



# Still Out of Focus

## Status of India's Children 2008

### THE PARADOX OF OUR TIMES

*More knowledge, but less judgment*

*More experts, but more problems*

*More medicines, but less wellness*

*We've split the atom, but not our prejudice*

*We've higher incomes, but lower morals*

*We've become long on quantity but short on quality*

*These are the times of world peace, but domestic warfare*

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

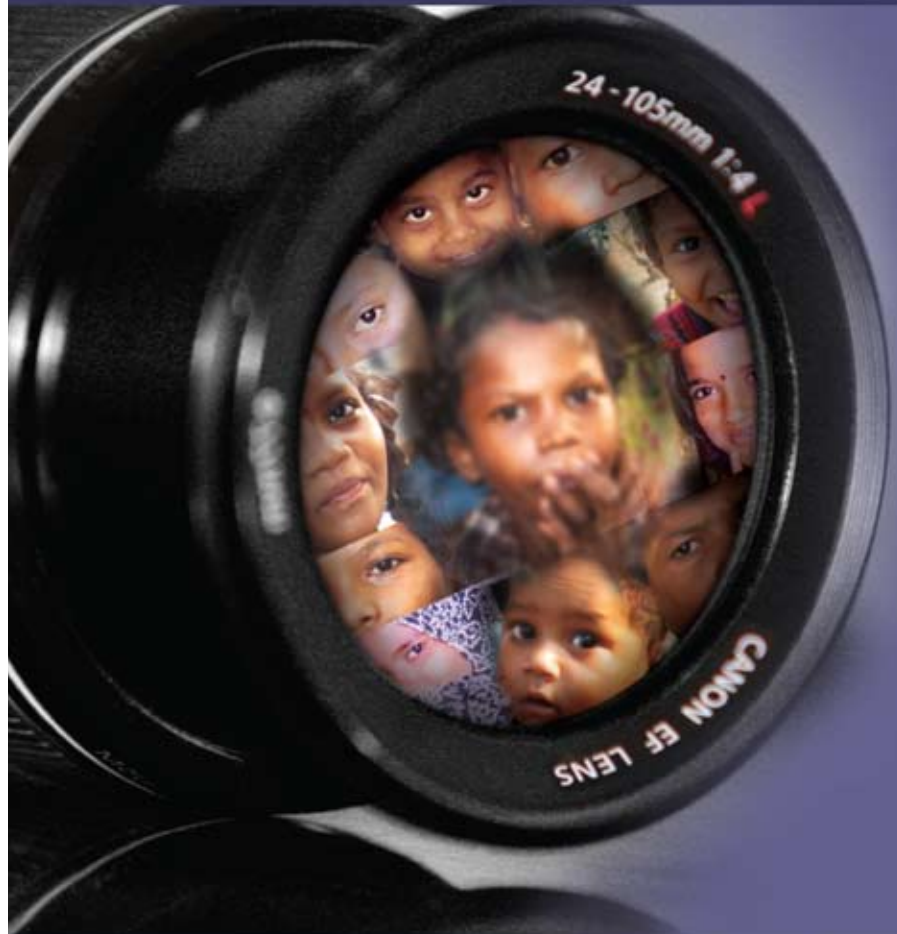
*It is a time when there is much in the show window*

*And nothing in the stockroom*

*Excerpts from*

**The Paradox of Our Times by**

**His Holiness the Dalai Lama**



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## SUMMARY REPORT

HAQ: CENTRE FOR CHILD RIGHTS

HAQ's Third Status Report on India's children comes at a time when the country is trying to build the image of an emerging economic power, even while contending with a deepening global economic slowdown, preparing itself to host the Commonwealth Games 2010, grappling with the challenges from natural and environmental disasters, and fighting terrorism, insurgency and communal-ethnic violence tearing at its social fabric.

A country that has the resources to send an unmanned spacecraft to the moon is however unable to save its children from starvation. Ranking India 66th among 88 countries, the Global Hunger Index 2008 shows that despite close to 9 per cent economic growth for the past five years, the hunger situation here is the second worst in Asia and worse than in 25 Sub-Saharan nations. UNICEF has warned that the current global food crisis, with escalating food inflation, has placed more than 150 million children in India at the risk of becoming malnourished.<sup>1</sup> Madhya Pradesh is the hungriest state in the country, followed by Jharkhand and Bihar.<sup>2</sup> Emerging challenges such as rising food prices and diversion of global resources to bio-fuels are severely impacting poor families, who have to cut back on the number of meals in a day. This has a dramatic impact on child nutrition because children need to be fed frequently.<sup>3</sup> Without a major policy shake-up and more efficient implementation of the nutrition programmes, India is unlikely to reach the millennium development goal by 2015.

The influence of "corporatisation" of the social sector is there for all to see. Education, health care sectors are already seeing increasing privatisation. Abdication of state responsibility is evident in the increasing moves to hand over the running of institutions, such as care institutions for children to private bodies. This is evident in the raging debate in the government over pre-cooked packaged food versus hot meals for children, first in the mid-day meal scheme and now in the Anganwadis, and the tremendous increase in expenditure on basic services such as education and health. While an average working class family was spending around Rs. 25 per month on education of their children in 1981-82, the amount increased around 1150 per cent, or by almost 12.5 times, to Rs. 306 in 1999-2000. Similarly, expenditure on health care went up by 1037 per cent and on housing by 935 per cent.<sup>4</sup>

Yet, even as average income rises and poverty level goes down, hunger and inequality are on the rise in many parts of India. Growing consumerism, conflict and violence, lack of access to education and health, and exclusionary policies are contributing to making children more vulnerable. No child is safe, and girl, Dalit, disabled, tribal and minority children are more at risk because of their already marginalised socio-economic status.

For millions of children across India, their basic right of having their birth registered is still not fulfilled. The official recording of a child's birth is the most important event in a child's life. It establishes the existence of the child under law and provides the foundation for her to exercise many of her rights, including access to adequate early childhood care that ensures her maturing into a healthy and able citizen.<sup>5</sup>

1 International Food Policy Research Institute. Global Hunger Index 2008

2 Damien Grammaticas, Food warning for Indian children BBC News, 13 2008. [http://news.bbc.co.uk/2/hi/south\\_asia/7398750.stm](http://news.bbc.co.uk/2/hi/south_asia/7398750.stm).

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

4 Network for Social Accountability "http://nsa.org.in/Policybrief. "How the Working Class has Performed in the Turbulent Years of Liberalization? Preliminary Analysis of the main findings of the Working Class Income & Expenditure Survey".

5 Jonathan Todres, Birth Registration: An Essential First Step Toward Fulfilling the Rights of All Children .Human Rights Brief. Vol. 10 No. 3 pp. 32-35. 2003.

# ABOUT THE STATUS REPORT 2008

Despite constitutional guarantees and legal provisions, children continue to be discriminated against on the basis of caste, ethnicity and gender. Discrimination is at the base of many child rights violations. Indeed, an analysis of the programmes and the way they are implemented in the country often leads to further marginalisation and exclusion. Is that what we would refer to as “planned development”? Children from certain socio-economic backgrounds who are poor and belong to minority, tribal, dalit or migrant backgrounds face discrimination in a number of ways. They are disproportionately represented among juveniles who are imprisoned, are less likely to be able to access education and health care services, more likely to be victims of violence and exploitation, trafficked and recruited as child soldiers.

In its work for and with children, HAQ has always stood beside the most vulnerable and excluded. With a clear mandate to mainstream children’s issues into all development agenda, while working towards policy change and governance so as to ensure spaces for children, HAQ strives to draw attention to the most vulnerable and the most discriminated in all its work. This year’s report thus focuses on exclusion and discrimination; beginning with the very first discrimination that children suffer is on account of their age - as children resulting in their non-recognition as citizens with equal rights. Even though a rights-based approach demands addressing the root causes of a problem, when it comes to planning for children, the impact of macro and micro developments in the country on children and their rights is seldom assessed and taken into account. Unless all government policies and actions, be it the agricultural policy, the drugs policy, India’s policy on displacement and rehabilitation, forest laws, mining policy and the like, are examined from a child rights lens, any attempts to address violation or denial of children’s rights will stand defeated, leaving scope for more and more children to fall out of the social security and safety net.

This year’s status report thus focuses on exclusion and discrimination. Despite constitutional guarantees and legal provisions, children continue to be discriminated on the basis of caste, ethnicity and gender. Children with disabilities are excluded from mainstream education, and other basic services that should be available to all children.



# EARLY CHILDHOOD

Early childhood is the perfect time to lay the foundation for later learning as 80 per cent of brain development occurs in the first three years. Investment at this stage of a child's life yields very high economic returns, partially offsetting other disadvantages suffered by children from poor families. Despite the recognition of and demand for this need, children in the 0-6 age group were kept out of the 86th Amendment to the Constitution in 2002, which made the right to education a fundamental right for all children between six and 14 years. It merely says: "The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."<sup>6</sup>

- 164 million children in India are in the 0-6 year age group, of whom about 60 million are in the age group 3-6 years.
- Over six million of these children are slum dwellers, where basic services seldom reach.
- 34 million children in the 3-6 year age group are covered by pre-schooling initiatives either under the ICDS or private initiatives, excluding about 26 million children from any intervention.
- Un-covered and un-reached children are found in both rural and urban areas.
- 75 per cent of children aged 0-71 months did not receive any supplementary food from the centre in the 12 months preceding the 2007 National Family Health Survey.
- 13 per cent OBC children, 10 per cent each of SC and ST and less than 8 per cent of Muslim children eligible for ICDS coverage are reported to be benefiting from it.
- A vast group of children living in difficult circumstances, such as children of long-term patients, women prisoners and sex workers, children with special needs, riot, militancy and disaster-affected children, refugee and displaced children, and children from orphanages and foundling homes, are not covered by early childhood education.

According to the 2001 Census, the population of children aged 0-6 years in India is 164 million, amounting to 15.93 per cent of the total population. Over six million of these children are in slums, where basic services seldom reach. There are about 60 million children in the age group of 3-6 years.<sup>7</sup> Of these around 34 million children are currently covered by pre schooling initiatives either under the ICDS or other private initiatives.<sup>8</sup> This leaves a large segment of about 26 million children excluded from any pre-school activity or early childhood intervention.<sup>9</sup>

Un-covered and un-reached children are found in both rural and urban areas and constitute a number of vulnerable and marginalised groups demonstrating how a programme designed to respond to the needs of poor and marginalised in practice fails to reach many of these target groups. In rural areas, they are located in isolated and remote hamlets, scheduled caste/tribe habitations, settlements of seasonal migrant roadside workers, construction and quarry workers, or in fishing hamlets. In urban areas, they are the children of construction workers, temporary/seasonal workers, rural migrants etc, living on pavements, in unauthorised settlements or at best, small slums.

Poor allocation of resources and poorer utilisation ensure that children in the 0-6 years group are denied ICDS services and supplementary nutrition. Without a major policy shake-up and more efficient implementation of the nutrition programmes, India is unlikely to reach the related millennium development goals by 2015. Instead of boning up on implementation and universal coverage of the ICDS, policymakers are currently engaged in a frivolous debate over serving biscuits to little children as mid-day meal, neglecting the nutrition aspect of hot cooked foods.

6 [http://www.ashanet.org/campaigns/rte/docs/relevant\\_articles\\_of\\_constitution.pdf](http://www.ashanet.org/campaigns/rte/docs/relevant_articles_of_constitution.pdf).

7 Census, India, 2001.

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

9 Ibid, pp.64.

The provision of crèches is an important intervention in addressing malnutrition in children under six, as they provide proper care and attention for children as well as allow their mothers to work.<sup>10</sup> The Rajiv Gandhi National Crèche Scheme for Children of Working Mothers was launched with effect from January 1, 2006 to provide supplementary nutrition and emergency medicines to such children. About 28,000 crèches are functioning under the scheme, benefiting about 700,000 children,<sup>11</sup> which is grossly inadequate for the large number of children requiring early childhood education.<sup>12</sup>

# UNEQUAL ACCESS TO HEALTHCARE

- 84 per cent of the expense on health care is out-of-pocket. According to a World Health Organisation survey, 16 per cent of Indian families have been pushed below the poverty line by high health costs.
- Every third malnourished child in the world is in India. 150 million children are at risk of becoming malnourished.
- Infant and child mortality rates remain much higher in rural than urban areas, among landless, scheduled castes and tribes, and females.
- Children dying before completing five years of age, are lower for Muslims than Hindus and also lower than the national average. Of all religious groups, Hindus have the highest infant and child mortality.
- Most victims of starvation are women and children of the Scheduled Castes and Scheduled Tribes, with their deaths mainly due to discrimination in the food based schemes.
- According to the Sachar Committee Report, Muslims suffer from the highest rates of stunting and the second-highest rates of underweight children among all social groups.
- Disabled from birth, disabled children and disabled women are the least likely to seek or receive health care.
- Children suffering from mental health disorders face the worst stigma and social exclusion.
- Children affected by HIV/AIDS face discrimination. They are also forced out of schools because of discrimination as well as to supplement family income because of expensive medical expenditure.

Most of India's health indicators are the cause of growing shame: the highest TB prevalence in the world, over one-third of the world's malnourished children, and embarrassingly large maternal and infant mortality rates. Three in four children in India are anaemic and one in three are stunted, found the latest National Family Health Survey.<sup>13</sup> Infant and child mortality rates remain much higher in rural than urban areas, among landless, scheduled castes and tribes, and females. Although two years ago it looked like India was winning the war against polio and the disease might be wiped out by 2007, polio programmes are now in reverse in some parts of the country and the target date for the eradication of the disease has been pushed back to 2010.<sup>14</sup> Environmental threats to children's health are widespread and are growing in the wake of indiscriminate industrialisation leading to dangerous levels of contamination and pollution.

The provision of health care for children is uneven and erratic. Discrimination exists at many levels, in terms of both provision and access to health care. There are wide re-

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

11 Economic Survey, 2007-2008, pp. 261

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

13 National Family Health Survey – 3, 2007.

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



gional disparities, and states that lack social, welfare and health services also fail to care for children with disabilities. With only 21 per cent stunted children, Kerala has the best record in this regard. The worst is Uttar Pradesh, where 46 per cent children are under-developed, both physically and mentally. Children, particularly girls, born in poor rural families are likely to have the least access to good, affordable health care. Scheduled caste/tribe communities report consistently lower levels of health indicators than the rest of the country, while tribal areas remain the greatest challenge for public health care delivery.<sup>15</sup> The quality of services offered remains very poor, aimed as they are at peripheral care rather than qualitative care. Public health centres are inadequate.<sup>16</sup> Mental illness accounts for nearly one sixth of all health-related disorders, but India spends less than one per cent of its total health budget on mental health.<sup>17</sup>

At the same time, private spending on health is soaring. Nearly 80 per cent of the total health care costs are met through private expenditure and virtually all of the private expenditure, 97 per cent, is out-of-pocket.<sup>18</sup> The increased privatisation of health care seriously reduces the availability of basic health care for the poorest and most marginalised sectors of society, including HIV-positive members and excluded communities.<sup>19</sup> The girl or the disabled child is inevitably the last priority for health expenditure in an environment of scarcity. According to a World Health Organization survey, 16 per cent of Indian families have been pushed below the poverty line by high health costs. Even children are being forced out of school to supplement family income.

## THE GREAT DIVIDE IN EDUCATION PERSISTS

15 Samata, A Study on the Status and Problems of Tribal Children in Andhra Pradesh, 2007, pp. 9.

16 Ibid. pp. 9.

- Over half of India's children are either not attending school or dropping out before class eight.
- Fewer girls are enrolled into schools, both at the primary stage as well as the upper primary.
- The proportion of out-of-school children is reported to be highest in the Muslim community, followed by the Scheduled tribes and Scheduled castes.
- One in ten Muslim children is not attending school. In rural areas, the proportion of children out of school is twice that of urban.
- Scheduled castes and tribes not only have a low enrolment ratio but also a high dropout rate.
- Some 55 per cent of the disabled population are reported by DISE (2005-06) as illiterate and only nine per cent are reported to have completed secondary education.
- Children affected by HIV/AIDS face significant barriers to receiving education, including in some cases being denied admission to schools.
- The great divide in education is also vis-a-vis violence in the education system itself.
- Education of many children continues to be interrupted by emergencies affecting their communities.

17 Ibid.

18 The Hindu, The Health Of Nations.11 January 2006.

19 Surinder Jindal. Privatisation Of Health Care: New Ethical Dilemmas. Indian Journal of Medical Ethics. <http://www.issuesinmedicalethics.org/063or085.html>.

Children drop out of school, or find themselves squeezed out of the education system because of the situation of the schools as well as their own socio-economic status, adding to the exclusion that plagues the education system. While many children are unable to gain access to school due to poverty, analysis of available data clearly indicates that some groups of children always find them excluded or pushed-out more than others, such as girls, disabled, Muslims, scheduled castes and tribes.

Despite a goal of ensuring every child in school by 2007, 7.6 million children still remain out of it, says the Ministry for Human Resource Development.<sup>20</sup> According to another estimate, almost 21 million children, or close to 17 per cent of children in the 6-10 years age group, are out of school.<sup>21</sup> Goalposts continue to be pushed back and even the 2015 target seems out of reach as even minimal infrastructure such as proper classrooms, desks, toilets and drinking water are not in place in a large number of schools. Sometimes, entire schools go missing. A World Bank survey found 25 per cent of government primary school teachers in India absent from school, and only 50 per cent of teachers actually teaching.<sup>22</sup> The poor standards of government schools are pushing many families to depend more on market forces to fill the educational deficit.<sup>23</sup>

There are wide disparities between urban and rural school attendance and even greater disparities between the richest and the poorest households. About one quarter of children of primary school age live in urban areas.<sup>24</sup> Of those in primary school, 52 per cent are boys. The number of girls enrolled into schools, both at the primary as well as the upper primary level, is less than boys. Lack of toilets in schools, distance of school from home, particularly in the light of rising crimes against girls, sexual assault cases within the schools - all are reasons for low enrolment and high dropout rate among girls. The proportion of out-of-school children is the highest in the Muslim community, followed by the scheduled tribes and scheduled castes. SC students comprised only 20.72 per cent in total enrolment at the primary stage and 19.42 per cent at the upper primary. The share of ST students was 11.75 per cent at the primary stage in 2005-06 and 9.28 per cent at the upper primary.<sup>25</sup> Dropout rates among SC and ST too remain high, at 59.42 per cent and 70.05 per cent respectively in 2003-04 up to class eight.<sup>26</sup>

Disabled children continue to be discriminated against despite grand policy announcements on inclusive education. The fact that the Right to Education Bill remained on the backburner for nearly three years calls into question the government's commitment to providing a quality education for every child in India. In this backdrop, universalisation of education remains an empty rhetoric.

The great divide in education is also vis-a-vis violence in the education system itself. Violence in schools, especially corporal punishment, pushes children out of school. Children are subjected to abuse and violence in schools in the name of discipline, sometimes leading to permanent impairments. Sexual violence, rape and sodomy continue to defile the precincts of learning. The education of many children continues to be interrupted by emergencies affecting their communities.



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

21 International Education Statistics, Analysis by Friedrich Huebler, Tuesday, November 13 2007. <http://huebler.blogspot.com/2007/11/india-has-21-million-children-out-of.html>.

22 The World Bank. Teachers Skipping Work. <http://web.worldbank.org>.

23 Richa Nigam, Inequality in India: Income, access to health care and education for the poor. <http://infochangeindia.org/200501086156/Other/Development-Dictionary/Inequality-in-India-Income-access-to-healthcare-and-education-for-the-poor.html>.

24 International Education Statistics, Analysis by Friedrich Huebler, Tuesday, November 13 2007. <http://huebler.blogspot.com/2007/11/india-has-21-million-children-out-of.html>.

25 Ministry of Human Resource Development, Chapter on Elementary Education, SSA and Girls Education, the XIth Plan Working Group Report, 2007, pp. 3.

26 Ibid pp 14

# CHILDREN GROWING UP AMIDST VIOLENCE

- Reported crimes against children increased 27.6 per cent between 2005 and 2006.
- While all forms of child abuse cut across caste and class barriers, discrimination on grounds of gender and caste undoubtedly rule the crime and abuse roster.
- India has the world's largest number of sexually abused children. It has also the largest number of working children. Sexual abuse in custodial institutions and rape by police too has been on the rise.
- Scheduled caste and scheduled tribe girls are more vulnerable to rape and violence.
- High rates of female foeticide have led to an embarrassingly low sex ratio in India – just 927 girls to every 1,000 boys in 2007. South Delhi, one of the most affluent localities of the capital, has only 760 girls.
- The government's two-child norm policy continues to be heavily criticised for its role in encouraging female foeticide.
- The most vulnerable age group with respect to cases of kidnapping has been 15-18 years, with girl victims outnumbering boys significantly.
- It is a myth that sexual abuse occurs only among girls. Sexual abuse of boys is perhaps an even greater social taboo than of girls, and frequently goes unreported. Law for sexual abuse of boys is inadequate.
- Child marriage is a blatant violation of children's human rights, but continues. It also revealed how Muslim women and women from Scheduled Castes were significantly more likely to be married before the age of 14.
- Children in 19 out of States are growing up in internal armed conflict resulting violation of all their basic rights. Children growing up in conflict become vulnerable to abuse and exploitation, are forced into labour because the family falls into distress, and even grow up to be violent themselves.

India has the world's largest number of sexually abused children as well as working children. Child abuse and violence against children have emerged as one of the most alarming problems. Growing industrialisation, liberalisation, urban bias, inter-state and rural-urban migration, poverty, breakdown of family, community values and support systems have led to children becoming the most marginalised and vulnerable victims.<sup>27</sup>

In fact, children today are growing up in an environment of violence, both in the private space and public. On a daily basis, they confront ethnic and communal violence, state-sponsored violence, sexual abuse and exploitation in all forms. Continuing armed conflict, whether in Jammu & Kashmir or the Northeast, has not only affected access to education but also led to psychological trauma. More importantly, children are being sucked into violence as perpetrators, as child soldiers in Manipur or Kashmir, as part of armed groups set up by Salwa Judum in Chhattisgarh or as Naxalites in several states.

India does not have an exact estimate of the number of children who need special protection. Available data is limited to crimes against children that get reported to the police even as many crimes go unreported. Every year, a huge number of children go missing. Even in this day and age, children have to deal with increasing child sacrifice, infanticide and child marriage, crimes that are increasing of late.

According to data collected by the National Crime Records Bureau (NCRB), which again is far from perfect or complete, kidnapping takes the maximum toll on children below 18 years, especially girls, followed by murder. Murder of children in the age group of 15-18 years, including girls less than 10 years' old, is on the rise.

<sup>27</sup> Report of the Committee Investigating into allegations of large Scale sexual abuse, rape and murder of children in Nithari village of NOIDA (UP), Ministry of Women and Child Development, Government of India, Shastri Bhawan, New Delhi, Dated: 17.1.2007



Poor enforcement frequently makes a mockery of existing laws aimed at protecting children from abuse. The fact that many cases fail to result in a conviction and a large number of cases are 'pending' continues to act as a deterrent for children and their families to report cases of crimes and undermines their faith in the judicial system.

The centrally sponsored Integrated Child Protection Scheme, which was approved in the 11th Plan (2007-12) with a budget of Rs. 1000 crore to provide children with a protective environment, is far from adequate and a non-starter. Child protection needs to be given the highest priority in government policy and programmes, especially in the states.

## JUVENILE (IN)JUSTICE

- 72.4 per cent of all juveniles apprehended by law come from families earning less than Rs. 25,000 a year.
- 64.3 per cent children apprehended in 2006 were either illiterate or had been educated only up to the primary level.
- 93.2 per cent of those apprehended live with their families, dispelling the myth that street and homeless children are prone to illegal activities.

Unlike in most other countries, the juvenile justice system is legally designed to address two categories of children: those in conflict with law, and those in need of care and protection. The latter includes children in begging and prostitution, children who are neglected, abandoned and abused, street children, all of them with different needs and vulnerabilities. The chapter on Juvenile Justice in the status report concentrates more on the juvenile justice mechanism in India and the children in conflict with law, since much of the information in the other chapters is about children in need of care and protection.

Despite the 2006 amendment in the Juvenile Justice Act 2000 mandating that every district in the country must have a Child Welfare Committee (CWC) and a Juvenile Justice Board (JJB) within one year from the notification of the new Act, the Government itself admits that many states and Union territories have not established any JJB.<sup>28</sup> The other states do not have enough JJBs to deal with the number of children coming into conflict with law.<sup>29</sup> The lack of clarity on the role of the social workers, a general scarcity of resources, lack of trained magistrates, social workers and police to deal with juveniles<sup>30</sup> are just three of the reasons for poor implementation of the law.

The main source of information on children in conflict with law is the 'Crime in India' report brought out by the NCRB, based on records collected from police station. Despite changes in the law to avoid stigmatisation of children, the NCRB continues to use the term arrested for children in conflict with law instead of apprehended, just as "charge sheets" continue to be filed. In 2005 there was an 11.3 per cent increase in crimes by children. The NCRB attributes this partly to the new definition of juveniles raising the age limit from 16 years to 18 years. On the other hand, the instances of offences by children under Special and Local Laws (SLL) has decreased by 29 per cent in 2006 over 2005.

28 Integrated Child Protection Scheme, Draft Scheme as on 17/08/2006.

29 Ibid.

30 In Focus, National Commission for the Protection of Child Rights, February 2008.

The increase juvenile crimes such as rape (by 11.9 per cent), death due to negligence (150.8 per cent), robbery (39.6 per cent), attempt to murder (30.7 per cent), preparation and assembly for dacoity (27.6 per cent), auto theft (18.6 per cent) and murder (15.9 per cent) is a matter of concern. Even girls now are apprehended and charged with rape.

NCRB data clearly indicates that the apprehended and incarcerated children are mostly from the poor and marginalised sections of society. They are therefore also children in need of care and protection, and need to be treated as such. Their parents are poor and cannot afford legal representation, and state legal aid services are grossly inadequate. The low rate of disposal results in high backlog and delay in settlement of cases, causing over-crowding at institutions. Violence and abuse are the realities of most care homes. These institutions are also plagued by physical and sexual abuse by the very persons who are meant to take care of them. Drug abuse is rampant and health facilities minimal. Children have no opportunities for education, let alone leisure or skill training.

## CHILD LABOUR

- India is home to the largest number of child labourers in the world.
- Child labour is higher among scheduled tribes and Muslims, followed closely by scheduled castes and other backward castes (OBCs).
- 76 per cent of all reported cases of bonded labour come from the scheduled castes and tribes and other backward castes.
- Almost no information exists about the number of disabled children in work, even though they are 38.11 per cent of the total population out of school.

Child labour shows no sign of disappearing from the country. If anything, there is an increasing tendency to treat children as commodities. Child workers work as long as, and often as intensely as adults for no wages or a fraction of the adult wage, with no bargaining power and in inhuman and dangerous conditions. They continue to work because child labour helps employers by depressing the general wage levels. Even the government now admits this.<sup>31</sup>

HAQ's first status report had discussed the fallacious distinction between hazardous and non-hazardous labour and why it runs contrary to the objective of eradicating child labour.<sup>32</sup> This was reiterated in the second report,<sup>33</sup> but little has changed. The old challenges regarding data and definition of child labour remain.

That children work long hours even when they work at home, and a hazardous process or occupation does not become less so just because it is undertaken at home, is well documented. Similarly, not including agriculture under hazardous occupations undermines the dangers children face when engaged in agriculture from harmful pesticides, weeding and harvesting, spending long hours at work.<sup>34</sup> Activists and campaigns argue that child labour laws must define child as persons up to 18 years, in keeping with the Convention on the Rights of the Child as well as the Juvenile Justice (Care and Protection) Act, 2000.

31 National Commission for Enterprises in the Unorganised Sector, Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, August 2007, pp. 103

32 HAQ: Centre for Child Rights, Children in Globalising India—Challenging Our Conscience, 2002, pp.280

33 HAQ: Centre for Child Rights, Status of Children in India Inc. 2005, pp. 167-180

34 A note on Recommendations of the Working Group on Amendment of the Child Labour (Prohibition and Regulation) Act, 1986 by R.Venkat Reddy, National Convenor, MV Foundation presented at the Consultative Meeting Central Board on Child Labour. Govt of India on 29 July 2008

In the wake of globalisation and growing consumerism, children find their way into newer and newer occupations everyday. Rescue operations carried out in Delhi and Mumbai in 2007-08 have exposed the employment of children in the booming textile and garments industry, including their employment by sub-contractors and suppliers who work for large export houses and companies. There are now so many new home-based occupations that it is often difficult to keep track. Worse, forced displacement due to development projects, Special Economic Zones; loss of jobs of parents in a slowdown, farmers' suicide; armed conflict and high costs of health care are forcing children to quit schools and start earning.

The girl child out numbers the boys in the pool of potential labour, simply because there are more girls out of school than boys. Most girls are engaged in some activity by way of helping their parents, either taking care of younger siblings or old parents, when the parents are away for work or in activities that are not perceived as income-earning by the reporting parents.<sup>35</sup>

The incidence of out-of-school children and child labour has socio-religious dimensions. Children from certain communities constitute the child labour pool. Child labour is higher among scheduled tribes and Muslims, followed closely by scheduled castes and other backward castes (OBCs).<sup>36</sup> Some estimates say 40 per cent of the child labour is from SC families.<sup>37</sup>

The law governing child labour is weak. It merely bans certain occupations and processes with no mechanism in place to implement the ban. Despite many government schemes to rescue and rehabilitate child labour, it continues because of the lack of a clear understanding of the problem as well as data. For example, the National Child Labour Project (NCLP) Scheme, the oldest initiative started in 1988, has targeted only children in hazardous occupations and the child labour-endemic districts. It continues to assume that children who are working with the family or in a family-based set-up are protected from hazards. Besides, of the 150 districts sanctioned in the Tenth Plan, projects exist in only 86. Although the scheme was expanded to 250 districts in the Xth Plan, it still didn't cover half the country.<sup>38</sup>

The only way to resolve this situation, as has been demanded for over two decades and is now recommended by the National Commission for Enterprises in the Unorganised Sector, is to eliminate all child labour. There is no political will to do that.



35 "Out of school children comprise the workers and non workers. In our view they together signify a measure of deprivation among children and can be considered as a potential labour pool always being at the risk of entering the labour force". Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector.

36 National Commission for Enterprises in the Unorganised Sector, Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, August 2007, pp. 101-102. In January 2006, The Third Joint Review Mission of Sarva Shiksha Abhiyan states that nearly 9.97% of Muslim children aged 6 to 13 are out of school, nearly 9.54% of ST children aged 6 to 13 are out of school, and nearly 8.17% of SC children are out of school. These figures are estimates, which were derived out of a sample survey, of 87,874 households across the country. Source: <http://ssa.nic.in/monitoring/mainjrm03.asp>.

37 Communist Party Of India (Marxist) Resolution Adopted At The All India Convention On Problems Of Dalits New Delhi – February 22, 2006 and Front Line . Cover Story, Long way to go, Volume 23 Issue 22. November 04-17.2006

38 Ibid

# CHILD TRAFFICKING

- The UN estimates that every year across the world, 246 million children are involved in exploitative labour and 1.2 million children are trafficked.
- There are no exact figures for India as bribery and corruption surrounding the practice renders an estimate of its magnitude not only difficult, but impossible.
- India is described as a: “source, destination and transit country for men, women and children trafficked for the purposes of forced labour and commercial sexual exploitation”.
- Trafficking of children occurs for various purposes, such as labour, begging, sexual exploitation, pornography, child marriage, adoption, organ trade etc.
- It is the Scheduled Caste and Scheduled Tribe communities, religious minorities and those living in poverty that continue to be affected by trafficking.

Discrimination and exclusion from basic social services and economic gain have always played a significant role in trafficking in India, as trafficking is a problem among the poor and the marginalised. Scheduled caste/tribe communities, religious minorities and those living in poverty continue to be affected by trafficking. Desperation to survive sometimes forces the poorest communities to sell their children. Social exclusion based on gender can be seen as a major contributing factor to the risks of being trafficked.<sup>39</sup> India is described as a “source, destination and transit country for men, women and children trafficked for the purposes of forced labour and commercial sexual exploitation”.<sup>40</sup>

Children are trafficked for various purposes, such as labour and domestic work, begging, sexual exploitation and trade, pornography, child marriage, adoption, and organ trade. The emerging demand for surrogate mothers is another commercial activity involving women and young girls that needs monitoring.

Despite government policy and civil society organisations recognising the seriousness of trafficking of children, child trafficking has actually increased and spread to newer areas, evident in the rise in trafficking in male children, child sex tourism etc., where there is no effective legal protection, and in the spread of HIV in India and South Asia. No reliable data is available for the number of children trafficked every year as bribery and corruption surrounding the practice render a correct estimate virtually impossible.<sup>41</sup> Also, the lack of disaggregated data based on gender, caste, ethnicity, religion and age is the biggest bottleneck in the assessment of regional or sector-wise trends in trafficking.

A lack of state machinery to carry out adequate rehabilitation leads to re-trafficking and needs urgent attention. The few programmes available tend to be short term and policy makers show no consideration for the long-term impact on the victim.

<sup>39</sup> SANLAAP, Concept note prepared for South Asia Consultation on care and protection of survivors of commercial sexual exploitation and trafficking, Kolkata, May 2008.

<sup>40</sup> US Secretary of State, Trafficking in Persons Report, 2008.

<sup>41</sup> SANLAAP, Concept note prepared for South Asia Consultation on care and protection of survivors of commercial sexual exploitation and trafficking, Kolkata, May 2008.



# THE WAY FORWARD

The XIth Five Year Plan Document has for the first time in the history of plan documents, included a separate section on Child Rights. The plan lays particular emphasis on addressing discrimination and exclusion. It says, “The vision of the Eleventh Five Year Plan is to end the multifaceted exclusions and discriminations faced by women and children; ... The Eleventh Plan recognises that women and children are not homogenous categories; they belong to diverse castes, classes, communities, economic groups, and are located within a range of geographic and development zones. Consequently, some groups are more vulnerable than others. Mapping and addressing the specific deprivations that arise from these multiple locations is essential for the success of planned interventions. Thus apart from the general programme interventions, special targeted interventions catering to the differential needs of these groups will be undertaken during the Eleventh Plan”.<sup>42</sup>

In the last five years, the ministry of women and child development, the nodal ministry on child rights, has come a long way, shifting its approach to a rights-based framework and bringing about policy reforms. What is needed now is to strengthen the implementation of existing and new initiatives, build adequate mechanisms for transparency and accountability, and ensure their convergence and coordination so as to reach out to the excluded and the most vulnerable.

