

# **Communal Violence- A Crime Against Children**

*A Report by*

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## Communal Violence – A Crime Against Children

*"The greatest danger to this country is from communalism and not so much from external aggression, because when there is external aggression people of India tend to get united, but when communalism is rampant people get divided."*

*(Pt. Jawaharlal Nehru)*

India is one of the world's most plural and diverse societies. The one billion population is divided into castes, sects and communities but are united by a common civilisational ethos. However, while diversity is a distinctive feature of the Indian civilisation, the society also harbours within it extreme social inequalities. Economic and social inequalities in themselves may not necessarily be the bases for communal riots in India, however they could be given a communal dimension if the inequalities are analysed on religious groupings. The above statement of Nehru echoes the fear of communalism which, if goes unchecked can not only destroy the secular fabric of our society but we would be lost as a nation.

### Communalism

Quite a few prominent scholars such as Pramod Kumar, Bipan Chandra, W.C. Smith and Robert Hargrave Jr to name a few have defined communalism by highlighting its different aspects. Bipan Chandra in his famous work -

"Communalism in Modern India" observes: "the concept of communalism is based on the belief that a religious distinction is the most important and fundamental distinction, and this distinction overrides all other distinctions. Since Hindus, Muslims and Sikhs are different religious entities, their social, economic, cultural and political interests are also dissimilar and divergent. As such the loss of one religious group is the gain of another and vice-versa. If a particular community seeks to better its social and economic situation, it is doing at the expense of the other." Pramod Kumar on the other hand defines it as "the antagonistic assertiveness in political, social and economic spheres by one aggregation of individuals against another after being organised along religious, caste or other ascriptive lines"<sup>1</sup> he describes communalism as it manifests in our society.

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<sup>1</sup> Pramod Kumar, 'Communal Ideology – The Instruments, Basis and Social Appeal' in Virendra Grover (ed). Political System in India, Vol.7, New Delhi 1989, p. 322

## Communal Riots

The National Commission for minorities appointed a committee on Communal Riots on December 10, 1997 ' to suggest effective legislative and administrative measures for prevention and cure of the evil of communal riots.' in the country with Justice V.M Tarkunde as chairman.<sup>2</sup>

The above report notes that:

- Communal Riots are manifestation of collective behavioural disorder which can be ultimately traced to the minds and hearts of the people, which get tainted by exposure to anti-liberal and anti-humanistic ideas current in the family, educational institutions and the media based on inter-group prejudices and stereo-types. These tainted sentiments and attitudes get activated during periods of political and social mobilisation by elite groups who are engaged in intra or inter-community competition for the control over political power and national resources. The conflict situation becomes more sinister with disastrous consequences when dominant religion-cultural- political formations make all out bid to come to power by targeting minorities and when the state fails to uphold the rule of law.<sup>3</sup>
- Ashgar Ali Engineer writes that a riot is generally supposed to be a spontaneous outburst of violence between the communities, however he states that it is rarely so. In the pre-independence period there were some riots, which were spontaneous. Most of the riots then and almost all riots now are meticulously planned and executed. If a riot is a spontaneous outburst it is easier to control it by the law and order machinery of the state. When a riot is pre planned an appropriate atmosphere is created by spreading some false rumour.<sup>4</sup>

## Communal Riots in India:

The first inter-religious clash, which can be authenticated by records, took place in 1730 in Ahmedabad in the modern state of Gujarat. The occurrence of communal violence as a regular phenomenon started from 1922 onwards. Between 1922-27 within a period of 5 years 450 people died and 5000 were injured in the

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<sup>2</sup> Ansari Iqbal - Communal Riots: Prevention and Control, Communalism Combat, February 2000.

<sup>3</sup> ibid

<sup>4</sup> Engineer, A.A Communalism in India: A Historical and Empirical Study. First New Delhi, Vikas Publishing House Pvt. Ltd. 1995

intermittent communal violence in India. Millions of people got massacred in the communal frenzy unleashed by the partition of India. In the post partition era in 1954, riots broke out in Cooch Behar in West Bengal.<sup>5</sup> Since 1954 every year there has been communal riots in India, practically every region in India has witnessed communal tensions. The riots have been between religious groups, (Hindus, Muslims, Christians, Sikhs), linguistic, caste and tribes (*Please see annexure-I*). In 1992, the year Babri Masjid was demolished, 1,105 riots took place in India with 3000 persons being killed and 17,000 persons injured.

The communal tensions in Assam have its historical bases on the native population's unhappiness with Bengali domination and monopolisation of state administration and the cultural position for long. Therefore, when the Bangladeshis immigrated it created a sharp conflict situation in the state, which was expressed through the medium of regional and cultural identity. (Ashgar Ali Engineer)<sup>6</sup>

- Over 3000 children of Muslim settlers were killed at Nellie in Assam in February 1982, by an armed mob of Lalung Tribesman. The government appointed a commission to enquire into the matter. However there was no punishment for the guilty.<sup>7</sup>
- In the ethnic strife continuing between the Nagas and Kukis in the North Eastern State of Manipur, children are often victims of the attacks, which are carried out by these two groups on each other. In one such incident, 13 children deserted by panic stricken adults were burnt alive in Taloulong Kuki village, under Tammei sub-division in Manipur's Tamelong district. The 13 children all below 6 years could not escape as unidentified persons torched the entire village of 35 houses. Two of the children's bodies were torched beyond recognition.<sup>8</sup>

In Punjab the Sikhs and the Hindus have a common cultural heritage. However, from the early seventies there was a feeling of discontent among the Sikhs. The real question among the aggrieved Akalis and Sikh extremists pertained to economic demands. Adequate share in river water, hydro-electric power, control over Chandigarh, and Abohar and Fazilka districts are the important demands put forward by the Akalis. *The Akalis in other words, represent the aspirations of*

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<sup>5</sup> Anamika Srivastava 'Communal Violence and Administration', p 22

<sup>6</sup> Engineer, Ashgar Ali. Ed. Communal Riots in post-independence India, Hyderabad, Sangam Books, 1984;

<sup>7</sup> Ibid, pg 22,23

<sup>8</sup> Ravi Nair, Civil and Political Rights of the Child, Pg 22.

*Sikh bourgeoisie in Punjab which has come in direct conflict with the Punjabi Hindu bourgeoisie. Role of ISI is also significant in Punjab.*

The Khalistan movement could not sustain itself, as it had no real mass base, moreover due to the excesses committed by the Sikh youth they lost the support of the people.<sup>9</sup>

The aftermath of 1984 riots in Delhi and its backlash in Punjab resulted in number of children being orphaned, maimed and traumatised. There have been isolated reports on the aftermath of the riots and its effects on women and children. Most of these reports were journalistic pieces the only study we came across that had dealt with children was that of Dr. R.K. Choudhary of Punjab University (Violence and Socialisation of the Traumatized Children in Punjab).

Ashgar Ali Engineer attributes communalism in **Jammu and Kashmir** to the

- Opportunistic policies by political parties.
- Economic and political grievances soon assumed religious overtones and the Muslims of Kashmir who had repeatedly spurned Pakistani moves to take over the Valley began to question the integration of the state with India and the militant youth took up arms.
- Role of ISI
- Kashmiri Pandits forced to leave Kashmir and attempts to create an Islamic state by the Extremists.
- Serious human rights violation at the hands of security forces, increasing the alienation of the Kashmiris.
- Certain organisations want accession with Pakistan.
- Demand by the ousted Kashmiri Pundits for a separate homeland.

From 1990 to 1999 (April) - 936 Hindus and 46 Sikhs were killed in various incidents of attacks on minorities. Selective targeting of minorities by the militants and large-scale migration of these families from the Kashmir valley have reduced them to being refugees in their own country. It is estimated that around 8,50,000 Kashmiris have been displaced<sup>10</sup> they have subsequently settled in various parts of the country, of the total 50,248 families - 28,561 are in the Jammu region (15 camps), 19,338 are in Delhi (14 camps), and 2,347 in other areas.

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<sup>9</sup> Engineer, Ashgar Ali. Ed. Communal Riots in post-independence India. Hyderabad, Sangam Books, 1984;

<sup>10</sup> source: Website of Inhured International

In the course of writing this paper, riots broke out in **Gujarat** which is also linked to the Ayodhya issue. The savagery that followed the condemnable Godhra incident, where men, women, young girls, boys and infants were butchered and burned is incomprehensible. Crimes of extreme brutality committed on pregnant women, could not have been the work of deranged minds but deliberate acts to destroy the spirit of the people and terrorise them.

We had to go through various commission reports research studies, newspaper articles to source data on children. It has been extremely difficult to source validated data on child victims of communal riots. Most reports have clubbed women and children together and therefore it was difficult to disaggregate the data.

### **Children suffer the most:**

The following cases are presented to give a broad overview as to types of atrocities and brutal violence children experience during riots. The cases are being drawn from the last decade i.e. 1990-2002.

**Date/Year-** 1992

**Place-** Calcutta<sup>11</sup>

**Cause-** Demolition of Babri Masjid

### **Case Studies:**

- 11 year old Mumtaz still recalls the fire, stampedes, abuses and utter chaos, only recently, Mumtaz agreed to go back to school. But, she cannot remember her lessons.
- Gudia explains how the settlement where she resides was aflame, she sneaked back into their hut to salvage Rs 300 which her mother had saved, hidden under a pile of clothes. For her the english word '**Rape**' comes easily as she recalls the earlier incidents of violence in her area.
- For the children of Dhobiatolla , in east Calcutta the scars of the riots remain. Afraid of the dark, children huddle indoors, many view strangers with suspicion and stubborn silence; others recoil at the mention of riots and withdraw into their shells.

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<sup>11</sup> Ravi Nair, Civil and political Rights of the Child, p 22

**Date/Year –1992**

**Place- Bombay**

**Cause-** The immediate causes of the communal riots on 6th December 1992 were: (a) the demolition of Babri Masjid, (b) the aggravation of Muslim sentiments by the Hindus with their celebrations, rallies etc. and (c) the insensitive and harsh approach of the police while handling the protesting mobs which initially were not violent.<sup>12</sup>

**Casualties-**

**Riot report card<sup>13</sup>**

Number of people killed 872

Number of people injured 1829

Number of people missing 443

*(Government of Maharashtra figures submitted to the Srikrishna Commission).*

Number of people who fled the city 150,000

Number who sought refuge in relief camps 100,000

Loss of property Rs 40 billion

Homes burned 10,000

People left homeless 50,000

Percentage of riot victims who were Muslim 60-67

**Case Studies-**

- About 200 Muslim families from Dhobighat area had abandoned their houses and fled to safety. Their houses were systematically ransacked, damaged, looted and subjected to arson. According to the police, in all about 200 incidents of arson and looting took place on 10th January 1993;

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<sup>12</sup> Sree Krishna Commission Report- Website of Sabrang Communications

<sup>13</sup> Dilip D'Souza, Rediff.com

in almost all cases the victims were Muslims. This would have rendered many children homeless.<sup>14</sup>

- A survivor of the 1992-93 Bombay riots recalled at a 'Public Hearing' of the survivors of the Mumbai riots (organized by Communalism Combat on September 24, 2000) that- " They chopped off my brother's hand, then his feet; and slit his throat, all in my mother's presence. She was not spared either, her fingers were cut off, and she sat the whole day next to my brother's corpse. No one from my neighborhood came to help, no one stopped the blood and gore; even the police van doing its rounds did not stop. When my younger brother, hiding inside, saw my mother chasing the van, he rushed out. They pounced on him and burnt him alive."<sup>15</sup>
- On 8th December 1992 at 13:15 hours in Rajiv Gandhi Nagar, a mob of 300 to 500 persons set fire to some of the huts therein.<sup>16</sup>
- Leena Shinde's husband disappeared in January 1993, never to return, as she held her 14-day-old new born in her arms. She has scoured every hospital and every jail in the city and the state since; approached politicians who all made false promises but still has not received her due compensation for a life lost.
- Hajrabi is another survivor, who was witness to the brutal slaughter of her husband and 18 year old son, her two other off springs were fortunately saved as they were spending the weekend with their married sister. Compensation and justice elude Hajrabi.<sup>17</sup>
- This public hearing highlighted that there were upto 2,000 children in the city who receive no assistance for their school fees. That 249 did receive a monthly tuition fee amount from the National Foundation of Communal Harmony (attached to Union Home Ministry), but the support has mysteriously stopped since July 1999.
- The hearing also revealed that until July 1999, 249 children of riot victims were receiving Rs.525 each for their tuition so that the children do not drop out of the system. The number of legitimate claims to this right are much higher, at least 700 more children should be getting their due.
- During the wee hours of 8th January 1993, at about 0030 hours, some of the Hindu residences in a chawl popularly known as Radhabai Chawl in Jogeshwari jurisdiction were locked from outside and set on fire by

<sup>14</sup> Sri Krishna Commission Report, pg. 6

<sup>15</sup> Update- Remembering the dead; Communalism Combat, October 2000, pg. 8

<sup>16</sup> Sri Krishna Commission Report, pg. 9

<sup>17</sup> ibid

miscreants. One male and five female members of a Hindu family (Bane) and their neighbours were charred to death and three other Hindus sustained serious burn injuries. One of the victims was a handicapped girl.

- Sarwaribegum, resident of BIT Chawl No. 8, says that, at about 2200 hours on 8th January 1993, the miscreants repeatedly banged on her door and broke open the door to her tenement. She along with her two daughters-in-law and children was inside. One of the miscreants, Santosh Nagaonkar, started damaging the articles in the house and another placed a chopper on her neck and asked about the whereabouts of menfolk. The women pleaded for their lives, managed to run away and seek shelter in Prabhat Building. Sarwaribegum says that, when all this was happening, she saw the police standing 15 feet away from the building, doing nothing.<sup>18</sup>
- Between 9th January 1993 to 12th January 1993 a large number of Muslims, numbering about 3,000–5,000, who had left their houses for fear of attack had congregated near Sunder Vihar Hotel. They were surrounded by 40,000–50,000 Hindus and had to spend almost three days under constant fear of attack till they were rescued from there with the help of army column on 12th January 1993.<sup>19</sup>
- There is one incident which was taken up very seriously by the Sri Krishna Commission. Between 1100 to 1130 hours on 10th January 1993, after having arrived at Pathan Chawl, the police forcibly entered the premises of the Muslims and started picking them up. They entered the residence of one Hasanmiya Wagle, terrorized the wife of Hasanmiya and his daughter Yasmin at the point of rifle, picked up Hasanmiya's 16-year-old son, Shahnawaz, and dragged him out, all the while kicking him and assaulting him with rifle butts. Yasmin Hasan Wagle, saw Shahnawaz being taken towards police vehicle, when one of the constables standing behind him shot him from behind, almost at point blank range. Immediately, the policemen dragged the body of Shahnawaz by the feet and dumped it in the vehicle and took it away. Yasmin and her mother came down later and saw that the spot where Shahnawaz was shot down had a pool of blood.<sup>20</sup>

**Date/Year :** Dec.7<sup>th</sup> to Dec. 9<sup>th</sup> 1992

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<sup>18</sup> Sri Krishna Commission Report, pg 4

<sup>19</sup> *ibid*, pg 17

<sup>20</sup> *ibid*, pg 39

Place : Surat

Cause : Aftermath of Bombay Blasts.

### Case Studies-<sup>21</sup>

One of the most shameful and bone-chilling incident took place in Surat in a place called Vijay Nagar No. 2, before the attacks which was very well planned, about 10 to 12 feet high walls of bamboos were erected to prevent the Muslims from escaping. Floodlights were installed to watch the movement of the people in the area.

The attack, which started on the night of December 7, lasted until December 9. A mob of 800, well armed with choppers, iron bars and swords came in the night of December 7. The mob set some 250 houses of Muslims on fire after looting them. They killed around 70 Muslims on the 8<sup>th</sup> night. Before mounting the attack the electric wires of the area were snapped, plunging the area into darkness.

The mob raped 13 to 16 women and it was said that each women was raped by 4-10 persons, after which they were made to walk through the floodlights.<sup>22</sup> It is to be noted that each of these women could have been a child's mother, sister, aunt or some other close relative. The trauma that children would face in such situation is unimaginable; it would have created besides emotional problems, a feeling of hatred towards the people belonging to other communities.

- **The heads of some children were struck on stone and torn into two pieces.** Old persons were also beaten and killed while some people were killed others were burnt alive. In some cases even heads were chopped off and in order to wipe out evidence many bodies were either burnt or thrown into nearby drains.
- In one case the rioters killed the entire family of 6 staying in Suddurrehman Manzil, raped a 8 year old girl of the family and Yasmin, a 18 year old, who first saw her mother being fatally attacked was later stripped and raped by 8 to 10 persons.
- In another shocking case Jamila Bano, in her seventh month of pregnancy, had the agony of witnessing her 3 children being hacked to death, she subsequently became mentally unstable and was put into a mental hospital.

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<sup>21</sup> Ashgar Ali Engineer- Surat Shames the Nation, Communalism in India- A Historical and Empirical study, p 186

<sup>22</sup> Ibid

**Date/Year-** April 16, 2000

**Place-** Varanasi<sup>23</sup>

**Cause-**A fact finding Report brought out by Saajjha Sanskriti Manch ( United Cultural Forum) that visited the riot affected areas has traced the events as the unfortunate result of business rivalry and unchecked police cruelty against the minority.

The report stated that while the traditional Moharram procession passed peacefully, a subsequent skirmish between the Muslims and Hindus near the Imam Chowk in Chandpura took communal turn and resulted in a riot. The riot was quickly brought under control, however the subsequent police conduct and human rights abuse by them have been criticised by the report. Barely, a few days before the violence, the weavers of eastern U.P had closed heirlooms to protest against the UP government's recent hike of tax on Silk Yarn. Many weavers attributed the violence to the strategy of the government to break the unity amongst the weavers.

#### **Case Study**

- Policemen entered the homes of poor Muslim weavers and thrashed everyone, children, women and the aged included.
- The report details how a 12 Year old boy was beaten up so mercilessly by the police that he fell unconscious.
- Forty Year old Haji Wakil Ahmad , siting on a wooden cot with a child was beaten up by he police as was 80 Year old , Sardar Fateh Mohammed. His son was also beaten up and a four year old girl sitting in the upper floor of her house, was flung down the staircase of her home by the police due to which her ribs were fractured.

**Date/Year** : Not specified

**Place** : Jammu and Kashmir

**Cause** : Militancy

#### **Case Studies:**<sup>24</sup>

- Two children, Merjauddin and Abdul Majid, were blown to pieces when a landmine exploded near their school in Baramullah town.

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<sup>23</sup> Riot Report, Communal Business, Communalism Combat July 2000

<sup>24</sup> Chindu Sreedharan and Jewella C Miranda, Rediff.com

Five other children were injured in the incident. Militants had planted a landmine in the sand heap they were playing in.

- Shaziya was barely 10 years old when her left leg was ripped off in a bomb blast six years ago. "I was playing outside my house, just playing," she says. "Suddenly, there was a deafening sound and I felt a sharp pain. I don't know what happened after that but when I woke up my leg was gone." She pauses and then whispers, "for no fault of mine."
- In October 1990, 8 year-old Jawaid Ahmed Dar was arrested, possibly by CRPF personnel, for throwing stones at their vehicle. Police officials initially admitted that he was being held at the Old Airport Interrogation Centre. Later they denied it. A CRPF official in a Srinagar interrogation centre told his parents he had been adopted by a CRPF officer and taken away. The State government subsequently denied that he was arrested at all. According to Amnesty International, his whereabouts are unknown to date.

**Date/Year** : March 1<sup>st</sup> 2002

**Place** : Village Delol, Panch Mahal Dist., Gujarat

**Cause** : Godhra incident

#### **Case Studies:**

- The extended families of Mohammad Bhai and Bhuri Behn-about 20 people-were chased by the mob to the river. Javed and another boy who managed to escape and hid behind a bush saw the mob kill Mohammad Bhai and rape Yasmin, they were about to kill the mother of the other boy who was hiding with him, so he screamed and ran out from behind the bush and was caught. He was made to walk around the dead bodies that were burnt (as if around a pyre) and he was then pushed into the fire. <sup>25</sup>
- 35 year old Haseena Bibi Yasin Khan Pathan along with her entire extended family of 17 people ran from Limkheda on the morning of February 28<sup>th</sup>. At 7 am they caught the train from Limkheda Station, disembarked at Dherol Station at 10 am. That's when they encountered the mob. Every one ran helter-

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<sup>25</sup>Source : *Citizens Initiative, The survivors Speak Fact Finding by a Women's Panel, Ahmedabad*  
April 16, 2002

skelter and the family got separated. Haseena, her husband, and young daughter managed to run towards Halol. Two children, Farzana (10 years old) and Sikandar (7 years old) escaped into the fields. Four boys - Ayub, (age 12), Mushtaq, (age 12), Mohsin, (age 10), and Shiraz (age 7) managed to hid behind bushes, and witnessed what happened. There was a large crowd. They were wearing pant-shirt and brandishing swords. According to Ayub, the mob caught his sister Afsana and counins Zebu, Noorjehan, Sitara, Akbar, Rehana, Yusuf , Imran, Khatun (Aunt) and Zareef (brother). They were all stripped naked and made to run towards a nearby canal. That's the last Ayub saw of them. The bodies turned up charred near the canal the following day. He doesn't recognize the mob. No FIR has been lodged.<sup>26</sup>

- Medina lived in a joint family with her in-laws and children in the village of Eral, Kalol Taluka in Panchmahal District. On Sunday 2<sup>nd</sup> February 2002, at 12:00-1:00 pm, a mob attacked her hut. In her testimony she says “ I recognised two people – Gano Baria and Sunil- of our village pulling away my daughter Shabana. She screamed telling the men to get off her and leave her alone. ....I could do nothing to help my daughter.....My daughter was like a flower, still to see life. Why did they have to do this to her?. The monsters tore my beloved daughter to pieces. ....As I stumbled out I heard the voices of children crying....Khusboo was carrying baby Taufiq whose thumb was bleeding. The mob had found 11 people, tortured and killed 6 people. They left the children alone but cut the thumb of baby Taufiq who was in his mother’s arms when they attacked her.”<sup>27</sup>
- Jannat Sheikh recounts in her testimony to a fact-finding team how she witnessed 8 members of her family being killed and 2 being raped. She says “ .....My sister-in-law was stripped and raped, she had a three month baby in her lap. They threw petrol on her and the child from her lap was thrown in the fire.... A 14 year old girl was killed by piercing an Iron rod her stomach”<sup>28</sup>

In the midst of this carnage there are also stories of one community helping the other.

In his testimony 12 year old Ayub, a resident of Limkheda Village. Halol Camp. (March 30 2002) says” My sister Farzana and brother Sikandar had escaped into the fields. I watched the mob strip and beat my extended family along with my

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<sup>26</sup> *ibid*

<sup>27</sup> Source: *Citizens Initiative, The survivors Speak Fact Finding by a Women’s Panel, Ahmedabad) April 16, 2002*

<sup>28</sup> *ibid*

cousins Mushtaq, Mohsin, and Shiraz from behind some bushes.....When night fell, Sikandar and Shiraz started crying from hunger and thirst. We saw torchlight. Kaka and his wife had come to get us. They kept us and fed us for 7 days.... He located my mother who had escaped to Halol.<sup>29</sup>

In Sabarkantha and Panchmahals many women and children received help from members of the adivasi community when they were hiding from the mobs.

Direct impact of Gujarat violence on children left them wounded physically and mentally. Some of them both adults and children have been left with permanent disabilities. The Report by Medico Friend Circle "Carnage in Gujarat - A Public Health Crisis" describes the poor hygiene and health facilities at relief camps that led to outbreaks of measles, children pox, typhoid and bronchopneumonia. Thousands of children were affected by respiratory infections, and diarrhoea. The hospitals catered to emergency cases but once the "emergency" was over, hospital authorities would request patients to go back to relief camps even though they required to be hospitalised as they could not guarantee their security.<sup>30</sup> It is shocking to note that hospitals were also not spared from rioters. Internationally it is acknowledged that even in an event as grave as war hospitals will not be targeted. Children also suffered nutritional deficiency due to limited dietary intake. The Medico Friends Circle investigating team found 48% of children in one camp at Amdavad to be malnourished.

### **The Traumatized Children:**

"Saira (age 12), Afsana (age 11), Naina (age 12), Anju (age 12), Rukhsat (age 9), Nilofer (age 10), Nilofer (age 9), Hena (age 11) are children who have been scarred for ever. What these children have seen, heard and witnessed are things which we hope that no child would ever witness again.

They are all survivors from the horrors of Naroda Patia in Ahmedabad where more than 80 people were burnt alive and many women raped and maimed in what is probably the worst carnage in the current spiral of violence. The girls are young and for them making sense of what they have seen and heard seems impossible. The girls speak of 'Evil Hindus', The Hindu who burnt our home. The Hindu who didn't let us escape.

They say, "Hinduon ne bura kaam kiya" (Hindus have done 'bad things'-a euphemism for rape) as they tell this, their eyes shift uneasily. They look at one another as if seeking silent affirmation of what none of them really comprehended.

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<sup>29</sup> ibid

<sup>30</sup> Medico Friends Circle, 'Carnage in Gujarat - A Public Health Crisis' - P. 11.

"Balatkaar" (Rape) - they know this word. "Mein bataoon Didi? (Shall I tell you?), volunteers a nine year old, "Balatkaar ka matlab jab aurat ko nanga karte hain aur phir use jala dete hain." (Rape is when a woman is stripped naked and then burnt) And then looks fixedly at the floor.

These children would probably never trust a Hindu again, they might see in future any help coming from a Hindu with suspicion. They told the fact finding group "We celebrate all their festivals-we play Holi, we love patakas at Diwali, but the Hindus can't celebrate our festivals. That is why they are jealous. So jealous that this year they did not even let us take out Tazia processions" (in fact the decision to not allow Tazia processions on the 10<sup>th</sup> of Moharram was taken by the Muslim community itself for fear of violence)<sup>31</sup>

"I feel fearful about the bad people who may come and hurt me again", says 12 year old Aziz. There are many riot-affected children who are terrified and benumbed by the sheer savagery of the past two months in Gujarat (27<sup>th</sup> Feb.-20<sup>th</sup> April 2002).

The Fact finding team sponsored by Citizens Initiative Ahmedabad visited 7 relief camps in both rural and urban area. The following are its statistics on the number of children in these camps :<sup>32</sup>

RELEIF CAMP	NO. OF CHILDREN
Shah-e-Alam (urban)	4755
Qutb-e-Alam (urban)	495
Ramayan (Rural)	153
Memdabad (Rural)	500 (approx)
Vadali (Rural)	597
Halol (Rural)	177
Kalol (Rural)	910

The above data only gives you the numbers of children in the various relief camps of Gujarat. We do not know how many of them are orphaned, lost, wounded or raped. Apart from the aggregate figures given by the State Government that 800

<sup>31</sup> (Source : Citizens Initiative, *The survivors Speak Fact Finding by a Women's Panel, Ahmedabad*) April 16, 2002

<sup>32</sup> Source : Citizens Initiative, *The survivors Speak Fact Finding by a Women's Panel, Ahmedabad*) April 16, 2002

persons lost their lives in the violence, we really do not know how many of them might be children.

In almost all instances of communal violence, children get displaced, lose their parents, siblings and friends that leaves them completely shell shocked. Dr. R. Srinivasa Murthy, Senior Professor of Nimhans, Bangalore has this to say - "in all disaster and conflicts, children are the most affected. Studies during the Gujarat quake showed more than half of them have emotional problems". The post-traumatic stress disorders found are – intrusive memories, avoidance of circumstances associated with the stress, sleep disturbances, irritability, lack of concentration and excessive vigilance. In children they manifest as being fearful of noise, darkness, strangers, nightmares, bedwetting, rocking, thumb-sucking and not letting go of a known adult from sight.<sup>33</sup>

In Gujarat were children suffered physical and sexual violence and had the misfortune to witness their family members and neighbours being killed, raped and burnt experienced Post-Traumatic Stress Disorder (PTSD) which is a public health issue that needs to be tackled by health providers (services) in such situations. However, in Gujarat the only emotional support given to victims were by camp volunteers who were not trained for this kind of work.<sup>34</sup>

To quote from the Report 'Carnage in Gujarat : A Public Health Issue'  
*Medical professionals and camp volunteers had strikingly different attitudes to people's mental health needs. The MOs providing medical care at camps consistently undermined the importance of dealing with psychological trauma. Any sign that people were returning to a routine was taken as proof that they were not traumatised. This was illustrated when the team attended a vigilance meeting of medical officers deputed to the relief camps. When a team member mentioned that disturbed appetite could be a sign of PTSD, an officer immediately retorted, "Oh, they eat very well...."*<sup>35</sup>

*By ignoring the importance of psychological trauma, health services were underestimating the scale of damage, and undermining the need to rehabilitate the affected.*<sup>36</sup>

As there has been limited studies done on the subject of communal violences and its effects on children we had to rely heavily on the existing studies of situation of children in Jammu and Kashmir. These studies give us some insight of the trauma

<sup>33</sup> John.S. 'The Trauma Haunts Children', Times of India, Delhi 28<sup>th</sup> April 2002

<sup>34</sup> Medico Friends Circle, Carnage in Gujarat : A Public Health Crisis, P. 18.

<sup>35</sup> Medico Friends Circle, Carnage in Gujarat : A Public Health Crisis, P.19.

<sup>36</sup> Medico Friends Circle, Carnage in Gujarat : A Public Health Crisis, P. 20.

children suffer during such violence but also the psychological damage it causes and if they do not undergo therapy it can scar the mind of children forever.

The children of **Kashmir** are used to hearing their mother's anxious admonishments not to stray out of the house, not to play on the roadside, never to leave the door open, never ever to go out after sundown. But worst of all is the fear they see in their parents' eyes, the tension they absorb from their elders.

Since 1989 a number of children in Jammu and Kashmir have been orphaned, maimed or killed. However it is difficult to get validated data on the numbers of such children, most of the data available are small micro studies which cannot be authenticated. In this study we have drawn heavily from various studies on mental health status of children of J&K, these studies give insight into the mental health of these children and the psychological problems these children face during and after such violence.

Children who get injured or hit as a result of ongoing armed conflicts and belonging to poor parents from remote area are worst sufferers since medical aid is remotely available to them. In certain instances to lack of immediate medical attention has resulted in children losing a limb.

The children who are still living in areas having regular armed attacks by the insurgents, militants and actions by the security forces suffer from, heavy stress, misconceptions, depressions, poor health, loss of education etc. There is also a high incidence of infant deaths, poor health of child bearing and nursing mothers, the mothers are also under heavy fear psychosis which do effect the growth of babies both physically and mentally.

Dr. Margoob senior consultant at Srinagar's Government Medical College, offers the results of his study (The Pattern of Child Psychiatric Disorders in Kashmir) as proof. "In 1990, about 1,800 patients were registered at our psychiatric out patient department. But in 1994, the number was over 20,000. It represented both sexes and all castes, creeds and socio-economic status," said Dr Margoob. "Earlier, we had 6 to 7 new patients registering with us daily. Now, we receive anything between 60 to 70!" The number of child patients, he added, has gone up by the same ratio, if not more. "Even otherwise, children go through a lot of crisis during adolescence. On top of this, they have had to put up with the uncommon tension all around. This has forced them to bottle their natural aggression, their fears," the doctor went on. "Everything builds up in them and comes out as conduct and behavioural disorders, irritability, distractibility, aggression and the like."<sup>37</sup>

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<sup>37</sup> Chindu Sreedharan and Jewella C Miranda, Rediff.com

*Gulshan, Parveena, Ghouse and Zahid were locked up in a room while their father, a peon in a government school in Tregam, was being interrogated in an adjacent room by the security forces. He was tortured and subsequently killed. That was six years ago. Even now the older two children have problems falling asleep as they are troubled by memories of their father screaming in pain.*

Two other significant observations which the specialist noted during his study (The Pattern of Child Psychiatric Disorders in Kashmir) were the sharp rise in dissociative disorders (to the rate of almost 50 per cent) and the prevalence of post-traumatic stress disorders.

Consequently, many child specialists in the city have noticed increased incidents of nail biting, aggression, bedwetting, nightmares...

"Mental health is not easily quantifiable, but I would say that over 60 per cent of the children here have been bruised badly," says Dr Hussain.

*Seven-year old Harleen Kaur of Chitisinghpura has been deeply scarred by the massacre on the night of 20<sup>th</sup> March 2000, when unidentified gunmen shot dead 36 Sikhs of her village. Harleen's father, uncle and two cousins were among those who were gunned down that night. "Every time there is a knock on the door, Harleen cries as she is reminded of that terrifying night," her mother says. The events are deeply etched in the little girl's memory-the knock on the door, armed men taking her father and other men away, then the gunshots that shattered the silence of the night and finally, the sight of her father's blood-splattered body lying on the ground. "Since the killing, Harleen has become very aggressive," her mother says. She rarely talks. Her older sister is perpetually anxious.*

A painting competition held in the valley sometime in September 2001, opened a window to the scarred psyche of the children of Kashmir.

*Nine year old Altaf when asked to paint anything that came to his mind he painted a macabre picture of blood and gore. Three men, all armed, stand near a mangled body. A bus in flames is parked near a bunker. A blindfolded child is seated on a chair, what looks like a severed leg by his side.<sup>38</sup>*

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<sup>38</sup> Deccan Herald, September 16, 2001, A generation lost , Sudha Ramachandaran

*Altaf used only three colours - red, grey and black. Altaf was hiding under the bed when unidentified gunmen entered the house and shot his father dead. Even three years after the incident the child refuses to talk about the incident and about his father.*

*Syedtalib Mushtaq, has a similar vision of the valley. Her painting, titled "My Valley On Fire", has waves of fire engulfing a map of Kashmir. Ask her the why of it, and she too finds it difficult to explain.*

*"Because... because there are militants and firings and killings all around," she finally managed.<sup>39</sup>*

Another result of militancy, doctors note with alarm, is the drug habit which many youngsters have picked up. They give three reasons for this -- one, the children are more exposed to this menace as many of them have to go out and earn their livelihoods. Two, parents are too preoccupied with the overall situation that they fail to observe the warning signs. Three, Kashmir having emerged a major transit point for dope, drugs are available for the asking. Children are mainly using charas and tranquillisers."

There are an estimated 100,000 children orphaned by the crisis - many of them forced to fend for themselves as child labourers.<sup>40</sup>

CNN Report dated 8 October 1998, says that the Jammu Kashmir Militants are so desperate that they are now recruiting children as young as 12 years old.

Besides girls losing out on education, anxious parents have pushed girls into early marriage, afraid their sexual vulnerability would be preyed upon by multiple armed groups who are increasingly unaccountable, especially in the border areas.

Children of Jammu & Kashmir have been educationally and socially pushed back. The last 12 years of armed conflicts (acts) have cost them their education,\* avenues for further advancement, health care, the innocence of childhood and the freedom to move around. If the political strife in Kashmir does not cease we will lose a whole generation of frustrated, disillusioned, ill equipped children to militants, criminals and religious fundamentalists: \*

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<sup>39</sup> ibid

<sup>40</sup> BBC, Kashmir's orphaned thousands, Monday 7 August, 2000

\* Militants are said to have razed to the ground 828 of the Valley's 5,379 schools. Several schools have been converted into army camps. At the height of militancy, children spent most days of the school year at home.

\*Almost the entire organisation of the Hindu schools and colleges run by the Hindu educational societies, including educational institutions run by the Hindu Educational Society, the Dayanand AngloVedic

*18 year old Afaq failed to clear his Class X examinations twice. Depressed and confused, he started spending long hours in the mosques and would come home late. Unknown to his parents, he was being indoctrinated by militants. They convinced him to attain 'martyrdom' by becoming a 'human bomb. On April 19<sup>th</sup> 2000, Afaq drove a car laden with explosives to the army headquarters in Srinagar and blew himself up along with the car.*

Dr. R.K. Choudhary's study "Violence and Socialisation of the Traumatized Children in Punjab" gives us an insight into the mental status of child victims of militancy in Punjab.

Children who had witnessed the killings of either one or both parents showed the early signs of neurosis. Some children had difficulties in accepting the social realities as it actually existed to what they wanted to make believe. All the children of the study were orphans staying in a residential school in Gurudaspur district. The study also revealed that the orphaned children were not welcomed by the extended families. In certain instances they were ill-treated and worked as domestic helps in the homes of the relatives. The extended family members could have been poor and therefore would have seen the orphan(s) as additional burden on their limited resources.

Apart from the psychological problems children undergo during the communal riots, they also lose their security in terms of a family, lose out on education and a good number of children are forced to join the ranks of child labour.

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organisation and the Vishva Bharti Trust were either burnt down or seized by the militant-sponsored Muslim organisations in a swift manoeuvre.

## Legal Provisions

### *Rights of the Child in India, especially at the time of Communal Riots:*

The Constitution of India under Article 39 (Directive Principles of State Policy) states that the state shall direct its policy towards securing:

‘... that the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and childhood and youth are protected against exploitation and against moral and material abandonment.’

The Constitution of India also guarantees equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth and abolition of untouchability. Besides this the constitution also confers certain rights, like rights - against exploitation, right to freedom of religion, freedom of conscience and free profession, practice and propagation of religion, freedom to manage religious affairs, freedom as to payment of taxes for promotion of an particular religion and freedom as to attendance at religious instruction or religious worship in certain educational institutions.

The Constitution further protects the interests of the minorities and recognises their right to conserve their language, script and culture and to establish and administer educational institutions of their choice. It needs to be stressed that despite the Hindus being over 82% of the country's population, they are a minority in Jammu and Kashmir, Nagland and some Northeast States, as well as Punjab.<sup>41</sup>

### *The Government of India acceded to the Convention on the Rights of the Child on 11 December 1992.*

United Nation has also urged all countries to take care of the ethnic, religious and linguistic minorities and recognise their basic needs and rights.

The UN Convention has provisions obligating the state to ensure that the child is protected from all forms of discrimination, punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians or family members (Article 2);

Every child has a right to life (Article 6)

State to preserve the identity of the child (Article 8);

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<sup>41</sup> Minority Rights, a Global Concern, Communalism Combat, July 1999, P 34

The State shall ensure that the child will not to be separated from his parents against his will, except when competent authorities, subject to judicial review determine, that such separation is necessary in the best interests of the child, further if such separation results from any action initiated by a state party, such as detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in custody of the state) of one or both parents or of the child, than the state party shall upon request provide the parents, the child, or if appropriate another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of information will be detrimental to the well-being of the child.( article 9),

State to ensure freedom of expression (Article 13) freedom of thought, conscience and religion (Article 14); freedom of association and peaceful assembly (Article 15); access to appropriate information (Article 17);

Under Article 19, the state parties are obligated to take necessary legislative, administrative, social and educational measures to protect the child from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child, this article further states that there shall be appropriate programmes for treatment and follow up of child maltreatment.

Article 20 stipulates that a child deprived of his/her family environment or in whose best interests cannot be allowed to remain in that environment shall be entitled to special protection from the state

Article 23 aims at providing a decent life to a mentally and physically disabled child.

Article 28 gives the child the right to education.

The preparation of the child for a responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all people, ethnic national and religious groups and persons of indigenous origin. (Article 29)

Under Article 30, a child belonging to an ethnic, religious or linguistic minority shall not be denied the right to enjoy his/her culture, religion, language.

Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (Article 37(a)).

No child to be deprived of his or her liberty unlawfully or arbitrarily, the arrest, detention or imprisonment for the child shall be according to law and for the shortest possible time. (Article 37 (b))

Article 39, provides that the state parties shall take all appropriate measures to promote the physical and psychological recovery and social re-integration of a child victim of : any from of neglect, exploitation, or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment, which fosters the health, self-respect and dignity of the child.

Article 40 requires the state parties to recognise the right of every child alleged, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for human rights and fundamental freedoms of others and which take into account the child's age and desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

The existing legal provisions, both preventive and punitive, are adequate enough to prevent and suppress communal riots.<sup>42</sup> However there is a problem of implementation of these rights.

### Laws Applicable at the time of Communal Riots

#### *Preventive Legislation.*<sup>43</sup>

Timely and accurate intelligence reports concerning possible communal conflicts or activities of the rioters will assist the law enforcement agencies in making decisions and directing actions that will thwart, prevent or suppress a riot.<sup>44</sup>

There are certain Preventive Legislations available under the Indian law:

(1) Code of Criminal Procedure, 1973 has the following sections dealing with communal riots, which have been summarised below:

*Section 151* under which a police officer is empowered to arrest without a warrant, a person designing to commit a cognisable offence; this section is bailable. Prompt arrests of anti social elements can be made under this section.

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<sup>42</sup> S.K Ghosh, Communal Riots in India- Meet the Challenge Unitedly, p 96

<sup>43</sup> ibid

<sup>44</sup> ibid

*Section 144*, which deals with cases, urgent in their character, of either nuisance or apprehended danger;

*Section 145* under which an executive magistrate, on receipt of a report from the police can take action in cases of land disputes e.g. during disputes over graveyard, mosques, temples, etc.

*Section 129* under which any executive magistrate or police officer not below the rank of sub-inspector will have the authority to disperse communal and unlawful assembly or any assembly of more than 5 persons likely to cause a disturbance to public peace; and if this assembly does not disperse when commanded than such an assembly can be dispersed by force and if necessary arresting and confining the persons who are part of the assembly.

*Section 130* which states that if the assembly does not disperse than the executive magistrate of the highest rank who is present may have it dispersed by the armed forces; however part (c) of the same section also states that if the armed forces use force than it should be done in such a manner that it causes the least injury to persons and property;

*Section 131* stipulates that if public security is in danger and the executive magistrate is incommunicable, than any commissioned or gazetted officer at the armed forces may disperse such an assembly with the armed forces under him and may arrest and confine any person under this act, however if during this time it becomes easy for him to communicate with the Executive magistrate than he may do so, and thereafter will take orders from the Executive magistrate.

*Section 132* states that no prosecution against any person for any act purporting to be done under **Section 129, 130, and Section 131**, shall be instituted in any criminal court except with the sanction of the Central or the State Government as the case may be. (Whether the officer concerned comes under the state or central government), the section also has the provision that no member of the armed forces doing any act in obedience to any order which he was bound to obey shall be deemed to have thereby committed a offence.

### Curfew

Curfew order is imposed by an executive magistrate and commissioner of police under section 144 of the Code of Criminal Procedure to prevent stabbing, looting and arson. Prompt imposition of curfew helps the law enforcement agency to localise the trouble.

Imposition of curfew does not require the prior approval of the Government. The decision to impose curfew order rests with the District or the Sub-Divisional magistrate in consultation with the local police after proper assessment of the situation- the main object being to prevent disturbances breaking out. The imposition of curfew is a recognised and effective method of prevention and suppression of riots. Violation of curfew order is a cognizable offence and punishable under Section 188 I.P.C.

### **Preventive Action by the Public**

Under Section 43 I.P.C ( arrest by private persons and procedure on such arrest); section 37 ( public assistance to magistrates and police); section 39 (public to furnish information of the commission of, or intention of any other person to commit the following offences forthwith reported to the nearest magistrate or police officer; Section 40 Cr. P.C (duty of officers employed in connection with the affairs of a village to make certain reports); Section 129 Cr-P.C. empowers the concerned police officer not below the rank of a sub inspector, to require the assistance of any male person, for the purpose of dispersing an unlawful assembly or any assembly of 5 or more persons like to cause a disturbance of the public peace and if, necessary , in arresting and confining persons who form part of it.

Intentional omission to assist or furnish information is punishable under the Indian Penal Code.

### **Indian Penal Code**

Under the Indian Penal Code, all policemen and citizens have the right to private defence. Crimes committed during communal riots include murder, grievous hurt, house trespass , rape, kidnapping, abduction, looting, arson, etc. Against these crimes the right of self defence is absolutely necessary. Every person has the right to protect his own body and the body of any other person, against any offence affecting the human body. Policemen and citizens need not run away, they have a right to counter attack on the criminals provided that the injury tat they inflict is not out of proportion to he injury with which they were threatened. However there are certain limitations to this law too like the recourse to public authorities if there is time; there is also no right to defence against an act done by a public servant under certain circumstances, e.g. when he is acting under the powers granted to him by virtue of his office, etc.

### **Police Act, 1861**

Section 30, empowers the District Superintendent and Assistant DSP of police to regulate public assemblies and processions, with music, in streets and public

thoroughfares by the issue of a licence, defining conditions on which the procession shall be permitted to be taken out in streets and public thoroughfares. Violation of this section is punishable under Section 32 of police act.

Under **Section 30** the police can stop any procession which violates the conditions of a licence granted under section 30 and order it to disperse.

Under **Section 31** the police are required to keep order on public roads and prevent obstructions on the occasions of assemblies and processions on the public roads, and in public streets, or in the neighbourhood of places of worship, during the time of public worship etc.

**Section 15** empowers the State Government to notify any area within its jurisdiction to be disturbed area; and to recover the cost from the inhabitants of that area through collective fines.

*Section 15-A* provides awarding compensation to sufferers from misconduct of inhabitants of any area.

Besides these there are also laws of preventive detention under **Section 3 (1) (a) (b) of the National Security Act, 1980**. Local police Acts and special legislation in some states provide for the externment of Anti Social and Communal Elements from the Disturbed areas.

To control any dangerous communal propoganda spread through the means of any published material, section 6 of the Criminal and Election Laws (Amendment) Acts 1969 gives powers to control prejudicial publication likely to incite communal feelings.

Raids can be conducted under the Indian Arms Act, 1959, Explosives Act, 1884 and Explosive Substance Act, 1908.

**Commissions of Inquiry Act, 1952** (amended by the **Commissions of Inquiry Act, 1971**) under which commissions can be set up to enquire into incidences of communal riots.

### **Punitive Legislation**

**Section 153A**, prohibits promoting enmity between different groups on grounds of religion, race, place of birth, residence, language etc, and doing acts prejudicial to the maintenance of harmony. This section is cognizable and unbailable.

**Section 153 b** prohibits Imputations, assertions prejudicial to national integration. This offence is cognizable and non-bailable;

**Section 295** prohibits Injuring or defiling place of worship with Intent to Insult the Religion of any class. This offence is cognizable and non-bailable;

**Section 295-A** prohibits deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious belief; **Section 296** prohibits disturbing religious assembly; **Section 297** prohibits trespassing on Burial places, etc. **Section 298** prohibits uttering words, etc, with deliberate Intent to wound religious feelings; **Section 505** prohibits false statement, rumour, etc. Circulated with the intent to cause mutiny or offence against public peace or hatred or ill-will between different classes and false statement, rumour etc, made in place of worship, etc, with intent to create Enmity, Hatred or ill-will; All these offences are cognizable and non-bailable;

It should also be noted that the ordinary Indian Criminal Law enjoins the authorities to legally accept a person as 'missing' if there is no traceable evidence of him for seven Years. Yet the widows and orphans of the Communal riots in India are denied both Justice and compensation.<sup>45</sup>

### Various Commissions:

The basic problem in India has been the conflict between the Hindus and the Muslims. The Sikhs had to face one riot by the majority community in the year 1984 after the assassination of the then P.M. Indira Gandhi. In the last decade there has been an increase in Christians being targeted. Most of the incidents have involved Christian missionaries.

A number of commissions have been set up to deal with the question of communal riots in India and they have repeatedly pointed out what went wrong and also the preventive steps which should have been taken.<sup>46</sup>

**The National Police Commission noted:** " In one town, where a serious communal riot was raging for a very long period and where curfew was imposed continuously for days, the district officers could not even decide on the arrest of the anti-social elements, as there was constant unwarranted interference with their discretion by the political executive."

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<sup>45</sup> Update, Remembering the Dead, Communalism Combat October 2000 , p 10.

<sup>46</sup> Joginder Singh- Minority Rights, a Global Concern, Communalism Combat, July 1999, p 35

Time is generally less when communal riots break out and the initial hesitation in bringing the situation under control may prove disastrous.

The commissions have also noted that in some incidences the police officers and men have shown unmistakable bias against a particular community while dealing with the communal situations. There have been serious allegations of high-handedness, including criminal activities, as arson and looting, molestation of women etc. have been levelled against the police deployed to protect the citizens.<sup>47</sup>

It has also been noted that there is a tendency amongst the officers to avoid taking responsibility for dealing with certain situations. The police officers often find it prudent to avoid getting involved in situations where they may have to open firing.

Several commissions in the past have stressed the role of Peace Committees, which would include impartial men from both the communities, which are involved in the conflict. The peace committees can play a very important role in removing fear, mitigating pain, reducing panic and restoring normalcy in the area. Several Commissions have suggested the following measures:<sup>48</sup>

- a) A special intelligence unit should be constituted at the state and central levels, which should consist of persons especially trained for this kind of work.
- b) Intelligence agencies should furnish their reports and assessments to the district magistrates and district superintendent of police should be charged with the personal responsibility for scrutinising these reports and taking preventive actions promptly to prevent communal disturbance;
- c) A close watch should be kept on rumour mongering;
- d) Places of worship should not be used to hold meetings which will lead to communal disturbances;
- e) Prevention of the publication of provocative news;
- f) The officers concerned should be made personally responsible for prompt action to stop or prevent communal disturbances;

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<sup>47</sup> ibid

<sup>48</sup> ibid

- g) Special teams of investigation should be detailed for investigation of offences committed during Communal Riots;
- h) Offences to be investigated and offenders to be prosecuted promptly.

### **Measures Taken by Central and State Government for Prevention and Rehabilitation of Victims :**

At the Government of India level the following steps were taken:

A National Commission for Minorities was established in 1978. However, it took 14 years to bring it under parliamentary legislation through a special legislation in 1992, which gives it specific duties and powers.

The commission for linguistic minorities appointed under Article 350B of the constitution investigates all the matters relating to the safeguards provided for linguistic associations and individuals belonging to linguistic minorities. More than 30 Reports have been laid before the Parliament but the outcomes of such reports are hardly known.<sup>49</sup>

The government has also set up a National Minorities Development and Finance Corporation with an authorised share capital of Rs. 500 crore.

A separate Division in the Ministry of Home Affairs looks after preservation and promotion of national integration. The Division carries out duties involving policy, planning, administration, legal as well as promotional efforts, in connection with national integration and communal harmony. And is constantly in touch with the State Governments, sharing vital information in advance, sending alert messages, issuing detailed guidelines for effective handling of communal problems, etc. Other aspects dealt with by the Division include matters relating to National Integration Council and its Committees wherein various problems on the communal front that may arise from time to time are taken up for discussion and for arriving at a consensus decision. The promotional aspects include observance of "Sankalp Divas" and "Quami Ekta Week"; provision of grants-in-aid to voluntary organisations engaged in activities in the fields of national integration and communal harmony and to States/UTs for conducting essay competitions on the topics relating to national integration and communal harmony for college/university students at State level and for school children at district level; presentation of awards i.e. Communal Harmony Award and Kabir Puraskar in due

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<sup>49</sup> Joginder Singh, - Minority Rights, a Global Concern, pg 36, Communalism Combat, July 1999

<sup>49</sup> ibid

recognition of the service rendered by an individual or organisation for promotion of national integration and communal harmony, etc.<sup>50</sup>

### **Assam : Steps Taken to Rehabilitate children affected by militancy :**

The Assam Police has taken steps to tackle the impact of militancy on children<sup>51</sup>. The state's police force has declared a war — a socio-psychological one — against the adverse effects that militancy has had on children. The operation, code named "Project Aashwas", was launched on November 14, 2001 in collaboration with UNICEF "to give the children of this militancy-infested state an opportunity to bloom in an atmosphere of tranquillity and just social order." As a starter, 50 children from affected families of police, civilians and militants will be selected at random for assessing their needs and causes of trauma due to violence.

The basic objectives of the project is to create and develop an attitude of humane approach towards children in general and in conflict situation among the government officials directly dealing with them, sensitise people on issues relating to children, creation of public opinion against all kinds of terrorism and violence that have a direct bearing on children, collect and collate data relating to families of children affected by violence, help victim families and create awareness on the provisions and proper implementation of the Juvenile Justice Act.

The project plan includes training and sensitisation of police officials, conducting a base line study to identify measures to improve the scenario and initiation of actions on the basis of the findings of the base line study.

The training aims to imbibe amongst policemen a positive attitude towards the basic needs and problems of the children in trauma and to develop referral skills among them to handle the children in conflict with law.

### **Jammu & Kashmir:**

- The Government has launched various schemes for the welfare and rehabilitation of militancy victims through State Rehabilitation Council<sup>52</sup>. Set up in 1996, the Council has so far provided Rs 248.30 lakhs under different schemes among the militancy affected people. The council has also provided Rs 82 lakhs as scholarship to school going orphan children, pension to widows, old age pension and

<sup>50</sup> Ministry of Home Affairs, Government of India

<sup>51</sup>Hindustan Times, Guwahati , Novembe12, 2001

<sup>52</sup> The Daily Excelsior, 7 September 2001

marriage assistance to young widows or grown up daughters of widows.

- Save the Children Fund, U.K, an International NGO through its NGO partners in Jammu and Kashmir are supporting various projects in the valley and Ladakh especially focussed on child development i.e. education and health care.
- A number of NGOs in partnership with the government and International NGOs such as Oxfam-UK, Action Aid-UK and Save the Children Fund-UK are working in the various relief camps of Gujarat - providing various services such as health care, trauma treatment, food, filing complaints/cases against rapists and criminals. The state government NGOs and citizen's initiative will have to make efforts to build the confidence of the victimised communities. A number of confidence building measures will have to be taken up.
- One cannot fault the government if one were to look at the various commissions constituted, programmes and schemes for promoting communal harmony have been planned. The problem lies in the non-implementation of the various schemes, programmes and recommendations of the National Commission for Minorities. The bane of our country is that we are a prolific legislator but habitual defaulter.

### **National Commission for Minorities - Mandate**

1. The National Commission for Minorities appointed a committee on communal riots on December 10<sup>th</sup> 1997<sup>53</sup>

Some of the preventive measures suggested by the committee is setting up of statutory Community Relations Commission (CRC) at the national level comprising of jurists, sociologists, historians and specialists in ethnic conflict resolution for:

- Study and research on sources of inter-group conflicts,
- Monitoring of current inter-group relations
- Prediction, warning and management and peaceful resolution of conflicts,
- Initiating legal action against those involved in fomenting communal harmony, ill-will and disharmony.

It was also suggested that CRC should have regional, district and mohalla units.

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<sup>53</sup> Ibid

2. The Report also suggested constituting, Special Intelligence Units at the national and state levels, as recommended by the NIC, for collecting intelligence specially related to communal disputes and tensions; a specially trained cadre of intelligence personnel to be raised comprising persons drawn from all communities with adequate representation of minorities.; personnel involved in collection of intelligence to be given due recognition and status to make the service attractive for competent persons with special aptitude for work; the law courts to dispose of cases under sections 153A, 295, 505 etc. on day to day basis;
3. It suggested the enactment of Central Political Activities (regulation) Act which prohibits political activities, aggravating communal tension; right to procession whether religious, political or social should be strictly controlled; monitoring of the media; The NCERT and UGC to review their syllabus to remove inter-community prejudices\*.
4. With reference to compensation to victims it was recommended that all state governments for payment of a uniform compensation of Rs. 2 lakhs with interest to the families of all those killed in the riots in any part of the country, in accordance with the Delhi High Court judgement dated 5 July 1996 (to be implemented in all riot cases after 1984.

It is unpardonable that even after this recommendation of giving a compensation of Rs.2 lakhs to victims the Gujarat Government initially announced a differential compensation package for Godhra victims (Rs. 2 lakhs) and for other victims (Rs. 1 lakh.)

Four and half years have passed but there is no sign of these recommendations being implemented. Perhaps, if the CRC had been in place we might not have witnessed Gujarat carnage.

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\* The recent efforts to rewrite Indian history with a certain bias towards one community by NCERT and include this new version of Indian history in schools goes totally against the recommendation of the committee on communal riots set up by NCH and it will only further alienate groups of people and prejudice children's minds against other communities.

### **Some thoughts for Action:**

1. Immediate setting up of Statutory Community Relations Commission at the national level with regional, district and mohalla units.
2. National Commission on Children to have a special cell to look into issues affecting children during disasters, communal riots, war and militancy.
3. Until such time National Commission for Children is established, National Human Rights Commission should hold special hearings for children. During these hearings children's testimonies could be gathered which will be the basis on which legal actions can be taken against the abusers and also to monitor the progress of relief and rehabilitation actions taken. The legal cases should be expedited and extreme care to be taken that the court proceedings do not traumatise the child further.
4. Television, radio programmes on various religious faiths and ethnic groups to encourage the spirit of positiveness and acceptance of the diversity of our society among the population.
5. Relief camps to ensure hygienic living conditions with clean portable water and sanitation facilities.
6. Immediate relief services should mandatorily have health care which includes trauma treatment and therapy. Therapy to be conducted by health professionals and voluntary trained counsellors who would use child friendly methods of therapy. Identify children who need long term therapy and work out a system by which the child will continue his/her therapy after rehabilitation.
7. Medico-legal cases to be recorded immediately, including dying declarations. The NHRC's protocol for conducting autopsies should be followed.
8. Education Programme (NFE) and recreational activities to be organised in relief camps as soon as possible and children encouraged to attend the same.
9. Parents, siblings of children who are lost to be traced as early as possible to minimise the trauma of children.
10. In cases where children have been orphaned, they would need special care and counselling and restored to a member (aunt, uncle, grandparents) of the extended family. To ensure that these children are not seen as unwelcome members and burden to the foster family, the state could initiate sponsorship programme for these families.

11. Institutionalising children should be the last resort, so also giving up children for adoption.
12. Rehabilitation package must include livelihood options to people who have been dislocated or their livelihood destroyed by the violence.
13. In case of orphan children the monetary compensation of Rs.2 lakhs should be put in a fixed deposit in a bank. The interest earnings could be used for her/his education and welfare.
14. There is also an urgent need for data on children affected by communal violence to be systematically collected to understand the magnitude of the problem.

### **Conclusion:**

It was December 20, 1992, a fortnight after the unfortunate incident of the demolition of the Babri Masjid, a 10 year old street child asked Suresh, a street educator from Butterflies ( an NGO working with street and working children)-

“ Bhaiya, are you a Hindu?” Suresh said “ No”. “ Then you must be a Muslim” remarked the 10 year old, to which Suresh responded “ No”. “ Than what are you?” “ I am a human being.” The 10 year old, not expecting such an answer cautioned Suresh “ You must either be a Hindu or a Muslim, or you will be killed.”

Instances such as these raise the question- where have we gone wrong? Are we conveying to children that we must strongly identify with one or the other religious community to be secure and protected?

The growing frequency of communal riots is a cause for serious concern. If no lasting and sustainable solution is initiated immediately, things can quickly get out of hand and India could end up being torn into as many pieces as there are communal groups in the country. The diversity in our country, frequently referred to as our richness can soon be our liability.

Let us begin with children, as they are the adult society of tomorrow. Begin in schools with an education system where we impart knowledge on religion and religious practises, not only to promote tolerance but also to acknowledge the similarities and appreciate the differences. Such education on religion should not be merely theoretical but should promote the values of love, peace, and tolerance which are intrinsic to all religions through activity learning. The children in schools may be involved in planning and celebrating the major festivals of all

religions. Children may be encouraged to visit their friends belonging to other religious communities than their own on their festivals.

There could be a Children's Monitoring Committee which can be a catalyst in schools, neighbourhoods and homes to prevent children and adults speaking negatively of other religions and communities and perhaps demonstrating such prejudices.

For too long we have been taking communal riots rather casually and even started believing it is a part of the reality of our time. The malaise has already caused irretrievable damage to our social fabric.

The time to act is Today so that tomorrow's society will be truly secular with peaceful co-existence of all religions.

Children suffer the most and get severely scarred and traumatised by communal violence. A truly secular nation and a tolerant society is the best environment for children to grow without prejudices, hatred and discrimination among diverse communities. Can we assure this atleast for tomorrows children?

*Butterflies, New Delhi  
May 2002*

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## Annexure 1

### Statistics Of Anti-Muslim Violence In India<sup>54</sup>

Data for 1954 - 1985 are taken from the records of the Home Ministry of India. Later data are compiled by the California based India Research Center.

Year	Incidents	Killed	Injured
1954	84	34	512
1955	75	24	457
1956	82	82	575
1957	58	12	316
1958	40	7	369
1959	42	41	1,344
1960	26	14	262
1961	92	108	593
1962	60	43	348
1963	61	26	489
1964	1,070	1,919	2,053
1965	173	173	758
1966	144	45	467
1967	198	25	880
1968	346	133	1,549

<sup>54</sup> Indian Muslim Relief Committee of ISNA

1969	519	674	2,877
1970	521	298	1,723
1971	321	103	1,330
1972	240	70	1,207
1973	242	72	1,500
1974	248	87	1,266
1975	205	3	962
1976	169	9	794
1977	188	36	1,122
1978	219	108	1,801
1979	304	261	2,379
1980	427	375	2,691
1981	319	196	2,613
1982	474	236	3,025
1983	500	1143	3,652
1984	476	445	4,836
1985	525	328	3,665
1986	633	532	5,321
1987	645	762	7,653
1988	671	802	8,762
1989	634	739	7,438
1990	564	639	6,892

1991	656	817	8,920
1992	1,105	3,000	17,000

### The Experience of Butterflies with Childline

CHILDLINE - a National 24 hour free emergency outreach helpline for children in distress which is currently operational in 33 cities and is being sponsored by Ministry of Social Justice and Empowerment was initiated in Delhi in October 1998.

Delhi has been divided in 5 zones with Butterflies Co-ordinating the South Zones while other 4 zones are co-ordinated by different NGOs. Apart from the immediate crisis management, Butterflies Childline networks with different allied systems and resource organisations to intervene for the long term rehabilitation of these children.

Since its inception three and a half years back, Butterflies has responded to 163916 calls. Out of 150 calls that we receive per day on an average 15% of them require direct interventions ranging from medical assistance, shelter, repatriation, rescue from abuse, missing children, calls requiring emotional support or information on Childline and other services. Medical interventions range from providing long-term hospitalisation for terminally ill children, first aid for minor ailments or cases of accidents, mobilising sponsorship for medical treatments requiring surgeries.

Through calls by concerned adults or neighbours, we were able to rescue children from abusive environment. Most of these children are sent to Delhi to work as domestic servants and due to their vulnerability and low visibility, are subjected to physical or sexual exploitation.

A comprehensive intervention is planned for these children including trauma specific counselling by mental health professionals, shelter, medical and also legal services.

Butterflies has filed 6 criminal cases of sexual abuse in the court against the abusers who either happen to be close family members or employers. Shelter, is provided to children who either live in abusive environments or in extreme situations of neglect and deprivation.

Butterflies Childline has also received a considerable number of children with cross disabilities and children who are either mentally ill or challenged. Besides offering medical and psychological services, they are also restored back to their parents. However, we continue to face problems concerning the placement of mentally ill and destitute children as there are very limited residential centres for mentally challenged children and no such facilities exist at all for mentally ill in Delhi.

In repatriation cases, we collaborate with district officials, non-governmental organisations and other Childline centres in different cities to make the process of repatriation and follow-up faster and easier.

Butterflies Childline also responds to a number of calls from children seeking guidance for their psychological problems. The nature of these calls reflects the lack of knowledge regarding sexuality, problems resulting due to working parents, relationships, tensions arising due to sibling rivalries, friends bullying in schools, eve teasing, exams or behavioural problems.

*Butterflies, New Delhi*

## General Recommendations :

1. All legislations related to children to be in conformity with UNCRC and CEDAW.
2. SAARC Convention on Trafficking of Women and Children for Prostitution to be ratified by All SAARC countries and simultaneously have the implementing and monitoring machinery in place.
3. Formulate a separate legislation for children who are victims of sexual abuse/rape.
4. Preventive strategies for child labour should be multi-pronged addressing the poverty of families along with quality and equity in education for children. For children belonging to below poverty line, schools should be the lifeline where a child's basic needs are met i.e. education, nutritious mid day meals, and health care (school health scheme). Schools should also have toilet facilities and crèches so that girl children can go to school while siblings are looked after at the creche.
5. To improve health status of vulnerable groups of children efforts have to be made to ensure primary health centres and public distribution system function effectively. The latter is important if nutritional status of children in our country have to improve.
6. Integrated child development scheme which is one of the key projects of GOI that offers poor children, pregnant and lactating mothers the crucial nutritional input for their well being needs to be strengthened by increasing its coverage to more districts, blocks and talukas that have large numbers of families living below and on poverty lines.
7. The 93<sup>rd</sup> Amendment to the Constitution of India to be notified at the earliest.
8. The formal system of education is characterised by extreme inequities not only in terms of access but also in terms of quality. It has to be noted that private schools receives large quantum of indirect subsidies from the state in form of concessions. These concessions need to be withdrawn and resources thus saved ploughed into state schools. There is a need to create a cess on education as a mechanism for mobilising resources from industries and employers. The cess can be built into the taxation system and its allocation should be need based, provision of elementary education being the determining criterion.

9. Child's right to family has to be strengthened, especially in the case of poor children. Family is the basic and important unit of society and parents are the frontline protectors of children. The tendency to institutionalise "destitute, neglected and uncontrollable" children (as stated in JJ Act 2000) needs to be strongly discouraged and efforts need to be made to motivate and encourage parents to look after their children by offering child sponsorship as an interim measure until the family situation improves and stabilises.
10. Community needs to be mobilised to act as surveillance group to monitor various Government schemes and projects sanctioned to them.