perpetrators. They are Chenchus who need to be protected rather than condemned.

Table 2: Juveniles Apprehended under IPC and SLL Crimes By Age Groups (1996-2006)

Sl.	Year	7-12 Years	Percentage To Total	12-16 Years	Percentage To Total	16-18 Years	Percentage To Total	Total Apprehended
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	1996	3471	18.2	11397	59.7	4230	22.1	19098
2	1997	2747	15.4	12171	68.4	2878	16.2	17796
3	1998	3336	17.6	11548	61.0	4039	21.3	18923
4	1999	4039	21.9	10311	55.9	4110	22.3	18460
5	2000	3292	18.3	11389	63.3	3301	18.4	17982
6	2001*	3696	11.0	12729	37.9	17203	51.2	33628
7	2002	4488	12.5	13864	38.7	17427	48.7	35779
8	2003	3584	10.8	11687	35.1	18049	54.2	33320
9	2004	2107	6.8	12415	40.1	16421	53.1	30943
10	2005	1645	5.0	13090	40.1	17946	54.9	32681
11	2006	1595	5.0	12535	39.0	18015	56.0	32145
Percentage change in 2006 over 1996				-54.0	10.0	325.9		68.3
Percentage change in 2006 over 2005				-3.0	-4.2	0.4		-1.6

Source: NCRB, <http://ncrb.nic.in/CII2006/cii-2006/Table%2010.7.pdf>.

NOTE: 7-12 years means 7 years and above but below 12 years

*As Per New Definition of Juvenile Justice Act, The Boys In The Age Group Of 16 – 18 Years Have Also Been Considered As Juveniles

that is, nothing is an offence if a child below the age of seven years does it). On the other hand, the instances of offences by children under Special and Local Laws (SLL) crimes has decreased by 29.0 per cent in 2006 as compared to 2005 as 6,662 cases of juvenile delinquency under SLL were reported in 2005, which decreased to 4,729 in 2006. The increase in the incidence of rape (by 11.9 per cent); death due to negligence (by 150.8 per cent), robbery (by 39.6 per cent), attempt to commit murder (by 30.7 per cent), preparation and assembly for dacoity (27.6 per cent), auto theft (by 18.6 per cent) and murder (15.9 per cent) is a matter for concern.

Believe it or not, according to National Crime Records Bureau, six girls have been apprehended for rape (Section 376 IPC).

Out of a total of 32,145 children apprehended, 83.7 per cent were for IPC crimes while 16.3 were arrested for committing SLL crimes. The highest number was for theft (6,574) among IPC crimes followed by hurt (4,470), burglary (3,657). Surprisingly, 1,672 children have been apprehended for rioting.

Theft, hurt, burglary and rioting taken together accounted for 50.9 per cent of total juveniles arrested under IPC crimes in 2006. Out of a total of 5,246 juveniles arrested under SLL crimes in the country that year, the highest number of juveniles were apprehended under the Gambling Act (1,116) followed by the Prohibition Act (632), the Excise Act (556) and the Arms Act (280). These four heads under SLL crimes taken together accounted for 49.3 per cent of total juveniles arrested under SLL. It is also observed that more juvenile girls were apprehended than boys under the Immoral Traffic (Prevention) Act. 63 juvenile girls were arrested under the Immoral Traffic (Prevention) Act during 2006 as compared to only 16 boys.

The highest incidence of offences by children was in Madhya Pradesh (4,976 IPC crimes and 878 SLL crimes), followed by Maharashtra (Table III in the Annexure). Six states - Madhya Pradesh, Maharashtra, Chhattisgarh, Gujarat, Rajasthan, and Andhra Pradesh- have reported 72.9 per cent of juvenile crimes under IPC. The highest incidence of the total juvenile rape cases in the country was reported from Madhya Pradesh (33.1 per cent) followed by Chhattisgarh, whereas highest incidence of the total juvenile theft in the country was reported from Maharashtra (25.1 per cent) followed by Madhya Pradesh (11.6 per cent) and Andhra Pradesh (9.4 per cent).

What is indeed surprising is that Tamil Nadu, which has a much lower level of IPC crimes than other states should have the highest incidence of SLL crimes (1,231) followed by Madhya Pradesh (777), Maharashtra (596) and Gujarat (554).

Children in Conflict with Law: Exclusion and Marginalisation

What drives children to commit an offence and thereby come in conflict with law? It is critical to examine what are the socio-economic factors that result in criminalising the young. Do exclusion and marginalisation, hunger and poverty lead children to commit offences, or if it is the fact that children from these groups find themselves apprehended and “convicted” while the rich and the powerful find alternative ways to get out?

The purpose of the juvenile justice system is to bring about a change in the operation of the criminal justice system with respect to children, to treat the juvenile as innocent or one who is coerced and forced into crime rather than one who commits crime willfully, based on the premise that a child is a product of his or her environment. So the philosophy behind the juvenile justice system is to transfer the burden of motive to the environment in which the child grows in, and hence try to find the motive and intent within the family, guardians and society etc. Statistics on children on who are in conflict with law or have fallen into delinquency reveal they often come from a particular background, or rather are found in a particular background.

Statistics on children on who are in conflict with law or have fallen into delinquency reveal they often come from a particular background, or rather are found in a particular background.

Age and Offence

The age profiling according to the offence brings out some very interesting facts (see Table IV A & B in the Annexure) There are 1,595 children in the age group of 7-12 years (5.0 per cent) who have been apprehended. Of these, 14 have been picked up for rape, 5 for molestation and 27 for murder. Most, of course, have been apprehended for theft and burglary related offences. 34 per cent of the rapes by children are by boys in the 12 to 16 year age group and 62.5 per cent by boys in the 16-18 year age group.

The crime records show an increasing trend of heinous crimes by children in the 12-16 years and 16-18 years. There appears to be an almost 28 per cent increase in murder by children in the 16-18 age group between 2004 and 2006; and an almost eight per cent increase in the case of children in the 12-16 age group. Madhya Pradesh (251) and Maharashtra (226) have contributed significantly towards juveniles apprehended in the age group of 7-12 years in the country under IPC during 2006.

There is also a 9.2 per cent increase in rapes by children in the 16-18 year age group between 2004 and 2006. Interestingly, over the years, girls are apprehended on charges of rape. Similar increases can be seen in the last two years in other offences too, such as those under the Gambling Act or the Arms Act (although there is a decrease in the 12-16 age group from 87 in 2004 to 66 in 2006 in the Arms Act and 373 in 2004 to 320 in the Gambling Act) or the Narcotics and Psychotropic Substances Act.

Gender

During 2006, 32,145 children were apprehended, of which 30,375 were boys and 1,770 were girls. The percentage of girls to total juveniles comes to 5.5 percent i.e. 0.8 percentage point less than the share in 2005 (6.3). The ratio of girls to boys arrested for committing IPC crimes during 2006 was nearly 1:17. This ratio during 2005 was 1:15. The ratio of girls to boys apprehended for committing SLL crimes during 2006 was about 1:16 against 1:14 in 2005.

Economic Status

According to the National Crime Records Bureau 2006 (NCRB) nearly 72.4 per cent of all juveniles apprehended under the law came from families with an annual income of Rs. 25,000¹¹ and a total of 27.3 per cent juveniles belonged to the income group of an annual income of Rs. 50,000 to Rs. 200,000.¹² The share of juveniles from upper middle-income group of Rs. 2-3 lakhs was 0.16 per cent, and 0.19 per cent from those above three lakh.¹³ (See Table 3 on page 166). Either the children of the rich do not commit crimes as frequently as the poor, or they manage not to get apprehended and charged.

11 National Crime Records Bureau, Crime in India, 2006.

12 Ibid.

13 Ibid.

उम्र सिर्फ 1 साल, पकड़ा गया बिजली चोरी में!

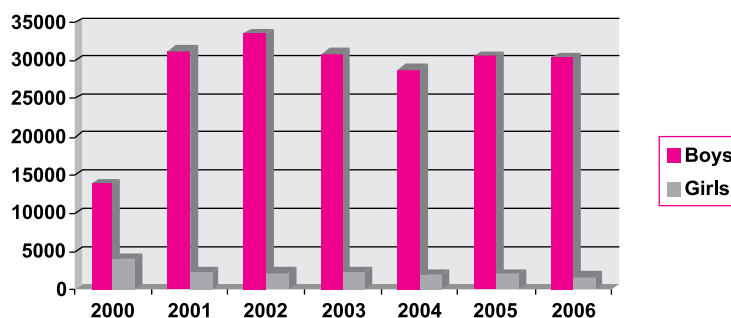
रांची (आईएनएस) : झारखंड में जली विभाग के अधिकारी बिजली की रोकने को लेकर इतने ज्यादा पाहिल हैं कि उनकी नजर में एक साल अबोध बच्चा भी बिजली चोर बन गया है। झारखंड राज्य बिजली बोर्ड के अधिकारियों ने इस एक साल के बच्चे के लापता शिकायत भी दर्ज करा दी है। बोर्ड के अधिकारियों ने पिछले महिने की के रातु रोड इलाके के कई घरों में भेरी कर कुछ लोगों की बिजली चोरी करते पकड़ा। एक दर्जन लोगों के खिलाफ पुलिस थाने में शिकायत दर्ज कराई गई। बिजली चोरों की सूची में एक ऐसा बच्चा भी है, जो अपनी दिनचर्या के लिए दूसरों पर निर्भर है। दुनियादारी के बारे में कुछ भी नहीं जानने वाले एक वर्षीय हर्ष को बोर्ड ने बिजली चोरी का दोषी माना है और उसके खिलाफ शिकायत दर्ज करा दी है। यही नहीं, बोर्ड अधिकारियों ने इस बच्चे पर 4 हजार रुपये का जुर्माना भी ठोक दिया है। हर्ष के पिता ने इसके खिलाफ रांची की एक अदालत में अर्जी दी है। इस मामले की सुनवाई 5 मई तक के लिए स्थगित कर दी गई है। हर्ष के पिता सुरेश चौधरी का कहना है कि उनका बेटा खुद ठीक से खाना भी नहीं खा पाता, ऐसे में भला वह बिजली की चोरी कैसे करेगा? मैंने अधिकारियों को बार-बार समझाया कि हर्ष ऐसा नहीं कर सकता, लेकिन वे मानने की तैयार नहीं थे।

One-year-old charged with power theft

Ranchi, April 4 (IANS) A one-year-old boy has been charged with stealing electricity in the Jharkhand capital. Officials of the Jharkhand State Electricity Board (JSEB) had last month raided some residences on Ratu Road of Ranchi and lodged police complaints against a dozen people, including one-year-old Harsh Chaudhary. The board officials also slapped a fine of Rs.4,000 on Harsh whose father filed a petition in Ranchi court seeking anticipatory bail for his son. The hearing has been deferred till April 5.

Indo Asian News Service, April 4, 2006

Figure 1: Girls and Boys Apprehended Under IPC&SLL Crimes



Source: NCRB- Crime in India 2000 - 2006

Table 3: Classification of Children in Conflict With Law by Economic Status and Recidivism (2004-2006)

Year	By Economic Status							By Recidivism		
	Annual Income (Upto Rs. 25000)	Annual Income (Rs. 25001 to Rs. 50000)	Middle Income (Rs. 50001 to Rs. 100000)	Middle Income (Rs. 100001 to Rs. 200000)	Upper Middle Income (Rs. 200001 to 300000)	Upper Income (Above Rs. 300000)	Total	New Delinquents	Old Delinquents	Total
2004	22387	5759	2142	549	101	5	30943	28202	2741	30943
2005	23276	6255	2223	746	140	41	32681	29331	3350	32681
2006	23268	6353	1913	499	52	60	32145	29600	2545	32145

Source: NCRB- Crime in India 2004-2006, Table 10.4

Education and Family Background

Of the total children involved in various crimes, 64.3 per cent children apprehended in 2006 were either illiterate or had education up to primary level only. Children living with parents/ guardians (29,948) have accounted for 93.2 per cent of the total juveniles arrested apprehended while the share of homeless children (2,197) who were involved in various crimes was just 6.8 per cent, dispelling myths that the street and homeless children are the ones engaged in illegal activities.

It is a myth that children on the streets are more likely to be involved in crimes. 93.2 per cent of those apprehended live with their families.

Statistics show that most children who commit crime are poor and illiterate. Hence the argument that poverty leads to crime. However, the argument could be taken further that the more crime reiterates itself, and as more criminals or juvenile offenders are found to come from a particular background; the background itself becomes a target of the criminal justice system, leading to further criminalisation.

Disposal of Cases

When HAQ began working on juvenile justice for children in conflict with law in Delhi in 2005, there were 4,500 pending cases, some for over five to seven years as per JJB records. The number is still around 4,000. The number of children coming in conflict with law is only increasing in cities like Delhi and so is the pendency. Interestingly, as per the National Crime Records Bureau (NCRB), only 465 in Delhi cases were pending disposal as of 2006.¹⁴

High levels of pendency due to low rates of disposal leads to delay in justice delivery.

In Maharashtra,¹⁵ between April 2006 and August 2006, 1,800 cases of juveniles in conflict with law were reported to have been brought before the JJBs. Between 2001 and 2005 there were altogether 17,052 cases of children in conflict with law (2,810 in 2001, 3,128 in 2002, 3,246 in 2003, 3,652 in 2004 and 4,216 in 2005). With 16,695 cases remaining pending until August 2006, the rate at which the cases are being disposed of is evidently very poor.¹⁶ As per the government's records however, only 2,235 cases are pending disposal. By the state government's own admission, the rate of disposal is affected by the fact that the number of sittings of the JJBs is less due to the Chief Judicial Magistrate (CJM) of the districts being given an additional charge to handle juvenile justice matters.

In Karnataka,¹⁷ it was difficult to assess the exact situation of children in conflict with law from the government's records as information regarding disposal of cases by police and the JJB was not provided. However, on the basis of available information, the difference between the number of children in conflict with law apprehended by police and the number of children kept in observation homes, may be taken as a reflection of the poor rate of disposal of cases or lesser number

¹⁴ Ibid.

¹⁵ Report submitted by Bharti Ali Co-Director of HAQ: Centre for Child Rights of her visits to Maharashtra and Karnataka as part of the NCPCR team.

¹⁶ Times of India dated 9 April 2007 (part of a communication received by National Commission for Protection of Child Rights from Sheela Barse) quoted in the report submitted by Bharti Ali to NCPCR.

¹⁷ Report submitted by Bharti Ali Co-Director of HAQ: Centre for Child Rights of her visits to Maharashtra and Karnataka as part of the NCPCR team.

of children being released on bail post 2005-06. JJB records show that as of August 2007, about 1,500 cases were pending before the JJB in Bangalore while the government in the NCRB report claims only 360 cases are pending disposal. Some cases are dated between years 2000 and 2002. The reasons cited for this delay in disposal was as follows:

- There was one Juvenile Justice Board in Bangalore, which sat only one afternoon in a week – 3.00 p.m. to 5.00 p.m. There was a special order requiring the JJB to sit for two days in a week, but due to lack of staff and infrastructural facilities, they were unable to follow the order.
- Lack of staff such as typist, reader, peon etc.
- No prosecution services were available.
- Charge-sheets were delayed (beyond six months and sometimes even longer).
- There is no legal provision which says that cases should be closed if the charge-sheet is not filed within the stipulated time.
- Child's parents/guardians could not be traced and therefore there was no one to sign the vakalatnama for the case to move forward.
- Parents were not interested in taking children back.
- Social worker members of the Board have no authority to deal with the cases, they have no understanding of how to read the statutes, they do not know how to record evidence and keep the files moving.
- Parents got disillusioned with adjournments and stopped attending the Board's proceedings after some time. There is no provision to reimburse the travel of poor parents who have to come to the Board several times before they can get their child released.

The nature of disposal reflects the attitude of the juvenile justice system. In 2006, while only 4.9 per cent children were acquitted or otherwise disposed off, 14 per cent were sent to special homes which amounts to convictions. 42.9 per cent juveniles awaited trial.

During HAQ's visit to the JJB in Lucknow, Uttar Pradesh, it was found that there were more than 3,000 cases pending in the JJB in Lucknow, some pending for the last 17 years. One of the boys whose case is still pending had now become a sadhu, while others were now married and with families. Children were granted bail only after furnishing bail bonds ranging from Rs.10,000- 50,000. The verification of the surety above Rs.10,000, further delayed the process. Needless to say, many poor parents find it easier to let their children languish in institutions as they are unable to raise such huge sums of money. Is it any surprise that the Observation Home houses almost four times more than the number of children it is meant for?

In Assam children in conflict with law continue to be referred to as "accused" in the legal records, and as per the court records are "handcuffed with rope and key given to police official". The Magistrate gave one date at a time for all children in order to be able to handle all cases in one day. All children who were apprehended by the Railway Protection Force were arrested as vagrants, and were first produced before the Railway Magistrate and then the JJB. Most of the cases were found to be "dismissed due to non-interest of prosecution in processing the case". No other rationale was recorded. Pendency of cases was a problem, like in any other state. Records showed that there was a case pending from 1990, two from 1998 and four from 2001.

Although, clearly the data in the NCRB report is an underestimation, in the absence of any other data, we have to rely on it. Table 4 (page 168) gives an idea regarding the nature of the disposal of cases, which in turn is a reflection on the "attitude" of the juvenile justice system. For example, the data in the table shows the number of convictions is higher than the acquittals (see number of children sent to special homes, where children are sent after conviction). In cases that are pending disposal, the children are either kept in observation homes or may have been released on bail. There are no records available on the number of children released on bail and there seems to be a great hesitation among the officials concerned

Table 4: Status of Disposal of Cases of Children in Conflict With Law (1998-2006)

Year	Arrested and sent to Courts	Sent to home after advice or admonition	Released on Probation and place under care of		Sent to special Homes	Dealt with Fine	Acquitted or otherwise disposed off	Pending disposal
			Parents	Fit institution				
1998	18,964	2,620	3,889	829	1,751	908	2,107	6,860
1999	18,460	1,656	5,298	768	1,281	832	3,358	5,267
2000	17,982	2,619	3,091	2,012	1,864	609	1,132	6,655
2001	33,628	4,127	4,833	1,003	4,037	897	4,435	14,296
2002	35,779	3,236	11,338	1,240	3,381	908	1,693	13,983
2003	33,320	3,413	9,074	1,526	3,936	1,592	1,730	12,049
2004	30,943	3,848	5,662	1,138	4,942	1,256	1,957	12,140
2005	32,681	3,807	5,578	1,933	4,423	1,361	1,801	13,778
2006	32,145	4,036	5,723	1,482	4,510	1,023	1,579	13,792

Source: Crime in India, 1998-2006, National Crime Records Bureau

in sharing such information with public.¹⁸ (For state wise records see Table V in the Annexure).

Condition of Children in Institutions

Overcrowding, violence and abuse is the reality of most custodial institutions. This has been the case since the time of Charles Dickens when he wrote *Nicholas Nickleby*. These institutions are characterised by children being abused by those very persons who are meant to take care of them and protect them. This is true of all categories of homes – Children’s Homes for children in need of care and protection, Observation Homes for children whose cases are still on, and Special Homes where children needing “punishment” are placed. A qualitative study undertaken in an observation home in Delhi in September 2005¹⁹ which housed boys aged between 7-18 years showed that a large number of drugs were used by adolescents. Another action research²⁰ has shown that bullying and beating is a constant feature. Children had no one to talk to and the probation officers never called them to discuss their problems. Children had no opportunities for education and in many cases, those who were in school also found their education discontinued as there were no facilities for

Observation Home inmates allege assault by caretaker

Legislative committee members visit children

THIRUVANANTHAPURAM: Children of the Observation Home at Poojappura here on Thursday raised fresh allegations of physical assault by a caretaker against a disabled inmate. The charges were made before a visiting team comprising members of the Legislative Committee for the Welfare of Women and Children. The seven inmates of the Observation Home told the committee that one of their fellow members with speech and hearing impairment was routinely subjected to physical attacks by Sunil, a caretaker, who along with two others, is currently absconding. The team included committee chairperson K.K. Shylaja and member V. Sivankutty.

The Hindu, Friday, Oct 13, 2006

Boy alleges police torture

Complaint to be submitted to SHRC today

KOLLAM: A 13-year-old boy has alleged that he was brutally tortured by policemen at the Pathanapuram police station on the night of April 5; an allegation the police denied.... He alleged that policemen subjected his private parts to electric shock and sprayed chilli powder in his eyes. The advocate said the boy’s private parts were still swollen. He said the boy and his parents were forced to remain silent on the torture since the police had threatened them with dire consequences.

The boy was nabbed by the police on charges of theft which he admits. He had stolen some rubber sheets from a neighbour’s house and sold it for Rs.650.

The Hindu, April 29, 2006

18 Sub Group Report on Child Protection for the Eleventh Five Year Plan (2007-2012), Ministry of Women and Child Development, Government of India.

19 Indian Journal of Pediatrics, Volume 74-April, 2007. Drug Use Among Juveniles in Conflict with law. Chetna Malhotra, Nandini Sharma, Ratna Saxena and G.K. Ingle.

20 Changing Spaces: Action Research by Aangan quoted in My God is a Juvenile Delinquent by Ruzbeh Bahrucha. Sainathan Publications. 2008.

schooling in the Observation Homes or Special Homes. Till recently one of Delhi's Observation Homes housed around 300 children. It has a capacity of 150 children. It was only after the intervention of the High Court Monitoring Committee that the number of children has gone down. In Lucknow, at the time of HAQ's visit, 195 children were

Conditions in institutions under the JJ Act

- The living areas are overcrowded, with the children often sleeping on the floors with just one dirty bed sheet and usually without a pillow.
- They do not have proper clothing. Many of them do not even have undergarments.
- The food provided is not sufficient and often the younger children are bullied by the older ones to part with their food portion and thus go hungry. All the children stay hungry until late evening if there is a short supply of cooking gas.
- The homes offer no proper medical facilities.
- Insufficient toilets and scarcity of water means they are not able to bathe regularly, which results in unhygienic personal habits and associated skin diseases and other ailments.
- The facilities provide no emotional counselling or support.²¹



living in a home meant for 50 children.

In Patna 145 children were housed in an Observation Home meant for 60. Because there were too many children, one plate was issued to two children, the children slept on the floor, or even under a bed. The rice available per child was inadequate. The condition of the home was unhygienic. The furniture was broken, and the place was dirty and stinking. The children said they found it difficult to sleep on the floor as there were mice. Children deputed to work in the kitchen were working without any ventilation, cooking on stoves that they had to use hand fans to light.

Monitoring Mechanism for Juvenile Justice

The Honorable Supreme Court of India has issued notices to all High Courts asking them to appoint a Judge to monitor juvenile justice issues in the state.

The Maharashtra High Court exercises direct control over juvenile justice matters. Justice Ranganath Desai has been given the responsibility for reviewing the implementation of the JJ Act. Quarterly reports are invited from him by the High Court.

The Delhi High Court has appointed a three member committee that is to monitor the implementation of juvenile justice in the capital. It has been a uphill task, but the interventions of the High Court Committee for Monitoring Juvenile Justice has now begun to show results with a second JJB being set up, more bails being granted and the number of children in the

21 'Mumbai's Children' Statement by K. K. Devaraj, Bombay Teen Challenge, Mumbai, India, November 8, 2005.

Observation Home going down, medical assistance being provided to the inmates etc.

Conclusion

The basis of having a separate juvenile justice system is the concept of “diversion”, which is to protect children from the mainstream judicial system, especially the criminal justice system that leads to further victimisation and criminalisation of the child. The current situation of the juvenile justice system in India defeats the very purpose of its this philosophy.

The low rate of disposal of cases seen in the high pendency and the situation of the homes/institutions are all indicators of the derailment of the justice mechanism. The inclusion of the social workers was to make the system more sensitive to children and provide then with psycho-social support. The fact that the social workers are not familiar with the provisions of the law and unclear about their role, and as a result even absent themselves, defeats the purpose of their inclusion in the law.

Statistics clearly indicate that children who are apprehended and incarcerated are from the poor and marginalised sections of society. They are therefore also children in need of care and protection, and need to be treated as such. The parents are poor and cannot afford legal representation, and the state services for legal aid are poor. They therefore choose to let their children be where they are rather than bail them out. The poor support services in the form of welfare and probationary officers lead to delays in social investigation reports and tracing of families. Poor families are unable to afford the journey to the city, the fee of lawyers and the hefty bail bonds that some of the states are levying. They therefore are forced to leave their children incarcerated. In the case of children who need care and protection too the lack of support services makes tracing of families very difficult.

The final hurdle is of course re-integration into society, and there is very little, indeed almost no thinking on this. While some efforts are made to train children in need of care and protection housed in children's homes, no such effort is made for the children in conflict with law. It is imperative to recognise that if not given an opportunity to get back into society with respectability, we will force them back into crime. Even more important is the attitude towards the children who need state intervention. As long as the state machinery continues to refer to children needing care and protection as “juveniles”, with all the connotations that have come to be attached to this term, despite changes in the law, there is little wonder that the rest of society too will treat them the same way – stigmatisation and rejection.

Statistics clearly indicate that children who are apprehended and incarcerated are from the poor and marginalised sections of society. They are therefore also children in need of care and protection, and need to be treated as such.

GOVERNMENT OF N.C.T. OF DELHI
DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT
1, CANNING LANE, K. G. MARG, NEW DELHI.

31, August 31, 2008 **Invitation for Expression of Interest**

The Department of Women and Child Development, GNCTD, seeks to enter into partnerships with reputed NGOs/Professional Organizations to operate a range of services in the institutions run by it. For this, the Department invites such organizations to submit expressions of interest for running such services.

Background:
Department of Women & Child Development, Government of National Capital Territory of Delhi (GNCTD) is responsible for the protection and empowerment of women and children in Delhi. As part of its responsibilities, the Department runs various institutions for children in conflict with law, children in need of care and protection, women in distress and working women etc. While these institutions have basic residential facilities, the systems for recreation and rehabilitation facilities in these institutions are inadequate.

A list of such institutions is as under:

1. Juvenile Home for Boys - I & II, Alipur
2. Juvenile Home for Boys - I & II, Lajpat Nagar
3. Juvenile Home for Boys, Narela
4. Juvenile Home for Girls - I & II, Nirmal Chhaya
5. Observation Home for Boys, Kingsway Camp
6. Observation Home for Girls, Nirmal Chhaya
7. Bai Sadan, Timarpur
8. Women Institutions in Nirmal Chhaya Complex

Objectives:
To provide, in partnership with NGOs/professional organizations:

1. Effective rehabilitation services to women housed in institutions run by the Department. This will include psychological counseling, legal support, vocational training/skill upgradation, placement and tracking for a specific period after they leave the institution.
2. Recreational services for children housed in children's institution. These will include, but not be limited to sports coaching, running art, craft, music, dance and theatre classes. Innovation in this regard will be an asset.
3. Vocational training as required for children above 14 years of age and placement and tracking services for children who leave the institution on reaching 18 years of age.
4. Remedial education/non formal education for children who cannot attend school with the eventual objective of integrating them into the formal schooling system.
5. To undertake remunerative projects of training-cum-production centres for women & children above 14 years in existing campuses.

Requirements:

1. Organizations submitting Expressions of Interest to run such services must have been registered under the Societies Registration Act or Companies Act for at least 5 years.
2. They must have experience of working with women and/or children and preferably experience of working on rehabilitation/vocational training.
3. They must have an office in Delhi.
4. Organizations can enter into partnerships with other organizations in order to offer a range of services.
5. Experience of Micro-entrepreneurship.

Each expression of interest must contain:

1. A brief description of the organization and an outline of experience of a similar nature.
2. Any comments or suggestions on the Terms of Reference.
3. A description of the methodology and work plan for performing the assignment with respect to each institution.
4. The list of the proposed team by specialty, the tasks that would be assigned to each team member.
5. Proposed Success criteria

Expressions of Interest will be evaluated on the basis of the suggested methodology, quality of personnel and experience of the organization. Shortlisted organizations will be required to submit financial bids for a single home or a set of homes, with separate financial bids for each home.

Timelines:

Last date for submission of EoIs	21 September, 2008
Finalisation of shortlist	07 October, 2008
Last date for submission of financial bids	21 October, 2008
Commencement of assignment	15 November, 2008

Sd/-
Vivek Pandey, IAS
Director, WCD

DIP/1114/08-09

Annexure

Table I: Status of Juvenile Justice Implementation

State with Districts	JJB-Districts	CWC-Districts	Observation Homes	Special Homes	Children's Homes	Shelter Homes	Aftercare Homes	Others
Jharkhand-24	21	11	Total -7 Boys - 6 & Girls - 1	Notified Northern part of Observation home at Chiragoda, District Dhanbad as Special Home	Total -3 Boys - 1 & Girls - 2	-	-	1 State Advisory Board
Rajasthan-32	32	16	32	1 - Ajmer district	32	-	-	<ul style="list-style-type: none"> • 1 State Level Advisory Board • SJPU in all districts. • 1 State Level Advisory Committee
Madhya Pradesh-50	28	28	Total -18 Boys - 16 & Girls - 2	Total -3 Boys - 2 & Girls - 1	Total -5 NGOs - 2 GOs - 3	1-run by NGO	Total-2 Boys-1 & Girls-1	<ul style="list-style-type: none"> • 40 District Advisory Board • 1 State Advisory Board • SJPU in all districts. • 12 recognised Adoption Agencies.
Orissa-30	30	25	16 Observation & Special homes NGOs-12 & GOs-4	-	Total-46 NGOs-40 & GOs-6 & 5 for Differently abled Children	31 Shelter homes (6 Govt. run & 25 NGO managed)	-	<ul style="list-style-type: none"> • SJPU -6 districts • "Mahila and Sishu Desk" has been established in all 459 Police Station out of 469 Police Station
Chhattisgarh-18	Under process	Under process	6	-	Total-12 NGOs-11 & GOs-1	-	-	-
Gujarat-26	23	24	Total-24 NGOs-8 & GOs-16	13 run by govt.	Total-66 NGOs-31 & GOs-35	23 run by Non-govt.	14 run by Govt.	SJPU has been constituted
Assam-27	27	27	4	1	3	-	-	SJPU in 3 districts.
Maharashtra-35	29	29	Total-60 NGOs-48 & GOs-12	-	Total-190 NGOs-157 & GOs-33	-	4	<ul style="list-style-type: none"> • 124 Destitute Homes. • 18 Orphanages. • 185 Bal Sadan • SJPU in 27 districts.
Tamil Nadu-31	8	18	Total-8 NGOs-2 & GOs-6	2 run by Govt.	Total-232 NGOs-194 & GOs-38	-	3 run by govt.	<ul style="list-style-type: none"> • 21 Reception Unit.-NGOs-10 & GOs-11 • SJPU in all districts. • State & District Child Protection Unit. • District Advisory Board established in all districts.

Table I : Status of Juvenile Justice Implementation (Contd.)

State with Districts	JJB-Districts	CWC-Districts	Observation Homes	Special Homes	Children's Homes	Shelter Homes	Aftercare Homes	Others
Kerala -14	5	10	Total -14 Boys-13 & Girls-1	Total-2 Boys-1 & Girls-1	8	-	Total-3 Boys-1 & Girls-2	<ul style="list-style-type: none"> • 11 recognised Adoption Agencies. • 5 Residential Schools • State Level Advisory Committee constituted.
Delhi -10	2	4	Total-3 Boys-2 & Girls-1	1	Total-7	1 place of safety	-	<ul style="list-style-type: none"> • 3 Institutions for Mentally Challenged Children. • 11 recognised Adoption Agencies

Source: This has been compiled by HAQ: Centre for Child Rights, New Delhi from the presentations made by representatives of various states at the National Round Table Session organised by NCPCR.

Note: There is no information available for the other states.

SJPU: Special Juvenile Police Unit

Table II: Juvenile Delinquency (IPC) Under Different Crime Heads & Various Percentage Changes in 2006 Over 1996, QA and 2006

State/ UT	Years						Quinquennial Average (2001-05)Q.A	2006	Percentage change in 2006[(+) Increase (-) decrease] Over		
	1996	2001	2002	2003	2004	2005			1996	QA	2005
Murder (Sec. 302,303 IPC)	270	531	531	465	472	522	504	605	124.1	20.0	15.9
Attempt To Commit Murder (Sec. 307 IPC)	202	449	469	475	443	374	442	489	142.1	10.6	30.7
C.H. Not Amounting (Sec. 304, 308 IPC)	21	34	22	25	19	58	32	36	71.4	13.9	-37.9
Rape (Sec. 376 IPC)	157	399	485	466	568	586	501	656	317.8	31.0	11.9
i) Custodial Rape	*	0	0	0	0	0	0	-	0.0	0.0	
ii) Other Rape	*	399	485	466	568	586	501	656	-	31.0	11.9
Kidnapping & Abduction	132	122	164	202	232	246	193	271	105.3	40.3	10.2
i) Of Women & Girls	43	79	109	158	167	191	141	208	383.7	47.7	8.9
ii) Other Rape	*	399	485	466	568	586	501	656	-	31.0	11.9
Dacoity (Sec. 395-398 IPC)	44	59	63	122	121	120	97	99	125.0	2.1	-17.5
Preparation & Assembly For Dacoity (Sec. 399-402 IPC)	0	51	46	38	46	58	48	74	0.0	54.8	27.6
Robbery (Sec. 392-394,397,398 IPC)	87	164	207	208	224	230	207	321	269.0	55.4	39.6
Burglary (Sec. 449-452,454,455, 457-460 IPC)	1315	1687	1723	2134	2138	2270	1990	2675	103.4	34.4	17.8
Theft (Sec. 379-382 IPC)	2356	3196	3361	3680	4554	4846	3927	5316	125.6	35.4	9.7
i) Auto Theft	*	437	563	604	748	904	651	1072	-	64.6	18.6
ii) Other Theft	*	2759	2798	3076	3806	3942	3276	4244	-	29.5	7.7
Riots (Sec. 143-145, 147-151, 153,153A,153B,157, 158,160 IPC)	856	1228	1066	1030	982	934	1048	988	15.4	-5.7	5.8
Criminal Breach of Trust (Sec. 406-409 IPC)	18	59	39	56	43	30	45	15	-16.7	-67.0	-50.0
Cheating (Sec. 419,420 IPC)	60	83	88	104	149	106	106	94	56.7	-11.3	-11.3
Counterfeiting (Sec. 231-254,489A-489D IPC)	0	4	3	8	9	7	6	8	0.0	29.0	14.3
Arson (Sec. 435,436,438 IPC)	33	48	107	34	44	60	59	36	9.1	-38.6	-40.0
Hurt (Sec. 304B IPC)	1395	3234	4137	3074	3226	2979	3330	3585	157.0	7.7	20.3
Dowry Deaths (Sec. 304B IPC)	42	50	65	52	51	102	64	60	42.9	-6.3	-41.2

Table II: Juvenile Delinquency (IPC) Under Different Crime Heads & Various Percentage Changes in 2006 Over 1996, QA and 2006 (Contd.)

State/ UT	Years						Quinquennial Average (2001-05)Q.A	2006	Percentage change in 2006[(+) Increase (-) decrease] Over		
	1996	2001	2002	2003	2004	2005			1996	QA	2005
Molestation (Sec. 354 IPC)	117	380	522	522	460	478	472	488	317.1	3.3	2.1
Sexual Harassment (Sec. 509 IPC)	13	105	265	286	186	137	196	148	1038.5	-24.4	8.0
Cruelty By Husband And Relatives (Sec. 498A IPC)	166	349	262	202	206	275	259	219	31.9	-15.4	-20.4
Importation of Girls (Sec. 366B IPC)	*	0	0	0	0	0		0	-	0.0	0.0
Death Due to Negligence (304A IPC)	*	49	60	78	60	65	62	163	-	161.2	150.8
Other IPC Crimes	2740	4228	4875	4558	4996	4456	4623	4742	73.1	2.6	6.4
Total Cognizable Crimes Under IPC	10024	16509	18560	17819	19229	18939	18211	21088	110.4	15.8	11.3

Source: NCRB-Crime in India, 2006. Table 10.2

Notes: 1. *indicates that the Crime Head was not introduced till that year.

2. # As per revised definition of Juvenile Justice Act the boys age group of 16-18 years has also been considered as Juveniles.

Table III: Crimes (SLL And IPC) Committed by Children in Conflict with Law

State	IPC	SLL	Total
Andhra Pradesh	1375	224	1599
Arunachal Pradesh	75	0	75
Assam	342	0	342
Bihar	202	8	210
Chhattisgarh	1816	237	2053
Goa	43	1	44
Gujarat	1494	554	2048
Haryana	1019	425	1444
Himachal Pradesh	102	5	107
Jammu & Kashmir	8	1	9
Jharkhand	862	19	881
Karnataka	439	165	604
Kerala	269	42	311
Madhya Pradesh	4976	777	5753
Maharashtra	4249	596	4845
Manipur	0	0	0
Meghalaya	51	0	51
Mizoram	83	6	89
Nagaland	3	0	3
Orissa	394	36	430
Punjab	74	35	109
Rajasthan	1472	167	1639
Sikkim	35	0	35
Tamil Nadu	644	1228	1872
Tripura	0	0	0
Uttar Pradesh	132	16	148
Uttaranchal	101	5	106
West Bengal	89	10	99
Total	20349	4557	24906
Union Territories			
A & N Islands	32	16	48
Chandigarh	90	2	92
D & N Haveli	5	0	5
Daman & Diu	4	0	4
Delhi	566	153	719
Lakshadweep	0	0	0
Pondicherry	42	1	43
Total	684	172	856
Total States and UT	21088	4729	52668

Source: NCRB-Crime in India, 2006. Tables 10.4 & 10.5

Table IV A: Juveniles Apprehended Under IPC and SLL Crimes By Age Groups & Sex During 2006

Crime Head	7 - 12 Years		12 - 16 Years		16 - 18 Years		Total for all Age Groups		Total (B + G)
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	
Murder	27	0	234	12	437	17	698	29	727
Attempt To Commit Murder (Sec. 307 IPC)	7	0	216	13	392	16	615	29	644
C.H. Not Amounting Murder (Sec 304, 308 IPC)	1	0	13	3	30	2	44	5	49
Rape (Sec 376 IPC)	14	0	239	4	432	2	685	6	691
i) Custodial Rape	0	0	0	0	0	0	0	0	0
ii) Other Rape	14	0	239	4	432	2	685	6	691
Kidnapping & Abduction	4	0	93	21	183	33	280	54	334
i) Of Women & Girls	3	0	57	14	130	29	190	43	233
ii) Other Rape	1	0	36	7	53	4	90	11	101
Dacoity (Sec 395-398 IPC)	1	0	43	0	110	0	154	0	154
Preparation & Assembly for Dacoity (Sec 399-402 IPC)	0	0	20	0	76	0	96	0	96
Robbery (Sec 392-394, 397 & 398 IPC)	2	0	119	1	309	1	430	2	432
Burglary (Sec 449 - 452, 454, 455, 457 - 460 IPC)	248	9	1770	36	1561	33	3579	78	3657
Theft (Sec 379 - 382 IPC)	440	25	2918	100	2997	94	6355	219	6574
i) Auto Theft	25	0	573	0	751	1	1349	1	1350
ii) Other Theft	415	25	2345	100	2246	93	5006	218	5224
Riots (Sec 143-145, 147-151, 153, 153A., 153B, 157, 158, 160 IPC)	33	1	492	41	1033	72	1558	114	1672
Criminal Breach of Trust (Sec 406-409 IPC)	0	0	7	1	11	0	18	1	19
Cheating (Sec 419, 420 IPC)	2	0	25	2	60	7	87	9	96
Counterfeiting (Sec 231-254, 489A - 489D IPC)	0	0	2	0	7	0	9	0	9
Arson (Sec 435, 436, 438 IPC)	1	0	24	0	25	1	50	1	51
Hurt (Sec 323-333, 335-338 IPC)	106	9	1640	127	2401	187	4147	323	4470
Dowry Deaths (Sec 304B IPC)	1	1	10	6	27	31	38	38	76
Molestation (Sec 354 IPC)	5	0	212	3	317	1	534	4	538
Sexual Harassment (Sec 509 IPC)	1	0	33	0	137	0	171	0	171
Cruelty By Husband And Relatives (Sec 498A IPC)	1	2	46	25	104	102	151	129	280
Importation of Girls (Sec 366B IPC)	0	0	0	0	0	0	0	0	0
Causing Death By Negligence (Sec 304A IPC)	0	0	29	4	136	1	165	5	170
Other IPC Crimes	157	12	2152	159	3259	250	5568	421	5989
Total Cognizable Crimes Under IPC	157	12	2152	159	3259	250	5568	421	5989

Source: NCRB-Crime in India 2006, Table 10.8

Table IV B: Juveniles Apprehended Under IPC and SLL Crimes By Age Groups & Sex During 2006

Crime Head	7 - 12 Years		12 - 16 Years		16 - 18 Years		Total for all Age Groups		Total
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	(B+G)
Arms Act	1	0	66	0	213	0	280	0	280
Narcotic Drugs & Psychotropic Substances Act	0	0	17	3	45	0	62	3	65
Gambling Act	6	0	318	2	790	0	1114	2	1116
Excise Act	1	0	136	14	367	38	504	52	556
Prohibition Act	28	5	141	43	374	41	543	89	632
Explosive & Explosive Substances Act	0	0	1	0	2	0	3	0	3
Immoral Traffic (P) Act	0	0	1	5	15	58	16	63	79
Indian Railways Act	0	0	7	0	3	1	10	1	11
Registration Of Foreigners Act	3	2	8	3	5	1	16	6	22
Protection of Civil Rights Act	0	0	0	0	0	0	0	0	0
i) PCR Act for SC	0	0	0	0	0	0	0	0	0
ii) PCR Act for ST	0	0	0	0	0	0	0	0	0
Indian Passport Act	4	1	7	0	7	0	18	1	19
Essential Commodities Act	0	0	5	0	14	0	19	0	19
Terrorist & Disruptive Activities Act	0	0	0	0	0	0	0	0	0
Antiquity & Art	0	0	0	0	0	0	0	0	0
Treasure Act									
Dowry Prohibition Act	0	0	0	0	0	0	0	0	0
Child Marriage Restraint Act	0	0	0	0	1	0	1	0	1
Indecent Representation of Women (P) Act	0	0	0	0	1	0	1	0	1
Copyrights Act	0	0	16	0	42	0	58	0	58
Sati Prevention Act	0	0	0	0	0	0	0	0	0
Sc/St (Prevention of Atrocities) Act	0	0	14	0	30	1	44	1	45
i) Prevention of Atrocities Act for SC	0	0	9	0	21	1	30	1	31
ii) Prevention of Atrocities Act for ST	0	0	5	0	9	0	14	0	14
Forest Act	0	0	4	0	0	1	4	1	5
Other SII Crimes	414	20	805	24	1031	40	2250	84	2334
Total Cognizable Crimes	457	28	1546	94	2940	181	4943	303	5246
Under SII									
C. Grand Total (A+B)	1508	87	11883	652	16984	1031	30375	1770	32145

Source: NCRB-Crime in India 2006, , Table 10.8

Table V: Disposal of Juveniles Apprehended (Under IPC And SLL Crimes) and Sent to Courts during 2006

State/UT	Arrested & Sent to Courts	Sent to Home after Advice or Admonition	Released on Probation and Placed Under Care of		Sent to Special Homes	Dealt with Fine	Acquitted or Otherwise Disposed of	Pending Disposal
			Parents / Guardians	Fit Instt.				
Andhra Pradesh	1879	243	156	45	230	25	87	1093
Arunachal Pradesh	80	55	25	0	0	0	0	0
Assam	539	158	151	77	97	10	6	40
Bihar	239	45	24	0	167	0	3	0
Chhattisgarh	2053	118	194	40	421	80	195	1005
Goa	68	1	3	0	14	0	0	50
Gujarat	2807	174	739	174	116	91	278	1235
Haryana	1712	3	11	7	29	34	115	1513
Himachal Pradesh	128	24	12	0	1	0	4	87
Jammu & Kashmir	8	0	0	8	0	0	0	0
Jharkhand	862	138	132	153	224	38	42	135
Karnataka	659	150	39	22	78	5	5	360
Kerala	444	25	16	2	54	3	11	333
Madhya Pradesh	6814	1080	697	379	475	411	411	3361
Maharashtra	6658	910	1781	376	1091	155	110	2235
Manipur	0	0	0	0	0	0	0	0
Meghalaya	58	15	14	4	0	0	16	9
Mizoram	89	2	18	13	38	12	6	0
Nagaland	3	0	1	0	2	0	0	0
Orissa	627	85	79	0	120	0	6	337
Punjab	159	4	7	0	12	5	5	126
Rajasthan	2086	235	608	65	260	49	110	759
Sikkim	35	17	4	0	8	0	3	3
Tamil Nadu	1974	375	814	65	161	89	53	417
Tripura	0	0	0	0	0	0	0	0
Uttar Pradesh	172	2	9	0	105	7	17	32
Uttaranchal	106	0	81	0	25	0	0	0
West Bengal	124	40	7	52	11	2	4	8
Total (States)	30383	3899	5622	1482	3739	1016	1487	13138
Union Territories								
A & N Islands	91	0	0	0	22	0	0	69
Chandigarh	107	6	11	0	10	0	1	79
D & N Haveli	9	0	0	0	0	0	0	9
Daman & Diu	5	0	5	0	0	0	0	0
Delhi	1513	128	83	0	739	7	91	465
Lakshadweep	0	0	0	0	0	0	0	0
Pondicherry	37	3	2	0	0	0	0	32
Total (UTs)	1762	137	101	0	771	7	92	654
Total (All-India)	32145	4036	5723	1482	4510	1023	1579	13792

Source: NCRB-Crime in India 2006, Table 10.13



child labour

“Lack of social norm that finds child labour unacceptable and a tolerance of them not being in schools make it convenient for the market to continue to exploit children”.

Shantha Sinha, Chairperson, National Commission for Protection of Child Rights

The discourse and debates surrounding child labour have not ceased since it first began, and gained momentum since the mid 1980s leading to the formulation of the controversial and highly inadequate Child Labour (Prohibition and Regulation) Act, 1986. This law continues to make a distinction between processes and occupations that are prohibited from employing children, and those in which children can continue to work. That poverty leads to child labour, and children of the poor do not have a choice, that those employing children are actually doing the children they employ a favour, else they would starve, are arguments that one continues to hear. Nothing really has changed in the mainstream discourse. What is worse, large numbers of children have been “rescued” through “raids” from prohibited occupations, particularly the zari and jewellery and other such small scale units, since HAQ’s last report was published. Without adequate follow-up and rehabilitation, many of these children have found themselves back in work.¹



But let us not be fooled. Children do not work simply because they are poor. They continue to work because child labour helps employers by depressing the general wage levels. Even the government now admits this.² Child workers work as much as and as long as adults for no wages or a fraction of the adult wage in inhuman and dangerous conditions, with no bargaining power. There is no arguing that children can be beaten into submission. The only way to resolve this situation is, as has been demanded for over two decades now, and is now recommended by the National Commission for Enterprises in the Unorganised Sector (NCEUS), is to eliminate all types of child labour in agriculture as well as in un-organised non-agricultural sector enterprises. It categorically states, in its report “since the banning of child labour through legislation confined to hazardous industries has not proved to be effective, further legislative efforts should aim at regulating child labour and restricting their employment in all sectors, consistent with the needs of their development”.³ The report of the Commission recognises and establishes a close relationship between the provision of education and the elimination of child labour. It clearly says that it is only the participation of children in schools that can ensure that they are not at work.

Children do not work simply because they are poor. They continue to work because child labour helps employers by depressing the general wage levels. It is only the participation of children in schools that can ensure that they are not at work.

HAQ’s first status report had dwelt that the fallacious distinction between hazardous and non-hazardous labour and why it runs contrary to the objective of eradicating child labour.⁴ The second report too commented on this.⁵ But little has changed. The same challenges remain regarding data and definition of child labour. How many child labourers are there in the country? Once again this becomes a matter of definition. How does one define child labour? – all children out of school?; only children in prohibited occupations? all children working in the organised sector? There continues to be varying definitions and perceptions.

Since the distinction between hazardous and non-hazardous occupations continues in law, activists have been campaigning to increase the list of occupations that are prohibited so that more and more children can be pulled out of work, until such time that the law declares all occupations as banned. It is a consequence of years of campaigns by groups and activists, that the government has banned employment of children as domestic workers or servants; in dhabas (road-side eateries), restaurants, hotels, motels, tea-shops, resorts, spas or other recreational centres from the 10th of October 2006 (Gazette Notification of 3 June 2008 No.S-27019/1/93-CL).

- 1 HAQ: Centre for Child Rights, A report of fact finding team on children rescued from zari industry, Delhi and restored in their families in various districts in Bihar. 19th June 2006 - 24th June 2006.
- 2 National Commission for Enterprises in the Unorganised Sector, Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, August 2007, pp.103.
- 3 Ibid.
- 4 HAQ: Centre for Child Rights, Children in Globalising India-Challenging Our Conscience, 2002, pp.280.
- 5 HAQ: Centre for Child Rights, Status of Children in India Inc. 2005, pp. 167-180.

Child labour: Govt to expand list of hazardous jobs, amend law

NEW DELHI, JANUARY 7 - With instances of alleged child labour coming to light regularly despite a 22-year-old law prohibiting it, the Government is in the midst of launching a multi-pronged attack on the socio-economic menace that some developed countries have begun using as a non-tariff barrier to prevent exports from India.

The Union Labour Ministry is about to notify a significant expansion of the list of hazardous processes and occupations where the employment of children below 18 years of age is strictly prohibited, even as it is working towards comprehensively reviewing and amending the Child Labour (Prohibition and Regulation) Act of 1986. A detailed protocol is also being put in place for the rehabilitation and repatriation of rescued migrant and bonded child labourers.

Just last week, Chief Justice of India K G Balakrishnan rued that protective laws for children were not being properly implemented and child labour continues to be a major problem in the country. He also cited a report that 5,000 children still eked out a living on the streets of the Capital itself.

While disputable 'sting' operations by foreign dailies and NGOs have alleged the use of children by Indian suppliers to global retailers like GAP, children are reportedly being used in the cottonseeds business in some states. The National Commission for Protection of Child Rights wrote to the Gujarat Government last month enquiring into the death of a 10-year-old and a 16-year-old at a plastic factory in the state.

At a meeting held on Thursday, the Child Labour Technical Advisory Committee headed by the Director General of Indian Council of Medical Research recommended that nine more processes be added to the list of hazardous occupations under the law where children cannot be employed. The list includes 15 occupations and 57 processes and will now be expanded to cover processes involving excessive heat and cold, mechanised fishing, timber handling and loading, food processing, beverages industry, diving and mechanical lumbering.

A senior Labour Ministry official said that consultations had already taken place with the states on the issue and a notification would be issued soon. Also on the anvil is a detailed protocol that lays down procedures for repatriating migrant child workers to their homes and rehabilitating them, so that rescued children do not drift back into the workforce.

"The roles and responsibilities of the different agencies involved would be spelt out clearly. The state where children are found working and the state where they belong to and are to be sent back to, will have to work in co-ordination," the official said. The key states where the origin and incidence of such child labour is high — Orissa, Bihar, Jharkhand, Chhattisgarh, Andhra Pradesh and Maharashtra — are on board and the new protocol is expected to become the norm by the end of this month, the official added.

Along with these incremental steps, the Government is also working on a complete overhaul of the 1986 Act to bring it in line with evolving ground realities. States and Ministries have been making several suggestions to the Centre for amending the law. The Central Monitoring Committee for the law's implementation has also backed the need for changing the law during its last annual meeting in June 2007. States' views on the various proposals have already been received.

A Working Group set up by the Centre in November to finalise the amendments has already met twice and is expected to submit its report shortly. The key suggestions and proposals being examined by the group include bringing more clarity on home-based child workers as well as agricultural workers.

But the group's task isn't easy. For instance, agriculture in India is a group activity in the family, so it's tricky to bar children from helping on the farm.

Meanwhile, on the recent reports of children being used in cottonseeds in some states, the Centre has written to the concerned states — Karnataka, Andhra Pradesh, Rajasthan and Gujarat — asking them if they could put the occupation on the hazardous list under the law. Since labour is a concurrent subject under the Constitution, the Centre cannot amend laws unilaterally.

Labour pains

- Child Labour Technical Advisory Committee recommended that nine more processes be added to the list of hazardous occupations and processes under the law where children cannot be employed.
- The list includes 15 occupations and 57 processes and will now be expanded to cover processes involving excessive heat and cold, mechanised fishing, timber handling and loading, food processing, beverages industry, diving and mechanical lumbering
- Consultations already taken place with the states on the issue
- Complete overhaul of the Child Labour (Prohibition and Regulation) Act of 1986 also on cards
- The scourge most prevalent in Orissa, Bihar, Jharkhand, Chhattisgarh, Andhra Pradesh and Maharashtra.

Vikas Dhoot. The Indian Express , 8-1-2008

In May 2008, the government added diving and eight more processes to the Schedule of prohibited occupations/ processes in the child labour law. The processes include exposure to excessive heat and cold, food processing, beverage industry, timber handling and loading, mechanical lumbering, warehousing and processes involving exposure to free silica and as slate, pencil industry, stone grinding and slate mining, stone quarrying and agate industry. While a total ban is still a dream, this was one baby step forward. (For a list of hazardous occupations and processes under CLPRA, see Annexure I. This list includes 15 occupations and 57 processes. It does not include diving and the 8 processes prohibited from employment of children in May 2008).

Efforts at changing the law also continue. Pointing out that the current law was bad and unequal, allowing children to work by making a distinction between prohibited and regulated occupations, even as the 86th Constitutional Amendment makes the right to education for all children in the 6-14 year age- group a fundamental right, HAQ :Centre for Child Rights, along with Dr. Shantha Sinha and Social Jurist, filed Public Interest Litigation in the Supreme Court challenging it in 2005. The case is still pending.

The Government of India has re-constituted the Central Advisory Board on Child Labour to review the implementation of existing legislations and suggest measures for the welfare of working children by issuing a gazette notification.⁶ A separate Child Labour Technical Advisory Committee⁷ has been involved in recommending the inclusion of occupations and processes to the schedule and drafting a Protocol on Prevention Rescue Repatriation and Rehabilitation of Trafficked and Minor Child Labour.

Note of Proceeding of 12.12.2005

The Supreme Court on 12.12.2005 issued notice to the Centre on a PIL filed through Advocate Ashok Agarwal seeking enforcement of the right to education of every child in the age group of 6 to 14 by abolishing child labour in all its forms. A three-judge Bench comprising of Justice Ruma Pal, Justice A.R.Laxmanan and Justice Dalveer Bhandari issued the notice on petition filed by Prof. Shantha Sinha of Hyderabad University; HAQ: Centre for Child Rights and Social Jurist. The PIL argues that that compulsory schooling as envisaged in Article 21-A of the Constitution and the existence of child labour are in contradiction to each other and seeks a declaration that child labour in any form up to 14 years was unconstitutional.

Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour

As it reads now, the Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour is merely a set of guidelines to be followed, with ambiguity at various points vis-à-vis the procedures and responsibilities of different actors and nothing contained therein to make it binding. What is most worrying is that it is not legally binding. It is neither a statute nor part of any statute or rules. That the protocol is a mere statement of intent and not an action agenda is implicit from the fact that it does not have a Financial Memorandum attached to it. Indeed, the very premise of the Protocol appears faulty as it assumes that children have no right to migrate and that India already has a law to check child trafficking. There are several other problems with it, as has been pointed out by activists and researchers working on this issue.

Voices from a Citizen's Collective – Comments On The Draft Protocol On Prevention, Rescue, Repatriation And Rehabilitation Of Trafficked & Migrant Child Labour

The Recommendations of the Working Group on Amendment of the Child Labour (Prohibition and Regulation) Act, 1986 must be examined in some detail before adoption. For example, the recommendation that “children working with their families should not be considered as child labour as these children could be working after school hours under parental guidance” needs careful examination. It is well documented that the children work long hours even when they work at home and an hazardous process or occupation does not become less so just because it is undertaken at home. Similarly, not including agriculture under hazardous occupations undermines the dangers children face when engaged in agriculture from harmful pesticides, weeding and harvesting, spending long hours at work ⁸.

⁶ Vide Gazette Notification 3 June 2008.

⁷ The Child Labour Technical Advisory Committee (TAC) has been set up in accordance with the provisions of Section 5 of the Child Labour (Prohibition & Regulation) Act, 1986.

⁸ A note on Recommendations of the Working Group on Amendment of the Child Labour (Prohibition and Regulation) Act, 1986 by R.Venkat Reddy, National Convenor, MV Foundation presented at the Consultative Meeting Central Board on Child Labour. Govt of India on 29 July 2008.

The law on child labour defines child labour as children below 14 years of age. Activists and campaigns are advocating that child labour law must define child as persons up to 18 years in keeping with the Convention on the Rights of the Child as well as the Juvenile Justice (Care and Protection) Act, 2000.

The National Commission for Protection of Child Rights has also issued guidelines on the Abolition of Child Labour (Annexure II) and has issued letters to all the Chief Secretaries asking them to chalk out a plan for the celebration of the World Day on 12 June 2008 at the state level, involving the entire state government apparatus to give publicity to the number of cases booked and number of child labours rescued and sent to school.

Govt for tougher child labour law

Wants work ban on children under 11

Chetan Chauhan
New Delhi, December 21

AT PRESENT, children under the age of 14 are considered child labourers and employing them in hazardous industries is illegal. But if the Centre gets its way, employing children below the age of 11 in any establishment could soon become illegal.

In October, the government had banned child labour and placed the hospitality industry and domestic chores on the hazardous list.

The Ministry for Women and Child Development has mooted a proposal to ban the employment of children below 11 years of age in any establishment. The ministry has proposed to amend the Child Labour (Prohibition and Regulation) Act, 1986 for this purpose. The proposal is likely to be discussed in the forthcoming meeting of state labour secretaries.

The proposal is based on the recommendations of the Task Force on Women and Children, 2001, which has suggested that no child under the age of 11 should be employed in any establishment. "It also implies that children between 11 and 14 years of age can be employed but only in certain 'safe' industries," a government official explained, adding that if the government accepts the recommendation, the definition of child labour will change in all labour laws.

However, a decision is expected only after the issue is examined by the state governments, as labour is a state subject, an official said. The ministry had asked the Labour Ministry to seek the concurrence of the state governments on the proposed amendment.

"The views of experts and states are being ascertained. But one should realise that the proposal can have huge implications as a large number of children will lose their jobs," a Labour Ministry official commented.

Another recommendation of the task force, giving the government the power to notify rules to impart education to child labourers, is also being examined by the Labour Ministry. So far, the government can notify rules on the health and safety of child labourers. The move finds strength in recent studies which say a large number of out-of-school children are child labourers. Section 13 (i) of the Act will have to be amended to give the government this facility.

The Labour Ministry is also examining another proposal of the task force, that women workers should get 151 days of maternity leave. Furthermore, it is formulating final proposals on two task force recommendations — to restrict women from working on moving machineries and prohibit them from performing dangerous operations — for government approval.

ch Chauhan@hindustantimes.com

Saving them or endangering their future?

PRESENT SITUATION
On October 10, the Centre banned the employment of children under 14 as domestic help or in the hospitality industry under the Child Labour (Prohibition and Regulation) Act, 1986. There is a separate law banning the employment of children in factories, mines and hazardous work units.

CENTRE'S PROPOSAL
The Centre has proposed to ban the employment of all children under 11 in any establishment. Another recommendation being studied is to give government power to notify rules on education of child labourers.

THE IMPLICATION
If the proposal becomes law, a large number of children will lose their jobs, which throws up the question of a rehabilitation plan. It would also mean children between 11 and 14 years can be employed but only in certain 'safe' industries, according to a government official.



Rehabilitation before ban

Who are child labourers?
As per the Child Labour (Prohibition and Regulation) Act, 1986, those below the age of 14 constitute child labourers. The law allows child labourers to work in industries except those categorised as hazardous in Schedules A and B of the Act. Such children are prohibited from working between 7 a.m. and 8 p.m. and also cannot work in two establishments on the same day. Also, one holiday a week is mandatory as per law.

How big is the problem in India?
According to a National Sample Survey Organisation survey, 16.4 million children in the age group of 5 to 15 are engaged in economic activity. However, the World Bank estimates the number to be 44 million, over 90 per cent of child labour is in the country's rural areas, engaged in agricultural activities like farming, livestock rearing, forestry and fisheries. This labour is outside the formal sector and outside industry. More than nine out of 10 working children work within a family setting. Working in family-based occupations, these children develop skills in certain traditional crafts, thus augmenting the human capital formation of India's developing economy. Most of these children drop out of school early and join work. Some of them have never seen any form of formal education.

What has the government done to check child labour?
Government officials term the problem as complex, and say it should be seen in totality. Banning child labour will result in huge unemployment and a fall in the earnings of families dependant on the salaries of these children. The government believes that before banning child labour, avenues for alternative revenue sources should be provided to the families. On the enforcement of existing laws, the government believes the network of shelter homes for children has to be strengthened before banning child labour. Or else these children, now unemployed, could land on the streets. And this would be worse. In October this year, the Ministry of Labour banned child labourers from working in the hospitality industry and in homes.

HT
FAQs

Discrepancy in Laws Cause Confusion: Child Labour Act and the Juvenile Justice Act

As was discussed above, the Child Labour (Prohibition and Regulation) Act 1986 defines a child as a person up to the age of 14 years whereas the Juvenile Justice Care and Protection Act, 2000 (amended in 2006) or JJ Act, defines a child as a person up to the age of 18 years. What is more, it also includes working children in the list of children who need care and protection under the Act. This is where the confusion arises. Children are allowed to work beyond 14 years as per the child labour law, but are included as children needing protection from economic exploitation (which labour in any form is for children) under the juvenile justice law. This means children beyond 14 years need not be rescued from work under the child labour law, whereas they may be rescued and produced before the Child Welfare Committee under the JJ Act.

Data and Definition of Child Labour Remain a Challenge

Accurate data on child labour has always remained a big challenge. This was mentioned in HAQ's last two status reports too. In the absence of accurate data, planning remains incomplete and inadequate. Different sources give different estimates. The two main sources of "official" information remain the National Sample Survey Organisation (NSSO) and the Census. But they show different results. According to the Census of 2001 there are nearly 1.26 crore (12.6 million) children who are economically active (between the age group of 5 to 14)⁹ as against 1.13 crore (11.3 million) in 1991. They constitute nearly 7.31 per cent of the total working population, of which nearly 8,166,623 are male children and 2,497,212 are female children.¹⁰ According to NSSO estimates, 8.6 million children were employed in 2004-05. The majority of these children are employed as agricultural labourers, and the rest in other organised sectors of the most hazardous kind.

New Delhi, June 12, 2007: The flip side to the boom in India's economy post-liberalisation has been an over 10 per cent increase in the number of child labourers in the decade since the opening up of the market, according to a study by the International Labour Organisation (ILO).

www.expressindia.com

9 Report of the Working Group on Child Labour for the Eleventh Five-year Plan, Planning Commission, Government of India, pp. 3.
10 Advance Table 1.2: Census of India 2001.

While the Census shows an increase in the child labour population, according to the NSSO results, there has been a decline from 13.3 million in 1993-94 to 8.6 million in 2004-05. What is however a matter of concern is that the National Commission for Enterprises in the Unorganised Sector in its report has stated that there has been a decline in child labour and has quoted Census (11 million in 1991 to 3.6 million in 2001) as well as NSS data.¹¹ Despite this discrepancy, of all the reports available so far, we find that National Commission for Enterprises in the Unorganised Sector (NCEUS) has made the greatest effort to capture the true picture of the humungous problem of child labour that confronts the nation.

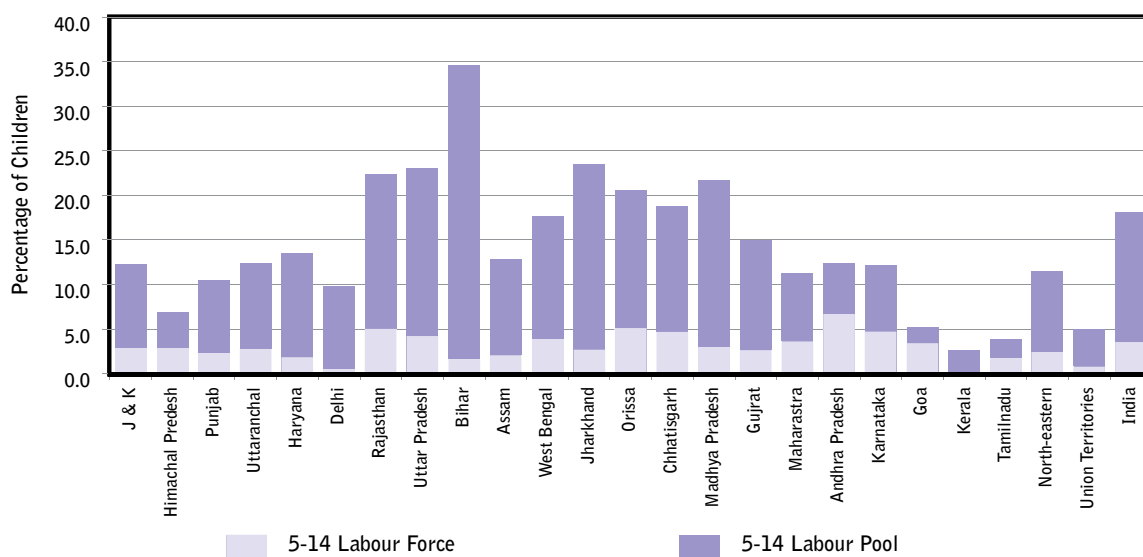
Definition of Child Labour

The very definition of child labour has been the biggest challenge in addressing the problem. Who forms the child labour force? Only those who are at work for a certain number of hours? Only those who are employed in hazardous occupations and processes? All those children who are out of school? Those involved in working on issues of child labour have defined it differently. For the first time a government body has taken a more expanded view on this matter. The NCEUS in its Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector has expanded the definition when examining the issue of child labour. According to their report “The Commission does not consider it appropriate to view child labour purely from a definitional point of view of who is a worker and who is not. This is because there is a significant proportion of children who are out of school and are not reported as child labour...” (page 101). The report recognises that even if they are not reported as workers, chances are that they are engaged in some activity by way of helping their parents or in activities that are not perceived as income-earning by the reporting parents. This is heartening because organisations and individuals working on child labour have been insisting that all children out of school constitute child labour for many years now. The government has never accepted this as a definition up till now.

Out of School children comprise the workers and the non-workers. They together signify a measure of deprivation among children and can be considered a potential labour pool, always being at risk of entering the labour force. They constitute 18 per cent of the of the children.

Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, The National Commission for Enterprises in the Unorganised Sector

Figure 1: Children (5 – 14 years) in Labour Force and Labour Pool by Age, 2004-2005 (Per cent)



Note: Labour Force includes all those already employed and Labour Pool includes child labourers and non-workers

Source: Presentation by R. S. Srivastava. Based on Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector. National Commission for Enterprises in the Unorganised Sector.

11 National Commission for Enterprises in the Unorganised Sector, Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, August 2007, pp. 100

Incidence of Child Labour

The state with the highest incidence of child labour is Uttar Pradesh, followed by Andhra Pradesh. Other states with more than one million child labour include Rajasthan, Madhya Pradesh and West Bengal. While some states have witnessed a fall in incidence of child labour, Bihar, Haryana, Rajasthan, Uttar Pradesh and West Bengal has seen an increase since 1991 (See Table I in Annexure 3). According to the NCEUS,¹² the states with higher incidence of child labour are not necessarily the ones with high incidence of out-of-school children, although there are some states that find a place in both such as Uttar Pradesh, Rajasthan, Bihar, Chhattisgarh and Orissa.

Table 1: Incidence of Child Labour and Out-of School Children (Labour Pool) (5-14 years) across the States (Per cent) 2004-05

State	Out of school children	Child labour	Out of school children	Child labour	Out of school children	Child labour
	Males		Females		Total	
Bihar	29.9	2.2	40.1	0.6	34.4	1.5
Jharkhand	20.0	2.4	27.4	2.7	23.4	2.5
Uttar Pradesh	20.3	4.7	25.7	3.4	22.8	4.1
Rajasthan	15.6	3.8	29.2	5.9	22.2	4.8
Madhya Pradesh	17.3	2.4	26.4	3.3	21.5	2.8
Orissa	17.3	5.3	23.7	4.6	20.4	5.0
Chhattisgarh	14.0	3.6	23.0	5.5	18.6	4.5
All India	15.4	3.5	20.8	3.3	17.9	3.4
West Bengal	16.7	4.3	18.1	3.2	17.4	3.7
Gujarat	12.0	2.7	18.1	2.3	14.8	2.5
Haryana	9.7	1.4	17.7	2.1	13.3	1.7
Assam	11.9	2.6	13.5	1.1	12.6	1.9
Andhra Pradesh	9.6	6.1	15.1	7.1	12.2	6.6
Uttaranchal	10.4	3.3	14.0	1.8	12.1	2.6
Jammu & Kashmir	7.6	1.6	16.8	4.1	12.1	2.8
Karnataka	10.4	4.3	13.7	4.8	12.0	4.6
Maharashtra	10.7	3.2	11.5	3.7	11.1	3.5
Punjab	9.4	2.8	11.3	1.3	10.2	2.1
Himachal Pradesh	5.2	2.0	8.2	3.5	6.6	2.7
Tamil Nadu	2.3	1.3	5.3	1.9	3.7	1.6
Kerala	2.9	0.4	2.0	0.1	2.5	0.3

Note : State arranged in descending order of total 'out of school' children.

This table is based on NSS 61st rounds 2004-2005, Employment- Underemployment Survey. Computed.

Source: Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector. National Commission for enterprises in the unorganised sector. August 2007 Appendix Table A6-1 pp 269

While a ban on the employment of children remains to be achieved, even the existing ban on the employment of children in hazardous occupations and processes continues to be violated.

Children continue to be employed in hazardous occupations and processes and the governments initiatives are largely directed to this category. As per the Census 2001, 36.43 lakh children in the 5-14 age group are in the non-agricultural sector, of which 12.19 lakh are working in hazardous occupations. Though the classification of occupations in the Census data is not exactly matching with the occupations listed as hazardous under the Child Labour (Prohibition & Regulation) Act, a tentative segregation of data into hazardous and non-hazardous occupations has been done by the Working Group on Child Labour set up by the Planning Commission to

¹² National Commission for Enterprises in the Unorganised Sector, Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, August 2007, pp. 101.

enable them to have a broad estimation of children working in different occupations.¹³ Besides, in the years since the Census, the number of listed hazardous processes in the schedule to the child labour law has gone up from 18 to 57, and occupations have gone up from 7 to 13, and the figures fail to take into account all these changes. A large number of child workers therefore remain unaccounted for.

As the NCEUS points out, a large proportion of the children are engaged in the manufacturing sector (17.2 per cent of which 14.4 per cent are boys and 20.5 per cent are girls as per the NSS, 61st rounds 2004-05), and they are likely to be exposed to the risk of being in such hazardous occupations as wage labourers.

Where are the Children Employed?

As per the Census 2001, nearly 11 per cent of the working children are in the industrial category, agriculture, hunting, fishing and forestry and approximately seven per cent are involved in mining and quarrying and almost 13 per cent engaged in manufacturing and repair processes.¹⁴ According to the NSS data, 66 per cent of child workers are in agriculture (62.8 per cent boys and 71.1 per cent girls). Agriculture, manufacturing, and household are the sectors in which girls out-number boys. According to both the Census 2001 and the NSS, nearly 2 per cent of all child workers are working in construction sites.

Table 2: Number of Child Workers (5-14 years) Engaged in Hazardous Occupations as per 2001 Census

1.	Pan, Bidi & Cigarettes	252574
2.	Construction	208833
3.	Domestic workers*	185505
4.	Spinning/ weaving	128984
5.	Brick-kilns, tiles	84972
6.	Dhabas/ Restaurants/ Hotels/ Motels*	70934
7.	Auto-workshop, vehicle repairs	49893
8.	Gem-cutting, Jewellery	37489
9.	Carpet-making	32647
10.	Ceramic	18894
11.	Agarbati, Dhoop & Detergent making	13583
12.	Others	135162
	Total	1219470

*Inclusion following the Government's notification to include children working as domestic workers and in dhabas/restaurants, hotels, etc. in the list of hazardous occupations w.e.f. 10th October 2006 cited in Planning Commission, Government of India. Working Group on Child Labour for the XIth Five Year Plan Strategy Formulations. pp. 5. Undated

Table 3: Percentage of Children (5 – 14 years) across Industry Groups by Employment Status, 2004 – 2005

Industry	Self-employed	Regular Workers	Casual Workers	All
Agriculture	70.8	9.2	72.8	66.6
Mining	0.0	0.7	0.6	0.2
Manufacturing	18.6	31.2	10.4	17.2
Electricity	0.0	0.0	0.0	0.0
Construction	0.0	0.3	6.8	2.0
Trade	6.4	18.4	3.4	6.4
Hotels	1.4	11.1	2.8	2.5
Transport	0.5	1.7	0.8	0.7
Real estate	0.0	7.2	0.3	0.6
Education	0.0	0.0	0.0	0.0
Health	0.0	0.0	0.2	0.0
Community	2.2	1.2	0.6	1.7
Household	0.0	19.1	1.3	1.8
Total	100.0	100.0	100.0	100.0

Source: Presentation by R. S. Srivastava. Based on Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector. National Commission for Enterprises in the Unorganised Sector.

¹³ Planning Commission, Government of India, Working Group on Child Labour for the XIth Five Year Plan Strategy Formulations, pp. 5. Undated.

¹⁴ Advance Table 1.2: Census of India 2001.

In the wake of globalisation and growing consumerism, children find their way into newer and newer occupations everyday. The last status report had highlighted the employment of children in cotton-seed farming, mining and the diamond industry. Rescue operations carried out in Delhi and Mumbai in 2007-08 have exposed the employment of children in the textile and garments industry, including their employment by sub-contractors and suppliers who work for large export houses and companies such as the US clothing giant GAP. With the boom in exports in recent years, textiles have emerged

as one of the largest contributors to India's exports and to foreign exchange earnings. India's domestic textile market too takes its toll on children.

Table 4: Children (5 – 14 years) across Employment Status (UPSS)¹⁵ and Industry and Gender 2004-2005 (Per cent)

	Self-employed	Wage Workers	All Workers
Agriculture			
Boys	69.9	30.1	100.0
Girls	65.9	34.3	100.0
Children	67.8	32.2	100.0
Non-Agriculture			
Boys	44.5	55.5	100.0
Girls	73.1	26.9	100.0
Children	56.0	44.0	100.0

Source: Presentation by R. S. Srivastava. Based on Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector. National Commission for Enterprises in the Unorganised Sector.

There are so many new home-based occupations that are emerging that it is often difficult to keep track. Who would have imagined that cleaning hair for making wigs would be an industry that engages hundreds of children in the villages of West Bengal, as was revealed in a recent visit by HAQ? Children are engaged in making sports equipment such as footballs, cricket equipment badminton racquets and shuttlecocks for indoor and outdoor games, basketballs etc. in Jalandhar and Batala in Punjab and Meerut in Uttar Pradesh. Most of India's sports goods are exported to the United Kingdom, the United States of America, Germany, France and Australia.¹⁶ Ironically these children are engaged in producing things that they will never ever have the chance or time to play with. With electronic goods such as televisions, computers etc. being used

In the wake of globalisation and growing consumerism, children find their way into newer and newer occupations everyday.



Liquor drowns childhood of these young 'bartenders'

Kids Supply Liquor To 'Car-o-Bars' In Noida, Gzb For Tips, Dregs



sons and a daughter to feed. The tips I get and empty bottles I pick up to sell to the kabari contribute to the family income. I get tips for serving soda, namkeen and other things." He doesn't reply if his siblings are in the same trade too.

Seven-year-old Bhagwan Das, clad in shorts and a cotton vest in this cold, said he started liquor peddling after his father died. He has five brothers and two sisters. His mother, living in the slums of Raj Nagar, "earns very little from working in a kothi".

So how much does he put together every month? There's no fixed amount, says Das, as "one car owner may give me a rupee, another Rs 5. I pick up some empty beer bottles and sell them for Re 1 each to the vend owners. They do not let us sell to kabaris who pay more for the bottles. I make about Rs 300 or so a month."

Eight-year-old Vijay is slightly well off. He brings home around Rs 500-Rs 600



15 UPSS: Usual Principal and Subsidiary Status (Subsidiary only for non-workers in principal status).

16 <http://www.laborrights.org/files/FOOTBALLREPORT2008.pdf>.

and discarded rapidly, dismantling them and removing electronic parts especially micro-chips is an activity that now employs children. One has to only visit areas such as Seelampur in the outskirts of Delhi to see thousands of children working with this very toxic materials. Yet another new and unexpected sector!

The children are aged eight to 15 and at least three of them have told me already that they were working for no pay at all... Children are particularly prized in the textile industry for their nimble fingers, which are able to stitch the tiniest beads onto the decorative kurtas and saris which are worn on special occasions.

Peter Foster, 'Gap sweatshop children' saved in India raid, 30 Oct 2007, Weekly Telegraph, <http://www.telegraph.co.uk>

Table 5: Export of Textile and Clothing from South Asia

Country	To the US		To the EU	
	2004-05	Jan- Jul 2005-06	2004-05	Jan- Jul 2005-06
Bangladesh	19.8	23.4	-5.0	41.7
India	26.0	13.7	18.3	24.8
Nepal	-25.8	-9.7	-6.1	3.9
Pakistan	13.2	19.2	-13.2	19.4
Sri Lanka	5.9	0.9	-1.3	33.5

Source: US Department of State and Adhikari and Weeratunge in Chapter 4: "Textile and Clothing Sector in South Asia: Coping with Post-quota Challenges" in CENTAD South Asian Yearbook of Trade and Development March 2007.

http://www.undprcc.ik/publications/trade/Centad_Yearbook_Tand_C_Chapter_RA_CW.pdf

Composition of Child Labour: Exclusion and Discrimination

Even while we argue about the close relationship between participation in schools and the elimination of child labour, it is important to understand who constitutes this "child labour pool". Existing discrimination and exclusion of children from certain groups have a bearing on the social composition of child labour in the country. The discrimination that working girls and boys endure mirrors discrimination in society as a whole. There is discrimination that helps cause child labour and at the same time children suffer discrimination as a consequence of the work they do. Different forms of discrimination suffered by children may overlap, and one form of discrimination may help cause another, creating a variety of situations with different impacts.¹⁷ As has been seen in the chapters on health, education and violence, children are forced to drop out of school and start working because of illnesses such as TB and HIV/AIDS or because of conflict and displacement.

Hunger drives children to work when schools are closed

"Why can't they keep the schools open during summer," asks P. Somamma in Mosangi. A strange question, with the mercury blazing past 43 Celsius in the Nalgonda village and all of us cowering in the little shade we can find.

"Why would you want to send the kids to school in this heat, Somamma?"

"At least there," she says, "they got one decent meal a day. I can't afford to give them one now, during the vacation."

In Kondapur in Mahbubnagar district, Bharatamma echoes that demand. "When the schools are closed, there is no mid-day meal. That means, instead of getting to eat, the children go to work. How else does the family manage?" Hit by rising food prices, poor families can't afford one more meal. For those with two children in school, the costs really go up. When the schools are open, you can find some young ones saving a part of their meal for a hungry grandparent at home.

P. Sainath. NREGA: A fine Balance. The Hindu. 02/06/2008

Gender

Many girls are engaged in some activity by way of helping their parents, either taking care of younger siblings or old parents, when their parents are away for work or in activities that are not perceived as income earning by the reporting parents.¹⁸ At the same time, boys in labour in urban areas out number girls. There are however several home-based work where girls out number boys,

The girl child out numbers the boys in the pool of potential labour, simply because there are more girls out of school than boys.

¹⁷ The NGO Group For The CRC Sub-Group On Child Labour, The Impact of Discrimination on Working Children and on the Phenomenon of Child Labour, June 2002. <http://www.antislavery.org/homepage/resources/Discriminationpaper.pdf>.

¹⁸ "Out of school children comprise the workers and non workers. In our view they together signify a measure of deprivation among children and can be considered as a potential labour pool always being at the risk of entering the labour force". Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector.

where they need not leave the house. Another example would be that of hybrid cotton-seed farming which was discussed in great detail in HAQ's last status report. Ninety per cent of the labour force is girls who are engaged in most operations. Even in areas where adults are available, cross-pollination work is exclusively done by girls as it is believed that if undertaken by girls, the plants will flower better.¹⁹

SC, ST and Minorities

The incidence of children out-of-school and in child labour have socio-religious dimensions. There is a higher incidence of child labour in Scheduled Tribes (ST) and Muslim households, followed closely by Hindu Scheduled Castes (SC) and Other Backward Castes (OBC).²⁰ Needless to say children from these communities constitute the child labour pool. Some sources estimate that 40 per cent of child labour belongs to SC families.²¹

Table 6: Percentage of SC/ST Children not in School

Age	SC			ST		
	Male	Female	Total	Male	Female	Total
0-14 yrs	53.47	59.67	56.44	58.47	66.25	62.26
0-19yrs	55.10	62.33	58.52	59.40	68.15	63.65

Source: Census 2001

Disabled Children

Of the total 5,669,293 disabled children in the 0-14 age group (Table C 23 of the Census report) 89,347 children (60,324 males and 29,023 females) have been employed as main workers, nearly 103,995 have been employed as marginal workers (54,153 males and 49,842 females). These statistics are relevant because the National Policy on Child Labour does not make any attempt to speak about this section of working children.²² Indeed if we take the definition of child labour as all children out of school, the number of disabled child labour, or those who constitute the child labour pool, will go up manifold. The Third Joint Review Mission of Sarva Shiksha Abhiyan in its latest figures states that out of the total population of out of school children, the disabled were the largest in number, constituting nearly 38.11 per cent of the total population. The Review Mission states that on the basis of the survey a child with disabilities would therefore appear to be 12 times as likely to be out of school as a child in the general population.²³ There is very little information available about the impact of disability on child labour – research is sorely needed in this area. However, there is evidence of children being intentionally disabled for exploitation such as begging.²⁴

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Bonded Labour

Bonded child labour formed about 10 per cent of the total bonded labour force.²⁵ Bonded labour was banned in India by the enactment of the Bonded Labour System Abolition Act 1976. Despite the laws there have been instances over the past

19 HAQ: Centre for Child Rights, Status of Children in India, Inc 2005.

20 National Commission for Enterprises in the Unorganised Sector, Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, August 2007, pp. 101-102 and In January 2006, The Third Joint Review Mission of Sarva Shiksha Abhiyan states that nearly 9.97% of Muslim children aged 6 to 13 are out of school, nearly 9.54% of ST children aged 6 to 13 are out of school, and nearly 8.17% of SC children are out of school. These figures are estimates, which were derived out of a sample survey, of 87,874 households across the country. These are not exact figures of how many children could there be who have not even seen a school. Source: <http://ssa.nic.in/monitoring/mainjrm03.asp>.

21 Communist Party Of India (Marxist) Resolution Adopted At The All India Convention On Problems Of Dalits New Delhi – February 22, 2006 and Front Line . Cover Story, Long way to go, Volume 23 Issue 22. November 04-17.2006.

22 Census of India.2001.

23 <http://ssa.nic.in/monitoring/mainjrm03.asp>.

24 The NGO Group For The CRC Sub-Group On Child Labour, The Impact of Discrimination on Working Children and on the Phenomenon of Child Labour, June 2002. <http://www.antislavery.org/homepage/resources/Discriminationpaper.pdf>.

25 National Commission for Enterprises in the Unorganised Sector, Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, August 2007, pp. 105.

years of forced labour and servitude characterised by compulsion and coercion. The Ministry of Labour reports that between the years 1996 to 2006 there have been nearly 2.86 lakh bonded labourers across various states.²⁶

The Gandhi Peace Foundation survey categorised bondage into intergenerational bondage, child bondage, and loyalty bondage, bondage through land allotment and widow bondage.²⁷ Here again, the vulnerable groups like women and children and other weaker sections, are easily susceptible to bondage labour, as they are easy to coerce. Most of these bonded labourers are easily taken into several industries such as woollen, carpet²⁸ and silk weaving, gem cutting and polishing. Among the employers 89 per cent were agriculturalists. Child bonded labour has also been identified in the circus industry as well as in domestic work.²⁹

The NCEUS identifies weaker sections of society as the Scheduled Castes (61.5 per cent), Scheduled Tribes (25.1 per cent) and other backward classes, who account for nearly 76 per cent of all reported cases of bonded labour in India. These sections would be proportionately represented within the 10 per cent of bonded child labour as well. The number of cases actually reported by the government shows a tremendous decline in the instances of bonded labour. If these figures are to be relied upon then the problem appears miniscule. In the year 2005-06 the Director General of Labour Welfare of the Ministry of Labour reported only 304 cases of bonded labour.³⁰

In 2005, 456 children were rescued from sweatshops in Mumbai; most of the children working were to be found in abject conditions of work. Most of them were from Bihar and West Bengal. They were either trafficked, or were migrants who had come looking for work.³¹ Subsequent raids in the zari industry in Delhi and Mumbai tell a similar tale. The children in the latest raid were found in extremely confined conditions. "If we had not reached them the children would have suffocated," says Santosh, a member of the taskforce. Apparently, their employers had forced them into tiny, concealed rooms in an attempt to hide them when they heard the raids were taking place. This way they had managed to escape an earlier raid. The children were exposed to harmful materials like acids and other hazardous chemicals used to make jewellery; these were found stored in the same rooms the children worked in, sometimes for over 12 hours a day. "Gas cylinders and furnaces used to melt gold for ornaments posed a further danger to their health and safety", says Santosh.

Child Labour – Migration and Trafficking

Migration has been a sporadic process that has occurred over the past decade, which has decidedly given rise to child labour. Forced migration, for example where villages are taken over by multinationals to establish a production unit, or development



26 Ibid.

27 <http://www.labour.nic.in/annrep/files2k1/lab9.pdf>. and National Commission for Enterprises in the Unorganised Sector. Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector. August 2007. pp 106.

28 The carpet weaving industry in India has had a very high incidence of child labour, including a sizeable proportion of migrant child labourers who work under the worst possible conditions of bondage. Estimates of the size of the problem vary. Moreover, the nature of the industry has changed rapidly since 1996 with a shift towards home based production and production in new districts in the states of Uttar Pradesh, Bihar, Madhya Pradesh, and elsewhere. The old core districts of Bhadohi, Varanasi and Mirzapur in Uttar Pradesh still employ a very large number of workers. But the industry has now expanded to the districts of Allahabad, Kaushambi, Jaunpur and Sonbhadra. Source: <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1026&context=child>.

29 National Commission for Enterprises in the Unorganised Sector, Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, August 2007, pp. 105.

30 Ibid.

31 291 child labourers rescued from jewellery units in Mumbai.. <http://infochangeindia.org/200506294454/Children/News-Scan/291-child-labourers-rescued-from-jewellery-units-in-Mumbai.html>

project has been a phenomenon that has been occurring over the past years, and has had a spillover effect, causing poverty, internally displaced people, and large-scale migration to large cities, which are unable to handle the influx. On the other hand migration is forced due to socio-economic reasons.³² Migrant casual workers belong to the poorest sections of the population characterised by meagre human capabilities and capital assets. Migrant labourers primarily belong to socially deprived groups such as Scheduled Castes and Scheduled Tribes and other weaker sections of the society.³³ Most migrant workers are not permanent settlers – they are temporary settlers, and move from place to place in search of livelihood. According to the Census 2001, nearly 13 per cent of the migrant population, moved with their entire household, which included children. These migrant households carry lock and stock, and the entire household is often involved in casual labour in order to earn a living. The children in the family are forced into exploited labour, to sustain their families. In several cases (as was the case of child labour in the iron ore mines in the last HAQ report) entire families, including children, work. Most often, only one member of the family is officially on the rolls and therefore there is no record to show the employment of children.³⁴

Although a clear link between the trafficking of children and child labour has now been fairly well established, it would be incorrect to say that every working child who is from another state is a trafficked child. This lack of clarity is seen in the Protocol on Prevention Rescue Repatriation and Rehabilitation of Trafficked and Minor Child Labour as well. The difference between migration and trafficking needs to be understood well. While everyone has a right to migrate, the internationally accepted definition of human trafficking given in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, clearly lays down that any migration or movement of children into exploitative labour automatically amounts to child trafficking. This ought to have been clearly established in the protocol of the Ministry of Labour as well.

The Working Group on Child Labour for the Eleventh Five Year Plan has recommended that there is an immediate need to develop a special strategy to deal with the unique circumstances of migrant child workers. “Strong rehabilitative measures in the states, to which these children belong, would help to keep them from migrating from their homes. Those children, who have migrated to metropolitan cities without their parents, also need to be appropriately rehabilitated through a provision of residential schools so that they get food, shelter along with education and skill training in these cities”.³⁵

Half-hearted Attempts at Tackling the Problem

The law governing child labour is weak. It merely puts a ban on certain occupations and processes with no mechanism in place to implement that ban. The compensation provided under the Supreme Court Judgement³⁶ is a paltry Rs. 20,000 paid by the employer for violation of the Act, and a job for an adult member of the family to be provided by the government (In case no job is provided to an adult, an additional Rs.5,000 will be paid by the state government). The



32 In Asia, ILO research shows this close link between the pressure to migrate from rural areas and vulnerability to trafficking. While some victims – male and female – are actually sold to traffickers by relatives or “friends”, most human trafficking occurs during the course of voluntary but ill-prepared and uninformed migration. Often naive and under-educated, many children and young women are tempted to leave their rural villages in search of work. While some are simply searching for adventure in the big city and a new start in life, many are seeking to escape poverty. www.2.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-i-b.pdf.

33 Report on conditions of work and promotion of livelihoods in the unorganised sector. www.nceuis.nic.in.

34 HAQ: Centre for Child Rights, Status of Children in India, Inc. 2005, pp 171.

35 Planning Commission, Report of the Working Group on Child Labour for the XI th Five Year Plan. Undated, pp. 31.

36 ((1991).1.SCC 283); ((1996). 6. SCC.756); AIR 1997 SC 699.

Table 7: Data on Enforcement of Child Labour (Prohibition & Regulation) Act, 1986

(based on reports recieved from the State Government & CLC)

Year	No of Inspections carried out	No. of violations detected	Prosecutions launched	Convictions	Acquittals
1997-98	288150	25909	19496	6073	157
1998-99	222856	11263	6469	4125	725
1999-2000	242269	7598	3972	1333	356
2000-01	189842	10537	2398	1036	343
2001-02	449042	16604	9201	1799	606
2002-03	372504	28850	5660	1717	2229
2003-04	346212	26411	9221	4013	642
2004-05	244223	16632	2609	1385	447
Total	2353098	143804	59026	21481	5505

Source: <http://labour.nic.in/cwl/EnforcementFiguresonchildLabour.pdf>

compensation goes to Child Labour Rehabilitation-cum-Welfare Fund. In HAQ's last status report, it had been observed, "...nor is there is anything on the number of families assisted with employment for the adult nor with a compensatory amount being deposited in the fund. Second, there has been hardly any prosecution....".³⁷ This situation has changed very little since then. The Annual Reports of the Ministry of Labour provide the same information year after year. Till recently, there was little information by way of data on child labour or convictions under the Act. The government has only now started reporting on criminal prosecutions on its website – inspections conducted; violations detected; prosecution; acquittals and convictions produced from these administrative measures (Table VII and Annexure III Tables II, III, IV and V). The Trafficking Persons Report, 2007³⁸ has commented that efforts to combat forced child labour remained uneven throughout the country, varying greatly from state to state. Following the October 2006 ban on the employment of children in domestic work or in the hospitality industry, state governments had identified 1,672 violations of this ban, based on the 23,166 inspections they had conducted as of December 2006. What needs a mention is that the different data on prosecution and conviction that are made available by the government itself differs.

The National Child Labour Project (NCLP) Scheme is the oldest initiative of the government started in 1988 has targetted only children in the hazardous occupations and the child labour endemic districts. It continues to be assumed that children who are working with the family or in a family based set-up are protected from hazards and therefore not brought under NCLP.

In the Special Schools under the NCLP, besides formal education, children are provided with a stipend of Rs.100/- per month, nutrition, vocational training and regular health check ups. The coverage of the NCLP Scheme has increased from 12 districts in 1988 to 100 districts in the Ninth Plan to 250 districts during the Tenth Plan.³⁹ It was also decided in the Tenth Plan that the strategy of the programme would be revised, whereby all working children in the 5-9 year age group would be enrolled directly under the Sarva Shiksha Abhiyaan, and those in the 9-14 age group would be enrolled in the Special Schools under the NCLP scheme. It was also decided that at least two surveys of the endemic districts would be conducted to get a more realistic and correct assessment of the number of child labour. Further, the nutritional component was doubled in the Tenth Plan from Rs.2.50 per child per day to Rs.5. Besides, components of health care and vocational training were also greatly reinforced under the Tenth Plan. Project Societies can now engage a doctor for conducting health

The government has over the years started many schemes, which are aimed at the rescue and rehabilitation of children trapped into child labour. However, the problem remains. That is because of the lack of a clear understanding of the problem based on proper data.

37 HAQ: Centre for Child Rights, Children in Globalising India. The Working Child, 2002. pp. 295.

38 US Department of State, Office to Monitor and Combat Trafficking in Persons, The in Trafficking Persons Report, 12 June. 2007. Country Narrative. <http://www.state.gov/bureau/public/affair>

39 Government of India, Ministry of Labour. labour.nic.in/cwl/ChildLabour.htm.

check ups for every 20 schools at an honorarium of Rs. 5,000 per month. Provision of Rs. 5,000 per month was also made to engage a master trainer in the district to impart specialised skill training to vocational instructors and children in skills/trades, which are financially rewarding. In addition, funds of Rs. 1,500 per teacher were earmarked for their training and skill upgradation during the Tenth Plan, with a view to improve the quality of teaching in NCLP schools.⁴⁰

Of the 150 districts sanctioned as part of the Tenth Plan, projects in only 86 districts have been operationalised and although the scheme was expanded from 100 to 250 districts in the Tenth Plan, it still left out more than half of the country from its ambit.⁴¹ Pointing out to the sharp increase in child labour between 1991 and 2000 the Report of the Working Group on Child Labour for the Eleventh Five Year Plan notes that the efforts made in UP were not commensurate to the extent of the problem as is the case with Rajasthan and West Bengal. It has pointed out that the pre-vocational training imparted in the NCLP schools at present is not based on the market demand and the vocational instructors are also not well trained in newer and innovative avocations which could be a very important enabling factor in the retention of these children in the special schools.

Apart from NCLP, the joint INDO-US project (known as the INDUS Child Labour Project) which began in 2004, reached its completion in 2007. This was to be implemented in 21 districts of five states – Tamil Nadu, Uttar Pradesh, Madhya Pradesh, Maharashtra and Delhi. This scheme was based on the NCLP scheme with some additional interventions. UP, one of the states where this project was implemented, has recorded an increase in the number of child workers from the last Census.⁴² Initiatives under this will henceforth be part of NCLP. The other two initiatives are ILO IPEC in Andhra Pradesh and Karnataka. As per the Census, there seems to have been some fall in the number of child labour in these states, but whether this can be attributed to the above programmes is not quite clear.

Despite expansion has left out more than half the country from its ambit. It adds that the pre vocational training imparted in the NCLP schools at present is not based on the market demand and the Vocational Instructors are also not well trained in newer and innovative avocations which could be very important enabling factor in retention of these children in the special schools.

Working Group on Child Labour for the 11th Five Year Plan

Table 8: Status of Operationalisation of New Projects during the 10th Plan

State	Number of new projects Sanctioned	Number of new projects operationalised
Andhra Pradesh	1	1
Assam	3	1
Bihar	21	3
Chhattisgarh	3	1
Gujarat	9	1
Haryana	3	Nil
Jammu & Kashmir	3	Nil
Jharkhand	4	2
Karnataka	12	5
Madhya Pradesh	14	11
Maharashtra	11	5
Mizoram	1	Nil
Nagaland	1	Nil
Rajasthan	17	16
Tamilnadu	5	4
Uttar Pradesh	36	31
Uttanchal	1	Nil
West Bengal	10	5
Total	156*	86

*Note: Six additional districts were taken up during the 10th Plan in lieu of districts selected under the INDUS Project

Source: Working Group on Child Labour for the 11th Five -Year Plan Page 14

Experience of the INDUS project has shown that this scheme too needs to provide employable vocational training as well as encourage child labour families to positively change their behaviour in withdrawing children from work and putting them in schools. The Working Group has also noted in its report that there has been a high rate of dropouts from these schemes, and one of the reasons quoted has been the inability of the scheme to develop alternative means to livelihood. Commenting on the important component of mainstreaming, the report says that although children have already been mainstreamed through this scheme, the questions pertaining to the quality of education and skills provided remain and that the education rarely came to comparable standards of education, the teachers and trainers who were engaged in the

40 Working Group on Child Labour for the 11th Five -Year Plan, pp.12.

41 Working Group on Child Labour for the 11th Five -Year Plan, pp.12.

42 Ibid. pp. 19.

scheme were hardly equipped to deal with the situation and train the children who were rescued from extreme situations.⁴³ According to the Working Group Report the vocational training given through the scheme is at best useless or outdated. “Although vocational training has been a component in the NCLP Scheme since beginning, the skills provided have been limited to the stereo-type old trades like Sewing, Tailoring, Embroidery, Wool Knitting, Bag-making, painting, Carpentry, Book-binding and toy making”.

Conclusion

The existence of child labour is a clear violation of child rights. But it is not just a child rights problem. It is a manifestation of faulty developmental planning and implementation, as well as continuing socio-economic exclusion and discrimination. In the wake of globalisation and privatisation, not only are children finding themselves in newer and occupations, they are also being forced to drop out schools to supplement family incomes because of cost of illnesses in the family, armed conflict and forced displacement in the name of development.

It is also manifested in the disharmony that continues to exist in the laws that govern children – the child labour law and the fundamental right to elementary education; the child labour law and the juvenile justice law. Unless there is a political recognition that all children must be in school and parents and communities must be empowered, socially and financially to ensure this, India will continue as the country with the largest number of child labour in the world.

Child labour is a concrete manifestation of denial of the rights of the children, including their right for a decent living, education and right for free mental and physical growth. With the estimates of child labour falling short of actual prevalence because of multiplicity of concepts and different methods of estimation, the problem cannot be treated as a fringe phenomenon”.

Helen Sekar, Impact of Technological Change in the Demand for Child Labour in the Brassware Industry of Moradabad, NLI Research Studies Series No.074/2007

43 Report of the Working Group on Child Labour for the 11th Plan Period.

Annexure - I

List of Hazardous occupations and processes under CLPRA

The Schedule

(See Sec.3)

PART A

Occupations

Any occupation concerned with: -

1. Transport of passengers, goods or mails by railways;
2. Cinder picking, clearing of an ash pit or building operation in the railway premises;
3. Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from the one platform to another or in to or out of a moving train;
4. Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
5. A port authority within the limits of any port;
- * (6) Work relating to selling of crackers and fireworks in shops with temporary licenses;
- # (7) Abattoirs/Slaughter House;
- \$ (8) Automobile workshops and garages;
9. Foundries;
10. Handling of toxic or inflammable substances or explosives;
11. Handloom and power loom industry;
12. Mines (underground and under water) and collieries;
13. Plastic units and fiberglass workshops;
14. Domestic workers or servants and
15. Dhabas (roadside eateries), restaurants, hotels, motels, tea shops, resorts, spas or other recreational centers.

PART B

Processes

1. Beedi - making.
2. Carpet - weaving.
3. Cement manufacture, including bagging of cement.
4. Cloth printing, dyeing and weaving.
5. Manufacture of matches, explosives and fireworks.
6. Mica - cutting and splitting.

7. Shellac manufacture.
8. Soap manufacture.
9. Tanning.
10. Wool - cleaning.
11. Building and construction industry.
- * (12) Manufacture of slate pencils (including packing).
- * (13) Manufacture of products from agate.
- * (14) Manufacturing processes using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos.
- # (15) "Hazardous processes" as defined in Sec. 2 (cb) and 'dangerous operation' as noticed in rules made under section 87 of the Factories Act, 1948 (63 of 1948)
- # (16) Printing as defined in Section 2(k) (iv) of the Factories Act, 1948 (63 of 1948)
- # (17) Cashew and cashewnut descaling and processing.
- # (18) Soldering processes in electronic industries.
- \$ (19) 'Aggarbatti' manufacturing.
20. Automobile repairs and maintenance including processes incidental thereto namely, welding, lathe work, dent beating and painting.
21. Brick kilns and Roof tiles units.
22. Cotton ginning and processing and production of hosiery goods.
23. Detergent manufacturing.
24. Fabrication workshops (ferrous and non ferrous)
25. Gem cutting and polishing.
26. Handling of chromite and manganese ores.
27. Jute textile manufacture and coir making.
28. Lime Kilns and Manufacture of Lime.
29. Lock Making.
30. Manufacturing processes having exposure to lead such as primary and secondary smelting, welding and cutting of lead-painted metal constructions, welding of galvanized or zinc silicate, polyvinyl chloride, mixing (by hand) of crystal glass mass, sanding or scraping of lead paint, burning of lead in enameling workshops, lead mining, plumbing, cable making, wiring patenting, lead casting, type founding in printing shops. Store type setting, assembling of cars, shot making and lead glass blowing.
31. Manufacture of cement pipes, cement products and other related work.
32. Manufacture of glass, glass ware including bangles, florescent tubes, bulbs and other similar glass products.
33. Manufacture of dyes and dye stuff.
34. Manufacturing or handling of pesticides and insecticides.
35. Manufacturing or processing and handling of corrosive and toxic substances, metal cleaning and photo engraving and soldering processes in electronic industry.
36. Manufacturing of burning coal and coal briquettes.
37. Manufacturing of sports goods involving exposure to synthetic materials, chemicals and leather.
38. Moulding and processing of fiberglass and plastic.

39. Oil expelling and refinery.
40. Paper making.
41. Potteries and ceramic industry.
42. Polishing, moulding, cutting, welding and manufacturing of brass goods in all forms.
43. Processes in agriculture where tractors, threshing and harvesting machines are used and chaff cutting.
44. Saw mill – all processes.
45. Sericulture processing.
46. Skinning, dyeing and processes for manufacturing of leather and leather products.
47. Stone breaking and stone crushing.
48. Tobacco processing including manufacturing of tobacco, tobacco paste and handling of tobacco in any form.
49. Tyre making, repairing, re-treading and graphite benefication.
50. Utensils making, polishing and metal buffing.
51. ‘Zari’ making (all processes)’.
52. Electroplating;
53. Graphite powdering and incidental processing;
54. Grinding or glazing of metals;
55. Diamond cutting and polishing;
56. Extraction of slate from mines;
57. Rag picking and scavenging.

Notes:

1. for item (2), the following item shall be substituted, namely:-
‘(2) carpet weaving including preparatory and incidental process thereof’;
2. for item(4), the following item shall be substituted, namely:-
“(4) cloth printing, dyeing and weaving including processes preparatory and incidental thereto: c. for item (11) the following shall be substituted, namely:- “(11) Building and Construction Industry including processing and polishing of granite stones”.

* Ins. by Notification No. S. O. 404(E) dated the 5th June 1989 published in the Gazette of India, Extraordinary.

Ins. by Notification No. S. O. 263 (E) dated 29th March, 1994 published in the Gazette of India, Extraordinary.

\$ Ins. Sr. No. 8-13 in Part A and Sr. No. 19-51 in Part B by Notification No. S. O. 36 (E) dated 27th January 1999 published in the Gazette of India, Extraordinary.

@ Ins.Sr. No. 52 – 57 part B By Notification No. S.O. 397 (E) dated the 10th May 2001 published in the Gazette of India, Extraordinary.

** Ins.Sr. No. 14 & 15 Part A by Notification No. S.O. 1742 (E) dated the 10th October10, 2006 published in the Gazette of India, Extraordinary.

Source: <http://labour.nic.in/cwl/ChildLabour.htm>

Annexure - II

National Commission for Protection of Child Rights Government of India, New Delhi

(April 30, 2008)

Guidelines On Abolition Of Child Labour & Preparation For World Day Against Child Labour-June 12, 2008

The issue of existence of child labour even after sixty years of independence is unacceptable and must be a matter of concern for all citizens in the country. Often child labour is justified by arguing that children's parents need their income or that it is impractical to remove child labour at one go. This has resulted in perpetuation of child labour and compromising on children's rights.

The perspective of the National Commission for Protection of Child Rights is that it is possible to abolish child labour if a wholehearted effort is made in this direction, both by the government and also the citizens in our country. This understanding is based on the innumerable efforts and success stories of the initiatives of the government as well as the NGOs in various states and regions in India. It is also based on the experiences of parents of erstwhile child labour who are making enormous sacrifices to see that the education of their children is not disrupted until they finished at least class ten. It has been recorded that there has been a profound change in even those parents who initially resisted the idea of their children being withdrawn from work. They owned up with pride the transformation of their child from a child labour to a student. In this sense it was just a matter of time before they gained confidence to support their child's education and yearn for it. This is to say that if we repose faith in the poor, they are capable of partnering in the endeavor to abolish child labour.

Further in NCPCR's perspective it is impractical for children to be suffering lack of childhood as child labourers and denied their right to education. There is a need to protect them from exploitation and give them all their entitlements as a matter of right. This must be done with a sense of urgency.

The following guidelines are issued to all the States to make sure that there is a total abolition of child labour and every child attends full time formal school.

Enforcement of law

- The Child Labour (Prohibition and Regulation Act) 1986 prohibits child labour in 15 occupations and 57 processes (The Schedule-Part A and Part B). The labour department must book cases against the employers and issue strict warning to all the potential employers. This must be taken up as a drive, area- wise through mobile labour courts and a plan of action for pursuing the cases that have been booked must be in place.
- The Juvenile Justice Act 2006, a welfare legislation, has been enacted to provide for care, protection development and rehabilitation of neglected, delinquent children and includes within its purview, child labourers. Section 2 (d) (ia) includes 'working children' within the definition of a 'child in need of care and protection'. The JJ Act, under section 2 (k) defines a 'Child' as "...a person who has not completed eighteenth years of age." Consequently this Act is much wider than the Child Labour Act, as it affords protection, care and cover to all children upto the age of 18 years as against the Child Labour Act which prohibits employment of children only upto 14 years of age. In other words, the JJ Act covers child labour which is not prohibited under the Child Labour Act.
- The Bonded Labour System Abolition Act, 1976 must be used as an instrument to book cases against employers of children. It is noted that most children work against advances taken by their families. Such children are also working mostly as migrant labour. The vigilance committees under the Act have to be activated and the revenue and labour department must enforce the law strictly. It must be recognized that there is no age restriction to book cases under the Act and the burden of proof that there is no advance involved is that of the concerned employer.
- In addition, the Contract Labour (Regulation and Abolition) Act, 1970 can be used to prosecute the principal employer in cases where the engagement of child labour has been done through a contractor. This practice is common

and used by many companies to absolve themselves of any liability. This Act draws on the principle of ‘vicarious liability’ and can be used effectively to prevent companies and contractors from engaging child labour.

All the above Acts together would cover most children who are in the labour force including agriculture and allied activities and must be used individually and / or collectively, by the government and other stakeholders to take firm action against the employers concerned. It must be understood that strict enforcement of the law should in itself act as a deterrent to the employers to engage child labour. Further children are being engaged to work because they are a source of cheap labour and can be forced to work for long hours. It is no favour done to the child but is a factor of cutting the costs for the employer.

At the same time all public sector institutions, government undertakings, government funded institutions and government offices must declare a code of conduct for all its employees not to engage children as domestic workers or encourage child labour in any form in their work places.

Provision of Education and Rehabilitation

The Sarva Siksha Abhiyan (SSA) and the education department must take up the responsibility for rehabilitating children through its Residential Bridge Courses (RBC) and mainstream them into formal schools. In fact they have to be assigned to the schools even as students in the RBC.

National Child Labour Project (NCLP) must be utilized for the initial transitional support, for counselling and giving comfort to the child rescued from labour force, especially in the case of those children under trauma or children working as migrant labour.

The Child Welfare Committee must be involved in ensuring that the rescue and rehabilitation operations are child friendly and track every child till they are rehabilitated. They should also ensure that the health and other care are properly delivered to the child.

The program for rehabilitation of children must be by providing all facilities for the child to be integrated into the school system. Given the SSA and NCLP it is eminently possible to address this issue. There are also the Kasturba Gandhi Balika Vidyalaya (KGBV), social welfare hostels, ashram schools which are also to be utilized to the fullest extent possible. All mainstream education systems and supportive structures hostels should be accessed to mainstream child labour into education system.

Campaign and Public Awareness

There is also a need to galvanize the energy of one and all in creating a mass movement against child labour and for children’s rights to education. Action plans to conduct publicity drives, enlisting support of all government officials, NGOs, teachers and trade unions, political parties, corporate sector , college students and all others in systematic fashion is necessary. Media involvement is a must!

Coordinated Action at all Levels

The successful attainment of a child labour free society would largely depend on the coordinated action between all the departments concerned. It is absolutely essential that the relevant Government departments (i.e. Labour, Education, Women and Child, Revenue, health, police, etc) work together to implement the existing legislation(s) and policy towards eradicating child labour, promoting rescue and rehabilitation of such children, and facilitating formal education which is a fundamental right guaranteed to all under the Constitution of India. It is cannot be emphasized enough that unless there is a coordinated and sincere effort by and between all the stakeholders, child labour will continue to persist and fester.

The District Collectors are directed to draw up specific action plans to take up all the above tasks. This year, the International Labour Organization has declared the theme of ‘Child Labour and Education’ on the occasion of the World Day against Child Labour Day on June 12th 2008. As a preparation, it would be appropriate to take all actions to culminate in celebrations at the gram panchayats the successes of the initiatives on abolition of child labour and provision of education for released child labourers.

The Chief Secretaries may also plan for the celebration of the World Day against Child Labour on June 12, 2008 at the State level, and involve the entire government apparatus to give publicity to the number of cases booked and numbers of child labour rescued and sent to schools.

Annexure - III

Table I: State-wise Distribution of Working Children according to 1971,1981,1991&2001, Census in the Age Group of 5-14 years

S. No.	Name of the state /UT	1971	1981	1991	2001
1	Andhra Pradesh	1627492	1951312	1661940	1363339
2	Assam*	239349	**	327598	351416
3	Bihar	1059359	1101764	942245	1117500
4	Gujarat	518061	616913	523585	485530
5	Haryana	137826	194189	109691	253491
6	Himachal Pradesh	71384	99624	56438	107774
7	Jammu & Kashmir	70489	258437	**	175630
8	Karnataka	808719	1131530	976247	822615
9	Kerala	111801	92854	34800	26156
10	Madhya Pradesh	1112319	1698597	1352563	1065259
11	Maharashtra	988357	1557756	1068427	764075
12	Chhattisgarh				364572
13	Manipur	16380	20217	16493	28836
14	Meghalaya	30440	44916	34633	53940
15	Jharkhand				407200
16	Uttaranchal				70183
17	Nagaland	13726	16235	16467	45874
18	Orissa	492477	702293	452394	377594
19	Punjab	232774	216939	142868	177268
20	Rajasthan	587389	819605	774199	1262570
21	Sikkim	15661	8561	5598	16457
22	Tamil Nadu	713305	975055	578889	418801
23	Tripura	17490	24204	16478	21756
24	Uttar Pradesh	1326726	1434675	1410086	1927997
25	West Bengal	511443	605263	711691	857087
26	Andaman & Nicobar Island	572	1309	1265	1960
27	Arunachal Pradesh	17925	17950	12395	18482
28	Chandigarh	1086	1986	1870	3779
29	Dadra & Nagar Haveli	3102	3615	4416	4274
30	Delhi	17120	25717	27351	41899
31	Daman and Diu	7391	9378	941	729
32	Goa	4656	4138		
33	Lakshadweep	97	56	34	27
34	Mizoram ***		6314	16411	26265
35	Pondicherry	3725	3606	2680	1904
	Total	10753985	13640870	11285349	12666377

Source: Census of India.

Note: *1971 Census figures of Assam includes figures of Mizoram.

**Census could not be conducted.

***Census figures 1971 in respect of Mizoram included under Assam.

****Includes marginal workers also.

Table II: Inspections Conducted

Name of state / UT	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	Total
Andmn & Nico I. U.T.	0	2	5	9	9	0	9	23		57
Andhra Pradesh	41159	13018	18176	36351	37819	16218	29355	14736		206832
Arunachal Pradesh	0	0	0	0	0	0	36	199	199	434
Assam	4110	2950	1699	356	1768	1633	1888	497		14901
Bihar	11899	9560	14313	11684	48415	44295	36835	22800		199801
Chandigarh U.T.	0	0	0	0	598	502	1965	251		3316
Chhattisgarh	3480	2880	580	335	608	896	966	1427		11172
Dadra & Nagar H. U.T.	51	58	62	65	0	0	670	0		906
Daman & Diu U.T.	180	500	450	470	490	215	310	405		3020
Delhi U.T.	16424	1500	1671	1304	1609	1482	1017	1400		26407
Goa	1990	168	6	43	20	0	218	147		2592
Gujarat	2985	2657	2210	3438	600	1002	323	47		13262
Haryana	49	150	126	36	1985	2819	2830	1200		9193
Himachal Pradesh	0	0	0	0	1558	1843	1749	1096		6246
Jammu & Kashmir	0	3	119	657	530	842	2393	2600		7144
Jharkhand	0	0	0	0	3005	3096	4086			10187
Karnataka	5213	9926	12009	17189	20240	18616	17427	16253		118873
Kerala	1112	2343	136	0	1307	3400	1746	606		10650
Lakshadweep U.T.	0	0	0	0	0	0	0	0		0
Madhya Pradesh	8641	8106	963	1073	3392	3381	1101	5319		31976
Maharashtra	10095	15621	14194	5550	66276	858	13170	27228		152992
Manipur	0	0	0	0	5	105	132	244		486
Meghalaya	328	193	216	185	00	851	205	229		2207
Mizoram	0	0	0		0	0	0	0		0
Nagaland	0	00	0	0	0	0	6681	6750		13431
Orissa	373	314	192	174	231	167	163	239		1853
Pondicherry U.T.	9355	8604	8910	12951	12745		12497	494		69846
Punjab	2290	1934	2466	1810	2925	2005	4389	1320		19139
Rajasthan	832	1524	2946	829	13430	6019	3603	2832		32015
Sikkim	0	0	0	0	0	0	0	0		0
Tamil Nadu	117875	122769	140465	91842	215227	247582	176025	120265		1232050
Tripura	270	35	77	10	10	153	336			891
Uttar Pradesh	0	0	0	0	1677	2058	8496	3		12234
Uttaranchal	25654	3608	4581	956	1099	525	2589	847		39859
West Bengal	23785	14433	15697	535	9496	9467	10726	6517		90656
Total	288150	222856	242269	189842	447074	370028	343936	240274	199	2344628

Source: <http://labour.nic.in/cwl/EnforcementFiguresonchildLabour.pdf>

Table III: Violations Detected

Name of state / UT	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	Total
Andmn & Nico I. U.T.	0	6	19	17	9	0	0	23	74
Andhra Pradesh	15025	3011	2948	8917	7617	8398	16395	9211	70922
Arunachal Pradesh	0	0	0	0	0	0	0	13	13
Assam	159	35	13	18	116	119	38	48	546
Bihar	987	504	581	548	3719	5480	5431	4332	21582
Chandigarh U.T.	0	0	0	0	0	0	0	0	0
Chhattisgarh	386	91	6	44	19	4	0	0	550
Dadra & Nagar H. U.T.	0	0	0	0	0	0	0	0	0
Daman & Diu U.T.	0	0	0	0	0	0	0	0	0
Delhi U.T.	552	26	20	0	207	98	209	243	1355
Goa	35	0	0	0	0	0	0	0	35
Gujarat	207	157	29	95	36	7	177	320	1028
Haryana	0	0	0	1	52	15	42	40	150
Himachal Pradesh	0	0	0	0	4	0	0	0	4
Jammu & Kashmir	0	0	6	25	16	5	9	2	63
Jharkhand	0	0	0	0	101	103	444		648
Karnataka	127	4849	694	773	1079	350	1508	1434	10814
Kerala	45	267	247	0	0	1	31	2	593
Lakshadweep U.T.	0	0	0	0	0	0	0	0	0
Madhya Pradesh	800	146	10	97	51	35	28	54	1221
Maharashtra	316	133	123	5	1390	0	124	70	2161
Manipur	0	0	0	0	0	0	0	0	0
Meghalaya	0	0	0	5	0	0	0	0	5
Mizoram	0	0	0	0	0	0	0	0	0
Nagaland	0	0	0	0	200	0	0	0	200
Orissa	352	128	19	62	135	110	162	177	1145
Pondicherry U.T.	0	0	0	0	0	11511	0	0	11511
Punjab	22	8	3	3	17	0	36	2	91
Rajasthan	0	0	0	0	521	26	8	12	567
Sikkim	0	0	0	0	0	0	0	0	0
Tamil Nadu	1908	496	343	147	0	1938	737	553	6122
Tripura	11	0	0	0	0	0	0		11
Uttar Pradesh	4069	170	1261	323	947	493	860	0	8123
Uttaranchal	49	0	37	4	19	8	0	0	117
West Bengal	859	1236	1239	53	349	149	172	96	4153
Total	25909	11263	7598	10537	16604	28850	26411	16632	143804

Source: <http://labour.nic.in/cwl/EnforcementFiguresonchildLabour.pdf>

Table IV: Acquittals

Name of state / UT	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	Total
Andmn & Nico I. U.T.	0	0	0	0	0	0	0	0	0
Andhra Pradesh	39	6	2	0	0	0	0	0	47
Arunachal Pradesh	0	0	0	0	0	0	0	11	11
Assam	0	0	0	0	0	0	0	0	0
Bihar	0	0	0	0	0	0	0	0	0
Chandigarh U.T.	0	0	0	0	0	0	0	0	0
Chhattisgarh	0	0	36	23	0	0	0	0	59
Dadra & Nagar H. U.T.	0	0	0	0	0	0	0	0	0
Daman & Diu U.T.	0	0	0	0	0	0	0	0	0
Delhi U.T.	24	0	0	0	0	0	0	0	24
Goa	2	3	13	1	0	3	0	0	22
Gujarat	0	0	0	1	0	5	0	7	13
Haryana	0	0	0	0	0	0	0	0	0
Himachal Pradesh	0	0	0	0	0	0	0	0	0
Jammu & Kashmir	0	0	0	0	0	0	0	0	0
Jharkhand	0	0	0	0	0	0	0	0	0
Karnataka	12	18	48	56	74	178	300	269	955
Kerala	0	2	0	0	0	0	0	0	2
Lakshadweep U.T.	0	0	0	0	0	0	0	0	0
Madhya Pradesh	0	32	18	14	0	1681	45	4	1794
Maharashtra	5	5	12	13	15	0	5	29	84
Manipur	0	0	0	0	0	0	0	0	0
Meghalaya	0	0	0	5	0	0	0	0	5
Mizoram	0	0	0	0	0	0	0	0	0
Nagaland	0	0	0	0	200	0	0	0	200
Orissa	1	1	3	4	13	20	15	0	57
Pondicherry U.T.	0	0	0	0	0	0	1	5	6
Punjab	0	0	6	8	0	0	2	3	19
Rajasthan	25	64	36	105	128	92	8	32	490
Sikkim	0	0	0	0	0	0	0	0	0
Tamil Nadu	9	29	37	15	49	48	108	28	323
Tripura	0	0	5	0	0	0	0	0	5
Uttar Pradesh	40	556	138	95	121	171	154	57	1332
Uttaranchal	0	9	2	3	2	13	0	0	29
West Bengal	0	0	0	0	0	17	4	0	21
Total	157	725	356	343	602	2228	642	445	5498

Source: <http://labour.nic.in/cwl/EnforcementFiguresonchildLabour.pdf>

Table V: Convictions

Name of state / UT	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	Total
Andmn & Nico I. U.T.	0	0	0	0	0	0	0	0	0
Andhra Pradesh	5619	3594	857	592	1365	1365	2158	1109	16659
Arunachal Pradesh	0	0	0	0	0	0	0	0	0
Assam	0	0	0	0	0	0	0	0	0
Bihar	0	2	1	0	0	0	0	0	3
Chandigarh U.T.	0	0	0	0	0	0	0	0	0
Chhattisgarh	2	2	0	0	0	0	0	0	4
Dadra & Nagar H. U.T.	0	0	0	0	0	0	0	0	0
Daman & Diu U.T.	0	0	0	0	0	0	0	0	0
Delhi U.T.	236	11	10	0	0	0	0	0	257
Goa	0	0	0	1	2	4	0	0	7
Gujarat	3	0	12	0	0	3	0	0	18
Haryana	0	0	1	0	46	23	18	3	91
Himachal Pradesh	0	0	0	0	0	3	1	0	4
Jammu & Kashmir	0	0	0	0	0	1	0	0	1
Jharkhand	0	0	0	0	29	7	1	0	37
Karnataka	2	2	36	122	95	78	79	80	494
Kerala	2	2	2	0	0	1	0	0	7
Lakshadweep U.T.	0	0	0	0	0	0	0	0	0
Madhya Pradesh	0	106	19	19	0	17	66	16	243
Maharashtra	6	0	4	5	6	0	8	4	33
Manipur	0	0	0	0	0	0	0	0	0
Meghalaya	0	0	0	5	0	0	0	0	0
Mizoram	0	0	0	0	0	0	0	0	0
Nagaland	0	0	0	0	0	0	0	0	0
Orissa	0	0	1	1	5	0	0	0	7
Pondicherry U.T.	0	0	0	0	0	0	1	1	2
Punjab	0	12	20	1	0	0	23	5	61
Rajasthan	125	168	102	67	106	57	1501	15	2141
Sikkim	0	0	0	0	0	0	0	0	0
Tamil Nadu	63	120	224	176	75	127	132	137	1054
Tripura	0	0	5	0	0	0	0	0	5
Uttar Pradesh	15	106	38	51	57	23	0	10	300
Uttaranchal	0	0	3	1	2	4	0	0	10
West Bengal	0	0	3	0	0	0	0	0	3
Total	6073	4125	1333	1036	1788	1713	3988	1380	21436

Source: <http://labour.nic.in/cwl/EnforcementFiguresonchildLabour.pdf>



child trafficking

“The commercial sexual exploitation and abuse of children is nothing less than a form of terrorism — one whose wanton destruction of young lives and futures must not be tolerated for another year, another day, another hour.”

Carol Bellamy, Former Executive Director of UNICEF

The Times of India, 4th June 2008, carried an extensive report on children going missing in and around the Delhi-Uttar Pradesh border. The report hints at possibilities of the trafficking of children for organs or begging with 46 children going missing from Ghaziabad in Uttar Pradesh between April and May 2008, in the space of a month.

The trafficking of children continues to be a problem that is gaining even greater proportions in the country today. And this is despite the recognition it has received by both government as well as non-governmental organisations as an issue that needs immediate attention. Boys and girls continue to be bought and sold for a number of reasons.

HAQ's 2005 status report stressed the importance of the need to align the differences in the understanding of trafficking, specifically affecting children. Although there is some kind of common understanding of what trafficking involves, there is no single approved strategy to deal with it.

The Palermo Protocol defines trafficking in persons as:

“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.¹

Trafficking has been described by many as modern day slavery, as there are virtually no differences in the ways in which people are now trafficked as compared with the ways in which traditional slaves were bought and sold in earlier centuries. Slavery practices traditionally involved the sale and purchase of human beings as chattel, treating them as commodities that could be bought and sold. The owner maintained absolute rights over the slaves, who were considered his private property. 2007 marked the 200th anniversary of the abolition of the slave trade. However, recent reports by the UN and NGOs suggest that the slave trade is very much alive and one of the worst manifestations of this is through trafficking of both adults and children. An article in the UN Chronicle claims that “slavery is back in full force”, and that it is no longer restricted to young Africans; millions of women and children are enslaved in almost every continent.² With 27 million people across the world enslaved, there are now many more slaves than when the traditional trade was at its height four hundred years ago.

The traditional belief that poverty is the only cause of trafficking is now being challenged by other factors, such as displacement, conflict and gender discrimination which, coupled with economic insecurity, allow the trade to continue.

As the government has failed to secure their livelihood, desperation sometimes forces the poorest communities to sell their children in order to survive. Social exclusion based on gender can be seen as a major contributing factor to the risks of being trafficked.³

Recent reports suggest that the slave trade is very much alive and one of the worst manifestations of this is through trafficking of both adults and children.

Woman sells her baby for Rs 21

Muzaffarpur: Driven by hunger, a destitute woman sold her five-day-old daughter to an childless couple for only Rs 21. Rita Devi of Kesaria in West Champaran district, whose husband Jagdish died a few months ago, sold her daughter to Jaleshwar Das and Rajkumari of Paru-Bishunpur village on Thursday.

Rita, according to reports reaching here, stayed at Paru-Bishunpur when she was on her way from Kesaria to Lalganj in Vaishali district to meet her parents. When contacted, Rajkumari said she had given Rs 21 to Rita as she had no money for travel and that the baby would be “returned” to her when she returned. Muzaffarpur’s district magistrate Vinay Kumar said he had asked the sub-divisional officer to inquire into the matter. (PTI)

1 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children, supplementing the United Nations Convention against Transnational Organized Crime.

2 UNICEF, Slavery in the twenty-first century, Howard Dodson, UN Chronicle, 2005.

3 SANLAAP, Concept note prepared for South Asia Consultation on care and protection of survivors of commercial sexual exploitation and trafficking, Kolkata, May 2008.

This chapter will provide an update to the previous report and will focus on:

- Understanding the problem
 - The scale
 - The vulnerability quotient
- Some specific concerns:
 - Trafficking of boys – male prostitution and child sex tourism
 - Trafficking and HIV
 - Trafficking and disasters
 - Trafficking and civil conflict
 - Trafficking and the booming surrogacy industry
 - Illegal adoptions
 - Trafficking and child domestic work
 - Rehabilitation
- Interventions to combat trafficking

Understanding the Problem

The scale

The UN estimates that 246 million children across the world are involved in exploitative labour and that 1.2 million children are trafficked each year. About one million children are exploited in the multi-billion dollar sex industry.⁴ Next to drug and gun trafficking, human trafficking is the third top criminal industry in the world. What used to be reported as a one billion dollar trade annually in early 2000, is now reported to generate a yearly profit of around US\$ 10-12 billion. While the US Federal Bureau of Investigation says that it brings a profit of about US\$ 9.5 billion a year,⁵ the International Organisation for Migration (IOM) contends that Global Human Trafficking is worth US\$ 7-12 billion annually.⁶ A US State Department report has placed India on its second worst category of human trafficking watch list for the fifth year in a row, for allegedly failing to show evidence of increasing efforts to combat the problem.⁷ In the report, India is described as a: “source, destination and transit country for men, women and children trafficked for the purposes of forced labour and commercial sexual exploitation.”⁸ The report also claimed that despite the extent of the trafficking crisis in India, the “government authorities made uneven efforts to prosecute traffickers and protect trafficking victims”.

The UN estimates that 246 million children across the world are involved in exploitative labour and that 1.2 million children are trafficked each year. India is a source, destination and transit country for children trafficked for the purposes of forced labour, entertainment and commercial sexual exploitation.

There are no exact figures for the number of children trafficked each year in India. The number of trafficked persons is difficult to determine as bribery and corruption surrounding the practice render an estimate of its magnitude virtually impossible.⁹ Moreover, discussions on trafficking often still continue to be confined to the problem of prostitution, while the actual purposes of trafficking – and crimes perpetuated through the phenomenon – are actually much broader than sexual exploitation. The trafficking of children occurs for various purposes, such as labour, begging, sexual exploitation,

4 UNICEF, *Slavery in the twenty-first century*, Howard Dodson, UN Chronicle, 2005.

5 Sun-HK, *Human trafficking world's top 3rd criminal industry*, 31 August 2007.

6 IRIN, the humanitarian news and analysis service of the UN Office for the Coordination of Humanitarian Affairs, *South Africa: How heavy is human trafficking?* Friday, 12 September 2008.

7 Howrah News Service, *US watch list slams India for human trafficking*, 6 June 2008.

8 US Secretary of State, *Trafficking in Persons Report*, 2008.

9 SANLAAP, *Concept note prepared for South Asia Consultation on care and protection of survivors of commercial sexual exploitation and trafficking*, Kolkata, May 2008.

pornography, child marriage, adoption, organ trade etc. With the US State Department now recognizing this, the TIP Reports have started providing some information on trafficking in women and children for purposes other than commercial sexual exploitation. The 2007 TIP Report on India states, “Despite India’s huge bonded labour problem, there were no substantial efforts this year to investigate, prosecute, or convict those who exploit bonded labour”.¹⁰ Bachpan Bachao Andolan reports 1 lakh child labourers are in embroidery and zari sweatshops in Delhi and nearly the same numbers in Mumbai and elsewhere, mostly trafficked from Bihar, Jharkhand and West Bengal.¹¹ Moreover, there are also some new dimensions of trafficking that have emerged in the recent past and need to be accounted for such as trafficking in the form of renting a womb for surrogacy.

The National Crime Records Bureau (NCRB)¹² describes trafficking as a group of crimes and not a crime in itself. For the first time in 2006 the NCRB enumerated data on human trafficking. This data however, does not account for nearly four special legislations under which trafficking against children can be said to have been committed. These are:

- (i) Bonded Labour (System) Abolition Act, 1976
- (ii) Juvenile Justice (Care and Protection of Children) Act, Amended in 2006
- (iii) Child Labour (Prohibition and Regulation) Act 1986
- (iv) The Human Organ Transplant Act, 1994.

The National Crime Records Bureau (NCRB) describes trafficking as a group of crimes and not a crime in itself.



Table 1: Purpose-wise and Sex-wise Detail of Kidnapping & Abduction (Sec. 363 to 369, 371 to 373 IPC) During 2006 (All India)

Sl. No.	Purpose	Total No. Reported of Cases	Sex-Wise/Age Group-Wise							
			Up to 10 Years		10 - 15 Years		15 - 18 Years		18 - 30 Years	
			M	F	M	F	M	F	M	F
1	Adoption	107	9	3	2	4	2	3	62	13
2	Begging	23	5	4	6	9	0	0	0	0
3	Camel racing	0	0	0	0	0	0	0	0	0
4	Illicit intercourse	2625	1	13	2	183	0	477	34	1488
5	Marriage	10674	0	5	0	486	19	2111	170	7103
6	Prostitution	340	0	2	0	15	0	131	33	298
7	For Ransom	630	60	9	36	4	28	4	338	34
8	Revenge	471	4	7	13	3	30	6	248	40
9	Sale	12	1	3	0	5	0	2	0	2
10	Selling body parts	1	0	0	0	0	0	0	0	1
11	Slavery	113	1	0	1	1	9	3	82	5
12	Unlawful activity	548	5	5	2	5	3	10	326	79
13	Others	8447	212	210	246	370	240	608	2513	1813
14	Total	23991	298	261	308	1085	331	3355	3806	10876

Source: Table 3.6, Crime in India 2006, National Crime Records Bureau.

¹⁰ US Department of State, Office to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report 2007, Country Narratives, 12 June 2007.

¹¹ Bachpan Bachao Andolan, Child Labour in Garment Industry - Uncovering the Truth, Child Slaves Rescued from Embroidery Sweatshops, 29th October 2007, <http://www.bba.org.in/gap/index.php>.

¹² National Crime Records Bureau, Ministry of Home Affairs, Government of India, Crime in India 2006.

The chapter on human trafficking in NCRB's Crime in India 2006 report fails to take into account offences under certain provisions in the IPC such as kidnapping, unlawful compulsory labour and habitual dealing in slaves, which if enumerated by age and gender would add to the overall human trafficking figure that it presents.

The NCRB records that there has actually been a decline in the cases of certain crimes that are grouped together as trafficking related offences.¹³ It claims that a total of 5,096 incidents of crime under various provisions of law related to trafficking were recorded in the year 2006, which shows a decline from the previous year of 2005, when the number was 6,925.¹⁴ In the year 2006, there were 231 cases of procurement of minor girls, 35 cases of buying of girls for prostitution, 123 cases of selling of girls for prostitution, 99 cases under the Child Marriage Restraint Act, 4,541 cases filed under the Immoral Traffic Prevention Act and 67 cases of importation of girls.¹⁵ The Ministry of Home Affairs estimates that 90 per cent of the trafficking that occurs for sexual exploitation is within the country.¹⁶

Between 2005 and 2006, the increase in cases of kidnapping of children for various purposes as reported by NCRB was as follows:

- Marriage – 54.8 per cent;
- Illicit intercourse – 34.9 per cent;

Begging Becomes Big Business

Ashish Sen

28 Sep 2008 01:15:00 AM IST

FOURTEEN-year-old Guddu begs near the bus stop at Mugappair, sitting cross-legged with a twisted metal bowl on her lap. Passers-by occasionally toss a rupee or two, but it's quite possible they're paying someone else at the same time. Guddu is just one of the many children who ply their trade all across Chennai and the suburbs. The Tamil Nadu chapter of the Indian Council for Child Welfare (ICCW) says hundreds of children are brought into the city from nearby villages every day by an organisation that sends them out to beg, and takes the major part of their earnings. The council estimates their number at around 800.

... According to a member of the state Child Welfare Committee in Chennai, "This is an organised racket which involves huge sums of money. A recent survey by the Madras School of Social Work has estimated the average daily earnings of child beggars in Chennai at Rs.3.25 lakh." The annual income is around Rs15 crore, by a rough estimate. It is no wonder the number of beggars is rising. The profits are enormous.

... The so-called traditional tactics are no longer so effective so the racketeers have decided to diversify in a particularly chilling way. They look for infants, months old at most, suffering from chronic malnutrition and needing immediate care, says one activist. These babies are also put to work.

... They come from poor families and have to work irrespective of fever or disease. Teenage girls suffer the worst. Be it a truck-driver, auto-rickshaw driver or the cops, all look at them as so many sexual opportunities. The girls are helpless as they're poor and without protection. An official of an NGO, seeking anonymity, says many of these girls are sexually abused.

Project officer Louis of Don Bosco Anbu Illam, a non-governmental organisation, says the government should crush these gangs "so that the cancer of child begging can be eliminated". He says this year the organisation has rescued around 25 child beggars. "We give them vocational training and provide them food, shelter and education."

Sri Devi, the project officer of ICCW, says: "The city is almost teeming with child beggars. They not only come from nearby towns and villages, but also from Andhra Pradesh and Kerala." She says it's like a family business. But the police have no such information. "We can act only if some specific complaints are received," they say.

... Bans won't help, she says. Instead, the government should ensure that street children don't fall into the hands of racketeers. "Laws on child rights should be effectively enforced so that no child is maimed for begging and no parent dares to exploit his or her children," she declares firmly.

Source: Indian Express, Express Buzz, Magazine, October 3, 2008

13 This includes offences registered under the IPC sections dealing with buying and selling of minors, procurement of minors and importation of girls, the ITPA and the Child Marriage Restraint Act.

14 National Crime Records Bureau, Ministry of Home Affairs, Government of India, Crime in India 2006.

15 Ibid.

16 Ministry of Women and Child Development, Government of India, Sub Group Report on Child Protection in the Eleventh Five Year Plan 2007-2012.

- Prostitution – 26.5 per cent;
- Begging – 26.3 per cent;
- Slavery – 275.0 per cent;
- Sale – 22.2 per cent.

Kidnapping for adoption, selling of body parts and unlawful activities, however, were reported to have shown a decline of 43.9 per cent, 66.7 per cent and 48.3 per cent respectively.

NCRB does not collect information on missing persons as 'missing persons is not a cognizable crime'.

In response to a Question raised by Mr. K. Chandran Pillai in the Rajya Sabha on 5 October 2007, the Minister of State in the Ministry of Home Affairs, Mr. Manikrao Hodlya Gavit stated that the NCRB does not collect information on missing persons as 'missing persons is not a cognizable crime'. Surely while missing persons is not a cognizable crime, kidnapping is? By and large the police do not file an FIR (First Information Report that leads to investigation) in such cases, but information gathered through the Right To Information Act by a Delhi based NGO, Navsrishti, clearly suggests there are a significant number of cases of missing children where an FIR has been registered under the provisions on kidnapping contained in the Indian Penal Code. Clearly, there is enough confusion within the Police Department on whether reports of missing persons need to be converted into a registered crime of kidnapping or not? While the confusion prevails, children and their families continue to suffer. The response of the Minister further goes on to say that while the NCRB does receive information from the states on missing children merely for the purpose of coordination only, the states do not report back to the NCRB on the number of persons traced or untraced, and hence 'the information is not complete'.¹⁷

Inefficiency in maintaining information on missing children is indeed a cause of worry. In 2006, the Government of India woke up to the Nithari killings in Noida, a satellite town bordering Delhi, where more than 30 children were kidnapped, sexually abused and slaughtered, leading to questions on the possibility of paedophilia as well as trafficking of children for organs. As if the authorities were not

Table 2: State wise Details of Number of Children Missing (Up to the Age of 18 Years) in the Years 2004, 2005 and 2006

Sl.No.	Name of the State	2004	2005	2006
1	Andhra Pradesh	1785	1780	2312
2	Arunachal Pradesh	3	2	2
3	Assam	672	573	889
4	Bihar	NR	NR	NR
5	Chhattisgarh	NR	NR	NR
6	Goa	241	248	225
7	Gujarat	1688	1852	1996
8	Haryana	367	461	461
9	Himachal Pradesh	192	209	197
10	Jammu & Kashmir	102	137	394
11	Jharkhand	NR	NR	NR
12	Karnataka	3050	3355	3495
13	Kerala	413	707	1047
14	Madhya Pradesh	NR	NR	NR
15	Maharashtra	NR	NR	NR
16	Manipur	4	2	7
17	Meghalaya	3	25	17
18	Mizoram	0	0	0
19	Nagaland	0	0	1
20	Orissa	NR	NR	NR
21	Punjab	258	390	404
22	Rajasthan	1854	1866	2107
23	Sikkim	22	120	193
24	Tamil Nadu	2812	1615	1394
25	Tripura	120	155	201
26	Uttar Pradesh	3978	3815	3974
27	Uttarakhand	412	462	458
28	West Bengal	1623	5688	3467
29	A & N Islands	25	9	22
30	Chandigarh	114	163	104
31	D & N. Haveli	13	9	17
32	Daman & Diu	15	15	15
33	Delhi	6390	6926	7025
34	Lakshdweep	0	0	0
35	Pondicherry	46	75	44
	Total (All India)	26202	30659	30468

Note: NR stands for not received.

Source: RSUSQ 2353, 5 October 2007, Monsoon session 2007, Parliament of India.

¹⁷ Rajya Sabha Unstarred Question RSUSQ 2353, 5 Oct.2007, Parliament of India, Monsoon Session 2007

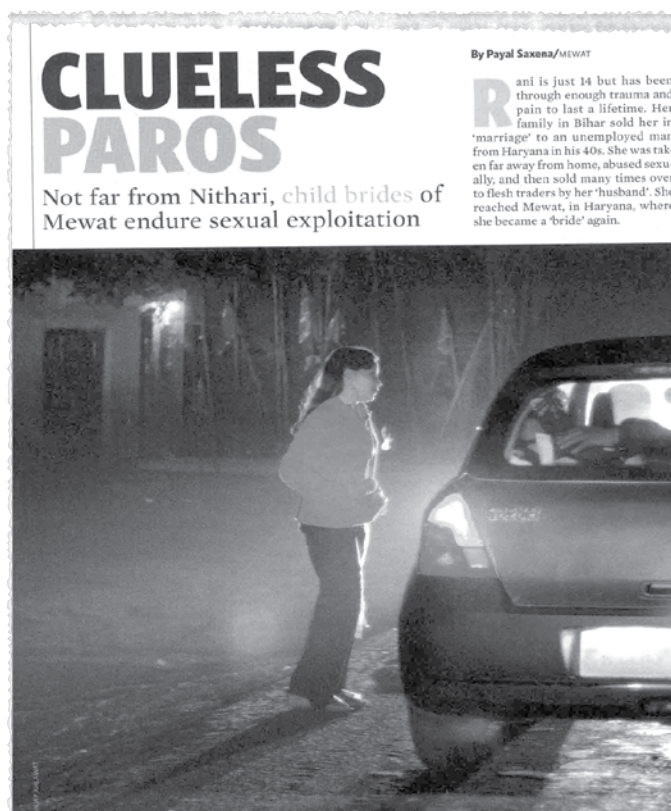
aware of children going missing from the nearby areas, and as if it always has to be a scandal of this magnitude for any action to ever take place!

According to a police report, 3,184 women and 3,840 girl children have gone missing in Assam since 1996.¹⁸ This amounts to around two females per day. Conflict, civil strife, natural calamities and other situations of displacement surely render children vulnerable to all kinds of crimes. Unless these situations too are monitored and documented well enough, a true picture on missing children will never emerge.

The Ministry of Women and Child Development (MWCD) is now in the process of developing a National Website on Missing Children with assistance from UNICEF. Though a laudable attempt, this would be useful only if there is coordination between the Home Ministry and MWCD to ensure one child tracking system and data-base rather than separate but similar efforts by different Ministries, leading to duplication of work and confusion.

While trafficking for prostitution has by far been the most widely reported form of trafficking in women and children, the information available is as usual scattered. The latest NCRB report claims that nearly 93 per cent of the girls sold for prostitution in 2006 across the country came from West Bengal. According to this report the number of girls sold into prostitution has gone up rapidly in recent years. In 2004, only 19 cases of girls being sold into prostitution were reported throughout the country, whereas this number increased to 50 cases in the year 2005, reaching a high of 123 cases in 2006 (more than 500 percent increase since 2004).¹⁹ The Ministry of Women and Child Development admits that there are about three million sex workers in the country, of which an estimated 40 percent are children as there is a growing demand for very young girls to be inducted into prostitution on account of customer preferences.²⁰ A study conducted by SANLAAP, a Kolkata-based NGO, found that large numbers of girls in eight districts of West Bengal are being sold off for child marriage and prostitution.²¹ Between 2004 and 2006, over one hundred girls below the age of 18 were trafficked from two districts in West Bengal, Swaroonpnagar and Basirhat to Mumbai for the purpose of forced prostitution. In some cases, girls are lured away from the families on the pretext of marriage and then sold off to work as prostitutes in the red light districts.²²

Other girls are sold for marriage, but then find themselves instead working in prostitution. Twelve year old Bhavani, born into a poor family in Andhra Pradesh, was sold by her parents to a young man in New Delhi, on the suggestion of a maternal cousin.²⁴ When she arrived in



The trafficking of girls for marriage is on the increase, particularly in the light of the current low sex ratio in many states in India. The Voluntary Health Association of Tripura conducted a survey which revealed that nearly 40 per cent of the girls that are married are minors. They were found to be married to older men, and 32 per cent of the men who they married were from Punjab and Haryana, states where the sex ratio is particularly low.

18 Subir Bhaumik, BBC News, Assam, Assam's Missing Women and the Sex Trade, 10 April 2007, http://news.bbc.co.uk/2/hi/south_asia/6430811.stm.

19 National Crime Records Bureau, Ministry of Home Affairs, Government of India, Crime in India, 2004, 2005 and 2006.

20 Ministry of Women and Child Development, Government of India, Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation, Draft inviting Comments by 27 May, 2007. http://wcd.nic.in/scheme_releases/common_schemes/Ujjawala.

21 SANLAAP, Tracking our children – A brief situational analysis on the trend of migration, child marriage and trafficking in eight districts of West Bengal, April 2006.

22 Ibid.

23 Tehelka, And the unwilling who get trapped, Teresa Rehman, 20 May 2006.

24 ABC News, A promise of a better life lands a 12 year old in a brothel, Charlotte Sector, 15 August 2005.

the capital, she found herself living in a brothel in the city's red light district and was beaten until she agreed to 'take care' of customers. Her "husband" had promised a better life to 12 other brides in the same year.

10,000 children trafficked into NE annually

Shillong, September 19: Not less than 10,000 people, mostly children, are trafficked into the Northeast with a good number smuggled in from Bangladesh, Nepal and other South East Asian countries, surveys by NGOs reveal.

Most of those trafficked are then engaged as cheap labour in coal mines of Meghalaya, tea gardens in Assam and prostitution.

"The region, besides being a transit point of human trafficking, has also emerged as a destination point....

It is estimated that Nepalese children constitute 20 per cent (40,000) of the estimated 200,000 Nepalese prostitutes in India.

"It is estimate that some 6,000 to 10,000 girls are trafficked annually from Nepal to Indian brothels and a similar number are trafficked from Bangladesh. 27,000 Bangladeshi women and children have been forced into prostitution in Indian brothels," a Childline India Foundation report says.

With India sharing a 4,222 kilometre border with 28 districts of Bangladesh, most of it open with rivers criss-crossing it, traffickers take advantage of this to smuggle in their hapless human cargo.

Indian Express, September 19, 2008

Besides internal trafficking, India is also a destination for women and girls from Nepal and Bangladesh trafficked for the purpose of commercial sexual exploitation.²⁵ In 2007, the estimated number of Nepalese commercial sex workers in India was anywhere between 200,000 to 300,000. Nearly half of the women in Mumbai who are engaged in commercial sex work, totalling 120,000, are estimated to be Nepalese.²⁶ Nepali children are also trafficked to India for forced labour in circus shows and Indian women and girls are trafficked to the Middle East for commercial sexual exploitation.²⁷

Most North-Eastern states have porous borders with Bangladesh, Nepal and Myanmar. Hence large scale trafficking takes place without adequate monitoring mechanisms in place. An estimated 12 lakh children and adolescents under the age of 18 are effected every year and an estimated 3 lakh Bangladeshi children are in brothels in India.²⁸

In July 2007, a petition filed by an NGO accused almost half a dozen placement agencies in south Delhi of indulging in human trafficking.²⁹ These agencies were responsible for supplying everything from a domestic help to a guard. The petition stated that these agencies had lured 298 women and children to the capital from West Bengal on the pretext of providing them with jobs as domestic servants, but instead they had been forced into "slavery and sex". Then in 2008, 13 people, including nine officials from the Delhi Regional Passport Office, were charged in a human trafficking racket case. The Central Bureau of Investigation alleged that nearly 100 women were sent to London, Amsterdam and Paris between 2002 – 2005. The accused officials charged between Rs. 5 – 10 lakh for the provision of forged documents.³⁰

25 US Secretary of State, Trafficking in Persons Report, 2008.

26 Womensphere, Nepalese women trafficked to India returning home with high rates of HIV/AIDS, 20 February 2008. <http://womensphere.wordpress.com/2008/02/20/nepalese-women-trafficked-to-india-returning-home-with-high-rates-of-hiv-aids/>.

27 US Secretary of State, Trafficking in Persons Report, 2008.

28 Interational Labour Organisation 2002, Future Without Child Labour, Geneva, ILO, pp 32

29 TNN, Placement agencies in trafficking case, 20 July 2007.

30 Hindustan Times, 13 charged with human trafficking, 7 May 2008.

For sale	The horrors of the trade
Fair minor: Between Rs1-1.5 lakh for a night	Client list Affluent businessmen, members of film and advertising industries, diamond merchants and politicians form the "select" clientele.
Dusky minor: Between Rs75,000-1.25 lakh for a night	Shocking rise Trafficking in minor girls has seen an estimated 30 per cent increase from previous years.
Age profile 1998: Girls as young as 18 years	The dark side Victims are subjected to the worst form of torture if they do not 'perform' with the clients. Most are denied food, water and toilet facilities. Regular beatings are an 'integral' part of their lives.
2000: Girls as young as 15 years	
2003: Girls as young as 12 years	
Today: Girls as young as 8 years	

These stories are unfortunately not isolated incidents but instead demonstrate the scale and nature of the continued problem of trafficking across the country.

The Vulnerability Quotient

Lack of disaggregated data based on gender, caste, ethnicity, age etc. is the biggest bottleneck in assessment of regional or sectoral trends for trafficking in children or for that matter for any other crime. If one goes by the NCRB statistics, there was an increase of 3.8 per cent in cases of rape of women belonging to the Scheduled Castes in 2006 over 2005. This percentage increase was 9.2 per cent in the case of Scheduled Tribe victims. Similarly, kidnapping and abduction was reported to show an 8.5 per cent increase between 2005 and 2006 in the case of Scheduled Caste victims and a phenomenal 22.2 per cent increase in the case of Scheduled Tribe victims. Although to draw conclusions based on a larger picture would not be correct, evidence in the form of newspaper reports and micro-studies do suggest the vulnerability of women and children belonging to certain ethnic and religious communities to some of the most violent forms of crimes against humanity and economic exploitation, including certain forms of trafficking.³¹

Some communities such as the Bedias of Madhya Pradesh and Rajasthan and the Dommara tribe from Andhra Pradesh practice family-based prostitution. The United Nations Committee on the Elimination of Racial Discrimination in March 2007 raised concerns with India about the sexual exploitation of SC and ST women trafficked into prostitution.³² This exploitation of women and girls continues despite Article 15 of the Indian Constitution, which prohibits discrimination on grounds of religion, race, caste, sex or place of birth.

The majority of trafficked girls are from Scheduled Castes or Scheduled Tribes, some brought into the sex industry as young as 13 years old. 10 per cent of the one million bonded labourers in India are children and 76 per cent of bonded labourers come from the Scheduled Castes and Tribes and most Backward Castes.

The State Home Minister for Chhattisgarh, Mr. Ramvihar Netam accepted that children from Chhattisgarh were being sold in Delhi. In response to a question raised in the Chhattisgarh Legislative Assembly by Mr. Nobel Verma, an NCP MLA, the State Home Minister reported that between July 2006 and 31 January 2007, 24 tribal children went missing....Showing photographs, Mr. Verma said that children from tribal areas are kidnapped and the State Government is not serious in curbing this.

Bhaskar News, Raipur, Dainik Bhaskar, Dilli mein Bik Rahe Chhattisgarh Ke Bachche, New Delhi, 13 March 2007

Several studies on bonded labour have indicated that labourers in the brick kiln industry, mining, rice mills, agriculture, and embroidery factories are migrants from socially and economically backward regions and communities. Those in the brick kiln industry come mostly from Eastern Uttar Pradesh, Bihar and West Bengal; they belong to the Scheduled Caste and Scheduled Tribe communities, with women and children comprising a significant number even though they are not placed on the muster rolls.³³ "...both recruitment of labour and its deployment were based on a system of advances, controlled by contractors who were paid on a commission basis deductible from the workers' wages", writes Ravi S. Srivastava in his working paper on the incidence and pattern of bonded labour in India.³⁴ The 2005 Report of the Director General under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work reports that 10 per cent of the one million bonded labourers in India are children and 76 per cent of bonded labourers come from the Scheduled Castes and Tribes and most Backward Castes.³⁵ This report further throws light on the gender dimension of bonded labour giving examples such as that of the Chukri system of coerced prostitution in Bangladesh and India, where a young prostitute is forced to work without pay for a year or more to repay the money she may have supposedly taken from the brothel owner for her living expenses.

31 Equality Now, India: The demand for sex trafficking: holding commercial sex buyers accountable, May 2008. http://www.equalitynow.org/english/actions/action_3001_en.html.

32 Ibid.

33 Ravi S. Srivastava, Bonded Labor in India: Its Incidence and Pattern, Centre for the Study of Regional Development, Jawaharlal Nehru University, New Delhi, WP 43, International Labour Organisation, Geneva, pp 19, April 2005. This paper is posted at Digital Commons@ILR. <http://digitalcommons.ilr.cornell.edu/forcedlabor/18>.

34 Ibid.

35 International Labour Office, Geneva, A Global Alliance Against Forced Labour, Report of the Director General, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I (B) International Labour Conference, 93rd Session 2005.

A survey by ATSEC Jharkhand in the year 2005 showed that 77 per cent of the sample population migrating out of Jharkhand came under the category of Scheduled Tribes, 12 per cent under Scheduled Caste, 8 per cent under OBC and 3 per cent under the general category. Significantly, 70 per cent of migrants were female and 30 per cent male. Girls moved out predominantly for domestic work while boys went in for casual work, work in hotels and shops and even domestic work. 67 per cent were below 20 years of age, 15 per cent between 20 and 25 and 18 per cent above 25 years of age. 65 per cent were illiterate, 17 per cent educated up to the primary level, 16 per cent below matriculation (Class X) and 2 per cent matriculation and above. While a vast majority moved out with relatives or other villagers, a significant 9 per cent went with unknown persons and 3 per cent were taken by force.

The large numbers of women and girl child domestic workers hailing from Orissa, Chhattisgarh, West Bengal and Madhya Pradesh also speak volumes on the gender and ethnicity dimensions of human trafficking. According to an August 2007 Report of the National Commission for Enterprises in the Unorganised Sector, there are an estimated 4 million women domestic workers in India. Of them, 92 per cent are women, girls and children, 20 per cent are under 14 years of age and 25 per cent are between the ages of 15 to 20.³⁶

Rescue operations in the zari industry have brought to light more Muslim children than children belonging to other communities. Although not documented as such, this is an area that needs to be researched further. Nevertheless, the fact is that those rescued from the zari industry are all boys. In other words, the other gender dimension to child trafficking is that often the trafficking of boys gets overlooked and ignored. The large number of boys who are trafficked for labour and are rescued during the "raids" from various other sectors too bears witness to the large-sale trafficking of boys, particularly for labour.

Some Concerns

Trafficking of Boys

With the increase of paedophilia as part of sex tourism, the demand for boys is, in fact, rising. This issue is under-played but it is happening in several parts of the country.³⁸

The trafficking of boys for sexual purposes too is on the rise. Clearly some trades have more demand for boys than for girls, reiterating the need to document child trafficking in its various dimensions.

'Launda Naach', i.e. men dancing in female attire in weddings is one of the numerous folk dance styles of Bihar.³⁹ Reports point out that young effeminate boys in Bihar who dance in marriage

'Have you seen my child?'

They came here to look for work. Now, their parents roam this city in a desperate hunt for their children

Siddhanta K
New Delhi, December 24

YOU MUST have seen them in your neighbourhood—dressed in the plain comfort of your homes—quiet young boys and girls, hope in their eyes, who leave their villages in Orissa, West Bengal and Jharkhand every year and reach Delhi in search of a living. In a few months, despair dims their bright eyes and the big city swallows them. Most never see their parents again. The number of these young people caught in the "placement agency" trap is high, but there are no estimates of the exodus, nor any mechanism that can protect them. Some families do land up in Delhi in search of their missing children but their effort of ten comes to naught. I've met a few of these desperate parents. Their only question: how do we get back our children?

Amrita Ekka: This 16-year-old left her home in Olapokka village in Sundergarh district of Orissa in June this year, lured by the promise of a job as a domestic help. Since then, her family has not heard from her. Ten days ago, her father Dasya, arrived in Delhi to look for the youngest of his three children. "I found out from somewhere that the agent gave my daughter to Joshua Sahara Bureau in Palm Colony. I kept waiting outside their office for at least two days, but they refused to tell me anything," he says. The distraught father cannot stop blaming himself. "I was not at home when they took her away. They probably convinced her that she will get a lot of money and can come back home."

Dasya Ekka, father of 16-year-old Amrita (above)

Manjula Kinndo: This 17-year-old daughter of Manjula Kinndo left her village two years ago. She was in Class IX then and the pride of her parents. "One day she never came back from school," says Kinndo, showing her picture in school uniform. In these last two years, the only reminder of his daughter was the Rs 5,000 she once sent home. Kinndo's search also landed him at Joshua Sahara Bureau's door. "I stood there for three days but they threw me out," he says. When the Joshua Sahara Bureau was contacted, all they confirmed was that there was a placement agency by that name. "Joshna Singh has gone back to her village. I don't know anything else," said Surendra, who picked up the phone.

Uday Khakha: One mobile number is all that Rungel Khakha has in his search for his 14-year-old son Uday, who left home 17 months ago. "One of my acquaintances Surendra Singh took him away from the school. Ming told me that he was working for Laboo Placement Agency in Delhi and gave me a mobile number," Khakha explains in broken Hindi. Khakha traced the placement agency but not his son. "They have changed his name from Uday to Sonu. One person over there told me that he has been sent to Punjab, but they do not know the address," he said. The agency is of little help. "He is working at Rajouri Garden. I had a contract with him for a year. But now I do not know where he is. I have not received his contract."

Poly: He was all of 15 when he ran away from his home in New Jalpaiguri 18 months ago. "Many of my friends had also come to Delhi. We were told that there is a lot of money here," said Poly. He was taken to the placement agency at Preet Nagar and sent to Jind in Punjab in a few days. A job at a dairy gave him a taste of the trap he had walked into. His day started at 3 in the morning and ended at 11 at night. "I got two meals a day only," he added. After a year, he was sent back by his employers with Rs 20 in his pocket. But Poly is lucky. He managed to contact his brother through an NGO, Chetanalya.

No way out
More worrying than these horror stories is the fact that these young people have no legal shield. Police admit that placement agencies do not follow any regulations. "It is an unorganised sector. Although we try to inspect a few of them periodically there is no actual record of who they recruit. This creates an exploitative situation," said PCT West Robin Hilja. Placement agencies are quick to wash their hands of the matter. "The domestic helps are supplied by the guardians, who usually come from the same village. We only arrange for jobs in different households. Their employers hand us the salaries, which we give them at the end of the year," said Rakesh Kumar of Raja Placement Agency in Greater Kailash, New Delhi.

Every year, girls and boys from Orissa, Bengal and Jharkhand arrive in Delhi looking for work. Caught in the 'placement agency' trap, many are lost to their families forever

I worked at a dairy in Jind from 3 a.m. to 11 p.m. I got only two meals a day. After a year, they sent me back with Rs 20

Poly from New Jalpaiguri

The trafficking of boys remains a neglected issue, as discussions and policies on trafficking tend to focus on women and girls. The victim is always seen as the girl child and there is no special emphasis on male children, in spite of the several reports in the press of male prostitution and young boys being sought after in the sex tourism industry.

36 National Commission for Enterprises in the Unorganised Sector, Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, August 2007 pp 86.

37 UNODC, Anti-Human Trafficking Initiatives -NGOs Collaborate with several Stakeholders on Prevention, Protection And Prosecution, A Best Practices Compendium, 2008. Unpublished.

38 Victoria Rialp, Head of Child Protection, UNICEF India, South Asia Consultation on Care and Protection of Survivors of Commercial Sexual Exploitation and Trafficking, Kolkata, May 2008.

39 <http://www.indianetzone.com/3/bihar.htm>.

Sexual exploitation of children and young people has long been seen as an issue in South Asia, but it is often viewed as being limited to girls. Consequently, the prostitution of boys is little understood, despite its acknowledged existence in some parts of South Asia including India.

Even though there is an awareness of sexual exploitation of children and young boys by tourists in places such as the south Indian beach resort of Goa and Mahabalipuram, few studies have been conducted on the prostitution and sexual exploitation of males and their local exploiters in India. There are several reasons for this lack of research. First, the prostitution of males is unrecognised and a taboo subject in Indian societies, and thus, cases involving the sexual exploitation of boys are frequently under-reported and shrouded in silence. A very few programmes address the prostitution of males in India because males are perceived as less emotionally or physically harmed by prostitution than girls, and therefore, are seen as not needing special attention and services. Most interventions in India that related to the sexual exploitation of males are focused on HIV/AIDS awareness work.

Agniva Lahiri and Sarika Kar, *Dancing Boys: Traditional Prostitution of Young Boys in India, Situational Assessment Report on Adolescents and Young Boys Vulnerable to Forced Migration, Trafficking and Sexual Exploitation in India, A Study Report on Launda Dancers, People Like Us (PLUS) Kolkata and UNDP-TAHA, New Delhi, March 2007*, pp 5.

procession and ceremonies, dressed in women's clothing, are not just keeping the age old culture and traditions of Bihar and Uttar Pradesh alive, but are also reinforcing some of the worst forms of human rights violations. These young boys are subjects of sex slavery, cheap entertainment, humiliation, sexually transmitted diseases and even death. Besides violence, stigma and discrimination too rule their life. These boys are mainly from the lower middle class and poor families of West Bengal, Bihar, Uttar Pradesh and Maharashtra. Some are also from Nepal and Bangladesh, coming into Bihar in India via West Bengal. They come to Bihar and UP during the peak marriage season between April and June in the summer and December to February in the winter.⁴⁰

Child Sex Tourism

HAQ's 2005 status report highlighted the issue of child sex tourism, with specific reference to Goa, which has become the hub for child sex tourism in India. In 2003, the state of Goa passed a law known as the Goa Children's Act to tackle this issue and to target instances of paedophilia. Although this is a welcome development, unfortunately the passing of the law has led to little change: children are still brought to Goa to cater to paedophiles or to be used in pornographic films. Poor implementation of the law has meant that there have been many acquittals in the five years since it came into effect.⁴¹

Recently Kerala has been in the news as increased numbers of children have been trafficked to the state to become part of the child sex tourism trade.⁴² The report states Kerala is the latest victim, with hotels in places like Alappuzha and Ernakulam promoting sex tourism. The report claims that hotel owners and houseboat owners are seeing the lucrative side of the trade, and are providing sex along with other services just to entice their clientele. Houseboat sex tourism is a new and thriving concept, as there are hardly any raids on houseboats.⁴³ It is difficult to measure the incidence of child sex tourism as it is almost impossible to conduct accurate quantitative research on such a clandestine and illegal industry. Unlike Sri Lanka and Thailand, this problem has not been seriously tackled or discussed openly in India and has remained more or less shrouded in secrecy, making the likelihood of child abusers being caught and punished very low.⁴⁴

India has become a sex tourism destination for paedophiles. Unlike Sri Lanka and Thailand, this problem has not been seriously tackled or discussed openly in India and has remained more or less shrouded in secrecy, making the likelihood of child abusers being caught and punished very low.

40 Agniva Lahiri and Sarika Kar, *Dancing Boys: Traditional Prostitution of Young Boys in India, Situational Assessment Report on Adolescents and Young Boys Vulnerable to Forced Migration, Trafficking and Sexual Exploitation in India, A Study Report on Launda Dancers, People Like Us (PLUS) Kolkata and UNDP-TAHA, New Delhi, March 2007*, plus/03/2007 doc. Pp. 5, 6 and 27. <http://www.crin.org/docs/dancing%20boy.pdf>.

41 Amelia Gentleman, *International Herald Tribune*, Goa tries to repair its reputation, Indian resort battles child sex tourism, 12 February 2006.

42 *The New Indian Express*, Kerala turning into child sex tourism hub, 17 January 2006, <http://www.newindpress.com/NewsItems.asp?ID=IER20060115222219&Page=R&Title=Kerala&Topic=0>.

43 Ibid.

44 Ibid.

Bombay HC acquits three in paedophile case

Mumbai, July 23. A Division Bench of Justice Bilal Nazki and Justice Sharad Bobde allowed the appeal by Britons Duncan Grant and Alan Waters and their accomplice William D'Souza, against their conviction by a lower court. The state Government's appeal to enhance the fine imposed on them was also rejected. ...

In March 2006, after a 15-month trial, the City Civil and Sessions Court had convicted Grant, Waters and D'Souza of unnatural offences under the Indian Penal Code, and ordered the British nationals to pay a fine of 20,000 pounds each. While the Britons were sentenced to six years rigorous imprisonment, D'Souza was sentenced to three years.

The court had ruled that Rs 5 lakh each be paid from the fine amount to the two victim boys who had testified against the accused and the rest be used for the rehabilitation of other children living in the three shelter houses Grant had set up. It also ruled that abuse took place "repeatedly" in Anchorage, a Colaba 'shelter' for street boys that Grant set up and Waters frequented between 1995 and 2001.

The case came to light after a complaint was filed against the accused by one of the boys in the shelter house in November 2001. In December, D'Souza was arrested and non-bailable warrants were issued against the British nationals as they had left the country before the crime was registered. Proclamations were issued and Waters was arrested in the U.S. and deported to India in September 2004. Grant, however, surrendered in June 2005 and was included in the ongoing trial.

The convicts had contended that the trial court was swayed by moral considerations and media reports while ignoring the evidence on record. An elated Taraq Sayyed and Shekhar Bhandary, who appeared for the accused, alleged that the prosecution had produced false witnesses due to which their case did not hold.

Child Line India Foundation's lawyer Yug Mohit Chaudhry, on the other hand, told reporters that he was shocked by the judgment as there was overwhelming evidence against the accused. "There could not have been a stronger case than this," he said. "There are statements of the victim boys recorded before the committee and in spite of all this they have been acquitted," he added. "I don't see any paedophile ever being convicted."...

Mohan Kumar, The Indian Express, 24 July 2008

The release of Duncan Grant and Allan Waters, two British nationals accused of paedophilia, by the Mumbai High Court in July 2008 came as a shock to child rights activists and lawyers who had followed up the legal battle to ensure justice for the victimized children. The Court instead said that they did not have enough evidence against the accused, despite these children having repeatedly testified to being used and sexually abused by the accused. What is disturbing indeed is the long trail of events since November 2001, when one of the boys at the shelter home for street children run by these two accused first complained of sexual abuse. Later, other boys too reported the same. It took years for the accused to be caught as they had managed to leave India in time. Finally the trial began in 2004 and a decision came from the City Court in March 2006, convicting the accused and imposing a fine as well as a sentence of six years rigorous imprisonment on them by way of punishment. The accused then went in appeal before the Mumbai High Court, which turned the decision of the lower court. Currently an appeal is underway in the Supreme Court to challenge the High Court decision.⁴⁵

'Child sex tourism will never stop while governments refuse to share information and cooperate with each other. Right from the beginning of this case the British government could have done more to support the Indian authorities with evidence collection.'

Christine Beddoe, Director of ECPAT UK

Justice delayed is justice denied! It is not as if we do not have well trained judges; it is primarily only about the mind set of the Indian judiciary, which often fails to recognise and address child sexual abuse and child trafficking with the gravity and seriousness it deserves. The prosecution of offenders and rehabilitation of victims have for long been the focus for those working against child trafficking. While justice seems failing, the rehabilitation of male child victims of sexual exploitation and trafficking too has remained unaddressed. The government's Swadhar Scheme and now also the Ujjawala Scheme, only address the trafficking of women and girls. Boys have been excluded from the purview of these schemes. In cases of children who have been trafficked to India from neighbouring countries such as Bangladesh, the boys are not treated

45 Beddoe Christie, Return to Sender, British child sex offenders abroad - why more must be done, pp 12, ECPAT UK, 2008. http://www.ecpat.org.uk/downloads/Return_to_Sender_2008.pdf.

as survivors, but instead often treated as offenders. They are treated by the authorities as children in conflict with law, as opposed to children in need of care and protection and they are often 'stateless children', as no one is prepared to take responsibility for them.⁴⁶

Unless tracking is done of the socio-cultural and economic backgrounds of victims of trafficking and the kind of economic and social development in the regions they come from, initiating suitable preventive and protective measures is not possible; even measures to check unsafe migration will have no effect. Recognising that attention needs to be focussed on boys too, they have been described as the 'missing link'. The Campaign against Child Trafficking (CACT), has been attempting to draw attention on the trafficking of boys since its very inception in 2001.

Trafficking and HIV

With an estimated population of one million women and children engaged in commercial sex work,⁴⁷ this presents a huge challenge to attempts to curb the spread of HIV and AIDS in India. Women and girls forced into the sex trade are most vulnerable, as they have no control over securing their health rights. They are often treated as slaves, forced to engage in unsafe sexual practices, tortured and gang raped and frequently exposed to HIV and other sexually transmitted diseases. According to estimates, nearly half of the sex workers in Mumbai are infected with HIV, and over 40 per cent of women in sex work are under the age of 18.⁴⁸ Around 84 per cent of HIV infections in India occur through unprotected sex, and many of them in the brothels across the country. Given that an estimated 80 per cent of women and girls engaged in commercial sex work have been trafficked,⁴⁹ the link between trafficking and the spread of HIV remains strong and a huge challenge to curbing the epidemic in India.

Around 84 per cent of HIV infections in India occur through unprotected sex, and many of them in the brothels across the country. The link between trafficking and the spread of HIV remains strong and a huge challenge to curbing the epidemic in India.

Sex trafficking may be a major factor in the spread of HIV not just in India but also in the rest of South Asia. In the case of Nepal, it is highly alarming. Trafficking of women and children to India has fuelled in a very dangerous HIV and AIDS prevalence scenario in Nepal.⁵⁰ Among the Nepali women trafficked to India and forced into the sex trade, nearly 40 per cent of them were recently found to be HIV positive by the time they were repatriated, 38 per cent of the returning women and girls tested positive for the HIV virus, and infection rates were far higher among the youngest in the group. Girls aged 14 and under were four times more likely to be HIV-positive than the women in the group as a whole.⁵¹ This higher infection rate among young girls from Nepal probably reflects the fact that the Indian men who visit brothels tend to prefer younger Nepalese girls, who are often presented as virgins and are therefore perceived as being less likely to be infected with HIV or other sexually transmitted diseases. The widespread myth also still persists that having sex with a virgin will cure some sexually transmitted diseases.

Trafficking and Disasters

Situations of natural disasters have become a major source for child trafficking. In fact concerns about exploitation are the last thing on the minds of relief workers and the traffickers make best use of this. One need not go far away into the past to know how women and children become targets of traffickers in situations of natural disasters. The current floods in the north-eastern parts of Bihar are reported to have left 30 lakh people displaced and many missing. News reports show that children are being bought and sold for Rs. 500 to 1,000, as if the natural calamity was not enough for them to deal with.

46 Deep Purokayastha, Executive Director, PRAAJAK, South Asia Consultation on Care and Protection of Survivors of Commercial Sexual Exploitation and Trafficking, Kolkata, May 2008.

47 HDRN and UNDP TAHA, Not her real name – Reporting trafficking in persons, 2006.

48 http://www.unicef.org/india/children_1414.htm.

49 HDRN and UNDP TAHA, Not her real name – Reporting trafficking in persons, 2006.

50 Womensphere, Nepalese women trafficked to India returning home with high rates of HIV/AIDS, 20 February 2008, <http://womensphere.wordpress.com/2008/02/20/nepalese-women-trafficked-to-india-returning-home-with-high-rates-of-hiv-aids/>.

51 Ibid.

The first time India started talking about safeguards for children in disaster situations, particularly in the context of sexual exploitation and trafficking, was after the Orissa Super Cyclone in 1999. At the time of Gujarat Earthquake the civil society groups got into action to keep track of the number of women and children that went missing. However, these efforts were not systematic. Sure enough the Gujarat Disaster Management Plan does not mention children at all. At the time of tsunami, the situation is reported to be a little better. State governments and many NGOs got together to maintain records of persons in the relief camps and keep a watch to prevent sale of women and children, including illegal adoptions. Now once again with floods in Bihar and Orissa taking their toll on women and children, state governments seem to have got into action to form watch-dog bodies, rescue women and children from the clutches of the traffickers and arrest the traffickers. The problem however is that there is no National Disaster Management and Rehabilitation Law that would require the state governments to maintain surveillance registers in such situations and check trafficking and other forms of exploitation suffered by women and children. The last status report on children brought out by HAQ: Centre for Child Rights in 2005 had raised the same concern. It is now being raised again as nothing has been done in this regard. The National Disaster Management Bill, that was introduced in 2005, never became a law. We now have the National Disaster Management Authority headed by the Prime Minister of India, the National Disaster Response Force, National Disaster Management Resource Centres and the like, but yet no law in place to address the needs of persons affected by disasters and assure their protection.

Trafficking and Civil Conflict

Children in conflict areas are also vulnerable to violence, abuse and exploitation of all forms. Due to the conditions of uncertainty created by conflict and the extreme conditions under which people are forced to live, they fall prey to various forms of trafficking. Violence and displacement make it easier for traffickers to move children from their homes. The police and civil administration is overburdened with the conflict and any form of mechanism to deal with such a crisis is overlooked, because there are 'bigger issues' to be dealt with.

Assam, which has been affected by conflict since the 1980s, has one of the worst records of child abuse in India, with nearly 86 per cent of the children in the state suffering from at least one form of sexual abuse. On-going violence and widespread displacement in Assam has led to high levels of trafficking in the state. Two girls go missing from the state every day, and most of them end being in the sex market across South Asia. The Assamese police have in the recent past rescued a number of girls working as call girls around Delhi or being used as sex slaves by wealthy men in states like Punjab and Haryana. Most of these girls that were rescued came from the camps of internally displaced people, in particular from the Kokrajhar district. In the camps for displaced people, good looking girls are sold by parents for a few thousand rupees. The parents are told that their daughters will start sending money home soon but once they go away, that rarely happens.⁵²

There are huge numbers of under-aged girls rescued from the brothels of Mumbai and Delhi, many of them originating from the conflict-inflicted zones of India. Since the region is afflicted with conflict and because of its complex geographical location, it has become a safe haven for traffickers.⁵³ The lack of livelihood opportunities in the North-East force people



52 Subir Bhaumik, BBC News, Assam, Assam's Missing Women and the Sex Trade, 10 April 2007, http://news.bbc.co.uk/2/hi/south_asia/6430811.stm.

53 Tehelka, And the unwilling who get trapped, Teresa Rehman, 20 May 2006.

to accept opportunities offered to them in the big cities. Women and girls from the North-East are often lured to the big cities, by being told that modelling assignments are waiting for them in Delhi and Mumbai. Children as young as 11 are trapped into the net of traffickers. One example is of Ela Sangma, a young Garo girl from Bhalukpong in Arunachal Pradesh, who was sold off by her mother while she was 12, and she eventually landed in a brothel in GB road area of New Delhi. There are huge numbers of under-aged girls rescued from the brothels of Mumbai and Delhi, many of them originating from the conflict-inflicted zones of India. Since the region is afflicted with conflict and because of its complex geographical location, it has become a safe haven for traffickers.

And the unwilling who get trapped

Romen Kumar, IG nodal officer, anti-trafficking of 1st Manipur battalion said, "Manipur police is more into fighting militancy rather than fighting social evils, hence it shows a lack of awareness on the rules and regulations of trafficking issue. Trafficking of drugs, arms and human beings is an organised crime. There has to be a healthy interaction between the public and the law enforcement department."

Citing an instance of cross-border trafficking, Sobita Mangsatbam, Secretary, Women Action for Development, said that a bus going from Moreh in Manipur to Mandley was checked at the Tesigong bus park in Myanmar by the Myanmar army. The army found a child in a gunny bag. The army personnel found blood oozing out from the gunny bag when they were piercing it with a pointed iron rod. It was suspected that they were taking the child to sell in China. Moreh, in Manipur, which is on the Indo-Myanmar border, is a transit point for cross-border trafficking.

Teresa Rehman, Crusade, Tehelka, 20 May 2006.

Recent reports of the National Human Rights Commission on Salwa Judum, an anti-Naxal programme in Chhattisgarh, throws light on the involvement of Naxals in human trafficking and forced labour.⁵⁴ Andhra Pradesh also contributes significantly to the number of child prostitutes in the brothels in Mumbai in Delhi. Many of the girls rescued from Mumbai and Delhi are reported to be from Guntur, a district known for Naxalite activity as well as rampant girl trafficking.⁵⁵ The Annual Report 2005-06 of the Ministry of Home Affairs lists 76 districts in the 9 states of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Orissa, Maharashtra, Madhya Pradesh, Uttar Pradesh and West Bengal as badly affected by Naxal violence in varying degrees. It is therefore not just Guntur of Andhra Pradesh but all these 76 districts where women and children continue to become targets of trafficking and other forms of exploitation.

Forced displacement due to other reasons such as development projects, also poses a major problem in terms of the implementation of child rescue programmes, as it makes it difficult to trace the parents of these missing children for effective rehabilitation. In many cases, children tend to get re-trafficked because their rescue is not undertaken along with a guarantee of economic security for the family, and the uncertainty of life for displaced people makes it easier for children to get trapped again in the networks of traffickers.



54 The Times of India, Naxals in Chhattisgarh interfering in life of tribals: NHRC, 6 October 2008. http://timesofindia.indiatimes.com/India/Naxals_in_Chhattisgarh_interfering_in_life_of_tribals_NHRC/articleshow/3565708.cms.

55 Ramesh Susarla, Frontline, On the Fast Track, 9 March 2007.

Trafficking and the Booming Surrogacy Industry

Dr. Nayana H. Patel, a gynaecologist using the in-vitro fertilisation (IVF) method in Gujarat, certainly defends her initiative on commercial surrogacy as something that has been able to provide children to infertile couples from around the world and at the same time address the economic necessities and needs of women from middle income groups in Anand District (Gujarat), who 'volunteer' as surrogate mothers. However, there have been incidents in the past where young girls from poor families have been exploited and used as surrogate mothers; where the clients have refused to look at her as soon as the delivery is over, leaving her to struggle with both physical and mental health problems post delivery.

Unlike some European countries, India legalised commercial surrogacy in 2002. The Ministry of Health and Family Welfare is now drafting a law on it, with the necessary checks and balances to protect women and girls who 'volunteer' as surrogate mothers from exploitation.

Despite these efforts there always will remain the question of efficacy of such laws. For a nation where organ trade continues in spite of a law to check and punish it, where doctors continue sex selection through the unethical use of ultrasound technology without fear of law, where use of children for begging continues unabated and so do illegal adoptions, how much and how best will yet another social or protective legislation work?

Another disturbing question is what will happen to the children in need of care and protection without biological families to look after them? If commercial surrogacy becomes the order of the day, will the already bleak chances of such children finding a family by way of legal adoption or foster care become grimmer?

Surrogacy is an area fraught with ethical and legal uncertainties. Critics argue that the ease with which relatively rich foreigners are able to "rent" the wombs of poor Indians creates the potential for exploitation. Although the government is actively promoting India as a medical tourism destination, what some see as an exchange of money for babies has made many here uncomfortable.

Giving birth becomes the latest job outsourced to India, The Economic Times, 30 December 2007

Anand in Gujarat - surrogacy hub for childless Brits

For 3,000 pounds they can rent a womb for nine months,... "By some estimates, Indian surrogacy is already a 250 million pounds a year business, and it's growing rapidly,"... Yet in order to make such money, many have to lie to their families and friends, telling them they are studying or working away from home,

Anand in Gujarat surrogacy hub for childless Brits. Expressindia.com, 10 Dec. 2007

India Nurtures Business of Surrogate Motherhood

Commercial surrogacy, which is banned in some states and some European countries, was legalized in India in 2002. The cost comes to about \$25,000, roughly a third of the typical price in the United States. That includes the medical procedures; payment to the surrogate mother, which is often, but not always, done through the clinic; plus air tickets and hotels for two trips to India (one for the fertilization and a second to collect the baby)... Surrogacy is an area fraught with ethical and legal uncertainties. Critics argue that the ease with which relatively rich foreigners are able to "rent" the wombs of poor Indians creates the potential for exploitation. Although the government is actively promoting India as a medical tourism destination, what some see as an exchange of money for babies has made many here uncomfortable.

An article published in The Times of India in February questioned how such a law would be enforced: "In a country crippled by abject poverty," it asked, "how will the government body guarantee that women will not agree to surrogacy just to be able to eat two square meals a day?"

Even some of those involved in the business of organizing surrogates want greater regulation.

Amelia Gentleman, India Nurtures Business of Surrogate Motherhood, The New York Times, 10 March 2008

The issue surely needs discussion and debate and also needs to be viewed in the light of the questions raised above. At the same time there is a need for some very basic discussion on whether commercial surrogacy would technically fall within the definition of human trafficking as laid down in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Or perhaps it only needs to be seen as yet another vocation which increases the risk of trafficking of young girls from poor families!

Illegal Adoptions

HAQ's 2005 status report documented in detail the issue of trafficking of infants for adoption in India. The Chairman of the Central Adoption Resource Agency (CARA) claims that only about 3,500 legal adoptions take place in India each year. This figure is extremely low in comparison to the number of children available for adoption.⁵⁶ Clearly most adoptions that are taking place are illegal. The legal channels are avoided and those responsible for checking illegal adoptions have failed to do so.

In April 2007, the Central Adoption Resource Agency (CARA) sent a letter to the state governments asking them to take steps to curb illegal adoption centres. The agency has found that many adoption centres are illegal, and follow no specific procedure or policy as well as not being recognised by the government. CARA said it is mandatory that all nursing homes and hospitals that come across abandoned and destitute children should immediately inform the social welfare department of the concerned government or local officials.⁵⁷ Yet children have become commodities that can be bought and sold in India. Who is responsible for this? Can CARA absolve itself of its responsibilities completely?

The Central Adoption Resource Agency (CARA) has found that many adoption centres are illegal, and follow no specific procedure or policy as well as not being recognised by the government. Children have become commodities that can be bought and sold in India. Who is responsible for this? Can CARA absolve itself of its responsibilities completely?

The amendment to the Juvenile Justice Act in 2000 and then subsequently in 2006 has ensured that orphaned, abandoned and surrendered children can be given in adoption. Palna, the cradle baby scheme announced by Ms. Renuka Chowdhury, Minister for Women and Child Development, in February 2007, further made it easy for parents to surrender or abandon their girl children. Yet the number of legal adoptions in India is very low. In fact the scheme has come to provide every opportunity to child traders to procure innocent lives and sell them for their personal gain.

The state of Tamil Nadu had initiated the cradle baby scheme in 1992, way before the centre announced this scheme for the entire country. Activists have since reported misuse of this scheme for selling babies into adoption.⁵⁸ An investigation by a High Level Committee set up by the Campaign Against Child Trafficking (CACT) between May 2005 and August 2005 looked into the functioning of Licensed and Registered Adoption Agencies in Tamil Nadu and the steps they take to follow the legal procedures in adoption. This investigation report states, "There is big competition among adoption agencies for getting babies from the government's Cradle Baby Scheme. The government is not in full knowledge of what happens to these babies. The state becomes the custodian of the child by taking the child into its care and hands over babies to any agency involved in providing care and protection of the child. Is this legal? What role does the state have when the baby dies in the private adoption home or when the agency sells the child in the name of adoption or when the child is transferred or sold to another agency for a price which wants only healthy babies and has the required license and recognition. Should this practice be continued? A large number of children taken from the cradle baby scheme actually die due to sickness or malnourishment in the private agencies. Does the Department of Social Welfare monitor this? Do the biological parents who gave the child to the government cradle baby scheme have rights? Do they know what has happened to their child?"⁵⁹

⁵⁶ NERVE, states ask to ban illegal adoptions, 29 April 2007, <http://www.nerve.in/news:25350044368>.

⁵⁷ Ibid.

⁵⁸ Kumar, PC Vinoy, Where Do Rejected Little Girls Go..., A Special Report from Tehelka Magazine, Vol 5, Issue 12, Dated Mar 29, 2008. For more details log on to http://www.tehelka.com/story_main38.asp?filename=Ne290308where_rejected.asp.

⁵⁹ For detailed report log on to [www.haqcrc.org/childrights/child trafficking](http://www.haqcrc.org/childrights/child%20trafficking).

The Juvenile Justice Act too has come to be misused by adoption agencies to procure children fraudulently. The famous Preet Mandir case in 2006 brought to light how a well established and government recognised adoption agency in Pune, Maharashtra, was procuring children by getting poor and illiterate parents to sign on surrender deeds through fraud and cheating.

Adoption watchdog gives child traffickers clean chit

New Delhi/ Pune: Preet Mandir, an adoption agency in Pune, is the front for a child trafficking racket. A CNN-IBN Special Investigation exposed Preet Mandir and its owner J S Bhasin last year but it is still in business because India's adoption watchdog has turned a blind eye. ... After CNN-IBN's investigation in June 2006, the Central Bureau of Investigation (CBI) was asked to investigate Preet Mandir. The CBI says it took the testimonies of unwed mothers who said they willingly handed over their babies for adoption. But one such mother says the CBI never questioned her. "No one from the CBI approached me. I didn't give up my child and the adoption agency asked me to sign a paper," says the woman, who didn't want her name to be revealed.

Parul Malik, CNN-IBN, Sun, Oct 21, 2007. <http://www.ibnlive.com/news/adoption-watchdog-gives-child-traffickers-clean-chit/50882-3.html>

Following news reports on Preet Mandir, countries like Denmark suspended all adoptions from India. Yet CARA continued to support Preet Mandir and even renewed its license as an adoption agency. As it stands today, while Denmark has resumed adoptions from India, Australia is reported to have stopped taking Indian children in adoption. None of this forces CARA from taking some stern action against agencies like Preet Mandir or the Malaysian Social Services, at Tiruverkadu in Chennai's northwest, which have both been in news for some time. Despite serious allegations against CARA of conniving with adoption agencies on illegal adoptions, the illegal procurement of babies and baby sale continue while activists try hard to fight it out.

Denmark suspends all adoptions from India following reports children could have been abducted

COPENHAGEN, Denmark (AP): Denmark on Monday suspended all adoptions from India after a news report claimed that some of the children who have been adopted in the Scandinavian country could have been abducted.

The organization, known as AC, was accused in a DR1 television documentary of having received children from an orphanage in Pune without the birth parents' approval.

In the documentary, Ramesh Kulkarne claimed he temporarily placed his two children at Preet Mandir orphanage while looking for a job after his wife died. Kulkarne said for years he was barred from seeing his children at the orphanage. In April, he learned that the pair had been adopted in Denmark in 2003 through AC.

The documentary showed the orphanage manager, J. Bhasin, filmed with a hidden camera, saying a child cost \$7,000 (about Rs3 lakh).

Associated Press, 11 June 2007. <http://www.pr-inside.com/denmark-suspends-all-adoptions-from-india-r150234.htm>

Preet Mandir is not the only such agency involved in the adoption racket. The 2005 investigations initiated by CACT in Tamil Nadu through a committee of senior human rights activists and advocates also reveals that "all the agencies are deeply involved with accepting surrendered babies or procuring babies through brokers. This is the most dangerous part of children being taken in for adoption as it thrives on the poverty of biological parents. It is common knowledge that biological parents surrender their children to adoption agencies after signing a simple surrender document. One witness who is supposed to be a relative of the biological parents is faked and signature forged. The scrutiny agency at one time even requested the police and the Department of Social Welfare to organise a forensic examination of forged signatures, but did not receive any response."⁶⁰ Besides several other reports in the past too have exposed baby sale for adoption, which was reported in the 2005 status report on India's children brought out by HAQ: Centre for Child Rights.

60 Ibid

Even amongst children, there are some who are more unfortunate than others. The press reported how a couple who bought a child from a private adoption agency in Delhi for Rs. 60,000 now want to adopt a second male child since they discovered that the first one suffers from a mental disability. His father, Gurcharan Singh, is quoted as saying: "Our first baby is not normal therefore I would like to adopt another male child."⁶¹ The Hindu law on adoption forbids a second child of the same sex being adopted by one family. Besides demonstrating India's on-going gender bias and discrimination against the girl child, this also shows how a child is being regarded as a commodity and adoption is treated like a shopping spree, and highlights the vulnerability of children with special needs to multiple exploitation.

Trafficking and Child Domestic Work

Amongst victims of trafficking for labour, child domestic workers in particular have received attention from various corners. While the 10 October 2006 notification brought domestic labour into the list of hazardous occupations under the Child Labour (Prohibition and Regulation) Act, 1986, thereby banning domestic work by children below 14 years, it did not lay down any mechanism to empower the labour department and the police to enter homes in order to enforce this law.⁶² As a result, Labour Inspectors have no powers to enter anybody's residence as what happens inside the home is a private matter. Even the police cannot enter a home without a search warrant. Under the Immoral Trafficking Prevention Act (ITPA), police officers can enter a house where they have specific information of prostitution being carried out from such premises. Such provisions need to be brought into the child labour law also. Another key problem is the lack of authentic figures available on child labour, particularly domestic child labour, suggesting the need for a system of data-base development and management.⁶³ As long as the demand for cheap labour continues in India, the trafficking of young children will continue. Placement agencies abound in urban cities to cater to the demand for cheap underage domestic helps. There is no mechanism in place to ensure registration and licensing of these placement agencies, which are known for trafficking poor girls from poverty stricken areas through their agents operating in the those villages.

While the Ministry of Labour has been discussing an amendment in the child labour law to introduce a legal provision against child trafficking, unless employment of children becomes a cognizable offence, little can be achieved in this regard.

... The district of Dharmapuri accounts for the highest number of babies received under the scheme. The region is socially and economically backward, with a high incidence of female infanticide. The scheme was launched here in 2002. By February 27, 2008, the reception centre at the Dharmapuri government hospital had received its 1,044th baby. M Selvi, who runs the centre, says that only 41 of the 1,044 babies were male. "The male children usually have some disability. A few were HIV-positive or born in an illegal relationship," she says.

The message is clear. A male baby is dumped only if it has a disability; a girl-child is dumped because of its gender. Selvi says that she counsels those who bring in children, but is careful not to force them. "If we press too hard they will take the baby and abandon it somewhere, or just kill it," she says. ...

http://www.tehelka.com/story_main38.asp?filename=Ne290308where_rejected.asp

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Every year, girls and boys from Orissa, Bengal and Jharkhand arrive in Delhi looking for work. Caught in the 'placement agency' trap, many are lost to their families forever

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61 CNN-IBN, Male-child shopping spree in Delhi, Neelu Vyas, 3 June 2006.

62 Campaign Against Child Trafficking, Consultation on Addressing Trafficking and Child Labour, 31 August 2007.

63 Ibid.

Rehabilitation

Debates continue about appropriate ways and means for the rehabilitation of survivors of trafficking. Often the views of survivors themselves, particularly children, are neglected as survivors are not commonly considered as having a voice of their own, with a right to determine their own future. Nearly all trafficking victims are psychologically affected by the trauma of having been trafficked and their experiences. However, at the point of her/his rescue, the provision of necessary medical and health services are rarely prioritised.

The current poor standard of most government and NGO-run homes for survivors is appalling and an issue that must be urgently addressed.

Rehabilitation of survivors must be addressed from a rights-based perspective and the laws need to ensure that survivors become the focus of protection. Care and protection services cannot work separately from prevention processes, as survivors of trafficking face vulnerabilities and risks in their families and communities which increase the likelihood of re-trafficking.⁶⁴ There is also a need for a standardised approach to the care and protection of survivors, as the current non-standardised

Trafficking victim awaits permanent home

Gurgaon, December 8: Abandoned at the Gurgaon bus stand on Thursday, a 14-year-old victim of human trafficking is left in the lurch with no one willing to offer her a solution, or a long-term shelter. Neither the local police stations nor NGOs are ready to take care of her.

First the police handed over the girl to NGO Childline; the latter in turn tried to get her admitted to a Nari Niketan at Karnal. But the authorities there refused to take her, saying that there was no place.

For the past two days, the victim has been kept at the Gurgaon Childline centre and will probably have to spend longer time there.

"We cannot keep her here for long; we do not have the resources to deal with such cases. We act as an immediate emergency support structure for minor victims," said Ravi Kant, executive director of Shakti Vahini — the organisation running Gurgaon Childline centre.

A resident of Gopalganj in Bihar, the victim was married off to a 45-year-old man (one Pramod) as her father could not repay money he had borrowed, the victim has said. The marriage took place in Bihar on March 10, and she was brought to Rohtak a couple of months ago, the victim said.

"My husband does not like me. He used to come home drunk every evening and beat me up," she said. On Thursday, Pramod took her out to show the city. "I thought he has changed."

She was of course wrong — Pramod took her to Gurgaon bus station and then excused himself, the victim said. After waiting for his return for over an hour, she started looking for him.

"On inquiring, the rickshaw pullers around said the man with me had gone away. I could not believe it," she said. She waited for another two hours before the rickshawpullers took her to the local police station. A case of missing child was registered and she was handed over to childline workers.

The counsellors at the centre spoke to her and found that she was a human trafficking victim and needed to be put at a place where she would get protection and care while investigations were carried out against her husband.

She was taken back to the police station to register a fresh case of trafficking, but the cops refused to do so.

City Police Station SHO said, "We cannot register the case because the crime was not committed here. She was sold in Bihar and the case has to be registered there."

On Friday, she spent the whole day in courtroom. Childline workers appealed that she be sent to Nari Niketan in Karnal. But the SDM refused, stating, "There is no place in Nari Niketan."

While the NGO workers are trying to figure out the logistics and possible action to be taken against her absconding husband and her father, the girl is unsure of what the future holds for her. But she is sure that she does not want to go back home. "My father will not let me stay there. He had even tried to sell me off to an orchestra two years back," she said.

Head of Shakti Vahini, Ravi Kant, said they will keep the girl till the authorities find a way around the bureaucratic setbacks.

Moyna, Dec 09, 2007. <http://www.expressindia.com/latest-news/Trafficking-victim-awaits-permanent-home/248285/>

64 Archal Bhagat, Director, SAARTHAK, South Asia Consultation on Care and Protection of Survivors of Commercial Sexual Exploitation and Trafficking, Kolkata, May 2008.

approach means that services involve ad hoc practices and vary enormously in terms of quality. Minimum standards of care and protection must be adopted so that there are guidelines on the provision of services to ensure that all rescued women and children are provided with an opportunity of a better future.⁶⁵ The current poor standard of most government and NGO-run homes for survivors is appalling and an issue that must be urgently addressed.⁶⁶ Follow up techniques also need to be developed in a manner that does not intrude into the life of a survivor, and yet ensures that information is available on their situation post-repatriation, rehabilitation and social re-integration.

Most protection schemes tend to be short term, and have no consideration for the long-term effects that the victim might suffer, particularly given his or her socio-economic condition. A lack of state machinery to carry out adequate rehabilitation leads to re-trafficking. This needs urgent attention.

A lack of state machinery to carry out adequate rehabilitation means that in many places the magistrates are often forced to return rescued children to their parents, or those posing as their parents, thus running the risk of re-trafficking. A study conducted by the Ministry of Women and Child Development, alongside UNICEF, and aided by National Law School of India University highlighted how, facing prosecution, the victims of trafficking often accepted the blame under pressure from the police and their traffickers.⁶⁷

Most protection schemes tend to be short term, and have no consideration for the long-term effects that the victim might suffer, particularly given his or her socio-economic condition.⁶⁸ There is also no coordination between the police and the health departments for the proper treatment of child victims. Very often the children's ages are not determined and the girls are treated as prostitutes having committed a crime, as opposed to a victim of trafficking.

The Ministry of Women and Child Development and the Ministry of Labour have formulated a Protocol on Pre-Rescue, Rescue and Post-Rescue for victims of trafficking. However, these protocols are mere guidelines to be followed; they are not legally enforceable and therefore have no teeth. Monitoring the implementation of these protocols will thus never be feasible.

Repatriation and restoration to families is weak in the case of both inter-country and intra-country trafficking. HAQ's anti-trafficking work has shown that many victims of cross-border trafficking languish in institutions in India simply because of failure of the Ministry of External Affairs to expedite their repatriation. As part of an initiative of the National Commission for Protection of Child Rights to look into the implementation of the Juvenile Justice legislation, a visit to a children's home for girls in Mumbai in August 2007 brought to light several Bangladeshi girls who had been there for years waiting to return home. Their parents had been traced but besides 'false promises', nothing came forth by way of an order from the concerned Ministry to send the girls back home.⁶⁹ The Ministry of Women and Child Development has requested the Ministry of External Affairs to set up an internal task force to ensure measures that would operationalise the provisions of the SAARC Convention on Preventing and Combating Trafficking of Women and Children in Prostitution.⁷⁰ However, for many victims the return and reunification with their families seems too far, especially if they come from Bangladesh.

In the case of trafficking within India, the juvenile justice mechanism is highly inadequate to establish appropriate networking between Child Welfare Committees that could ensure home investigations and repatriation of trafficked victims keeping in view the best interest of the child. The 2006 amendment to the Juvenile Justice (Care and Protection of Children) Act 2000 clearly requires establishment of Child Welfare Committees in all districts across the country within a year of the amended law coming into force. This however, has not happened till date and many states are yet to even formulate the new rules on juvenile justice according to the 2006 amendment.

65 John Federick, South Asia Consultation on Care and Protection of Survivors of Commercial Sexual Exploitation and Trafficking, Kolkata, May 2008.

66 M. Nivedita, South Asia Consultation on Care and Protection of Survivors of Commercial Sexual Exploitation and Trafficking, Kolkata, May 2008.

67 Judicial Handbook, Combat Trafficking of Women and Children for Commercial Sexual Exploitation, 2006.

68 Some preliminary findings of research funded by the Japan Committee for UNICEF, Trafficking for sexual exploitation and other exploitative purposes, 2005.

69 Draft report submitted by HAQ: Centre for Child Rights to the National Commission for Protection of Child Rights on the visit to Maharashtra, August 2007. www.haqcrg.org.

70 Ministry of Women and Child Development, Government of India, Initiatives taken by Ministry of Women & Child Development to Combat Trafficking of Women & Children. Updated till October 11, 2006. <http://wcd.nic.in/INITITrafficking.doc>.

The re-trafficking of children needs urgent attention. Protection rights being immediate rights, cannot be relegated to some time in future when the government thinks it has the means to address them. The government must invest on child protection adequately and without delay.

Interventions to Combat Trafficking

There is no provision in the penal law which condemns or makes punishable the buying and selling of minors.⁷¹ The 2008 US State Department report on human trafficking stated that India's efforts to protect victims of trafficking varied from state to state, but remained inadequate in many places.⁷² India has still not ratified the 2000 UN Trafficking in Persons (TIP) Protocol.

In 2005, the Japan Committee for UNICEF undertook the examination of law and policy in South Asia with respect to tackling the problem of trafficking of children for exploitative purposes. Their report claims that although most South Asian countries have pledged to tackle the problem, lack of adequate data on trafficking and prostitution has resulted in no comprehensive steps emerging.⁷³ The UNICEF report also states that most laws in South Asia tend to focus on the process of trafficking rather than emphasis on harm caused to the victim of trafficking. And most of the laws are adult oriented, which presuppose the existence of an adult victim – therefore they do not accommodate the specific needs of children as trafficking victims. Without sustained effort from the community, there cannot be any effective elimination of the problem.



Prevention mechanisms tend to be restricted to gathering information and generating awareness about trafficking, whilst the broader issue of safe-guarding the social and economic rights of women and children is rarely considered.⁷⁴

Immoral Traffic (Prevention) Amendment Bill, 2006

In 2006, a Bill was introduced as an amendment to the Immoral Traffic Prevention Act of 1956. The Immoral Traffic (Prevention) Amendment Bill, 2006 (ITPA) defined the offence of trafficking for the first time since the existence of this anti-trafficking legislation and removed the clauses which provide punishment for seducing or soliciting for the purpose of prostitution and instead increased the punishment for persons keeping or managing brothels.⁷⁵ The definition of a 'child' was also increased from 16 years to 18 years. The Bill further introduced punishment for the clients.

In 2006 the Ministry of Women and Child Development, together with UNICEF, undertook a study aided by National Law School of India University to produce a judicial handbook for magistrates to sensitise them about the issues relating to the implementation of ITPA.⁷⁷ The study states that the reason why women and children are often not regarded as victims by the police or magistrates is because of the way in which the Immoral Traffic Prevention Act was introduced – as a law to curb the 'menace' of prostitution, with the prostitutes considered perpetrators as opposed to victims.

While decriminalising prostitution and ensuring prosecution of offenders are the two main objectives of this Bill, in discussions around it in November 2006, India's Parliamentary Standing Committee on Human Resource Development also drew attention to "the prevalence of caste and religion based prostitution", noting that "traffickers were clandestinely using this route to traffic the girls into prostitution."⁷⁶

71 Law Commission of India 146th Report on Sale of Women and Children, 1993.

72 US Secretary of State, Trafficking in Persons Report, 2008.

73 Some preliminary findings of research funded by the Japan Committee for UNICEF, Trafficking for sexual exploitation and other exploitative purposes, 2005.

74 Ibid.

75 The Immoral Traffic (Prevention) Amendment Bill, 2006.

76 Equality Now, India: The demand for sex trafficking: holding commercial sex buyers accountable, May 2008, http://www.equalitynow.org/english/actions/action_3001_en.html.

77 Judicial Handbook, Combat Trafficking of Women and Children for Commercial Sexual Exploitation, 2006. JUDICIAL.

However, this Bill still only deals with women and children trafficked for immoral purposes and fails to address the wider issue of trafficking for other purposes, such as labour and marriage. It is already 2008 and with parliamentary elections drawing closer there is little probability of the Bill being passed in the near future. If a new government gets elected in India, the Bill may get further delayed.

In addition to the problems with the law itself, there are several problems related to implementation of the law. The implementation machinery is not found to be in place in many states. In fact there is no updated information available on the status of implementation of this law. First hand experience tells us people have no information about the Special Police Officers designated under the ITPA in the different states, the police fails to understand and use the trafficking law and other related provisions in the IPC for booking the perpetrators, there is very little innovation in the use of existing laws to ensure prosecution of offenders, public prosecutors and judges are not aware of victim protection measures established by way of judicial precedence or otherwise through administrative orders/notices of respective state governments, courts fail to use section 17 A of ITPA for carrying out home investigations before making an order of sending the victim back home or giving the victim back to her family/relatives, and the provision of seeking NGO assistance for the rehabilitation of victims too is not well used and justice continues to be delayed endlessly.

Information on the Central and State Advisory Committees set up as per the 1998 National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children is not available from public sources. While this plan has been under revision for quite sometime, the new plan might spring new demands on the implementation machinery. How will those ever be met if there is no database on how the state governments are functioning on anti-trafficking initiatives, giving insights into what mechanisms are in place and what are lacking?

The Juvenile Justice (Care and Protection of Children) Amendment Act, 2006

The Juvenile Justice Act of 2000 was amended in 2006 to strengthen the legal framework for the care and protection of children in India. However, both the original act and the amendment fail to address the problem of child trafficking in its entirety, demonstrating a lack of political will on this issue. In addition to this exclusion, as mentioned earlier, the mechanism to deal with victims of child trafficking i.e. the Child Welfare Committees, does not exist in every district as required under the law. As a result, rehabilitation, repatriation and follow-up of victims restored to their families remains a distant dream. The Child Welfare Committees in Delhi for instance find it difficult to trace a child's family and ensure home visits that will help them decide whether or not it is conducive to send the child back home. Since the trafficked children are often from rural areas which do not have Child Welfare Committees, it becomes even more difficult to network with an appropriate agency for successful restoration of victims to their families. In the case of children trafficked for labour, the situation is even worse, as the Labour Ministry officials often tend to bypass the Child Welfare Committees while sending the children back to their villages. Many of these children as a result are re-trafficked. In other words, the mechanism set up under the juvenile justice legislation for rehabilitation of victims of abuse and exploitation is yet to find recognition with other Ministries as well as courts that deal with a legal case of a trafficked victim. In many cases the regular courts have given girls rescued from brothels to persons claiming to be their parents/guardians/relatives without consulting the concerned Child Welfare Committee. This is despite the juvenile justice legislation clearly establishing the role of Child Welfare Committees as statutory bodies that ought to conduct appropriate inquiries and decide on suitable rehabilitation and repatriation of a child.

Prohibition of Child Marriage Act, 2006

The recent Prohibition of Child Marriage Act, 2006 also attempts to address the issue of child trafficking for child marriages, where it makes the transportation of minor girls for the purpose of marriage punishable and renders the marriage null and void if the minor is married after having been trafficked.⁷⁸ This is an important law in terms of children trafficked for marriage, although the legislation has been criticised for failing to make all child marriages void and for putting the emphasis on the child to declare his/her marriage illegal.

⁷⁸ Prohibition of Child Marriage Act, 2006, Article 12 (C).

In December 2007, the Ministry of Women and Child Development launched a scheme for prevention of trafficking and the rescue and rehabilitation of trafficked women and children. The scheme, known as UJJAWALA, will have specific components for the reintegration and repatriation of trafficked women and children. The components include mobilisation of adolescent groups, community vigilance groups and sensitisation of the police. The scheme also includes the provision of immediate relief, such as food and shelter as well as trauma care and counselling, to the rescued victims.⁷⁹ However, the scheme will initially be implemented through 50 projects with around 2,500 direct beneficiaries.

The UJJAWALA scheme has five components:

1. Prevention, which consists of formation of community vigilance groups/adolescents groups, awareness and sensitisation of important functionaries like police, community leaders and preparation of IEC material.
2. Rescue, safe withdrawal of the victim from the place of exploitation.
3. Rehabilitation, which includes providing safe shelter for victims with basic inputs of food, clothing, counseling medical care, legal aid, vocational training and income generation activities etc.
4. Reintegration, which includes restoring the victim into the family/community (if she so desires) and the accompanying costs.
5. Repatriation, to provide support to cross-border victims for their safe repatriation to their country of origin.

The shelter component of the scheme surely needs to be re-visited as adult women and girl children are likely to be kept under same shelter with similar services for both. A country which otherwise recognises the need for special and separate system of dealing with child victims has once again failed to implement it in case of victims of trafficking. The Swadhar scheme of the government which also provided shelter to trafficked women and girls has the same problem. Young girls rescued from brothels need special attention. Besides, they need to be treated as children than as women; their lost childhood must be restored and keeping them with women can never let this happen.

NGO Appeal to Move Child Labour to Ministry of Women and Child Development

On 12 June 2008, the World Day against Child Labour, the Campaign Against Child Trafficking (CACT) – India sent a letter to the Ministry of Women and Child Development to request that all matters relating to child labour be handled by their Ministry rather than the Ministry of Labour.⁸⁰ With no available estimates on the number of children trafficked for labour purposes, the existing anti-child labour laws fail to address the situation of trafficking, and the Ministry of Women and Child Development being the nodal Ministry responsible for planning for all children in need of care and protection, including child labourers, means that many problems stem from the division of issues relating to the protection of children in exploitative labour between two Ministries. The letter states that: “The juvenile justice law is the overarching law that governs child protection issues in India and therefore leaving certain child protection matters with the Labour Department and certain others with the Women and Child Development Department only creates confusion to the detriment of the children of the country.”⁸¹ With the current division between two Ministries, it is difficult to maintain a proper record of the number of children involved for purposes of adequate planning and efficient implementation and monitoring of child protection schemes and programmes. A further issue is that the Labour Department considers that their responsibility ends with the rescue of children, where after it is the duty of the Women and Child Development Department in the states to restore the child to his/her family and to carry out all other post-rescue responsibilities. Since the Labour Department is unable to follow up each and every case to ensure proper rescue, rehabilitation and restoration and therefore, in the interest of improving child protection services, it would be preferable to mainstream all responsibility for exploitative child labour to the Ministry of Women and Child Development.

79 Aasara blogspot, A comprehensive scheme for rescue and rehabilitation of trafficked women and children launched, 16 December 2007, <http://aasara.blogspot.com/2007/12/comprehensive-scheme-for-rescue-and.html>.

80 Letter from CACT to Ms. Renuka Chowdhary, Appeal for shifting child labour issues from the Ministry of Labour to Ministry of Women and Child Development, June 2008.

81 Ibid.

Delhi Declaration

In October 2007, the UN Office on Drugs and Crime convened a South Asia regional conference under UN-GIFT– or the Global Initiative to Fight Human Trafficking. The following Delhi Declaration emerged from this conference:

GLOBAL INITIATIVE TO FIGHT HUMAN TRAFFICKING

Delhi Declaration

The South Asia Regional Conference of the Global Initiative to Fight Human Trafficking (UN.GIFT):

Recognizing that being trafficked for exploitation goes against basic human rights;

Acknowledging that each of our countries have to work in a unified way towards eradicating human trafficking in all its exploitative manifestations;

And also acknowledging the relevance in this context of the UN Transnational Organized Crime Convention and its supplementary Protocols to Prevent, Suppress and Punish Trafficking in Persons and Smuggling in Migrants;

Concerned that the awareness of all sections of society on the extent and nature of the problem needs to be enhanced;

To this end declare as follows:

1. To call upon all concerned including police, prosecutors and the judiciary to undertake concerted action in law enforcement so that offenders are punished quickly, certainly and severely and in a time bound manner;
2. To make all efforts towards evolving a synergistic approach in dealing with trafficking issues;
3. To work towards systemic training and capacity building of all stakeholders;
4. To strengthen the legal processes wherever required including the protection of the victims;
5. To protect all children from sexual exploitation and take all stringent measures against sex selection and violence against the girl child;
6. To reduce demand for prostitution, use of child labour, forced labour and to strengthen the collaborative efforts of NGOs, local governments, and other institutions to prevent all forms of trafficking for this purpose;
7. To recognize the role of youth as change agents and to promote education of the girl child, and social and economic empowerment of women leading to their full participation in the economic life and in decision making;
8. To identify vulnerable areas including the study of migration and trafficking trends and patterns and to undertake focused programmes to target trafficking through planned and evidence-based interventions;
9. To ensure the availability of proper protocols and legal processes for rescue and repatriation procedures which are oriented towards victim care and protection;
10. To devise sustainable processes for victim reintegration into society in alignment with the work of voluntary agencies, local bodies and community leaders;
11. To identify inter-state and intra-state source, transit and destination routes for forced labour and to cooperatively work out modalities to prevent labour exploitation in concert with trade unions and employers associations;
12. To prevent brokers and intermediaries from indulging in trafficking for forced labour and other forms of illegal purposes, including specifically domestic child labour;
13. To promote safe migration and discourage irregular migration;
14. To integrate HIV strategies into anti-trafficking strategies and mitigate the health hazards of trafficked victims through inter-sectoral collaboration;
15. To promote the prevention of commercial sexual exploitation in close alignment with community leaders, health workers and NGOs;
16. To recognize patterns between trafficking and commercial sexual exploitation;
17. To build a business coalition against trafficking and to develop appropriate codes of conduct and ethical trade practices for business;
18. To encourage awareness campaigns to prevent trafficking by way of public private partnerships;
19. To build a coalition of media partners and popular personalities to advocate for the prevention of trafficking.

Conclusion

Trafficking of children – boys and girls is on the rise. As the demand for children increases, growing consumerism, poverty, conflict and violence are contributing to making children more and more vulnerable. While no child is safe, dalit, tribal and minority children are more likely to be victims because of their already marginalised socio-economic status.

Nearly five per cent of the budget in India is aimed at children, of which only a tiny proportion (0.034 per cent of the total budget) is spent on child protection schemes. This is incredibly small given the scale of trafficking and other child protection issues in the country. The majority of the budget secured for children is allocated to education and health schemes, thus neglecting the huge numbers of children in need of protection from the widespread menace of child trafficking. Child protection remains at the bottom of the government's agenda.

Out of the little money that is available in the child protection kitty to which primarily two Ministries make a contribution viz. Ministry of Women and Child Development and Ministry of Labour, the National Child Labour Programme takes the maximum share, even though it has failed miserably in all these years. The budget for anti-trafficking programmes of the Ministry of Women and Child Development does not really get accounted for as budget for child trafficking; rather it forms part of gender budgeting. Once again children get to be seen as extensions of women when it comes to the anti-trafficking work of the Ministry of Women and Child Development, as well as the UN agencies in India, and the problem of trafficking of boys seems to be finding no redress in the near future.

Further, the Department looking after trafficking issues in the Ministry of Women and Child Development continues to restrict its anti-trafficking work to women and girls trafficked for sexual purposes only. What is also a matter of concern is that the US government's anti-trafficking agenda continues to determine the Indian government's course of action against human trafficking. The Ministries required to coordinate the efforts for combating human trafficking still fail to do so; the rift between those working on HIV and AIDS and human trafficking continues to widen day-by-day, prevention by way of equipping families and villages with adequate livelihood options is still very weak; alternatives in the area of care and protection are few and outdated; victim protection is yet to become the order of the day in all law enforcement agencies and the judiciary at all levels; prosecutions are poor as ever... and amidst all this, more and more children are becoming vulnerable to exploitative situations, including trafficking, while there is no system in place to track these children and maintain a database.

Children are not safe anywhere, says report

Chetan Chauhán
New Delhi, October 11

AT A time when India has banned child domestic help, a UNICEF report on Violence Against Children released on Wednesday further drives home the point that underprivileged children have to be protected.

The report highlights violence against children in five scenarios — the home and family, schools and education settings, other institutional settings, work-stations and the community and the streets.

Eighteen-year-old Ayyamma who lives in a slum cluster in Bangalore, now heads the Bhim Sangha, a group advocating for the rights of 13,000 children. Her work to create awareness among children, sensitise police on how to handle children and producing learning material for children earned her the distinction of being at a seminar on violence against children seminar at UN secretary general's office in New York on Wednesday.

"In the place I live, violence is a daily occurrence," says Ayyamma. A victim of violence during childhood, Ayyamma got education through a self-help group and also worked as an errand girl to feed her family. Today, she has become the face of the UNICEF study.

The UNICEF study was done through field tests in India, eastern Europe, Uganda and the Caribbean. In India, studies were done through youth clubs and "child-friendly" experts.

The report concludes that violence against children happens everywhere, in every country and society and across all social groups. While only extreme cases of violence against children hit the headlines, most cases go unreported.

Quoting WHO, the report states that about 73 million children below the age of 18 face forced sexual intercourse. The girl victims almost double the number of the boy victims.

Even in developed countries like US, about 20 per cent of children have faced violence in the previous 30 days which increases to as high as 65 in the developing and underdeveloped world.

The report says that victims of violence are most likely to become perpetrators of violence in future and the physiological mark of the childhood remains throughout the life.

Many countries even don't have basic laws to protect children. In as many as 106 countries, there is no ban on corporal punishment while 145 countries has not banned corporal punishment in care institutions.

Protect them, now

The UNICEF report drives home the point that child victims of violence are most likely to become perpetrators unless measures are implemented to protect them



Imagoe ALHMANNU

In countries like US, about 20 per cent of children have faced violence in the previous 30 days which increases to as high as 65 in the developing and underdeveloped world

While corporal punishment is banned in 106 countries, it is still a preferred norm in 145 nations

About 73 million children below the age of 18 years face forced sexual intercourse

The report recommends drastic institutional changes for countries like India

The study was done through field tests in India, Eastern Europe, Uganda and the Caribbean

