

# Child Rights in India

There are close to 500 million children in India,<sup>1</sup> but even after six decades of independence and democratic rule, many continue to be deprived of their basic rights. The UN Convention on the Rights of the Child,<sup>2</sup> for which India is a signatory, enshrines the rights that all children should have, but millions are lacking these basic entitlements.

## General Measures of Implementation

In addition to the Convention on the Rights of the Child (see *text box*), India has a number of national laws and policies that are designed to protect children.<sup>3</sup> Constitutional guarantees meant specifically for children include:

- The right to free and compulsory education for all children aged 6-14 (Article 21a)
- The right to be protected from any hazardous employment until the age of 14 (Article 24)
- The right to be protected from being forced to enter occupations unsuited to their age or strength (Article 39e)
- The right to equal opportunities, and facilities to develop in a healthy manner, with guaranteed protection against exploitation, and moral and material abandonment (Article 39f)
- The right to early childhood care and education for all children under 6 years old (Article 45)

However, despite these attempts, poor implementation of existing laws and the absence of a common definition of childhood, continues to create issues as each law defines childhood differently.

## Early Childhood

Just 1.66% of the 2006-2007 Union Budget was allocated to children under the age of 6,<sup>4</sup> and the only programme specifically targeting the care, education, health, and nutritional concerns of these children is the Integrated Child Development Services scheme.

ICDS was launched by the government in 1975, with the aim of improving the health and wellbeing of new mothers and children under 6, by providing advice, education, health services, supplementary food, and pre-school education. It is the world's largest early child development programme, and reaches more than 34 million children and 7 million pregnant and nursing mothers.<sup>5</sup> However, more than 26 million children are still unable to benefit from the programmes that ICDS run.

## UN Convention on the Rights of the Child



The Convention enshrines four major rights that all children should hold:

### 1. Right to Survival:

includes child's right to life and the most basic of needs, such as nutrition, shelter, and access to medical services

### 2. Right to Development:

includes right to education, play, leisure, cultural activities, access to information, and freedom of thought

### 3. Right to Protection:

ensures children are safeguarded against all forms of abuse, neglect and exploitation

### 4. Right to Participation:

provides right to express opinions, have a say in matters affecting their lives, join organisations and assemble peacefully

## Quick Facts<sup>6</sup>



- No. of Child Labourers: 50-100m
- No. of Out-of-School Children: 21m
- Primary School Net Enrolment: 91%(m), 88%(f)
- Population < 15: 359m
- < 5 Mortality: 66 per 1000 births
- Juvenile Sex Ratio: 914 girls to 1000 boys

There is strong anecdotal evidence that Dalit children are being regularly excluded from feeding programmes. The proportion of malnourished children among Scheduled Castes and Scheduled Tribes is significantly higher than under the rest of the population, showing the failure of government schemes to reach these groups. 52.2% of SC children and 57.6% of ST children aged under 3 are underweight, compared to 37.3% outside of these groups.<sup>7</sup>

Many parts of the country have no access to ICDS services, and there are strong disparities in the provision of services between rural and urban areas, with little representation in urban slums. Even in those areas that do receive services, approximately three-quarters of children aged 0-6 receive no form of supplementary food from the centres. As a result, 37 million children below the age of 3 (46%) are underweight, and 50% of children under 5 are moderately or severely malnourished.<sup>8</sup> These children are under a high risk of developing vitamin deficiencies such as rickets, scurvy, anaemia, spina bifida and osteoporosis. They are also at risk of developing weak immune systems, leaving them susceptible to other diseases and illnesses.

## Health

India's public health expenditure ranks at 171<sup>st</sup> out of 175 countries according to the WHO. While 2-3% of GDP is considered to be the minimum needed to provide a minimum level of healthcare to everyone in India, and the WHO recommends 5%, the current expenditure is just 1% of GDP.<sup>9</sup> Nearly 80% of total healthcare costs are met through private expenditure, and virtually all of this is out of pocket.<sup>10</sup> This increased privatisation of healthcare has seriously reduced its availability for the poorest and most marginalised sections of society. About 16% of Indian families have been pushed below the poverty line by high healthcare costs, more than 40% of low-income families had to borrow money from outside the family to meet costs, and 12% of families had to sell their assets to cover medical expenses.<sup>11</sup>

The infant mortality rate in India remains unacceptably high at 52.91 deaths per 1000 live births.<sup>12</sup> There are wide interstate variations, with states such as Kerala having a very low rate (14/1000), while in states like Uttar Pradesh (83/1000) and Orissa (96/1000) rates remain extremely high.<sup>13</sup> Within each state there are wide rural-urban variations, and infant mortality rates are significantly higher in households with little formal education. Diarrhoea continues to be the single most common cause of death amongst children under 5 worldwide, and one out of every fifth death is in India.<sup>14</sup> Every day, about 1000 Indian children die from diarrhoea. Most deaths are caused by dehydration, which is easily preventable through taking oral rehydration salts, but in India 57% of children received neither salts nor increased fluids when sick with diarrhoea.<sup>15</sup> Each year, 7-800,000 children die from easily preventable diseases such as diarrhoea, and 380,000 children die due to inadequate Vitamin A, iron, and iodine intake.

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Recent studies on the socio-economic impact of TB revealed that over 300,000 children are orphaned by the disease every year.<sup>16</sup> In 2006 there were nearly 65,000 cases of TB in children, and thousands more children were forced to leave school in order to care for other family members suffering from the disease. The universal immunisation of children against 6 vaccine preventable diseases (TB, diphtheria, whooping cough, tetanus, polio and measles) is crucial to reducing infant and child mortality. However, only 44% of children aged 12-23 months are fully vaccinated, only a 2% increase from a decade earlier.<sup>17</sup>

Disabled children still face discrimination at many levels, with many denied adequate healthcare facilities and huge numbers being excluded from education. 1 in every 10 children is born with, or acquires a physical, mental, or sensory disability, 75% of which are preventable.<sup>18</sup>

UNICEF has warned that the current global food crisis, with escalating food inflation, has placed more than 150 million children in India at risk of becoming malnourished.<sup>19</sup> The child malnutrition rate in India is twice as high as in Sub-Saharan Africa, and almost 63% of children below the age of 5 are undernourished. Around 34% of the world's stunted children and 46% of the world's wasted children live in India.<sup>20</sup>

## **Education**

Over half of children in India either don't attend school, or drop out before 8<sup>th</sup> standard.<sup>21</sup> Though available data on school enrolment and attendance is notoriously unreliable, and often fails to paint an accurate picture of the situation, it is estimated that almost 21 million primary school aged children, close to 17% of the total, continue to be out of school.<sup>22</sup> Though this has dropped from 87 million in 2001, many children continue to face exclusion from the education system due to their socio-economic status.<sup>23</sup> Between the years of 2000 and 2007, the average spending on children's education was 1.94% of the Union Budget.<sup>24</sup> Despite national commitments to increase expenditure to 6%, current spending on education is around 3.8% of the total GDP of India.<sup>25</sup>

Approximately 32,000 schools in India have no students at all. These are mostly state schools, located in rural areas, and in the majority of cases the reason for zero enrolment is that the schools do not have teachers. 23,000 schools were yet to be provided with a teacher, while 130,000 were single teacher schools.<sup>26</sup> 25% of state primary school teachers are absent from work, and only 50% are actually engaged in teaching while at work.<sup>27</sup> Apart from the lack of teachers, there are serious problems with school infrastructure. Proper classrooms, desks, toilets, and drinking water are missing in a large number of schools.

Despite a recent increase in the number of girls attending school, gender bias is still evident. Many parents continue to see girls education as a waste of time, especially when she could be working or performing household chores instead. At upper primary level, the number of girls enrolled is less than 85% of the number of boys.<sup>28</sup>

## **Violence**

India has the world's largest number of sexually abused children. Child abuse and violence against children have emerged as some of the biggest problems facing the country. Poor law enforcement has meant that existing laws are ineffective, and the lack of an accurate figure on the number of children requiring special protection, makes doing so a major challenge.

## Study on Child Abuse: India 2007

In 2006, the national conviction rate for crimes against children was just 35.4%. The highest conviction rate was for infanticide at 45.5%, followed by murder at 43.3%<sup>29</sup> Some of the most unfortunate manifestations of child abuse are when the children suffer from the hands of their own protectors (see *text box*).<sup>30</sup> This includes:

- Female foeticide and infanticide
- Child marriage
- Domestic violence
- Custodial rape

80% of India's districts have recorded a decline in the sex ratios of children since 1991.<sup>31</sup> Each year 12 million girls are born, of which 3 million do not survive to see their 15<sup>th</sup> birthday. It is estimated that every sixth female death is due to gender discrimination. This has led to the highly skewed juvenile sex ratio of 914 girls for every 1000 boys.<sup>32</sup>

It is becoming increasingly common for medical practitioners to disclose the sex of the foetus to parents, thereby giving them the ability to abort unwanted girls. There is a clear correlation between the number of sonography centres, and a decline in the child sex ratio. Female foeticide is most prolific in the wealthier cities and states, where people have both access and money to misuse the technology.

Child marriage is one of the worst forms of violence, not only violating the basic rights of girls, but exposing them to sexual violence, unsafe motherhood, and sometimes resultant death. However, this violence is sanctioned by the social norms of India, which still encourages child marriage. Approximately 45% of girls are married before the legal age of 18, and almost 30% of boys are married before they reach the legal age of 21.<sup>33</sup> As the country with the largest child population in the world, it is essential for India to put in place the protective environment that children need and deserve.

### Juvenile Justice

The National Crime Records Bureau shows a marginal increase in the share of crime committed by children in recent years. Part of this increase however, is due to the change in the definition in the upper limit of juveniles from 16 to 18. The purpose of the juvenile justice system is to bring about change in the attitude towards crimes committed by children, to treat the child as innocent or one who is coerced or forced into crime whether by a person or through their environment. Of the total children involved in crimes in 2006, 64.3% were either illiterate or only had a primary education.<sup>34</sup>

### Physical Abuse

- 2 out of 3 children were physically abused
- Out of children physically abused in family situations, 88.6% were abused by their parents
- 65% of school going children reported facing corporal punishment, of which 62% occurred in state schools
- Most children did not report the abuse to anyone

### Sexual Abuse

- 53.22% of children reported facing sexual abuse
- 21.9% reported severe forms, and 50.76% other forms of sexual abuse
- 5.69% reported being sexually assaulted
- 50% of abuses are by persons known to the child or in a position of trust
- Most children did not report the abuse to anyone

### Emotional Abuse

- Every 2<sup>nd</sup> child reported facing emotional abuse
- Equal percentages of boys and girls reported facing emotional abuse
- In 83% of cases, parents were the abusers
- 48.4% of girls wished they were boys

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Overcrowding, violence and abuse is the reality of most custodial institutions. A large number of drugs are taken by adolescents in observation homes, and bullying and beatings are a constant feature. Children have no-one to talk to, and no opportunity for education. In Patna, 145 children were housed in an observation home meant for 60. One plate was issued to every 2 children, and children slept on the floor and under other children's beds.<sup>35</sup>

The Juvenile Justice Act (2000) provides for the establishment of Special Juvenile Police Units (SJPUs) at the district level, and the designation of a Child Welfare Officer (CWO) at every police station, to deal with children in conflict with the law. However, in many states CWOs have not been designated, and SJPUs are not fully established.

### **Child Labour**

The number of child labourers in India varies massively depending on the definition. Some definitions count all children out of school, some count all children working in the organised sector, while others only count children working in prohibited occupations. As a result, numbers vary from the official government statistic of 20 million, up to 100 million, with most NGOs settling between 50 and 60 million.<sup>36</sup> Whatever the definition used, India has the largest number of child labourers in the world.

Current legislation only prohibits under 14 year olds from working in hazardous industries. Prohibited occupations include work involving exposure to excessive heat and cold, food processing, the beverage industry, timber handling and loading, mechanical lumbering, stone grinding, slate mining, quarrying and diving. The law governing child labour is weak and can easily be bypassed. It merely puts a ban on certain occupations and processes, with no mechanism in place to implement that ban. The fine for violation of the act is just Rs.20,000 (US\$450).

Approximately 66% of child labourers work in the agricultural sector, 13% in manufacturing and repair work, 11% in industry, and 7% in mining and quarrying.<sup>37</sup> Many girls are engaged in unrecorded domestic work, including taking care of younger siblings and elderly family members, and undertaking household chores. Though in many cases this work is not included in child labour counts, it is reported to be the main reason why girls are not attending school.

Children's working conditions can be very severe, with little of the stimulation needed for physical and mental development, and a high chance of injury. At least 2 million children are working in hazardous industries, and more than 20% of child labourers suffer from illness or injury related to their work.<sup>38</sup>

### **Child Trafficking**

Trafficking has been described by many as modern day slavery. With 27 million people across the world enslaved, there are now many more slaves than there were when the traditional slave trade was at its peak 400 years ago.<sup>39</sup> Next to gun and drug trafficking, human trafficking is the third largest criminal industry in the world, generating yearly profits of US\$10-12 billion. The UN estimates that across the world, 1.2 million children are trafficked each year.<sup>40</sup>



## Purpose of Kidnapping: Change in Prevalence Between 2005 & 2006

### Increases

- Marriage: 54.8%
- Illicit Intercourse: 34.9%
- Prostitution: 26.5%
- Begging: 26.3%
- Slavery: 275.0%
- Sale: 22.2%

### Decreases

- Adoption: 43.9%
- Selling Body Parts: 66.7%
- Other Unlawful Activities: 48.3%

There are no exact figures for the number of children trafficked in India each year. The trafficking of children occurs for a variety of purposes, such as labour, begging, sexual exploitation, pornography, child marriage, adoption, and organ trade (see text box).<sup>41</sup> The Juvenile Justice Act was amended in 2006 to strengthen the legal framework for the care and protection of children in India. However, both the original act and the amendment fails to address the problem of child trafficking in its entirety, demonstrating a lack of political will on this issue. Only 0.034% of the Union Budget is spent on child protection schemes, an incredibly small amount given the scale of child trafficking and other child protection issues facing the country.

The Ministry of Women and Child Development estimate that there are about 3 million sex workers in the country, of which an estimated 40% are children.<sup>42</sup> There is a growing demand for very young girls to be inducted into prostitution on account of customer preferences. Some girls are sold for marriage, but then instead find themselves working in prostitution. The increase in paedophilia as part of sex tourism has led to a rising demand for boys as well as girls. As the demand for children increases, growing consumerism, poverty, conflict and violence are contributing to making children more and more vulnerable.

### Shaishav's Work

Since 1992, Shaishav has been working in Bhavnagar, Gujarat, to realise the basic rights of children, particularly the underprivileged. In 1995, Shaishav conducted a survey of the state of child labour in Bhavnagar. It found:

- 12,813 child labourers, working in 106 occupations
- 68% had never attended school, and of those that had, 79% left before the age of 12
- 80% began working before the age of 14, and 60% earned less than Rs.500 per month

Due to Shaishav's constant efforts in the community, approximately 10,000 children have been admitted into mainstream schooling, and several of Shaishav's materials and activities have been adopted on state and national levels. Shaishav led a nationwide effort to establish the National Forum for Child Participation, the first of its kind in India, and the organisation has received various awards at local and state levels in recognition of its work.

Children have participated in state, national, and international processes, demonstrating their leadership, and are now providing training to other children. Shaishav has developed one of Gujarat's first educational programmes for the safety and training of adolescent girls, resulting in girls gaining empowerment and becoming leaders in their communities. Children have developed a variety of different skills, and have gained both academic and holistic qualifications. By leading child rights initiatives in their communities, children are becoming their own change makers in society.



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- <sup>3</sup> *The Constitution of India*, 2008. <<http://lawmin.nic.in/coi/coiason29july08.pdf>>.
- <sup>4</sup> HAQ: Centre for Child Rights, *Budget for Children in India 2007* (New Delhi: HAQ, 2007).
- <sup>5</sup> UNICEF, *Under-nutrition: A Challenge for India*, 2007. <[http://www.unicef.org/india/nutrition\\_1556.htm](http://www.unicef.org/india/nutrition_1556.htm)>.
- <sup>6</sup> *United Nations Population Division*. <<http://www.un.org/esa/population>>.
- <sup>7</sup> International Institute for Population Sciences (IIPS) & Macro International, *National Family Health Survey (NFHS-3), 2005-2006* (Mumbai: IIPS, 2007).
- <sup>8</sup> See 7
- <sup>9</sup> Indranil Mukhopadhyay. '3% GDP on Health: An Illusive Promise', *Health for the Millions*, Feb-Mar 2008.
- <sup>10</sup> *The Hindu*, 'The Health of Nations'. 11 Jan 2006.
- <sup>11</sup> *Hindustan Times*, '16 Percent of Indians Pushed into Poverty by Rising Health Costs'. 5 Feb 2007.
- <sup>12</sup> See 6
- <sup>13</sup> B. Singh, 'Infant Mortality Rate in India: Still a Long Way to Go', *The Indian Journal of Pediatrics* 74, 5, May 2007, pp.454-455.
- <sup>14</sup> *Indian Health News*. 'Diarrhoea Claims Nearly 1000 Children in India Every Day: Report', 2007. <<http://www.medindia.net/news/Diarrhoea-Claims-Nearly-1000-Children-in-India-Every-Day-Report-26603-1.htm>>.
- <sup>15</sup> See 7
- <sup>16</sup> *The Times of India*, 'World TB Day: Women, Children Worst Hit', 24 March 2008.
- <sup>17</sup> See 7
- <sup>18</sup> *Childline India Foundation*, 'Children with Disabilities', 2009. <<http://www.childlineindia.org.in/children-with-disabilities.htm>>.
- <sup>19</sup> Damien Grammaticas, *BBC News*, 'Food Warning for Indian Children', 2008, <[http://www.news.bbc.co.uk/2/hi/south\\_asia/7398750.stm](http://www.news.bbc.co.uk/2/hi/south_asia/7398750.stm)>.
- <sup>20</sup> See 7
- <sup>21</sup> National Forum for Policy Dialogue, *Discussion on Right to Education and Child Labour*, (New Delhi: NFPD, 2008).
- <sup>22</sup> Friedrich Huebler, *International Education Statistics*, 2007. <<http://huebler.blogspot.com/2007/11/india-has-21-million-children-out-of.html>>.
- <sup>23</sup> National Commission for Protection of Child Rights. *Magnitude of Child Labour in India: An Analysis of Official Sources of Data*, 2008. <[http://www.ncpcr.gov.in/research\\_reports.htm](http://www.ncpcr.gov.in/research_reports.htm)>.
- <sup>24</sup> See 4
- <sup>25</sup> UNDP, *Human Development Report 2007-2008*, 2008.
- <sup>26</sup> *The Asian Age*, '32,000 Schools Without Students', 6 August 2007, <[http://www.isidelhi.org.in/hrnews/HR\\_THEMATIC\\_ISSUES/Education/Education-2007.pdf](http://www.isidelhi.org.in/hrnews/HR_THEMATIC_ISSUES/Education/Education-2007.pdf)>.
- <sup>27</sup> F. Halsey Rogers, 'Missing in Action: Teacher and Medical Provider Absence in Developing Countries', *The World Bank*, <<http://go.worldbank.org/0Y6CY4F7Q0>>.
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- <sup>31</sup> Dhawan Himanshi, 'Sex Ratio Just Keeps Getting Worse', *The Times of India*, 10<sup>th</sup> December 2006.
- <sup>32</sup> See 1
- <sup>33</sup> Nita Bhalla, 'India's Underage Brides Wedded to Tradition', *Reuters*, 15<sup>th</sup> May 2007, <<http://www.reuters.com/article/2007/05/15/us-india-childmarriage-idUSDEL1189520070515>>.
- <sup>34</sup> See 29
- <sup>35</sup> HAQ: Centre for Child Rights. 'Still Out of Focus: Status of India's Children 2008', (New Delhi: HAQ, 2008).
- <sup>36</sup> See 23
- <sup>37</sup> See 35
- <sup>38</sup> See 23
- <sup>39</sup> See 35
- <sup>40</sup> Howard Dodson, 'Slavery in the 21<sup>st</sup> Century', *UN Chronicle*, 3, 5, 2005, pp.28.
- <sup>41</sup> See 35
- <sup>42</sup> *Ministry of Women & Child Development*, 'Ujjawala', 2007, <<http://www.wcd.nic.in/schemes/ujjawala.pdf>>.