



# Situation of Children and Child Rights in India

A Desk Review



*Protecting and empowering children since 1989*

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Butterflies



*Protecting and empowering children since 1989*

New Delhi

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## ABBREVIATIONS

AIDS	: Acquired Immune Deficiency Syndrome
BMI	: Body Mass Index
BPL	: Below Poverty Line
CARA	: Central Adoption & Resources Agency Convention on the Elimination of All Forms of
CEDAW	: Discrimination Against Women
CIF	: Childline India Foundation
CSEC	: Commercial Sexual Exploitation of Children
CWC	: Child Welfare Commissioner
GER	: Gross Enrolment Ratio
HDI	: Human Development Index
HIV	: Human Immunodeficiency Virus Inter-Agency Working Group on Children's
IAWGCP	: Participation
ICDS	: Integrated Child Development Services
ICPS	: Integrated Child Protection Scheme
ILO	: International Labour Organization
IMR	: Infant Mortality Rate
MoHFW	: Ministry of Health & Family Welfare
NCERT	: National Council for Education, Research & Training
NCPCR	: National Commission for Protection of Child Rights
NDPS	: National Drug & Psychotropic Substances
NFHS	: National Family Health Survey
NGO	: Non-Government Organization
NRHM	: National Rural Health Mission
POCSO	: Protection of Children from Sexual Offences
RTE	: Right to Education
RTP	: Right to Play
SITA	: Suppression of Immoral Traffic Act

SLB	: Service Level Benchmarking
TISS	: Tata Institute of Social Sciences
UIP	: Universal Immunization Programme
UNCRC	: United Nations Convention on the Rights of the Child United Nations International Drug Control
UNDCP	: Programme
UNESCO	: United Nations Educational, Scientific & Cultural Organization
USAID	: United States Agency for International Development
WHO	: World Health Organization

Census 2011 had counted more than 440 million children in India below 18 years of age constituting 37% of the total population of the country. Within the age group of 0-17 years, children between 0-6 years constituted about 14% of the total population of children in India followed by 17% between 7-14 years and the remaining 6% in the age group of 15-17 years. In the case of India, a huge chunk of the child population is vulnerable at birth till they attain self-sustaining capabilities, physically, emotionally and mentally. They would require the optimum handholding of the adults to reach that stage of self-sustaining capabilities. They are vulnerable and hence are always at risk against the vagaries of the world, be it natural (e.g. calamities) or manmade (e.g. war, unrest etc.).

In tune with the global endeavor to ensure wellbeing of its children, the Indian government also had initiated endeavor through different policies, legislative Acts, National Plan of Action, schemes and programs. These legal Acts, schemes and programs though are part of the concerted efforts of the government to protect the well-being of children of this country but perhaps not yet enough to mitigate the rising cases of all types of exploitation meted out to children.

The primary purpose of the study was to assess the situation of children and child rights in India through a comprehensive desk research. Using information collected and collated from secondary and tertiary sources, the study attempted to assess the situation of children and child rights in India entailing information revolving around **rights to survival, rights to development, rights to protection and rights to participation**. Nine Indian states were selected based on Human Development Index (HDI) for the study. Kerala and Delhi as high HDI states, Maharashtra, Jammu & Kashmir and Gujarat as medium HDI states and West Bengal, Assam, Madhya Pradesh and Chhattisgarh as the low HDI states were covered for the study.

The opening chapter discusses the genesis and the content of the United Nation Convention on the Rights of the Child (UNCRC). The following chapter deals with the central theme of Poverty. It is apparent that children are the primary victims of poverty and its consequences and absolute



poverty deprives the children of their fundamental rights to food, clothing, shelter, water, sanitation, health care and most importantly education.

The study highlights that there is widespread abuse of different forms of abuse of children in India and it seems unabated. Studies show that there are more boys than girls who are getting abused every day. According to the International Labour Office in Geneva, commercial sexual exploitation of children and child pornography are two primary forms of child sexual exploitation, which often overlap. The study has not looked into internet-cyber space sexual violence against children. This is an area that needs immediate research to inform policy makers the urgency to bring in these crimes under the purview of criminal justice system. Furthermore, to have policy, programmes in place to safeguard children from becoming victims of such crimes. The study shows that in the case of children in conflict with law, there are four major risk factors identified as the primary causes, namely, individual, family, mental health and substance abuse.

In the conclusion, it may be mentioned that despite all efforts, the situation of children and child rights in India is grim and far beyond any satisfactory level. Poverty is the central issue that needs to be tackled foremost. Thus, nothing less than a consolidated and holistic approach towards integrating income generation, providing access to education, health services, access to safe water, a healthy sanitation environment is desirable. This can change the lives of the millions of children and ensure their rights for survival, protection, development and participation.

The chapters in this study offer an array of such perspectives on the situations of children and child rights in India. Dr.Prateep Roy was the principle researcher who was commissioned to do this desk research. We thank Dr.Roy and his team for having undertaken this study under very challenging timelines. We also express our sincere gratitude to our funder Misereor along with ChildHope & Comic Relief and my colleagues here, Mr.Zaved Rehman, Mr. Asif Ali, Mr.Satyavir Singh, Ms.Moushumi Baruah, and our Child Rights Advocates without whose support & effort this study would not have come out. I am sure that this volume will contribute towards enriching public discourse and strengthening public action to promote the rights of children.

**Ms. Rita Panicker**  
Executive Director  
Butterflies

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# INTRODUCTION

## 1.0 BACKGROUND

Census 2011 counted more than 440 million children in India below 18 years of age constituting 37% of the total population of the country. Within the age group of 0-17 years, children between 0-6 years constituted about 14% of the total population of children in India followed by 17% between 7-14 years and the remaining 6% in the age group of 15-17 years.

With an Infant Mortality Rate of 41 children dying before attaining one year of age per 1000 live births, the United Nation Population Division has ranked India as the 144th country out of a total of 188 listed countries as far as IMR is concerned. The World Bank report records 53 children dying before the age of five per 1000 live births for India. These are a few of the glimpses of the status of the children in India that needs close scrutiny. With poverty on one side and vulnerability on the other, the children needed an umbrella of protective cover from the world around them. In this context, issues revolving around the different facets of rights of the children gained momentum. As a result of such endeavor, The UN General Assembly adopted the Convention and opened it for signature on 20th November 1989 (the 30th anniversary of its Declaration of the Rights of the Child).<sup>1</sup>

It came into force on 2nd September 1990 after the required number of nations ratified it. Currently, 194 countries are party to it, including every member of the United Nations.<sup>2</sup> The strategy adopted by the world was to combat poverty on one hand and on the other, usher strict implementation of the different facets of child rights including right to survive, right to protection, right to development and right to participation. It is almost two-and-a-half decades since the onset of UNCRC (1990) and hence it is time to prospectively assess the situation of the children and child rights in India.

This report is an attempt to analyze and elucidate the situation of children and child rights in India with the comprehensive compilation of information collected from secondary and tertiary sources through desk research.

## 1.1 BUTTERFLIES: A QUICK GLANCE

*'Butterflies'* is a registered voluntary organization working with vulnerable groups of children since 1989. With a right-based, non-institutional approach the organization endeavors to educate and impart life skills to vulnerable children so that they become self-reliant. Over the years, Butterflies has initiated a number of innovative interventions in the field and partnered with various government and non-governmental agencies to garner support for children. Butterflies reaches out directly to over 2000 street and working children in Delhi, 6000 child survivors of tsunami in Andaman & Nicobar Islands and 1200 children living in remote areas of Uttarakhand.

*'Butterflies'* also has a research advocacy and training wing that works to support mobilization of civil societies and influence policies at all levels. It is an active participant in national and international network for advocating and promoting policies, programmes and actions to protect rights of the children.

Following a Non-Institutional, Participatory and Right's based approach, Butterflies has initiated a number of focused interventions for street and working children, mainly through its two-pronged strategy- one through field based interventions (Programme Action) and the other through advocacy, research, training and alliance building with partners and stakeholders (Policy Action). Children's participation is the core philosophy for Butterflies programming. It is the basic value on which programs are designed and promoted and is manifested in the entire process of planning and implementation of the programme.

## 1.2 OBJECTIVE OF THE STUDY

The primary objective of the study is to assess the situation of the children and child rights in India through a comprehensive desk research.

Using information collected and collated from secondary and tertiary sources, the study will attempt to assess the situation of children and child rights in India covering the following facets:

- Rights to survival: include the child's right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services.
- Rights to development: include the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion.
- Rights to protection: ensure children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have experienced exploitation or abuse of any kind.
- Rights to participation: encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their capacities develop, children should have increasing opportunity to participate in the activities of society, in preparation for adulthood.

The study is an attempt to analyze the causative elements associated with the status of children and child rights in India primarily yoking it with poverty and its consequences.

### **1.3 METHODOLOGY OF THE STUDY**

The relevant information for the study was collected through secondary and tertiary sources. The information was sourced from different channels including accessing government data, published research reports and other such sources.

Broadly, the following tentative types of materials were considered for sourcing the necessary information:

- Legislative Acts and Rules on child rights and protection
- Census of India data
- Data from 3rd National Family Health Survey (NFHS-3)
- Research reports published by the UN agencies
- Research reports of various government & non-government organizations
- Research reports by individual authors

## 1.4 COMPARATIVE ANALYSIS OF THE STATES IN INDIA

In order to analyze the comparative disparity between the different states in India, the states were selected on the basis of the Human Development Index (HDI) of the respective states. The Human Development Index (HDI) is a composite statistic of life expectancy, education, and income indices used to rank countries into four tiers of human development. It was created by economists Mahbub ul Haq and Amartya Sen in 1991<sup>3</sup> and was published by the United Nations Development Programme.<sup>4</sup>

India with an HDI value of 0.59 ranks 135th among 187 countries listed for Human Development Index and is considered under countries with medium HDI. The growth in HDI value during the last three decades has not been very encouraging. Since 1980-90 the growth has been a meager 1.49% over the past three decades.

Table 1.1 shows the HDI values for the states of India. The said data was published by Government of India. **Note that the 2007-2008 HDI** values in the table below is not based on income as is the UNDP standard practice for global comparisons, but on estimated consumption expenditure - an assumption which underestimates the HDI than actual.<sup>5</sup> The states have been categorized as high (above 0.75), medium (0.55-0.70) and low (< 0.55).

**Table 1.1:** State-wise HDI values in India

Rank	State	HDI value	Rank	State	HDI value
<b>High:</b>			<b>Low:</b>		
1	Kerala	0.79	13	West Bengal	0.49
2	Delhi	0.75	14	Uttaranchal	0.49
<b>Medium:</b>			15	Andhra Pradesh	0.47
3	Himachal Pradesh	0.65	16	Assam	0.44
4	Goa	0.62	17	Rajasthan	0.43
5	Punjab	0.61	18	Uttar Pradesh	0.38
6	NE (excluding Assam)	0.57	19	Jharkhand	0.38
7	Maharashtra	0.57	20	Madhya Pradesh	0.38
8	Tamil Nadu	0.57	21	Bihar	0.37
9	Haryana	0.55	22	Odisha	0.36
10	Jammu and Kashmir	0.53	23	Chhattisgarh	0.36
11	Gujarat	0.53			
12	Karnataka	0.52			

**Source:** *India Human Development Report 2011*. Planning Commission

Table 1.2 shows the different states covered for the study. The states were randomly select to represent the three **cohorts** of high, medium and low HDI. While Kerala & Delhi were anyway the two states covered as high HDI states, among the medium HDI states, Maharashtra, Jammu & Kashmir and Gujarat were selected and among the low HDI states - West Bengal, Assam, Madhya Pradesh and Chhattisgarh were covered for the study.

**Table 1.2:** Selected states in India covered for the study  
based on HDI

S. No	States	Rank (2007-08)
High HDI states		
1.	Kerala	1
2.	Delhi	2
Medium HDI states		
3.	Maharashtra	7
4.	Jammu and Kashmir	10
5.	Gujarat	11
Low HDI states		
6.	West Bengal	13
7.	Assam	16
8.	Madhya Pradesh	20
9.	Chhattisgarh	23

## 1.5 DEMOGRAPHIC PROFILE OF THE SELECTED STATES: A QUICK GLANCE

As a prelude, few basic demographic parameters of the selected states for the study are presented. The basic demography of the states shall help in gauging the comparative analysis of the population, growth and density of population, sex ratio and literacy of the states.

Table 1.3 shows the different demographic parameters of the selected states for the study. The selected states have been arranged in ascending order of population. The table reveals that the HDI ranking does not necessarily follow any specific trend with regard to the basic demographic indicators of the states.

For example, though Delhi ranked 2nd in HDI but exhibits the lowest sex ratio (868) among all the study states, while the 23rd ranked state of Chhattisgarh shows a much higher sex ratio of 991, just behind the leader (Kerala).

If sex ratio is any indication of better status of women, then Delhi has perhaps failed miserably and Chhattisgarh with such low HDI ranking has excelled. Notwithstanding, the lone state that shows consistency in all parameters of progress in tune with HDI is Kerala, occupying the position of the numero uno state, being also the 5th largest state in the list of the selected states.

**Table 1.3:** Demographic parameters of the selected states for the study (Census 2011)

S. No.	States	HDI Rank	Population (Million)	Growth (%)	Area (sq. km)	Density/sq. km.	Sex ratio (females/1000 males)	Literacy (%)
1.	Jammu & Kashmir	10	12.54	23.6	222236	56	889	67.1
2.	Delhi	2	16.79	21.2	1483	11320	868	86.2
3.	Chhattisgarh	23	25.55	22.6	135192	189	991	70.2
4.	Assam	16	31.21	17.0	78438	398	958	72.1
5.	Kerala	1	33.41	4.9	38852	860	1084	94.0
6.	Gujarat	11	60.44	19.2	196244	308	919	78.0
7.	Madhya Pradesh	20	72.63	20.3	308252	236	931	69.3
8.	West Bengal	13	91.28	13.8	88752	1028	950	76.2
9.	Maharashtra	7	112.37	15.9	307713	365	929	82.3



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# LEGAL & LEGISLATIVE SAFEGUARDS: AN OVERVIEW

## CHAPTER TWO

### 2.0 BACKGROUND

During the last century, universal concern for childhood has grown alongside the ideas of human rights. Human rights are today understood more in the form of the individual civil rights within a nation. United Nations Organisations has in fact established an international community, which sets up ideal standards to be laid down in many matters including the treatment of children. Thus the concern for children, which initially started as part of the concern for the future of individual nation has grown over the boundaries of the nation and became a universal concern. This was further borne out while going through the whole process of evolution of the Convention on the Rights of the Child.

It is in this context that various steps were taken in protection of the interests of the child. One can say that the most significant one was “Declaration of Geneva” which was promulgated in 1924 by the “Save the Children Fund International Union”. This declaration put forward five basic principles of child welfare and protection. The League of Nations endorsed this declaration in the same year. Then came the more devastating World War II after which the U. N. O. was set up on 24th October 1945. The Declaration of Geneva was further revised and extended in 1948 and in 1959 by the U. N. The Declaration on the Rights of the Child was adopted unanimously by the General Assembly of the United Nations on 20th November 1959.<sup>1</sup>

However, Declarations are not conventions. While declarations are certain general principles put forward as guidelines and are not binding. Technically these are known as “soft laws”, whereas Conventions are binding. Conventions that have been ratified by the parties to it become a legal instrument. These are known as “hard laws”. Hence though the declaration on the Rights of the Child was unanimously accepted by the U. N. General Assembly in 1959 it was not legal binding on the member

states. Hence, the movement towards the convention on the Rights of the Child and finally the UN General Assembly adopted the United Nations Convention on the Rights of the Child and opened it for signature in 1989.

## 2.1 UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC): AN OVERVIEW

It took three decades for the world to commit the children their rights to transform a toothless declaration into a convention. However, the convention became a law within only nine months after the U. N. General Assembly approved it unanimously. It is reported that no other human rights convention has become a law so quickly. By the time of the World Summit for children, 50 nations had ratified the convention on the Rights of the Child and another 78 had signed their intention of becoming parties when their governments had completed ratification procedures.

The seed of the Declaration, was however, sowed by Eglantyne Jebb (25th August 1876–17th December 1928), a British social reformer and the founder of *Save the Children* in 1923. Jebb believed that the rights of a child should be especially protected and enforced, thus drafting the first stipulations for child's rights.

Jebb's initial 1923 document consisted of the following criteria:

- The child must be given the means requisite for its normal development, both materially and spiritually.
- The child that is hungry must be fed, the child that is sick must be nursed, the child that is backward must be helped, the delinquent child must be reclaimed, and the orphan and the waif must be sheltered and succored.
- The child must be the first to receive relief in times of distress.
- The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.
- The child must be brought up in the consciousness that its talents must be devoted to the service of its fellow men.

These ideas were adopted by the International Save the Children Union in Geneva on the 23rd February 1923 and endorsed by the League of Nations General Assembly on the 26th November 1924 as the World Child Welfare Charter. However, these proclamations were not enforceable by international law, but rather only guidelines for countries to follow.<sup>2</sup>

On 20 November 1959 the United Nations General Assembly adopted an expanded version as its own Declaration of the Rights of the Child, adding ten principles in place of the original five.<sup>3</sup> This date has been adopted as the Universal Children's Day.

In 1989, the UN General Assembly adopted the Convention on the Rights of the Child. It came into force on September 2, 1990. The Convention consists of 54 articles that address the basic human rights of children everywhere.

- Rights to survival: include the child's right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services.
- Rights to development: include the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion.
- Rights to protection: ensure children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.
- Rights to participation: encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their capacities develop, children should have increasing opportunity to participate in the activities of society, in preparation for adulthood.

Under the Convention, a child is defined as “... every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier. Two optional protocols were adopted on 25 May 2000. The First Optional Protocol restricts the involvement of children in military conflicts, and the Second Optional Proposal prohibits the sale of children, child prostitution and child pornography. Both protocols have been ratified by more than 150 states. A Third Optional Protocol relating to communication of complaints was adopted in December 2011 and opened for signature on 28 February 2012.<sup>4</sup>

## 2.2 UNCRC AND INDIA

It was during the 50s decade that the UN Declaration of the Rights of the Child was adopted by the UN General Assembly. This Declaration was accepted by the Government of India. In 1974, the Government of India adopted a National Policy for Children, declaring the nation's children as ‘supremely important assets’. The Department of Women and Child Development was set up in the Ministry of Human Resource Development in 1985. The Department implements several other programmes, undertakes advocacy and inter-sectoral monitoring catering to the needs of women and children. In pursuance of this, the Department formulated a National Plan of Action for Children in 1992. The Government of India ratified the Convention on the Rights of the Child on 12 November 1992.

By ratifying the Convention on the Rights of the Child, the Government is obligated “to review National and State legislation and bring it in line with provisions of the Convention”. The Convention revalidates the rights guaranteed to children by the Constitution of India, and is, therefore, a powerful weapon to combat forces that deny these rights.

India submitted its first/initial report to the Committee on the Rights of the Child in 1997. The purpose of this first report was to give the Committee a sense of the situation of children in India. The report outlines the various laws and policies pertaining to children that are being implemented in the country. The report outlines steps taken by India to fulfill the UNCRC commitments.<sup>5</sup>

1. Ministries have begun to outline their roles in fulfilling the convention provisions
2. State governments have begun incorporating convention articles into their plans of action for children
3. The government is partnering with notable NGOs to determine actions to be taken
4. India has begun gathering data for the country's first periodic report.
5. The report goes on to discuss civil rights and freedoms, family care and alternative care, health and nutrition of children, education, leisure and cultural activities, and special protection measures the state is currently engaged in.

The Committee responded to this report with a list of recommendations. Some of the recommendations were:

- Make efforts to match country legislations with convention provisions and plan and allocate resources to ensure the implementation of all child related legislations.
- Adopt a comprehensive national plan of action, based on a child rights approach, to implement the Convention.
- Develop a comprehensive system for collecting disaggregated data about the status of children
- Establish a statutory, independent national commission for children
- Establish a national age limit that a person ceases to be a child
- Address issues of discrimination against caste and tribal groups
- Ensure the rights of the child who is in police custody
- Ensure the rights of children with disabilities
- Aim to eliminate child labour

India submitted their first comprehensive periodic report in 2001. Again the report discussed civil rights and freedoms, family care and alternative care, health and nutrition of children, education, leisure and cultural activities, and special protection measures the state was currently engaged in.

In the report submitted in 2001, the Government of India also outlined the actions taken as per the recommendation of the Committee in 1997. The report discussed all the various legislative achievements of the last five years such as the adoption of the following acts:

1. The Juvenile Justice (Care & Protection of Children) Act, 2000
2. National Commission for Children
3. Amendment of the Infant Milk Substitutes, Feeding Bottle and Infant Foods Regulation of Production, Supply and Distribution Act, 1992

The report outlined that minimum legal age has been defined for issues such marriage, sexual consent for girls, voluntary enlistment in the armed forces, admission to employment or work, criminal responsibility, juvenile crime, capital punishment and life imprisonment. To counter discrimination the Govt. of India has constituted two exclusive ministries: the Ministry of Social Justice and Empowerment for Scheduled Castes, Other Backward Classes and Minorities in 1998 and the Ministry of Tribal Affairs in 1999.

Govt. of India has adopted the Meena project to promote positive images of the girl child. Measures were taken to improve the Civil Registration System. Central Adoption and Resource Agency (CARA) was constituted to act as an information centre for children available for inter-country adoption and receiving adoption applications. The Govt. of India was said to be taking several measures to protect the rights of children with disabilities as per the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. With regard to child health, the Government was taking initiatives to strengthen the existing Reproductive and Child Health Programmes.

The Govt. of India gave special attention to children National Disaster Relief Plan to meet the needs of children in emergency situations including situations of conflict. With regard to sexual exploitation and abuse of children the government had many provisions to protect children in the Indian penal code. India also has an emergency helpline for children: CHILDLINE 1098. The government had also amended the Immoral Traffic (Prevention) Act, 1956 to counter trafficking of children.

However, the Committee again responded to the periodic report, 2001 with a list of recommendations. Some of the recommendations are as follows:

- Make every effort to increase the proportion of the budget allocated to the realization of children's rights
- Involve NGO's in the more systematic manner to achieve the goals of the convention
- Systematically involve parliamentarians and community and religious leaders in its programs to eradicate customs and traditions that impede the implementation of the Convention
- Take all necessary steps to abolish the discriminatory practice of "untouchability", prevent caste- and tribe-motivated abuse, and prosecute State and private actors who are responsible for such practices or abuses.
- Include in the next periodic report specific measures and programs relevant to the Convention undertaken by the state
- Promote the participation of children within the family, the schools, institutions, as well as in judicial and administrative proceedings
- Strengthen its efforts to train the law enforcement personnel on the human rights of children
- Prohibit corporal punishment in all institutions including the family
- Create a universal civil code for adoption



- Create new legislation to counter sexual exploitation and abuse of children
- Seek help of UN agencies with regard to HIV/AIDS and child health
- Take legislative and awareness-raising measures to prohibit and eradicate all kinds of traditional practices harmful to children
- Improve the education system to meet goals
- Establish CHILDLINE centers in all districts of the country
- Adopt comprehensive legislation to ensure adequate protection of refugee and asylum-seeking children
- Amend the Child Labour Act, 1986 so that household enterprises and government schools and training centers are no longer exempt from prohibitions on employing children
- Strengthen and extend the Integrated Program for Street Children
- Extend the application of the Juvenile Justice (Care and Protection of Children) Act, 2000 to the State of Jammu and Kashmir
- Strengthen the Juvenile Justice system and personnel through training and awareness program

## 2.3 LEGAL & LEGISLATIVE SAFEGUARD: CHRONOLOGY OF EVENTS

In tune with the global endeavor to ensure wellbeing of its children, the Indian government also had initiated endeavor through different legislative acts. The following outlines such major endeavors in sequential years.

Name of Act	Year	Excerpt
The Child Labour (Prohibition and Regulation) Act, 1986*	1986	Provides for prohibition of the engagement of children in certain employments and for regulating the conditions of work of children in certain other employments. India is a founder Member of International Labour Organization (ILO). ILO has passed Conventions 138 and Convention 182. Conventions-138 provides that the minimum age for admission to employment or work shall not be less than the age of completion of compulsory schooling.
<p><i>* Convention 182 provides employment of all the children below 18 years should be prohibited in worst forms of Child Labour. However, the main problem preventing Government of India from ratifying Convention 182 is that the Convention provides for prohibition of employment of children below 18 years in hazardous occupations &amp; processes, whereas in India as per Child Labour (Prohibition &amp; Regulation) Act, 1986 persons above 14 years can work in hazardous occupations and processes.</i></p>		
Amendments to the Child Labour (Prohibition and Regulation),1986	2015	Employment of children below 14 years prohibited in all occupations and processes and age of prohibition of employment linked to age under Right of Children to Free and Compulsory Education Act, 2009. However, an exception has been made: where the child helps his family or family enterprises, which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations;

Name of Act	Year	Excerpt
		The latest changes in labour law also provide for stricter punishment for employers for violation. While there is no penalty provision for parents for the first offence, the employer would be liable for punishment even for the first violation.
The Infant Milk Substitutes, Feeding Bottles and Infant Foods Act 1992 amended in 2003	1992	Aimed at promoting breast feeding of newborn children and infants. It also looks to ensure that infant foods are regulated and used appropriately.
The Juvenile Justice (Care & Protection of Children) Act, 2000	2000	It is an Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment.

Name of Act	Year	Excerpt
Amendment to the Juvenile Justice (Care & Protection of Children) Act, 2006	2006	The Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 The JJ Act 2000 was subsequently amended and hereafter referred to as the Principal Act. The Amendment Act brought about 26 amendments which are in force. This Act forms the legal system and framework for the care, protection, treatment and rehabilitation of children of both categories
JJ Bill 2015	2015	The Juvenile Justice (Care and Protection of Children) Act, 2015 has been passed by the Parliament of India and replaces the existing juvenile delinquency law, Juvenile Justice (Care and Protection of Children) Act, 2000. The new act allows juveniles in the age group of 16–18, involved in Heinous Offences, to be tried as adults. The Act came into force from 15 January 2016.
The Prohibition of Child Marriage Act 2006	2006	The object of the Act is to prohibit solemnization of child marriage and connected and incidental matters. To ensure that child marriage is eradicated from within the society, the Government of India enacted Prevention of Child marriage Act 2006 by replacing the earlier legislation of Child Marriage Restraint Act 1929. <sup>7</sup> This new Act is armed with enabling provisions to prohibit for child marriage, protect and provide relief to victim and enhance punishment for those who abet, promote or solemnize such marriage. This Act also calls appointment of Child Marriage Prohibition Officer for implementing this Act.

Name of Act	Year	Excerpt
The National Commission for Protection of Child Rights (NCPCR)	2007	It was set up in March 2007 under the Commission for Protection of Child Rights Act, 2005, an Act of Parliament (December 2005). The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child. The Child is defined as a person in the 0 to 18 years age group.
The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE)	2009	The 83rd Amendment Bill of the Constitution of India was under consideration in the Parliament to ensure children the fundamental right to education. The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE), is an Act of the Parliament of India enacted on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between 6 and 14 in India under Article 21 (a) of the Indian Constitution. 8 India became one of 135 countries to make education a fundamental right of every child when the act came into force on 1 April 2010.
The Protection of Children from Sexual Offences Act, 2012	2012	It recognizes almost every known form of sexual abuse against children as punishable offences, leaving little room for ambiguity in its interpretation. Further, by providing for a child-friendly judicial process, the Act encourages children who have been victims of sexual abuse to bring their offender to book and seek redress for their suffering, as well as to obtain assistance in overcoming their trauma.

The above is a glimpse of the efforts by the lawmakers of India to ensure that there are enough legal safeguards for the children of this country against all forms of exploitations. These legal acts though are part of the concerted efforts of the government to protect the children of this country but perhaps not yet enough to mitigate the rising cases of all types of exploitation meted out to the children.

Among the different efforts to reach out to the children in need, *CHILDLINE* was established in June 1996 by Jeroo Billinoria (Tata Institute of Social Sciences, Mumbai) as an experimental project. Subsequently, Government of India established the *CHILDLINE* across India in 1998-99, under Ministry of Women and Child Development, as an umbrella organization to support and monitor services across India, while also serving as link between the ministry and various NGOs working the field.

*CHILDLINE India Foundation (CIF)* is the nodal agency of the Union Ministry of Women and Child Development acting as the parent organisation for setting up, managing and monitoring the *CHILDLINE* 1098 service all over the country. CIF is the sole agency/body responsible for establishing the *CHILDLINE* service in the cities/districts of the country, monitoring of service delivery and finance, training, research and documentation, creating awareness, advocacy as well as resource generation for the service.

*CHILDLINE* 1098 service is a 24-hour free emergency phone outreach service for children in need of care and protection. CIF undertakes replication of *CHILDLINE*, networking and facilitation, training, research and documentation, and Communications and Strategic Initiatives both at the national and international level.

This is a project supported by the Union Ministry of Women and Child Development and linking state Governments, NGOs, bilateral /multilateral agencies and corporate sector. CIF is responsible for the establishment of *CHILDLINE* centres across the country. CIF also functions as a national centre for awareness, advocacy and training on issues related to child protection. *CHILDLINE* covers the following child protection issues:

- Abuse & violence
- Trafficking
- Child labor
- Conflict with law
- Child marriage
- Child sexual abuse
- Without parent a care
- Street children
- Street children
- Birth registration
- Armed conflicts
- Disability
- Drug abuse
- Girl child
- HIV/AIDS
- Missing children

Another landmark effort by the government of India was to bring out a comprehensive National Policy for Children. On the 26th April 2013 the government had adopted the National Policy for Children through a resolution to reiterate the commitment to the rights based approach for children.

### ***The policy recognizes that:***

- A child is any person below the age of eighteen years
- Childhood is an integral part of life with a value of its own
- Children are not a homogenous group and their different needs need different responses, especially the multi-dimensional vulnerabilities experienced by children in different circumstances
- A long term, sustainable, multi-sectorial, integrated and inclusive approach is necessary for the overall and harmonious development and protection of children

### ***The policy reaffirms that:***

- Every child is unique and a supremely important national asset
- Special measures and affirmative action are required to diminish or eliminate conditions that cause discrimination
- All children have the right to grow in a family environment, in an atmosphere of happiness, love and understanding

- Families are to be supported by a strong social safety net in caring for and nurturing their children

## 2.4 A LIST OF ACTS & LAWS FOR CHILD PROTECTION

Below is a comprehensive list of Acts and other laws of the land for the protection and care of the children in India.

- Protection of Children from Sexual Offences Act, 2012
- Bonded Labour System (Abolition) Act, 1976
- Children (Pledging of Labor) Act, 1933
- Child Labor (Prohibition and Regulation) Rules, 1988
- Child Labor (Prohibition and Regulation) Act, 1986
- Commissions for Protection of Child Rights Rule, 2006
- Commissions for Protection of Child Rights (Amendment) Act, 2006
- Commissions for Protection of Child Rights Act, 2006
- Convention on the Rights of Children CRC
- Factories Act, 1948
- Guardians and Wards Act, 1890
- Hindu Minority Guardians Act, 1956
- Immoral Traffic (Prevention) Act, 1956
- Infant Milk Substitutes Feeding Bottles and Infant (regulation of Production, Supply and Distribution) Amendment Act, 2003
- Juvenile Justice (Care and Protection of Children) Act, 2015
- Prohibition of Child Marriage Act, 2006
- Right of Children to Free and Compulsory Education Act, 2009
- Young Persons (Harmful Publication) Act, 1956

## 2.5 SUMMARY & CONCLUSION

It was only in nineteen ninety that the Convention of the Rights of the Child was ratified by the world. Subsequently, the Indian government



had effectively made several enactments to protect the legal interests of the children in the country. The judiciary of the country is now geared to combat situation warranting legal action against offenders of victims involving children. The efforts are though visible but the question remains that how effective the teeth of the judiciary is to contain the growing crime against children.

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# POVERTY & CHILD SURVIVAL

## 3.0 BACKGROUND

The Oxford Dictionary defines poverty as “lack of money or resources; scarcity” and also relate it with ‘inferiority’. Poverty has been explained in different connotations such as beggerism, pauperism, peniable and penury etc. According to the Encyclopedia Britannica, poverty is the state of one who lacks a usual or socially acceptable amount of money or material possessions. Poverty is said to exist when people lack the means to satisfy their basic needs. In this context, the identification of poor people first requires a determination of what constitutes basic needs. These may be defined as narrowly as “those necessary for survival” or as broadly as “those reflecting the prevailing standard of living in the community.” The first criterion would cover only those people near the borderline of starvation or death from exposure; the second would extend to people whose nutrition, housing, and clothing, though adequate to preserve life, do not measure up to those of the population as a whole.

The problem of definition is further compounded by the noneconomic connotations that the word poverty has acquired. Poverty has been associated, for example, with poor health, low levels of education or skills, an inability or an unwillingness to work, high rates of disruptive or disorderly behaviour, and improvidence. While these attributes have often been found to exist with poverty, their inclusion in a definition of poverty would tend to obscure the relation between them and the inability to provide for one’s basic needs. Whatever definition one uses, authorities and laypersons alike commonly assume that the effects of poverty are harmful to both individuals and society. Children are the primary victims of poverty and its consequences. Therefore, absolute poverty deprives the children of the basic needs of life such as food, water, sanitation, clothing, shelter, health care and education and would also adversely instigate exploitative environment for the children. Poverty will drive the

children into forced labour to supplement the earning of their family and expose them to exploitation.

### 3.1 POVERTY: DEFINITION AND MEASURES

Absolute poverty is the level of poverty as defined in terms of the minimal requirements necessary to afford minimal standards of food, clothing, health care and shelter. For the measure to be absolute, the line must be the same in different countries, cultures, and technological levels. Such an absolute measure should look only at the individual's power to consume and it should be independent of any changes in income distribution. The intuition behind an absolute measure is that mere survival takes essentially the same amount of resources across the world and that everybody should be subject to the same standards if meaningful comparisons of policies and progress are to be made. Notice that if everyone's real income in an economy increases, and the income distribution does not change, absolute poverty will decline.<sup>1</sup>

Relative poverty is defined contextually as economic inequality in the location or society in which people live. Economic inequality (also described as the gap between rich and poor, income inequality, wealth disparity, wealth and income differences or wealth gap) is the state of affairs in which assets, wealth, or income are distributed unequally among individuals in a group, among groups in a population, or among countries. The issue of economic inequality can implicate notions of equity, equality of outcome, and equality of opportunity.<sup>2</sup>

The world has been struggling to fix the poverty line that would befit the very definition of poverty. The poverty threshold, or poverty line, is the minimum level of income deemed adequate in a particular country.<sup>3</sup> The common international poverty line has in the past been roughly \$1 a day.<sup>5</sup> In 2008, the World Bank came out with a revised figure of \$1.25 at 2005 purchasing-power parity (PPP).<sup>4</sup> The World Bank estimated 1.29 billion people were living in absolute poverty in 2008. Of these, about 400 million people in absolute poverty lived in India and 173 million people in China. In terms of percentage of regional populations, sub-Saharan Africa at 47% had the highest incidence rate of absolute poverty in 2008. Between 1990

and 2010, about 663 million people moved above the absolute poverty level. Still, extreme poverty is a global challenge; it is observed in all parts of the world, including developed economies.<sup>6,7</sup> UNICEF estimates half the world's children (or 1.1 billion) live in poverty.<sup>8</sup> Fig. 3.1 maps poverty across the globe and clearly reflects the dismal picture of India, as far as the proportion of people living in poverty is concerned.<sup>9</sup>

**Fig. 3.1:** Poverty across the globe



About half of the world's 2.2 billion children live in poverty, and 300 million go to bed hungry each night. On average, 24,000 children under the age of five die every day, most from preventable causes, with under nutrition contributing to about one-third of these deaths. Millions of children are denied primary education, and hundreds of millions have no access to safe drinking water or decent sanitation facilities.

### 3.2 BELOW POVERTY LINE (BPL) IN INDIA

Below Poverty Line is an economic benchmark and poverty threshold used by the government of India to indicate economic disadvantage and to identify individuals and households in need of government assistance and aid. It is determined using various parameters, which vary from state to state and within states. Those spending over Rs 32 a day in rural areas and Rs 47 in towns and cities should not be considered poor, an expert panel headed by former RBI governor C Rangarajan said in a report submitted to the government during July 2014. Based on the Suresh Tendulkar panel's recommendations in 2011-12, the poverty line had been fixed at

Rs 27 in rural areas and Rs 33 in urban areas, levels at which getting two meals may be difficult.

The panel's recommendation, however, results in an increase in the below poverty line population, which is estimated at 363 million in 2011-12, compared to the 270 million estimate based on the Tendulkar formula — an increase of almost 35%. This means 29.5% of the India population lives below the poverty line as defined by the Rangarajan committee, as against 21.9% according to Tendulkar.

**Table 3.1:** State-wise distribution of proportion of population below poverty line

Rank- 2011-12	State	2011-12 (MRP based)	2009-10 (MRP based)	2004-05 (MRP based)
1	Goa	5.1	8.7	24.9
2	Kerala	7.1	12.0	19.6
3	Himachal Pradesh	8.1	9.5	22.9
4	Sikkim	8.2	13.1	30.9
5	Punjab	8.3	15.9	20.9
6	Andhra Pradesh	9.2	21.1	29.6
7	Delhi	9.9	14.2	13.0
8	Jammu & Kashmir	10.4	9.4	13.1
9	Haryana	11.2	20.1	24.1
10	Tamil Nadu	11.3	17.1	29.4
11	Uttarakhand	11.3	18.0	32.7
12	Meghalaya	11.9	17.1	16.1
13	Tripura	14.1	17.4	40.0
14	Rajasthan	14.7	24.8	34.4
15	Gujarat	16.6	23.0	31.6

16	Maharashtra	17.4	24.5	38.2
17	Nagaland	18.9	20.9	8.8
18	West Bengal	20.0	26.7	34.2
19	Mizoram	20.4	21.1	15.4
20	Karnataka	20.9	23.6	33.3
	<b>India</b>	<b>21.9</b>	<b>29.8</b>	<b>37.2</b>
21	Uttar Pradesh	29.4	37.7	40.9
22	Madhya Pradesh	31.7	36.7	48.6
23	Assam	32.0	37.9	34.4
24	Odisha	32.6	37.0	57.2
25	Bihar	33.7	53.5	54.4
26	Arunachal Pradesh	34.6	25.9	31.4
27	Manipur	36.9	47.1	37.9
28	Jharkhand	37.0	39.1	45.3
29	Chhattisgarh	39.9	48.7	49.4

**Source:** Reserve Bank of India, September 2014

Table 3.2 shows the distribution of people below poverty line (BPL) in the nine study states. The table obviously shows a similar trend between HDI rank and proportion of people below poverty line population, as one of the three indices considered to calculate HDI is income and income has a proportionate relationship with poverty.

The cohorts are clearly segregated with the high HDI states displaying the lowest proportion of poor, followed by the states with medium HDI and the states with low HDI ranking. The combined figure for India is 21.92% (25.7% in rural and 13.7% in urban areas).

**Table 3.2:** Distribution of proportion of people below poverty line in the study states

States/UTs	HDI Rank	2011-12	2009-10	2004-05
<b>High HDI states:</b>				
Kerala	1	7.1	12.0	19.6
Delhi	2	9.9	14.2	13.0
<b>Medium HDI states:</b>				
Maharashtra	7	17.4	24.5	38.2
Jammu & Kashmir	10	10.4	9.4	13.1
Gujarat	11	16.6	23.0	31.6
<b>Low HDI states:</b>				
West Bengal	13	20.0	26.7	34.2
Assam	16	32.0	37.9	34.4
Madhya Pradesh	20	31.7	36.7	48.6
Chhattisgarh	23	39.9	48.7	49.4

**Source:** Reserve Bank of India. September 2014

### 3.3 ACCESS TO SAFE DRINKING WATER & SANITATION

Rights to survival depicts the right of a child to life and the needs that are most basic existence such as nutrition, shelter, an adequate living standard and access to medical services. Access to safe drinking water and sanitation is an integral part of a child's right to survival.

Drinking water supply and sanitation in India continue to be inadequate, despite long standing efforts by the various levels of government and communities at improving coverage. The level of investment in water and sanitation, albeit low by international standards, has increased in size during the 2000s. Access has also increased significantly. For example, in 1980 rural sanitation coverage was estimated at 1% and reached 21% in 2008. Also, the share of Indians with access to improved sources of water has increased significantly from 72% in 1990 to 88% in 2008. At the same time, local government institutions in charge of operating and

maintaining the infrastructure are seen as weak and lack the financial resources to carry out their functions. In addition, only two Indian cities have continuous water supply and an estimated 69% of Indians still lack access to improved sanitation facilities.<sup>10</sup>

As of 2010, only two cities in India, namely, Thiruvananthapuram (Kerala) and Kota (Rajasthan) got continuous water supply.<sup>11</sup> In 2005 none of the 35 Indian cities with a population of more than one million distributed water for more than a few hours per day, despite generally sufficient infrastructure. Owing to inadequate pressure people struggle to collect water even when it is available. According to the World Bank, none have performance indicators that compare with average international standards. A 2007 study by the Asian Development Bank showed that in 20 cities the average duration of supply was only 4.3 hours per day. None of the 20 cities had continuous supply. The longest duration of supply was 12 hours per day in Chandigarh, and the lowest was 0.3 hours per day in Rajkot (Gujarat).<sup>12</sup>

According to the results of a Service Level Benchmarking (SLB) Program carried out by the Ministry of Urban Development (MoUD) in 2006 in 28 cities, the average duration of supply was 3.3 hours per day, with a range from one hour every three days to 18 hours per day.<sup>13</sup> In Delhi residents receive water only a few hours per day because of inadequate management of the distribution system.

These results in contaminated water and forces households to complement a deficient public water service at prohibitive ‘coping’ costs; the poor suffer most from this situation. According to a 1996 survey, households in Delhi spent an average of 2,182 (US \$35.30) per year in time and money to cope with poor service levels.<sup>14</sup> This is more than two times as much as the 2001 water bill of about US\$18 per year of a Delhi household that uses 20 cubic meters per month.

Table 3.3 shows the state-wise source of water by the households in India. The data shows that most of the residents from Delhi (81.3%), Gujarat (69%), Maharashtra (67.9%) and Jammu & Kashmir (63.9%) have access to tap water connections, either at their own premise or in the community.



All the low HDI states show poor access to tap water. The residents of the low HDI states largely use hand pumps as the major source of water. Contrary to the other development indicators, Kerala fairs poorly as only 29.3% of its residents have access to tap water and are largely dependent on water drawn from well.<sup>15</sup>

**Table 3.3:** State-wise source of water

	HDI Rank	Within premise	Public toilet	Open
<b>India</b>		<b>46.9</b>	<b>3.3</b>	<b>49.8</b>
<b>High HDI states:</b>				
Kerala	1	95.2	1.1	3.7
Delhi	2	89.5	7.2	3.3
<b>Medium HDI states:</b>				
Maharashtra	7	53.1	12.9	34.0
Jammu & Kashmir	10	51.2	2.7	46.1
Gujarat	11	57.4	2.3	40.3
<b>Low HDI states:</b>				
West Bengal	13	58.9	2.5	38.6
Assam	16	64.9	1.9	33.2
Madhya Pradesh	20	28.8	1.2	70.0
Chhattisgarh	23	24.6	1.4	74.0

**Source:** *Socio-economic Indicators. National Health Profile. MoHFW. Govt. of India. 2010*

Open defecation is a reflection of deprivation of people of a nation of the basic need and close to half of Indian households (49.8%) are deprived of such basic need. A quick glance at table 3.4 shows that while over 95% households in Kerala have access to toilets, availability of toilet among the other states barring Madhya Pradesh and Chhattisgarh is to about half of

the households of the state. The situation is however extremely grave in these two states.

**Table 3.4:** Toilet facility

	HDI Rank	Tap	Well	Handpump	Other
India		43.5	11.0	33.5	12.0
<b>High HDI states:</b>					
Kerala	1	29.3	62.0	0.5	8.2
Delhi	2	81.3	0.1	5.3	13.3
<b>Medium HDI states:</b>					
Maharashtra	7	67.9	14.4	9.9	7.8
Jammu & Kashmir	10	63.9	6.5	11.4	18.2
Gujarat	11	69.0	7.1	11.6	12.3
<b>Low HDI states:</b>					
West Bengal	13	25.4	6.0	50.1	18.5
Assam	16	10.5	18.9	50.2	20.4
Madhya Pradesh	20	23.4	20.0	47.1	9.5
Chhattisgarh	23	20.7	11.4	58.4	9.5

**Source:** *Socio-economic Indicators. National Health Profile. MoHFW. Govt. of India. 2010*

### 3.4 POVERTY, HEALTH & UNDER NUTRITION

Unequal distribution of opportunity, wealth and food is translated into deprivation of adequate food resulting in under nutrition. The manifestation is in different forms termed as underweight, wasted, stunted growth and anemia. Underweight is a term describing a human whose body weight is considered too low to be healthy. The definition usually refers to people with a Body Mass Index (BMI) of under 18.5<sup>16</sup> or a weight 15% to 20% below that normal for their age and height group.<sup>17</sup> UNICEF defines under nutrition “as the outcome of insufficient food intake (hunger) and repeated infectious diseases. Under nutrition includes being underweight

for one's age, too short for one's age (stunted), dangerously thin (wasted), and deficient in vitamins and minerals (micro nutrient malnutrient). Under nutrition causes 53% of deaths of children under five across the world.<sup>18</sup> It has been estimated that under nutrition is the underlying cause for 35% of child deaths.<sup>19</sup>

National Family Health Survey is one of the largest health surveys conducted in India under the aegis of the Ministry of Health & Family Welfare, Government of India with support from USAID. The survey covers different health indicators on Maternal and Child health including measuring indicators such as proportion of children underweight and shows signs of wasted and stunted growth and anemia periodically. Table 3.5 shows the state-wise distribution of the proportion of children (below 3 years) showing signs of being underweight, wasted, stunted growth and anemia.

The table shows an interesting fact among the different states. A medium HDI state such as Gujarat exhibiting higher proportion of children identified underweight, wasted, stunted and anemic than states with lower HDI such as West Bengal and Assam indicating that though on Human Development Indices, Gujarat is ahead of the other two states, the state is yet to arrest the under nutrition among the children in the state.

This also indicates that economic improvement of a state may not be indicative of improvement of social indicators such as child health. Interestingly, Kerala is consistently exhibiting the lowest figures across the indicators as the leader of the HDI table.

**Table 3.6:** State-wise proportion of children underweight and with wasted and stunted growth and anemic

	HDI Rank	% Underweight	% Wasted	% Stunted	% Anemic
<b>High HDI states:</b>					
Kerala	1	21.2	15.6	26.5	56.1
Delhi	2	24.9	17.2	43.2	63.1

Medium HDI states:					
Maharashtra	7	32.7	17.2	44.0	72.6
Jammu and Kashmir	10	24.0	18.1	33.1	68.3
Gujarat	11	41.1	19.7	49.2	79.8
Low HDI states:					
West Bengal	13	37.6	19.2	41.8	69.3
Assam	16	35.8	16.7	41.1	77.3
Madhya Pradesh	20	57.9	39.5	46.5	82.6
Chhattisgarh	23	47.8	24.1	52.6	80.9

**Source:** *National Family Health Survey-3 (2007-08)*

Universal Immunization Programme (UIP) is a vaccination program launched by the Indian government in 1985. It became a part of Child Survival and Safe Motherhood Programme in 1992 and is currently one of the key areas under National Rural Health Mission (NRHM) since 2005. The program consists of vaccination for seven diseases, namely, Tuberculosis, Diphtheria, Pertussis (whooping cough), Tetanus, Poliomyelitis, measles and Hepatitis B. Hepatitis B was added to the UIP in 2007. Thus, UIP has 7 vaccine preventable diseases in the program.<sup>20</sup>

Data has been extracted from the National Family Health Survey (NFHS-3) to assess the proportion of children completely immunized, proportion of children who have received Vitamin A dose during the past 6 months from the time of the survey (2007-08) and proportion of children who were breast-feed within one hour of their birth (Colostrum).

Table 3.7 reiterates supremacy of Kerala as the state with a consistently highest proportion of children receiving immunization, Vitamin A and Colostrum at birth. Though most of the other states show a fairly high of proportion of children receiving immunization, but are inconsistent on the other parameters. For instant, Delhi with fairly high immunization

coverage has a low proportion of children receiving Colostrum at birth depriving of the much-needed immunity from the first milk of the mother.

Maharashtra somehow shows consistency across the indicators, while Gujarat exhibits lower values than its counterparts for most of the indicators in the medium HDI states. The states at the low HDI level exhibit inconsistency across the different indicators, which are also generally low.

**Table 3.7:** Proportion of children immunized, received Vitamin A & given Colostrum at birth

	HDI Rank	% Immunized	% Received Vitamin A in last 6 months	% Breastfed within one hour of birth
<b>High HDI states:</b>				
Kerala	1	75.3	46.4	55.4
Delhi	2	63.2	20.3	19.3
<b>Medium HDI states:</b>				
Maharashtra	7	58.8	37.7	51.8
Jammu and Kashmir	10	67.7	17.3	31.9
Gujarat	11	45.2	20.5	27.1
<b>Low HDI states:</b>				
West Bengal	13	64.3	46.8	23.7
Assam	16	31.4	18.8	50.6
Madhya Pradesh	20	40.3	20.1	14.9
Chhattisgarh	23	48.7	14.4	24.5

**Source:** *National Family Health Survey-3 (2007-08)*

Infant mortality rate (IMR) is the number of deaths of children less than one year of age per 1000 live births. The rate for a given region is the number of children dying under one year of age, divided by the number of live births during the year, multiplied by 1,000.<sup>21</sup>

According to longitudinal data compiled by the United Nations, Singapore has the least Infant Mortality Rate (IMR) of 1.92 per 1000 live births in the world while Afghanistan has the highest IMR of 135.95 per 1000 live births. India is placed as the 144th country out of 188 countries as far the Infant Mortality Rate is concerned.<sup>22</sup>

The following are the forms of infant mortality:

- Neonatal mortality is newborn death occurring within 28 days postpartum. Neonatal death is often attributed to inadequate access to basic medical care, during pregnancy and after delivery. This accounts for 40–60% of infant mortality in developing countries.<sup>23</sup>
- Post neonatal mortality is the death of children aged 29 days to one year. The major contributors to post neonatal death are malnutrition, infectious disease, and problems with the home environment.
- Perinatal mortality is late fetal death (22 weeks gestation to birth), or death of a newborn up to one week postpartum.

Infant Mortality Rate (IMR) is one of the most significant measures of impact of poverty and its consequences on children. Needless to say, IMR reflects the seriousness of the government and its machineries towards mitigating issues related to child rights and what can be more important than the issue of the very survival of the child.

Table 3.8 is a reflection of the disparity among the states as far as infant mortality is concerned. Understandably, the bottom two states of Madhya Pradesh and Chhattisgarh (was a part of Madhya Pradesh earlier) have had a history of economic and social backwardness and hence displaying high IMR (76 and 63 respectively), but the economically advanced state of Gujarat falls far behind (IMR of 54 per 1000 live births) than even the lowly placed West Bengal (38 per 1000 live births), leave aside inching

anywhere near the HDI leader Kerala (14 per 1000 live births). The argument on inclusive development perhaps takes its shape in view of such discrepancies and dichotomies of human wellbeing.

**Table 3.8:** State-wise distribution of Infant Mortality Rates

	HDI Rank	Male	Female	Total
<b>India</b>		<b>56</b>	<b>61</b>	<b>58</b>
<b>High HDI states:</b>				
Kerala	1	14	15	14
Delhi	2	33	37	35
<b>Medium HDI states:</b>				
Maharashtra	7	34	37	36
Jammu and Kashmir	10	47	55	50
Gujarat	11	52	55	54
<b>Low HDI states:</b>				
West Bengal	13	38	39	38
Assam	16	66	69	68
Madhya Pradesh	20	72	79	76
Chhattisgarh	23	63	64	63

**Source:** *Office of the Registrar General of India, Ministry of Home Affairs. 2005*

### 3.5 HOMELESSNESS IN INDIA

A homeless person is defined into three categories. In general it is said about an individual who lacks a fixed, regular, and adequate nighttime residence; and an individual who has a primary nighttime residence that is:

- A publicly supervised or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
- An institution that provides a temporary residence for individuals intended to be institutionalized; or
- A public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings.

According to Census definition, houseless households are those who do not live in buildings but stay in open or roadside, railway platforms, under flyovers, etc. The Census of India defines 'houseless people' as the persons who are not living in 'census houses'.

The latter refers to 'a structure with roof', hence the enumerators are instructed by Census officials 'to take note of the possible places where the houseless population is likely to live, such as on the roadside, pavements, drainage pipes, under staircases, or in the open, temple-mandaps, platforms and the like'. This part of the population includes those sleeping without shelter, in constructions not meant for habitation and in welfare institutions (United Nations 1999).

Urban homeless populations are almost intractably difficult to identify, reach and research for many reasons. First, the homeless population is extremely heterogeneous, in terms of age group, gender, livelihoods, place of origin, livelihoods and reasons for living on the streets. It is a group that we can meet only in the evenings and late nights, because in the day what serves after dark as their dwellings become with sunrise pavements, streets, road dividers and shopping corridors.

Census of India, 2011 enumerated 1.77 million homeless constituting about 0.45 million households. The divide between rural and urban homelessness is skewed towards urban areas with about 58% as against 42% in the rural areas.

Table 3.9 shows that the state of Maharashtra followed by Madhya Pradesh, Gujarat and West Bengal have large population of homeless



people, obviously owing to the large geographical size of the respective states.

Table 3.9: State-wise distribution of Homelessness in India

	Households	Population
<b>High HDI states:</b>		
Kerala	5759	11853
Delhi	23175	47076
<b>Medium HDI states:</b>		
Maharashtra	57480	210908
Jammu & Kashmir	3064	19047
Gujarat	36925	144306
<b>Low HDI states:</b>		
West Bengal	28647	134040
Assam	3293	12919
Madhya Pradesh	37822	146435
Chhattisgarh	7198	24214

Source: *Census of India, 2011*

### 3.6 SUMMARY & CONCLUSION

Poverty is undoubtedly the primary trigger for all the tribulations of life and its impact is witnessed in the most vulnerable group of human kind, the children. Poverty drags them into confronting the odds of life at a tender age, abandoning their rights to survive, study and play. Poverty looms large on India and it is taking its toll on the children. Under nutrition is rampant and unabated. States with even higher Human Development Index show high proportion of underweight, wasted and stunted and anemic children. Indian occupies 144th place among 188

nations on Infant Mortality Rate (IMR) and the state-wise distribution of IMR clearly indicate that the fruits of economic progress had little impact on reducing the IMR. Kerala is the only silver lining with IMR as low as 14 per 1000 live births, far better than any other state. It has been close to seven decades since independence and with the advent of economic liberalization during the middle nineties, the world is looking at India as an economic giant of the future. However, as the indicators indicate, India, as a nation has failed miserably to protect the rights, interests and lives of its children.

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# RIGHT TO DEVELOPMENT

## 4.0 BACKGROUND

The right to development was first recognized in 1981 in Article 22 of the African Charter on Human and Peoples' Rights as a definitive individual and collective right. Article 22(1) provides that: "All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind."

The right to development was subsequently proclaimed by the United Nations in 1986 in the "Declaration on the Right to Development," which was adopted by the United Nations General Assembly resolution 41/128. The Right to development is a group right of peoples as opposed to an individual right, and was reaffirmed by the 1993 Vienna Declaration and Programme of Action.

The rights to development mentioned in the UNCRC include the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion. India became one of 135 countries to make education a fundamental right of every child when the act came into force on 1 April 2010. The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE), is an Act of the Parliament of India enacted on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between 6 and 14 in India under Article 21A of the Indian Constitution.

## 4.1 TRENDS IN THE LITERACY RATES OF INDIA

Education in its general sense is a form of learning in which the knowledge, skills and habits of a group of people are transferred from one generation to the next through teaching, training, or research. Education frequently

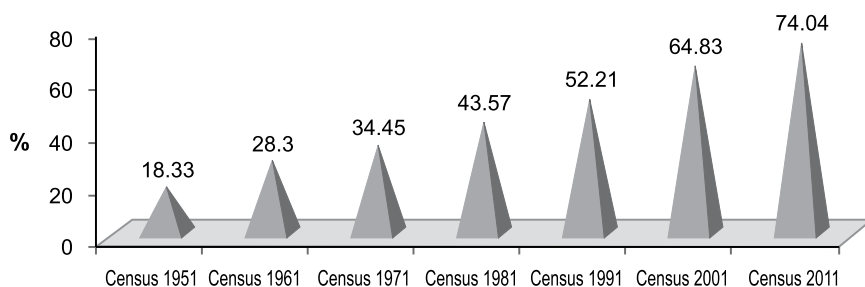
takes place under the guidance of others, but may also be autodidactic. Education is an essential right, which permits each person to receive instruction and to blossom socially. The right to an education is vital for the economic, social and cultural development of all societies. Though education should be considered as a birth right of every individual and it is the sole responsibility of the government to ensure it, the government of India took more than six decades since its independence to ratify it through the Right to Education Act, 2009, which came into force in 2010.

The information on literacy was collected in all censuses. *The definition of literacy had been 'both ability to read and write in any language.'* In all the censuses besides data on literacy, additional information was also collected. In 1872 the information about 'youths up to age 20 attending school, college or under private tuition' was recorded. In 1881 Census, the information was collected whether the individuals were under instruction or not, if not, whether they were able to read and write. In 1891 Census, besides the information regarding the language in which the person was literate the foreign language known (if any) was also recorded.

From 1901 to 1941 censuses, there was an additional question whether the literate knew English or not. Information on the standard of education was collected for the first time in 1941 census and after that it was asked in every subsequent censuses. In 1971 the information on Literacy and Educational level was collected from each individual.

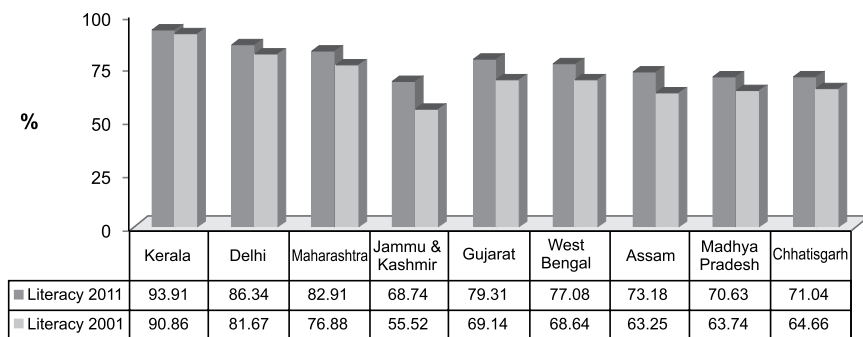
Though India has recorded substantial growth in the literacy rate since 1951 till the last census was conducted in 2011 (Fig. 4.1), there is still a long way to trudge before achieving the elusive aim of universalization of education in the country as it took as long as six long decades for the literacy rate to rise from a mere 18% in 1951 to 74% in 2011.

**Fig. 4.1:** Trend in literacy rate in India



Now a quick glance at the literacy rates of the study states reveal (Fig4.2) a corresponding trend with respect to the Human Development Index (HDI) of the respective states for the obvious reason that literacy is one of the three parameters for calculating HDI. The decadal growth has been highest for Jammu & Kashmir as the literacy rate of the state in 2001 was 55.5% that grew to 68.7% in 2011. Likewise, Gujarat also displayed a high decadal growth from 69% in 2001 to 79% in 2011. Kerala, with about 91% in 2001 grew to 94% with the least growth of 3% as the state had already achieved the distinction of being the state with highest literacy rate.

**Fig. 4.2:** Growth in literacy rates in study states



## 4.2 GROSS ENROLMENT RATIO (GER)

Gross Enrollment Ratio (GER) or Gross Enrollment Index (GEI) is a statistical measure used in the education sector and by the UN in its Education Index to determine the number of students enrolled in school

at several different grade levels (like elementary, middle school and high school), and use it to show the ratio of the number of students who live in that country to those who qualify for the particular grade level.

The United Nations Educational, Scientific and Cultural Organization (UNESCO), describes ‘Gross Enrollment Ratio’ as the total enrollment within a country “in a specific level of education, regardless of age, expressed as a percentage of the population in the official age group corresponding to this level of education.” Gross Enrollment Ratio is the number of actual students enrolled divided by the number of potential students enrolled (total population in that particular age group). The gross enrollment ratio can be greater than 100% as a result of grade repetition and entry at ages younger or older than the typical age at that grade level.

The GER for the study states is impressive to look at (Table 4.1). However, barring Kerala, the other states show a ratio of more than 100% owing to perhaps grade repetition and entry at ages younger or older than the typical age at that grade level. For often than not, it is more likely that most children from the socio-economically weaker section entering at an older age owing to their adverse environment and other problems. Hence, perhaps is not depicting the true picture.

**Table 4.1:** Gross Enrolment Ratio(GER) of the study states

	Class I-V (6-10 years)	Class VI- VIII (11-13 years)	Class I-VIII (6-13 years)
<b>High HDI states:</b>			
Kerala	91.4	103.9	96.2
Delhi	127.7	108.8	120.1
<b>Medium HDI states:</b>			
Maharashtra	104.7	92.4	100.0
Jammu and Kashmir	109.9	94.7	104.2
Gujarat	120.3	85.7	107.2



#### Low HDI states:

West Bengal	92.7	86.3	90.1
Assam	94.3	67.9	84.0
Madhya Pradesh	135.2	101.4	122.6
Chhattisgarh	122.8	87.5	109.4

**Source:** *Selected Educational Statistics, Min. of Human Resource Development, Govt. of India; Economic Survey 2013-14*; **Note:** *The data given above is from Statistics of School Education, 2010-11 & Economic Survey 2013-14*

### 4.3 SCHOOL DROPOUTS

Number of school dropouts in India is not small. In a study in 2010, Reddy and Sinha stated that of the more than 27 million children in India, who joined in Class I in 1993, only 10 million of them reached Class X, which is only about 37% of those who entered the school system and in more than half the states, only 30% of children reached Class X.<sup>1</sup>

With the implementation of RTE, of course, there has been a gradual decline in the annual average dropout rate from 9.1 in 2009- 2010 to 6.9 in 2010-11 but there have been more children dropout in 2010-11 as compared to 2009-2010 in 10 out of the 30 states where RTE has been notified, including progressive states like Tamil Nadu and Gujarat that had increased dropout ratio from 0.1% to 1.2% and 3.9% to 4.3% respectively in 2009-10 and 2010-11.<sup>2</sup>

Table 4.2 shows the dropout rates for the study states. There are few interesting revelations in the table. Kerala has achieved a 'below 1%' dropout rate; the low HDI states are high on the dropout rates; in Gujarat, the dropout rate is much higher than its medium HDI counterparts.

**Table 4.2: Dropout rate of the study areas**

	Class I-V (6-11 years)	Class I-VIII (6-14 years)	Class I-X (6-16 years)
<b>High HDI states:</b>			
Kerala	-12.5	-14.1	-4.1
Delhi	13.3	-27.1	1.9
<b>Medium HDI states:</b>			
Maharashtra	21.3	25.9	40.5
Jammu & Kashmir	8.4	21.9	44.3
Gujarat	25.7	39.7	62.1
<b>Low HDI states:</b>			
West Bengal	20.5	50.5	71.8
Assam	35.9	61.2	77.6
Madhya Pradesh	21.2	21.4	65.7
Chhattisgarh	34.1	40.7	-

**Source:** *Abstract of Selected Educational Statistics 2009-10; Ministry of Human Resources Development; GoI*

## 4.4 OUT OF SCHOOL CHILDREN

Children out of school are the number of primary-school-age children not enrolled in primary or secondary school. The value for Children out of school, primary in India was 2,278,322 as of 2008. Over the past 37 years this indicator reached a maximum value of 27,994,420 in 1971 and a minimum value of 2,278,322 in 2008.<sup>3</sup>

An all India survey conducted by the department of Elementary Education, Ministry of Human Resource Development, Govt. of India in 2009 reveals that there has been a decline in the proportion of out-of-

school children between 2005 (6.9%) to 2009 (4.3%). The study noted a sharper decline in the rural areas (4.5% in 2009 as against 7.8% in 2005) than in the urban areas (3.2% in 2009 as against 4.3% in 2005).<sup>4</sup>

Table 4.3 shows the major findings of the survey. The overall out-of-school was recorded at 4.3% of the total population in the age group of 6-13 years of age. The survey noted gender differentiation with a higher out-of-school proportion of female (4.7%) than among the male (3.9%) children. The proportion was higher for rural (4.5%) than in the urban areas (3.2%) and also among the children from older age group of 11-13 years (5.2%) than their younger counterparts in the age group of 6-10 years (3.5%).

**Table 4.3:** Proportion of out-of-school children in India

(In %)	Rural	Urban	Total
All children (6-13 years)	4.5	3.2	4.3
Male children	4.1	3.3	3.9
Female children	5.1	3.0	4.7
Age 6-10 years	3.9	2.3	3.5
Age 11-13 years	5.6	3.8	5.2

**Source:** *All India survey of out-of-school children. Ministry of HRD. GoI. 2009*

The proportion of out-of-school children in the study states defies any particular trend (table 4.4). While on one hand high HDI state of Delhi shows a high proportion of out-of-school children, a low ranked Chhattisgarh exhibits a much lower proportion of out-of-school children in the state.

**Table 4.4:** Proportion of out-of-school children in the study states

	% Total	% Males	% Females	% Rural	% Urban
<b>High HDI states:</b>					
Kerala	0.4	0.6	0.2	0.4	0.2
Delhi	5.0	5.2	5.0	5.3	5.2
<b>Medium HDI states:</b>					
Maharashtra	1.3	1.3	1.2	1.2	1.3
Jammu & Kashmir	0.5	0.7	0.3	0.6	0.1
Gujarat	1.9	1.9	1.8	1.5	2.9
<b>Low HDI states:</b>					
West Bengal	5.3	5.5	5.0	5.3	5.2
Assam	4.6	3.9	5.2	4.8	2.8
Madhya Pradesh	2.6	2.4	2.6	2.7	2.3
Chhattisgarh	2.1	1.7	2.7	2.2	1.1

**Source:** *All India survey of out-of-school children. Ministry of HRD. GoI. 2009*

## 4.5 EARLY CHILDHOOD CARE AND EDUCATION

“The National Early Childhood Care and Education (ECCE) Policy reaffirms the commitment of the Government of India to provide integrated services for holistic development of all children, along the continuum, from the prenatal period to six years of age. The Policy lays down the way forward for a comprehensive approach towards ensuring a sound foundation, with focus on early learning, for every Indian child” (quoted from the draft policy document).

The policy further outlines the following:

- Early childhood refers to the first six years of life. This is acknowledged as the most crucial period, when the rate

of development is very high and foundations are laid for cumulative lifelong learning and human development. There is growing scientific evidence that the development of the brain in the early years is a pathway that affects physical and mental health, learning and behaviour throughout the life cycle.

- India has 158.7 million children in the 0-6 years age group (Census 2011)
- Early Childhood Care and Education (ECCE) is an indispensable foundation for lifelong learning and development, and has critical impact on success at the primary stage of education. It therefore becomes imperative to accord priority attention to ECCE and invest adequately by providing commensurate resources.

In the public sector, Integrated Child Development Services (ICDS) is the world's largest programme imparting ECCE. Prior to the universalization of ICDS and its subsequent expansion, uncovered areas were attempted to be covered by pre- primary system within the ambit of the primary school system. Programmes for universalizing elementary education such as the Sarva Shiksha Abhiyan (SSA) and National Programme for Education of Girls at Elementary Level (NPEGEL) have also supported setting up of ECCE centres, attached to primary schools in certain districts of the country. In addition, the Rajiv Gandhi National Crèche Scheme for Working Mothers offers care and education services for children below 6 years of age.

A quick glance at Table 4.5 shows the medium HDI ranked state of Maharashtra ranked 2nd on ICDS performance surpassing the HDI leader, the state of Kerala ranked 8th on ICDS performance indicators. Likewise, the lowly placed West Bengal (4th) surpasses the medium HDI state of Gujarat (11th) on ICDS performance index.

#### **4.6 RIGHT TO LEISURE, PLAY & RECREATION IN INDIA**

The 31st Article of the UNCRC clearly declares that every child has the right to leisure, play and participation in cultural events. The state should encourage child participation in such events. The National Policy

**Table 4.5:** Performance of ICDS in India

State	Rank	Average number of days received food	% of children (12-23 mths) fully immunised	% of Children able to Write alphabets/ words	% of women reporting attended NHE meetings	% of mother seeking help from AWW when child gets sick	% of mother reporting received deworming tablets from AWC	Overall Performance Index
Karnataka	1	1.0	59.0	87.0	38.0	70.0	70.0	0.73
Maharashtra	2	1.0	62.0	38.0	43.0	75.0	84.0	0.72
Andhra Pradesh	3	0.7	35.0	94.0	48.0	100.0	82.0	0.69
West Bengal	4	1.0	66.0	71.0	36.0	87.0	38.0	0.68
Jharkhand	5	0.8	37.0	86.0	34.0	74.0	68.0	0.68
Tamil Nadu	6	1.0	100.0	45.0	43.0	59.0	51.0	0.67
Orissa	7	1.0	51.0	50.0	50.0	35.0	65.0	0.64
Kerala	8	1.0	88.0	98.0	100.0	10.0	2.0	0.61

Madhya Pradesh	9	0.6	33.0	35.0	12.0	57.0	100.0	0.57
Haryana	10	1.0	79.0	28.0	11.0	61.0	92.0	0.57
Gujarat	11	0.9	45.0	13.0	48.0	69.0	87.0	0.56
Himachal Pradesh	12	0.8	76.0	45.0	57.0	41.0	80.0	0.54
Chhattisgarh	13	0.9	43.0	13.0	54.0	27.0	74.0	0.53
Jammu and Kashmir	14	0.8	85.0	80.0	17.0	4.0	76.0	0.49
Punjab	15	0.8	67.0	57.0	0.0	0.0	43.0	0.40
Uttaranchal	16	0.3	59.0	51.0	14.0	4.0	57.0	0.37
Rajasthan	17	0.7	4.0	0.0	8.0	33.0	87.0	0.32
Uttar Pradesh	18	0.6	0.0	11.0	1.0	12.0	76.0	0.30
Assam	19	0.0	13.0	100.0	19.0	10.0	0.0	0.25
Bihar	20	0.6	18.0	25.0	6.0	15.0	5.0	0.25
<b>Total</b>		<b>0.7</b>	<b>38.0</b>	<b>41.0</b>	<b>25.0</b>	<b>43.0</b>	<b>56.0</b>	<b>0.48</b>

**Source:** Planning Commission, Evaluation Report on Integrated Child Development Services (ICDS), 2011.

for Children, 1974, recognises and ensures the right of the child to rest and leisure, including play and recreational activities. The Convention has several articles, which refer to the right of the child to experience and be exposed to his or her own cultural environment. This is considered an important aspect of growth and development. However, it should be borne in mind that the protection of cultural rights has not placed any undue constraint on State pro-action concerning a wide range of culturally justified but harmful practices such as child marriage, customary child prostitution or involvement of children in religious rituals.

Play and games are seen as intrinsically bound as inseparable phenomena of children's everyday lives. Just as jingles, rhymes and play objects have been natural part of play across the globe conveying an indigenous understanding of the significance of playfulness, there was a frequent use of jingles by children to choose play partners for specific roles. Play with its natural appeal fosters a self-propelled interaction and activity grounded in learning potentials among children. Within the universality of play children convey many playful surprises in their contexts of development. The diversities in children's play are grounded in cultural as well as children's individual orientation. Play is the start of childhood and childhood and play are like two sides of the same coin. A study was conducted in the urban settlement of NOIDA (a satellite town near Delhi) to understand the profiles of children's outdoor play and games.<sup>5</sup>

The study summarized the following:

1. **Clarity between the terminology:** and awareness related to free play and sports is crucial. "Even though the definition of play has broadened, but we need to focus on what actually play is", said the principal from a renowned school. Similarly parents' attitudes should promote the limitless values of play and its effect on the wellbeing of their children since they readily agreed on the value of play. But the need to understand the difference between play and sports is essential.
2. **Easy accessibility to play spaces:** Proper access to public outdoor spaces for the children need to play within an easy walk from their homes. Thus, efforts need to be made to make



play spaces for children challenging, safe, closer and above all child user friendly.

3. **Community play:** Community activities like kushti, kabaddi, and kho-kho need to be promoted. To make play a source of recreation not only for children but promoting the importance of play at community level needs to be looked at.
4. **Allotment of land:** Play within the residential areas, needs to be promoted for children with proper playgrounds. If parks are meant for senior citizen and young children, then the RWA bodies should allocate 1/3rd land or make 60-40 or 70-30 percentage allotment of the total park area especially for children's play. There is an altogether need to go beyond statistics of planning, a proposition that found agreement by urban planners interviewed in the present study. According to the children's consultation on 'Right to Play' held by Delhi Child Rights Club in 2012, children suggested that the Resident's Welfare Associations must provide a platform to address children's issues on Right to Play.
5. **Role of adult:** Parents and other adults in communities like teachers and urban planners can design and support children's play by respecting the value and importance of all types of play. Playing with their children and by creating opportunities by allowing time for children to play independently with their friends, inside and outside the home likewise. Any elder or parent can volunteer to handle concerns of other parents regarding the security and safeguarding of their children in the parks or areas where they feel children play but are unsafe for them.
6. **Technology and children:** Technology has brought about changes in a decade. Parents of both residential localities formal and informal feel "children are over stimulated". Technology needs to be regulated by curbing down the hours of media exposure. Parental involvement can be more co-constructive than instructive. T.V. video and computer games can be used with discretion not as pacifiers or rather convenient choices for engaging children.

7. **Play at school:** Games and free periods can be used for letting children play at their free will. It can be free play at least half of the times it is mentioned in the time table. In fact, a distinct play period should be included in the time tables every day. There is an increased need to include play in the curriculum, a concern raised by content developers as well. It is vastly more important that teachers and parents see that favorable conditions exist for the profitable employment of the child's leisure. The PTA there should be a dedicated discussion on play activities in the school to stress the importance of free play in their child's life at par with the importance attached to academics.
8. **Child to child mentoring:** Children who have played sports at state and national level can be sports mentor in schools, where they can share their newly cultivated skills with children to promote games and free play at the first place
9. **Availability of Grounds in schools:** The presence of a proper ground helps in promoting all kinds of games and play activities for children.
10. **Play in time tables:** School management should emphasize on free play as a time for children along with physical education in the timetables thereby equally giving play and games importance in the curriculum. The integration of the importance of free play needs to be done in the teacher training programs as well so that they are attuned to letting the children go for unsupervised play in classrooms as well.
11. **Role of media:** Media needs to take an onus of publishing advertisements and campaigns that bring about an awareness related to playing outdoors. For instance, Nestle Milkybar's 2009 Ad Campaign that urged youngsters to get out and play can inspire other popular brands to follow suit. Parents also need to be made a target audience for these. Traditional games and sports need to be promoted through advertisements which was unanimously also voiced by children in the consultation on Child's rights.

12. **Public-private partnership:** The stakes of both public and private sectors have to be equal for better development and maintenance of the play spaces. For example, stadiums and sports facilities developed at the time of Commonwealth Games in Delhi, 2010 should be made accessible to all for play.
13. **The state differentiates between parks and playgrounds:** This distinction needs some flexibility as playgrounds (more open for vigorous games) tend to be far from residences which disallows free play for younger children. Parks are more within the vicinity of the colonies which cater for multiple functions for vertical age groups. Multiple uses of park in itself may not be harmful as children would be exposed to respecting age and needs of others, however the asymmetrical hierarchy in society would place children in non-negotiable situations.
14. **Consumerist definitions of childhood need to be looked at:** It is important to critically analyze current interpretations of risk and safety, in relation to play and playgrounds, so that making play “as safe as necessary, not as safe as possible” is the motive for urban planning and governing bodies.

## 4.7 SUMMARY & CONCLUSION

India has come a long way from a literacy rate of merely 18% in 1951 to 74% in 2011, though it took the country six decades to achieve the feat. The goal of universalization of elementary education is still elusive and the proportion of the out-of-school children refuses to reach the magical figure of ‘zero’. Among the study states, while the HDI leaders like Kerala & Delhi show negative school dropout rates, medium HDI state show fairly high dropout rates. It may be concluded that though the country has come a long way towards universalization of education, the journey is anything but complete and it is still far to go.

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# CHILD PROTECTION: RIGHTS & REALITY

## CHAPTER FIVE

### 5.0 BACKGROUND

In India, the National Commission for Protection of Child Rights (NCPCR) was set up in March 2007 under the Commission for Protection of Child Rights Act, 2005, an Act of Parliament (December 2005). The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child. The Child is defined as a person in the 0 to 18 years age group.

The Commission visualises a rights-based perspective flowing into National Policies and Programmes, along with nuanced responses at the State, District and Block levels, taking care of specificities and strengths of each region. In order to touch every child, it seeks a deeper penetration to communities and households and expects that the ground experiences gathered at the field are taken into consideration by all the authorities at the higher level. Thus the Commission sees an indispensable role for the State, sound institution-building processes, respect for decentralization at the local bodies and community level and larger societal concern for children and their well-being.

### 5.1 LEGAL PROTECTIONS

In order to effectively address the heinous crimes of sexual abuse and sexual exploitation of children through less ambiguous and more stringent legal provisions, the Ministry of Women and Child Development championed the introduction of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Under Section 44 of the Protection of Children from Sexual Offences (POCSO) Act and Rule 6 of POCSO Rules, 2012, the National

Commission for Protection of Child Rights, in addition to its assigned functions, also mandated:

- To monitor in the implementation of the provisions of the POCSO Act, 2012;
- To monitor the designation of Special Courts by State Governments;
- To monitor the appointment of Public Prosecutors by State Governments;
- To monitor the formulation of the guidelines described in section 39 of the Act by the State Governments, for the use of non-governmental organisations, professionals and experts or persons having knowledge of psychology, social work, physical health, mental health and child development to be associated with the pre-trial and trial stage to assist the child, and to monitor the application of these guidelines;
- To monitor the designing and implementation of modules for training police personnel and other concerned persons, including officers of the Central and State Governments, for the effective discharge of their functions under the Act;
- To monitor and support the Central Government and State Governments for the dissemination of information relating to the provisions of the Act through media including the television, radio and print media at regular intervals, so as to make the general public, children as well as their parents and guardians aware of the provisions of the Act;
- To call for a report on any specific case of child sexual abuse falling within the jurisdiction of a CWC
- To collect information and data on its own or from the relevant agencies regarding reported cases of sexual abuse and their disposal under the processes established under the Act, including information on the following:-
  - Number and details of offences reported under the Act;

- Whether the procedures prescribed under the Act and rules were followed,
  - Including those regarding time frames details of arrangements for care and protection of victims of offences under this Act, including arrangements for emergency medical care and medical examination; and
  - Details regarding assessment of the need for care and protection of a child by the concerned CWC in any specific case.
- To assess the implementation of the provisions of the Act and to include a report in a separate chapter in its Annual Report to the Parliament.

## 5.2 CHILD MARRIAGE

Poverty aside, most of the adverse situation for a child is also a consequence of a number of socio-cultural behaviors of a community or a cultural group. Child marriage is one such social evil that refuses to die and raises its head even when there is social boycott and legal sanction against it.

The Convention on the Elimination of All Forms of Discrimination against Women, commonly known as CEDAW, is an international bill attempting to end discrimination against women. Article 16, Marriage and Family Life, states that all women, as well as men, have the right to choose their spouse, to have the same responsibilities, and to decide on how many children and the spacing between them. This convention (CEDAW) states that Child Marriage should not have a legal effect, all action must be taken to enforce a minimum age, and that all marriages must be put into an official registry.<sup>1</sup> India signed the convention on 30 July 1980 but made the declaration that, because of the nation's size and amount of people, it's impractical to have a registration of marriages.<sup>2</sup>

Child marriage in India, according to Indian Law, is a marriage where either the woman is below age 18 or the man is below age 21.<sup>3</sup> Most child marriages involve underage women many are in poor socio-economic

conditions. Child marriages are prevalent in India. Estimates vary widely between sources as to the extent and scale of child marriages.

Obviously there are serious consequences of early marriage of the girls. Girls who marry earlier in life are less likely to be informed about reproductive issues, and because of this, pregnancy-related deaths are known to be the leading cause of mortality among married girls between 15 and 19 years of age. These girls are twice more likely to die in childbirth than girls between 20 and 24 years of age.

Girls younger than 15 years of age are 5 times more likely to die in childbirth. Infants born to mothers under the age of 18 are 60% more likely to die in their first year than to mothers over the age of 19. If the children survive, they are more likely to suffer from low birth weight, malnutrition, and late physical and cognitive development.<sup>4</sup>

Young girls in a child marriage are more likely to experience domestic violence in their marriages as opposed to older women. A study conducted in India by the International Center for Research on Women showed that girls married before 18 years of age are twice as likely to be beaten, slapped, or threatened by their husbands and three times more likely to experience sexual violence.<sup>5</sup> Young brides often show symptoms of sexual abuse and post-traumatic stress.<sup>6</sup>

Table 5.1 shows the percentage of women marrying before 18 years from survey findings of the National Family Health Survey conducted during 2005-06 and 1998-99. While Jammu & Kashmir and Kerala shows significantly low proportion women marrying before 18 years, states such as Madhya Pradesh, Chhattisgarh and West Bengal show high proportion of women marrying before the age of 18 years.



**Table 5.1:** Percentage of women age 20-24 years married by age 18 years in the study states

	NFHS-3 (2005-06)	NFHS-2 (1998-99)
<b>High HDI states:</b>		
Kerala	15.4	17.0
Delhi	22.7	19.8
<b>Medium HDI states:</b>		
Maharashtra	39.4	47.7
Jammu & Kashmir	14.4	22.1
Gujarat	38.7	40.7
<b>Low HDI states:</b>		
West Bengal	54.0	45.9
Assam	38.6	40.7
Madhya Pradesh	57.3	64.7
Chhattisgarh	55.0	61.3

**Source:** *National Family Health Survey (2 & 3)*

### 5.3 CHILD LABOUR & POVERTY

Child labour is the practice of having children engage in economic activity, on part or full-time basis. The practice deprives children of their childhood, and is harmful to their physical and mental development. Poverty, lack of good schools and growth of informal economy are considered as the important causes of child labour in India.<sup>7</sup>

The 2001 national census of India estimated the total number of child labour, aged 5–14, to be at 12.6 million, out of a total child population of 253 million in 5-14 age group.<sup>8</sup> A 2009-2010 nationwide survey found child labour prevalence had reduced to 4.98 million children (or less than 2% of children in 5-14 age group).<sup>9</sup>

Article 24 of India's constitution prohibits child labour. Additionally, various laws and the Indian Penal Code, such as the Juvenile Justice (care and protection) of Children Act-2000, and the Child Labour (Prohibition and Abolition) Act-1986 provide a basis in law to identify, prosecute and stop child labour in India.<sup>10</sup>

Biggeri and Mehrotra<sup>11</sup> have studied the macroeconomic factors that encourage child labour. They focus their study on five Asian nations including India, Pakistan, Indonesia, Thailand and Philippines. They suggest that child labour is a serious problem in all five, but it is not a new problem. Macroeconomic causes encouraged widespread child labour across the world, over most of human history. They suggested that the causes for child labour include both the demand and the supply side. While poverty and unavailability of good schools explain the child labour supply side, they suggest that the growth of low paying informal economy rather than higher paying formal economy-called organized economy in India-is amongst the causes of the demand side. India has rigid labour laws and numerous regulations that prevent growth of organised sector where work protections are easier to monitor, and work more productive and higher paying.

The unintended effect of complex Indian labour laws is the work has shifted to the unorganised, informal sector. As a result, after the unorganised agriculture sector, which employs 60% of child labour, it is the unorganised trade, unorganised assembly and unorganized retail work that is the largest employer of child labour. If macroeconomic factors and laws prevent growth of formal sector, the family owned informal sector grows, deploying low cost, easy to hire, easy to dismiss labour in form of child labour. Even in situations where children are going to school, claim Biggeri and Mehrotra, children engage in routine after-school home-based manufacturing and economic activity.

Table 5.2 highlights the proportion child labour as per census 2011 as a percentage of the population of children in the age group of 5-14 years. The two economic hubs of India, namely, Maharashtra (2.4%) and Gujarat (2.1%) have the highest proportion of child labour, the lowest proportion is the HDI ranked numero uno state of Kerala (0.4%).

Table 5.2: Distribution of proportion of child labour in the age group of 4-15 years

States	HDI rank	Pop. of child labour*	Pop. 5-14 years*	% Of child labour pop.
<b>High HDI states:</b>				
Kerala	1	21757	5377882	0.4
Delhi	2	26473	3184119	0.8
<b>Medium HDI states:</b>				
Maharashtra	7	496916	20555189	2.4
Jammu and Kashmir	10	25528	2625826	1.0
Gujarat	11	250318	11985281	2.1
<b>Low HDI states:</b>				
West Bengal	13	234275	17404332	1.3
Assam	16	99512	7036066	1.4
Madhya Pradesh	20	286310	16830956	1.7
Chhattisgarh	23	63884	5642771	1.1

\* Source: *Census 2011*

## 5.4 CHILD ABUSE & CHILDREN IN PROSTITUTION

Child abuse is the physical, sexual or emotional maltreatment or neglect of a child or children. The Ministry of Women and Child Development, Government of India, conducted a study on Child Abuse conducted with the help of UNICEF, Save the Child and a Delhi based NGO, PRAYAS. The aim of the study was to develop a dependable and comprehensive understanding of the phenomenon of child abuse, with a view to facilitate the formulation of appropriate policies and programmes meant to effectively curb and control the problem of child abuse in India.<sup>12</sup>

The National Study on Child abuse is one of the largest empirical in country studies of its kind in the world. This study also complements the UN Secretary General's Global study on violence against Children, 2006. The study has provided revealing statistics on the extent and magnitude of various forms of child abuse – an area by and large unexplored. The study has also thrown up data on variations among different age groups, gender variations, state variations and variations within evidence groups. The findings will help to strengthen the understanding of all stakeholders including families, communities, civil society organizations and the state.

The following highlights the major findings of the study:

- Across different forms of abuse and across different evidence groups, the younger children (5-12 years of age) have reported higher levels of abuse than the other age groups.
- Boys, as compared to girls, are equally at risk of abuse.
- Persons in trust and authority are major abusers.
- 70% of abused child respondents never reported the matter to anyone.

The study revealed the following on physical abuse among the children:

- Two out of every three children are physically abused.
- Out of 69% children physically abused in 13 sample states, 54.68% were boys.
- Over 50% children in all the 13 sample states were being subjected to one or the other form of physical abuse.
- Out of those children physically abused in family situations, 88.6% were physically abused by the parents
- 65% of school going children reported facing corporal punishment i.e. two out of three children were victims of corporal punishment.
- The State of Andhra Pradesh, Assam, Bihar and Delhi have almost consistently reported higher rates of abuse in all forms as compared to other states.

- Most children did not report the matter to anyone.

Following are the major findings on sexual abuse of the children:

- 53.22% children reported having faced one or more forms of sexual abuse.
- Andhra Pradesh, Assam, Bihar and Delhi reported the highest percentage of sexual abuse among both boys and girls
- 21.90% child respondents reported facing severe forms of sexual abuse and 50.76% other forms of sexual abuse
- Out of the child respondents, 5.69% reported being sexually assaulted.
- Children in Assam, Andhra Pradesh, Bihar and Delhi reported the highest incidence of sexual assault.
- Children on street, children at work and children in institutional care reported the highest incidence of sexual assault.
- 50% abuses are persons known to the child or in a position of trust and responsibility.
- Most children did not report the matter to anyone.

The following highlights the emotional abuse and neglect of the girl child:

- Every second child reported facing emotional abuse
- Equal percentage of both girls and boys reported facing emotional abuse
- In 83% of the cases parents were the abusers
- 48.4% of girls wished they were boys

Several definitions have been proposed for prostitution of children. The United Nations defines it as “the act of engaging or offering the services of a child to perform sexual acts for money or other consideration with that person or any other person”.<sup>13</sup> The Convention on the Rights and the Child’s Optional Protocol on the sale of children, child prostitution and child pornography defines the practice as “the act of obtaining, procuring

or offering the services of a child or inducing a child to perform sexual acts for any form of compensation or reward”.

Both emphasize that the child is a victim of exploitation, even if apparent consent is given. The Worst Forms of Child Labour Convention, 1999 (Convention No 182) of the International Labour Organization (ILO) describes it as the “use, procuring or offering of a child for prostitution”.<sup>14</sup>

According to the International Labour Office in Geneva, prostitution of children and child pornography are two primary forms of child sexual exploitation, which often overlap. The former is sometimes used to describe the wider concept of commercial sexual exploitation of children (CSEC). It excludes other identifiable manifestations of CSEC, such as commercial sexual exploitation through child marriage, domestic child labour and the trafficking of children for sexual purposes.<sup>15</sup>

In 1950 the Government of India ratified the International Convention for the Suppression of Immoral Traffic in Persons and the Exploitation of the Prostitution of others. In 1956 India passed the Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA). The act was further amended and changed in 1986, resulting in the Immoral Traffic Prevention Act also known as PITA. PITA only discusses trafficking in relation to prostitution and not in relation to other purposes of trafficking such as domestic work, child labour, organ harvesting, etc. The following is an outline of the provisions in this law that pertains to children below the age of 18. The act defines child as any person who has completed eighteen years of age. The first section of the act has provisions that outline the illegality of prostitution and the punishment for owning a brothel or a similar establishment, or for living off earnings of prostitution as is in the case of a pimp. Section five of the act states that if a person procures, induces or takes a child for the purpose of prostitution then the prison sentence is a minimum of seven years but can be extended to life.

There are an estimated two million female sex workers in the country.<sup>16</sup> In 2007, the Ministry of Women & Child Development reported the presence of over 3 million female sex workers in India, with 35.47 percent of them entering the trade before the age of 18 years.<sup>17</sup>

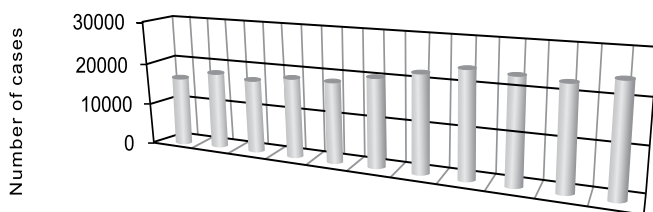
## 5.5 CHILDREN IN CONFLICT WITH LAW

The term ‘children in conflict with the law’ refers any person below the age of 18 who has come in contact with the justice system as a result of committing a crime or being suspected of committing a crime. Most children in conflict with the law have committed petty crimes such as vagrancy, truancy, begging or alcohol use.

The term juvenile delinquency applies to violation of criminal code and certain patterns of behavior that are not approved for children and young adolescents. It may be grouped as individual delinquency (in which only one individual is involved and the cause of delinquent act is traced to individual delinquent), group supported delinquency (committed in companionship and the cause is attributed not to the personality of the individual but to the culture of the individual’s home and neighborhood), organized delinquency and situational delinquency. A delinquent young person is disobedient and wayward, runs away from home and school, cannot be controlled by the parents and teachers, is not amenable to any kind of discipline, is self-willed and habitually acts in a manner injurious to the welfare and happiness of others and himself.<sup>19</sup>

Fig. 5.1 shows the total number of cognizable crime committed by juveniles in India. The data represents the longitudinal progression of the number of crimes reported.<sup>20</sup> There has been a substantial 53% rise in the number of cognizable crime committed by juveniles. Understanding the causes of juvenile delinquency is an integral part of preventing a young person from involvement in inappropriate, harmful and illegal conduct. Four primary risk factors can identify young people inclined to delinquent activities: individual, family, mental health and substance abuse. Often, a juvenile is exposed to risk factors in more than one of these classifications.<sup>21</sup>

Fig. 5.1: Total number of cognizable crime from 2001-2011



	Year 2001	Year 2002	Year 2002	Year 2004	Year 2005	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010	Year 2011
■ Total Cognizable Crimes	16509	18560	17819	19229	18939	21088	22865	24535	23926	22740	25125

Source: National Crime Records Bureau

Further, data on the state-wise number of cognizable crime committed by juvenile (Table 5.3) reveals that Madhya Pradesh (19.9%), followed by Maharashtra (19.0%) had recorded the most of the cognizable offences by juvenile. The data shows no specific trend with respect to the states on any socio-economic or other such social development parameters.

**Table. 5.3:** State-wise distribution of the total number of cognizable crime

States	Total Cognizable Crime	% Total
<b>High HDI states:</b>		
Kerala	494	2.0
Delhi	751	3.0
<b>Medium HDI states:</b>		
Maharashtra	4775	19.0
Jammu & Kashmir	14	0.1
Gujarat	1618	6.4
<b>Low HDI states:</b>		
West Bengal	487	1.9
Assam	402	1.6
Madhya Pradesh	4997	19.9
Chhattisgarh	2178	8.7



## 5.6 CHILDREN & SUBSTANCE ABUSE

Substance abuse among children has become an issue of concern throughout the world. Increasing substance abuse and its impact on physical and psychosocial health is a worldwide public health concern affecting the early youth and subsequently the whole life of the individuals. Particularly disturbing fact is that the age of initiation of abuse is progressively falling. To plan effective interventions, it is essential to have information on the extent and type of substance abuse among school children and their attitude towards its control.

There is a high incidence of charging children under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985. Children who at times done have access to high quality drugs will use volatile substances easily found in corner stores such as cough syrups, pain relief ointments, glue, paint, gasoline and cleaning fluids.

As per the National Survey among 40,697 males in the age group (12-60 years) on Extent, Pattern and Trends of Drug abuse in India conducted by the Centre in collaboration with United Nations Office on Drugs and Crime, the current prevalence rates within the age group of 12-18 years was Alcohol (21.4%), Cannabis (3%), Opiates (0.7) and any illicit drug (3.6%). The survey indicated a high concentration of drug addiction in certain social segments and high-risk groups, such as, commercial sex workers, transportation workers and street children.

According to another study brought out by the ASSOCHAM Ladies League on “Situational Analysis of Street Children in Metro Cities,” covering 2,000 kids has revealed children in metros are victims of one or other substance abuse, including inhalants (35%), alcohol (12%), cannabis (16%), chewing tobacco and gutka (16%) and smoking (21%).<sup>22</sup> A national master plan for substance abuse was evolved in 1994 which focuses on the establishment of treatment and rehabilitation centers, training in substance abuse for primary care doctors and other personnel, collaborating with non-governmental organizations and carrying out education and awareness building programs..

A tripartite agreement between the Government, International Labour

Organization and UNDCP has been signed to help full rehabilitation and recovery of substance abuse and drugs.<sup>23</sup> Integrated Child Protection Scheme (ICPS) was launched in India aiming at creating safe and secure environment for children in need of care and protection for children in conflict, vulnerable and street children and preventing substance abuse among children. India has adopted the Modified Social Stress Model for preventing substance abuse among street children in different cities and use World Health Organization categories of response.

The policies, strategies and programs for preventing substance abuse among street children in India are using WHO guidelines and initiatives. PSA of WHO was a benchmark for India in implementing programs and the problems of high number of street kids were addressed through at Integrated Program on Street Children in India. However, there are some gaps of the Integrated Program on Street Children that it could not cover all the street children of the country and limited to the major cities.

## **5.7 CHILDREN & DOMESTIC VIOLENCE**

According to the government figures, around 70% of women in India are victims of domestic violence. The National Crime Records Bureau reveals that a crime against a woman is committed every three minutes, a woman is raped every 29 minutes, a dowry death occurs every 77 minutes, and one case of cruelty committed by either the husband or relative of the husband occurs every nine minutes. This all occurs despite the fact that women in India are legally protected from domestic abuse under the Protection of Women from Domestic Violence Act.<sup>24</sup>

Collecting reliable data on this hidden issue poses several challenges. In almost every country there is limited data available on the prevalence of domestic violence, and even less information on the numbers of children who may be exposed to such violence. Some countries have no data at all. The studies themselves often acknowledge that their findings are limited by under reporting of domestic violence, both by the abused parent and by children who live in the home. “Behind closed doors: The impact of domestic violence on children” by UNICEF(2008) was perhaps the first global report to document the impact of domestic violence on children. It concludes with key actions that must be taken to better support and protect

the forgotten victims of violence in the home. The numbers estimated by the research are staggering. As many as 275 million children worldwide are exposed to violence in the home. This range is a conservative estimate based on the limitations of the available data. In actuality, millions more children may be affected by violence in the home.

Children who witness violence at home display emotional and behavioral disturbances as diverse as withdrawal, low self-esteem, nightmares, self-blame and aggression against peers, family members and property. Men who have witnessed their parents' domestic violence are three times more likely to abuse their own wives than children of non-violent parents, with the sons of the most violent parents being 1000 times more likely to become wife beaters. Child abuse is 15 times more likely to occur in families where domestic violence is present Over 3 million children are at risk of exposure to parental violence each year.<sup>25</sup>

Studies conducted by the Tata Institute of Social Sciences (TISS) and National Council for Education research and Training (NCERT) have shown that the basic emotional needs of a child get neglected if relations between parents are not smooth or if they fight too often. Prof Nirmal Gupta of NCERT after reviewing 6000 children cases observed that children from dysfunctional families have poor interpersonal relations and behavioral problems. A social counselor Lata Subaramanium explains that children of argumentative parents generally react badly to emotional situations in their own lives in fact boys in particular are more likely to become aggressive and get easily provoked by their friends.

Mohan Tiwari & Rajiva Prasad<sup>26</sup> had conducted a study among children who have experienced domestic violence in Mumbai. The study attempted understand the impact of domestic violence on 126 children aged 8 to 17 years living in a lower middle class family in a suburban of Mumbai. The median age of the children was found to 12 years. Parents were educated up to middle school level. The children desire to have a violence free atmosphere in the family & wish not to indulge in such cases as & when they would acquire their families. The study indicates that the domestic violence acts as a hindrance in overall development of the children. The study revealed a few of the following frightening revelations:

- Forty percent of the children dropped out of school-more girls (43%) than boys (37%)
- About 35% of the children have said that they lag behind in their studies
- Forty four percent have said that they have ‘no aim in life’ because of the situation at home
- As high as 75% of the children have said that ‘it would have been better if they were not born in such a family’
- Perhaps the most frightening revelation was that as high as 83% boys and 78% girls have said that they wish they could run away from their homes to avoid the everyday tension

The study highlighted above indicated a few directions that children witnessing domestic violence may adhere to. They may loose complete interest in their education and lag behind, may undergo extreme depressive state of mind and finally may attempt to runaway from home.

The situation is grave and needs immediate attention. Most importantly, there is scanty and sporadic information available on assessing the impact of domestic violence on the children, irrespective of their socio-economic background. If the magnitude of domestic violence is any indication, then the magnitude of children affected by domestic violence is mammoth.

## 5.8 SUMMARY & CONCLUSION

While describing child rights it is apparent that while most of the triggers are percolated out of poverty, there are social traditions such as child marriage that stand as roadblock to child rights. Though there is a drastic fall in the proportion of child marriage, but it refuses to complete vanish from our social system leaving behind social, physical and psychological repercussions.

Child labour is completely a poverty driven issue and is triggered by macroeconomic factors, primarily due to the thriving unorganized sector in India with no rules or accountability and hiring cheap labour including children (and adults) from the poverty stricken families.

Child abuse is grossly under reported as in most cases the matter is not reported and more often than not the child is both incapable and unaware about the point of support that s/he may seek in case s/he faces such abuse. In most of the cases the abuser is either the parents or someone among the relatives or someone known to the child. There is no gender differentiation with both boys and girls are abused in almost an equal proportion.

Statistics revealed that more than one third of the commercial sex workers enter into the trade before the age of 18 years and the exponential growth in the number of commercial sex workers is increasing over the years. Trafficking of children and forcing them into flesh trade is more prevalent among the poverty stricken families as many would also need to substantiate the family income to ensure sustenance of the family. Poverty, once again plays the devil in pushing children into the worst and the oldest form of human suffering, prostitution.

Substance abuse among children is largely linked with curiosity, excitement and fun than a function of any macroeconomic factor. Though the street children and children without the supervision of elders are largely prone to get attracted towards such tribulation.

More than two third of women in India encounter domestic violence and their children witness the violence with haplessness. Domestic violence leaves deep scar into the tender minds of the children and study revealed that such children prefer to run away from their home than withstand such tormenting moments. Though domestic violence is prevalent in all sections of the society, cutting across class, creed and religion, it is rampant in the poverty stricken families, with poverty as the primary instigator.

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# CHILD PARTICIPATION IN DECISION MAKING

## CHAPTER SIX

### 6.0 BACKGROUND

According to the UN Convention on Child Rights, all children are equal, and have human rights such as the right to food, shelter, health care, education and freedom from violence, neglect and exploitation. The Convention also states that children have the right to participate in decision-making and due weight should be given to their opinions, according to their age and maturity.

This means that children and young people have the right to be consulted in decisions that concern them and be part of the decision making processes. UNCRC obliges that children have the right to freedom of expression, to form and join associations and to seek and receive appropriate information. These rights should empower children to bring about changes in their own lives, to build a better future.

### 6.1 DEFINING PARTICIPATION OF CHILDREN

UNICEF has clearly defined what participation is and what is not considered participation of the children. The following describes what UNICEF considered not participation:

- Children do not participate by merely attending a function. That is decoration and not participation.
- They do not participate by being merely consulted when adults make all the decisions (For example the children have no say concerning what questions they will be asked, how they will express their answers, and what will be done with the results.)
- They do not participate if they are manipulated so that they express views that are not genuinely their own, nor rooted in their own experience.
- It is merely tokenism if they are asked to give their opinion as



representing “the children” when they are not properly briefed nor have the opportunity to discuss the issues with the very peers they are meant to be representing.

The above clearly defines non-participation of children when they are involved in any decision making process superfluously and superficially. This can also be termed as displacement of power when elders do not seriously indulge in bypassing children in deciding even about their (children) future and requirements and aspirations.

Likewise, UNICEF describes participation of children should entail involving children at least in some degree of power sharing and some involvement in at least some of the processes. Participation is not autonomy - children cannot always have what they want. Adults have the responsibility to ensure that they are safe, healthy and educated. There may also be financial and practical limits, which adults will need to apply. Adults cannot abdicate their responsibility and let children make irreversible mistakes that would cause serious harm or loss to themselves or others.

The perceived benefits of participation of children in decision-making are:

- They become clearer about and understand their own wants and needs, in the light of the values of the community and the rights of the child.
- They explore the possibilities of their lives by being offered choices and having to prioritize them. Also by realizing the constraints or limitations to their development or happiness children are able to come to terms with the inequities of life. And by being offered a way forward to overcome them and attain a happier life for themselves and others too.
- They also learn to consider the needs of others and to gain social skills as they negotiate, debate and problem-solve together.
- Their developmental needs are met, particularly the need for responsibility, respect and recognition, which increases their confidence and self-esteem.
- Because they are part of the process by which decisions are

reached, they feel more committed to make those decisions work.

Participation is a core principle of the UN Convention on the Rights of the Child (UNCRC). Article 12 of UNCRC places an obligation on governments to assure that 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.

The UNCRC provides the following general principles on participation:

- Children have rights to be listened to, to freely express their views on all matters that affect them, and to freedom of expression, thought, association and access to information.
- Measures should be put in place to encourage and facilitate their participation in accordance with their age and maturity.
- Participation should promote the best interest of the child and enhance the personal development of each child.
- All children have equal rights to participation without discrimination.
- All children have the right to be protected from manipulation, violence, abuse and exploitation.

Children's participation is complex and needs to be understood in its truest sense. Participation has to be meaningful. This involves transparency, honesty, and accountability. Meaningful child participation also requires promotion of safety and protection of children as well as a child-friendly and an enabling environment. Participation is both a means and a goal.

## **6.2 PROMOTING PARTICIPATION OF CHILDREN**

Meaningful approaches to involving children can be broadly grouped into three categories, although these are far from being mutually exclusive and the boundaries are mostly ambiguous.

They are introduced here primarily to help conceptualize the type of work being described:<sup>1</sup>

- Consultative processes: in which adults initiate processes to obtain information from children through which they can improve legislation, policies or services
- Participative initiatives: where the aim is to strengthen processes of democracy, create opportunities for children to understand and apply democratic principles or involve children in the development of services and policies that impact on them
- Promoting self-advocacy: where the aim is to empower children to identify and fulfill their own goals and initiatives

**Consultation** is a process whereby adults seek to find out about children's experiences, views and concerns in order that legislation, policies or services can be better informed. In general, processes of consultation have the following characteristics:

- They are adult-initiated
- They are adult led and managed
- Children have no control over the outcomes
- Children may be provided with opportunities for organizing together, acquiring skills and confidence and contributing towards influencing outcomes

**Participative initiatives** usually offer greater opportunities for the active involvement of children themselves in projects, research or services. Participative initiatives are characterized by the following elements:

- They are initiated by adults
- They involve collaboration with children
- They will involve the creation of structures through which children can challenge or influence outcomes
- They will usually involve children taking self-directed action once the project is underway

**Self-advocacy** is a process of empowering children themselves to take action to address the issues that they see as important. It has the following characteristics:

- The issues of concern are identified by children themselves
- The role of adults is to facilitate, not lead
- The process is controlled by the children

It is rooted in a commitment to allow children to define their situation and to develop strategies for the changes they wish to pursue. It requires a clear recognition on the part of adults that they must concede the power to control the process and outcomes in favour of a collaborative relationship with children. It does, however, involve a continuing role for adults in the capacity of, for example, advisers, supporters, administrators and fund-raisers.

### **6.3 PARTICIPATION OF CHILDREN: WHY, WHEN & HOW**

The Inter-Agency Working Group on Children's Participation (IAWGCP) consisting of ECPAT International, Knowing Children, Plan International, Save the Children Sweden Regional Office for Southeast Asia and the Pacific, Save the Children UK Southeast and East Asia Regional Office, UNICEF EAPRO and World Vision documented the why, when and how of children's participation in decision making.<sup>2</sup>

The document states that, "Everyone would surely agree that provision of health care, shelter and education is essential to children's well-being. In recent years, governments and civil society, not forgetting the mass media have focused on fulfilling children's rights to protection from abuse, violence and exploitation. But participation is often seen as something new and perhaps difficult to carry out." The document is a ready reckoner on how to put children's participation into practice. The following paragraphs are excerpts from the document.

'Participation' refers to public processes in which people are involved in decision making, either directly or through representatives. Participation is meaningful when:

- Public information is widely available
- Many views are taken into account through a variety of methods, including discussions, surveys and referendums

- Decisions are made cooperatively, through the joint formulation of plans and policies, and in the shared management of institutions and services

In this context, likewise children also have the right to organize themselves to represent their own interests, depending on the prevailing political system and culture. Some countries have set up structures for children that are copies of adult institutions, such as youth councils or children's parliaments. These are channels for children's views to be made known, and also provide opportunities to learn citizenship skills. Another approach is to introduce planning and budgeting processes that involve children in choosing priorities alongside adults. Sometimes governments adopt consumer-oriented approaches, such as focus groups and surveys, to discover children's preferences – for example, as users of public services.

A few of the Articles mentioned in the UNCRC related to children's participation are given below:

- Article 12: Children's opinions must be listened to seriously in all matters that affect their lives. This includes decisions made by courts and judges.
- Article 13: Children have the right to express themselves freely and to access information, subject to prevailing laws.
- Article 15: Children have the right to freedom of association, subject to prevailing laws.

Other articles relate indirectly to children's participation:

- Article 5: Parents and guardians will provide direction and guidance to children, while respecting the 'evolving capacities' of the child.
- Article 9: Children shall not be separated from their families without the right to make their views known.
- Article 17: Children have the right to information that is beneficial for them, in their own languages and appropriate to their level of understanding.

- Article 29: Children have the right to education that promotes respect for others in a free society.

However, the UNCRC does not establish a minimum age for children's participation. Rather, it refers to children's 'evolving capacities' to be involved in decisions that affect them. The UNCRC also does not give children the right to veto decisions made by adults, but it does require adults to seek out children's views, and to take them into account.

### ***Why children's participation is useful and just?***

Public services and facilities are used by children and affect their welfare. Some, such as schools and hostels, may provide services especially for children. Others, such as transport and health services, count large numbers of children among their consumers. When users are involved in the development and operation of services, it is more likely that they will be well targeted, appropriate and efficient. Children's participation is education for adult life. The practice of participation in childhood develops adults who are responsible, fair and respectful of the opinions of others.

Millions of children worldwide care for other children, the sick and the elderly in their families and communities. Children may take on heavy burdens of housework, farm chores and income generation. They are clearly active citizens. Yet governments often view children as a cost to society. It is just and fair that their contributions are acknowledged and that they too have a say in how society is managed.

### ***When to introduce children's participation?***

Children could participate in a judicial review of family and inheritance laws. Children's focus groups can comment on current court procedures, to see if they can be improved to serve the needs of children better. Legal-aid and children's-rights organizations may be able to work together with government to ensure that key areas of law are made known to children through appropriate media.

Information on nutrition, hygiene and safe practices may be piloted and

tested by children with the help of community organizations, especially those led by children. Similarly, the monitoring of children's health status could include children themselves in planning and carrying out activities. Clinics and hospital could consult children when seeking to make improvements to their services. Children have the right to consent to medical treatment, in consultation with their families.

Many innovative programs around the world have successfully increased access to schooling for disadvantaged children through child-to-child programs to increase school access and retention. Children can also participate in reviews of curriculum and development of teaching materials. School governance can include children through special committees and student representatives.

'E-governance' is becoming a reality as governments and organizations take steps to reduce the gap between people who have access to digital technology, and those who do not. The increasing use of Internet communications, email and mobile phones has considerable potential for children's participation. In countries where internet use is widespread, younger people are the most enthusiastic users. Even in poorer countries, mobile phones and SMS messaging are used widely, enabling networks to organize themselves in ways that were not possible before. Government agencies are now able to post information online at little cost, and to use online discussions and electronic polls as means of discovering children's views.

### ***How to introduce children's participation?***

Organizing quality participation takes time. There is a danger of imposing burdens on children without recognizing that adults also have responsibilities. Remembering some key principles, and referring to successful examples of children's participation, will help to ensure that their participation is effective in the long term.

Much depends on cultural norms, politics and systems of governance. Each country and area will develop its own way. Adults have a duty to listen and respond, and a duty to protect children's interests. Participation can expose children to threats they have not faced before, when they leave

home or are the subject of media interviews. Take reasonable precautions. It has become common to feature child speakers at large conferences, but such arrangements usually fail to shape policies. It is more effective to start with participation at local levels, where it is more meaningful for everyone. If children are invited to meetings where adults do not listen to their views, or where they present plans but receive no response, they often become disillusioned and angry. This does not build a positive view of citizenship and public service. If children do attend public meetings, ensure there is appropriate follow up. Children's participation becomes more credible and respected when child leaders are clearly legitimate representatives of a group.

However, there are no copybook rules drawn out to dictate the process of children's participation and the above serves as a pointer towards achieving the same. The primary element is the intention of the society to acknowledge and motivate participation of children within the family, to start with and then carry it forward to a societal and national level.

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## SUMMARY & CONCLUSIONS

The primary purpose of the study was to assess the situation of the children and child rights in India through a comprehensive desk research. Using information collected and collated from secondary and tertiary sources, the study attempted to assess the situation of children and child rights in India entailing information revolving around rights to survival, rights to development, rights to protection and rights to participation.

Nine Indian states were selected based on Human Development Index (HDI) for the study. Kerala and Delhi as high HDI states, Maharashtra, Jammu & Kashmir and Gujarat as medium HDI states and West Bengal, Assam, Madhya Pradesh and Chhattisgarh as the low HDI states were covered for the study.

The opening chapter discussed the genesis and the content of the United Nation Convention on the Rights of the Child (UNCRC), the backbone of the international endeavor for safeguarding the rights of the children across the globe. India too with its ratification of the UNCRC is bound to safeguard the rights of children in India. The study shows that the judiciary of the country is perhaps geared to combat situation warranting legal action against offenders of victims involving children. The question remains how effectiveness are these legal safeguards for the children to execute their rights.

The following chapter deals with the central theme of Poverty. It is apparent that children are the primary victims of poverty and its consequences and absolute poverty deprives the children of their basic needs of food, clothing, shelter, water, sanitation, health care and most importantly education and would drive them into forced labour to supplement the earning of the family. About 22% of the Indian population is below the poverty line. Among the states covered

for the study the medium HDI states of Maharashtra and Gujarat rank 16th and 15th in the proportion of people below poverty line in the respective states.

Tapped water supply is available to about two-third of the households of the medium HDI states while the states with low HDI also low penetration of tapped water supply. Close to half of the Indian population still defecate in the open causing serious health problems, primarily among the children. Undernourishment among children is rampant in the medium and low HDI states. The national immunization program has so far reached not more than two-third of the children in most states. Barring the state of Kerala, the Infant Mortality Rate is more than 30-70 per 1000 live births in the other states.

The situation related poverty, water, sanitation and health shows extremely dismal picture, even after almost seven decades of independence of India. There are close to two million homeless in the country and the larger states share the burden of the homeless more than the relatively smaller states.

Right to development is described as the right of every child to education, play, leisure, cultural activities, access to information and freedom of thought, conscience and religion. While the 'education for all' is still elusive, the concept of play and leisure is elusive as well for a large section of children driven by poverty and forced to work and earn.

The first fallout of poverty on the children is in the form of child labour. Figures show that the states of Maharashtra and Gujarat from the medium HDI group show the highest incidence of child labour. Needless to say that unfortunately none of the Indian states, not even Kerala, is devoid of children earning for subsistence. Authors have indicated that while poverty and unavailability of good schools explain the child labour supply side, growth of low paying informal economy rather than higher paying formal economy-called organized economy in India-is amongst the causes of the demand side.

The study highlights that there is widespread abuse of different forms of abuse of children in India and it seems unabated. Studies show that there are more boys than girls who are getting abused every day.

The study shows that there has been a progressive rise of more than fifty percent in the number of crime committed by children and there are four major risk factors identified as the primary causes, namely, individual, family, mental health and substance abuse.

Domestic violence leaves long standing impact on the mental and emotional growth on the children. Men who have witnessed their parents' domestic violence are three times more likely to abuse their own wives than children of non-violent parents, with the sons of the most violent parents being 1000 times more likely to become wife beaters.

Rights to participation define the right of the children to be listened to, to freely express their views and to freedom of expression, thought, association and access to information. The question often asked is if children can be burdened with housework, farm chores and income generation, why cannot they have the right to participate in decision making processes that affect their own lives.

To conclude, it may be mentioned that the Government of India has over the years brought progressive policies, legislations and programmes for the well being of children of India. The Integrated Child Development Scheme (ICDS) and Childline Services are two programmes that are the largest in the world which supports the development and protection of children in India. However, despite all the best efforts, the situation of children and child rights in India is grim and far beyond any satisfactory level. Poverty is the central issue that needs to be tackled. The well being of a child rests upon a child having a caring and protective family environment. Thus, nothing less than a consolidated and holistic approach towards integrating income generation, providing access to education, health services, access to

safe water and a healthy, protective environment is desirable. This can change the lives of the millions of children and ensure their rights for survival, protection, development and participation.



The purpose of this study was to assess the situation of children and child rights in India through a comprehensive desk research. Using information collected and collated from secondary and tertiary sources, the study attempted to assess the situation of children and child rights in India entailing information revolving around rights to survival, rights to development, rights to protection and rights to participation.



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