

The Convention on the Rights of The Child  
**The Alternate Report**  
**India**

Working Group on the Convention on the Rights of the Child, India  
May 1998



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*To the Children of India*

If we are to reach real peace in this world, and if we are to carry on a real war against war, we shall have to begin with children. And if they will grow up in their natural innocence, we won't have to struggle, we won't have to pass fruitless, idle resolutions, but we shall go from love to love and peace to peace, until at last all the corners of the world are covered with that peace and love for which, consciously or unconsciously, the whole world is hungering.

*Mahatma Gandhi*

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## Preface

This is the Alternate Report on the implementation of the Convention on the Rights of the Child (hereafter CRC) in India. It is usual for governments to make tall claims of their achievements and to cover up the shortfalls in implementation and realisation of objectives. The provision for submission of Alternate Reports by interested parties offers the scope that facts are carefully sifted, claims made by the governments are questioned, and an attempt is made to bring out realities on the ground. Using the opportunity afforded by this provision, Butterflies undertook the preparation of this Alternate Report for India. It gives us great pleasure to offer this report for consideration by the Child's Rights Committee.

Butterflies is a grass-roots organisation working with street children. Apart from having service delivery programmes for street children, the organisation also attaches importance to documentation, research and advocacy as an integral part of its work. In the process of its work Butterflies conceived the idea of preparing a report on the status of Indian children. Being aware that situation analysis reports on children generally base their conclusions on aggregates and averages across the country, our report was to look at disaggregated data and focus on the situations and conditions of deprived and vulnerable children particularly from socially and culturally marginalised communities.

We worked on this idea, developed a proposal and presented it to funding agencies likely to support our endeavour. The response was lukewarm. None of them thought it important enough to commit money to such an endeavour. Perhaps the time was not ripe—1992 was not the year of child's rights. However, this situation changed once the Government of India ratified the CRC and, as per the statutory requirement, was to submit its report to the Committee on Child's Rights. As a result, a lot of interest was generated about the CRC. UNICEF sponsored a number of workshops on the CRC during 1993 and 1994. Simultaneously, child labour and universalisation of primary education came up as the two most popular issues for debate and discussion. For us at Butterflies, this was the opportune moment to rewrite our proposal with the CRC as the main focus, and realise our original objective.

This time round the funding agencies were inclined to be more forthcoming. This required that Butterflies decide whether the report they produced would be an entirely in-house affair or would involve wider participation. We held a series of meetings with different persons—academics, trade unionists, human rights and women activists, advocates—who had been a source of inspiration, guidance and support for Butterflies over the years. All of them endorsed the need for a benchmark study on children that would reflect the real face of the Indian child and advised that the exercise be broad-based involving people from outside the organisation. Accordingly, Butterflies decided to set up a group that represented diverse disciplines and experiences but was united by a common concern about the situation of children in the country.

Butterflies approached over 1,000 grass-roots voluntary organisations, activist groups, individual researchers, research institutes, schools of social work and universities from different parts of the country requesting them to share information and experience and contribute to the preparation of the report. The Working Group also held wide-ranging discussions with a cross-section of NGOs and specialists whose work and experience could contribute to an understanding of the issues involved in the preparation of the report.

To obtain the responses of children on their own situation, Butterflies canvassed a Poster Questionnaire among nearly 1,50,000 children throughout the country of whom 9,360 children replied, giving their feelings, insights and perceptions about the denial of their rights. Butterflies propose to bring out their responses in a separate publication soon. We remain highly appreciative of their thoughtfulness in responding to our Poster Questionnaire and hope that this report reflects some of what they would have liked to be highlighted.

As a result of the efforts of the Working Group, Butterflies has been able to put together a fairly detailed and comprehensive report on the status of India's children which is being brought out as a separate publication. Butterflies propose to translate that report in several Indian languages and use it for mobilisation of public opinion in favour of the rights of children and to run a campaign to address the situation of the disadvantaged children in India. What we offer as the Alternate Report for the consideration of the Child's Rights Committee is drawn from the larger report which will be presented to the Committee at the pre-sessional hearing.

The preparation of this report has been rendered possible by support and academic inputs from a number of organisations and individuals. First and foremost, we would like to put on record our deep sense of gratitude to all those NGOs, activists, scholars and research institutions who willingly shared their data and insights with us. Their names are too numerous to be mentioned individually, but their contributions have substantially enriched this report.

This report would not have been possible without the support extended by the international non-governmental and bilateral agencies who supported us by providing funds as well as by being with us during the early phase of our reflections. In particular, we appreciate that they left us free to take policy positions and did not in any way influence the writing of the report. Particular mention ought to be made of Save the Children Fund (U.K.), India Country Programme Office, Radda Barnen (Sweden), Pakistan Country Programme Office, Canadian Save the Children Fund, India Country Programme Office, Swedish International Development Agency, India Office, and Plan International (USA), India Country Office.

Last but not the least, Butterflies would like to acknowledge the contribution made by Paramjit Kaur, Urmila Bendre, Sonali Ojha, Nirmala Nair and Thomas Chooranolil at various stages of the preparation of this report. Special thanks are due to Nirmala Nair and Thomas Chooranolil for their dedication and forbearance in producing the numerous drafts that this report went through and to Peter Barejo for ensuring that no one remained hungry while the report was being drafted. Butterflies has no words to articulate its appreciation of the enormous work and the whole-hearted commitment put in by each Working Group member not only in the preparation of this report, but also in carrying this commitment to the child into their personal and professional lives. At their behest, this report is dedicated to the children of this country.

*New Delhi  
May, 1998*

Rita Panicker



## Introduction

There is provision in the CRC for Non-governmental organisations in member countries to propose and undertake to submit Alternate Reports to those of the national governments. The present report is such an exercise prepared by a Working Group constituted by Butterflies.

Preparation of a report of this nature was a complex task, all the more when one was dealing with a country characterised by enormous cultural, ethnic, regional and economic diversities of sub-continental dimensions. This required that the group entrusted to prepare the report should bring to bear direct involvement with the people along with expertise in diverse fields. We dare suggest that the preparation of this report by such a diverse group lends it a degree of distinctiveness that is often difficult to achieve when such reports are prepared.

There were two choices before the Working Group: to follow the reporting format of the CRC and lay out the information clause by clause, in the sequence provided in the Convention, or to undertake a more broad-based, analytical exercise dealing with each relevant issue in its totality which would allow the information to be presented in the reporting format of the Convention. The second mode of presentation seemed to offer definite advantages.

Proceeding on this format of presentation, the Working Group members divided different aspects of the problems to be dealt with among themselves in terms of their expertise. Each of the Working Group members in turn constituted their own sub-groups to explore their respective areas and to further allow expertise to be drawn in. Even as the preparation of the individual chapters of the report was under way, questions both of the kind of data to be tapped and the stance to be taken on the different policy questions needed to be settled so that what finally went into the report represented the broad consensus of the entire group.

There is often a tendency to dismiss officially generated data. The State is the largest data-gathering agency for the entire country along a set of fairly standardised parameters. While there are and may be serious lacunae in the information made available by the State, the



*'Our stand on issues of direct relevance to the promotion of welfare of children has been shaped by a desire to strike a balance between what the State might be charged to achieve and what is possible for it to achieve within the stipulated period of reporting given the complex and deep-rooted nature of the problems and the serious resource constraints in which the State has to operate.'*

group felt that such information should be subjected to scrutiny and used along with other data.

Our stand on issues of direct relevance to the promotion of welfare of children has been shaped by a desire to strike a balance between what the State might be charged to achieve and what is possible for it to achieve within the stipulated period of reporting given the complex and deep-rooted nature of the problems and the serious resource constraints in which the State has to operate. Formal conformity to the CRC reporting requirements runs the risk that the State may undertake a hurried review of its laws and policies and make allocations of funds in a mechanical manner without having serious political commitment towards implementing the Convention. Therefore, we have in this report critiqued the State not for what it was required to achieve under the CRC, which must remain its long-term commitment and goal. We have critiqued it for what it could easily have achieved during the past 50 years but has failed to do for lack of commitment and political will.

A perusal of the Country Report indicates that what had to be reported has not been reflected in this report. What was required was a realistic appraisal of the situation after ratification, an honest statement of actions taken and what was actually achieved and a clear demonstration of political will to carry out the mandate of the CRC in tune with the realities of the Indian situation. What we find is a mechanical enumeration of public policies and statutes without any assessment of their impact. The policies are also at times not founded on the realities of the Indian situation. What we find are policies that make impressive reading, but at the same time neither were adequate resources allocated nor were mechanisms evolved to implement and monitor the programmes. Similarly, statutes have been enacted but no serious or sustained attempts to implement the provisions of law have been made.

The Country Report has been overshadowed by the Government deciding to explode nuclear devices in a bid to lull the nation with the vain and fanciful idea of national pride so that attention is deflected away from the more pressing need for the amelioration of the plight of the vast majority of India's children who continue to suffer illiteracy, hunger, disease, abuse and bondage, and dignified childhood remains a distant dream. So the goals are likely to remain mere goals, the policies little more than promises, the programmes starved of funds. The true priorities of the Government can be summed up in one sentence: blackcat commandos over blackboards, cheap child labour over childhood, nuclear bombs over nutrition and incarceration and coercion over care.

## Land and People

India is not simply a country. It is a civilisation of great antiquity. Its inhabitants numbering roughly 910 million are carriers of distinctive cultural traditions evolved over centuries of close interaction and co-existence. They live divided into castes, sects and communities, but are united by a common civilisational ethos. There are approximately 2,230 core communities/peoples speaking some 325 languages and dialects, with 22 languages included in the Eighth Schedule of the Indian Constitution.

However, while diversity is a distinctive feature of the Indian civilisation, the society also harbours within it extreme social inequalities. Caste, system *par excellence* of social inequality, has deep roots in Indian social structure. It divides human beings at birth and perhaps even before birth. Evolved over centuries, caste divides society into groups of people on the basis of occupation, commensality and endogamy. It also aggregates these groups (numbering in thousands and referred to as *jatis*) into three great classes arranged in a hierarchy. At the top are the *dwija* (twice-born) castes such as Brahmin, Kshatriya and Vaishya who do little or no manual labour. In the middle are groups known as Sudras whose principal occupation is agriculture or menial work. A little over half of Indian society is constituted by this class who are categorised as Other Backward Classes (OBCs) by the Government of India.

The bottom of the hierarchy is mostly constituted by Untouchables who are relegated to doing work of the most humiliating kind without rights of ownership of land or other means of production or even the right to life. These groups are categorised as the Scheduled Castes and constitute 16 per cent of India's population. The tribal groups have not been integrated into the caste system and are designated as the Scheduled Tribes by the Indian Constitution. They constitute 8 per cent of the Indian population.

The dominance of the caste system over Indian society has been so overwhelming that religions professing egalitarian values—Christianity, Islam, Buddhism and Sikhism—succumbed to the virus of

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caste. Most members of religious minorities in India, with the exception of the miniscule Parsi community and tribal groups, are converts from low castes and tribal groups. Muslims are the single largest religious minority group in India numbering nearly 120 million and constitute 12 per cent of India's population. Sikhs and Christians constitute 2 per cent each of the population.

Arising out of the immense horizontal and vertical diversity, there is a plurality of traditions regarding children. While both the Great and Little traditions have valued children, the pervasive and dominant tradition has privileged the male-child and that too the male-child from the dominant upper-caste groups. The ideology of the Hindu classical tradition is patriarchal and legitimises hierarchy, but social practice has been more complex, nuanced and ambivalent. The attitude towards the girl child has been influenced by the prevalence of matrifocal traditions (in some parts of the country) and the strong universalistic traditions of both Islam and Christianity.

Contemporary processes of economic development and social change have served to accentuate social inequalities and led to the modification of many traditions. While looking at the situation of Indian children, a sensitivity to history and its relationship to the multiplicity of structures and its impact on the people has to be kept in mind.

*'While looking at the situation of Indian children, a sensitivity to history and its relationship to the multiplicity of structures and its impact on the people has to be kept in mind.'*



*Jai Prakash, 14 years old Fatehpuri, Delhi*

## Definition of the Child

Article 1: *'For the purposes of the present Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.'*

Legal definition of the child is a complicated issue about which a uniform position neither exists in Indian laws nor is followed in social practice. This is a reflection of the great variations in climatic and physical conditions and different cultural constructions of childhood by social and cultural communities. At any rate, in peasant and tribal societies children take on adult roles fairly early and childhood quickly passes into adulthood without the luxury of a prolonged adolescence. Therefore, any attempt to evolve a uniform position on this question has to be informed by an awareness of the diversity and complexity characterising Indian society.

The framers of India's Constitution recognised this complexity and decided against a single legal definition of the child to suit all situations. They instead assumed that the definition of the child should be allowed to vary according to the context and situation. For instance, the definition of the child ranges from the age of 12 years to the age of 18 years. Thus, the variations with respect to the definition of the child in the different legislative enactments, to which the Country Report makes elaborate reference, make sense to the extent that they address different contexts and conceptions of the child. The Census of India operates on a median by defining child as a person below the age of fourteen years.

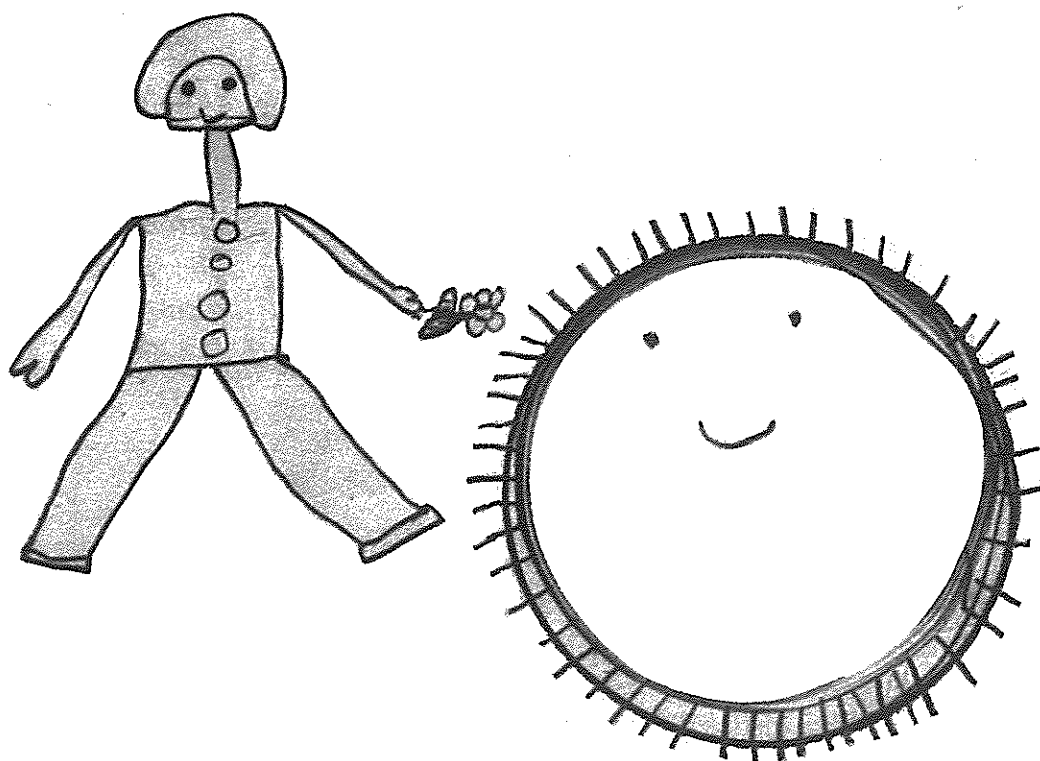
While there can be no disagreement that there should be some clarity with respect to the definition of the child, defining it merely by age is problematic. The realities of our society make it difficult to choose a uniform 'age' to define the child, especially when it comes to child marriage and criminal justice. Standardisation may be worked towards within specific contexts and situations rather than right across all spheres. Thus, when it comes to criminal justice the age for juve-

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niles for both boys and girls could be uniform. It could be 18 years for both girls and boys as today a person who attains 18 years is eligible to vote, and the age of marriage for girls under the Child Marriage Restraint Act is 18 years.

Law has to rest on social consensus. The Country Report appears to suggest that the Government propose to go through the process of standardisation of the definition of the child in a mechanical manner through the Law Commission reviewing the different legal enactments with the solitary purpose of bringing them in line with the CRC without responding to the subtle nuances such an exercise should entail. While it might be good to work towards standardisation of the age of the child, any undue haste or even coercion, applied either by internal ruling elites or international forces, will amount to ignoring the already existing social realities and deny people, communities and groups relative spheres of autonomy in pursuing their visions of life and to come to terms with State and international prescriptions at their own pace. It may give rise to social conflicts and tensions which would be wholly counter-productive in the long run. Therefore, a lot of ground work by way of education, mobilisation, creation of public opinion and enabling conditions is called for before such standardisation can be achieved.



*Rekha, 10 years, Kidwai Nagar Slum, Delhi*

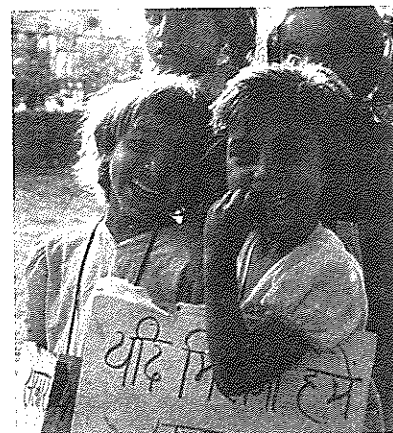
## General Measures of Implementation

Article 4: *'States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention. With regard to economic, social and cultural rights States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.'*

After the ratification of the CRC, it was incumbent upon the Government of India to undertake a review and reorientation of public policies to bring them in line with the standards laid down by the CRC. This would have called for a review by both individual ministries at the Centre and the governments at the state level.

There is no evidence to date of such an exercise having been undertaken in any comprehensive manner. The Country Report cites no major examples of any actions taken by different ministries at the Centre or by the State Governments. Even if we concede that the Government of India are committed to such an exercise in terms of ratification, the initiative so far has been casual, sporadic and tardy. One would like to see this exercise become meaningful and concerted over time.

The Country Report makes reference to efforts by State Governments for incorporating the CRC in the State Plans of Action for children. This had to be a serious exercise, informed by an awareness of their resource allocations, existing social realities within the states and popular expectations. The State Plans of Action provide no evidence of the exercise having been carried out. In most cases the exercise appears to have been carried out routinely and in an ad hoc manner merely to meet the directives of the Central Government. Further, there is no indication in these State Plans of Action of any kind of mechanisms for implementation and monitoring nor any commitment of funds required to support programmes and goals in the various social sectors.

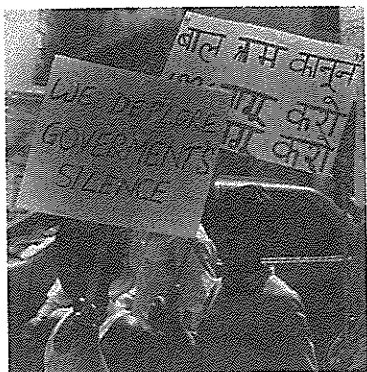


Meaningful adherence to the CRC standards would seem in our opinion to call for a reorientation of the organisation and policy of the Central Government along four major lines. First, the constitutional division of powers between the Central and the State Governments in respect of child's rights and development should be reviewed and restructured. Even though child's rights and development fall within the purview of both the Central and State Governments, states tend to push to the background implementation of central plans and schemes because other areas of development are higher in their priorities. It is because of this that the Department of Women and Child has only an advisory and persuasive role. Even if this Department is seriously committed, it cannot oblige states to adhere to central policies. In order for these difficulties to be overcome, there should be a mechanism for better co-ordination between the two so that the Centre can enforce compliance by the State Governments.

Second, there is need to reorient planning processes inversely. At the moment policies are formulated by the Centre and communicated to the State Governments which then can make minor modifications in them to suit local conditions, though a few State Governments have at times *suo moto* initiated policies. For a country of India's size and diversity, the State Governments should be the nodal point in planning and the Central Government plans should reflect the state level priorities. This will ensure both realistic planning and a somewhat higher degree of commitment in implementation of plans.

Third, there should be a well thought out monitoring mechanism to determine compliance by State Governments in implementation of plans and achievement of targets. There is no reflection in the Country Report of such a monitoring mechanism having been thought out or in the process of being set up.

Fourth, child's rights and development should occupy a relatively high priority in the development agenda and should be an integral part of all planning processes. This will ensure that child development is not side-lined and instead is built into the overall development strategy of the nation. Unless this is ensured, lop-sidedness of national priorities in respect of children will continue. Perhaps, a most glaring evidence of this lop-sidedness is that within weeks of the Prime Minister having made a public statement that the Government was in no position to provide for universalisation of primary education on account of paucity of resources, the Government of India have found it desirable to carry out nuclear explosions at costs which would have gone a long way towards mitigating children's plight. One way to ensure prioritisation of child development is to make it a part of the concerns of the National Development Council.



There is international recognition today that NGOs, voluntary organisations and people's movements have a vital role in articulation of public policies and ensuring their effective implementation. To this extent, the Country Report correctly emphasises the role and importance of the work of NGOs and other civil society initiatives. However, beyond this lip-service there is no evidence of the Government having cultivated any kind of meaningful partnership with civil society initiatives, including NGOs, towards achieving the common well-being of children. For one thing, NGOs (and not voluntary and people's organisations) are brought into interplay for physical implementation of programmes through State funding. They are involved neither in policy formulation nor in monitoring of programmes. Second, there is arbitrariness in the selection of NGOs to be so involved. This arbitrariness has become further accentuated in recent times as there is a discernible tendency for bureaucrats and their kinsfolk to float their own NGOs to net these contracts. We feel that there should be a State/legal initiative to curb the mushrooming of such bureaucrat-led NGOs.

Perhaps a good example of the casual way in which the Government goes about promoting partnership with NGOs and voluntary and people's organisations is the involvement of the NGOs in the formulation of the Country Report. Any meaningful partnership would have implied that NGOs should have been involved with the preparation of the Country Report at all stages. Not only this, the final report should have been placed before a broad and representative group of NGOs and people's organisations so that it carried national endorsement. Nothing of this kind was practised. In the preparation of the report the NGO participation was reduced to mere tokenism by organisation of a three-day national consultation with sponsorship from the Department of Women and Child and UNICEF. Needless to add, the NGOs invited to the consultation were not representative enough to ensure the diversity of perspectives and approaches prevalent among those active on the child's rights scene.

The primary obligation that ensued from Government ratification of the CRC was wide dissemination of information on the CRC so that all citizens and particularly children were made aware of child's rights. Where it has been addressed at all, it has taken the form of mere tokenism. The standard strategy has been to sponsor meetings and seminars to which in any case only the informed are invited. There has been little attempt to reach out to the broad masses of people in places where the most obvious violations of child's rights take place. Even the expanding facility of TV and distance education has not been put to use to any significant extent or scale even though this has been done extensively for fertility control, AIDS awareness

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and minimum wages. This is a large untapped resource for dissemination of information that the Government should learn to utilise.

This Working Group canvassed a Poster Questionnaire on the CRC as part of a children's competition. It was translated into 13 Indian languages and reached 1,50,000 school children from both rural and urban areas throughout the country. From the replies received it is clear that almost all the children came to learn about the CRC from this Poster Questionnaire. This is evidence enough that there is a large population in this country that needs to be made aware of and educated about the CRC.

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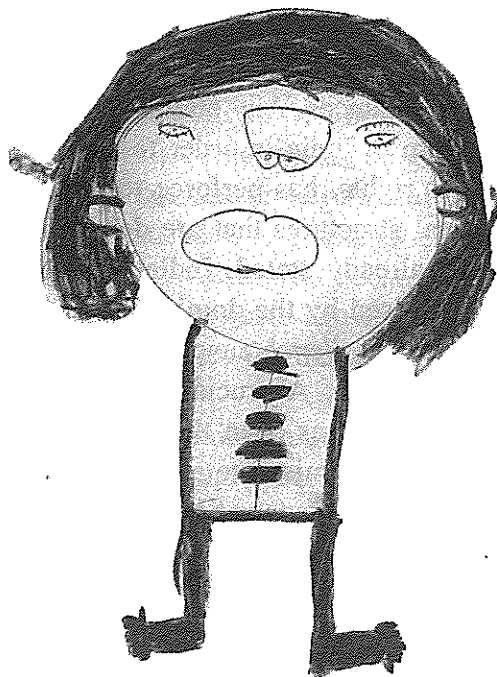
It would be absolutely correct to state that there have been no initiatives taken by the Government for promoting children's participation. The 'Voices of Children' Campaign seems to be the only initiative that the Government can claim to have carried out for promoting children's participation, but this was actually a project implemented by an NGO with participation of approximately 20 more NGOs from different parts of the country with funding from UNICEF. There is no information in the Country Report of the Government having learnt any lessons from this project and of having made any efforts to incorporate the concept of children's participation in any of the Government-supported programmes.

*Article 17: 'States Parties recognise the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.'*

While the potential of the mass media has not been effectively tapped for dissemination of information on the CRC, the print media, particularly the daily newspapers, are flooded with reports of incidents of abuse of children's rights, child prostitution, rape of minors, misuse of children, abductions, deaths/killings in children's institutions, abuse of children by police, etc. There are sporadic programmes on children's rights over the radio and television, but the information they provide is often extremely superficial. Besides, these programmes have not been planned to systematically educate the public on the CRC and do not help sustain information flow on the subject. These programmes are more by way of giving news on the CRC and cannot be construed as constituting any meaningful and effective partnership with the media concerning issues relating to children.



On the other hand, what the media provides often has deleterious effects on children. In recent times, parents, teachers and all those concerned with children have expressed serious concern over the impact of television programmes on children. Globalisation and liberalisation accompanied by a growing pressure for open skies to allow foreign television companies to air all kinds of entertainment programmes have and continue to contribute to distortion of values of Indian children. Liberal sex, consumerism, drug addiction, violence and such other destructive values are being promoted by the mass, particularly electronic, media and are being picked up by children from programmes telecast on the Indian television channels. Media advertisement and promotional programmes for products for children make use of children to popularise food products of negative nutritional value. Perhaps, a good illustration of the deleterious consequences mass media advertising can have on children was poignantly brought out when a soft drink advertisement showing a youth jumping down a bridge to reach out to a truck carrying the drink was imitated by a schoolboy. The child died in the process. No action was taken against the manufacturer or the advertiser. The Government allowed the advertiser to continue with the advertisement after inserting the warning that the feat shown was not for imitation. A creative response to this kind of negative impact of media on children has yet to be worked out by the Government.



*Mamta, 11 years, Chandani Chawk, Delhi*

## General Principles

Article 2 (1): *'States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.'*

(2): *'States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.'*

Children are born into families which are themselves part of wider social networks. Families and structures with which a child is associated at some points without any choice determine his or her status and life chances. Any attempt to look at childhood across the social spectrum in India in order to assess access to and enjoyment of the various rights, has perforce to look at the familial and wider socio-political structures that are determining in a child's life.

*'... the influence of caste-based system of discrimination has been so pervasive that every social institution and social practice is permeated by it.'*

As already stated, Indian social structure has been historically characterised by the dominance of the caste system, a social system that *par excellence* sanctifies and legitimises social inequality and discrimination. A crucial dimension and an integral feature of the caste system has been the suppression of women. Caste-patriarchal ideology legitimised total control over women's labour and fertility. Indeed, the influence of caste-based system of discrimination has been so pervasive that every social institution and social practice is permeated by it.

This means that the overwhelming mass of Indians, approximately 80 to 85 per cent, suffers from discrimination that is socially legitimised. Developmental policies pursued since independence have tended to perpetuate and sometimes even intensify inequities. A High-Pow-

ered Panel on Minorities and Other Weaker Sections appointed by the Government of India in 1983 summed up the inextricable link between traditionally-rooted discriminations and modern forms of economic deprivation: 'The minorities and the other weaker sections on the one hand constitute the majority of those below the poverty line, and on the other contribute substantially to the economic well-being of the nation.'

Viewed in this context, the Indian Constitution was a historic achievement: equality before law, secularism, protection against violations of due process, affirmative action for disadvantaged groups, freedom of religion are all ideals affirmed over and over again in the Constitution and the laws. Many laws have been framed for protection against oppressing traditions and civil conflict. However, recent developments have been quite alarming: the basic problem stems from a contradiction between the aspirations of a free and democratic polity and structures of governance yet not fully liberated from colonial antecedents.

Non-discrimination is one of the basic and underlying principles of the Constitution, but there are some deviations from the general principle of non-discrimination in the Constitution, the laws and practices of the agencies of the State. For example, Article 14 of the Constitution guaranteeing equality before the law provides for prior permission for prosecution against offences committed by officials during the tenure of office. This provision gives virtual immunity to bureaucrats and police personnel from prosecution for a whole range of offences, including torture and death in custody.

Likewise, persons belonging to 'untouchable' castes converting to 'non-Hindu' religions in order to escape the stigma of untouchability are not allowed to avail the provisions of affirmative action guaranteed by Article 15 of the Constitution. After concerted political pressure and agitation, this right has been conceded to Buddhists. Such a right is still not conceded to low caste converts who constitute an overwhelming majority of Christians and low caste Muslims. Such discriminations have far-reaching consequences for the life chances of children from these communities.

Laws relating to marriage and rights of children accord a privileged status to Hindu religion and go against the general principle of non-discrimination. For example, if a Hindu father or mother converts to Islam or Christianity, he or she cannot act as his or her minor child's guardian in respect of the latter's person or property. If the only son or daughter of a Hindu embraces Islam or Christianity, treating this as his or her civil death the parents can adopt a Hindu son or daughter (if otherwise entitled to it).

A married Hindu is required to obtain his wife's consent for

*'... the overwhelming mass of Indians, approximately 80 to 85 per cent, suffers from discrimination that is socially legitimised. . . .'*

*'Viewed in this context, the Indian Constitution was a historic achievement: equality before law, secularism, protection against violations of due process, affirmative action for disadvantaged groups, freedom of religion are all ideals affirmed over and over again in the Constitution and the laws.'*

adopting a child, but he can well ignore her wishes if she has become a Muslim or a Christian. If the husband is guilty of embracing Islam or Christianity, his wife can adopt a child without consulting him. No Hindu father can ordinarily give his child in adoption without the consent of his wife, but if the wife has converted to Islam or Christianity her child can be given in adoption by her husband against her wishes. Children and parents cannot on 'ceasing to be Hindu' seek maintenance from one another. Needless to add, these forms of discrimination eventually act against children.

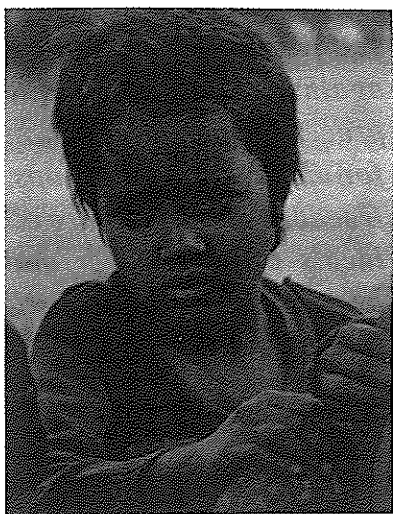
The intransigence of hierarchical structures coupled with the lack of political will to totally eliminate non-discrimination is clear from evidence made available by statutory agencies. The Annual Report made under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 for the year 1990 by the Ministry of Welfare, Government of India, shows that between 1981 and 1990 the number of atrocity cases registered in the country as a whole under the Indian Penal Code was 1,53,369 for the Scheduled Castes and 37,159 for the Scheduled Tribes, the average number of cases for a year being 15,337 for SCs and 3,715 for STs. Of the 3,778 cases registered under the Act, less than 1 per cent ended in convictions.

Certain laws have been passed in the States of Haryana and Rajasthan in a bid to control population growth. According to these laws families having more than two children will not be able to avail of certain basic facilities to health and education or serve as elected representatives in local institutions. Thus, birth order becomes another basis for discrimination against children and families.

Gender-based discrimination is an integral feature of caste-based social order and is more or less pervasive amongst all communities, except certain tribal communities. Further, universalisation of patriarchal values of dominant social groups through modern communication networks has accentuated the devaluation of the girl child even amongst groups whose worldviews were egalitarian and gender-neutral.

Continuing decline in the sex ratio over this century is the greatest indictment of Indian society. Declining juvenile sex ratios in all states of the country over the last three censuses indicate that the status of the girl child is indeed precarious. At the all India level, 4 million girls were missing in the 0-6 age group in 1991. The sharpest decline has taken place between 1981 and 1991 and the states where the decline has been steep since 1961 are Rajasthan (-38), Punjab (-33), Orissa (-28), Madhya Pradesh (-26) and Bihar (-22).

Prevalence of infanticide in some parts of the country, growing instances of foeticide, poor nutrition and high mortality rates indicate that the girl child is under a great survival threat. However, this gender



discrimination is mediated by caste, class and ethnicity. Sex ratios of the Scheduled Castes are lower than that for non-SCs, indicating that gender discrimination is intensified with overall deprivation and marginalisation.

Female infanticide and selective abortion of female foetuses is on the rise in urban centres and among upwardly mobile social groups. While the Central Government has enacted a law—Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act of 1994, this has not stopped the mushrooming of sex-determination clinics. Nor has it deterred those operating these clinics from performing these tests and communicating verbally to the parents the sex of the foetus. Discrimination against the girl child begins at the foetal stage and persists through infancy and childhood.

Even though the Government of India has taken certain policy initiatives in order to end the discrimination of the girl child, as the Country Report sets out, these fail to deal with the variegated social roots of gender discrimination in the different communities located at different rungs of the hierarchy and therefore requiring a range of differentiated initiatives.





## Civil Rights and Freedoms

Article 7 (1): *'The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.'*

(2): *'States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.'*

Article 8 (1): *'States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference.'*

(2): *'Where such a child is illegally deprived of some or all the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.'*

Article 12 (1): *'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child the views of the child being given due weight in accordance with the age and maturity of the child.'*



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

Article 14 (1): *'States Parties shall respect the right of the child to freedom of thought, conscience and religion.'*

(2): *'States Parties shall respect the rights and duties of the*

*parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.'*

Article 37: 'States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;'

Article 40 (1): 'States Parties recognise the right of every child alleged as, 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 . . . . '

There are two aspects of the enjoyment of civil and political rights and freedoms. On the one hand, the child's enjoyment of civil and political rights is deeply affected and, in fact, even compromised in a very basic sense by the lack of economic, social and cultural rights. On the other hand, it is not possible to expand economic, social and cultural rights without civil and political rights. Thus, the question of indivisibility of human rights is brought to the fore in the case of the disadvantaged majority of the children.

All the fundamental rights enumerated in the Indian Constitution are available to children as much as to adults. A child becomes an Indian citizen by consanguinity or by birth. The Constitution speaks of a citizen-child, not just a child. There are special laws for women and children. Examples of such laws are the Child Labour Prohibition and Regulation Act of 1986 and the Juvenile Justice Act of 1986. Trafficking in human beings and forced labour are banned. Employment of children below the age of 14 years in any factory, mine or in any other hazardous activity is prohibited. Children are protected from extreme exploitation and ensured development in conditions of freedom and dignity.

The Indian Constitution guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law, but makes no reference to due process. However, there have been a series of special legislations which contained enough

*'... the child's enjoyment of civil and political rights is deeply affected and, in fact, even compromised in a very basic sense by the lack of economic, social and cultural rights. . . .'*

*'A large number of adolescents and children were rounded up under TADA for offences not covered by the Act. Legal protection under the Juvenile Justice Act, such as the special principle of bail, was curtailed for juveniles arrested under TADA.'*

*'Thousands of children and youngsters comprising nearly one-eighth of the total prison population in India are languishing in jails.'*

loopholes to allow for a continuous violation of civil liberties of persons. The latest example is the Terrorist and Disruptive Activities (Prevention) Act of 1987 (TADA). The Act has lapsed since, but large numbers of those detained under the Act have not yet been released. Over 80 per cent of those detained under TADA were Muslims. A large number of adolescents and children were rounded up under TADA for offences not covered by the Act. Legal protection under the Juvenile Justice Act, such as the special principle of bail, was curtailed for juveniles arrested under TADA. Another example of such special legislation is the Armed Forces (Special Powers) Act of 1958 which gives virtually unlimited powers to personnel of the security forces to conduct searches, arrest without warrant, to detain or even shoot to kill.

Torture and ill-treatment of prisoners in police custody is a common occurrence in India. That these acts are perpetrated even against children reflects the sad state of criminal justice in the country. During the calendar year 1994, 65 deaths were reported in police custody and 34 in jail custody. In 1995, 105 deaths were reported in police custody and 207 in jail custody. Between January 1 and March 31, 1996, 47 deaths took place in jail custody. The National Human Rights Commission (NHRC) had recommended that India should become a party to the 1984 UN Convention Against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment or Punishment. The Commission's recommendation has yet to be acted upon.

The NHRC, while examining reports on custodial deaths, commented that 'on occasions the doctors concerned were bowing to police pressures when writing their reports' of postmortem examinations in such cases. Many cases of deaths of children in custody have been highlighted by Amnesty International, local civil liberties organisations and the NHRC. The testimony of Jawid, 13, and Muhammed Naseem, 17, highlight the nature of extra-judicial executions carried out by police and paramilitary forces in situations of communal and ethnic conflicts. They survived out of the 40-60 youth arrested, shot and thrown into a canal during communal riots in Meerut town in Uttar Pradesh. No proceedings have been held against the guilty officers.

Thousands of children and youngsters comprising nearly one-eighth of the total prison population in India are languishing in jails. These young prisoners live in inhuman conditions and are used as 'helpers' to prepare food, clean and sweep rooms, wash clothes and fetch water for jail inmates. They are made to work for long hours. Juveniles are locked up at night without water, electricity and toilet facilities. Many juveniles are sexually abused. Medical facilities are not readily available nor are children imparted education. Most young undertrials have

been in jail for several years.

Under the Indian Penal Code nothing is an offence which is done by a child under seven years of age and children between the ages of 7 and 12 who have not attained sufficient maturity of understanding to judge the nature and consequences of their conduct are deemed incapable of offence. The Juvenile Justice Act of 1986 ensures that under no circumstances is a child to be lodged in jail or police lock-up, but there have been complaints of non-observance of the Act by the police, prosecuting agencies and concerned authorities. For instance, in 1990, 1,278 children were rounded up in the capital city alone and forgotten or kept behind bars because there was nowhere to send them. Court directives notwithstanding, children, especially those belonging to the lower strata of society, continue to languish behind bars for years on end on charges of minor crimes.

Historically, India has been home to migrants from neighbouring countries. After the artificial drawing of national boundaries the flow continued, prompted either by traditional links, distressing economic conditions or political and social turmoil in the country of origin. Of late, prompted by overzealousness to ensure national security, sections of Indians and certain political parties have been pressuring the Indian State to check such immigrations and to deport those suspected to be illegal migrants. Many of them are settlers who have been living in the country for decades. Accordingly, many thousands of Indians, both adults and children, are at risk of being deprived of their rights to nationality and identity.

The treatment meted out to Muslims, particularly in the north-eastern states adjoining Bangladesh, with regard to their right to nationality has been serious. Taking advantage of two-way cross border movements, Hindu communalist forces have over the last two decades tried to brand millions of Indian Muslims as foreigners and organised serious killings of such citizens. The massacres at Nellie and Mukalmua in Assam were a part of this onslaught. Even more disturbing is the fact that constitutional bodies such as the Election Commission and security forces have started violating all laws regarding nationality as part of this communalist onslaught.

In one incident in 1992 the Border Security Force rounded up scores of Muslim adults and children from the streets and slums of Delhi on the supposed ground that they were foreigners. They were transported forcibly into Bangladesh without being given the opportunity to face judicial proceedings to determine nationality. What is even more disturbing is the fact that a high constitutional authority such as the Chief Election Commissioner had been issuing circulars regarding the disenfranchisement of Muslims; he asked for the striking out of the names of 'foreigners' from the voters lists in precisely

*'Historically, India has been home to migrants from neighbouring countries. . . .'*

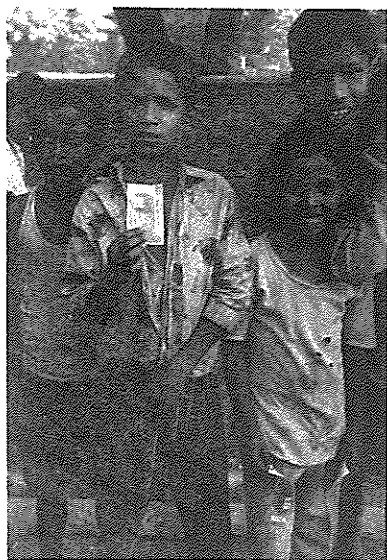
those constituencies where Muslims are concentrated. Such blatantly communal moves by the Chief Election Commissioner have been stalled somewhat by a combination of judicial actions and civil rights protests.

More recently, the Home Minister, Government of India, has declared that the State would soon start the process of issuing citizen's identity cards with both caste and religion shown on the card. The modalities to be adopted for issuing such cards is yet to be divulged, but it gives rise to the apprehension that it would be used to disenfranchise a large number of Indians, particularly those belonging to the Muslim community and peripheral nationalities. Many are registered voters, but cannot produce necessary documentation such as ration-cards and birth-certificates which are in any case given on a selective basis, more often to those well-off, or any proof of ownership of property, to establish their identity and domicile. Needless to add, these State practices will carry enormous implications for children's identity and nationality.

About 3 million people have sought political asylum in India. The single largest group of asylum seekers are Tamils from Sri Lanka. Other major groups are Bangladeshis and Tibetans. The case of Bangladeshi children needs special mention. Many of these children and their parents are continuously harassed by the police and threatened with deportation. The bias of the police and administration comes to the fore especially in the case of Muslims from West Bengal who migrate to metropolitan cities in search of work. They are hounded and threatened with deportation on false allegations that they are Bangladeshis.

Over 65,000 Chakma and Hajong refugees from erstwhile East Pakistan in Arunachal Pradesh have been facing serious threats to life and property. The NHRC received complaints alleging serious 'State-supported' human rights violations, particularly serving of quit notices on the refugees. The NHRC approached the Supreme Court to enforce the right to life of the Chakmas and Hajongs.

Children in situations of internal armed conflicts and communal strife continue to be exposed to extreme threats to life. According to reliable NGO and human rights activists' estimates, 30,000 young people, large numbers of them children by the CRC standards, were decimated by security forces over the past decade or so in Kashmir alone. To this may be added the killing of young people and children in other states witnessing autonomy movements and communal riots. Even if one were to concede that some of these killings were by terrorist groups or frenzied communal mobs, the extreme vulnerability of children in situations of internal armed conflicts needs to be addressed. The NHRC has in this regard called for

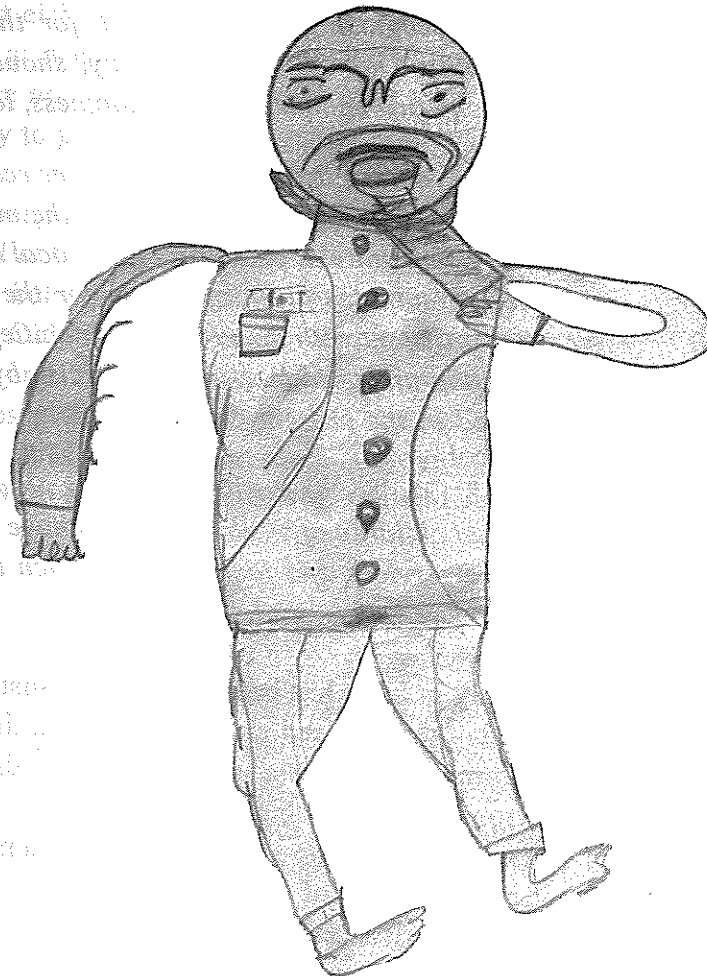




greater transparency, openness and accountability as essential to good governance, not least when acts of the State are themselves called into question.

State action can mitigate the risks to which children's civil rights and freedoms are exposed. First, all children of alien South Asian parents born in India should be assumed to be citizens of India until they are mature enough to decide otherwise. Second, all children living in India, quite irrespective of the country of origin, should be entitled to the right to life and liberty enshrined in Article 21 of the Indian Constitution. Third, guarantee should be statutorily provided that no child is deported without his or her consent. Finally, it should be statutorily ensured that no arrest of children can take place without the presence of a group of residents of his or her neighbourhood, including family members.

*'... all children living in India, quite irrespective of the country of origin, should be entitled to the right to life and liberty enshrined in Article 21 of the Indian Constitution.'*



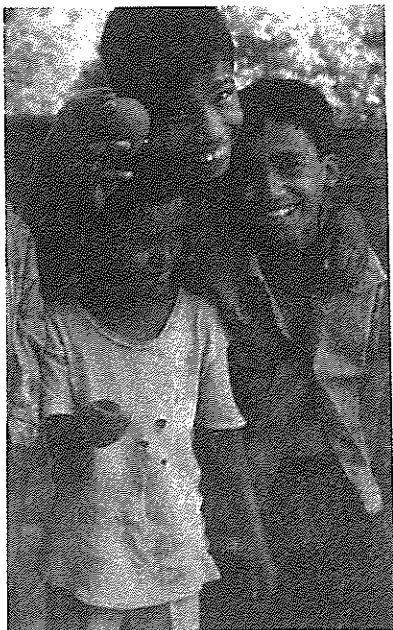
Meena, 11 years, Kidwai Nagar Slum, Delhi

## Family Environment and Alternate Care

*Preamble: 'Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,*

*'Recognising that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,'*

*Article 5: 'States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention.'*



*Article 18 (3): 'States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.'*

The family in India has been the primary institution within which the child is born, socialised and grows into adulthood. It is here that the child forms his/her basic values, learns to distinguish between right and wrong and forms his/her worldview.

There prevails a great multiplicity of family forms, given the tremendous diversity of social structures ranging from matrifocality among some tribal and peasant communities to the more dominant patriarchal forms. However, in all these diverse family forms the child enjoys the support of a wide network of extended family, kin, clan and community. While this support is still available to most children in

peasant and tribal communities, we must recognise that these traditional support structures for the child have come under severe strain due to the impact of the development policies which have intensified migration and consequent urbanisation and, more importantly, led to erosion of people's and families' access to sources of life and livelihood. This has led to the breakdown of the family and the proliferation of single parent, women-headed families.

While the dominant family form harbours strong elements of both gender and age discrimination, which no doubt need to be tackled, the rights of children cannot be ensured without addressing the question of rights of the families. Further, in the context of liberalisation more and more women are being driven to seek employment outside their homes in order to ensure the survival of their children and families. Most of these workers are absorbed into the expanding informal sector and are consequently economically deprived and socially vulnerable as compared to those employed in the formal sector. As most of these women workers belong to families of recent rural migrants and reside in slums without elaborate kinship links to take care of their children while they are at work, they have to devise ad hoc strategies for child care. There are no facilities for these workers or their children. The employers try to get away from their obligations under the law to provide creches and day-care facilities. Of the 150 million women living on the margins of or below the poverty line, as many as 90 per cent are found in the informal sector. Sixty million children under six years of age belong to the group where mothers have to work for their survival. Only 18.5 million children are covered under Government schemes, and 360,000 benefit from Government and statutory creche services. As of now, only 14,313 creches are run by the Government. Thus, child care in these cases is provided by older siblings, usually girls, who are consequently prevented from attendance at school.

*'... the rights of children cannot be ensured without addressing the question of rights of the families.'*

*'... Of the 150 million women living on the margins of or below the poverty line, as many as 90 per cent are found in the informal sector. Sixty million children under six years of age belong to the group where mothers have to work for their survival.'*

Article 18 (1): *'States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.'*

(2): *For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the perform-*

*ance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.'*

There is no legislation in the country which enforces the responsibility of both parents for the upbringing and development of children and social practice in this respect varies by social class. Among the poor families, the practice of the father deserting his wife and children is relatively common in the urban areas. Usually in such cases the wife makes use of the provisions of Section 125 of the Code of Criminal Procedure to secure maintenance for children, but the process is so long and the quantum of support so meagre that it does not encourage an average wife to make use of this provision. Where the mother is working, this provision cannot be utilised at all. If the child has to be assured a reasonable quality of life in cases where the mother is destitute or poor and the father has deserted the wife and children, the judicial procedures must be speeded. There should also be an increase in the monthly allowance in proportion to the earnings of the father. Further, there should be provision for an earning mother to claim support from the father on the principle that raising and maintenance of children is the responsibility of both parents.



Sanjay, 8 years, Connaught Place, Delhi

Article 20 (1): *'A child temporarily or permanently deprived of his or her family environment, or in whose best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.'*

Interventions in the case of children who are temporarily or permanently deprived of the family environment or cannot otherwise be allowed to remain in the family in his or her interest can assume two forms: the family can be provided financial or other help necessary to enable it to provide healthy and safe upbringing for the child or the child can be removed to a public institution established by the State or run by the community or other civil society agencies.

Several non-institutional schemes are being implemented by NGOs with funds from bilateral and international funding agencies. Sponsorship is a very popular programme under which support is provided in kind to children who belong to poor families as a means of helping the child to remain within the family and thus also provide parents assistance to continue to keep the child within the family fold. This is often seen as a strategy for preventing destitution of children. Some

State Governments (Maharashtra, Karnataka) support foster care programmes under which children of families undergoing temporary problems are taken away and placed for a short time in the care of foster families. However, this programme has not proved to be much of a success for several reasons. First, foster families are not necessarily genuinely interested in providing foster care and take children as a means of earning additional money. Second, families selected for foster care placement are not carefully selected nor oriented in child care and handling problems of children or problem children. Finally, funds provided under this scheme are not sufficient and there is lack of a proper monitoring system to oversee that proper care is provided by the foster families.

Welfare services promoted by the Government for children who do not have the protection of their families and who are neglected, abandoned, orphaned or become delinquent, thus tend to take the form of institutional care. Non-institutional and family- and community-based programmes are paid lip service to without any serious effort to strengthen them. Some NGOs convinced of the superiority of non-institutional forms of alternate care provide protection and rehabilitation to children, but because there are no Government schemes and correspondingly funds available for non-institutional services are scarce they have no option but to go for institutional care.

Further, the Government has no schemes for prevention of destitution and abandonment of children. Children become eligible for protection only when they run away from families or are abandoned by their families. There are several at-risk families—dysfunctional families, single-parent families and female-headed families—which require help if the children have to receive care and protection before the children are forced to abandon the family or be abandoned by them. There are no schemes or services to address the needs of such families.

The Ministry of Welfare, Government of India, and UNICEF had convened an Expert Committee in 1994 to look into the issue of providing non-institutional care for children in especially difficult circumstances (CEDC). The Committee was very clear that there had to be a dramatic shift from institutionalising children to allowing them to grow up within the family environment through support to vulnerable and dysfunctional families by way of monetary help, counselling, guidance and raising the income of these families through various poverty alleviation programmes. There has been no positive action on the recommendations of the Committee by the Government to date. It should be noted that in the absence of a clear policy on Alternate Family Care on the part of the Gov-

*‘... the Government has no schemes for prevention of destitution and abandonment of children. Children become eligible for protection only when they run away from families or are abandoned by their families.’*

ernment the choice between non-institutional and institutional care has varied depending on the personal preferences and understanding of the officials.

Article 21: *'States Parties which recognise and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration . . . .'*

*'Changes in the perceptions of communities at present opposed to even the enactment of an enabling law of adoption can only be ensured through overall democratisation of the society at large and creation of a climate that encourages processes of internal reform and strengthens liberal tendencies.'*

There is no uniform adoption law in India though the social practices prevailing across communities allow adoption of children. Several bills introduced for enactment of an enabling common law of adoption by Parliament have been unsuccessful so far because the concept of adoption is alien to the jurisprudence of several systems of personal laws. Further, while the problems of the rights of children adopted in terms of prevailing social practices in groups and communities following those personal laws remains to be tackled, the experience of other existing enabling laws, such as the Special Marriages Act, have aroused anxieties that enactment of a common adoption law may be used to homogenise their personal laws in terms of dominant Hindu values. Sensitivity on this issue has been heightened by the fear that this may be a step towards an articulation of a Uniform Civil Code which may eventually undermine the distinctiveness of cultural identities of the minority communities. Changes in the perceptions of communities at present opposed to even the enactment of an enabling law of adoption can only be ensured through overall democratisation of the society at large and creation of a climate that encourages processes of internal reform and strengthens liberal tendencies.

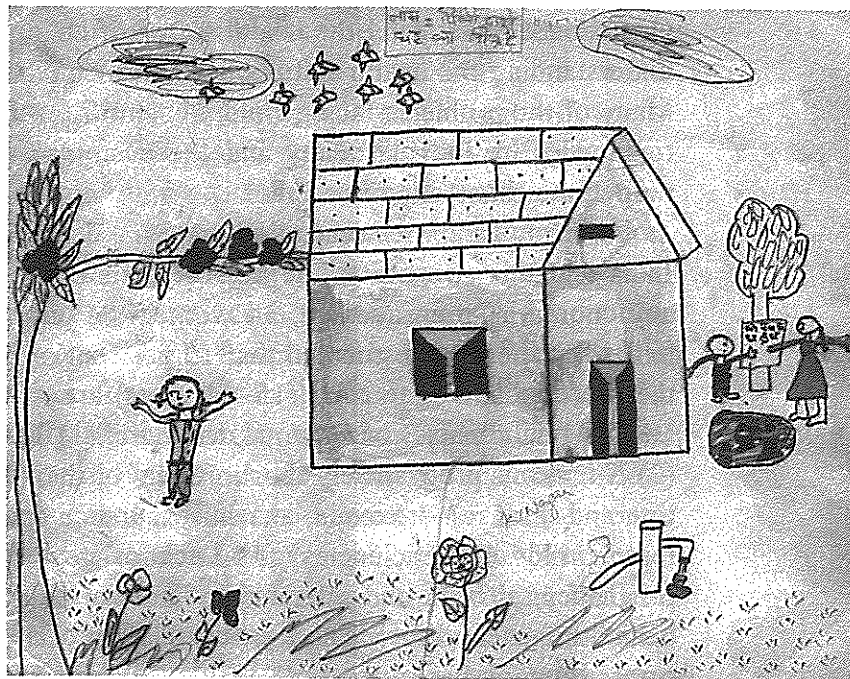
Adoptions take place in India under two laws: Hindu Adoption and Maintenance Act of 1956 (HAMA) and Guardians and Wards Act of 1890 (GWA). The HAMA allows for legal adoption of a child, but suffers from several lacunae and is applicable only where both the adopting parents and the child being adopted are Hindu. It does not permit adoption of two children of the same sex and the adoptive mother cannot be a petitioner for adoption. She can only be a consenting party to an adoption. The GWA permits a child to be taken as a ward, without legal guarantee of the rights of inheritance in the property of the guardian and leaves the door open for the adopting parent to disinherit the child. Inter-country adoptions take place under GWA to allow the child to leave the country only as a 'ward' to be formally adopted later in the receiving country.

The National Policy on Children makes no reference to adoption

or the modalities for its regulation. In the absence of an adoption legislation, inter-country adoptions were governed by a Supreme Court judgement providing guidelines for adoption. However, since 1989 the Ministry of Welfare, Government of India, has issued guidelines to regulate matters relating to adoption of Indian children. One major lacuna of the guidelines is the absence of any adoption mechanism at the State level to ensure monitoring at the grass-root level. Absence of proper monitoring mechanisms leaves room for unethical practices resulting in 'private' adoptions being promoted by medical practitioners and private hospitals. Such adoptions do not generally guarantee the child's future security in law.

There is no adequate support system or Government scheme available to natural mothers who do not want to give up their children in adoption, but are compelled to give children for adoption by the force of circumstances. A uniform system needs to be established in the case of children relinquished by biological parents to ensure that there is no duress, pressure or monetary transaction involved in their decision and that they received adequate counselling to arrive at a decision.

The Country Report makes no pretence of even addressing these issues, not to speak of showing Government's serious engagement with them.



*Pinky Das, 11 years, Kidwai Nagar Slum, Delhi*



## Health, Nutrition and Child Care

Article 24 (1): *'States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care service;*

(2): *States Parties shall pursue full implementation of this right and, in particular shall take appropriate measures:*

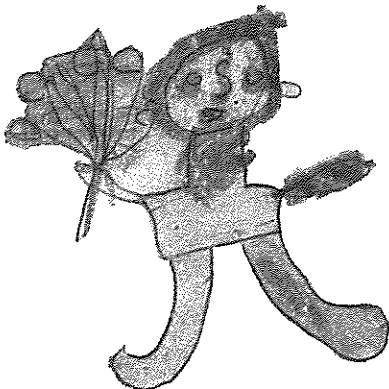
(a): *To diminish infant and child mortality;*

(b): *To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care. . . .'*

One cannot understand the health status of children in India without understanding the health status of the women who bear the children. Many of the problems facing children stem from the stigmas attached to females by Indian society and the customs and institutions that perpetuate those stigmas.

As many as 20 per cent of all maternal deaths in the world are in India and this constitutes the highest number of maternal deaths in any country. On an average, 34 women die out of every 1,000 live births. Further, it is estimated that 15 per cent of deaths of women in the reproductive age group (15–44 years) are maternal deaths.

The major causes of maternal death are: (1) Teenage motherhood, (2) Numerous pregnancies, abortions and births, (3) Severe malnutrition and diseases—toxemia, anaemia, jaundice and sepsis—from different kinds of deficiencies, (4) Lack of medical attention during pregnancy, at birth and after birth. These are also the major causes behind infant mortality. The high correlation of all these factors with rural, slum or backward area residence, low economic status and absolute poverty and membership of socially disadvantaged groups is obvious in the Indian context.



Radha, 8 years, Kidwai Nagar Slum, Delhi

High maternal mortality affects child survival and health. Out of the 30 million children born each year in India, nearly one-third are low birth-weight babies (i.e., below 2.5 kgs), with another one-third with a birth-weight barely above the minimum standard. The mean birth-weight of babies born is estimated at 2.6/2.7 kgs. Low birth-weight in full-term infants is a direct reflection of retarded growth during pregnancy due to impaired maternal health and nutrition.

One of the positive features often cited in favour of improvement of the health status of children is the decline in infant mortality from 146 per 1,000 in the early fifties to 74 per 1,000 in 1993. This is an achievement of considerable significance. However, the IMR had been declining from the second decade of the century and what is claimed as an achievement since the 1950s is merely a continuation of a trend established earlier. Moreover, childhood mortality (0-5 years) is higher at 109 per 1,000 and constitutes almost half the deaths (45 per cent) occurring in India even if the size of the 0-5 age-group is only 12 per cent of the population. No other single statement conveys the health status of India's children more cogently and mournfully.

The untimely death of these children is not something that goes unnoticed by the rest of society. This is clearly demonstrated by the pressure placed on Indian women to have many children, often at a very young age.

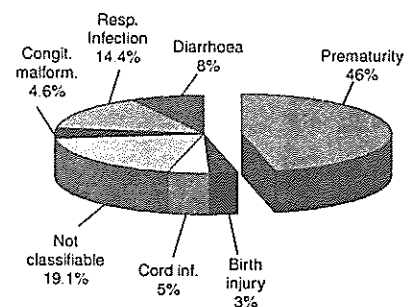
Women who live in the rural areas of India consistently have more children and have a larger percentage of those children die than their urban counterparts. According to the National Family Health Survey (1993), infant and child mortality are around 78.5 and 109.3 respectively for rural and urban areas. It is, therefore, not a mere coincidence that rural women have more children than the women in the urban areas. This huge disparity is certainly indicative of the socio-economic polarisation that exists in India and how that polarisation affects the lives of her children. Within each urban and rural section of a particular state there exist further distinctions.

Equally, IMR varies by religious or ethnic composition of the groups. The IMR for Muslims is lower in the rural areas than the undifferentiated Hindu category, but in the urban areas the IMR for Muslims rises by nearly 20 over that for the undifferentiated Hindus. The Christians have very low IMR. As is to be expected, the Scheduled Castes had the highest IMR in both rural (131.7) and urban (92.9) areas which combine to a staggering 126.5. The Scheduled Tribes do better than the non-SCs in the rural areas with an IMR of 103.2 as opposed to 110, but fare worse in the urban areas with an IMR of 67.7 against 62.5.

One of the most disturbing facets of the child survival scenario in the country is the extreme vulnerability of the girl child right from

***'Out of the 30 million children born each year in India nearly one-third are low birth-weight babies (i.e., below 2.5 kgs), with another one-third with a birth-weight barely above the minimum standard.'***

#### CAUSES OF INFANT DEATHS



*'One of the most disturbing facets of the child survival scenario in the country is the extreme vulnerability of the girl child right from conception to adulthood. This is most starkly demonstrated by the persisting unfavourable sex-ratio obtaining in the country for a century.'*

*'Even on the basis of . . . lowered yardsticks for assessing malnutrition, only less than 15 per cent of children below five years of age can be considered as being in a normal state of nutrition.'*

conception to adulthood. This is most starkly demonstrated by the persisting unfavourable sex-ratio obtaining in the country for a century. There are parts of India where female children are killed shortly after birth. The practice is mainly confined to northern India, Gujarat, Rajasthan and some communities in South India. While the practice was banned in 1870, over the last two decades the availability of amniocentesis and ultrasound for foetal sex determination has brought another tool of avoiding the birth of female foetuses by selective abortion. According to an estimate, 78,000 female foetuses were aborted after sex determination tests between 1978 and 1983.

Nutrition is one of the most vital questions in the context of health. The National Nutrition Monitoring Bureau (NNMB) survey of 1988-90 shows that only 4.6 per cent of pre-school children had normal weights for their age when measured against widely accepted standards. Of the children surveyed, 33.6 per cent were in the category of mild malnutrition, 52.4 per cent were categorised as moderately malnourished and 9.4 per cent were categorised as severely malnourished. One fifth of these children were also found to be suffering from clinical signs and symptoms of protein-energy malnutrition and vitamin A and B complex deficiency. Iron deficiency anaemia was also very common for which figures vary from region to region (60.8 per cent to 85 per cent).

The nutritional status of the children cannot be seen in isolation from the nutritional status of the family. Data from country-wide diet surveys show that diets in nearly half the households surveyed in different states of the country were deficient even on the basis of the lowered yardsticks of adequacy adopted by the NNMB since 1976. Even on the basis of these lowered yardsticks for assessing malnutrition, only less than 15 per cent of children below five years of age can be considered as being in a normal state of nutrition.

Overall balance between population, food availability, prices and purchasing power together suggests that the plight of the Indian child in the lower economic strata has not changed drastically. Rather, the child receiving only two-thirds of his or her calorie requirement may show no outward sign of hunger and even look normal yet the child is too small for his or her age, has lowered resistance to infection and is therefore prone to frequent illness. About 17 per cent of children below five years suffer from severe malnutrition linked to a weight deficit of over 40 per cent; and nearly 45 per cent of children in this age group are estimated to suffer from moderate malnutrition with a weight deficit ranging from 25 to 45 per cent.

Girl children are the most vulnerable victims of malnutrition. Along with the overall deprivation that the poor and disadvantaged groups face, the girl child is faced with societal and intra-familial discrimi-

nation. This is manifested most starkly in the higher mortality rates for girls. Of over 13 million girls born every year, less than 11 million will be alive in their thirteenth year. The age specific mortality is without exception higher for females upto the age of 35 in the rural areas and upto the age of 25 in the urban areas..

Apart from malnutrition, children in India suffer from certain specific diseases.. Acute Respiratory Infections (ARI), diarrhoeal diseases and malnutrition are the major causes of illness and death in children. ARI alone is responsible for 15–30 per cent of childhood deaths, with mortality ranging from 3.2–13.8 per thousand children. Case fatality rate in the hospitals is around 10 per cent. It also causes severe morbidity: children suffer from 3–5 episodes a year lasting seven to fourteen days. In India the prevalence of pneumonia is extremely high—30 per cent of children suffer from pneumonia each year. ARI consumes a large share of hospital attendance—30–60 per cent of paediatric out-patient attendance and 20–40 per cent of hospital admissions. Another cause of infant mortality and morbidity is diarrhoea. About 6.9 per cent of the newborn deaths are due to diarrhoea.

Infectious diseases are more prolonged, severe and result in greater mortality in malnourished children than among those who are nourished. According to the 1992-93 National Family Health Survey only 50.7 per cent and 30.9 per cent of urban and rural children respectively, 12-23 months old, have received the appropriate vaccination against tuberculosis, diptheria, whooping cough, tetanus, polio and measles. There is a discrepancy among boys (36.7 per cent) and girls (34.1 per cent) who are vaccinated for all six of the previously mentioned diseases, with a gap as large as 4.3 per cent between boys and girls receiving the first polio vaccine.

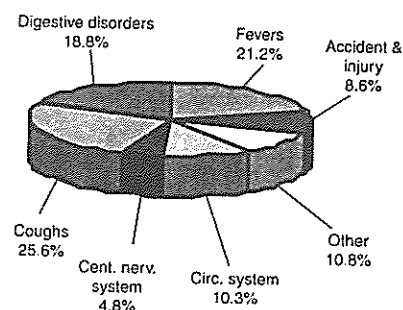
Among the adolescent girls anaemia is quite widespread, mainly due to poor diet. One direct consequence of malnutrition is increased morbidity both among mothers and children. According to the NNMB, 65 per cent of adult women, 75 per cent of pregnant women and 77 per cent of pre-school children in poor, rural communities suffered from iron deficiency anaemia, making it the most extensive nutritional disorder in the country.

Apart from the widespread anaemia that affects the poor, specific dietary deficiencies like that of vitamins, specially Vitamin A, leads to serious problems like night blindness, accentuates the propensity of infective illnesses like diarrhoea, measles, respiratory infections, etc. Keratomalacia, arising from Vitamin A deficiency has been found to be the major cause of nutritional blindness in children, particularly between the ages of 1 and 3.

Another major deficiency that affects children is iodine deficiency.

***'Girl children are the most vulnerable victims of malnutrition. Along with the overall deprivation that the poor and disadvantaged groups face, the girl child is faced with societal and intra-familial discrimination.'***

**CAUSES OF DEATH,  
1–4 YEARS**



*'Malnutrition, particularly protein-energy deficiency and anaemia, have been shown to have adverse psychological effects on children.'*

*'Economic gloom and a general decline in standards of morality with the breakdown of social control mechanisms in the family and the community are tending to contribute to a sense of alienation which has often found expression in increased juvenile crime.'*

According to available data, about 150 million people in various parts of India are at risk while 40 million suffer from varying degrees of disorder. The consequence for children is widespread and long term, particularly when thyroid failure occurs at the foetal and neo-natal stages. Neo-natal thyroidism varies between 6 to 33 per 1000 births in the endemic regions. Thyroxine deficiency retards the growth process, leading to reduced metabolic rates. One consequence of this is cretinism. It affects the child's development process manifested in brain dysfunction, low intelligence quotient, poor motor skills, hearing and speech defects and impaired cognitive functions. It is estimated that not less than 2 million children are affected by this.

Elucidation of the psychological health status of children through statistical data is problematic, but we can direct attention to situations where problems are likely to occur, based on data of physical problems that have been shown to have mental effects on children. Malnutrition, particularly protein-energy deficiency and anaemia, have been shown to have adverse psychological effects on children. Energy levels in malnourished children tend to drop before weight loss occurs and studies show that this decrease in activity is often characterised by apathetic reactions to play materials and other positive stimuli.

Severe protein-energy deficiencies in the first two years of life have been known to cause permanent bio-chemical changes in the central nervous system and anatomical changes such as EEG abnormalities and small head growth which in turn lead to permanent impairment in cognitive ability and consequent loss of self-esteem. This type of cognitive impairment has also been revealed in women and children diagnosed with anaemia. Since these two types of malnutrition are most prevalent among children 1-14 years of age and become more so with decreasing socio-economic status, we can certainly get some idea of the psychological status of a large proportion of the children and where we are likely to find them.

Certain social changes produce conditions which are commonly perceived to have contributed to psychological problems the children face. Economic gloom and a general decline in standards of morality with the breakdown of social control mechanisms in the family and the community are tending to contribute to a sense of alienation which has often found expression in increased juvenile crime. Given the strains the family system is itself subjected to in today's competitive urban environment, discord between parents affects even babies who tend to grow up into lonely, selfish adults. Single parent families suffer from an inherent disadvantage; children in such homes tend to live with a sense of basic insecurity and dissatisfaction which often leads to frustration and anger. This kind of disillusionment is compounded by the harsh consumerist culture which is gnawing at the

basic social fabric gradually.

Children are not heard by their parents who themselves are likely to be dealing with their own problems or who in their own childhood became de-sensitised to their own suffering and the suffering around them. Their inability to articulate their own psychological problems makes it unlikely that they will see them in their own children. Not all psychological problems occur in this cycle, but their prevalence in this vicious cycle tends to grow the more deprived the child's economic and social status is. This is most clearly illustrated by the particularly poor health status of the girl child.

A typical girl child in India grows up being more deprived in nutrition, education, positive attention from family and society, self-esteem, in a climate where female children are killed at birth, where she has to work long hours inside and outside the home. She is never allowed to truly grow up, physically or mentally. The consequences of pointing out the injustice of all this, if she is somehow able to articulate it, are grave enough to silence her; rape, beatings, death, to name a few. This female child soon learns to hate her situation, her image, herself, and becomes the woman who might participate in the neglect of one of her own female children, and act so horrifyingly that she will not allow herself to consciously see it or be aware of it, yet certainly must be destroying her. This is the ultimate end of oppression, the ultimate end of a mental problem that goes unchallenged.

After independence, health was given priority in public policies and in line with the overall orientation of the development model pursued there was an emphasis in the creation of health-care infrastructure—hospitals, medical colleges, etc., in the State sector. This was in keeping with the overall orientation of a welfare state committed to equity and social justice. There was no specific child-oriented policy as the assumption was that the family constituted the main institutional support for the child and if the health status of the family improved the child would automatically be benefitted along the way. Had the State been successful in delivering the goods and made good the promises held out in the early years after independence, the situation of the children would not have been as dismal as it is now.

Around the seventies it was increasingly clear that the economic strategy of planning for the country as a whole and the expectation that the fruits of development would trickle down below had not worked. There was need to plan for sectors which had failed to take advantage of the fruits of development. Consequently, plans for disadvantaged sectors were adopted and implemented. In keeping with this general reorientation of the developmental strategy, there was an attempt to evolve child-centred policies in the health sector. The National Policy for Children (1974) was one such exercise followed by

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a number of special programmes for promotion of child health.

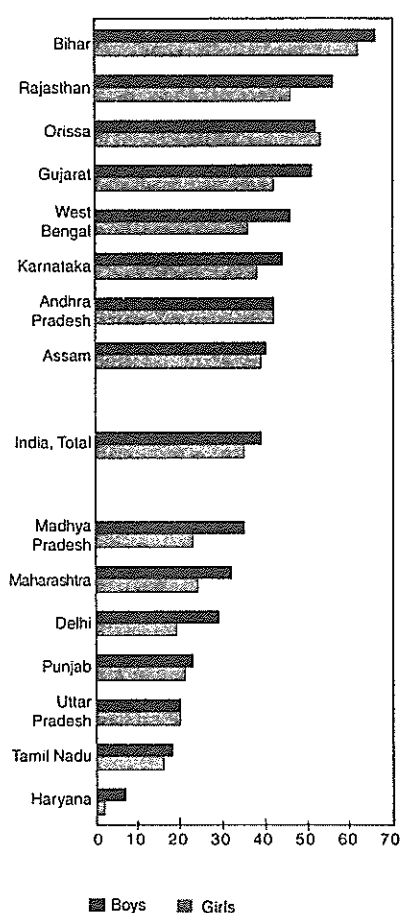
Primary Health Care is a qualitative alternative wherein health and disease are perceived to be rooted in the social, economic and political reality of a people. Therefore, public distribution systems to ensure food availability, drinking water, transportation and other basic facilities are seen as necessary conditions for health along with a need-based basic health care system which gets the full support of the secondary and tertiary levels of health care. Of all sections of the population, this concept is most critical for children, children who are most dependent on parents, families and communities and hence cannot be healthy if the family is sick and poor and the community is not capable of supporting them.

This focus on children has unfortunately coincided with an overall increase in privatisation generally and in the health care system particularly. While there always existed a private sector in health, the emphasis of the State on the creation of a public health system, however faulty, did help the majority of the poor in terms of access to cheap medical care. With the National Health Policy of 1982, wherein the Government declared that it could no longer afford to subsidise public health, the availability of cheap medical care for the poor suffered a setback. And, in 1991, when the Government of India adopted the World Bank-IMF-sponsored Structural Adjustment Programmes, the growing thrust toward privatisation received a further boost.

There have been two important consequences of the Structural Adjustment Programmes. On the one hand, there has been a general withdrawal of the State from the social sector resulting in cutbacks. On the other hand, far more importantly, there have been pressures to reorient and reprioritise health goals. One, it is being argued that PHC should restrict itself to the prevention of communicable diseases and family welfare (euphemism for population control). Two, the Government is being asked to seek extensive loans from the World Bank for providing adequate finances for the various vertical programmes like malaria, tuberculosis, leprosy, blindness control, etc. Three, 'user fees' are to be instituted in public hospitals to recover costs. Four, curative medicine is left to the private sector. Even though the World Bank assures that this is only to ensure 'cost efficiency' and meant for the protection of the poor for whom it will provide additional safety net, it is an open question whether in the top-down bureaucratic structure the 'safety net' would be without holes.



### DROPOUT FROM PRIMARY SCHOOLS



Going merely by the expansion of infrastructure for education, the growth would appear to be phenomenal. Over the last five decades the number of institutions in the country increased from 2,30,000 to 6,90,000. About 3,00,000 of these institutions are primary schools. Middle or upper primary schools number 1,46,636. The total number of teachers increased from 1,50,000 to more than 3,20,000.

A significantly different picture emerges if the focus is shifted from the physical infrastructure to the quality of infrastructure. What is described as a school can be anything from an open piece of land for holding classes to concrete structures with provision of tables, blackboards, and toilet facilities. Over 7 per cent primary schools do not have any building. As many as 7.6 per cent of the primary schools have no instructional room at all; 37.7 have only one instructional room and 25.4 per cent have two instructional rooms. About 28,000 upper primary schools are either without any room or have only one or two instructional rooms. About 60 per cent primary schools do not have adequate number of teachers. In fact, 27.9 per cent primary schools are single teacher schools and 32.3 per cent are two teacher schools. According to a recent survey, four out of five teachers tested failed fifth standard tests in Arithmetic and two out of three could not give a correct title to a paragraph.

It was in recognition of the poor infrastructure of primary schools that the Programme of Action (POA) of the Government of India, formulated following the announcement of the National Policy on Education (NPE), designed an intervention called 'Operation Blackboard' in order to ensure minimum essential material facilities and learning equipment in primary schools. Initially, the target was to cover 20 per cent blocks/municipal areas during 1987-88, 30 per cent during 1988-89 and the remaining 50 per cent during 1989-90. However, due to constraints on resources the phasing was lengthened and the Scheme could only be implemented in 69 per cent of the blocks of the country comprising 70.4 per cent primary schools. It is difficult to be certain if the State Governments fulfilled the commitment they were obliged to under the POA. Usually State Governments spend almost 95 per cent of their budget for education on salaries with very little left for anything else. It has also been found that the equipment supplied under 'Operation Blackboard' was hardly being used.

Literacy is the means for opening the doors of children's minds and provide them with the necessary wherewithal for healthy mental and social development. Even though literacy for the country's population as a whole is 52.2 per cent (64.1 per cent for males and 39.2 per cent for females), the picture in respect of children's literacy is remarkably disconcerting. In 1991, out of the total child population

(age 6–14) of 148.65 million, 51.98 million were illiterate. Further disaggregation according to age categories shows that in the 6–11 age group, 50.79 million male children and 48.08 million female children were illiterate. Again, in the 12–14 age group, 25.12 million male children and 24.66 million female children were illiterate.

Literacy is one part of the problem of education of children. The other is the enrolment of children backed by an effort to keep them in school till they finish their schooling. On this point the performance of the Government has been dismal. Nearly 110.4 million children enrolled in the primary stage in 1996–97. Of them 43.4 per cent were girls. Primary stage enrolment rate has been witnessing a declining trend over the past five decades. It increased by 5 per cent per annum during the 1970s and by 2.6 per cent per annum during the 1980s. It further declined to 0.67 per cent per annum between 1993–94 to 1996–97. This decline in enrolment rate is disturbing, more so in a situation where more than one-third of children fail to reach grade V.

The dropouts in primary education account for almost half the students enrolled. The percentage of dropouts between Class I–V is 46.87 per cent for boys and 51.17 per cent for girls. This percentage goes up further in Class VI–VIII. It is 61.44 per cent for boys and 70.16 per cent for girls. Needless to emphasise, both enrolment and dropout vary from males to females and rural and urban areas and different regions and by caste and community. Those from the lower castes, particularly the Scheduled Castes, Scheduled Tribes, and minority communities, especially Muslims and lower caste Christians, show lower enrolment and higher dropout rates.

While it is true, as indeed the Country Report claims, that most children have a primary school within 1 kilometer of their homes, nearly one-fifth of habitations of more than 300 persons have no schools of their own. Approximately, 35 per cent schools have a single teacher who cannot look after the diverse interests and needs of the pupils. Surveys indicate that many schools remain without a teacher for varying periods of time and some teachers are not above sub-contracting teaching work to others who are not qualified for the job. The courses taught in State-run and aided schools are also not related to the child's environment and teaching methods are outmoded. With such schools and with such teaching, and with about 40 per cent of the population living below the poverty line, it is hardly surprising that enrolment has a tendency to taper down.

Against the backdrop of the failure of the formal system to ensure learning for the large number of the country's children, the Government conceived the strategy of non-formal education (NFE) to take care of the 9–14 age group which either cannot join school

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*'Those from the lower castes, particularly the Scheduled Castes, Scheduled Tribes, and minority communities, especially Muslims and lower caste Christians, show lower enrolment and higher dropout rates.'*

*'Given the fact that the inverted pyramid of the Indian educational system has been and continues to be shaped by a socially-privileged bureaucracy and political leadership, there is danger of the NFE being used as an inferior stream of education for the poor.'*

*'... the debate on universalisation of primary education is handicapped by lack of understanding of the realities of lives of children who currently have no access to education. Most of them belong to families below the poverty line and are not able to see that even if they made the investment of time, energy and resources for education their life chances would necessarily improve.'*

or drops out prematurely. In the educationally backward states alone, which were the focal point of the NFE, more than 68,000 centres were opened. About 90 per cent of these centres were for primary education while the remaining were for the middle level. In these centres 14,70,000 students were enrolled. Of these, 92 per cent were at the primary level. At present, the country has more than 2,40,000 centres for NFE. A large number of these centres are non-functional.

Even in the functional centres the level of teaching activity has been found to be minimal. Nonetheless, given the general state of affairs of the formal school system, there is need to be clear about whether these centres are supposed to play a role as a temporary supplement to formal school education for the dropout children or become a permanent substitute for the education of the poor and the disadvantaged. Given the fact that the inverted pyramid of the Indian educational system has been and continues to be shaped by a socially-privileged bureaucracy and political leadership, there is danger of the NFE being used as an inferior stream of education for the poor.

Accent on universalisation of primary education in recent years has polarised the debate on the role and relevance of NFE. Even though a constitutional directive and an imperative that the State in any case should fulfill in the interest of democratisation, there is need to be wary of the underlying presuppositions for a public policy that discredits non-formal education. It assumes that relevant education can take place only within the four walls of a classroom and that at a certain point of his or her growth the child needs to be located within the school for acquiring access to education. While this proposition is not borne out by historical experience, it is worth pointing out that at present the debate on universalisation of primary education is handicapped by lack of understanding of the realities of lives of children who currently have no access to education. Most of them belong to families below the poverty line and are not able to see that even if they made the investment of time, energy and resources for education their life chances would necessarily improve. For this reason the tendency to pit the non-formal system against the school-based formal system is unfortunate and ignores fundamental social realities.

Four formulations easily suggest themselves if the access of children to education, particularly those belonging to poor and socially disadvantaged communities, has to be enlarged. First, NFE should not be perceived as a second rate system of education. Its basic thrust on reaching out to those target groups that yet do not have access to education and its role in providing school drop-outs with the opportunity to further their education should be clearly acknowledged.

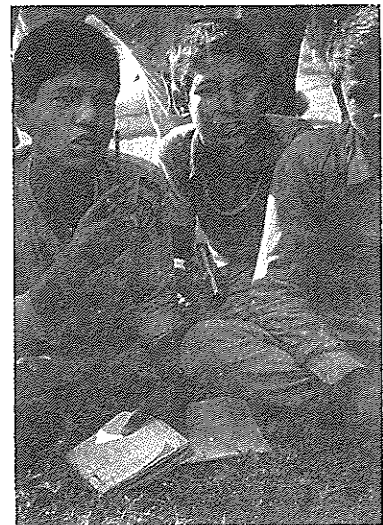
Second, there is a need to develop a clear-cut system of accreditation within the NFE as well as to ensure easy exit points. This is necessary to ensure that those who come from the NFE will always have access to the formal system and can join the mainstream education system at any point in time. Such mobility does not exist at present and is not allowed by a relatively high degree of formalisation of the school system.

Third, the scheme of universalisation of primary education should be devoid of any element of coercion on the child or his or her parents, especially in the context of the extreme vulnerability of families that would be involved. There are already apprehensions that under pressure from international quarters and elite sections of Indian society the State might well cave in to introduce this element of coercion. This would amount to putting the already meagre resources of the poor under strain at the hands of a bureaucracy that is in any case corrupt and could use the provision for compulsion to enlarge personal incomes rather than collect fines for the State exchequer. Experience of applying such coercion in other areas is highly instructive.

Four, since the Government's commitment to universalisation of primary education (UPE) is likely to result in increased foreign assistance, this increased assistance should be used to strengthen existing NFE programmes as well as extend them to areas where groups still do not have access to education. The role of NFE in the interim, that is before realising the goals of UPE, needs to be stressed.

The formal system of education is characterised by extreme inequities not only in terms of access but also in terms of quality. At one level, we have private schools (ironically called public schools) that cater to the educational needs of limited numbers of children from elite backgrounds. At another level, we have a hierarchy of public educational institutions ranging from those set up by the national government for children of State employees to municipal and village schools where quality is given the go-by. What has to be noted is that private education receives a large quantum of indirect subsidies from the State in the form of concessions to begin and then to expand at the cost of the public school system. This indirect subsidy should be withdrawn to make resources available for ploughing them into State-sponsored schools. Further, there is a case for the creation of a cess on education as a mechanism for mobilisation of resources with in-built sense of social responsibility on the part of 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.

Education of children of religious minorities continues to be



important because religious minorities constitute a large proportion of the disadvantaged groups and are educationally backward. Even though minorities are guaranteed the right to set up their own institutions for the education of children, serious resource limitations, lack of adequately trained teachers and equipment, etc. and absence of any kind of supervision has impaired their capacity to deliver quality education more particularly among some religious minority groups. If access of minority children to education has to be enlarged and the quality of education imparted in them to be improved, there is need for a mechanism of community control to oversee the functioning of these institutions as well as to ensure that they carry forward the mandate of the educational policy.

*'... preservation of India's pluralist ethos cannot be ensured where the child is deprived of the opportunity to learn to use his/her language.'*

Large sections of tribal children as well as children of one linguistic group living in another linguistic zone continue to be deprived of the right to education in the mother-tongue. Neither the constitutional promise nor the imperatives of international covenants have succeeded in addressing this question meaningfully. Our considered view is that the right to education in the mother-tongue is an important component of the rights of the child. The State should be obliged to guarantee and protect that right all the more so because preservation of India's pluralist ethos cannot be ensured where the child is deprived of the opportunity to learn to use his/her language.



Madhu, 10 years, Kidwai Nagar Slum, Delhi

## Special Protection Measures

Article 37: *States Parties shall ensure that:*

(a): *No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;*

(b): *No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;*

(c): *Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;*

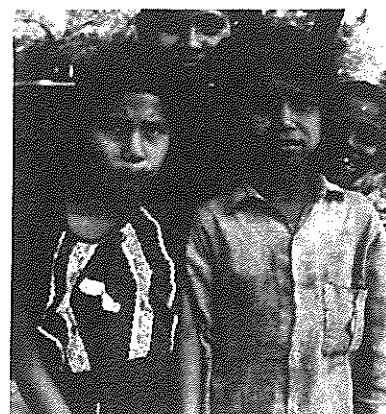
(d): *Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.'*

Article 40 (2): *' . . . States Parties shall . . . ensure that:*

(b): *Every child alleged as or accused of having infringed the penal law has at least the following guarantees:*

(i): *To be presumed innocent until proven guilty according to law;*

(ii): *To be informed promptly and directly of the charges against him or her, and if appropriate through his or her parents or*



*legal guardian, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;*

*(iii): To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, . . . .'*

***'... a large number of juveniles, delinquent as well as others, continue to be imprisoned and languish for long periods in jails together with hardened criminals.'***

The Juvenile Justice Act of 1986 was enacted 'to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles.' It treats the child differently from adults and perceives him or her as a victim of circumstances and exploitation to be dealt with compassion. Children in conflict with law fall under the purview of this Act.

The Juvenile Justice Act differentiates between 'delinquent juveniles' and 'neglected juveniles'. It lays down that no delinquent juvenile shall be sentenced to death or imprisonment and that he or she shall not be charged or tried together with a person who is not a juvenile. The Supreme Court has held: 'On no account should the children be kept in jail and if a State Government has not got sufficient accommodation in its remand homes or observation homes, the children should be released on bail instead of being subjected to incarceration in jail.'

However, a large number of juveniles, delinquent as well as others, continue to be imprisoned and languish for long periods in jails together with hardened criminals. Often, boys who are 15 years and above are implicated on some charge or the other and are sent to adult prisons by hiking their age to 18 years.

Ganesh, a 15 year old ragpicker testifies: 'Last year a policeman arrested me. He did not even check my sack and said that I was a thief. He took me to the station, asked me what I was doing at the railway station, hung me upside down, took off all my clothes and beat me up. He did not give me food or water. In the evening an officer came and said, "Do not keep him here. Send him to jail". The next day they took me to court, said I was a thief and increased my age. They sent me to Tihar Jail.'

***'Growing brutalisation of the police force in handling cases of children in recent years has been noticed by courts, NHRC, civil liberties activists and NGOs.'***

Growing brutalisation of the police force in handling cases of children in recent years has been noticed by courts, NHRC, civil liberties activists and NGOs.

Under the Act a Juvenile Welfare Board has to be set up where there is no Juvenile Court. Usually those appointed to these Boards are political nominees who lack sympathy for the poor and side with the police. Likewise, the magistrates appointed to administer the Act come from the junior-most cadre of the judiciary and lack expertise in child psychology, share popular bias against the poor



and tend to side with the police. This is an area which has not received adequate consideration from the Government, particularly in the states, where the situation of children in conflict with law is even more deplorable.

The Act provides for institutional care for children who commit a crime, those whose families cannot be located or who are orphans. According to Government statistics, there are 280 observation homes, 251 juvenile homes, 36 special homes and 46 after-care institutions in the country. Most of these institutions are modelled as mini-prisons. All street children do not commit crimes—their only crime being that they are poor and work on the street without a licence—but they are charge-sheeted for vagrancy and incarcerated within the four walls of an institution. Some languish in institutions for years even though their parents are within the city. There have been instances of children whose parents reported their child as missing landing up in institutions. Rohit, an 11 year old boy of Delhi, whose widowed mother had made numerous complaints that her son was missing, was located, but institution authorities refused his release. He was brutally beaten to death as he tried to escape. A committee was constituted by Delhi Administration to look into the state of institutions for the juveniles following Rohit's death. The report of this committee has never been made public despite representations from NGOs.

More recently, nearly hundred children ran away from a juvenile home in Bijnor in Uttar Pradesh because of denial of food and frequent beatings by institution authorities. Ironically, all that the Secretary of Welfare, Government of Uttar Pradesh, did after this incident was to pass an order to all district magistrates and children's institutions that strict measures should be taken to ensure that no more children 'escaped.'

Children are physically and sexually abused in homes. Institution authorities use older boys to instil fear in newcomers. If children are badly injured due to physical abuse, the officials usually hide the truth under one pretext or another.

Even if the Act was designed to be a progressive step towards ensuring justice to children, it has in reality become an instrument of harassment of children and violation of their rights. For dispensation of juvenile justice to improve in future, it is imperative that the Government take the initiative to constitute an independent Commission consisting of representatives of NHRC, voluntary or peoples' organisations and eminent citizens to go into the working and management of all Government-run child care institutions in the country. Children's views should necessarily be sought through public hearings by this Commission and its report should be made public. There should be no Government official or nominee on the Commission.

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*'A thorough-going review of legislations seeking to regulate narcotics, drugs and psychotropic substances as well as the Juvenile Justice Act of 1986 needs to be urgently undertaken to make them more protective and rehabilitative rather than punitive. The approach should be one of providing non-institutional services on the street and attempting to eventually reintegrate children with their families.'*

Unfortunately, the Country Report does not even attempt a critique of the Juvenile Justice Act or its administration.

A street child is a product either of family instability and violence or the economic circumstances of his or her family. There has been a significant rise in the number of street children due to the overall climate of insecurity and economic deterioration. The definition of a street child by UNICEF, which the Government accepts, tends to include even the children of urban poor who live with their families and work on the streets. This leads to a neglect of children who leave their homes to live by themselves and work on the streets. These are actually the children in need of interventions.

Even when the problems of such children are addressed, the approach is one of institutionalising them. There are serious problems with this approach as it becomes difficult to integrate these children into mainstream society or their families after they leave the institutions. Street children are the most vulnerable when it comes to drug abuse. They have always been vulnerable to sexual exploitation, but now their bodies and minds are further ravaged by drugs. Government policies do not as a rule target children as part of drug trafficking and abuse either in advocacy, treatment or rehabilitation. A thorough-going review of legislations seeking to regulate narcotics, drugs and psychotropic substances as well as the Juvenile Justice Act of 1986 needs to be urgently undertaken to make them more protective and rehabilitative rather than punitive. The approach should be one of providing non-institutional services on the street and attempting to eventually reintegrate children with their families. Looked at from this perspective, the Government of India scheme for the welfare of street children appears to be both inadequate and misplaced. At present it is able to take care of no more than 24,000 out of the estimated number of 7 million street children in the country.

Article 34: *'States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multiilateral measures to prevent:*

*(a): The inducement or coercion of a child to engage in any unlawful sexual activity;*

*(b): The exploitative use of children in prostitution or other unlawful sexual practices;*

*(c): The exploitative use of children in pornographic performances and materials.'*

Many forms of child abuse and neglect, traditional as well as more modern, prevail in India and have been accentuated by the deterioration of the family environment due to urbanisation and modernisation processes. Even though abuse and exploitation of children, particularly sexual abuse, are a matter of concern, it is difficult to gauge their extent. Perpetrators of abuse are often family members, relatives or those known to the victim and the reason for abuse arises from an unequal power relation between the child and adults. There is, therefore, a thick blanket of silence.

Crime statistics, however, show that every 24th minute a case of molestation is reported. Every 43rd minute a woman is raped. Every 44th minute a case of eve-teasing is reported. Every 155th minute a child below 16 years is raped. Every 13th hour a child below 10 years is raped. An analysis of city-wise child victims of rape shows that 23 cities each having a population of over 10 lakhs account for 22.4 per cent of paedophilia cases. The metropolises of Bombay and Delhi account for 55.6 per cent of paedophilia cases and 53.3 per cent of child rape (below 16 years) cases. Six out of ten rape victims in Delhi and Bombay are children below 16 years.

There have been growing demands for a separate, comprehensive law to deal with sexual abuse and rape of minors, but the Government has so far not brought such legislation forward. The recommendation of the Experts Committee set up by the National Commission for Women in 1993 to the effect that the degree of punishment for rape should depend on the age of the victim and penetration should not be the sole criterion for determining rape has not yet been put on the statute books.

Estimating the number of children involved in prostitution is difficult. A Central Social Welfare Board-sponsored study reports that 40 per cent of the commercial sex workers enter the profession below 18 years of age. At least, 4,00,000 sex workers in the country are estimated to be minors of which 20,000 are annually brought to India from Nepal.

Prostitution assumes many forms in India, ranging from commercial to socially sanctioned and ritually sanctified practices. Bedia women of Madhya Pradesh have been practising socially sanctioned prostitution for centuries. Bachada tribal girls on the Rajasthan-Madhya Pradesh border and Banchchara women in Madhya Pradesh are pushed into prostitution by their families to support themselves. The *devadasis* are inscribed to temples and engage in ritual prostitution. Many more modern forms of prostitution have surfaced with the rise of tourism and commodification of persons. Laws enacted with the purpose of curbing, regulating and eliminating this degrading phenomenon have so far been unsuccessful.

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*'... the argument for linking the issue of child prostitution to hazardous child labour, which seems to be gaining currency, has the potential to dilute the horrendousness of an act that robs children of their bodies and their emotions. On no account can child prostitution be reduced to just labour to be regulated as 'unsafe work.'*

The Immoral Traffic (Prevention) Act of 1986, the latest enactment for dealing with prostitution, has provision for prosecuting brothel keepers, those knowingly living on the earnings of prostitution or procuring, inducing or forcing persons into prostitution, or detaining a person in premises where prostitution is carried on as well as those carrying on prostitution in the vicinity of public places. Even so, sections of the Act relating to brothel keepers, procurers and pimps are seldom enforced by law enforcing agencies. Thus, men mostly go scot-free and the hapless prostitute gets further victimised by the law. Further, the section specifically dealing with the induction of children into prostitution is often enforced in such curious ways that the axe ultimately falls on the children. In one instance, the police forcefully removed a number of children from the brothels and put them in State-run homes without even bothering to ascertain whether they were engaging in prostitution or were simply children of prostitutes.

On the whole, the Government has miserably failed in both providing alternatives to victims, whether adults or children, and tackling the situation at the root. No proper rehabilitation schemes have been worked out for children involved in prostitution or children born out of prostitutes. NGOs and other social workers are doing commendable work, but tackling the problem is beyond their means and reach. The Government has to realise its responsibility in this regard. Resources and machinery at its command alone can make effective interventions. It is well-worth pointing out in this context that the argument for linking the issue of child prostitution to hazardous child labour, which seems to be gaining currency, has the potential to dilute the horrendousness of an act that robs children of their bodies and their emotions. On no account can child prostitution be reduced to just labour to be regulated as 'unsafe work.'

Article 32 (1): *'States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual or social development.'*

(2): *States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:*

*(a): Provide for a minimum age or minimum ages for admission to employment;*

*(b): Provide for appropriate regulation of the hours of work and conditions of employment;*

*(c): Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.'*

Poverty-induced distress is the major cause of child labour. Instability of earnings and inequality of income largely determine participation of children in the labour force. It ensures the child's own survival besides sustaining the family. Child labour either exists in rural families or families migrating to urban areas. These families are overwhelmingly landless or own little land. The majority of these families belong to the socially oppressed communities: Scheduled Castes, Scheduled Tribes and Other Backward Class and minority communities. Most of these communities derive their sustenance from occupations that principally require manual labour which indicates the wider, complex social matrix in which the phenomenon of child labour is embedded.

According to the 1991 census, there are about 13 million child labourers in the country the overwhelming majority of whom are in agriculture: 35.2 per cent being cultivators and 42.5 being agricultural labourers. However, since a lot of labour performed as part of the family in farms and household units is not recognised, there is a problem with census estimates as well. This is particularly true of the labour of the girl child. If one were to use the labour participation rate of children in the age group of 6–14 years as shown by the 42nd round of the National Sample Survey (NSS) and apply the ratio to the child population in this age group, which is estimated by the 1991 census to be 164.67 million, the child labour population in the country would work out to 71 million. There are 2 million child labourers in India in hazardous industries according to the Government.

For nearly half the rural households, the balance between consumption and labour is extremely problematic. Given the context of a stagnating agriculture, compounded by the rapid commercialisation of agriculture with its attendant consequences of intensified pauperisation, small and marginal farmers and artisans who are losing all sources of livelihood are migrating in droves to urban centres to live on the margins. This makes child labour an integral part of their survival strategy.

The public focus on child labour in recent years is really limited to the small percentage, approximately 6 to 7 per cent of child labour in the urban, informal, manufacturing sector. Ninety per cent of In-



*'The expansion of the informal sector (wherein labour intensive processes requiring lower level skills are farmed out) has led to an increase in women working under precarious conditions to eke out a livelihood. This generally means that children start working alongside their mother.'*

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dia's workers are in the informal sector. Of late there has been a greater thrust towards the informalisation of the economy which has led to an increase in child labour. The expansion of the informal sector (wherein labour intensive processes requiring lower level skills are farmed out) has led to an increase in women working under precarious conditions to eke out a livelihood. This generally means that children start working alongside their mother. Subsidiaries of multinational companies resort to sub-contracting in order to circumvent their obligations under labour laws and impose the burden of reproduction of labour power on an increasingly stagnating rural hinterland and on caste, community and kin networks, on backward regions, poor families and especially women and children. This basic social reality can neither be evaded nor obfuscated.

Under the circumstances, land redistribution, increasing the productivity of land and generation of non-farm incomes would appear to be enabling conditions for tackling child labour and should have become the focus of Government policies. The 1979 Committee on Child Labour also acknowledged the structural roots of child labour and therefore the need to address the problem in its totality. Government policies, programmes and planning have so far singularly failed to bring about changes in these areas and have, in fact, throttled and repressed social movements demanding change in this direction. The Government is disinclined to bring about these changes and is consequently against creating conditions for the protection of children from economic exploitation. The Government's assurance for progressive implementation of the provisions of Article 32 is, therefore, evasive, and disguises the lack of political will to transform Indian society towards a child labour free economy.

Poverty-led child labour can be addressed only when the economy enables every family to be provided with stable productive work. The State can be made liable to direct and guide the economy in that direction only when the right to work is established as a fundamental right. It will ensure the commitment of the State and, more importantly, allow people to be active agents of change through political and legal action.

The Government of India has not initiated any effort in consultation with the civil society to distinguish child labour from child work. This distinction is crucial in India as work has always been considered a part of the normal process of socialisation of a child. Further, in artisanal families participation in the work of the family was considered a means for preparing the child for a vocation when he grew up. In the absence of this operational distinction, several forms of child work are considered exploitative, oppressive and interfering with the child's enjoyment of rights.

The National Policy on Child Labour, 1987, has three facets: a legislative action plan, focus on general development programmes to benefit child labour and project-based action plan in areas of high concentration of child labour. We have commented on the inadequate and ineffective legislation and the weak political will of the Government of India for general development as a result of which 39 per cent of the population still live below poverty line. Even the most focussed and direct part of the 1987 policy—project based action plans—have faulty design, miniscule coverage and low commitment of resources.

The National Child Labour projects floated as part of the Policy targetted 1,51,577 child labour for rehabilitation in 2,528 schools with a three-year budget of Rs.65.43 crores. Many schools have already closed down for delayed disbursement of sanctioned money and some even for lack of child labour. These projects assume an overall average expenditure of Rs.1,500 per child per year for enabling the child to withdraw from hazardous labour. As a result, it has a negligible component for providing stipends to substitute children's earnings. This process of rehabilitation is non-sustainable and cannot impact child labour.

A major flaw in the design of many of these projects, which is resulting in high failure rate, is the implicit assumption that child labour is a problem at the behavioural level. This is a consequence of the shift of attention of international policy-makers from the structural roots of child labour to behavioural aspects. As a result, the focus is primarily on abolition of child labour through penal sanction. This is diverting resources and social energies away from the real cause of child labour.

The Government of India enacted the Child labour (Prohibition & Regulation) Act of 1986. It has proved to be inadequate and ineffective. The Act does not require the employer to get a licence or permit to employ child labour. This shifts the burden of tracking down child labour to the already under-staffed labour department. It would have been helpful if a provision to this effect in the Employment of Children Act had been retained. This would have made detection of child labour easier and acted as a deterrent on factory owners employing children in hazardous industries.

The prohibited category under the Act covers a very small sector. The Technical Advisory Committee, constituted under the Act, recommended inclusion of another 16 processes and occupations in the schedule of prohibited occupations, but till date it has not been accepted. Similarly, the recommendation of the Department of Labour, Government of Uttar Pradesh, in October 1992, for inclusion of 3 processes and occupations in the state with high child labour inci-





dence and extremely hazardous, have not been accepted.

India is a prolific legislator and habitual defaulter. Many states have no rules framed under the Child Labour Act to make the Act effective. No separate machinery for enforcement of the Act was created. Nor were additional inspectors appointed for enforcement. Existing, over-burdened labour inspectors are instead made responsible. Many States have shown no action under the Act. In 1992, 12,661 inspections were reported from all over the country under the Act, following which 602 prosecutions were launched and only 162 convictions resulted. The fine for violation of the Act ranged from Rs.10 to Rs.100, making the Act farcical. For ten long years the Government of India resisted every effort to impose higher fines and stricter punishments for habitual offenders of the Child Labour Act. The child's rights movement, trade unions and other social organisations built a campaign generating a groundswell of public opinion against the Government's attitude. The Supreme Court responded to this situation in a Public Interest Litigation and imposed a high fine of Rs. 20,000.

The Government policy has been undergoing a shift under the impact of the winds of globalisation. It appears to be caving in to pressure from international agencies, foreign governments and a section of India's elite who are advocating elimination of child labour at a single stroke. Ironically, this current of abolitionism is mounting precisely at a time when the developing world is forced to accept policies of structural adjustment which make the position of these countries and the poor in them much more vulnerable. One of the major elements of the strategy for the elimination of child labour is the emphasis on compulsory universalisation of primary education. UNICEF sees education as the cutting edge for strategies to prevent and eliminate child labour.

Many Non-governmental organisations within the country too have been articulating the viewpoint in tune with international pressures which undercuts the argument that shocking poverty arising out of unequal access to productive assets, structurally in-built inequities and a pattern of development which further accentuates these factors, is the root cause of child labour. The formulation emerging out of this school of thinking is that poverty is not the cause of child labour, but child labour is the cause of poverty. Compulsory education is seen by them as the only weapon to tackle the problem of child labour.

In line with this thinking the Government of India have introduced the Eighty-Third Constitutional Amendment Bill which seeks to make universalisation of primary education compulsory. This Bill suffers from three major problems. First, it leaves out of its ambit children in the age-group of 0-6. This is particularly alarming because early



childhood care and education is difficult to provide for the poor and disadvantaged groups. There are nearly 100 million children in this group of whom 60 per cent are below the poverty line. Second, the thrust of the Bill is to penalise the poor in case of non-compliance, and that too at the hands of a bureaucracy which lacks sensitivity to the poor. Finally, the Bill absolves the private, 'unaided' schools, in any case recipients of large state subsidies, where the children of the rich are educated.

Our view is that the strategy of compulsory education as the core of policy initiatives to end child labour glosses over the complexities referred to earlier. Besides, there is the implicit assumption that all learning takes place in schools. This is problematic in itself. The most important weakness of this position is that it ignores the present-day international context that is of acute world-wide crisis and the structural-causal links that bind the countries of the South and the North. Needless to emphasise, this approach would violate the essence of the CRC direction that 'the best interest of the child shall be the primary consideration.' The right to life is fundamental to all notions of child's rights existing in the CRC. Right to life implies right to pursue survival strategies in the event of failure by the State and the society to ensure survival. To foreclose the option of labour for survival to a child without ensuring conditions of survival may enforce other articles of the CRC, but would undermine the right to survival and go against 'the best interests of the child.'

The campaign for use of trade sanctions against child labour-intensive industries in developing countries is another variant of the same abolitionism. It targets only a small part of the demand-side factors of the child labour 'market,' assuming that it will automatically impact the supply-side factors. Such a campaign would contribute to extending the power of developed countries over the supply chain to the western market, thereby dominating the terms of international trade.

A 'holistic' approach that acknowledges that child labour is a survival strategy for most poor families and recognises the variegated manifestation of children working is called for to deal with the problem. There is need to distinguish among various forms of child work in the family/household and child labour for wages in cash or kind both in agriculture and industry.

Even amongst children working for wages, those working in the most exploitative situations would need to be targetted first. For this perspective, children working in hazardous industries and occupations and bonded child labourers need urgent attention. Needless to add, all policy initiatives in this regard will have to have the families of child labourers as the major focus. This kind of a multi-

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pronged approach, seeking to address the poverty of these families along with a package of education and health, is necessary if any measure of long-term success is to be achieved. Such an approach has been tried out successfully in North Arcot District, Tamilnadu. It is a good example of what can be achieved through Government initiative by a committed bureaucracy. It can be replicated.



## Conclusion

This report has attempted to look at the situation of children in India as it essentially is, how policies impact at the ground level, the increasing gap between performance and promise, and to indicate policy corrections and the degree of administrative and political will needed to approach the standards of the CRC.

A perusal of the Country Report indicates that what was required to be reported is not reflected. What was required was a realistic appraisal of the situation after the ratification—an honest statement of actions taken and what had been actually achieved and a clear demonstration of political will to carry out the mandate of the CRC in tune with the realities of the Indian situation. What we find is a mechanical enumeration of public policies and statutes without any assessment of their impact and absence of recognition that the policies were at times not founded on the realities of the Indian situation. What is found are policies that make impressive reading, but adequate resources were not allocated, nor were mechanisms evolved to implement and monitor them. Similarly, statutes have been enacted, but no serious or sustained efforts to inform the provisions of the law have been made.

What emerges from the Alternate Report, set out in the preceding chapters in detail, suggests that the Indian child is deprived and vulnerable in more ways than one, though a considerable part of the vulnerability is a reflection of wider social and economic conditions. A significant proportion of Indian children do not manage to live to see their first birthday, and an even smaller proportion live upto their fifth birthday. If they manage to cross this threshold, life-processes are marked by denial, deprivation and insecurities.

The large majority of children belonging to the disadvantaged groups lack basic nutrition, health-care, safe-drinking water, clean environment, and access to quality education. Children from well off families who make up less than 15 per cent of the child population may be better-off, but remain deprived on other counts.

We maintain that for children, whether of the rich or the poor,

*'We maintain that for children, whether of the rich or the poor, to grow up in a social milieu where abysmal poverty of the many exists side by side with excessive opulence of a few is in itself an impoverishing experience.'*

to grow up in a social milieu where abysmal poverty of the many exists side by side with excessive opulence of a few is in itself an impoverishing experience. Worse still, fifty years of economic development and State interventions have served to heighten these contrasts and thereby benumb the sensibilities of children on both sides of the social divide.

If a dent has at all to be made in ameliorating the situation of children, the State must bear the primary responsibility for carrying out its commitments under the Constitution and under the international covenants, including the CRC. Given the character of our political leadership and bureaucracy which continues to be tilted in favour of the privileged and the eagerness of the State to withdraw from the social sector under the structural adjustment programmes, a considerable part of the burden for failures of the past has to be placed on the Government.

The overall appreciation of the nature of Indian society and the matrix within which the child is located are crucial. Indian society is hierarchical with built-in structures of discrimination. Modern development processes have intensified traditional hierarchies and sharpened deprivations of disadvantaged and marginalised groups who constitute the majority. Since the child is embedded within these structures of hierarchy and discrimination, government interventions and programmes that ignore the context of the child's location are unlikely to succeed. In the view of the Working Group, any ameliorative programme has to address the structural conditions simultaneously.

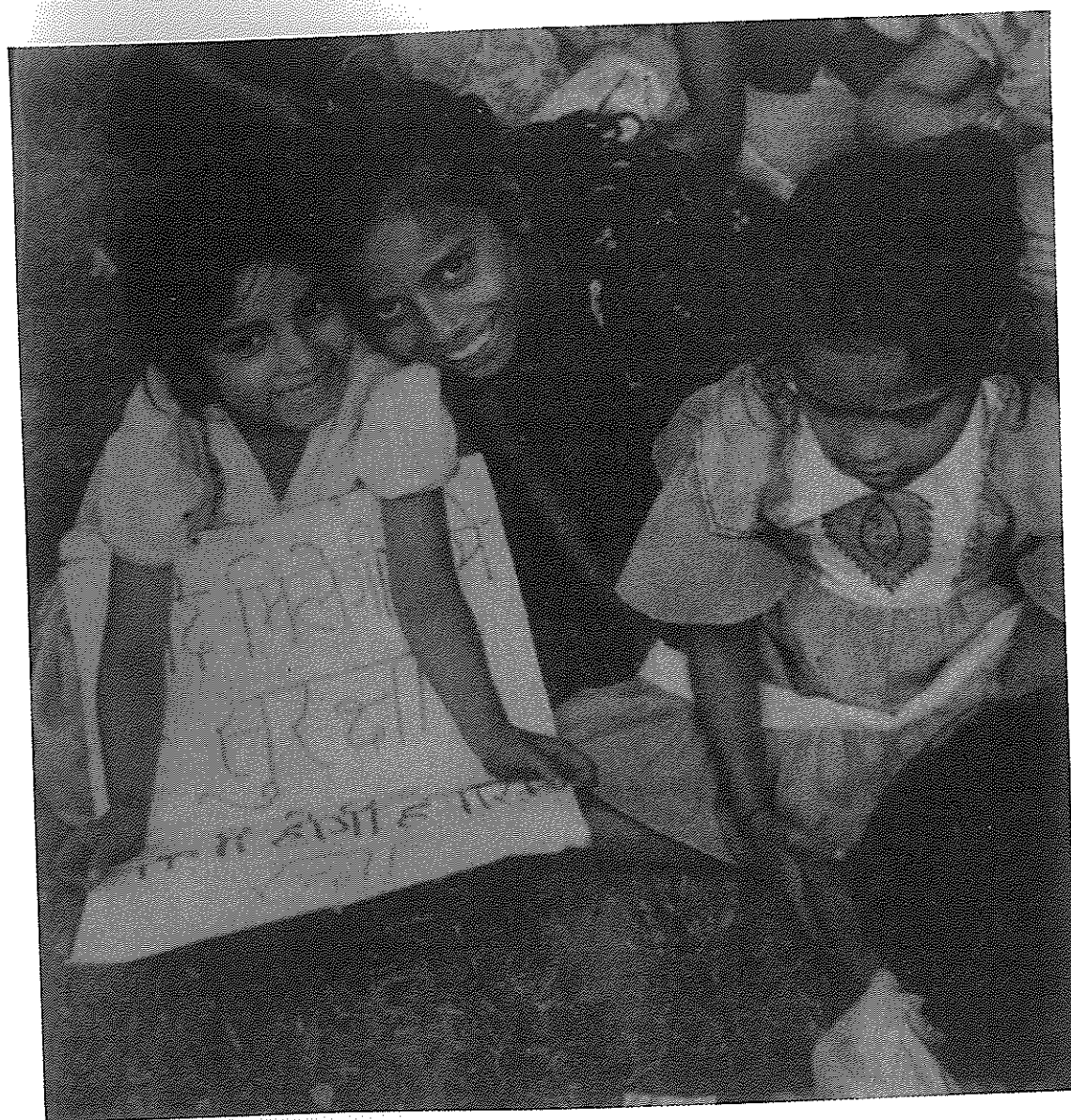
Promotion of welfare of children calls for clear identification of points at which intervention can be made, along with the kinds of interventions which are likely to be effective. Lack of data continues to be a serious handicap. The Working Group is of the opinion that a comprehensive bench-mark survey should be undertaken. It believes that this is necessary because: (i) with increased focus on the rights of children, certain areas relating to the situation of children such as child abuse, drug abuse, number of child workers, number of child prostitutes, etc., have not been acknowledged as issues on which national surveys have been comprehensively conducted. In the immediate future, these vulnerable sections of children will require increased focus in both government policy initiatives as well as actions amongst NGOs; (ii) estimates tend to be inconsistent in the face of varied nature of the data. Such a bench-mark survey will allow reliable estimates for effective policy and programme interventions in the future.

*'There should be within the framework of the Convention space for States to prioritise initiatives and actions in keeping with the realities on the ground.'*

We as a group are convinced that international monitoring mechanisms, given the imbalances within the international system, have a



propensity to turn into a handle to browbeat States to conform to international standards in undue haste. There should be within the framework of the Convention space for States Parties to prioritise initiatives and actions in keeping with the realities on the ground.







Where the mind is without fear  
and the head is held high;  
where the knowledge is free;  
Where the world has not been broken up  
into fragments by narrow domestic walls;  
Where the words come out from the depth of truth;  
Where tireless striving stretches its arms  
towards perfection;  
Where the clear stream of reason  
has not lost its way into the dreary desert sand  
of dead habit;  
Where the mind is led forward  
by thee into ever-widening thought and action  
Into that heaven of freedom,  
my father, let my country awake.

– Rabindranath Tagore

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