



# **Convention on the Rights of the Child**

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## **Committee on the Rights of the Child**

### **Consideration of reports submitted by States parties under article 44 of the Convention**

**Third and fourth periodic reports of States parties  
due in 2008**

**India\***

[26 August 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been formally edited.

## Foreword

**Smt. Krishna Tirath, Union Minister of State, Ministry of Women and Child Development**

India: Third and Fourth Combined Periodic Report on the Convention on the Rights of the Child presents the major initiatives that have been taken to ensure the rights of children. It also highlights the current status of children, efforts made to address their concerns and the challenges which are yet to be overcome.

India's approach to protection and promotion of child rights derives from the Constitution of India. We have also in place legislation, policies and programmes for safeguarding the rights of children and especially, of the girl child. Our commitment to the children is reiterated continuously through the efforts to strengthen the framework for protection of their rights, which include establishment of a National Commission for Protection of Child Rights in 2007, one of the few of its kind in Asia, to safeguard and enforce the rights of all children in the country, and the launch of a universal Integrated Child Protection Scheme in 2009-2010 based on the principles of 'protection of child rights' and 'best interest of the child'. These endeavours reflect our commitment to safeguard and enforce the rights of children in our country.

While dealing with the complex dimensions of child rights, both in terms of numbers and in quality, there is a measure of satisfaction in addressing the overall challenges of poverty, malnutrition, illiteracy and access to primary health services. The expansion of the Mid-Day Meal Scheme; progress of the Integrated Child Development Services into the third phase of expansion; revamping of the rural public health infrastructure and rapidly-expanding social protection net through insurance schemes and pensions are some of the initiatives taken to ensure the survival, development, care and protection of our children. Finally, with the adoption of the Right of Children to Free and Compulsory Education Act, 2009, we expect to move closer to fulfilling the commitment of providing free and compulsory education to all children in the age group of 6-14 years within the next three years.

The Report, no doubt, continues to remind us of the challenges for the fulfilment of child rights in our country. We reiterate our solemn commitment to this goal and reaffirm our determination to translate the rights of all children into reality.

## Preface

**D.K. Sikri, Secretary, Ministry of Women and Child Development**

India has the largest child population in the world. The number of children under age 18, which was 428 million in 2001 and rose to 430 million in 2006, is projected to remain above 400 million in the coming decade.

India's approach to protection and promotion of human rights and child rights derives from the Constitution of India, which provides for affirmative action in favour of children. It also directs the State to ensure that children are not abused and are given opportunities and facilities to develop in a healthy manner in conditions of freedom and dignity. In 2002, Article 21 A was added through a Constitutional amendment to make elementary education a Fundamental Right for every child in the age group of 6 to 14 years.

To provide focus on issues related to women & children, the erstwhile Department of Women & Child Development under the Human Resource Development Ministry was upgraded as an independent Ministry in 2006.

The National Commission for Protection of Child Rights was constituted in 2007 under the Commissions for Protection of Child Rights Act, 2005, which also provides for setting up sub-national level Commissions and Children's Courts to be set up in each state of the country. Eleven State Commissions have already been set up and are at different stages of being operational. These statutory bodies are meant to work for protection and promotion of child rights in the country. It underscores the commitment to the principles of universality, inviolability, indivisibility, interdependence and mutually reinforcing character of child rights and ensures that the work is directly informed by the views of children in order to reflect their priorities and perspectives.

Besides the institutional, legislative and administrative framework which is in place to extend and protect human rights, India has a strong presence of non-governmental and voluntary action, through a network of community-based people's organisations. They, along with the independent media, act as a watchdog for the protection of human and child rights.

The Government is increasingly earmarking large resources for programmes of health, education, employment, sanitation, drinking water, child development and urban renewal with focus on system strengthening, increased inter-sectoral convergence and collaboration for improved outcomes for children. But, in the context of India which is both large and diverse, it is important to understand that while children have equal rights, their needs and entitlements are area-specific, group-specific, culture-specific, setting-specific, and age-specific and demand a variety of interventions. This, coupled with the problems of displaced and migrant children, children in areas of civil unrest, children belonging to marginalized groups, children who have suffered violence, abuse and exploitation, makes the task really challenging to see that interventions for children do not exclude anyone.

India: Third and Fourth Combined Periodic Report on the Convention on the Rights of the Child' is a product of extensive consultations with all stakeholders. The Report has been prepared after consultations with and based on inputs received from other key ministries and agencies, following the general guidelines issued by the Committee on the Rights of the Child. A High Powered Committee, comprising representatives of different government ministries, 18 state governments and representatives of non-governmental organizations, academic institutions and international agencies was constituted in December, 2006, to guide the preparation of the Report and Reports on the two Optional Protocols (OPs). Guidelines were shared with the state governments and Central ministries/departments for their inputs. Five regional consultations were held across the country between July and October, 2007 to engage with stakeholders to make the Report as broad based and representative, as possible.

In this context, this Report combines an analysis of the overall implementation of the Convention on the Rights of the Child in India, a review of its progress, and identification of continuing challenges that impede the realization of all rights of all children. Significantly, the period covered by the Report has seen introduction of several laws, policies and programmes to implement India's commitments under the Convention for the survival, development, protection and participation of children. These include adoption of free and compulsory education for the age group of 6-14 years; universalisation of services for nutrition and development of children in the age group of 0-6 years; launch of a comprehensive scheme for protection of children in difficult circumstances; adoption of legislation to prohibit child marriage; and amendments in several laws to ensure better care and protection of children.

In conclusion, protection and promotion of child rights and all-round care and development of children continue to be the major priorities. The Government, at the Centre and in the States, are all committed to ensure that all children enjoy their rights to education, protection, growth and development in a secure and nurturing environment. With the help of coordinated implementation of programmes, partnership with community and non-governmental sectors, we are confident of achieving this goal.

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\*\* Annexes can be consulted in the files of the Secretariat.

## I. Introduction

1. India acceded to the United Nations Convention on the Rights of the Child (the Convention) in 1992, becoming one of the first few countries in the world to do so. India submitted its First Report on the implementation of the Convention in 1997. This was reviewed by the Committee on the Rights of the Child (the Committee) in January 2000. The Second Periodic Report on the Convention was submitted by India in 2001, which was reviewed by the Committee in February 2004. The Committee recommended India to submit the next report as a combined third and fourth periodic report in July 2008. India: Third and Fourth Combined Periodic Report takes into consideration the period between 2001 and 2008.

2. The Second Periodic Report of India, while presenting a comprehensive picture of the situation of children in the country and achievements in the earlier period, expressed concern about some critical indicators and gave a solemn commitment to address them. The present India: Third and Fourth Combined Periodic Report on the Convention – a product of extensive consultations with all stakeholders – has tried to make a candid assessment of how much of this commitment, has been translated into action. A sincere attempt has been made in these pages to describe the current status of well-being of children in India, efforts made during the period to address the concerns of children and the challenges, which have yet to be overcome.

3. During the reporting period, the Government has targeted and worked diligently towards inclusive growth, with the ultimate objective of creating an inclusive society. The period is too short to achieve this goal. But tremendous momentum has already been imparted through policy initiatives and programmes initiated and implemented for children. These years have also seen a continued emphasis on transparency and better governance – the bedrock of efficient and outcome-oriented programming.

4. Assessments during the 10th Plan (2002-07) highlighted the persisting development deficits caused by slower-than-expected reduction in poverty levels. These assessments triggered major policy initiatives and resource commitments for child survival and development. The 11th Plan (2007-12) remains geared to these commitments, with focus on inclusion and empowerment.

5. During this period, ongoing flagship programmes for employment, education, health, nutrition, rural infrastructure and urban renewal have been consolidated. New flagship programmes for food security and skill development have been introduced or are in the process of being initiated. The Government is seriously engaged in not only restoring the economy after the global meltdown in 2008-09 to a higher growth trajectory, but is also ensuring that the growth process is socially and regionally more inclusive and equitable. For this reason, all the current development initiatives are much better clued to the welfare of women and children, Scheduled Castes/Scheduled Tribes, Other Backward Classes, minorities and the differently-abled. The upgradation of the Department of Women and Child Development into an independent Ministry has no doubt helped to bring the children issue into better focus and to manage child-related initiatives in a better manner.

6. Among the notable achievements in this reporting period have been the perceptible improvement in access to education, expansion of the Mid-Day Meal Scheme to cover over 117.4 million children, revamping of rural public health infrastructure and a rapidly-expanding social protection net through insurance schemes and pensions. Under-developed States and regions have been the special focus of development efforts. The National Rural Employment Guarantee Scheme has been universalised in coverage and proved to be an effective social protection measure. It is the largest programme in the world, for rural

reconstruction. The National Rural Health Mission has been put in mission mode for implementation and has been taking steps to bring about a reduction in infant and maternal mortality. An important aspect of development programme in this period has been increased transparency and greater public accountability through enabling legislations and independent monitoring mechanisms.

7. The groundwork done during this reporting period is set to pay dividends in the coming years. The early childhood education and nutrition delivery programme, Integrated Child Development Services, has entered the third phase of expansion. The Sarva Shiksha Abhiyan has positively impacted on the access and retention in schools. The focus has shifted more to quality education, and with the Right of Children to Free and Compulsory Education Act, 2009, the enabling legislation, in place, this will receive further impetus. Recognising that increased female literacy is a force multiplier for social development programmes, the Government has launched a National Mission for Female Literacy to make every woman literate in the next five years. The proposed National Food Security Act, once enacted, will provide the statutory basis for the framework to assure food security for all. With 40% of the population in the under-18 age group, a National Skill Development Mission has been launched to tap this demographic dividend.

8. A big boost to developing a protective environment for children during the reporting period has been provided by the setting up of National Commission for Protection of Child Rights, guided by an appropriate legislative framework. The work on setting up of State-level Commissions and Children's Courts is under way. The National Commission has been functional for more than three years and has been addressing issues of working children, sexual abuse, female foeticide, and others. The Integrated Child Protection Scheme has been launched, based on the principles of 'protection of child rights' and 'best interest of the child'. The Scheme will help build a protective environment for all children, who are in difficult circumstances and reduce vulnerabilities of other children, subject to abuse and exploitation.

9. Consistent and high economic growth over the past few years has enabled increased allocation of funds for social sector investments, particularly targeting the vulnerable groups, including children. Child budgeting has had a head start. Even during the period of global economic downturn, the Government has ensured that investments for children continue to increase, even if it has resulted in an overall increase in deficit financing.

10. Increased allocations, outcome-oriented implementation and inclusive policies have, no doubt, produced encouraging results during this period, particularly in education and health. It is evident that the experience gained in the implementation of certain National-level programmes would be leveraged now to make a decisive impact in other dimensions of child rights, particularly in reaching out to and improving the situation of children in special and difficult circumstances.

11. This Report, while acknowledging the achievements, underscores areas, where urgent attention is required. We would like to take this opportunity to reiterate our commitment to continue working towards realising the rights of all children.

## **A. Presentation of the Report**

12. India: Third and Fourth Combined Periodic Report on the Convention has been prepared in accordance with the Guidelines adopted by the Committee on the Rights of the Child in its Thirty-Ninth (39th) Session on June 3, 2005. The Report is divided into eight thematic chapters, based on grouping of the Articles of the Convention. Each thematic chapter begins with the Government's response to the Concluding Observations made by the Committee on the Rights of the Child in its Thirty-Fifth (35th) Session. This is followed



by a description of the steps taken by the Government towards implementation of Articles of the Convention and the enjoyment of human rights by children in the country. The discussion is grouped under the following sub-headings in each chapter:

- Status and Trends;
- Policy;
- Legislation;
- Programmes;
- Coordination;
- Monitoring;
- Awareness-Generation;
- Capacity-Building;
- Resources;
- Challenges.

13. Recognising that different Articles of the Convention are not stand-alone Articles and are inter-related, cross-references have been given both within and across the chapters. India: Third and Fourth Combined Periodic Report on the Convention on the Rights of the Child is in full compliance with the provisions of Article 44 of the Convention.

## **B. Information Update**

14. India: Third and Fourth Combined Report on the Convention was planned for submission to the Committee on the Rights of the Child in 2008. Internal discussion among ministries, constant feedback on the report and availability of new data has been a continuing challenge in the finalisation of the Report. In order to incorporate new developments and information, this additional chapter on “Information Update” has been added to the report.

## **General Measures of Implementation (arts. 4, 42 and 44, para. 6)**

### **Mid Term Evaluation of the 11th Five Year Plan**

15. The 11th Five Year Plan recognised rights of children regardless of vulnerabilities of their class, caste, religion, ethnicity, regional and gender status. The Plan envisioned inclusive growth and advocated for ending the exclusion and discrimination faced by children. The first half of the 11th Five Year Plan saw the introduction of some new schemes to tackle issues of declining sex ratio, trafficking and child protection. Half way through the Plan, the steps taken to attain inclusive growth as per the goals set out in the Plan are clearly visible; and efforts are being made to accelerate this progress. It is to be recognised that the process of systematic transformation has started and success lies in proper implementation and good governance.<sup>1</sup>

16. The mid-term evaluation of the 11th Five Year Plan provides an assessment of existing programmes and schemes along with recommendations to fulfil the 11th Plan

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<sup>1</sup> Mid Term Appraisal for Eleventh Five Year Plan 2007-2012, Planning Commission, GoI, pp.241-254.

vision of child rights. Some of the key programmes for which the Plan has made recommendations include: the Integrated Child Development Services (ICDS), a Conditional Cash Transfer Scheme called Dhanalakshmi, Ujjawala, to address the issue of trafficking, Integrated Child Protection Scheme (ICPS) and the Rajiv Gandhi National Crèche Scheme (RGNCs) (See Section 1.5.1 for details.).

17. According to the mid-term evaluation, concerted, focused and outcome-oriented efforts are required to address malnutrition for development of children under two years of age. There is need to clearly define the specific purpose of ICDS and parameters against which its performance should be measured. There is need to focus on impacts and outcomes rather than outputs. For the Dhanalakshmi Scheme, there is need to review and revise the Scheme to make it worthwhile and less cumbersome, and also increase the geographical coverage to make it viable and of interest to States. Ujjawala needs much greater publicity, Non-Governmental Organisations (NGOs) need to be encouraged and sensitised to take up the Scheme and procedures need to be streamlined to enable safe and quick repatriation of the victims. ICPS is already being implemented through States/Union Territories (UTs).

18. The RGNCs should be considered for converting into a centrally sponsored scheme with revision in user charges and cost norms to bring them at par with those of ICDS. Furthermore, the mid-term evaluation recommends that efforts are needed to generate flexibility of norms to address critical needs at community level by creating a flexi pool of resources. Schemes need to be funded with realistic cost norms. Dissemination of information about existing schemes also needs to be strengthened.<sup>2</sup> Government is making effort in this direction.

## Data Collection

19. A system for name-based tracking of pregnant women and children for ante-natal care and immunisation is being put in place to obtain accurate data from across the country. The tracking system will capture the contact numbers of beneficiaries and health providers. This will help national monitoring of the health status of pregnant women and infants/children across the country. A help desk/call-centre is also being established to randomly cross-check the health services delivered to these mothers and children.<sup>3</sup>

20. For the first time, an Annual Health Survey has been launched to provide data on key health indicators like the Total Fertility Rate (TFR), Crude Birth and Death Rates, Infant Mortality Rate (IMR), etc. at the District level and Maternal Mortality Rate (MMR) at the Regional level. The survey is being conducted in collaboration with the Office of the Registrar General of India (ORGI) and has been launched in the 284 Districts of nine States, namely, Bihar, Jharkhand, Madhya Pradesh, Chhattisgarh, Uttar Pradesh, Uttarakhand, Orissa, Rajasthan and Assam. A proposal for estimation of anaemia, malnutrition, hypertension, diabetes, and testing of iodine in salt used by households has also been approved.<sup>4</sup>

21. The results of the District Level Household Survey (DLHS-3) 2007-08 were released in 2010. DLHS-3 is a nation-wide survey that covers 601 Districts from 34 States and UTs of India. The earlier surveys were conducted in 2002-04 (DLHS-2) and in 1998-99

<sup>2</sup> Mid Term Appraisal for Eleventh Five Year Plan 2007-2012, Planning Commission, GoI, pp 241-254.

<sup>3</sup> Annual Report to the People on Health, Ministry of Health and Family Welfare, GoI, September 2010, page III.

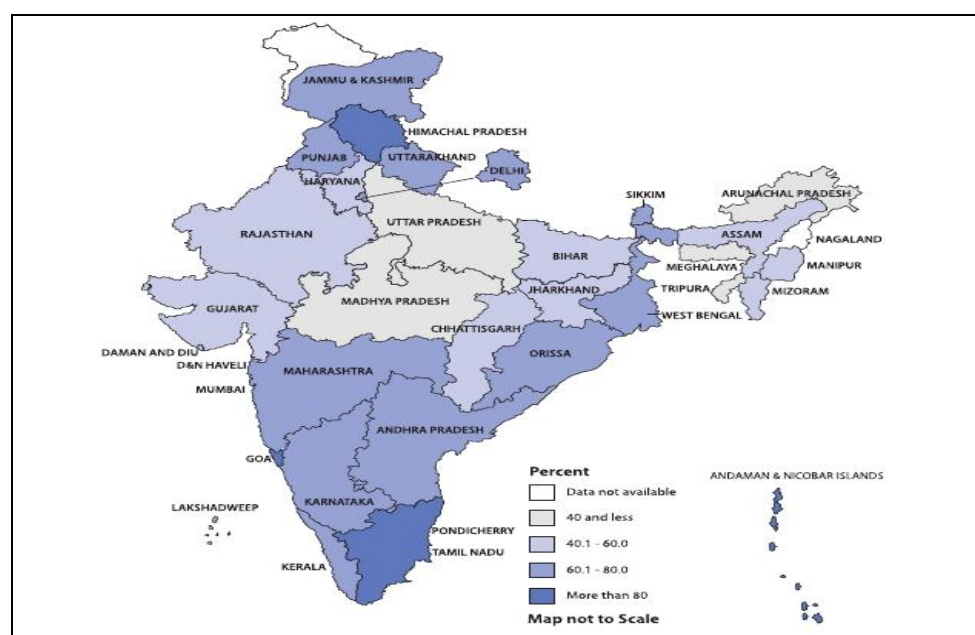
<sup>4</sup> Annual Report to the People on Health, Ministry of Health and Family Welfare, GoI, September 2010, page III.

(DLHS-1). The DLHS-3 provides data on maternal and child health, family planning and other reproductive health indicators. The broad objective of DLHS-3 is to provide reproductive child health outcome indicators at the District level in order to monitor and provide corrective measures to the National Rural Health Mission (NRHM), which was launched in 2005-06 to provide effective health care to the rural population in the country with special focus on States with poor health outcomes and inadequate public health infrastructure and manpower (See Section 1.5.2 for details). The results of the Survey are being used by the States and Districts in monitoring and assessing existing programmes, and initiating steps to further strengthen NRHM's programmatic interventions.<sup>5</sup>

22. According to DLHS-3, at the national level, the proportion of children receiving full vaccination is 54%. The full vaccination includes one dose of BCG, three injections against DPT, three doses of Polio and one vaccine against measles. About 5% of the children at the national level had not received a single vaccine. The coverage of immunisation is higher in urban areas compared to that in the rural areas (63% and 50% respectively).<sup>6</sup> Considerable State-level variations with regard to immunisation coverage persist (See figure 1). States like Himachal Pradesh, Punjab, Goa, Kerala and Tamil Nadu have about 80% coverage. In States like Rajasthan, Arunachal Pradesh, Manipur, Tripura, Meghalaya and Assam more than 10% of the children never received a single vaccine. It is as high as 21% and 15% in Tripura and Meghalaya. In Himachal Pradesh, Sikkim, Karnataka, Goa, Kerala and Tamil Nadu, children who did not receive any vaccine is less than 1%.<sup>7</sup>

Figure 1

**Full Immunisation Coverage of Children (aged 12-23 months) by States**



Source: District Level Household and Facility Survey 2007-08, Ministry of Health and Family Welfare, GoI, page 94.

<sup>5</sup> District Level Household and Facility Survey 2007-08, Ministry of Health and Family Welfare, GoI, pp. 1-2.

<sup>6</sup> District Level Household and Facility Survey 2007-08, Ministry of Health and Family Welfare, GoI, page 90.

<sup>7</sup> District Level Household and Facility Survey 2007-08, Ministry of Health and Family Welfare, GoI, page 91.

23. A high proportion (78%) of women are aware of diarrhoea management and what to do when a child has diarrhoea. Nearly 50% of women are aware about oral rehydration solution (ORS) and 58% have knowledge regarding salt and sugar solution. A high proportion (85%) of urban women are aware about the diarrhoea management as compared to 75% of rural women. Among the mothers with 10 or more years of schooling, the awareness level is 91%. The awareness is 90% among women belonging to the highest wealth quintile households. The knowledge of diarrhoea management is quite high in almost all the States/UTs. Women in Assam, Uttar Pradesh, Rajasthan, Jharkhand, Haryana, Maharashtra, Tamil Nadu and Andhra Pradesh have relatively low levels of knowledge about ORS.<sup>8</sup>

24. About 57% of the women reported awareness about danger signs of acute respiratory infection (ARI) and 11% of the women reported that their children suffered from ARI during the two-week period prior to the survey. A high proportion (77%) of the children who suffered from ARI or fever sought advice/treatment. The percentage of children with ARI symptoms varies considerably across States, from 2% in Arunachal Pradesh to 25% in West Bengal. More than 80% of the children suffering from ARI or fever sought advice/treatment in Andhra Pradesh, Arunachal Pradesh, Delhi, Goa, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Meghalaya, Punjab, West Bengal and Tamil Nadu.<sup>9</sup>

25. At the national level, 57% of the children received at least one dosage of vitamin A. However, the proportion who received three to five dosages of vitamin A is only 19%. About 29% of the children received injections against Hepatitis-B. The coverage is high in urban areas (44%) compared to rural areas (23%). Children belonging to households coming under the highest wealth quintiles, better educated mothers and lower order births are more likely to be vaccinated against Hepatitis-B. The same is the case with Vitamin A supplementation. Only 11% of children from households belonging to the lowest wealth quintile receive the Hepatitis-B injection while it is 54% among the highest wealth quintile households.<sup>10</sup>

26. The data collected on the utilisation of Antenatal Care (ANC) services for women who had their last live/still birth during the three years prior to the survey shows that at the national level 75% of the women received at least one antenatal care visit during pregnancy. About 55% women received ANC from Government health facilities. The percent of women who received any ANC during pregnancy is lowest in Meghalaya (55%) and almost universal in Tamil Nadu, Goa, Kerala and Lakshadweep. At the national level, nearly half of the deliveries (47%) take place in health institutions. The extent of institutional deliveries varies considerably across the States/UTs from the lowest of 18-28% in Jharkhand, Chhattisgarh, Meghalaya, Uttar Pradesh and Bihar to the highest of 94-99% in Tamil Nadu, Goa and Kerala.<sup>11</sup>

<sup>8</sup> District Level Household and Facility Survey 2007-08, Ministry of Health and Family Welfare, GoI, page xxiv.

<sup>9</sup> District Level Household and Facility Survey 2007-08, Ministry of Health and Family Welfare, GoI, pp. 102-103.

<sup>10</sup> District Level Household and Facility Survey 2007-08, Ministry of Health and Family Welfare, GoI, pp. 97-98.

<sup>11</sup> District Level Household and Facility Survey 2007-08, Ministry of Health and Family Welfare, GoI, pp. xxii-xxiii.

## **General Principles (arts. 2, 3, 6 and 12)**

27. The Ministry of Women and Child Development (MWCD) launched a scheme for adolescent girls “Rajiv Gandhi Scheme for Empowerment of Adolescent Girls – SABLA” on a pilot basis in 200 Districts in 2010. These Districts have been selected from all States/UTs on the basis of a composite index on indicators relevant to the condition of adolescent girls across the country. In the selected Districts, SABLA replaces the existing Nutrition Programme for Adolescent Girls (NPAG) and Kishori Shakti Yojana (KSY). In the remaining Districts, KSY where operational, continues as before. SABLA aims at empowering adolescent girls of 11-18 years by improving their nutritional and health status, up-gradation of home skills, life skills and vocational skills. The girls will be equipped with information on health and family welfare, hygiene and guidance on existing public services. The Scheme also aims to mainstream out-of-school girls into formal education or non-formal education.

## **Basic Health and Welfare (arts. 6, 18 (para. 3), 23, 24, 26 and 27 (paras.1-3))**

### **Children with Disabilities (art. 23)**

28. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996 were amended by a notification in 2009, so as to (i) simplify and decentralise the process of issue of disability certificates, and (ii) make more detailed provision regarding eligibility for appointment of Chief Commissioner for Persons with Disabilities with terms of appointment. Detailed guidelines have been issued to State Governments requesting them to make similar changes in the State Rules.<sup>12</sup>

### **Health and Health Services (art. 24)**

29. A new training programme on Basic Newborn Care and Resuscitation, Navjat Shishu Suraksha Karyakram (NSSK), was launched in 2009 to address important interventions of care at birth, which includes: prevention of hypothermia, prevention of infection, early initiation of breast feeding and basic newborn resuscitation. It is a two-day rapid training programme that trains the doctors and nurses at health facilities about newborn care. The objective of this new initiative is to have one person trained in basic newborn care and resuscitation at every delivery. This training is being imparted to medical officers, staff nurses and auxiliary nurse midwife (ANMs) at community health centres (CHCs)/first referral units (FRUs) and 24x7 primary health centres where deliveries are taking place and is expected to reduce neonatal mortality significantly in the country.<sup>13</sup> District-level trainers have been trained for the States of Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Orissa, Rajasthan, Uttar Pradesh, Uttarakhand and Jammu & Kashmir. State-level trainers have been trained in the remaining States.<sup>14</sup>

30. Significant success has been achieved in reducing the number of polio cases in the country and only Uttar Pradesh and Bihar remain the two endemic States in the country for wild polio virus where indigenous transmission still continues. For the first time, Bivalent

<sup>12</sup> Annual Report 2009-10, Ministry of Social Justice and Empowerment, GoI, pp. 13-14.

<sup>13</sup> Annual Report 2009-2010, Ministry of Health and Family Welfare, GoI, pp. 69-70.

<sup>14</sup> Annual Report to the People on Health, Ministry of Health and Family Welfare, GoI, September 2010, page III.

Polio Vaccine for two wild polio virus (P1 and P3) was introduced in the immunisation programme in January 2010, first in Bihar and then in Uttar Pradesh, and is expected to lead to rapid increase of population immunity and control of these two types of virus.

31. Diagnosis of HIV in infants and children below 18 months by using DNA PCR Testing (Early Infant Diagnosis) was rolled out in 2010 through Integrated Counselling and Testing Centres (ICTCs) and Anti-Retroviral Treatment (ART) centres. The cost of the test is fully borne by the Government and is to be repeated up to three times, till the baby is 18 months old. At present, testing has begun in 767 ICTC and 181 ART centres in the States/UTs of Andhra Pradesh, Tamil Nadu, Gujarat, Madhya Pradesh, Karnataka, Maharashtra, Kerala and Puducherry.<sup>15</sup>

32. The Red Ribbon Express (RRE) after a successful first run in 2007-08 returned for a second run from December 2009 to December 2010 with services, information, education and communication (IEC) material, and infotainment activities to educate and inform people on all aspects of HIV/AIDS. This time, National Rural Health Mission (NRHM) has also come on board with National AIDS Control Organisation (NACO), with one coach having an exhibition on TB, and H1N1, malaria, reproductive health and child services. Services for HIV testing, STI treatment and general health check-ups are also catered for. Those who are not able to visit the train are being reached by outreach services through IEC vans and folk troupes in the villages of the Districts through which the RRE is passing.

33. MWCD launched a new scheme in 2010 – Indira Gandhi Matritva Sahyog Yojana (IGMSY) – Conditional Maternity Benefit (CMB) – for pregnant and lactating women on pilot basis in 52 selected districts across the country. The Scheme would contribute to better enabling environment by providing cash incentives for improved health and nutrition to pregnant and lactating mothers. It would address short term income support objectives with long term objective of behaviour and attitudinal change. The Scheme attempts to partly compensate for wage loss to pregnant and lactating women both prior to and after delivery of the child.

### **Education Leisure and Cultural Activities (arts. 28, 29 and 31)**

34. The Right of Children to Free and Compulsory Education (RTE) Act, 2009 published in the Gazette of India on August 27, 2009 was enforced by the Central Government from April 1, 2010. The Act provides for Free and Compulsory education to all children between 6-14 years of age. The Act has considerable implications for the implementation of Sarva Shiksha Abhiyan (SSA). Steps have been initiated to harmonise the vision, strategy and norms under SSA with the RTE Act, 2009 mandate. The Right of Children to Free and Compulsory Education Rules, 2010 have been formed and a National Advisory Council was set-up in 2010 to advice the Central Government on implementation of the provision of the RTE Act, 2009 in an effective manner.

35. The National Commission for Protection of Child Rights (NCPCR) has been assigned with the responsibility of monitoring the child's right to education under Section 31 of the RTE Act, 2009. Accordingly the Commission constituted an Expert Group in 2009 with eminent persons from government and NGOs for advice on matters relating to NCPCR's role in monitoring children's right to education. The group has met thrice to

<sup>15</sup> NACO News, A Newsletter of the National AIDS Control Organisation, Ministry of Health and Family Welfare, GoI, Volume VI, Issue 1, January-March 2010, page 16.

develop strategies and action plan for NCPCR vis-à-vis its role in monitoring child's right to education.<sup>16</sup>

### **Special Protection Measures (arts. 22, 30, 32-36, 37 (b)-(d), 38, 39 and 40)**

36. The Ministry of Women and Child Development (MWCD) launched the centrally sponsored scheme–ICPS with a view to create a safe and secure environment in the country for comprehensive development of children in need of care and protection, children in conflict and contact with law, and any other vulnerable child such as children of migrant families, children of prisoners, children of women in prostitution, working children, children living on the streets, trafficked or sexually exploited children, etc. The signing of memorandum of understanding (MoU) between the Government of India and the respective State Governments/UTs is a prerequisite for the implementation of the Scheme. Majority of the States/UTs (30) have signed the MoU and the remaining States are in the process of doing so.

37. The MWCD is piloting the Protection of Children from Sexual Offences Bill, 2011.

## **II. 1. General Measures of Implementation (arts. 4, 42 and 44, para. 6)**

38. The Concluding Observations (CRC/C/15/Add.228) (CO) addressed in this chapter include:

- The Declaration made under Article 32 of the Convention, CO para. 8;
- Scrutiny and implementation of legislations to ensure implementation of the provisions of the Convention, CO para. 10 (a) and (b);
- Resources, CO para. 12 (a) and (b);
- Coordination, CO para. 14;
- The National Plan of Action/National Charter for Children, CO para. 16;
- Independent monitoring structures, CO para. 18;
- Cooperation with NGOs, CO para. 20;
- Data collection, CO para. 22;
- Dissemination of the Convention, CO para. 24 (a);
- Involvement of Parliamentarians and community and religious leaders, CO para. 24 (b);
- Systematic education on the provisions of the Convention, CO para. 24 (c);
- Promotion of human rights education, CO para. 24 (d);
- Technical assistance, CO para. 24 (e);
- Programmes based on child's needs and rights, CO para. 32;
- Gender impact studies, CO para. 34 (c);
- The Child Marriage Restraint Act, CO para. 61(a);

<sup>16</sup> Annual Report 2009-2010, Ministry of Women and Child Development, GoI, pp. 122-123.

- Childline, CO para. 67.

## Overview

39. The reporting period has witnessed two Five Year Plan periods, in which there has been implementation of the 10th Five Year Plan (2002-07) and conceptualisation and beginning of the 11th Five Year Plan (2007-12). During the 10th Plan period, the Government has initiated policies and programmes to further implement India's commitments under the Convention on the Rights of the Child (the Convention) for the survival, development, protection and participation of children. This was achieved by increased allocation of resources; launch of flagship programmes; convergence of existing programmes; strengthening of legislations; increased coverage of services and enhanced coordination between different stakeholders.

40. The development of children has been at the centre of the 11th Five Year Plan. It takes forward the agenda of child rights and inclusive growth more vigorously, by further strengthening legislations and expanding delivery systems. This includes universalisation of services for nutrition and development of children in the age group of 0-6 years; adoption of free and compulsory education for the age group of 6-14 years; amendment of existing legislations; and launch of comprehensive schemes for protection of children in difficult circumstances, working children, victims of trafficking and other vulnerable children. Furthermore, the Government has set up National Commission for Protection of Child Rights (NCPCR), which has been followed by setting up of similar Commissions by several States at the State level.

41. In early 2006, a major step was taken to consolidate all child-related issues under one umbrella by upgrading the Department of Women and Child Development (DWCD) into a full-fledged Ministry, with enhanced human and financial resources. This has given the much-needed impetus to holistic planning and programming for children. The Ministry of Women and Child Development (MWCD) is working towards the realisation of child rights through improved coordination with other Ministries, State Governments, institutions and civil society.

### 1.1 Institutional Mechanisms

42. Ministry of Women and Child Development: The newly-formed Ministry continues to implement and monitor all policies and programmes/schemes pertaining to children through existing institutional mechanisms. These include the National Institute of Public Cooperation and Child Development (NIPCCD), Central Adoption Resource Authority (CARA), Food and Nutrition Board (FNB), Central Social Welfare Board (CSWB), National Commission for Women (NCW) and Rashtriya Mahila Kosh (RMK). In addition, the MWCD has set up the NCPCR to look into specific cases of child rights violation, which were earlier addressed by the National Human Rights Commission (NHRC).

43. National Commission for Protection of Child Rights: The establishment of NCPCR in 2007, one of the few of its kind in Asia, is a major step towards the protection of rights of children in India. The Commission ensures that all laws, policies, programmes and administrative mechanisms are in consonance with the child rights perspective, enshrined in the Constitution of India and the Convention. In addition, it produces and disseminates information about child rights; takes *suo motu* cognizance of violation of rights and compiles and analyses data on children. The Commission has recently been entrusted with monitoring of the fundamental right to free and compulsory education.



44. Since its formation, the Commission has received and inquired into complaints related to working children, sexual abuse, corporal punishment and juvenile justice. In order to improve the juvenile justice system, the Commission has examined the functioning of statutory bodies such as Juvenile Justice Boards (JJBs), undertaken visits to several observation homes across the country and held consultations with senior officials from different Government Departments, Police and High Court judges and children themselves. It has constituted Working Groups, which have worked on the juvenile justice system, corporal punishment and child labour. The Commission has organised several conferences, workshops and public hearings on the issue of child labour in the States of Andhra Pradesh, Jharkhand, Madhya Pradesh, Chhattisgarh, Bihar, Tripura, Assam, Rajasthan and Gujarat; on the rights of children in civil-strife-affected areas in Andhra Pradesh and Chhattisgarh; and on corporal punishment and child abuse in the State of Tamil Nadu. (See Section 1.8 for details.)

45. Eight States – Goa, Sikkim, Delhi, Maharashtra, Karnataka, Assam, Madhya Pradesh and Rajasthan – have set up State Commissions for Protection of Child Rights (SCPCR) till date; the other States are in the process of setting them up.

46. National Human Rights Commission: The Commission, functioning since 1993, has played a proactive role in this reporting period in the ratification of two Optional Protocols (OPs) to the Convention in 2005 and the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2007. The NHRC undertook a pioneering study in 2003-04, in collaboration with the United Nations Development Fund for Women (UNIFEM), MWCD and the Institute of Social Sciences (ISS), to understand the issue of trafficking of women and children. The Commission has given recommendations on missing children, which were forwarded for compliance to all the States/Union Territories (UTs). These recommendations, *inter alia*, include: setting up of a special squad/missing person's desk at every police station across the country; involvement of community at large by investigating police teams and the evolving of a system of mandatory reporting, whereby all incidents of missing children across the country are reported to the NCPCR.

47. State Human Rights Commissions (SHRCs), set up in 18 States in accordance with the Protection of Human Rights (Amendment) Act, 2006, are engaged in the protection and promotion of child rights.

48. National Commission for Women: During the reporting period, the Commission, along with 26 State Commissions<sup>17</sup>, has handled several complaints of child marriage and has acted *suo motu* in some cases to provide speedy justice. The Commission has sponsored legal awareness programmes and undertaken publicity campaigns against female foeticide, child marriage, rape, etc.

## 1.2 Policy

49. The National Policy for Children (NPC), 1974: The Policy, adopted in, 1974, describes children as 'a supremely important asset' of the nation. This is being reviewed, so that it is brought in tune with current priorities and emerging needs of children.

50. The National Charter for Children (NCC), 2003: The NCC, 2003, adopted in 2004, emphasises the Government's commitment to children's rights to survival, development

<sup>17</sup> Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Mizoram, Orissa, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand, Uttar Pradesh and West Bengal.

and protection. Whilst listing the responsibilities of the State and the community towards ensuring the rights of children, it also enumerates children's duties towards their families, society and the nation.<sup>18</sup> The Charter seeks and:

- (i) Emphasises survival, life and liberty;
- (ii) Promotes highest standards of health and nutrition;
- (iii) Assures basic minimum needs and security;
- (iv) Provides for free and compulsory education;
- (v) Provides for protection of children from economic exploitation and all forms of abuse;
- (vi) Provides for protection of the girl child from discriminatory practices, including child marriage;
- (vii) Emphasises strengthening of families;
- (viii) Provides for protection of Children with Disabilities (CWDs);
- (ix) Ensures child-friendly procedures, namely judicial, administrative, educational and social.

51. The National Plan of Action for Children (NPAC), 2005: The NPAC, 2005, commits to ensure the rights of all children by creating an enabling environment for their survival, growth, development and protection. The NPAC, 2005, envisages a collective commitment and action by all sectors and levels of Governments, and a partnership of the Government with families, communities, voluntary sector, civil society and children themselves, in consonance with the Convention, concluding observations of the Committee on the Rights of the Child (the Committee), the Millennium Development Goals (MDGs), and 'A World Fit for Children'.<sup>19</sup> The NPAC, 2005, has set specific time-bound targets to:

- (i) Reduce Infant Mortality Rate (IMR) to below 30 per 1,000 live births by 2010;
- (ii) Reduce Child Mortality Rate (CMR) to below 31 per 1,000 live births by 2010;
- (iii) Reduce Maternal Mortality Rate (MMR) to below 100 per 100,000 live births by 2010;
- (iv) Provide universal equitable access and use of safe drinking water and improved access to sanitary means of excreta disposal by 2010;
- (v) Provide 100% access to basic sanitation to the rural population by 2012;
- (vi) Eliminate child marriages by 2010;
- (vii) Eliminate disability due to poliomyelitis by 2007;
- (viii) Reduce the proportion of infants infected with Human Immunodeficiency Virus (HIV) by 20% by 2007 and by 50% by 2010.

<sup>18</sup> National Charter for Children, 2003, Department of Women and Child Development, Ministry of Human Resource Development, GoI, February 2004, Sub folder 'Policy', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>19</sup> National Plan of Action for Children, 2005, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2005, Sub folder 'Policy', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

52. The 11th Five Year Plan (2007-12): The mid-term appraisal of programmes for women and child development in the 10th Five Year Plan had revealed gaps and inconsistencies. As a result, the second half of the 10th Five Year Plan witnessed major initiatives in policy and resource commitments to child survival and development, such as the universalisation of Integrated Child Development Services (ICDS), Mid Day Meal Scheme (MDMS) and Sarva Shiksha Abhiyan (SSA), and the introduction of Kishori Shakti Yojana (KSY). Certain flagship programmes addressing poor communities and impacting children were also launched, such as the National Rural Health Mission (NRHM), Total Sanitation Campaign (TSC) and the National Rural Employment Guarantee Scheme (NREGS).<sup>20</sup> Furthermore, assessments at the close of the 10th Plan period highlighted a slowdown in the pace of decline of poverty, which was a cause of concern, as it resulted in food insecurity and high levels of malnutrition among children.

53. The 11th Five Year Plan has, therefore, accorded the highest priority to India's commitment to children, as laid down in the Constitution of India, the Convention on the Rights of the Child, NPC 1974, NPAC 2005, and the Millennium Declaration.<sup>21</sup> The 11th Plan commits to create a protective environment, which will ensure every child's right to survival, development and participation. Recognising that women and children are not homogenous categories, it places an emphasis on mapping of specific deprivations and addressing the issues related to inclusion, education, health and protection through planned interventions. It lays down six specific targets:

- (i) Raising the sex ratio for the 0-6 age group from 927 in 2001 to 935 by 2011-12 and to 950 by 2016-17;
- (ii) Ensuring that women and girl children comprise at least 33% of the direct and indirect beneficiaries of all Government schemes;
- (iii) Reducing IMR from 57 to 28, and MMR from 3.01 to 1 per 1,000 live births by the end of the 11th Five Year Plan;
- (iv) Reducing malnutrition among children in the 0-3 age group to half its present level by the end of the 11th Five Year Plan;
- (v) Reducing anaemia among women and girls by 50% by the end of the 11th Five Year Plan;
- (vi) Reducing drop-out rates at the level of primary and secondary schooling by 10% for both girls and boys by the end of the 11th Five Year Plan.

54. The National Policy for Persons with Disabilities, 2006: The Policy recognises that a majority of Persons with Disabilities (PWDs) can lead a better quality of life if they have access to equal opportunities and effective rehabilitation measures. The provisions for children under the Policy include<sup>22</sup>:

- (i) The right to care, protection and security;
- (ii) The right to development with dignity and equality in an enabling environment and in accordance with various Statutes;

<sup>20</sup> Report of Working Group on Development of Children for the 11th Five Year Plan, Ministry of Women and Child Development, GoI, pp. 4, 6.

<sup>21</sup> Report of Working Group on Development of Children for the 11th Five Year Plan, Ministry of Women and Child Development, GoI, page 6.

<sup>22</sup> National Policy for Persons with Disabilities, Ministry of Social Justice and Empowerment, GoI, February 2006, Sub folder 'Policy', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

- (iii) Inclusion and effective access to education, health and vocational training, along with specialised rehabilitation services;
- (iv) The recognition of special needs of children with severe disabilities for their care and protection.

55. To further these, an amendment in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, is being undertaken. (See Section 1.4.3 for details.)

56. The Policy Framework for Children and AIDS in India, 2007: The 'Policy Framework for Children and AIDS in India' was released by the Ministry of Health and Family Welfare (MoH&FW) and the Ministry of Women and Child Development in 2007. This Policy Framework seeks to address the needs of children infected/ affected by HIV/Acquired Immuno Deficiency Syndrome (AIDS), by integrating services for them within the existing development and poverty-reduction programmes. It focuses on vulnerable children and adolescents, HIV positive children, pregnant HIV positive women, and children, whose parents are either HIV positive or have AIDS or have died of AIDS-related condition.<sup>23</sup> The four key strategies are: prevention of Parent-to-Child Transmission (PPTCT), primary prevention among adolescents, paediatric AIDS treatment, and protection and care of children and families affected by AIDS.

57. The National Rehabilitation and Resettlement Policy, 2007: This Policy replaced the National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003. Under the new Policy, no project involving displacement of families beyond defined thresholds can be undertaken without a detailed social impact assessment, which would include impact on the lives of children. The key features of the Policy include: principle of rehabilitation before displacement, housing benefits to all affected families, including the landless, and monthly pension to the vulnerable people, such as disabled, destitute, orphans, unmarried girls, etc.<sup>24</sup> Guided by the new Policy, a National Rehabilitation and Resettlement Bill, 2007, has been drafted. (See Section 1.4.4 for details.)

58. The NCPCR has made recommendations vis-à-vis the Bill in the context of child rights. These include the need for an assessment of the impact of displacement on children (gender-and age-specific) and their access to entitlements. It has also emphasised the need for a mandatory survey of affected families, enumerating their state of health, nutrition and education.<sup>25</sup>

59. The National Urban Housing and Habitat Policy, 2007: The Policy seeks to promote sustainable development of habitat in the country with a view to ensure equitable supply of land, shelter and services at affordable prices to all sections of the society and thereby provides shelter to children from disadvantaged families.<sup>26</sup>

<sup>23</sup> Policy Framework for Children and AIDS in India, National AIDS Control Organisation, GoI, July 31, 2007, page 10, Sub folder 'Policy', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>24</sup> Annual Report (2007-08), Ministry of Rural Development, GoI, pp. 168-169.

<sup>25</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Commission for Protection of Child Rights, GoI, October 2009, page 1.

<sup>26</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Housing and Urban Poverty Alleviation, GoI, August 2009, page 1.

### 1.3 International Legal Instruments

60. On January 5, 2002, India signed the South Asian Association for Regional Cooperation (SAARC) Convention on Prevention and Combating Trafficking of Women and Children in Prostitution to promote cooperation amongst Member States. The Convention helps to effectively deal with various aspects of prevention, interdiction and suppression of trafficking in women and children. Under the Convention, repatriation and rehabilitation of victims of trafficking and prevention of the use of women and children in international prostitution networks, (particularly where SAARC member countries are countries of origin, transit and destination), are areas of focus. In 2002, India became a signatory to the SAARC Convention on Regional Arrangements on the Promotion of Child Welfare in South Asia, which recognises survival, protection, development and participatory rights of the child as a vital pre-requisite, and promotes solidarity, cooperation and collective action between SAARC countries in the area of child rights.

61. India ratified two Optional Protocols (OP) to the Convention, namely the OP on the Sale of Children, Child Prostitution and Child Pornography, and the OP on the Involvement of Children in Armed Conflict, on September 16, 2005, and December 30, 2005, respectively.

62. On October 2, 2007, India ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD), and committed itself to the rights of PWDs, including the rights of children with disabilities.

### 1.4 National Legislation

63. The legislative framework for children's rights is being strengthened with the formulation of new laws and amendments in old laws. This includes new legislations such as the Prohibition of Child Marriage Act (PCMA), 2006, the Right of Children to Free and Compulsory Education Act 2009, the Protection of Women from Domestic Violence Act (PWDVA), 2005, and the Commissions for Protection of Child Rights Act (CPCRA), 2005. Amendments have been made to existing legislations such as the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, (JJ (Amendment) Act, 2006) and the Goa Children's (Amendment) Act, 2005. In addition, there are new legislations on the anvil, such as the proposed Prevention of Offences against the Child Bill, 2009, and the HIV/AIDS Bill, 2006. Both are currently at different stages of discussion. The legislations that already exist for children have been described in India First Periodic Report 2001 (See India First Periodic Report 2001, paras 7-13, pp. 5-6 for details.) The Central Government as well as State Governments undertake several awareness generation activities through print and electronic media to inform and educate people about the provisions under the new and old legislations.

#### 1.4.1 New Legislation

64. The Commissions for Protection of Child Rights Act, 2005: This Act provides for the setting up of independent Commissions at the national and State levels (See Section 1.1 for details.), to monitor all laws, policies, programmes and administrative mechanisms,

from a child rights' perspective. It also provides for setting up of children's courts for speedy trial of offences against children, including violation of child rights.<sup>27</sup>

65. The Protection of Women from Domestic Violence Act, 2005: The Act provides a more comprehensive definition of domestic violence, which, besides acts of abuse, includes the threat of physical, sexual, verbal, emotional or economic abuse. The Act indirectly provides protection to children, who may also be victims of domestic violence, and also extends its protection to women who are sisters, widows or mothers.<sup>28</sup>

66. The Right to Information (RTI) Act, 2005: The RTI Act, 2005, mandates timely response by public authorities to citizens' requests for information. This Act has brought about a revolution in the flow of information to the common person on various domains of public life, including the use of public resources; and thereby brought about more transparency in governance.<sup>29</sup>

67. The Prohibition of Child Marriage Act, 2006: This law has replaced the Child Marriage Restraint Act, 1929. The offences under the Act are both cognizable and non-bailable. Some of the important provisions are: child marriage to be made void at the option of the contracting party, who was a child at the time of the marriage up to two years after obtaining adulthood; provision for maintenance to the female contracting party until her re-marriage; and passing of appropriate custody orders by the District Court for children born out of a child marriage. All these changes have been made keeping the welfare and best interests of the child as the paramount consideration. The PCMA, 2006, has enhanced the punishment for male adults marrying a child and for persons performing, abetting, promoting or attending a child marriage, with imprisonment of up to two years and a fine of up to Rs 0.1 million.<sup>30</sup>

68. Under this Act, 10 States have framed their Rules; in other States it is in progress.<sup>31</sup> The States of Chhattisgarh and Karnataka have appointed Child Marriage Prohibition Officers in every District.

69. The Supreme Court has reiterated its earlier judgement of February 14, 2006, on July 23, 2007, that marriages of all citizens of India, irrespective of their religion, have to be compulsorily registered in the States where the marriage was solemnised.<sup>32</sup> This is a major step forward to prevent child marriage, as it makes it mandatory to give age at the time of marriage.

70. The MWCD has developed a handbook on the Act and its implementation. To implement the PCMA, 2006, the Government of India is conducting capacity-building and training programmes for stakeholders in collaboration with United Nations agencies

<sup>27</sup> The Commission for Protection of Child Rights Act, 2005, Ministry of Law and Justice, GoI, January 2006, Sub folder 'Legislation', India: Third and Fourth Combined Period Report on the CRC Attachments.

<sup>28</sup> The Protection of Women from Domestic Violence Act, 2005, Ministry of Women and Child Development Notification, GoI, October 2006, Sub folder 'Legislation', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>29</sup> The Right to Information Act, 2005, Ministry of Law and Justice, GoI, June 2005, Sub folder 'Legislation', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>30</sup> The Prohibition of Child Marriage Act, 2006, Ministry of Law and Justice, GoI, January 2007, Sub folder 'Legislation', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>31</sup> Annual Report (2008-09), Ministry of Women and Child Development, GoI, page 70.

<sup>32</sup> As of now, registration of marriage is compulsory under the Christian Marriage Act, 1872, the Parsi Marriage and Divorce Act, 1936, and the Special Marriage Act, 1954, and optional under the Hindu Marriage Act, 1955.

and Non-Governmental Organisations (NGOs) and is also actively seeking the participation of all stakeholders, including community and religious leaders, for the purpose.

71. The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006: This Act seeks to recognise and vest forest rights and occupation of forest land with traditional forest dwellers. The provisions of the Act have come into force with effect from December 31, 2007.<sup>33</sup> The Rules under the Act have also been notified on January 1, 2008.<sup>34</sup>

72. The Unorganised Workers' Social Security Act, 2008: The Act provides for formulation of welfare schemes for workers of different sections of the unorganised sector on matters related to: (i) life and disability cover; (ii) health and maternity benefits for the workers and their children; (iii) old-age protection, etc.<sup>35</sup>

73. The Right of Children to Free and Compulsory Education Act, 2009: The Constitutional (Eighty Sixth) Amendment Act, 2002, inserted Article 21-A in the Constitution, which provides that 'the State shall provide free and compulsory education to all children of the age of 6-14 years in such manner as the State may, by law, determine'. The resulting legislation has been titled the Right of Children to Free and Compulsory Education Act, 2009.<sup>36</sup> Some of the key features of the Act include:

- (i) The right of children (6-14 years) to free and compulsory education till the completion of elementary education in a neighbourhood school;
- (ii) Specification of duties and responsibilities of Governments, local authorities and parents in providing free and compulsory education;
- (iii) Revision in norms and standards relating, inter alia, to Pupil-Teacher Ratio (PTR), buildings and infrastructure, school's working days, and teachers' working hours;
- (iv) Rational deployment of teachers by ensuring that the specified PTR is maintained for each school, thereby ensuring that there is no urban-rural imbalance in teacher postings;
- (v) Appointment of appropriately-trained teachers, i.e. teachers with requisite entry and academic qualifications;
- (vi) Prohibition of (a) physical punishment and mental harassment; (b) screening procedures for admission of children; (c) capitation fees; (d) private tuition by teachers; and (e) running of schools without recognition;
- (vii) Penalty for charging capitation fee, for resorting to screening during admission and for running a school without recognition;

<sup>33</sup> Notification No. 17014/02/2007-PC&V (Vol. III), Ministry of Tribal Affairs, GoI, December 31, 2007.

<sup>34</sup> The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Ministry of Law and Justice, GoI, January 2007, Sub folder 'Legislation', India: Third and Fourth Combined Periodic Report on the the Convention Attachments.

<sup>35</sup> The Unorganised Worker's Social Security Act, 2008, Ministry of Law and Justice, GoI, December 2008, Sub folder 'Legislation', India: Third and Fourth Combined Periodic Report on the the Convention Attachments.

<sup>36</sup> The Right of Children to Free and compulsory Education Act, 2009, Ministry of law and Justice, GoI, August 2009, Sub folder 'Legislation', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

- (viii) Development of curriculum in consonance with the values enshrined in the Constitution;
- (ix) Protection and monitoring of the child's right to free and compulsory education and redressal of grievances by the NCPCR and the SCPCRs.

#### **1.4.2 Amendments in Existing Legislation**

74. The Hindu Succession (Amendment) Act, 2005: The Amendment Act removes gender-discriminatory provisions in the Hindu Succession Act, 1956, and gives equal rights to daughters (See Annexure 1.1 for details of provisions of the Hindu Succession (Amendment) Act, 2005.)

75. The Goa Children's (Amendment) Act, 2005: The Goa Children's Act, 2003, a pioneering attempt to address abuses against children, formulated by the State Government of Goa, was amended in 2005 to deal more stringently with various forms of child abuse and to regulate children's homes and hospitals. The amended Act has expanded the scope of various abuses under commercial sexual exploitation of children and grave sexual assault through a comprehensive definition of child pornography. The Act also provides for strict punitive action and focuses on care and protection of children through appropriate rehabilitative measures.<sup>37</sup>

76. The Criminal Procedure Code (Amendment) Act, 2005 (CrPC (Amendment) Act, 2005): The Act was amended twice during the reporting period, in 2005 and again in 2008. The notable changes include: women judges to hear rape cases as far as practicable; recording of statements of victims at places of their choice; and completion of investigations within three months from the date on which the information was recorded by the officer-in-charge of the police station. (See Annexure 1.2 for details of provisions under the CrPC (Amendment) Act, 2008.)

77. The Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006: The Juvenile Justice (Care and Protection of Children) Act, 2000, (JJ Act, 2000) was amended in 2006 to ensure better care and protection for children. The Juvenile Justice (Care and Protection of Children) Rules, 2007, (JJ Rules, 2007) were also made by the Government for effective implementation and administration of the Act.

78. The JJ (Amendment) Act, 2006, states that JJBs and Child Welfare Committees (CWCs) are to be set up by State Governments for all the Districts within a year of this Act coming into force. The amendment prohibits placement of a juvenile in conflict with law in police custody/lock-up. It places the juvenile under the charge of the Special Juvenile Police Unit (SJPU) or a designated police officer immediately, and states that a juvenile in conflict with law has to be produced before a JJB within 24 hours. The Act also protects the privacy of the child/juvenile in conflict with law by prohibiting the publication of names, etc. in any print or visual media. It also provides for speedy disposal of cases through regular review of pending cases every six month by the Chief Judicial Magistrate (CJM)/Chief Metropolitan Magistrate (CMM). Furthermore, it restricts the stay of a child/juvenile in conflict with law in a special home to three years and directs that the State Governments shall constitute child protection units in every District of the State.

79. The JJ (Amendment) Act, 2006, also includes child beggars and working children in the category of children in need of care and protection, thereby expanding the scope of the Act. The Act states that all institutions, whether run by State Governments or by voluntary

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<sup>37</sup> The Goa Children's Act, 2003 and Rules 2004, Sub folder 'Legislation', India: Third and Fourth Combined Periodic Report on the CRC Attachments.



organisations for children in need of care and protection, are to be registered within six months of the Act being passed. The Act has made the adoption process simpler and allows for adoption of children from juvenile homes.<sup>38</sup>

80. The Child Labour (Prohibition and Regulation) Act, 1986: The Government issued two notifications (on July 10, 2006, and September 25, 2008) during the reporting period, expanding the list of banned and hazardous processes and occupations in Schedule II of the Child Labour (Prohibition and Regulation) Act, 1986. Among the additions are domestic work, work in hotels, *dhabas*, spas and recreation centres, diving, processes involving exposure to excessive heat and cold, such as mechanised fishing, food processing, beverage industry, timber handling and loading, mechanical lumbering and warehousing, etc.<sup>39</sup> The number of occupations listed in Part A is 16 and the number of processes listed in Part B is 65. (See Annexure 8C.1.2 for list of occupations and processes banned under the Child Labour (Prohibition and Regulation) Act, 1986.)

81. In response to the Committee's recommendation to withdraw the declaration made to Article 32 of the Convention, the Government considering the socio-economic conditions in the country has adopted a multi-pronged strategy for elimination of child labour, which emphasises on: (a) legislative measures; (b) general development programmes for the benefit of the families of child labour and; (c) project-based action in the area of high concentration of child labour. In addition, the ILO, in its resolution of 1979, also called for combination of efforts for prohibition of child labour with measures for harmonising child labour wherever the same cannot be outright eliminated. Keeping in view all these factors, but at the same time to give effect to the Committee's recommendations, amendments are being made in labour laws, which is a continuous process.<sup>40</sup>

82. The Maternity Benefit (Amendment) Act, 2008: The amended Act provides for more time to mothers for the care and protection of infants by regulating maternity benefits available to women in factories, mines, circuses, plantations and shops or establishments employing 10 or more persons. Consequent upon the acceptance of the recommendations of the Sixth Pay Commission, as a measure of India's commitment under the Convention, the Central Government has issued an order allowing childcare leave to employees.

83. The Information and Technology (Amendment) Act, 2008: The amended Act addresses exploitation of children through the internet. Section 67 (b) provides for punishment for publishing or transmitting material depicting children in sexually explicit acts, etc. in electronic form.<sup>41</sup> The amended Act provides for punishment to whoever:

- (i) Publishes or transmits or causes to be published or transmitted material in any electronic form, which depicts children engaged in a sexually-explicit act or conduct;

<sup>38</sup> The Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, Ministry of Law and Justice, GoI, August 2006, Sub folder 'Legislation', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>39</sup> The Gazette of India: Extraordinary, Part II-Section 3-Sub Section (ii), Ministry of Labour and Employment (Child Labour Section) Notification, September 25, 2008, page 2.

<sup>40</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Labour and Employment, GoI, September 2009 and February 2011, page 1.

<sup>41</sup> The Information Technology (Amendment) Act, 2008, Ministry of Law and Justice, GoI, February 2009, Sub folder 'Legislation', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

- (ii) Creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in an obscene or indecent or sexually-explicit manner;
- (iii) Cultivates, entices or induces children to online relationship with one or more children for, and on, a sexually-explicit act or in a manner that may offend a reasonable adult on the computer resource;
- (iv) Facilitates abusing children online;
- (v) Records in any electronic form own abuse or that of others pertaining to sexually explicit act with children.

#### 1.4.3 Proposed Amendments in Existing Legislation

84. Amendment to the Immoral Traffic (Prevention) Act (ITPA), 1956: The ITPA, 1956, criminalises procuring, inducing and detaining for purpose of prostitution but it does not define 'trafficking' per se in human beings. The Government has been considering making amendments to this Act to widen its scope, to focus on traffickers, to prevent re-victimisation of victims and to ensure its effective implementation.

85. A major amendment proposed includes insertion of a new section defining comprehensively the 'Trafficking in Persons' on the lines of definition of trafficking contained in the OP to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, to the United Nations Convention on Trans-National Organized Crime.

86. Amendment to the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) (PCPNDT) Act, 1994: The existing PCPNDT Act, 1994, pre-empts the use of technologies, which significantly contribute to the declining child-sex ratio and to curb their misuse for detection and disclosure of sex of the foetus, lest it should lead to sex-selective abortion. Amendments have been proposed to make the implementation of the Act more effective and stringent by strengthening the appropriate authorities.<sup>42</sup>

87. Amendment to the Registration of Births and Deaths (RBD) Act, 1969: The Government has proposed amendments to certain Sections of the RBD Act, 1969, in order to increase the accountability, simplify the procedure of registration of births and deaths, and make the Act citizen-friendly. The proposed amendments, inter alia, include enabling provisions for registration of births of 'street children', as well as 'adopted children'.<sup>43</sup>

88. Amendment to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995: The proposed amendments pertain to the definition of a number of disabilities (viz. mental illness, cerebral palsy, low vision, mental retardation and other impairments) and revised provisions regarding the institutions responsible for implementation. Furthermore, the amendments also propose more specific obligations of the States and local authorities (such as developing strategies and schemes for inclusive education) and stronger provisions for regular data collection on socio-economic status of PWDs. The Government has initiated steps for amending the Act to harmonise it with the Convention on the Rights of Persons with Disabilities.

<sup>42</sup> Brief on Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, as of May 14, 2008, Ministry of Health and Family Welfare, GoI, 2008, page 4.

<sup>43</sup> India: Third and Fourth Combined Period Report on the CRC draft, Response of Ministry of Home Affairs, GoI, September 2009, pp 1-2.

89. Amendment to the Land Acquisition Act, 1894: The proposed amendment seeks to modify provisions of the existing Land Acquisition Act, 1894, with a view to strike a balance between the need for land for development and other purposes, and protecting the interests of families, including children, displaced or adversely affected on account of in-project acquisition of their land.

#### **1.4.4 Proposed Legislation**

90. The Prevention of Offences against the Child Bill, 2009: The MWCD felt the need for a dialogue on various kinds of offences against children and a comprehensive legislation to address these more effectively. After wide consultations with voluntary organisations, experts and United Nations agencies, Prevention of Offences against the Child Bill, 2009, was prepared and is being reviewed by MWCD. The MWCD is also in the process of formulating a comprehensive legislation to address the issue of sexual offences against children.

91. The HIV/AIDS Bill, 2006: The proposed Bill seeks improved access to HIV/AIDS services and facilities for testing, and deals with issues such as human rights, special provisions for women, children and young persons, disclosure of information, social security, procedure in court and implementation.<sup>44</sup> It also recognises the right of children and young persons to access healthcare services and information in their own right. This is particularly important for street children and those living on their own. This Bill has been drafted through extensive research and nationwide consultations with stakeholders.

92. The National Rehabilitation and Resettlement Bill, 2007: This Bill aims at giving a legal basis to the provisions of the National Rehabilitation and Resettlement Policy, 2007, by articulating the basic premise that all projects leading to involuntary displacement must address the grievances of affected persons, and that administrative mechanisms must be established at the Central and State levels for the effective rehabilitation and resettlement of the displaced population.

93. The Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005: This Bill contains measures for prevention of acts leading to communal violence, and protects children who are victims of communal situations, both directly and indirectly.

## **1.5 Programmes**

94. The Government of India is implementing a number of programmes, which focus on social inclusion, gender sensitivity, child participation and protection. This approach is based on the principles of the Convention and the MDGs, and is reflected in the NPAC 2005, the 11th Five Year Plan and all national flagship programmes.

### **1.5.1 Programmes Implemented by MWCD**

95. Integrated Child Development Services: The ICDS has been a major initiative of the MWCD for achieving child-nutrition-related MDGs. In 2008, the Government of India approved the third expansion phase of the ICDS, with special focus on habitations/settlements predominantly covered by Scheduled Castes (SCs)/Scheduled Tribes (STs) and minority population. As of March 31, 2009, the Scheme has reached

<sup>44</sup> The Lawyers Collective HIV/AIDS Unit was requested by National AIDS Control Organisation to prepare a draft legislation on HIV/AIDS, to be presented to the Parliament in April 2003, <http://lawyerscollective.org/hiv-aids/draft-law>.

86 million supplementary nutrition beneficiaries and 33 million pre-school education beneficiaries. (See Section 6C.3.2 for details.)

96. Kishori Shakti Yojana and Nutrition Programme for Adolescent Girls (NPAG): These two Schemes are being implemented on a pilot basis for the development of adolescent girls, using the ICDS infrastructure. The KSY promotes self-development, nutrition and health status, literacy and numerical and vocational skills among girls in the 11-18 age group. The NPAG addresses the problem of under-nutrition among adolescent girls. The MWCD has decided to merge the two schemes into a unified National Programme 'Rajiv Gandhi Scheme for Empowerment of Adolescent Girls', with content enrichment and universal coverage. (See Section 6C.3.2 for details.)

97. Rajiv Gandhi National Crèche Scheme for Children of Working Mothers: The Scheme, launched in 2006 by the MWCD, provides day-care crèche services to the children in the 0-6 age group and includes provisions for supplementary nutrition, emergency medicines and contingencies. The Scheme has an in-built component for monitoring of crèches. A component of the crèche workers' training has been added to orient the crèche workers to provide better services and to create a child-friendly environment in the crèche centres. At present, 31,718 crèches have been sanctioned under the scheme. (See Section 5B.3 for details.)

98. Scheme of Assistance to Home for Children (Shishu Greh) to Promote In-country Adoption: The Scheme provides support for institutional care within the country for care and protection of infants and children up to six years of age, who have either been abandoned, or orphaned or have been rendered destitute. Nearly 6,000 children have been placed in adoption through Shishu Grehs in 18 States (Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Delhi, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Orissa, Rajasthan, Tripura and West Bengal.). This Scheme has now been merged with the recently-launched Integrated Child Protection Scheme (ICPS).

99. Dhanalakshmi – A Conditional Cash Transfer Scheme: A new pilot Scheme 'Dhanalakshmi – Conditional Cash Transfer (CCT) for Girl Child with Insurance Cover' was launched on March 3, 2008, by the MWCD in 11 blocks across seven States of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Orissa, Uttar Pradesh and Punjab. The Scheme proposes to provide cash transfers to the family of the girl child (preferably the mother) on fulfilling certain specific conditions for the girl child: at the time of birth and registration of birth; during immunisation; on enrolment and retention in school; and at the age of 18 years, for unmarried girls. In addition, insurance cover of Rs 0.1 million would be done for the girl child born on, or after, the cut-off date suggested in the Scheme.

100. The direct and tangible objective of the Scheme is to provide a set of staggered financial incentives for families to encourage them to retain the girl child and educate her. The more subtle and intangible objective is to change the attitudinal mindset of the family towards the girl, by linking cash transfers to her well-being. This will force the families to look upon the girl as an asset rather than a liability, since her very existence has led to cash inflow to the family.

101. Programme for Juvenile Justice: The Programme provides for the establishment and maintenance of institutions for the rehabilitation of juveniles in conflict with law and children in need of care and protection. At present, there are 794 homes established under the JJ Act, 2000, catering to 46,957 children. This Programme has been merged with the recently-launched ICPS. (See Section 8B.4.3 for details.)

102. Integrated Programme for Street Children: The objective of this Programme is to prevent destitution of children and facilitate their withdrawal from life on the streets. Financial assistance (90%) is provided to the eligible NGOs working for the welfare of

street children and providing services such as shelter, formal and non-formal education, vocational training, nutrition, healthcare, sanitation and hygiene, safe drinking water, recreational facilities, and protection against abuse and exploitation. Since its inception, 321,854 street children have been extended help through 83 organisations in 21 States/UTs. This Programme has now been merged with the recently-launched ICPS. (See Section 8E.3 for details.)

103. Scheme for Welfare of Working Children in Need of Care and Protection: Launched in 2005-2006, the Scheme lends support to projects in urban areas not being covered by the existing schemes of the Ministry of Labour and Employment (MoL&E). The Scheme provides support for the wholesome development of child workers and potential child workers, especially those with none or ineffective family support, such as children of pavement dwellers/drug addicts, children living in slums/on railway platforms/along railway lines, children working in shops, *dhabas*, etc. (See Section 8C.1.3 for details.)

104. Ujjawala – A Comprehensive Scheme for Prevention of Trafficking, and Rescue, Rehabilitation, Re-integration and Repatriation of Victims of Trafficking and Commercial Sexual Exploitation: The Scheme, launched in December 2007, primarily focuses on preventing trafficking through social mobilisation and community involvement on the one hand and rescue and rehabilitation of its victims on the other. (See Section 8C.5.5 for details.)

105. Childline: The Childline service, being run by the Government through CIF, is a 24-hour, toll-free phone no. 1098 with outreach service linking children in need of care and protection to organisations run by Government departments, as well as to those run by civil society agencies. Currently, the service operates in 83 cities/ towns across the country, with 190 collaborative, support and nodal partners, and services over two million calls a year. Under the ICPS, Childline services are to be extended to the entire country in a phased manner. Childline is dependent on a set of structures and services that are provided by the system to be able to rehabilitate the child. The Government is continuously strengthening these structures to ensure child protection such as CWCs, JJBs, SJPU, State Child Protection Society, and District Child Protection Society. Inter-departmental coordination and convergence at the field level is also being strengthened to ensure that children can be rescued and rehabilitated in time and that prosecution is initiated against perpetrators of crimes against children. Improved access and quality of services is an important element under the recently-launched ICPS and will be taken up during the 11th Five Year Plan. The Childline ensures proper documentation of all children rescued to facilitate their rehabilitation and restoration where necessary and also provides data related to children rescued and rehabilitated, for compilation of a national comprehensive database on child protection.

106. Integrated Child Protection Scheme: The Ministry formulated ICPS, a Centrally Sponsored Scheme (CSS), with a view to provide a safe and secure environment for the overall development of children, who are in need of care and protection, as well as children in conflict with law, including children in difficult circumstances.

107. The objectives of the Scheme are to contribute to the improvement in the well-being of children in difficult circumstances, as well as to the reduction in vulnerabilities to situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children. These will be achieved by:

- (i) Improved access to and quality of child protection services;
- (ii) Raised public awareness about the reality of child rights, situation and protection in India;

- (iii) Clearly-articulated responsibilities and enforced accountability for child protection;
- (iv) Established and functioning structures at all Government levels for delivery of statutory and support services to children in difficult circumstances;
- (v) Introduction of operational, evidence-based monitoring and evaluation.

108. The services financed under the ICPS for strengthening/introduction are emergency outreach services through Childline, transitional/open shelters for children in need in urban and semi-urban areas, cradle baby reception centres, family-based non-institutional care through sponsorship, foster care, adoption and after care. In addition, institutional services such as shelter homes, children's homes, observation homes, special homes, and specialised services for children with special needs are also provided under the Scheme. Besides, general grants-in-aid for need-based/ innovative interventions are also being given; a child-tracking system, including a website for missing children, is being created; and interventions are being planned for advocacy, public education and communication and training of all child protection personnel.

109. The service delivery structures for the above services will be available at the Central, State and District levels. These are in the form of Central Project Support Unit, Childline India Foundation (CIF), CARA and NIPCCD at the Central level; State Project Support Unit, State Child Protection Society, and State Adoption Resource Agency at State level; and District Child Protection Society and Specialised Adoption Agencies at District level.

### 1.5.2 Programmes Implemented by Other Ministries

110. Sarva Shiksha Abhiyan: A flagship programme of the Government of India, it is being implemented in partnership with States, to address the educational needs of children in the age group of 6-14 years. SSA aims to bridge all social, gender and regional gaps, with active participation of the community in the management of schools. A 2% education cess is being levied since 2004 on all taxes and has been earmarked to fund this programme.<sup>45</sup> In the 11th Five Year Plan, SSA will shift its focus from access and infrastructure at the primary level to enhancing retention and improving quality of learning. (See Section 7A.5.2 for details.)

111. National Programme for Education of Girls at the Elementary Level (NPEGEL): The Programme provides additional support for development of a 'model girl-child-friendly school' in every cluster, with more intense community mobilisation and supervision of girls' enrolment in schools. The programme also provides remedial teaching to girls, apart from holding bridge courses and providing additional incentives, such as uniforms to girls. (See Section 7A.5.2 for details.)

112. Kasturba Gandhi Balika Vidyalaya (KGBV): The Scheme was launched in July 2004 for setting up residential schools at upper primary level for girls belonging predominantly to SCs, STs, Other Backward Castes (OBCs) and minority communities. The KGBV Scheme was operated as an independent scheme for the first two years, but was merged with SSA in 2007. (See Section 7A.5.2 for details.)

113. Mid-Day Meal Scheme: The Scheme covers approximately 117.4 million children in 0.95 million primary schools, run or aided by the Government (including local bodies), and centres run under the Education Guarantee Scheme (EGS) and Alternative and Innovative

<sup>45</sup> Towards Faster and More Inclusive Growth, An approach to the 11th Five Year Plan, Planning Commission, GoI, December 2006, page 57.

Education (AIE) Scheme. The Scheme was extended, with effect from October 1, 2007, to children in the upper primary stage of education (Classes VI-VIII) in 3,479 Educationally Backward Blocks (EBBs). Approximately 17 million additional children in classes VI-VIII in EBBs are expected to be included.<sup>46</sup> (See Section 7A.5.2.2 for details.)

114. National Rural Health Mission: A flagship programme of the MoH&FW, the NRHM (2005-12) seeks to provide effective healthcare services to rural population throughout the country, with special focus on 18 States, which have weak public health indicators and/or weak infrastructure. It seeks to improve access of rural people, especially poor women and children, to equitable, affordable, accountable and effective primary healthcare. It aims to ensure transparency in the health delivery system and, by extending its outreach to the lowest levels through integration with the Panchayati Raj Institutions (PRIs), reaching out to the most marginalised children. It also aims at effective integration of various components of health, that is, sanitation and hygiene, nutrition, and safe drinking water. The NRHM has successfully provided a platform for community health action at all levels. (See Section 6C.3.1 for details.)

115. Jawaharlal Nehru National Urban Renewal Mission (JNNURM): Under the Basic Services to the Urban Poor (BSUP), JNNURM was launched in December 2005, and is an important initiative of the Government of India for planned development of key cities of the country. The Mission aims at creating economically productive, efficient, equitable and responsive cities in an integrated framework, with focus on economic and social infrastructure, basic services to the urban poor, urban sector reforms and strengthening of municipal Governments and their functioning. (See Section 6C.4.2 for details.)

116. Universal Immunisation Programme (UIP): The UIP has contributed to the reduction of cases of major vaccine-preventable diseases, such as decline of diphtheria and pertussis by 83% each, measles by 59%, neonatal tetanus by 94% and poliomyelitis by 97% between 1988 and 2006. Hepatitis-B vaccination programme, started in 2002 in 33 Districts and 15 cities as a pilot initiative, will be expanded to other Districts in the 11th Five Year Plan. Vaccination against Japanese Encephalitis was also started under this programme in 2006.<sup>47</sup> (See Section 6C.3.1.4 for details.)

117. Integrated Management of Neonatal and Childhood Illnesses (IMNCI): This strategy encompasses a range of interventions to prevent and manage five major childhood problems: acute respiratory infection (ARI), diarrhoea, measles, malaria and malnutrition, as well as major causes of neonatal mortality, prematurity and sepsis. (See Section 6C.3.1.5 for details.)

### 1.5.3 Progress on Millennium Development Goals

118. India's position with reference to MDGs reveals that to achieve Goal 1 of eradicating extreme poverty and hunger, India will have to reduce the proportion of people below poverty line from nearly 37.5% in 1990 to about 18.75% by 2015. The poverty headcount ratio was 27.5% in 2004-05 (28.3% rural population and 25.7% urban population). The rural-urban gap in poverty has also narrowed.

119. For achieving Goal 2, i.e. universal primary education, India has to ensure the primary school enrolment rate of 100% and wipe out the dropouts by 2015. The drop-out rate for primary education during 2004-05 was 29%. The Gross Enrolment Ratio (GER) in primary education has crossed the 100% mark for both boys and girls. However, the Net

<sup>46</sup> Economic Survey (2007-08), Economic Division, Ministry of Finance, GoI, 2008, page 250.

<sup>47</sup> Economic Survey (2007-08), Economic Division, Ministry of Finance, GoI, 2008, page 255.

Enrolment Ratio (NER), taking into consideration the official school age of 6-11 years enrolled in grades I-V, was about 82% in 2004-05.

120. To ensure gender parity in education as per Goal 3, the female-male proportion in respect of primary education has increased to 88:100 in 2004-05, as compared to 71:100 in 1990-91. During the same period, the proportion has increased to 71:100 from 50:100, in case of secondary education.<sup>48</sup>

121. With respect to Goal 4, aimed at reducing Under-Five Mortality Rate (U5MR), the data shows that it has decreased from 125 deaths per thousand live births in 1988-92 to 99.1 during the period 1999-2003. The overall U5MR for the period 1999-2003 is by and large consistent with the National Family Health Survey (NFHS) results. The IMR of 80 per thousand live births in 1990 has come down to 58 per thousand in 2005. However, the Central Indian belt of Uttar Pradesh, Bihar, Madhya Pradesh, Chhattisgarh and Rajasthan continues to have more than 60 per thousand infant mortality.

122. The progress on Goal 5 of reducing MMR shows a decline from 424 deaths per 100,000 live births in 1992-93 to 256 in 2004-05.

123. As far as Goal 6 is concerned, though India has a low prevalence of HIV among pregnant women as compared to other developing countries, the prevalence rate has decreased from 0.74 per thousand pregnant women in 2002 to 0.68 in 2006.<sup>49</sup>

124. With reference to Goal 7, which aims at ensuring environmental sustainability, India is on track. The number of households with access to improved drinking water source in rural areas has increased from 55.5% in 1991 to 84.5% in 2005-06; similarly for urban areas, the number has increased from 81.4% to 95% for the same period. In case of households using toilet facilities in the rural areas, the figure stands at 26% in 2005-06, as compared to 9.5% in 1991. The percentage of households using toilets in urban areas stands at 83.2% in 2005-06, as compared to 47% in 1991.<sup>50</sup>

## 1.6 Coordination

125. The Government of India recognises that addressing the right and needs of the child requires programming across different sectors and integrating their impact on the child in a synergistic way. The MWCD has a nodal role in coordinating efforts for the translation of the Constitution and other national laws and policies, the MDGs, the NPAC, 2005, and the International and regional treaty obligations into effective programmes for children, encompassing the entire period of childhood and removing disparities in access due to any reason.

126. The convergence and coordinated delivery of inter-related services is not a new concept. It has already been attempted in the past with varying degrees of success at various levels of planning and implementation. ICDS, which is more than 35 years old is primarily based on the philosophy of convergence as ICDS functionaries are tuned to seeking and obtaining services from other Government departments working in the field. A rights-based approach to survival, development and protection calls for lateral linkages with different

<sup>48</sup> Millennium Development Goals, India Country Report 2007, Central Statistical Organisation, Ministry of Statistics and Programme Implementation, page 8.

<sup>49</sup> Millennium Development Goals, India Country Report 2007, Central Statistical Organisation, Ministry of Statistics and Programme Implementation, pp. 8-9.

<sup>50</sup> Millennium Development Goals, India Country Report 2007, Central Statistical Organisation, Ministry of Statistics and Programme Implementation, page 9.



sectors, viz. education, health, rural development, labour, urban affairs, legal affairs, home affairs, etc. of Central and State Governments, including local self-Government and PRIs.

127. The MWCD has played a major coordination role in the context of the Convention. For improving coordination in the implementation of child rights, a National Coordination Group (NCG) was constituted on April 8, 2005, under the Chairpersonship of the Secretary, MWCD. Subsequently, the NPAC, 2005, was prepared in consultation with the concerned Ministries and Departments and State Governments in 2005, wherein it was provided that monitoring of the Plan will be done by the NCG. Accordingly, the Group was reconstituted in 2007 to expand its terms of reference. Its first meeting after reconstitution was held in 2008, in which the provisions of NPAC, 2005, and the proposed actions to be taken collectively by all the Ministries and Departments, including the State Governments, for achieving the targets were discussed.

## 1.7 Monitoring

128. Monitoring is being undertaken by several Ministries and Departments dealing with children's issues. The reconstituted NCG has met to discuss issues pertaining to the implementation of child rights and the monitoring of NPAC, 2005. Besides an initial discussion on the issue of child health, a meeting was also held to discuss monitoring indicators for all rights.

## 1.8 Awareness Generation

129. Given the multitude of Government agencies at different levels and NGOs engaged in awareness generation on social issues, including children's issues, there is progress on various fronts. There is much greater visibility and awareness on children's rights, resulting in increased reporting of cases. From the communication perspective, socio-economic, cultural and linguistic disparities pose considerable challenge in the way of creating awareness on child rights.

130. The MWCD is engaged in generating public awareness on issues concerning women and children, as well as policies, programmes and developmental activities formulated to address those issues. Publicity campaigns have specifically focused on the issues of girl child, early childhood development, education, nutrition, social evils such as child marriage, trafficking, gender inequality, sexual abuse, exploitation and violence against women and children, and have effectively utilised the print, electronic and traditional media.<sup>51</sup> Religious and spiritual leaders have been motivated to spread awareness on the issue of sex selection and early marriage, and its implications. (See Section 3B.5.5 for details.) As a component of its larger agenda of promoting child rights, the MWCD has institutionalised several awards recognising the achievements of children, and work of institutions and individuals on child rights' issues. These include the National Award for Child Welfare, conferred on individuals and institutions for outstanding performance in the field of child welfare; the Rajiv Gandhi Manav Seva Award, to honour an individual, who makes an outstanding contribution towards service to children; the National Child Award for Exceptional Achievement, to present recognition to children with exceptional abilities and who have achieved outstanding status in various fields, including academics, arts, culture and sports; and the National Bravery Awards.

<sup>51</sup> Annual Report (2007-08), Ministry of Women and Child Development, GoI, pp. 81-82.

131. Public education campaigns, advocacy, awareness, communication and capacity building have been proposed in the 11th Five Year Plan.<sup>52</sup> The MWCD has been coordinating media campaigns on the issues related to the girl child, nutrition and domestic violence. The Ministry has conducted campaigns to eradicate customs and traditions that impede the implementation of the Convention, such as campaigns on ill-effects of early marriage, female foeticide, etc. The MWCD, as part of its advocacy efforts, published its 2008 calendar, highlighting the importance of early childhood care and nutrition issues.

132. A number of public information campaigns of other Ministries also focus on issues critical for children and women. These multimedia campaigns are supported by Government institutions and infrastructure, and seek to highlight the regional/local nuances in the messages. For instance, multimedia campaigns by the NRHM have projected the immunisation week, 'Save the Girl Child' message, and the profile, roles and responsibilities of an Accredited Social Health Activist (ASHA). The NRHM health messages are printed on the official stationery and prescription slips used at Primary Health Centres/Community Health Centres (PHCs/CHCs) and projected in health *melas* at the District level through outdoor exhibition tools. Calendars and wall writings have also been used to convey information on NRHM themes, including the Janani Suraksha Yojana (JSY) and immunisation. A north-east specific campaign has also been outlined for electronic and audio-visual media.<sup>53</sup> A number of campaigns have also been undertaken to promote early childhood education, such as *mabeti* fairs, *Meena* campaigns, *prabhat pheris*, meetings with religious leaders and community-based meetings. Public information campaigns also focus on social evils, such as caste discrimination, female foeticide and early marriage. (See Sections 3B.1.5, 3B.5.5, 6C.7 and 7A.6 for details.) The ICPS also focuses on awareness generation and advocacy regarding children's issues through the implementation agencies, viz. State Governments, CARA and CIF.

133. Dissemination of the Convention and concluding observations of the Committee: The concluding observations and recommendations of the Committee on the Rights of the Child, following the consideration of India First and Second Periodic Report on the Convention, were distributed among the relevant Central Ministries, the State Governments and UT Administrations, and also put up on the MWCD website to ensure wider public access. These concluding observations are often referred to when policies, plans and legislations pertaining to children are being drafted by the Government. The NGOs and their networks, UNICEF and other international organisations have been using them as tools for advocacy and collective action within a rights-based approach on the issues concerning children.

134. Parliamentary Forum on Children: The Forum, constituted on March 2, 2006, aims to enhance awareness and attention of Parliamentarians towards the critical issues affecting children's well-being; and to provide a platform for Parliamentarians to exchange ideas, views, experiences, expertise and practices with regard to children. It also provides an interface with civil society for highlighting children's issues and thereby helps to foster effective strategic partnerships. Furthermore, it enables the Parliamentarians to interact in an institutionalised manner; and to undertake any other tasks, projects, assignments, etc., as the Forum may deem fit.

135. The Speaker, Lok Sabha, is the ex-officio President. The Deputy Chairman, Rajya Sabha; Deputy Speaker, Lok Sabha; the Ministers of Women and Child Development, Human Resource Development, Labour and Employment, and Health and Family Welfare; and the Chairmen of the Committees on Human Resource Development and Labour are the

<sup>52</sup> Annual Report (2007-08), Ministry of Women and Child Development, GoI, pp. 81-82.

<sup>53</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, pp. 100-101.

ex-officio Vice-Presidents of the Forum. The Forum consists of not more than 31 members. It has been briefed on issues such as child marriage, girl child, malnutrition, education and child labour. The Forum has also held sessions, in which the members have interacted with children involved in creating awareness on child rights, and girl role models from deprived backgrounds.

136. The Forum plays an important role in spreading awareness among the Parliamentarians, which has also resulted in action being taken based on such interactions. In the State of Bihar, legislators have placed their experiences and recommendations in the State Assembly, based on their visits made through this Forum on issues such as child health, child marriage, declining child sex ratio, etc. The legislators are also working on the implementation of these recommendations in the State.

137. NCPCR: Since its inception, the NCPCR has initiated a number of measures to promote awareness on child rights among Parliamentarians, Government officials, professionals, NGOs and the society. Awareness on children's issues and their rights is also being promoted through the Commission's website and its newsletter. There are plans to promote awareness among children about their rights in hostels, orphanages, juvenile observation homes, children's homes and shelter homes.

138. The NCPCR is creating public awareness about child rights through visits to States and consultations with officials, NGOs, trade unions, children and others.<sup>54</sup> In view of the reported serious violations of rights of children in the form of corporal punishment in schools, the NCPCR has informed the chief secretaries of all States to issue instructions to their education departments to ensure that violence is not perpetrated on children.<sup>55</sup>

## 1.9 Data Collection

139. There has been a significant progress since 2004 in terms of information on children. Major nation-wide surveys have been undertaken during this period, providing disaggregated data on children and introducing child-specific indicators. While many of them were routine and repeat surveys, some were new and innovative. Improved access to information technology in the country resulted in improved dissemination and use of data. The results of these surveys and studies are being disseminated proactively, and are proving useful in policy making and programme implementation. The qualitative information is being used for advocacy and policy and programme planning. However, it may be noted that while there are statistics available for younger children, the data for 15-18-year olds is limited. Major surveys that have strengthened the database on children since 2004 are described below and these have been used in drafting this report.

140. National Census: The Census of India, 2001 (released in 2004), with disaggregated data on the various socio-economic characteristics by religion, helped to generate information on children belonging to various religious minorities and their socioeconomic issues. This data-set, together with data-set on children belonging to SCs/STs, has improved the understanding of issues of socio-economic development and exclusion. The planning for the next Census in 2011 has begun and the first Data Users' Conference in April 2008 discussed various issues, including framing of questions specifically pertaining to children.

141. Sample Registration System (SRS): This survey provides disaggregated data on the birth rate, death rate, fertility rate, IMR, neonatal rate and CMR at the State level, and has

<sup>54</sup> Infocus, National Commission for Protection of Child Rights, GoI, Vol. 1, September 2007, page 1.

<sup>55</sup> Infocus, National Commission for Protection of Child Rights, GoI, Vol. 1, September 2007, page 5.

begun providing sub-State level data as well, since 2005. The recent Cause of Death Report, based on SRS, provides comprehensive data for the first time on the causes of death of children in various age groups, disaggregated by sex and rural-urban residence.

142. District Level Household Survey (DLHS): The second in a series of comprehensive surveys, DLHS, 2002-04, measured the progress of Reproductive and Child Health (RCH) programmes in all the 593 Districts of the country. For the first time, data on the levels of anaemia among children and underweight children was collected in 548 Districts. The third round of DLHS was undertaken during 2007-08 and the key results for most of the States and Districts have been released.

143. National Family Health Survey: The results of the third round of NFHS, undertaken in 2005-06, released in August 2007, provide the most recent disaggregated data on fertility, infant and child mortality, maternal and child health, reproductive health, family planning, nutrition, anaemia, utilisation and quality of health and family planning services at the national and State levels. For the first time, it provides information on child protection issues, viz. orphans and vulnerable children, child work and birth registration. The key data sets of the NFHS, such as child nutrition, have caught the attention of the policymakers and programme implementers and are proving to be useful in framing new policy and programmes.

144. National Nutrition Monitoring Bureau: The Bureau, operating from the National Institute of Nutrition, Hyderabad, is involved in periodic nutritional surveys to assess the nutritional status of children.

145. National Annual Educational Statistics: The statistics brought out by the Ministry of Human Resource Development (MHRD) provide data collected from one million institutions, covering all the levels of education, from pre-primary to higher education, through mailed questionnaires, in collaboration with the State Education Departments. On the basis of data collected from the States, the Statistics Division brings out an annual publication.

146. Out-of-School Survey, 2005: The MHRD, in collaboration with Educational Consultants, India, conducted an all-India survey to estimate the number of children in the 6-13 age group, who had never attended a school or had dropped out of school (including Government, private or alternate system). The survey also studied their composition by gender, social status and residence (rural-urban).

147. District Information System for Education (DISE): This comprehensive, internet-enabled system enables collection and compilation of District and sub-District-level school data on a yearly basis. It contains information on the number of schools, grade-wise and level-wise enrolment of children, teachers by school category and management type, examination results, condition of classroom and many other important indicators. Progressive efforts are being undertaken to improve the coverage and quality of the data collected.

148. Annual Status of Education Report (ASER)-Rural 2008: The ASER, released by Pratham, an NGO, provides data for all Districts of the country on children's ability in reading, writing, maths and comprehension; school infrastructure; out-of-school children; the progress of MDMS, and the educational profile of mothers. This report is the fourth in a series of surveys that are expected to continue till 2010. The information from ASER-Rural 2008 has proved useful in drafting this report.

149. Study on Child Abuse-India, 2007: The MWCD conducted a study to assess the magnitude of various forms of child abuse, viz. physical abuse, sexual and emotional abuse, and girl child's neglect, among five different evidence groups, namely children in family environment, in school, at work, on streets and in institutions. The Study covered

13 States<sup>56</sup> of the country with a sample size of 12,447 children, 2,324 young adults and 2,449 stakeholders. This study is the largest of its kind undertaken anywhere in the world. It has been widely disseminated by the Government, NGOs and the media, and has generated serious discourse on an important and socially-sensitive issue.

150. National Sample Survey Organisation (NSSO): The NSSO conducts nation-wide sample surveys on various socio-economic issues, such as poverty, employment, migration and health and education, during a specific survey period, usually of one-year duration. The data generated through the NSSO helps immensely in understanding children's issues in a comprehensive way. It helps in the formulation of relevant policies, legislations and programmes, in view of the overall socio-economic contexts in the country.

151. Annual Surveillance of HIV: The Surveillance for HIV infection comprises four broad areas: HIV Sentinel Surveillance (HSS), AIDS Case Surveillance, Behavioural Surveillance and Sexually Transmitted Infections (STIs) Surveillance. HIV surveillance closely monitors and tracks the level, spread and trends of the epidemic, as well as the risk behaviours that pre-dispose the growth of epidemics. Inputs from the Sentinel Surveillance System of India, routine AIDS case reporting, and periodic Behavioural Surveillance Surveys (BSS) give direction to the Government programmes by highlighting the impact of the interventions, and areas that need focus. The HIV Sentinel Surveillance System of India has evolved over time, covering most of the Districts of the country, as well as all the high-risk population groups. Based on the HSS data, all the Districts in the country are categorised into four for giving priority to the programme. Estimation of HIV prevalence and the number of People Living with HIV/AIDS (PLHA) is done annually, depicting the scenario of HIV epidemic at the national as well as sub-national levels. BSS throws light on the knowledge, awareness and behaviours related to HIV/AIDS among the general population, youth, as well as different High-Risk Groups (HRG). It also provides deeper understanding on the impact of interventions under the National AIDS Control Programme (NACP).

152. Crime in India: Published annually by the National Crime Records Bureau (NCRB), Ministry of Home Affairs (MHA), Crime in India provides data on the crime against children, such as murder, infanticide, rape, kidnapping, foeticide, abetment of suicide, buying/selling of minor girls, etc. The NCRB also maintains Talash Information System at the national level, which is a database containing information regarding missing persons under the broad categories<sup>57</sup>. It also provides data on the children in conflict with law. As data on missing children was not available in the past, efforts are being made to make available gender-disaggregated data on missing children for the 0-2 and 13-18 age groups.

153. Child Tracking System: In order to track missing children, the NHRC has made recommendations for setting up a web-based and other intra and inter-State networks for tracing missing children, so that the police, in any one particular State/ District of the country, can have access to the data of missing children in other parts of the country. In response to these, many States, such as West Bengal, Maharashtra, Karnataka, etc., have set up such missing-child tracing systems. The system, which is child-friendly, managed by the police and the Social Welfare/Women and Child Department, has links to NGOs with user-friendly search tools.

154. Future Directions: Recognising the inability of the current system to fulfil all the data gaps, the 15th Conference on Central and State Statistical Organisation, organised by

<sup>56</sup> The 13 States covered in the Study are: Mizoram, Assam, Goa, Delhi, Rajasthan, Uttar Pradesh, Bihar, West Bengal, Madhya Pradesh, Maharashtra, Andhra Pradesh, Gujarat and Kerala.

<sup>57</sup> The broad category includes: 'missing', 'kidnapped', 'arrested', 'deserted', 'escaped', 'proclaimed offender', 'wanted', 'unidentified dead body', 'unidentified person' and 'traced/found'.

the Central Statistical Organisation (CSO) in February 2008, recommended the establishment of a forum on child statistics, comprising various stakeholders, international agencies and NGOs. The scope, content, quality, consistency and reporting of data on children, keeping in mind the NPAC, 2005, could be improved upon by such coordination and collaboration. The CSO could sponsor studies on issues concerning child statistics. The proposed forum could also explore the possibility of compiling a child development index. In addition, a child-tracking system, including a web-enabled Child Protection Data Management Software and website for Missing Children, will be set up under ICPS to help in the follow-up and tracking of children in institutional and non-institutional care.

## 1.10 Capacity Building

155. The Government and its agencies at the Central, State and District levels undertake systematic education and training on the provisions of the Convention for all professional groups working for, and with children. Several NGOs also conduct orientation and training of Government functionaries at different levels. Given the magnitude of the country and the multiplicity of the agencies, a mapping of these interventions is extremely difficult in the absence of a unified system of tracking capacity development initiatives. As such, given the capacity-building initiatives of various departments and agencies, the scope and spread of interventions is likely to be much wider than what is reported here.

156. Training of Government Functionaries: Various institutions and academies for police, judiciary and public administration at the Central and State levels, responsible for developing capacities of Government functionaries, have continued with their efforts during the reporting period.<sup>58</sup>

(i) NIPCCD: The Institute was established as a nodal centre for training, capacity building, as well as research and documentation in the overall domain of child development, welfare and protection. The scope of regular training was expanded to emphasise early childhood care and development, adolescent development and health, juvenile justice system and trafficking among women and children. From 2006 onwards, an Advanced Diploma Course on Child Guidance and Counselling has been initiated. In order to promote and facilitate effective implementation of the ICPS and all other child protection policies and programmes at regional levels, the regional centres of NIPCCD shall function as regional resource centres, and the Scheme will support the setting up of a Child Protection Section within all the four regional centres of NIPCCD. A one-month Certificate Course on Child Rights and Child Protection was initiated in 2008-09. (See Annexure 1.3 for details on training programmes organised by NIPCCD during 2004-05 to 2007-08);

(ii) National Institute of Social Defence (NISD): The Institute, set-up under Ministry of Social Justice and Empowerment (MSJ&E), undertakes training, research and documentation in the areas of child protection and juvenile justice through the National Initiative for Child Protection, a joint programme started in collaboration with CIF. Members of JJBs and CWCs, police, social welfare officers and probation officers, institutional staff and NGOs working in the field of juvenile justice are trained at regional and State levels. Training manuals are developed and a cadre of senior-level master trainers identified for building capacities on juvenile justice. A one-month Certificate Course on Child Protection for personnel working

<sup>58</sup> India First Periodic Report 2001, Department of Women and Child Development, Ministry of Human Resource Development, GoI, pp. 21-23.

in the juvenile justice sector, law under-graduates and in judicial academies has also been initiated. (See Annexure 8B1.6 for details of training programmes under NISD);

(iii) The National Judicial Academy (NJA), Bhopal: Since 2004, the NJA has been engaged in building professional skills of magistrates, judges, and members of JJBs and CWCs from all over the country through innovative, interactive juvenile justice training programmes. During the 11th Five Year Plan period, the training programmes would be decentralised to the 19 State Judicial Academies. (See Annexure 8B1.6 for details on capacity building under NJA);

(iv) The National Council for Teacher Education (NCTE): Since 1995, the Council aims to achieve planned and coordinated development of teacher education, and to regulate and maintain norms and standards in the teacher education system. So far, norms and standards of 12 courses have been prescribed by the Council.

(v) Police Academies: Sardar Vallabhbhai Patel National Police Academy, Hyderabad; and the North-Eastern Police Academy, Shillong, are the centres of excellence under the MHA that provide both basic and in-service courses for the Indian Police Service (IPS) officers at various levels. Most of the Central/State Police Forces have set up their own training institutions for imparting induction and in-service training to their personnel. The training curricula and schedules are made to suit the role of respective forces;

(vi) Other training institutions such as the National Council of Educational Research and Training (NCERT), National Institute of Mental Health and Neuro Sciences (NIMHANS), universities offering courses in child development and child rights, public administration institutions, National Legal Services Authority (NALSA) and judicial academies such as National Law School, National Academy of Legal Studies and Research (NALSAR) University of Law, etc. are also being used for enhancing capacity development efforts.

157. Orientation of Other Key Stakeholders: A Parliamentary Forum on Children was constituted on March 2, 2006, to enhance awareness and engage the Members of Parliament (MPs) on critical issues affecting the children's well-being. (See Section 1.8 for details.)

158. Training Organised by NGOs: Several NGOs have also been imparting training to law enforcement officials and social work professionals on issues and ways to deal with matters related to child rights and their violations.

159. Institutionalising Child Rights and Human Rights Education: A number of Indian universities and institutes offer certificate, diploma and degree courses on human and child rights. (See Annexure 1.4 for details of institutions offering courses on child rights and human rights.)

160. Human rights in school curricula is recognised as a subject of academic study and programmes have been implemented by several States throughout the country. (See Section 7B for details.) The National Curriculum Framework, 2005, encompasses respect for human rights, justice, tolerance, cooperation, social responsibility, and respect for cultural diversity, in addition to a firm commitment to democracy and non-violent conflict resolution. The Framework emphasises that human rights are central to the concept of peace.

161. The NHRC has an internship programme for students from India and abroad, who are pursuing graduate and post-graduate studies in Law, Political Science, Sociology, Criminology and other relevant disciplines at the Commission's headquarters, as well as at the regional centres. It is an annual feature and students usually intern for a month during their summer and winter vacations.

162. As described above, there are several agencies working at the Central, State and District levels, building capacities of functionaries, who directly or indirectly deal with children. However, much more needs to be done in this area, and efforts are being made under the ICPS to enhance capacities of all child protection functionaries, including administrators and service providers, at the central, regional, State and District levels. The Scheme also provides for sensitisation and training of members of allied systems, including, local bodies, police, judiciary and other concerned departments of the State.

### **1.11 Partnerships**

163. The Government recognises the important role of United Nations agencies, NGOs, private sector and local communities as partners in implementing the provisions of the Convention. United Nations agencies and NGO representatives are invited from time to time for consultations at the national, regional and State levels to work on policies, plans and legislations. These agencies have made significant contributions in drafting several legislations, such as National Plan of Action for Children, 2005, the Commissions for Protection of Child Rights Act, 2005, the JJ (Amendment) Act, 2006, the Prohibition of Child Marriage Act, 2006, to name a few. United Nations agencies and NGOs were also actively involved in the regional and State consultations for the preparation of India: Third and Fourth Combined Periodic Report on the Convention.

164. The Study on Child Abuse: India 2007, conducted by the MWCD, was supported by UNICEF and Save the Children. The review of data, the analysis of findings and the final report, along with the recommendations, were conducted through a Core Committee, which had representation from United Nations agencies and NGOs. Similarly, the study on Trafficking in Women and Children in India by the NHRC was conducted in consultation with the ISS, UNIFEM and USAID. The MWCD also collaborates with United Nations agencies in preparing Information, Education and Communication (IEC) materials for all aspects of child rights.

165. Many NGOs are implementing various child rights programmes through financial and technical support from the Government. The Government has involved NGOs in programmes for street and working children, and management of institutions for children. The JJ Act, 2000, specifically promotes partnerships with NGOs in management of homes for rehabilitation of children. Many Civil Society Organisations (CSOs) have been partnering with the Government to run crèches. With flexibility in their operations, and professional and volunteer support from various disciplines, NGOs have been successful in responding to children's needs through education and vocational training, and helped with family tracing and re-unification.<sup>59</sup> The Central Government has encouraged such partnerships, which have shown considerable success, particularly in Tamil Nadu, Maharashtra, Karnataka, West Bengal and Delhi. The CIF initiates and monitors performance of Childline services in cities and Districts and conducts training, research and advocacy at the national level on child protection issues. The NGO contribution to early childhood education, non-formal education and implementation of SSA has been significant. The ICPS also emphasises enhanced role and participation of NGOs as partners in protection and development of children.

166. There has also been cooperation between the Government and the private sector, especially in the field of health and education. Public-private collaboration has expanded beyond creating awareness and demand for developmental programmes, to provision of

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<sup>59</sup> Juvenile Justice in South Asia: Improving Protection for Children in Conflict with the Law, UNICEF, 2006, page 15.



services at the community level. There has been collaboration with the private sector in implementation of national health programmes and running of public hospitals. Several States, such as Chhattisgarh, Jharkhand and Uttarakhand, with weak public services' networks, have adopted social franchising and social marketing in their health services, especially in the area of RCH. (See Section 6C.6 for details.) The involvement of private sector in the provision of formal schooling is increasing, and there has been a steady increase in private unaided primary schools. Several private foundations and initiatives focusing on the quality of education have emerged in the recent years. (See Section 7A.8 for details.)

167. Partnership with local communities is essential for securing universal access of quality education to children. This is encouraged through Village Education Committees (VECs) and Parent-Teacher Associations (PTAs). The PRIs play a dominant role in evolving a system of democratic decentralisation and devolution of people, with a view to ensuring rapid socio-economic progress and speedier and inexpensive justice. The 11th Five Year Plan, which has identified 'inclusive growth' as the overarching objective, seeks to substantially empower and use PRIs as the primary means of delivery of essential services that are critical to inclusive growth. Some of the issues with regard to child rights taken up by PRIs include:<sup>60</sup>

- (i) Examination of status of girl child and stopping early child marriages and registration of marriages;
- (ii) Monitoring of attendance of children going to school, taking up issues of corporal punishment, caste discrimination, MDMS and other governance issues that can come in the way of child's attendance in schools;
- (iii) Maintenance of a register for children in the 0-18 age group by several *panchayats*, and examination of their status in a periodic manner;
- (iv) Interaction with the staff of the line departments of sectors such as education, health, revenue, development, welfare, etc. to ensure protection of children's rights;
- (v) Establishment of linkages with households, often mediating through/and over-riding social and cultural hierarchies for taking up the agenda of protection of children's rights.

## 1.12 Resources

168. There has been an increase in the proportion of budget allocated to the realisation of child rights during the reporting period. The enhanced budget is reflected in the various schemes and programmes for children, information about which is disseminated through print and electronic media and also through the website of ministries. The magnitude of Child Budget in the Union Budget, that is the aggregate outlay for child-specific schemes as a proportion of total budget outlay by the Union Government, has increased from 2.15% in 2001-02 to 5.35% in 2008-09.<sup>61</sup> Keeping in mind the different needs of children in the country, all programmes/schemes included in the Child Budget are categorised into four sectors: child development, child health, child education, and child protection. The percentage allocation for different sectors in the Child Budget as a proportion of total Union Budget outlays is depicted in figure 1.1.

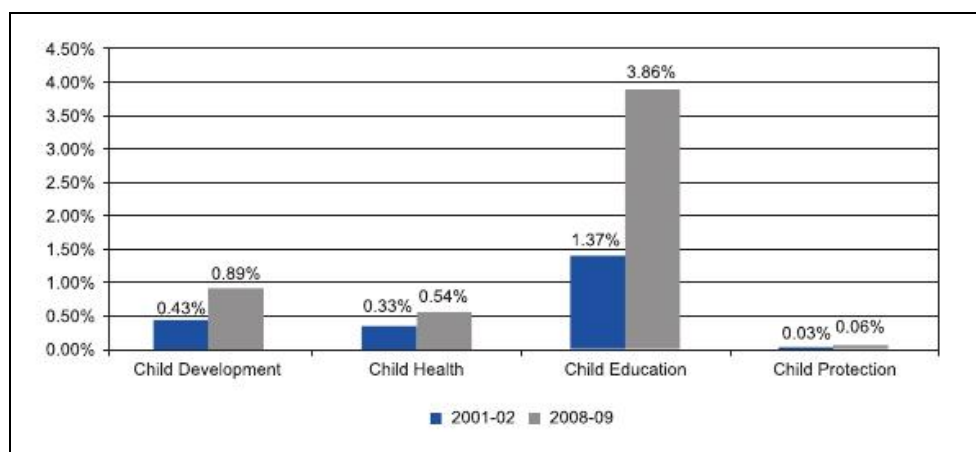
<sup>60</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Panchayati Raj, GoI, September 2009, pp.1-2.

<sup>61</sup> Annual Report (2005-06) and Annual Report (2007-08), Ministry of Women and Child Development, GoI, pp. 134, 138.

169. As children constitute around 41% of the country's population and many of the outcome indicators for children point to the disadvantaged status of children, the proportion of Child Budget in the Union Budget seems inadequate. Moreover, analysis of the budgets of States (such as Rajasthan, Uttar Pradesh, and Madhya Pradesh) indicates that many of the State Governments have become heavily dependent on the Union Budget outlays for the centrally sponsored schemes for children (such as the SSA, ICDS and RCH) for financing targeted interventions for children in their States. In order to address both the issues of allocation and effective utilisation of funds earmarked for children, the MWCD convened a national consultation in February 2008. The consultation developed recommendations for improving planning and budgetary processes within an outcome-based framework.<sup>62</sup>

Figure 1.1

**Child Budget as a proportion of total outlay of Union Budget**



*Source:* Annual Report (2005-06), Ministry of Women and Child Development, GoI, pp 135-136 and Annual Report (2007-08), Ministry of Women and Child Development, GoI, page 138.

170. The overall increase in the budget for children between the periods 2003-04 and 2008-09 reflects the focus being given to programmes related to children. Although this is just a beginning of MWCD's mandate to bring children into the mainstream of developmental programmes, the linkages established with the Planning Commission and the integration of children's programme with the overall rights-based strategy under the NPAC, 2005, and the large budget of Rs 107.3 million earmarked under the ICPS for child protection, clearly reflect Government's intent in this direction.

171. In 2004-05, the MWCD adopted 'Budgeting for Gender Equity' as a mission statement. The essence of the statement is to reinforce Gender Budgeting as a process that entails mainstreaming a gender perspective at various stages of planning and programme implementation.

172. A new initiative to set up Gender Budgeting Cells (GBCs) in various Ministries/Departments was initiated by the Ministry of Finance in 2007. So far, 56 Ministries/Departments have set up these cells, which serve as focal points for coordinating Gender Budgeting initiatives, both intra and inter-ministerial. The MWCD has been constantly engaging with Ministries/Departments across sectors to enable a better understanding of the Gender Budgeting exercise. Some of the initiatives taken by MWCD include:

<sup>62</sup> Annual Report (2007-08), Ministry of Women and Child Development, GoI, pp. 61, 133-134.

- (i) Organising training programmes and workshops with officials of different Ministries/Departments, as well as one-to-one orientations for Ministries for capacity building of the GBCs.
- (ii) Organising gender budget trainings for State Governments, regional workshops, as well as workshops for public sector units and CSOs.
- (iii) Developing a core team of trainers at the national and State training institutes.
- (iv) Developing resource material for Gender Budgeting.

### **1.13 Preparation of the Reports on the Convention and its Optional Protocols**

173. A High Powered Committee, comprising representatives of different Ministries, 18 State Governments, representatives of NGOs, academic institutions and international agencies, was constituted by the MWCD and met in February 2007 to guide the preparation of the present report on the Convention and the reports on the two Optional Protocols.

174. Guidelines to the State Governments and concerned Ministries/ Departments were sent for submission of their inputs to the MWCD. Five regional-level consultations were held between July and October, 2007, to initiate the process and engage the States and NGOs on the implementation of the Convention and the preparation of the Reports. The consultations were attended by participants from State Government Departments, such as Women and Child Development, Social Justice/Social Welfare, Police, Health, Education, Labour, and representatives of key NGOs.

175. As a follow-up to the regional consultations, several States organised independent State-level consultations, inviting participants from various Government Departments and CSOs. States such as Bihar, Kerala and West Bengal developed an extensive consultative process for providing inputs for the Reports. In some of the regional and State-level workshops, there was significant representation of children, who expressed their views on various aspects of the Convention. States such as Bihar, West Bengal, Maharashtra and Rajasthan also organised independent consultations with children as well.

176. These consultations were important for obtaining information on the situation of children at the State/UT level, advocating children's rights among the State Government leadership and officials, and promoting interaction between the Government functionaries and NGOs. In States such as Bihar, Tamil Nadu and West Bengal, participation was seen at the highest level of political leadership, reflecting the strong political will on issues concerning children.

177. The MWCD advertised in leading newspapers and on its website, inviting inputs from individuals and other stakeholders. The MWCD served as the Secretariat for collating inputs from the decentralised processes and coordinating the preparation of the reports. The State inputs to the national report on the Convention not only provided an opportunity for meaningful participation on issues related to the rights of the child within States, but also assisted in setting benchmarks for future reporting on children's issues. Twenty-five State Governments provided their inputs to the national report on the Convention. Key Ministries, such as Health and Family Welfare, Human Resource Development, Social Justice and Empowerment, Home Affairs, External Affairs, Defence, Labour and Employment, Tribal Affairs, Tourism, Panchayati Raj, Rural Development, Minority Affairs, Statistics and Programme Implementation, Environment and Forests, Urban Development, and Information and Broadcasting also provided inputs for the preparation of this report.

178. In addition, research studies and reports prepared by the Government, NGOs and United Nations organisations were also used in the preparation of this report.

179. The draft report prepared by MWCD was placed before the High Powered Committee for approval, which gave useful comments towards the finalisation of the report. India: Third and Fourth Combined Periodic Report on the Convention on the Rights of the Child is in full compliance with the provisions of Article 44 of the Convention.

#### **1.14 Challenges**

180. India's democratic set-up provides a robust structure for the implementation of the Convention. Significant initiatives taken during the reporting period to strengthen the protection of children and realisation of their rights will now require focused implementation and monitoring at all levels. With an estimated child population of 423.6 million (0-18 age group), and State-wise disparities on several fronts, the challenges would need concerted attention, additional resources, capacity development and close monitoring, so that improvements in children's lives become measurable.

181. The changes brought in by the MWCD are aimed at increasing access, convergence and strengthening delivery of services. There is an increased emphasis on coordination among different Ministries/Departments and with the States. The MWCD will strengthen coordination, implementation and monitoring progress on the Convention through the NCG by increasing frequency of meetings. The Ministry will also encourage States to create a similar coordination group at State-level to accelerate implementation and strengthen monitoring of outcomes for children. There is need for taking up review of all the existing development policies and plans to assess their impact on children and to ensure that children are not marginalised. The MWCD is committed to ensure that the targets set in the policy documents are realised.

182. The reporting period has witnessed adoption of some path-breaking legislations directly affecting children, as well as amendments in existing legislations to remove shortcomings. The challenge now is to ensure adequate training and capacity-building of personnel working with children at all levels, so that their effective implementation provides the necessary protection to children.

183. The setting up of NCPCR and several State Commissions is a significant step forward. The MWCD will continuously advocate for Commissions to be set up by all the State Governments as provided in the CPCRA, 2005.

184. Considerable awareness on child rights among all stakeholders has resulted in increased reporting of cases of violations of child rights. However, keeping in view the size of the country and the wide range of disparities as also the challenge of languages, these efforts need to be further strengthened.

185. Capacity-building of stakeholders, including law enforcement officials, judiciary, Government functionaries, etc. has been a priority for the Government. These efforts would be further scaled up to cover all those, who deal directly with children.

### **III. 2. Definition of the Child (art. 1)**

#### **2.1 Age of Childhood**

186. In accordance with the standards prescribed in the Convention on the Rights of the Child (the Convention), the Juvenile Justice (Care and Protection of Children) Act, 2000

defines a 'juvenile' or 'child' as a person, who has not completed 18 years of age. Under the Immoral Traffic Prevention Act (ITPA), 1956, the age prescribed for a 'child' is 16 years. The laws regulating employment, such as the Child Labour (Prohibition & Regulation) Act, 1986, the Factories Act, 1948, and the Mines Act, 1952, prohibit employment of children under 14 years only, in line with the Constitutional provisions. Palpably, there has been no uniformity in respect of the definition of 'child' under different Acts and other Instruments.

187. Harmonising the definition of 'child' under the different Acts is a progressive exercise.

### **2.1.1 Age of Criminal Responsibility**

188. The age of criminal responsibility as described under Section 82 of Indian Penal Code (IPC), 1860, states that nothing is an offence which is done by a child under seven years of age. Furthermore Section 83 of IPC, 1860 emphasises that nothing is an offence which is done by a child above seven years of age and under 12 years, who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion.

## **2.2 Minimum Age of Sexual Consent for Boys and Girls**

189. The minimum age for sexual consent for boys has not been fixed as in the case of girls, which has been fixed at 15 years. On February 6, 2008, the Law Commission recommended that the age of consent for sex be raised from 15 years to 16 years for girls, regardless of marriage.

### **2.2.1 Enforcement of Minimum Age Standard in the Context of Marriage**

190. The Prohibition of Child Marriage Act, 2006, specifies the minimum age for marriage of girls as 18 years and for boys, 21 years. The legislation has several forward-looking provisions, which include prohibition rather than prevention of child marriage, provision of compensation to the victims of child marriage, as well as enhanced punishments for all those who have actively abetted and solemnised the marriage. (See Section 1.4.1 for details.)

## **IV. 3. General Principles (arts. 2, 3, 6 and 12)**

191. The Concluding Observations (CRC/C/15/Add.228) (CO) addressed in this chapter include:

- Policy and resources for vulnerable groups, CO para. 26;
- Implementation of legislation for vulnerable groups, CO para. 28;
- National Plan of Action for the Girl Child, CO para. 30;
- Programmes based on child's needs and rights, CO para. 32;
- Implementation of sex selection legislation, CO para. 34 (a);
- Awareness campaigns on sex-selective abortions, CO para. 34 (b);
- Gender impact studies, CO para. 34 (c);
- Racial discrimination, CO para. 35;
- Respect for the views of the child, CO para. 37 (a), (b) and (c).

### **3A. Best Interests of the Child (art. 3)**

192. Constitutional provisions, legislations, policies, action plans, schemes and programmes increasingly include the ‘best interest of the child’ as a guiding principle. Furthermore, constitution of the National Commission for Protection of Child Rights (NCPCR) has added rigorous focus to ensure consistent application of the principle of the ‘best interest of the child’.

193. The 11th Five Year Plan is committed to creating a protective environment for children through a host of schemes and programmes based on the best interest of the child. The Ministry of Women and Child Development (MWCD) is increasingly focusing on child-friendly approaches, while formulating new policies, legislations, guidelines and programmes.

194. The National Plan of Action for Children (NPAC), 2005, recognises the best interest of the child in all aspects affecting the child. The ongoing review of the National Policy for Children, 1974 adopts the best interest of the child as a key principle.

195. The principle of best interest of a juvenile or a child in conflict with law was the primary consideration for the amendment of the Juvenile Justice (Care and Protection of Children) Act, 2000, (JJ Act, 2000) in 2006 and is a guiding principle of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (JJ Rules, 2007).

196. The National Human Rights Commission (NHRC) has prepared guidelines for speedy disposal of child rape cases that underline the best interest of the child victims in all procedures followed to prosecute and punish the perpetrators.

197. The Supreme Court and High Courts have kept the best interest of the child as the primary concern while passing judgements. (See Section 5C.2 for details.)

198. The Integrated Child Protection Scheme (ICPS) concretises Government/State responsibility for creating a system to protect children in the country from all types of exploitative and vulnerable situations. (See Section 1.5.1 for details.)

### **3B. Non-Discrimination (art. 2)**

199. Children in India often face different types of discrimination. This could be due to socio-economic factors, gender-related issues, minority status, disability, Human Immunodeficiency Virus (HIV)/Acquired Immuno Deficiency Syndrome (AIDS) status among other concerns.

200. The Government of India is committed to tackling discrimination. Measures taken include the 11th Five Year Plan objective of inclusive growth; focus on social inclusion in all flagship programmes of the Government; the proposed Prevention of Offences against the Child Bill, 2009, to cover all kinds of offences, including discrimination; and the launch of ICPS to protect children from all vulnerable/exploitative situations, including discrimination.

### 3B.1 Scheduled Castes and Scheduled Tribes

#### 3B.1.1 Status and Trends

201. The population of Scheduled Castes (SCs)<sup>63</sup>, according to the 2001 Census, was 166 million, and constituted 16.23% of the total population of India. Almost 80% of the SCs in the country live in rural areas. They are spread all over the country, although more than half are concentrated in the five States of Uttar Pradesh, West Bengal, Tamil Nadu, Andhra Pradesh, and Bihar. They constitute more than a fifth of the population of Uttar Pradesh, Punjab, Himachal Pradesh, and West Bengal. The State of Punjab has the highest proportion of SCs (28.9%) to the State population.

202. The population of Scheduled Tribes (STs) stood at 84.33 million, as per the 2001 Census, which is 8.2% of the total population, with 91.7% living in rural areas, and 8.3% in urban areas. The proportion of STs to the total population in States/Union Territories (UTs) is highest in the north-eastern region, followed by Chhattisgarh, Jharkhand and Orissa. Of the total ST population in the country, Madhya Pradesh accounts for the highest proportion of ST population (14.5%), followed by Maharashtra (10.2%), Orissa (9.7%), Gujarat (8.9%), Rajasthan (8.4%), Jharkhand (8.4%), and Chhattisgarh (7.8%). In fact, 68% of the country's ST population lives in these seven States.<sup>64</sup>

203. While there is progress in terms of most indicators of social and economic development, the progress needs to be accelerated to reduce the gap between the SCs/STs, and the general population.

204. The enrolment and retention rates at primary and upper primary levels, for both SCs and STs, have shown progress in the reporting period. Although, the drop-out rates at primary level are substantially high for both SCs and STs, they have shown a declining trend during the reporting period. On the other hand, in case of secondary education, there is a substantial gap in enrolment for these groups, compared to the overall population. (See Sections 7A.1.2.7 and 7A.1.3 for details.)

205. There is a gap between the SCs and the rest of population with respect to the availability of basic civic amenities such as electricity, housing, water supply and toilet facilities. Access to, and benefits from, the public health system have been uneven between the better endowed and the more vulnerable sections.<sup>65</sup> The cumulative impact of disparities is reflected in high levels of poverty among SCs (36% in rural areas and 39% in urban areas) and STs (47% in rural areas and 33% in urban areas), compared to the total population in 2004-05 (28.3% in rural areas, and 25.7% in urban areas).<sup>66</sup>

206. Although, there has been an impressive decline in overall mortality rates since 1998-99, challenges remain with regard to the health status of both SCs and STs, as their infant mortality rates remain higher than the average. STs have a lower Infant Mortality Rate (IMR) (62) than SCs (66); whereas, the Under-Five Mortality Rate is higher among STs

<sup>63</sup> 'Scheduled Castes' are 'castes, races or tribes or parts of or groups within castes, races or tribes', which the President, by public notification, "specifies" to be scheduled castes in relation to a State or Union Territory. (Article 341, Constitution of India).

<sup>64</sup> 11th Five Year Plan (2007-12), Vol. 1, Inclusive Growth, Planning Commission, GoI, 2008, page 122.

<sup>65</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 276.

<sup>66</sup> 11th Five Year Plan (2007-12), Vol. I, Inclusive Growth, Planning Commission, GoI, 2008, pp. 117, 126.

(96) than among SCs (88). Other Backward Classes (OBCs) have lower mortality than SCs/STs, but have higher mortality than other castes at all childhood ages.<sup>67</sup>

207. India does not face the problem of racism, racial discrimination, xenophobia and related intolerance.

### 3B.1.2 Policy

208. The NPAC, 2005, addresses the issue of discrimination and accords utmost priority to the most disadvantaged, in all policy and programme interventions. Technical assistance was sought from United Nations agencies such as UNICEF in the preparation of this policy statement.

209. The Ministry of Tribal Affairs prepared a draft Policy to address disparities and discrimination against STs, such as empowerment, gender equity, enhancement of Human Development Index, alienation of tribal land, tribal-forest interface, displacement, resettlement and rehabilitation, creation of critical infrastructure, etc. The Policy is being finalised.<sup>68</sup>

### 3B.1.3 Legislation

210. The Protection of Civil Rights (PCR) Act, 1955, and The Prevention of Atrocities (POA) Act, 1989: The Government has created these Acts as welfare legislations to protect civil rights and prevent atrocities, especially among disadvantaged communities. The Ministry of Social Justice and Empowerment (MSJ&E) has impressed upon State Governments the need for mechanisms for expeditious disposal of cases, including setting up of special exclusive courts and awareness generation as a special package for development of atrocity-prone areas. Several State Governments have set up SC/ST Protection Cells, designated nodal officers, identified atrocity-prone areas, constituted State- and District-level vigilance committees, set up special exclusive courts for speedy trial of cases, and formulated contingency plans to effectively provide relief and rehabilitation to victims. As a follow-up to the Inter-State Council meeting in December 2006 on atrocities against the SCs and STs, the MSJ&E suggested that States take specific measures to curb atrocities against these communities, such as sensitisation of officers and identification of Non-Governmental Organisations (NGOs), which can play a leading role in getting the cases of atrocities registered, in their regular follow-up, etc. The Prime Minister also addressed Chief Ministers on this matter in May 2007.<sup>69</sup>

211. The 11th Five Year Plan notes that protective legislation needs to be complemented by legislation on education, vocational training, higher education, and employment of SCs. It has also proposed the setting up of a special law facility by the Department of Justice for educating judicial officers, public prosecutors and police officials about the legal issues, and conducting research for effective implementation of the PCR, 1955, and POA Act, 1989.<sup>70</sup>

212. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006: The major rights granted under the Act are the right to cultivate forest land to the extent under occupation (subject to a ceiling of four hectares); the right to own, collect, use, and dispose of minor forest produce; and rights inside forests that are

<sup>67</sup> National Family Health Survey - 3 (2005-06), Ministry of Health and Family Welfare, GoI, 2007, page 183.

<sup>68</sup> Annual Report (2007-08), Ministry of Tribal Affairs, GoI, pp. 1-2.

<sup>69</sup> Annual Report (2007-08), Ministry of Social Justice and Empowerment, GoI, pp. 20-21.

<sup>70</sup> 11th Five Year Plan (2007-12), Vol. I, Inclusive Growth, Planning Commission, GoI, 2008, page 121.



traditional and customary, e.g. grazing. The Act is at various stages of implementation in different States. (See Section 1.4.1 for details.)

213. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993: Eradication of the practice of manual scavenging is an area accorded high priority by the Government. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, prohibits employment of manual scavengers, as well as construction of dry latrines. The Self Employment Scheme for Rehabilitation of Manual Scavengers, implemented by the MSJ&E since January 2007, provides loan at a subsidised rate of interest, and credit-linked capital subsidy for setting up self-employment projects. Awareness camps are also organised by State Channelising Agencies in the *basties* of scavengers, with a view to generate awareness at all levels to ensure that the optimum benefit reaches the beneficiaries in the shortest possible time.

### 3B.1.4 Programmes

214. The MSJ&E implements several programmes for educational development, economic empowerment and social empowerment of socially disadvantaged groups. A number of schemes encourage SC students for continuing their education from school level to higher education. Special Central Assistance is given to the Scheduled Caste Sub-Plan (SCSP), a major scheme for economic advancement of persons belonging to SCs. The National Scheduled Caste Finance and Development Corporation provides credit facilities to the beneficiaries, who are living below the poverty line. Economic empowerment of STs is provided through extension of financial support through the National ST Finance Development Corporation. The Tribal Cooperative Marketing Development Federation of India Limited is engaged in marketing development of tribal products and their retail marketing through its sales outlets.

215. Programmes of other Ministries and Departments also focus on inclusive and equitable growth. Notable among these are Bharat Nirman, with focus on infrastructure and basic amenities in rural areas; the National Rural Employment Guarantee Programme, which aims at eliminating poverty and generating employment and also provides social security for marginalised groups; Rajiv Gandhi National Drinking Water Mission, which ensures potable drinking water in SC/ST habitations; and the National Rural Health Mission (NRHM), which provides for accessible, affordable, accountable, effective and reliable primary healthcare, especially to poor and vulnerable section of the population, including the SC/STs.

216. Other Flagship programmes, such as the Integrated Child Development Services (ICDS), Sarva Shiksha Abhiyan (SSA) and Mid-Day Meal Scheme (MDMS) are child-focused interventions, with special focus on SC/ST and minority population. (See Section 1.5 for details.)

### 3B.1.5 Awareness Generation

217. Steps are being taken to spread awareness about different legislations addressing the rights of SCs and STs. In most States, the task has been entrusted to *Zilla Parishads*, *Panchayat Samities* and village *panchayats*, which constitute the three-tier local governance system. Awareness campaigns are being organised by involving dalit organisations and NGOs. Steps are also being taken for supply of posters and translated vernacular copies of the POA Act, 1989, for distribution to various agencies/ organisations. The State Governments are encouraging NGOs to conduct awareness camps in atrocity-prone areas for better social integration of the communities. Display boards depicting

important provisions of the POA Act, 1989, have been erected in the premises of police stations and mandal offices in the atrocity-prone areas in most of the States. Seminars, debates and essay competitions are being organised regularly to spread awareness.<sup>71</sup>

218. Awareness camps are being organised by the MSJ&E through Special Central Assistance<sup>72</sup> in the residential areas where sweepers and scavengers reside, to convince them to break away from their traditional occupation of scavenging and sweeping, and adopt alternative and dignified occupations or self-employment activities.<sup>73</sup>

### 3B.1.6 Resources

219. There has been an increase in budget allocation for programmes for the upliftment of SCs/STs. The annual allocation made under the schemes for Development of PTGs has shown an eleven-fold increase between 2001-02 and 2009-10, from Rs 141.8 million in 2001-02 to Rs 1,600 million in 2009.<sup>74</sup> Special allocations have also been made in the flagship programmes, with specific components for SC/STs. The Planning Commission has issued guidelines on the use of funds, role of the concerned departments and officials, achievement of physical targets, and coordination with, and support of, other concerned departments for effective implementation of the SCSP and Tribal Sub-Plan.<sup>75</sup>

## 3B.2 People Belonging to Different Religious Groups

### 3B.2.1 Status and Trends

220. According to 2001 Census, 18.4% of the country's population comprises minority communities, of which Muslims constitute 13.4%, Christians 2.3%, Sikhs 1.9%, Buddhists 0.8% and Parsis 0.07%. Assam, West Bengal, Kerala, Uttar Pradesh, Bihar, J&K and Jharkhand have a higher proportion of Muslims than the national average.

221. The 2001 Census shows that whereas the all-India literacy rate is 65.6%, the all-India literacy rate among Muslims is 59.1%. States, where the literacy rate for Muslims is below the State literacy rate, are Bihar, Uttar Pradesh, Delhi, Assam, West Bengal and Punjab. The differentials are highest in West Bengal, Assam and Delhi. However, several States, particularly Madhya Pradesh, Gujarat, Maharashtra, Andhra Pradesh, Karnataka and Tamil Nadu, where the percentage of Muslim population is quite high, and/or where Muslims are economically better off, have higher literacy rate among Muslims than the State literacy rate.

222. In order to assess the social, economic and educational status of the Muslim community, the Government of India constituted a High Powered Committee, known as Sachar Committee, in 2005. The Committee's report has found that the Muslim community is lagging behind other religious groups of India in most development indicators. However,

<sup>71</sup> Annual Report on the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Ministry of Social Justice and Empowerment, GoI, 2005, pp. 10-49.

<sup>72</sup> Special Central Assistance to Scheduled Caste Sub-Plan is a Central Scheme, under which 100% grant is given to the States/Union Territories as an additive to their Scheduled Caste Sub-Plan.

<sup>73</sup> Annual Report (2006-07), Ministry of Social Justice and Empowerment, GoI, page 16.

<sup>74</sup> Annual Report (2004-05), Ministry of Tribal Affairs, GoI, Annexure XXII, pp.177-179, and India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Tribal Affairs, GoI, September 2009, page 1.

<sup>75</sup> 11th Five Year Plan (2007-12), Vol. 1, Inclusive Growth, Planning Commission, GoI, 2008, pp. 115-116.

there is considerable variation in the condition of the community across States and regions.<sup>76</sup>

### **3B.2.2 Policy and Programmes**

223. The Ministry of Minority Affairs was created on January 29, 2006, with a wide charter related to the overall policy planning, coordination, evaluation and review of the regulatory framework, and development programmes related to the minority communities.

224. The policy implications of the geographical distribution of minorities in India and the urban bias in the population, have been examined in detail by the Ministry. An inter-ministerial task force was constituted under the chairmanship of member, Planning Commission, to look into policy implications of the distribution of minority population, and suggest suitable steps in the field of housing, education, health, and civic amenities to improve their living conditions, and employment prospects.

225. The recommendations of the Sachar Committee have been seriously considered by the Government. A multi-sectoral development programme has been launched in 2008-09 to address issues such as education, employment, sanitation, housing, drinking water and electricity supply. (See Annexure 3B.1 for details on the recommendations of the Sachar Committee.)

226. The 15-point programme for minorities, launched by the Prime Minister, ensures that the benefits of several Government schemes reach the disadvantaged sections of the minority community. The programme focuses on education, standard of living and prevention of communal disharmony. (See Section 8D.3 for details.)

## **3B.3 Children with Disabilities**

### **3B.3.1 Status and Trends**

227. The Census is one primary source of data on disability, which is collated every decade. As per the 2001 Census, there were 21.91 million Persons with Disabilities (PWDs), viz. visual, hearing, speech, locomotor and mental, constituting 2.13% of the total population of India. According to the latest data on disability available from 58th (2002) Round of National Sample Survey Organisation, there are an estimated 18.49 million PWDs in the country (1.8% of the population). The difference in aggregate estimates could be due to different definitions of disabilities used in NSS and Census for disabilities.<sup>77</sup> According to the Rehabilitation Council of India, these estimates are extremely conservative, and 10% is cited as more accurate. Based on the various estimates, there are between 6 and 30 million Children with Disabilities (CWDs) in India, who have special needs.<sup>78</sup> The data from these sources influences all policy decisions pertaining to CWDs.

<sup>76</sup> Sen Gupta, AK, Sachar Recommendation – Growth with Equity, Press Information Bureau, GoI, December 5, 2006, page 1.

<sup>77</sup> The Census and the National Sample Survey have a different sampling design. The Census is an enumeration of the entire population of India, while the National Sample Survey has a nationally-representative stratified sample. In both the sources, disability was self-reported. Different definitions of overall disability and disability types have contributed to differences in estimates. For details, refer to People with Disabilities in India: From Commitments to Outcomes, The World Bank, 2007, Annexure 1.

<sup>78</sup> Disability in India, Office of the Chief Commissioner for Persons with Disabilities, Ministry of Social Justice and Empowerment, GoI, <http://ccdisabilities.nic.in/Disability%20in%20india.htm>.

228. The 58th round of NSS reveals that in case of CWDs, attendance in school never rises above 70% for boys and around two-thirds for girls. Attendance rates in urban areas for CWDs are higher than in rural, but even at peak, attendance never exceeds 74% in urban, and two-thirds in rural areas. Even the best performing major States with excellent outcomes on their general child population, such as Kerala and Tamil Nadu, have stubbornly high out-of-school rates for CWDs. It is recognised that CWDs living in poverty are among the most deprived.<sup>79</sup>

### 3B.3.2 Policy

229. The NPAC, 2005, recognises that CWDs must be provided opportunities to lead a full life with dignity and respect and thus, the State shall provide for their education, training, healthcare, rehabilitation and recreation in a manner that will contribute to their overall growth and development.

230. The National Policy for Persons with Disabilities, adopted in 2006, focuses primarily on prevention of disability, early detection, appropriate interventions, physical and economic rehabilitation measures, inclusive education, creation of a barrier-free environment, and development of rehabilitation professionals. (See Section 1.2 for details.)

231. The States of Chhattisgarh and Karnataka have draft Disability Policies, while Maharashtra has a State-level action plan for implementing its commitments to PWDs. Some important features of the draft State Policies are explicit discussion of different disability models, and identification of special cross-cutting areas for special attention, including mental illness, gender issues, and prevention and early detection of disabilities. The Policy mandates a State Disability Council as an institutional means to focus on major disability issues and to improve coordination, as well as set specific coverage/performance targets by the sector, to ensure monitorable indicators of progress, and focus on strategies to mobilise public financing for the sector.<sup>80</sup>

232. In order to check disorders caused by iodine deficiency, the Ministry of Health and Family Welfare (MoH&FW) issued a notification banning the sale of non-iodised salt for direct human consumption in the entire country with effect from May 17, 2006. In order to monitor the quality of iodised salt and urinary iodine excretion, 18 States/UTs have set up Iodine Deficiency Disorder monitoring laboratories, while the remaining States are in the process of establishing the same.<sup>81</sup>

233. The Ministry of Urban Development has been designated as the nodal Ministry for providing barrier-free environment for PWDs. Model building bye-laws have been prepared to provide access for PWDs to public buildings/places.<sup>82</sup>

234. The 11th Five Year Plan has proposed provision of ramps in schools, development of disabled-friendly curricula, training and sensitisation of teachers, and partnerships with NGOs and other specialised institutions working for the protection and rights of CWDs.<sup>83</sup>

235. To prevent disabilities among children caused by accidents, the Department of Road Transport and Highways, under the Ministry of Shipping, Road Transport and Highways, formulated a draft National Road Safety Policy, 2007, with a number of positive elements for action. Kerala provides a good example of State-level action, addressing a range of

<sup>79</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 217.

<sup>80</sup> People with Disabilities in India: From Commitments to Outcomes, World Bank, May 2007, page 131.

<sup>81</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 101.

<sup>82</sup> Annual Report (2008-09), Ministry of Social Justice and Empowerment, GoI, page 136.

<sup>83</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, pp. 217-218.

factors in road safety, developing State-level Road Safety Action Plan, and implementing the Action Plan through Good Practices Manual of Public Education in Road Safety.

### 3B.3.3 Legislation

236. India ratified the Convention on the Rights of Persons with Disabilities in 2007. As a follow-up action, the NHRC appointed a Special Rapporteur on women, children and disability-related issues and also constituted a core group on disability comprising experts and activists.

237. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, (PWD Act, 1995) has a number of limitations, such as coverage of only designated groups of PWDs; weak enforcement mechanisms, with rather limited role for actors outside the core administrative framework; and lack of guidance on the most appropriate type of education for CWDs. The Government has initiated a process to amend the Act to widen its scope and strengthen its implementation. (See Section 1.4.3 for details.) The JJ Act, 2000, also provides for care and protection of CWDs.

238. The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, enables and empowers PWDs, including CWDs, to live as independently and fully as possible, extends support to registered organisations providing need-based services, and evolves procedure for appointment of legal guardians for PWDs requiring such protection. The Office of the Chief Commissioner for Persons with Disabilities takes steps to safeguard the rights of, and facilities for, the PWDs.

### 3B.3.4 Programmes

239. The NHRC, along with the MSJ&E, the Ali Yavar Jung National Institute of Hearing Handicapped, and other institutions and NGOs, developed a project titled 'Indian Sign Language for Deaf Persons', with the objective of warding off discrimination faced by persons with hearing impairments, especially children. The modules prepared under the project were field-tested in 2007-08. A Disability Manual was published by the NHRC in 2005.<sup>84</sup> Several ministries, such as the MSJ&E, MWCD and MoH&FW are implementing programmes to address both preventive as well as curative aspects of disabilities among children. (See Section 6B.4 for details.) The ICPS has a special provision for children with special needs, who have been institutionalised in homes set up under the JJ Act, 2000.

### 3B.3.5 Awareness Generation

240. Several State Governments regularly organise sensitisation camps on the provisions of the PWD Act, 1995, at the Municipal Corporation, sub-divisional, divisional, and District levels. Information on this Act is also printed in local languages, and distributed to diverse stakeholders, such as NGOs, teachers and community-based workers.<sup>85</sup>

241. A study conducted by the World Bank in 2005 in rural Uttar Pradesh and Tamil Nadu revealed that the overall awareness regarding the PWD Act, 1995, in these States was very low, especially among households with PWDs. These findings were supported by evidence from other States, such as Orissa, indicating low awareness about the PWD Act, 1995, entitlements among civil society, and public sector actors.

<sup>84</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Human Rights Commission, GoI, January 2010, page 2.

<sup>85</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of West Bengal State, 2007, page 67.

### 3B.4 Children Infected/Affected by HIV/AIDS

#### 3B.4.1 Status and Trends

242. According to National Family Health Survey-3 (NFHS-3), and Behavioural Surveillance Survey in 2007, it was estimated that 2.31 million people are infected with Human Immunodeficiency Virus (HIV)/Acquired Immuno Deficiency Syndrome (AIDS), of which 39% are women and 35% are children.<sup>86</sup> It is also estimated that 94,000<sup>87</sup> children below the age of 15 are HIV positive, and based on antenatal prevalence, about 21,000 children are infected every year through mother-to-child transmission.<sup>88</sup> A high percentage of HIV positive pregnant women are not identified during pregnancy, due to relatively limited coverage of antenatal care services or access to counselling and testing facilities, while others identified as HIV positive are lost due to limited follow-up. As a result, many children born of an HIV positive mother and at risk of being affected by HIV themselves are not identified in a timely manner and hence, they are deprived of the opportunity of prophylaxis after birth or treatment later on in life.

243. Six States have been identified as high-prevalence States (having more than 1% HIV prevalence in the general population), five States/UTs as moderate-prevalence States (concentrated epidemic with more than 5% HIV prevalence in high-risk population), and the rest as low-prevalence States.<sup>89</sup> (See Figure 3B.1.) Fourteen States/UTs have been identified as highly vulnerable. However, as per the current surveillance, only Andhra Pradesh and Maharashtra have prevalence higher than 1% of the general population, while 156 Districts have high prevalence (Category A) of HIV across the country.

244. The single most adverse impact of HIV/AIDS is stigma and discrimination, which is weakening social support systems, intensifying vulnerability, and impacting the economic status of those affected. While economic deprivation has resulted in children withdrawing from school to care for sick parents or earn additional income, social discrimination may result in the denial of basic services to affected children, especially health and education services. Discrimination enhances the vulnerability of children to disease, and also subjects them to other forms of exploitation. Children orphaned by AIDS and other reasons, especially girls, tend to become vulnerable to sexual exploitation due to their disadvantaged socio-cultural status. In India, of the 0.18 million estimated HIV positive children, 18-20% may require Antiretroviral Treatment (ART). Presently, 0.015 million children are on ART.<sup>90</sup>

<sup>86</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of National AIDS Control Organisation, Ministry of Health and Family Welfare, GoI, 2008.

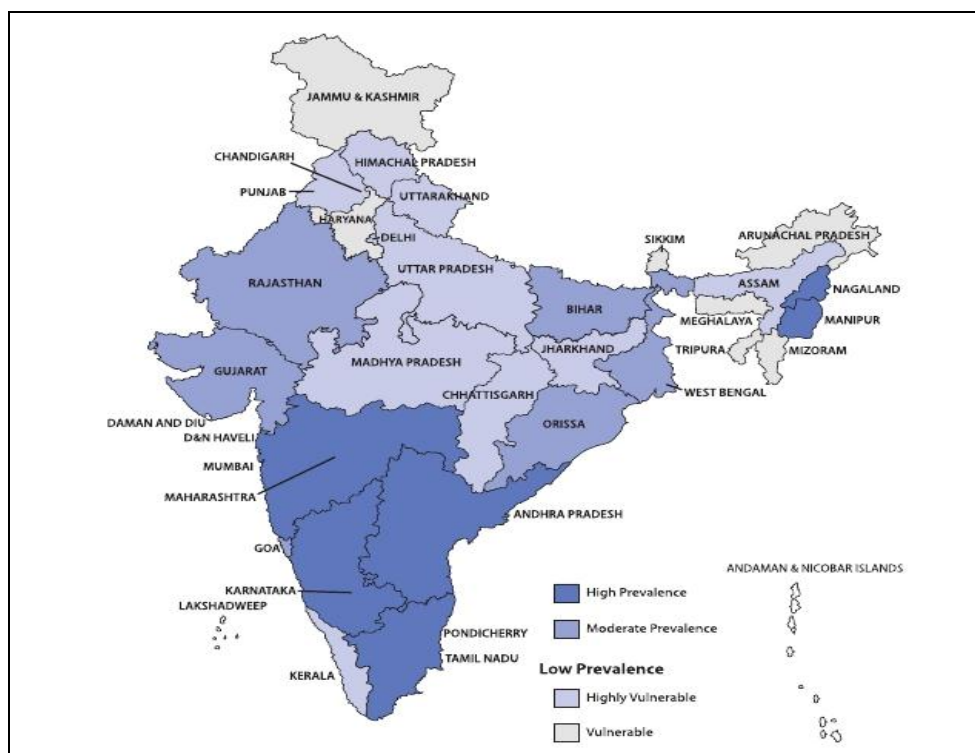
<sup>87</sup> UNGASS Country Progress Report 2008: India, National AIDS Control Organisation, Ministry of Health and Family Welfare, GoI, page 23.

<sup>88</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of National AIDS Control Organisation, Ministry of Health and Family Welfare, GoI, 2008.

<sup>89</sup> Policy Framework for Children and AIDS in India, National AIDS Control Organisation, Ministry of Women and Child Development, GoI, July 31, 2007, page 6.

<sup>90</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of National AIDS Control Organisation, Ministry of Health and Family Welfare, GoI, 2007, page 2.

Figure 3.1  
HIV Prevalence



Source: Policy Framework for Children and AIDS in India, 2007, NACO.

245. A study on 'Barriers to Services for Children with HIV Positive Parents' in the six high-prevalence States revealed ill-treatment of children affected by HIV/AIDS in the education and health sectors. It reported their segregation, neglect and humiliation by teachers, nurses and Anganwadi workers. Some children, especially in Andhra Pradesh, mentioned that they were withdrawn from school to care for sick parents, or supplement household income.<sup>91</sup>

246. The NHRC has taken *suo motu* cognizance, and initiated proceedings in two cases, both involving children in Kerala, who faced discrimination in schools due to their HIV positive status. It has taken note of cases of discrimination against children in education, clinics and orphanages because they or their family members were HIV positive. As there is no unified system of tracking episodes of stigma and discrimination among service providers (education, health, etc.), the possibility of knowing the exact scope of the problem is limited.

### 3B.4.2 Policy

247. HIV/AIDS policies and guidelines in India view the situation as a developmental problem rather than a mere public health issue.<sup>92</sup> The NPAC, 2005, has specific objectives and strategies pertaining to children living with HIV/AIDS. (See Annexure 3B.2 for details on objectives and strategies for children affected by HIV/AIDS under the NPAC, 2005.)

<sup>91</sup> Barriers to Services for Children with HIV Positive Parents, UNICEF, July 2007, page 2.

<sup>92</sup> Policies and Guidelines, National AIDS Control Organisation, Ministry of Health and Family Welfare, GoI, [www.nacoonline.org/About\\_NACO/Policy\\_Guidelines](http://www.nacoonline.org/About_NACO/Policy_Guidelines).

248. The Policy Framework for Children and AIDS in India has brought to focus that although HIV/AIDS will primarily remain a health issue, the unique nature of this disease, leading to violations of basic rights of children, needs to be addressed by a concerted effort of all key Ministries, which are responsible for the well-being of children. (See Section 1.2 for details.)

249. Furthermore, India being a member of South Asian Association for Regional Cooperation, became signatory to the Regional Strategic Framework for the Protection, Care and Support of Children Affected by HIV/AIDS, in 2008. The Framework lays emphasis on the inclusion of children affected by AIDS in services available to other children. Under the Framework, monitoring and evaluation guidelines were developed in 2008 and 10 core indicators were identified, which were tied to the strategic approach identified by the Framework.

### **3B.4.3 Legislation**

250. The draft HIV/AIDS Bill, 2006, by the MoH&FW and National AIDS Control Organisation (NACO) seeks to improve access to HIV/AIDS services and facilities for testing, human rights, disclosure of information, social security, procedure in court, and implementation. (See Section 1.4.4 for details.)

### **3B.4.4 Institutional Mechanisms**

251. National Council on AIDS (NCA): This high-level body, chaired by the Prime Minister, and comprising Union Ministers, Chief Ministers, State Health Ministers, Health Secretaries, NGOs, community-based organisations (CBOs), and people from HIV positive networks, held its first meeting in New Delhi in 2006. It recommended the involvement of several key Ministries<sup>93</sup> in spreading awareness, building partnerships with NGOs for implementing programmes, motivating the private sector to participate in Indo-US corporate fund for HIV/AIDS, and seeking tax exemption for contributions.

252. Efforts are being made to mainstream the response to HIV/AIDS in over 31 Ministries, including the Ministries of Home, Panchayati Raj, Human Resource Development, Youth Affairs and Sports, and Women and Child Development. Elected presidents of Zilla Parishads have been sensitised and encouraged to take increasing responsibilities in HIV prevention, treatment, care and support. An increase in the frequency of meetings of the NCA will ensure a high-level commitment for the integration and mainstreaming of HIV in different programmes.

253. An HIV/AIDS Cell has been set up in the MWCD to strengthen the coordination between MWCD and NACO (MoH&FW) at the national, State and District levels to address the needs of children affected by HIV/AIDS. The Cell facilitates review of policy and programmes to integrate information on and needs of HIV/AIDS affected women and children.

254. The NCPCR has made specific recommendations to the respective State Governments for ameliorating the conditions of vulnerable children affected by HIV/AIDS in Manipur and Mizoram.<sup>94</sup> It has also conducted public hearings on this subject for infected/affected children from other States.

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<sup>93</sup> The key Ministries include: Information and Broadcasting, Surface Transport, Posts and Communications, Civil Aviation, Railways and Youth Affairs.

<sup>94</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Commission for Protection of Child Rights, GoI, 2009, page 2.



### 3B.4.5 Programmes

255. NACO, under the MoH&FW, is implementing several programmes for children infected/affected by HIV/AIDS. (See Section 6C.3.3 for details.) The ICPS makes special provision for children, who are affected/ infected by HIV/AIDS, in institutions.

## 3B.5 Girl Child

### 3B.5.1 Status and Trends

256. Child Sex Ratio: Elimination of female foetus from the womb itself through the misuse of technology, resulting in declining sex ratio, is a matter of great concern. The 2001 Census found a sex ratio of 927 girls per 1,000 boys for the population aged 0-6 years. Approximately five years after the Census, NFHS-3 found the sex ratio of the population aged 0-6 years to be 918 for India as a whole. The under-six sex ratio in urban areas is the same in NFHS-3 as in 2001 Census. However, in rural areas, NFHS-3 found a sex ratio of 921 for this population, lower than 934 found in the Census. The Planning Commission has included raising of sex ratio in the 0-6 age group from 927 in 2001 to 935 by 2011-12 and to 950 by 2016-17 as a monitorable target in the 11th Five Year Plan.<sup>95</sup>

257. Female Mortality: It is seen that the IMR is marginally higher for females (58) than males (56). However, in the neonatal period, like elsewhere, mortality in India is lower for females (37) than for males (41). As children get older, females are exposed to higher mortality than males. Females have 36% higher mortality than males in the postneonatal period, but a 61% higher mortality than males at the age 1-4 years. Infant and under-five mortality rates are higher for females in rural areas and males in urban areas.<sup>96</sup>

258. Educational Status: The gender gap has been rapidly declining at the primary level, and there is a steady, though smaller, decline at the upper primary level. (See Section 7A.1.2.8 for details.)

259. Neglect and Abuse: Rape, trafficking, sexual abuse and exploitation, child labour, and beggary are some forms of violence perpetuated on the girl child. The Study on Child Abuse: India 2007 revealed that more than two out of every three girls reported neglect, and 48.4% of girls wished they were boys. Seventy percent of the girls did household work, and 49% of the girls took care of their siblings. This is indicative of the fact that these girls are deprived of developmental opportunities.<sup>97</sup>

260. Child Marriage: The incidence of early marriage declined from 50% in 1998-99 (NFHS-2) to 44.5% in 2006 (NFHS-3), although some States continue to report above 60% incidence, especially in rural areas. These include Jharkhand (71%), Rajasthan (65.7%), Bihar (65.2%), West Bengal (62.6%), Madhya Pradesh (62.0%), Andhra Pradesh (61.4%), Uttar Pradesh (61.1%) and Chhattisgarh (60.3%).<sup>98</sup> The NFHS-3 findings show a slight rise (17.2 years) in the median age of marriage for women aged 20-49 years, from 16.78 years in NFHS-2. Among the major States in India, the age at marriage is highest in Kerala for both males and females, at 28.7 years and 22.7 years respectively.<sup>99</sup>

<sup>95</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 185.

<sup>96</sup> National Family Health Survey - 3, Ministry of Health and Family Welfare, GoI, pp. 183, 186.

<sup>97</sup> Study on Child Abuse: India 2007, Ministry of Women and Child Development, GoI, 2007, page 115.

<sup>98</sup> Statistics on Women in India, National Institute of Public Cooperation and Child Development, GoI, 2007, page 112.

<sup>99</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Kerala State 2008, page 24.

261. Early Pregnancies and Child Bearing: The marriage of girls at young age leads to teenage pregnancy and motherhood. Young women, who become pregnant and give births, experience a number of health, social, economic, and emotional problems. In addition to the relatively high level of pregnancy complications among young mothers because of physiological immaturity, inexperience associated with childcare practices also influences maternal and infant health. According to NFHS-3, one in six women aged 15-19 begins childbearing. The proportion of women aged 15-19, who have begun childbearing, is more than twice as high in rural areas (19%) as in urban areas (9%). Early pregnancy and childbearing is highest in Jharkhand (28%), West Bengal (25%) and Bihar (25%).<sup>100</sup>

### 3B.5.2 Policy

262. The National Plan of Action for the Girl Child has been merged into the NPAC, 2005, which includes goals, objectives, strategies and a time plan for the empowerment of the girl child. (See Annexure 3B.3 for details on rights of the girl child under the NPAC, 2005.) The emphasis is on creating an enabling environment, increasing choices, and promoting development through special opportunities. Under the NPAC, 2005, the MWCD has undertaken advocacy through social, political and religious leaders and through all the Government programmes to change attitudes and practices discriminatory towards girls. Efforts have been made to enforce and amend the laws to protect the equal rights of the girl child. Gender sensitisation among all those in authority, including the judiciary, police, local authorities and members of the general public has been undertaken. Affirmative actions have been taken to inform and sensitise society about traditional and customary practices which are harmful to the girl child. Support is also being provided to NGOs and CBOs to promote positive attitudes and practices towards the girl child.

263. The 11th Five Year Plan seeks proactive, affirmative approaches and actions necessary for realising the rights of the girl child, and providing equal opportunity. *Panchayats, Gram Sabhas*, CBOs, and District Magistrates/Collectors at District level, would be responsible for monitoring the overall progress.

### 3B.5.3 Legislation

264. Preference for the male child continues in the country, even though there is an Act to prohibit sex-selection techniques. In addition to this, prosecution of offenders under the Pre-Conception and Pre-Natal Diagnostic Technique (Prohibition of Sex Selection) (PCPNDT) Act, 1994, needs to be strengthened further. As per the reports received from the States and UTs, 34,012 bodies/institutions using ultrasound, image scanners, etc. have been registered under the Act. As of April 21, 2008, there were 420 ongoing cases in the courts/police stations for violations of the law, and 165 ultrasound machines had been sealed and seized. Though most of the cases are for non-registration of the centre/clinic, 65 cases relate to determination and disclosure of the sex of the foetus in the States of Bihar (3), Haryana (21), Karnataka (1), Madhya Pradesh (1), Maharashtra (13), Punjab (18), Tamil Nadu (1), Uttarakhand (2), Uttar Pradesh (1) and Delhi (4). There are 43 cases against people who have given advertisement about facilities of pre-conception/pre-natal sex selection in Gujarat (3), Haryana (5), Madhya Pradesh (2), Maharashtra (6), Punjab (5), Rajasthan (1), Tamil Nadu (1), Uttarakhand (1), Uttar Pradesh (7) and Delhi (12). The concerned State Governments are regularly requested to take effective measures for speedy disposal of the ongoing cases.<sup>101</sup>

<sup>100</sup> National Family Health Survey - 3, Ministry of Health and Family Welfare, GoI, pp. 94-95.

<sup>101</sup> Brief on Pre-Conception and Pre-Natal Diagnostic Techniques as on May 14, 2008, Ministry of Health and Family Welfare, GoI, May 14, 2008, page 3.

265. There have been a few convictions under the Act in the States of Punjab, Haryana and Rajasthan. As per a court order, a National Inspection and Monitoring Committee was constituted to examine the ground realities. During 2006-07, the Committee visited many Districts in the States of Haryana, Punjab, Maharashtra, Uttar Pradesh, Himachal Pradesh, West Bengal, Andhra Pradesh, Karnataka, Gujarat and National Capital Territory of Delhi, and sealed a number of clinics that were violating the provisions of the PCPNDT Act, 1994. A National Support and Monitoring Cell was set up for effective implementation of the Act, consisting of professionals from police, medical, law and social sciences as full time consultants. Initially, the Cell is focusing on Punjab, Haryana, Gujarat, Chandigarh and Delhi, where the problem is more prevalent. Computerisation of the records is underway to facilitate close monitoring and timely action against defaulters.

266. A High Powered Committee, chaired by the Secretary, MoH&FW, was formed in May 2007 to consider proposed amendments to the PCPNDT Act, 1994, to strengthen its implementation. (See Section 1.4.3 for details.)

267. Developments in technology and market forces, however, continue to undermine the efforts of the Government. Websites advertise gender-testing kits, and the media has reported that such kits, made in USA and Canada, are available in Punjab for Rs 15,000-20,000. The High Court of Punjab and Haryana took *suo motu* cognizance of these reports, and issued notices to the State Governments of Haryana and Punjab, and the Central Government. In November 2007, the Customs Department was directed to examine the possibility of intercepting the import of such gender determination kits, and to furnish details of the importers. In response, the Customs Department, in consultation with the MoH&FW, has decided to frame a draft notification towards banning the import of gender-testing kits.

268. To crack down on sex-selection facilities offered on the internet, the MoH&FW has sought the assistance of the Ministry of Communication and Information Technology in blocking websites providing access to such facilities, and preventing search engines such as Google from highlighting relevant sites.

269. The Prohibition of the Child Marriage Act (PCMA), 2006, which replaced the Child Marriage Restraint Act, 1929, has some forward-looking provisions, which include prohibition, rather than prevention, of child marriages, and provision of relief to the victims of child marriage, as well as enhanced punishments for those who have abetted and solemnised the marriage. (See Section 1.4.1 for details.) The MWCD is conducting training and sensitisation workshops for stakeholders on the salient features of the Act. A guidebook for the implementation of the Act is also being prepared.

### **3B.5.4 Programmes**

270. In March 2008, a Conditional Cash Transfer Scheme, called Dhanalakshmi was launched in 11 educationally most backward blocks of seven States (viz. Andhra Pradesh, Chhattisgarh, Orissa, Jharkhand, Bihar, Uttar Pradesh and Punjab), which provides for a set of staggered financial incentives for the families of girl children on completion of certain conditions, viz. survival, immunisation, retention in school and delay in marriage beyond 18 years of age, and an insurance cover for the girl child. About 101,970 children from families living below, as well as above, the poverty line have been targeted, and an outlay of Rs 100 million proposed for 2008-09.

271. Ujjawala – a Comprehensive Scheme for Prevention of Trafficking, and Rescue, Rehabilitation, Re-integration and Repatriation of Victims of Trafficking and Commercial Sexual Exploitation, launched by the MWCD – aims to address the issue of trafficking, and is based on experiences of earlier schemes run by the MWCD. (See Section 8C.5.5 for details.)

272. The Nutrition Programme for Adolescent Girls, Kishori Shakti Yojana (KSY) and Balika Samriddhi Yojana (BSY) address the health and nutrition needs of the girl child.

273. The MWCD has proposed a merger of KSY and BSY into a new scheme called Rajiv Gandhi Scheme for Empowerment of Adolescent Girls, to be administered through the ICDS Scheme. The Scheme aims to improve the health and development status of adolescent girls, promote awareness on health-related issues and provide opportunities for learning life skills, etc. (See Section 6C.3.2 for details.)

274. Community Vigilance Committees formed at village level under the SSA of the Ministry of Human Resource Development (MHRD), ensure enrolment and regular attendance of every girl child. The MHRD is to open adequate number of bridge schools, with quality education packages for girl children, as also street children, child labourers, seasonal migrants, and all those who are out of the formal education system.<sup>102</sup> The SSA has specific strategies for enhancing girls' access, enrolment and schooling. (See Section 7A.5.2 for details.)

275. The NHRC and the United Nations Population Fund (UNFPA) have taken up a collaborative study titled Research and Review to Strengthen PCPNDT Act's implementation across key States. The main objective of the research is to focus on the impediments in implementation of the Act by reviewing the cases registered by the States/UTs under the PCPNDT Act, 1994, identifying the hurdles in filing of such cases and studying the final orders passed on these cases. The Commission also sent an investigation team to Pataudi village in Gurgaon District of Haryana to enquire into a case related to the recovery of half-burnt fetuses from a well near a nursing home, which was allegedly involved in sex-determination tests and female foeticide for many years.<sup>103</sup>

276. The ICPS provides for setting up Cradle Baby Reception Centres in each District to offer temporary shelter to children in crisis situation, especially abandoned children, and provide them care and affection till he/she is given in adoption. The Scheme envisages protection of girl child from sex-selective abortion and female foeticide, a cause of growing concern for declining sex ratio in India. These Cradle Baby Reception Centres will be linked to Cradle Points at Primary Health Care Centres, hospitals/nursing homes, Swadhar units, short-stay homes and in the office of District Child Protection Society to receive abandoned babies. Individual care plan for every child received shall be initiated by the reception centre and further developed by the Specialised Adoption Agency, in whose care the child is to be transferred after the authorisation of the Child Welfare Committee.

### **3B.5.5 Awareness Generation and Capacity Building**

277. A number of campaigns have been launched for sensitising the public and changing social behaviour towards the rights of girls, child marriage, and the problem of declining child sex ratio.

278. Among the notable campaigns against adverse sex ratio are 'Save the Girl Child', which highlights the achievements of young girls; 'Mujhe Mat Maro', which focuses on the problem of female foeticide; and 'Mujhe Beti Hi Chahiye', which aims at encouraging survival of girls. Electronic and print media are being used to spread awareness. The National Radio Broadcasting Service airs campaigns against gender discrimination, early marriage and educational empowerment of the girl child through its various channels. Posters are displayed at prominent public places (e.g. Metro stations in Delhi) for spreading

<sup>102</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 214.

<sup>103</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Human Rights Commission, January 2010, pp. 3-4.

awareness. In October 2007, a signature campaign was launched to generate awareness regarding the evil of female foeticide, and rallies were organised in Delhi to generate awareness among the public. Besides the Central Government initiatives, State Governments also regularly use print and electronic media to spread awareness on the issues of early and forced marriage, and female foeticide.

279. A national-level meeting on 'Save the Girl Child' was organised by the MoH&FW on April 28, 2008, in which accredited media personalities, bar associations and heads of high schools and colleges were motivated to further the message regarding the girl child in a phased manner.

280. Religious and spiritual leaders have been motivated to spread awareness on the issue of sex selection and early marriage and its implications. Two such partnerships were formed with the Art of Living Foundation and the World Council of Arya Samaj.<sup>104</sup> The Art of Living hosted a conference of inter-faith religious leaders, who pledged to take the message forward through their discourses. Spiritual leaders and social activists have led *padyatras* to focus on the issue across the States of Gujarat, Rajasthan, Delhi, Haryana, Chandigarh and Punjab, and are using festivals for advocacy on the issue of sex-selection in Mumbai.

281. Sensitisation on child sex ratio has been made a part of curriculum for Auxiliary Nurse Midwife. For tracking the delivery of a pregnant woman, it is proposed to provide Accredited Social Health Activist a remuneration of fixed amount at the village level.

282. The appropriate authorities are unable to devote adequate attention to the implementation of the PCPNDT Act, 1994, and have expressed their lack of expertise and experience in such legal matters.<sup>105</sup> In order to address this, in place of Chief Medical Officer/District Health Officer, District Collectors/District Magistrates have been placed as District Appropriate Authorities to strengthen the implementation of the Act at the ground level. The States of Maharashtra, Tripura, Gujarat and Chhattisgarh have informed that they have issued the necessary notification in this regard.<sup>106</sup>

283. With a view to sensitise the judiciary, the National Judicial Academy, Bhopal, provided training to trainers from the State Judicial Academies during 2005-06, who in turn are providing training to the judiciary in areas under their jurisdiction. The National Law School of India University, Bangalore, has been provided grants for training of lower judiciary and public prosecutors from State Judicial Academies in a phased manner, beginning with Karnataka during 2007-08.<sup>107</sup>

284. Police training academies and schools have added the issue of declining child sex ratio, and also the PCPNDT Act, 1994 in their training curriculum. The Panchayati Raj Institutions (PRIs) also play an important role in spreading awareness on issues related to the girl child, such as stopping of early child marriages, etc.

285. The ICPS, which focuses its activities on children in need of care and protection, including the girl child, has a separate component on advocacy, public education and communication, under which the MWCD is developing an effective strategy for child rights

<sup>104</sup> A Hindu reform movement founded in 1875 by Swami Dayananda.

<sup>105</sup> Annual report, 2006, Implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques Act, Ministry of Health and Family Welfare, GoI, 2007, page 30.

<sup>106</sup> Brief on Pre-Conception and Pre-Natal Diagnostic Techniques as on May 14, 2008, Ministry of Health and Family Welfare, GoI, page 4.

<sup>107</sup> Brief on Pre-Conception and Pre-Natal Diagnostic Techniques as on May 14, 2008, Ministry of Health and Family Welfare, GoI, pp. 5-6.

and protection in partnership with other Ministries, and national/ and international organisations working in this sector.

286. While the range and number of advocacy materials is huge, its content has not been systematically evaluated through a rights and gender perspective. A recent study commissioned by the UNFPA to assess the impact of various communication strategies found that many stakeholders, such as family members, accept and justify sex-selective elimination of girls because of strong son preference, perceived cost on education and marriage of girls, and concern for the future well-being of girls.<sup>108</sup>

287. In 2009, the MWCD dedicated January 24 as the National Day for the Girl Child. This day will be celebrated every year to focus on the rights of the girl child.

### **3B.6 Challenges**

288. The Government is continuously trying to address the issue of discrimination. The reporting period has seen several efforts directed towards this result. The 11th Five Year Plan has the vision of inclusive growth to ensure equality of opportunity to all, with freedom and dignity, accompanied by an expansion in the opportunities for economic and social advancement. India has ratified the Convention on the Rights of Persons with Disabilities, adopted the National Policy for Persons with Disabilities and formulated the Policy Framework for Children and AIDS in India. In addition, accelerated implementation of schemes and programmes to address discrimination against the girl child and the adoption of the PCMA, 2006 by the Government reflect some of the key ongoing efforts to fight discrimination.

289. However, prevailing social norms and harmful practices, and exclusion and discrimination on various counts continue to limit affirmative action through revised policies, programmes and awareness initiatives, posing a continuing challenge for the realisation of child rights. Sustained efforts are required to address inequalities and their root causes that come in the way of full realisation of rights of children.

290. Some of the key areas identified for action include:

- Addressing inequalities and exclusion by strengthening access to basic services for SC/ST population, especially through the flagship programmes;
- Strengthening capacity-building and awareness initiatives to address low awareness on matters of differently-abled children by service providers and low awareness about the PWD Act, 1995, and its specific entitlements among the general population;
- Widening the scope of PWD Act, 1995, to include all forms of disability;
- Strengthening access to basic services, especially health and education, for children affected/infected by HIV/AIDS, and addressing the weak social support system compounded by stigma and discrimination;
- Strengthening the effective implementation of the PCPNDT Act, 1994; evidence collection and prosecution under it; mass awareness and incentive programmes, including conditional cash transfers; promoting access of services for girls; and addressing the prevailing discrimination;

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<sup>108</sup> Leela Visaria, Improving the Child Sex Ratio: Role of Policy and Advocacy, Economic and Political Weekly, March 22, 2008, page 37.

- Safeguarding the survival and security of the girl child from conception to birth and throughout the period of her childhood.

### 3C. The Right to Life, Survival and Development (art. 6)

#### 3C.1 Status and Trends

291. Child Mortality: More than one in 18 children die within the first year of life, and more than one in 14 die before reaching the age of five. Neonatal (first month) deaths constitute about two-thirds of total infant deaths, 56% of these being male and 44%, female.<sup>109</sup> More than half of the child deaths are accounted for by four States, viz. Uttar Pradesh, Chhattisgarh, Bihar and Madhya Pradesh. In contrast, Kerala shows lower incidence of child deaths in every age group. (See Section 6A for details.)

292. Accidents: Traffic accidents (including road and train accidents), drowning (including capsizing of boats) and poisoning (including food poisoning, accidental intake of insecticides, snake or animal bite, and leakage of poisonous gases) are among the major causes of accidental deaths among children in the 0-14 age group.<sup>110</sup>

293. Suicides: Suicides by children is a matter of concern, particularly in urban areas. Unreal expectations of parents, competition in the education system, the inability to cope with societal pressure to succeed, and lack of adequate counselling services are some of the primary reasons for children taking this extreme step. About 35% of the total suicidal deaths belong to the 15-24 age group. The States of Kerala, Tamil Nadu, West Bengal, Andhra Pradesh, Karnataka and Maharashtra are reporting higher proportion of deaths due to suicide in this age group.<sup>111</sup>

294. Crimes against Children: About 20,410 cases of crimes against children were reported in 2007, as against 10,814 in 2001. Crimes against children include murder, rape, abduction, buying/selling of girls for prostitution, infanticide, foeticide, abetment of suicide, etc. The States that accounted for most reported cases of crimes against children were Delhi, Madhya Pradesh, Maharashtra and Uttar Pradesh. (See Annexure 3C.1 for details on crimes against children in the country.)

295. Natural Disasters: The reporting period has witnessed several major natural disasters, including the earthquake in Gujarat in January 2001, tsunami in December 2004,<sup>112</sup> the earthquake in Jammu & Kashmir (J&K) in October 2005, major flooding in Bihar, Uttar Pradesh, Assam, Orissa, West Bengal, and other States in 2007 and 2008, and major avian flu outbreak in West Bengal in 2008. The earthquake in Gujarat took 13,805 lives<sup>113</sup> and the tsunami affected 4,700 children, including deaths in the State of Tamil Nadu. About 340 children were separated from their parents.<sup>114</sup>

<sup>109</sup> Report on Causes of Death in India (2001-03), Office of the Registrar General, India, page 24.

<sup>110</sup> Accidental Deaths and Suicides in India (2004 and 2007), National Crime Records Bureau, Ministry of Home Affairs, GoI, 2008, Table 1.7, page 30.

<sup>111</sup> Report on Causes of Death in India (2001-03), Office of the Registrar General, India, 2009, page 30.

<sup>112</sup> Tsunami in 2004 affected the States of Tamil Nadu, Kerala and Andhra Pradesh and the Union Territories of Puducherry and Andaman & Nicobar Islands.

<sup>113</sup> Earthquakes, National Disaster Management Authority, GoI, <http://ndma.gov.in/ndma/earthquake.htm>.

<sup>114</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Tamil Nadu State, 2008, page 58.

296. In addition, a number of relatively smaller-scale emergencies, primarily floods, droughts, landslides, cholera, and avian flu outbreaks have also occurred. Millions of people are affected annually in India; most of them from the poorest strata of the population, a high proportion among them being children.<sup>115</sup> Natural disasters disrupt access to education because of displacement, injuries or deaths of teaching staff, destruction or damage to school buildings or loss of educational materials. Financial losses often force children to drop out. For example, in Rajasthan in 2006, schools were closed because of heavy rains, leaving 400,000 children without education for many days.<sup>116</sup> The exact number of children affected by natural disasters is not available.

### 3C.2 Policy and Legislation

297. Child Mortality: The NPAC, 2005, through its goals, objectives and strategies seeks to ensure that all children enjoy the highest attainable standard of health through holistic care and protection. (See Section 1.2 for details.)

298. Accidents: A draft National Road Safety Policy for significantly reducing morbidity and mortality from road accidents is being prepared and amendments of traffic laws are also being considered. In addition, the Supreme Court, taking note of the increasing accidents involving children in Delhi, has provided guidelines for ensuring safety of school buses. These include clear captions identifying a school bus, a first aid box, fire extinguisher, reliable locks, spaces below the seats for school bags, an attendant from the school, and a parent/guardian or a teacher to ensure safety norms.<sup>117</sup>

299. Suicides: The Central Board of Secondary Education (CBSE), through its Circular dated March 10, 2008, made it mandatory for all affiliated schools to employ counsellors to help children cope with psychological pressure that often drives them to take the extreme step. The circular notes that exercises in building self-concept, self-image, acceptability, ability to withstand pressures, sense of enterprises, etc. should be part of the learning process, and schools are instructed to provide planned and effective counselling to achieve this.<sup>118</sup>

300. Crime against Children: There are several legislations that provide for protection and care of children, such as the Prohibition of the Child Marriage Act, 2006; Juvenile Justice (Care and Protection of Children) Act, 2000; Child Labour (Prohibition & Regulation) Act, 1986; Information and Technology (Amendment) Act, 2008; Immoral Traffic Prevention Act, 1956; Pre-Conception and Pre-Natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994, etc. (See Section 1.4 for details.)

301. Natural Disasters: The Disaster Management Act, 2005, has been enacted as the Central Act to deal with the management of disasters. As mandated by the Act, National Disaster Management Authority (NDMA) has been set up as the apex body for disaster management in India, and is headed by the Prime Minister. The NDMA is responsible for laying down policies, plans and guidelines on disaster management, so as to ensure timely

<sup>115</sup> UNICEF in Emergencies, UNICEF, [http://www.unicef.org/india/media\\_3033.htm](http://www.unicef.org/india/media_3033.htm).

<sup>116</sup> Flash Rains in the Desert Cause Havoc in Rajasthan, UNICEF, [http://www.unicef.org/india/media\\_2217.htm?q=printme](http://www.unicef.org/india/media_2217.htm?q=printme).

<sup>117</sup> Guidelines for Children, Delhi Traffic Police, <http://www.delhitrafficpolice.nic.in/guidelines-for-children.htm>.

<sup>118</sup> Central Board of Secondary Education, Circular No. HOD (EDUSAT)/08, March 10, 2008.



and effective response to disaster. The State Governments are in the process of setting up State and District Disaster Management Authorities.<sup>119</sup>

302. The NDMA has prepared guidelines for preparation of State Disaster Management Plans, which are sensitive to the needs of vulnerable sections, including children. The Authority accords a high priority to ensuring immediate care of children during emergency situations, including special provisions for children in the National Relief Package.<sup>120</sup>

### 3C.3 Programmes

303. Child Mortality: The MoH&FW, along with the MWCD, is implementing programmes for survival and development of children, such as the Reproductive and Child Health (RCH) Programme, NRHM, ICDS, Total Sanitation Campaign, etc. (See Section 6C.3 for details.)

304. Accidents: The Road Safety Cell of the Ministry of Road Transport and Highways and its counterparts in the States undertake publicity programmes through electronic/print media to spread awareness on road safety.

305. Suicides: Helplines are set up by CBSE during exam times to provide counselling services to children to help overcome examination fear.

306. Crime against Children: The recently-launched ICPS provides for improvement in the well-being of children in difficult circumstances. The Scheme also provides for reduction in vulnerabilities to situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children. (See Section 1.5.1 for details.)

307. Natural Disasters: The tsunami in 2004 resulted in several initiatives taken by the Government to provide relief and create disaster management strategies. The worst affected State of Tamil Nadu opened three orphanages in the most-affected Districts. Children were admitted in these orphanages where no other alternatives were available, adoption of such children was prohibited to prevent trafficking and they were provided with psychological counselling. The State Government also provided Rs 0.5 million as fixed deposit for each destitute child in the 0-14 age group. Free books, notebooks and uniforms were also distributed to children studying in I-XIIth standard. Village-level watchdog committees were oriented to prevent trafficking of children.<sup>121</sup> (See Annexure 3C.2 for details on initiatives taken by the Central Government and State Governments for disaster risk reduction, management and preparedness.)

### 3C.4 Challenges

308. Steps taken to safeguard the right to life, survival and development of the child include the launch of the third phase of RCH, NRHM, the Universal Immunisation Programme, etc. Helplines have been set up by the CBSE to provide counselling services to children in coping with examination pressure. The JJ Act, 2000 and the ICPS have provisions for rehabilitation of children affected by various forms of crime. The NDMA

<sup>119</sup> 11th Five Year Plan (2007-12), Vol. I, Inclusive Growth, Planning Commission, GoI, 2008, page 233.

<sup>120</sup> Report on the Consultation on Rights of Children under Six Years: Towards a Legal Framework, October 8-9, 2007, National Commission for Protection of Child Rights, 2007, page 20.

<sup>121</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Tamil Nadu State, 2008, page 58.

focuses on prevention, mitigation and preparedness as a means to avert or reduce the impact of natural disasters.

309. There are, however, continuing challenges affecting life, survival and development of children, which are as under:

- High mortality among children below five years in the States of Uttar Pradesh, Chhattisgarh and Madhya Pradesh, which needs to be addressed in a focused way;
- High cases of suicides among children in urban areas;
- Incidences of crime against children, such as murder, rape, sex-selective abortion and sale of girls for sexual exploitation;
- Vulnerability of children to exploitative situations, displacement and deprivation of basic services and disruption of education system;
- Lack of a system for data collection on total number children affected by natural disasters, which remains a continuing challenge.

### **3D. Respect for the Views of the Child (art. 12)**

#### **3D.1 Status and Trends**

310. The Government has been taking measures to promote child participation through provisions in policies and legislations. The MWCD uses public media, print and electronic, to disseminate information on child rights, Constitutional commitments and all child-related legislations, so that all children are made aware of their rights. Efforts are being made to strengthen the capacity of NGOs and children's organisations towards facilitating child participation and providing children with opportunities to advocate with adult institutions for greater respect for their rights.

#### **3D.2 Policy and Legislation**

311. The NPAC, 2005, includes goals, objectives and strategies on child participation. The approach focuses on promoting respect for children's views, including the most marginalised, especially girls, and facilitation of their participation in all matters affecting them in social arenas, and judicial and administrative proceedings in accordance with their age and maturity.

312. The JJ Rules, 2007, recognise the NPAC, 2005, goals for child participation, and recommend that children's opinions should be sought at every stage in the juvenile justice process. This includes creation of developmentally appropriate tools and processes of interacting with children, promoting children's active involvement in decisions regarding their own lives and providing opportunities for discussion and debate through children's committees set up for the purpose.

#### **3D.3 Children's Participation in Administrative and Judicial Processes**

313. Consultations with children in the national and regional processes contributing to the United Nations Secretary-General's Study on Violence against Children in 2004, and the proposed Prevention of Offences against the Child Bill, 2009, indicate the growing openness in the Government to listen to children, and to incorporate their views in the outcome documents. During the preparation of this report, workshops with children were

held in Bihar, Rajasthan, West Bengal and Maharashtra to get their perspectives, and for an assessment of the extent to which the rights enshrined in Convention on the Rights of the Child have been realised in their lives. The Government has held consultation with children on strategies for prevention of child abuse.

314. There has been greater representation of children in conferences, consultations, workshops, and public hearings on child rights issues within the country. However, it is difficult to determine their impact, and efforts are also being made to bring about qualitative improvements in the process of engagement with children.

315. A significant initiative in 2006 was a successful consultation with 53 HIV-affected children from 10 States on the need for 'paediatric formulations' of ART, and overcoming stigma and discrimination. This was taken up by the MWCD, NACO and UNICEF in a National Consultation on Children Affected by and Vulnerable to HIV/AIDS.<sup>122</sup>

316. The practice of considering the views of children, especially in cases of contested custody, is increasing, albeit it remains the prerogative of the presiding judge or magistrate. There have been cases, where the views of children as young as 10 years have been considered, while in others, the views of 16 year olds have been overlooked. Greater sensitisation of the judges and courts is required that would have better impact, especially as the assessments of the best interests of the child and the influence of the custodian and others, can be very subjective. The monthly *Bal Samvad Adalat* in all juvenile justice boards in Bihar is an effort in this direction.

### 3D.4 Children's Participation in Institutions

317. The NCPDR has issued guidelines to check corporal punishment and has directed the States to ensure that every school, including hostels, homes under the JJ Act, 2000, including shelter homes and other public institutions meant for children, must have a forum where children can express their views. Further, a box where children can drop their complaints, even if anonymous, has to be provided for in each school. Similar guidelines have also been issued by the CBSE to all its affiliated schools. However, there is a need to build the capacity of staff in these institutions.

### 3D.5 Children's Participation in Governance

318. The Constitution of India does not specifically mention *Bal Panchayats*. However, these have been functional in several parts of rural India for over a decade now. The spaces available in the democratic set-up of the country have been utilised creatively by many *Bal Panchayats*, which follow the model of PRIs, and which, in some instances, have established links with the formal adult structures.

319. In order to emphasise the commitments made to children in election manifestos, consultations on the legislators' commitment to children, followed by felicitation of legislators as 'child-friendly legislators' for raising questions on children's issues in State Assemblies, is now an annual event in Karnataka.<sup>123</sup>

<sup>122</sup> A Special Policy on Universal Access for Children Affected by HIV and AIDS, UNICEF, [http://www.unicef.org/india/hiv\\_aids\\_3556.htm](http://www.unicef.org/india/hiv_aids_3556.htm).

<sup>123</sup> Legislators Commit to Form a Forum for Children in Karnataka, UNICEF, September 4, 2008, [http://www.unicef.org/india/child\\_protection\\_3818.htm](http://www.unicef.org/india/child_protection_3818.htm).

320. An interesting development has been the production of ‘children’s manifestos’ before elections. Before the Kerala Legislative Assembly Elections in 2006, 50 children in the 13-18 age group from different socio-economic and cultural backgrounds from 10 different Districts of the State met in Kochi, and prepared a manifesto based on children’s rights.<sup>124</sup> A similar manifesto was prepared in Karnataka before the Assembly Elections 2008.

321. The Government, as well as NGOs, have been making efforts to spread awareness about critical children’s issues and rights among key institutions and functionaries. (See Section 1.8 for details.)

### 3D.6 Children’s Associations and Organisations

322. The Child Reporters Initiative, started in 2005, is a collaborative effort of State Governments, local partners and UNICEF to involve children, particularly from marginalised and vulnerable communities, in the use of media tools and thereby to give them the means to express their views and raise their concerns on issues facing them and their communities in the media and larger forums. The initiative is currently being implemented in 13 States of India, with around 7,000 child reporters in Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. It is still in a nascent stage in Assam.

323. Overall, children have been able to discover a unique voice through this initiative. They have raised issues experiential and personal in nature, such as the problem of teachers’ absenteeism, corruption in the MDM Scheme, girl child education, child marriage, lack of *Anganwadi* facilities in their village and so on. At the same time, the initiative has also created a scope for articulation of problems plaguing their communities, like that of caste discrimination, health and hygiene and poor development infrastructure in their villages. The reporters have used various kinds of media to bring these concerns to the fore.

324. With more than 90% of the child reporters belonging to marginalised sections, their empowerment is an important outcome for enabling them in securing their rights.

325. The Child Development Bank<sup>125</sup> is an initiative that promotes the habit of saving among children. School councils enable children’s participation in matters related to school and education. The *Meena Manch* has proved popular in the promotion of girls’ education, and building life skills of adolescent girls. These are associations or groups of adolescent girls established at the school or village level, with members drawn from upper primary schools, Alternative Learning Centres, and a few studying in colleges.

326. One of the numerous initiatives across the country is the Babu Bahini Manch (BBM), evolved by Gram Nijojan Kendra in two blocks of the backward Maharajganj District of Uttar Pradesh. This forum of adolescent girls and boys meets regularly to discuss matters of interest, including education, health, sanitation and hygiene, human rights and child rights, environment, and family life. Some of the positive outcomes of BBMs have been in bringing children, especially girls, back to school, integration of girls from minority

<sup>124</sup> Children’s Manifesto (2006), Kerala Legislative Assembly Elections, Child Rights Resource Centre, Rajagiri College of Social Sciences.

<sup>125</sup> Child Development Bank supports children to be responsible and inculcates habit of prioritising needs, to budget and save.

communities in mainstream schools, computer-learning opportunities, and greater acceptance and appreciation of girls' employment.

327. There are cases of children's participation in public campaigns on issues such as schooling of out-of-school children, monitoring of MDMS, tree plantation in and around the schools, and other relevant development interventions.<sup>126</sup>

328. After the tsunami, NGOs involved children in the monitoring process after training them in survey methods, digital photography, information analyses and presentation techniques, to ensure that vulnerable groups were not deprived of relief assistance. Children surveyed more than 700 people, drew conclusions and summarised their findings.<sup>127</sup> Experiences suggest that while the rescue efforts are often spontaneous, children's actions are made possible through prior involvement in projects and organisations. (See Annexure 3D.1 for initiatives taken by States in forming children's associations and organisations.)

329. NGOs continue to promote children's participation by devising innovative ways of facilitating children's expression of views, and advocacy of their role as social actors. International organisations such as UNICEF, Save the Children and Plan International have supported innovative approaches, and facilitated participation of children at all levels.

### 3D.7 Challenges

330. The adoption of NPAC, 2005 was the first step towards strengthening of Government's efforts for promoting respect for the views of children and taking them into consideration. Since then actions on promoting participation of children and respect for their views within the family, community, schools and institutions, as well as in judicial and administrative proceedings, have found increased space.

331. However, facilitating child participation in critical matters and decisions concerning them remains a significant challenge, as children in India are traditionally and conventionally not consulted on matters and decisions affecting their lives in the family and household, the neighbourhood and wider community.

332. Capacity-building is required at different levels, especially among caregivers, as they do not have the understanding and skills for involving children's views in matters affecting them.

333. There is a need to move from sporadic efforts at engaging children and listening to their views, to institutionalising participation in programmes for children.

334. There is a need to sensitise the judiciary and court officials for enabling processes and creating an environment, where children's views are heard and considered in judicial proceedings affecting them.

<sup>126</sup> Conference on What it Takes to Eradicate Poverty, Poorest Areas Civil Society Programme, December 2007, pp. 5-6.

<sup>127</sup> The Participation of Children and Young People in Emergencies: A Guide for Relief Agencies, based largely on experiences in the Asian tsunami response, UNICEF, October 2007, page 32.

## V. 4. Civil Rights and Freedoms (arts. 7, 8, 13-17 and 37(a))

335. The Concluding Observations (CRC/C/15/Add.228) (CO) addressed in this chapter include:

- Birth registration, CO para. 39;
- Pakistani refugee and Mohajir children, CO para. 41;
- Convention against torture, CO para. 43 (a);
- Child-sensitive mechanisms, CO para. 43 (b) and (c);
- Training on human rights, CO para. 43 (d);
- Physical and psychological recovery, CO para. 43 (e);
- Corporal punishment, CO para. 45.

### 4A. Name and Nationality (art. 7)

#### 4A.1 Birth Registration: Status and Trends

336. It is estimated that 26 million births and 9 million deaths occur in India every year. Of these, nearly 18 million births (69%) and 5 million deaths (63%) are being registered across the States.<sup>128</sup> The level of birth registration varies across the States. (See Figure 4.1 for level of birth registration across the States.)<sup>129</sup>

337. The National Family Health Survey – 3 (NFHS-3) provided data for the first time on birth registration, according to which 41% of children under five years of age have had their births registered with the civil authorities. However, only 27% of children under five years of age have a birth certificate. The extent of registration of births among children aged less than two years, and aged two to four years is about the same; which suggests that despite efforts to increase birth registration, there is no change in registration yet. It is children with more educated mothers and fathers, and children from the higher wealth quintiles, who are more likely to have their births registered, and to have birth certificates. The births of less than one-fourth of children, who belong to households in the lowest wealth quintile, have been registered, and only one in 10 has a birth certificate. The level of birth registration is higher in urban areas (59.3%) than in rural areas (34.8%).<sup>130</sup>

338. The major causes for low levels of registration include lack of awareness among the general public about the importance and need for registration and registration procedures; low priority assigned to civil registration work by States; inadequate allocation in State

<sup>128</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Office of the Registrar General India, GoI, September 2009, page 1.

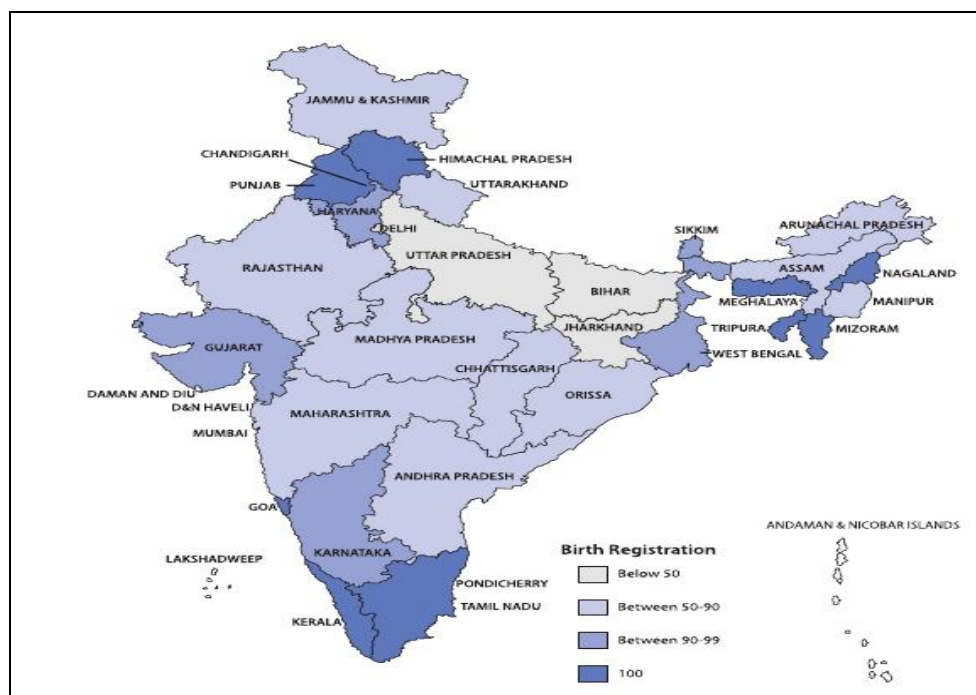
<sup>129</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Home Affairs, GoI, August 2009, page 2.

<sup>130</sup> National Family Health Survey - 3, Ministry of Health and Family Welfare, GoI, 2007, pp. 45-46. The difference between Office of the Registrar General India and National Family Health Survey-3 data is due to the fact that National Family Health Survey-3 data has been compiled by aggregating responses received from the household respondent. In many cases, the respondent, especially in rural areas, would not know that birth has actually been registered. This happens mainly in case of institutional births, which are automatically registered with the local registrar without the knowledge of the household respondent.

budgets; lack of procedural knowledge among the registration functionaries, particularly at lower levels; inadequate manpower at the local registration and supervisory level; low utility of birth/death certificates; and acceptance of alternate documents in place of birth/death certificates issued under the Registration of Births and Deaths (RBD) Act, 1969.<sup>131</sup>

Figure 4.1

**Level of birth registration in the country**



Source: Census 2001.

339. With regard to providing nationality to the Pakistani refugee and Mohajir children residing in India, the Citizenship Act, 1955, does not discriminate on the basis of nationality for granting Indian citizenship. All foreign nationals, who fulfil the eligibility criteria as laid down in the Act, are granted Indian citizenship. Further, in order to address the problems of Pak Hindu minorities displaced consequent to the wars between India and Pakistan in 1965 and 1971, powers were delegated to the State Governments of Rajasthan and Gujarat for a period of three years from February 28, 2004, to grant Indian citizenship.<sup>132</sup>

## 4A.2 Legislation

340. Based on the experience in implementation of the RBD Act, 1969, an urgent need has been felt for simplifying the procedures for registration of events and promoting efforts to achieve 100% registration in the country. Accordingly, provisions of the RBD Act, 1969,

<sup>131</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Office of the Registrar General India, GoI, September 2009, pp. 1-2.

<sup>132</sup> Ministry of Home Affairs Comments on the UN Committee Observations on the CRC Report, January 2007, pp. 1-2.

have been reviewed and amendments have been suggested. The proposed amendments also take care of the technological innovations taking place in information technology.

341. The Citizenship Act, 1955, was amended in December, 2003, to provide for compulsory registration of all citizens and issuance of national identity card.<sup>133</sup>

### **4A.3 Programmes and Awareness Generation**

342. With a view to clear the backlog of issuance of birth certificates to children in the 0-10 age group, a National Campaign was launched in November 2003. About 37.3 million birth certificates were issued across States in the first phase (November 2003-March 2005) and about 26 million birth certificates in the second phase (April 2005-October 2007) of the Campaign.

343. Until 2004-05, the public awareness campaign on birth and death registration was focused on the need for registration. Since 2004-05, the focus has been on giving more details regarding the process, as well as the significance, of birth registration through various media and wider dissemination of information. With this in view, new State-specific Information, Education and Communication (IEC) material have been developed in prominent regional languages and widely distributed. Publicity measures have also been intensified in low-performing States.

344. As per a study by the Office of the Registrar General India (ORGI) in collaboration with UNICEF, the reach of publicity and advertisement ranges from 30% to 65% even in the low-performing Districts of various States. The study recommended the need to intensify the publicity campaign with a wider coverage and higher frequency, which is being done since 2007-08.

345. In addition, several other items of publicity material are being prepared at the Central level, which include stickers (for use as book labels by school children), posters, wall hangings for Hindi-speaking States, tin plate boards, calendars, etc.

346. The ORGI has established a system of monthly monitoring in low-performing States to enhance coverage, ensure efficient working of the system and better reporting from these States.

347. The old birth and death registration records need to be preserved. According to the existing law, the legal portion of the birth and death reporting forms are legal documents, which need to be preserved in physical form, even if the contents are stored digitally on any digital storage media. The ORGI provides financial assistance to the States/Union Territories (UTs) for preservation of birth and death records.

### **4A.4 Capacity Building**

348. The ORGI undertakes several capacity-building programmes in States/UTs to strengthen the knowledge of civil registration functionaries on birth/death registration procedures. This includes orientation of new staff, as well as in-service training/refresher training for personnel, who are already in place. The ORGI also provides financial assistance to States and UTs towards training of personnel engaged in civil registration.

349. The ORGI has been organising workshops/conferences at the national level to collectively review the working of the civil registration system in various States. These

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<sup>133</sup> Annual Report (2004-05), Ministry of Home Affairs, GoI, page 75.



conferences provide an opportunity to the States to interact and exchange views and experiences related to the implementation of the RBD Act, 1969, and help in evolving strategies for improving levels of registration, based on the experiences of better-performing States.

## **4B. Preservation of Identity (art. 8)**

### **4B.1 Policy, Legislation and Programmes**

350. The Constitution of India lays down provisions that ensure the right to language, culture, and freedom of expression and speech. The Juvenile Justice (Care and Protection of Children) Act, 2000, (JJ Act, 2000), Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, (JJ (Amendment) Act, 2006), and the Juvenile Justice (Care and Protection of Children) Rules, 2007, (JJ Rules, 2007) are important initiatives for the preservation, care and protection of a child's identity in India.

351. Similarly, for the identification, care and protection of children belonging to the minorities and other indigenous groups, mechanisms have been created by the Central Government through formulation of appropriate policies and enactment of legislations. The National Commission for Minority Educational Institutions (NCMEI) provides minorities the right to establish and administer educational institutions of their choice.

352. Efforts are also being made to foster the pride and respect for Indian identity, including its culture and religion, by involving children in all national festivals such as Independence Day, Republic Day, etc.

## **4C. Freedom of Expression (art. 13)**

### **4C.1 Legislation and Programmes**

353. The JJ Rules, 2007, provides every child the right to express his/her views freely in all matters affecting his/her interest at every stage in the process of juvenile justice. The Government continues to enhance freedom of expression among children through various interventions such as village-level youth clubs, which discuss contemporary social issues, such as gender bias, enrolment drives in primary schools, immunisation, drugs and substance abuse, Human Immunodeficiency Virus (HIV)/Acquired Immuno Deficiency Syndrome (AIDS) awareness, etc. Youth groups also actively participate in sports and development activities through the Ministry of Youth Affairs and Sports (MoYAS) programmes, and in disaster relief activities through Non-Governmental Organisation (NGO) initiatives.

354. Children are provided an opportunity to express themselves through the print and electronic media. There are various children's magazines published by Children's Book Trust and other private publishing houses, in which articles and stories are written by children themselves on various aspects of socio-economic life. Children's columns are also published in newspapers, wherein children get an opportunity to express their opinion about different facets of life. Many NGOs involve children in managing newsletters and magazines. Children also participate in Government-sponsored television programmes, and programmes broadcast by private television channels. Children's organisations such as *Bal Panchayats*, *Bal Sabhas*, School Councils, etc. provide platform for children to express their views freely in matters affecting their lives. Child Reporters is an initiative in several

States, through which children express their views on concerns facing them and their community, using media as a tool. (See Section 3D for details.)

355. The Ministry of Women and Child Development (MWCD) has instituted National Child Awards for Exceptional Achievement, and National Bravery Awards to extend recognition to children with exceptional abilities, and those who have achieved outstanding status in various fields, including academics, arts, culture and sports. These awards encourage children to express their views and ideas through different mediums.

#### **4D. Freedom of Thought, Conscience and Religion (art. 14)**

##### **4D.1 Policy**

356. Children's right to freedom of thought, conscience, and religion forms an important part of participation rights. The National Plan of Action for Children (NPAC), 2005, states that the Government is committed to establishing a civilised, humane and just civil order that does not discriminate on grounds of caste, religion, class, colour, race or sex and which provides information and skills training to children to build their capacities to think and analyse. (See India First Periodic Report 2001, paras 22-27, pp. 87-88 for details.)

#### **4E. Freedom of Association and of Peaceful Assembly (art. 15)**

##### **4E.1 Policy and Programmes**

357. The NPAC, 2005, provides strategies to encourage establishment of children's groups, councils, associations, and forums and projects in order to create an environment in which children are invited to participate and feel comfortable participating.

358. The Nehru Yuva Kendra Sangathan (NYKS), an autonomous organisation of MoYAS, has presence in 500 Districts of the country, catering to the needs of more than eight million non-student rural youth, enrolled through about 0.23 million village-based youth clubs. (See India First Periodic Report 2001, paras 28-32, page 88 for details.)

359. The Ministry of Panchayati Raj (MoPR), in collaboration with the Nehru Yuva Kendras, launched a nation-wide campaign, called the *Panchayat Yuva Shakti Abhiyan*, in 2006-07 to synergise the energy of youth for grassroots development and democracy through *Panchayati Raj Institutions* (PRIs). Under this Abhiyan, composition and meetings of core committee are held; State-level *sammelans*, District-level *sammelans*, and *Gram Sabha Sashaktikarn Abhiyans* are also organised. Till date, State-level *sammelans* have been organised in the States of Mizoram, Arunachal Pradesh, Andhra Pradesh and Kerala. A core committee meeting was held in Rajasthan.<sup>134</sup>

360. The NYKS also works with Save the Children UK in several programmes, such as children-led Disaster Preparedness in Nancowry Group of Islands in Nicobar District, Youth for Combating Child Domestic Work in the States of Bihar, Madhya Pradesh, Chhattisgarh and Orissa, and more recently, in the Red Ribbon Express (RRE) project, which was a multi-sectoral and multi-activity social mobilisation campaign on HIV/AIDS. The National Service Scheme (NSS), National Service Volunteer Scheme (NSVS), National Cadet Corps, Scouts and Guides, Red Cross, youth wings of political parties,

<sup>134</sup> Annual Report (2007-08), Ministry of Youth Affairs and Sports, GoI, 2008, pp. 36-37.

faith-based organisations, and community-based organisations (CBOs), such as Lion's Club and Interact Clubs, were involved in the campaign.

361. Children's associations and organisations have helped in empowering the children deprived of liberty. They have also provided a platform and opportunity to share common concerns and seek peer support. (See Section 3D for details.) Freedom of expression and peaceful assembly is encouraged by many organisations and programmes, such as Gandhi Smriti, Spic Macay, Student Exchange Programme, Interact Clubs, etc.

#### **4F. Protection of Privacy (art. 16)**

##### **4F.1 Legislation**

362. Efforts have been made to protect the privacy of the child under various legislations, such as the JJ Act, 2000, which discourages violation of children's privacy by the print and electronic media. The JJ Rules, 2007, further ensure that the juvenile's or child's right to privacy and confidentiality shall be protected by all means, and through all the stages of the proceedings, and care and protection processes. The Information and Technology Amendment Act, 2008, which provides for protection from publishing or transmitting material depicting children in sexually-explicit act, etc. in electronic form, is another landmark intervention to protect the privacy of the child.

363. The guidelines for speedy disposal of child rape cases, developed by National Human Rights Commission (NHRC), also make sure that identity of the victim and the family are kept secret, and that their protection is ensured. Besides UNICEF and Save the Children, the Indian Council of Medical Research (ICMR) has also developed guidelines on research pertaining to sensitive children's issues. The Study on Child Abuse: India 2007, by MWCD also adopted ethical guidelines in order to ensure protection of privacy of children during the time of obtaining information from them on various aspects of abuse.

#### **4G. Access to Appropriate Information (art. 17)**

##### **4G.1 Legislation and Programmes**

364. The role of the print and electronic media was adequately highlighted in India: First Periodic Report 2001, paras 39-50, page 90 for details.) The Government is consciously promoting access to information, and enactment of the Right to Information (RTI) Act, 2005, is a step in this direction. Increased and easy access to the internet, both in urban as well as rural areas, has enabled children's outreach to information.

365. The Life Skills Education (LSE) programme of the Ministry of Human Resource Development (MHRD) and National AIDS Control Organisation (NACO) supports the rights of young people by educating them about their adolescence, coping with the growing-up process, basic facts on HIV, and other Sexually-Transmitted Infections (STIs). (See Section 6C.3.3 for details.)

366. Although many Government schools in the country have library facilities for children, there is no information on the actual number of libraries for children in the country, and on the number of mobile libraries. Many NGOs in the country are also running children's libraries, both in urban and rural areas, for reaching out to marginalised children.

#### **4H. Right not to be subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, including Corporal Punishment (art. 37 (a))**

##### **4H.1 Status and Trends**

367. There is greater awareness in the Government on the issue of torture or other cruel, inhuman or degrading treatment, including corporal punishment, which includes abusing, hitting, demeaning a child, etc. by an adult authority figure in the family or outside.

368. Due to growing sensitisation about children's rights at all levels, increasing cases of corporal punishment are being reported. The Study on Child Abuse: India 2007 by the MWCD reported that an overwhelming majority of children, that is two out of three children, are victims of corporal punishment. Out of those reporting corporal punishment in schools, 54.28% are boys and 45.72% are girls. The Study also revealed that more of older children are beaten in schools than younger ones; very high percentage of corporal punishment is reported in Government and Municipal schools, and NGO-run schools also reported high percentage of corporal punishment.<sup>135</sup>

369. The Government has taken several initiatives to address the issue of corporal punishment, such as undertaking the Study on Child Abuse: India 2007 to assess the situation and enact laws. In addition to capacity-building of teachers, it has also set up helplines for children. These measures show the Government's intention to tackle the problem on a priority basis.

##### **4H.2 Policy**

370. One of the core objectives of the NPAC, 2005, is "to protect all children from neglect, maltreatment, injury, trafficking, sexual and physical abuse of all kinds, pornography, corporal punishment, torture, exploitation, violence, and degrading treatment."

##### **4H.3 International Legal Instruments**

371. India signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1997. It is currently in the process of ratification and is being examined by a Parliamentary Committee.

##### **4H.4 Legislation**

372. Section 23 of the JJ Act, 2000, categorically states that whoever, having the actual charge of or control over a juvenile or the child, assaults, abandons, exposes or willfully neglects the juvenile or causes or procures him/her to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering, shall be punishable with imprisonment for a term, which may extend to six months, or fine, or both. The JJ Rules, 2007, provide for a suggestion box to be installed

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<sup>135</sup> Study on Child Abuse: India 2007, Ministry of Women and Child Development, GoI, 2007, pp. 52-54.

in every institution at a place easily accessible to juvenile or child as complaint and redressal mechanism.

373. Through the JJ Act, 2000, the Government has set up child-sensitive mechanisms to receive, investigate and prosecute complaints. The JJ Rules, 2007, also enunciate fundamental principles of care and protection with regard to the juvenile justice process, and institutional care in Juvenile homes, which explicitly prohibit corporal punishment and maltreatment of children within the juvenile institutional system, and lay down duties for the State for protection of children from abuse within the juvenile justice system.<sup>136</sup> According to Section 46(6) of the JJ Rules, 2007, every institution shall have the services of trained counsellors or collaboration with external agencies, such as child guidance centres, psychology, and psychiatric departments or similar Government and non-Governmental agencies, for specialised and regular individual therapy for every juvenile or child in the institution. In order to ensure the physical and psychological recovery and social integration of child victims of torture and ill treatment, the JJ Rules, 2007, lay down positive measures, which include avenues for health, education, relationships, livelihoods, leisure, creativity and play.

374. With the enactment of the Right of Children to Free and Compulsory Education Act, 2009, which prohibits physical punishment and mental harassment in all educational institutions in the country, (See Section 1.4.1 for details.) the Government has strengthened the protection of rights of children.

375. Under the Indian Penal Code (IPC), 1860, a 'hurt' caused by an 'act' to the 'body' and to the 'mind' constitutes an offence under Section 323; however, in the context of corporal punishment inflicted on children, such a 'hurt' does not constitute an offence. Sections 88 and 89 of the IPC, 1860 provide immunity to a person causing 'hurt' to a child if the act is 'done in good faith, not intending to cause harm, and by consent whether expressed or implied'. Thus, effectively the law does not recognise corporal punishment as an 'offence'.<sup>137</sup> To overcome this lacuna the proposed Prevention of Offences against the Child Bill, 2009, being drafted by the MWCD, covers corporal punishment as an offence.

376. The State Governments have also given due recognition to the issue, and introduced and amended legislations to abolish corporal punishment. The Goa Children's Act, 2003, categorically states in Section 4 (2) that 'corporal punishment is banned in all schools.' States, such as Andhra Pradesh and Tamil Nadu, have also amended the respective State Education Acts. The Education Departments in many States have also issued orders and circulars, with the Government of Puducherry starting as early as 2001.<sup>138</sup>

377. The National Commission for Protection of Child Rights (NCPCR) constituted a working group to examine the existing legislation against corporal punishment, and evolve a policy and strategies for stopping this menace. In its report, the group has provided suggestions on four specific issues: developing campaigns and advocacy material for parents and teachers; developing appropriate institutional framework to create mechanisms for addressing the various category of persons (parents, teachers, caretakers, and *balwadi*

<sup>136</sup> Protection of Children against Corporal Punishment in Schools and Institutions, Summary Discussion by the Working Group on Corporal Punishment, National Commission for Protection of Child Rights, GoI, December 2008, page 13.

<sup>137</sup> Protection of Children against Corporal Punishment in Schools and Institutions, Summary Discussion by the Working Group on Corporal Punishment, National Commission for Protection of Child Rights, GoI, December 2008, page 18.

<sup>138</sup> Protection of Children against Corporal Punishment in Schools and Institutions, Summary Discussion by the Working Group on Corporal Punishment, National Commission for Protection of Child Rights, GoI, December 2008, page 5.

workers) engaged with children through a redressal mechanism for victims of corporal punishment; suggestions to parents, Parent-Teacher Associations (PTAs), Village Education Committees (VECs), and Gram Panchayats to combat corporal punishment; and the need to amend existing Central and State laws and rules.<sup>139</sup>

#### **4H.4.1 Guidelines**

378. The Central Board of Secondary Education (CBSE) issued instructions on July 20, 2002, to principals of all schools to totally ban corporal punishment. The Secretary of the Department of School Education and Literacy (DSEL) also issued an order on December 17, 2007, to the Chief Secretaries of all States/UTs to prohibit corporal punishment in all the schools under their jurisdiction.

379. In August 2007, the NCPCR issued guidelines to all State Governments to take effective steps to check incidents of corporal punishment in schools. It expressed concern over recent incidents of violence in schools, and recommended ban on all forms of corporal punishment.<sup>140</sup> Corporal punishment is banned in Delhi, Maharashtra, Goa, West Bengal, Gujarat, Himachal Pradesh, Karnataka, Kerala, Assam and Puducherry.

#### **4H.5 Programmes**

380. The Integrated Child Protection Scheme (ICPS) strengthens service delivery mechanisms and programmes, including rehabilitative services for children in need of care and protection, including child victims of torture and/or ill-treatment. (See Section 1.5.1 for details.)

381. Childline provides emergency phone outreach service for children in need of care and protection. It is operating in 83 cities/towns across the country, and responds to over two million calls a year. Under ICPS, Childline services are to be extended to the entire country.

#### **4H.6 Capacity Building**

382. The National Institute of Public Cooperation and Child Development (NIPCCD) is the nodal agency for training and capacity building of Government functionaries on issues of human rights and child protection, including the rights of children. Other institutes, such as National Institute of Social Defence (NISD) and National Judicial Academy (NJA), provide training to police, judiciary, social welfare officers and NGOs working in the field of child protection. (See Section 1.10 for details.) Under the ICPS, training and capacity building of all personnel involved in child protection will be taken up on priority basis.

### **4I. Challenges**

383. The ORGI, through its periodic awareness campaigns and regular monitoring, is working towards strengthening the civil registration system. The Juvenile Justice (Care and Protection of Children) Act, 2000, Juvenile Justice (Care and Protection of Children)

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<sup>139</sup> Protection of Children against Corporal Punishment in Schools and Institutions, Summary Discussion by the Working Group on Corporal Punishment, National Commission for Protection of Child Rights, GoI, December 2008, pp. 29-31.

<sup>140</sup> Guidelines on Corporal Punishment sent to Chief Secretaries by National Commission for Protection of Child Rights, GoI, Letter No. NCPCR/Edu.1/ 07/39, August 9, 2007.

(Amendment) Act, 2006, and the Right of Children to Free and Compulsory Education Act, 2009 protect children from ill-treatment, torture and corporal punishment. In addition, setting up of NCPCR has further given impetus to protection of rights of children. The challenges faced in addressing the civil rights and freedom of children include:

- Low priority assigned to the State Civil Registration System, inadequate allocation in State budgets and poor procedural understanding among the registration functionaries. This is combined with inadequate awareness about the importance of birth registration and procedures for obtaining the birth registration certificates, especially in difficult to reach areas;
- Low levels of birth registration affecting the monitoring of child marriages, child labour, trafficking, tracing of missing children, etc., often compromising protection of children under the corresponding legislations;
- Low awareness amongst parents and teachers about the adverse impact of corporal punishment on children;
- Violation of children's right to privacy by the print and electronic media, and the police. Capacity development of functionaries needs to be strengthened for protection of children;
- Lack of special studies and information systems on the implementation of the provisions described, making it difficult to report on actual implementation.

## **VI. 5. Family Environment and Alternative Care (arts. 5, 9-11, 18 (paras. 1 and 2), 19-21, 25, 27 (para. 4) and 39)**

384. The Concluding Observations CRC/C/15/Add.228) (CO) addressed in this chapter include:

- Common responsibility of parents, CO. para. 47;
- Legislation on domestic adoption, CO. para. 49 (a);
- Application of JJ Act, CO para. 49 (b);
- Adoption of children of all religions, CO para. 49 (c);
- New legislation to prohibit abuse and violence, CO para. 51 (a);
- Public education campaigns, CO para. 51 (b);
- Mechanism for monitoring, CO para. 51 (c);
- Legal proceedings, CO para. 51 (d);
- Care, recovery and re-integration, CO para. 51 (e);
- Training, CO para. 51 (f);
- Assistance, CO para.51 (g).

### **5A. Parental Guidance (art. 5)**

#### **5A.1 Policy and Legislation**

385. In India, parents, by virtue of being natural guardians of their children, have the right to determine the child's upbringing with regard to religion, education and overall care and

development. The National Plan of Action for Children (NPAC), 2005, recognises the need for capacity building of both the parents in providing care and meeting psychosocial needs of the child through effective parenting programmes. It recommends developing capacities of child-care workers and other community groups through training and refresher courses for ensuring good child-care practices.<sup>141</sup> The 11th Five Year Plan recognises that children are best cared for in their own families, hence, strengthening family capabilities is necessary to provide care and protection to children.<sup>142</sup>

386. The Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 (JJ (Amendment) Act, 2006), provides for care and protection to children, who do not have adequate parental care for various reasons. It emphasises every child's right to family by simplifying the adoption processes. The Juvenile Justice (Care and Protection of Children) Rules, 2007, (JJ Rules, 2007), also emphasise the role of family for care and protection of a child.

## 5A.2 Programmes

387. To strengthen maternal and child health, postnatal care counselling on new-born care and infant and young child feeding, including adolescent healthcare education, counselling and referral is being provided under the National Rural Health Mission (NRHM).<sup>143</sup>

388. Under the Integrated Child Development Services (ICDS) Scheme, counselling, nutrition and health education is provided to pregnant and lactating mothers through the *Anganwadi* Workers. Till date, a total of 86 million children and 14.8 million pregnant and lactating mothers have been covered through 1.4 million *Anganwadi* Centres (AWCs).

389. The Central Social Welfare Board (CSWB), an autonomous body under the Ministry of Women & Child Development (MWCD), is implementing the scheme of Family Counselling Centres (FCC) to provide counselling, referral and rehabilitative services to women and children who are victims of atrocity, family maladjustment and social ostracism. Between 2001-02 and 2007-08, the number of FCCs has increased from 417 to 767 and the number of beneficiaries has risen from 27,749 to 95,877 respectively. (See Annexure 5A.1 for details on FCCs.)

390. 'The Scheme of Assistance to Homes for Children (Sishu Greh) to Promote In-country Adoption' provides for counselling of prospective adoptive parents.

391. The Scheme for Welfare of Working Children in Need of Care and Protection has a provision for counselling of parents and heads of families to wean these children from child labour and facilitate their entry/return into mainstream education system.

## 5A.3 Capacity Building

392. National Institute of Public Cooperation and Child Development (NIPCCD), Delhi, and its regional centres have laid special emphasis on organising capacity-building/training programmes for parents in the reporting period, besides programmes on management of

<sup>141</sup> National Plan of Action for Children, 2005, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2005, page 15.

<sup>142</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 209.

<sup>143</sup> National Rural Health Mission, Framework for Implementation, Ministry of Health and Family Welfare, GoI, 2005-12, pp. 122-123.



crèche services for supervisory level personnel. The objectives of these programmes are to explore attitudes and skills related to creating a nurturing environment, orient parents to the need and importance of early detection of behavioural problems of children, and enable them to take informed decisions on specific issues of concern. The regional centre at Bangalore organised workshops for parents to provide knowledge and skills on quality care, importance of early detection of psychological problems in children and its management at home. To bridge the gap of trained professionals on guidance and counselling intervention, NIPCCD has also initiated an Advanced Diploma in Child Guidance and Counselling, a one-year programme, in August 2006. (See Annexure 1.3 for details of training programmes organised by NIPCCD during 2004-05 to 2007-08.)

393. Building capacities of caregivers, strengthening family/parental capabilities to care for and protect the child through capacity-building, family counselling and support services, and linking it to development and community support services is a priority under the Integrated Child Protection Scheme (ICPS) in the 11th Five Year Plan.<sup>144</sup>

## **5B. Parental Responsibilities (art. 18, paras. 1 and 2)**

### **5B.1 Status and Trends**

394. Given the new socio-economic environment, changing parental roles and responsibilities, and increased pressure on children from school, family and peers, it has become essential to facilitate the understanding of parents about their common responsibilities in addressing the psychological problems and needs of children. The prevailing laws in the country emphasise the role of parents/family in the up-bringing of children. The State has taken several initiatives to provide assistance and build the capacity of parents and families in their child-rearing responsibilities.

### **5B.2 Policy and Legislation**

395. The NPAC, 2005, emphasises the need for setting up pre-school centres, day-care centres and crèches at workplaces and in communities, especially in remote and socio-economically backward areas, to reduce the burden of working/ailing mothers, and to prevent diversion of girl child into sibling care.

396. As an extension of the principle established under the Juvenile Justice (Care and Protection of Children) Act, 2000, (JJ Act, 2000), the JJ (Amendment) Act, 2006, speaks of the State taking responsibility of the child if there is “no family or ostensible support or if the child is in continued need of care and protection”. The State has the obligation to provide shelter to the child till a suitable rehabilitation is found, or up to the age of 18 years, through institutional or non-institutional care such as sponsorship, adoption and foster care. The JJ Rules, 2007, also lay down the principle of best interest to ensure physical, emotional, intellectual, social and moral development of juvenile or child. These recognise the primary responsibility of biological parents to bring up a child with care, support and protection. However, in the best interest of the child, this responsibility may be bestowed upon willing adoptive/foster parents.<sup>145</sup> It further specifies that in every matter

<sup>144</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 213.

<sup>145</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 137.

and decision concerning children, their views should be respected and their best interests should be given priority.

397. The Maternity Benefit Act, 2008, is an important legislation that provides leave and security benefits to working mothers. Every women covered under this Act is entitled to receive a medical bonus of Rs 1,000 from her employer. It empowers the Central Government to increase the medical bonus to a maximum of Rs 20,000 by notification every three years. (See Section 1.4.2 for details.) Recognising that early childhood care and rights of working mothers, including breastfeeding, are interconnected, the 11th Five Year Plan seeks to ensure maternity entitlements to support exclusive breastfeeding.<sup>146</sup>

398. To enable both parents to share common responsibilities for bringing up their child, paid paternity benefits have also been introduced in India. Currently, it is only 15 days for Central Government employees. The benefits have also been introduced in some private sector companies.

399. The Prohibition of Child Marriage Act, 2006, ascribes responsibility to parents/guardians, (amongst others) and provides for punishment for promoting or permitting solemnisation of child marriage.

400. During separation of parents, the Court grants custody of children to one of the parents and access to the other parent so that children grow under the care and affection of both parents.<sup>147</sup>

### 5B.3 Programmes

401. The Government of India has taken several measures to provide assistance to parents and legal guardians in their child rearing responsibilities.

402. Till 2005, the MWCD was implementing two schemes, namely 'Assistance to Voluntary Organisations for Crèches for the Children of Working and Ailing Women' with provisions of sleeping and day-care facilities, supplementary nutrition, medicines and contingencies, as well as monitoring of crèches and the 'National Crèche Fund' to provide assistance for opening of new crèches and converting existing AWCs into *Anganwadi*-cum-Crèche Centres. In 2006, these two Schemes were merged into Rajiv Gandhi National Crèche Scheme (RGNCS) for Children of Working Mothers, launched on January 1, 2006. The RGNCS provides for improved services and enhanced financial norms, besides increasing the number of crèches in the country. The main objective of the Scheme is to promote a healthy all-round development of children of working/ailing mothers, particularly those employed in the unorganised sector and belonging to the below poverty line category. The Scheme, which has an in-built component of monitoring of crèches and training of the crèche workers for better services, aims to build a child-friendly environment in all crèches. Under this Scheme, a total of 31,718 crèches have been sanctioned till date, reaching out to approximately 0.79 million children (See Annexure 5B.1 for details on RGNCS and 5B.2 for details of number of crèches sanctioned to the implementing agencies under the RGNCS.). To meet the needs of 220 million working women in the informal sector, 0.8 million crèches are required to be set up.<sup>148</sup> To ensure better monitoring and provide enhanced financial support, a revision of RGNCS has been taken up.

<sup>146</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 209.

<sup>147</sup> Asha Bajpai, *Child Rights in India*, Oxford University Press, 2006, page 109.

<sup>148</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 203.

403. Under the National Rural Employment Guarantee Scheme, there is a provision to set up child-care facilities/crèche at the worksite under the care of a woman if there are more than five children below the age of six years.<sup>149</sup>

404. The Integrated Child Development Services, Kishori Shakti Yojana and Nutrition Programme for Adolescent Girls have provisions for improving nutrition, health and development of children, including adolescent girls. These programmes also aim to promote awareness on health, hygiene, nutrition and family care. (See Section 1.5.1 for details.)

405. The ICPS thrust is on strengthening the family's capabilities to care for and protect the child through capacity building, family counselling and support services, and by linking these to community support services.<sup>150</sup> NIPCCD has been organising workshops and training programmes for the capacity-building of parents, enabling them to cater to the needs of their children. (See Annexure 1.3 for details of training programmes organised by NIPCCD during 2004-05 to 2007.)

406. Under the scheme of hostels for working women with day-care centres (for single working women, working women away from their home towns, widows, divorcees and separated women), 876 hostels and 321 day-care centres were functioning by the end of December 2007, benefiting 8,442 children.

407. Labour legislations in India contain provisions for child-care facilities for women workers. (See India First Periodic Report, 2001, para 22, page 108 for details.)

408. Based on the recommendation of the Sixth Central Pay Commission to enhance maternity leave and introduce special leave for child care, the Government of India has modified the existing provisions of the Central Civil Services (Leave) Rules, 1972, for civilian employees of Central Government. According to the new provisions, the existing ceiling of 135 days maternity leave has been enhanced to 180 days (six months). This would promote breastfeeding, the first right of an infant. In addition, women employees having minor children are now entitled for child-care leave for a maximum period of two years (i.e. 730 days) during their entire service for taking care of up to two children, whether for rearing or to look after any of their needs such as examination, sickness, etc.<sup>151</sup>

409. States, such as West Bengal and Himachal Pradesh, are running child-care services like *Balwadi Centres* for children taking pre-school education. Cottage schemes are being run in West Bengal for children belonging to backward communities, while Himachal Pradesh has launched Mother Teresa Matri Sambal Yojana that provides financial assistance to destitute mothers, widows and deserted women below poverty line. Besides the crèche programme, Karnataka offers foster-care services and sponsorship programmes with the objective of de-institutionalisation of children. *Balwadis* and *Phoolwadis* are being run in Rajasthan and Chhattisgarh respectively, with the support of community women.<sup>152</sup> (See Annexure 5B.3 for details on State initiatives for child-care institutions and services.)

<sup>149</sup> The National Rural Employment Guarantee Act, 2005, Operational Guidelines, 2008 [http://nrega.nic.in/Nrega\\_guidelinesEng.pdf](http://nrega.nic.in/Nrega_guidelinesEng.pdf)

<sup>150</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 213.

<sup>151</sup> Letter No.13018/212008-Estt. (L), Department of Personnel & Training, Ministry of Personnel, Public Grievances & Pensions, GoI.

<sup>152</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 211.

## 5C. Separation from Parents (art. 9)

### 5C.1 Status and Trends

410. Separation from parents in the best interest of the child usually takes place when either parent is not in a position to take care of the child because of poverty, ailment, alcoholism or imprisonment, or when parents are not known, or when children are abandoned, or when children became victims of man-made natural disasters.

411. It is estimated that a large number children are destitute and orphans or without parental support in the country. Many of them have been placed in institutional care.<sup>153</sup> These include children in conflict with law, children of prisoners, and children in need of care and protection. Information on the number of children, who are not orphaned but placed in institutional care, is not available. Keeping the best interest of children in mind and their ultimate rehabilitation, initiatives are being taken to place orphaned and destitute children in non-institutional care options, such as adoption, foster care and sponsorship.

412. In matters concerning guardianship and custody of children, the courts have given several judgements in preference/consideration of the best interest of the child.

### 5C.2 Policy and Legislation

413. The NPAC, 2005, the JJ (Amendment) Act, 2006, and the JJ Rules, 2007, recognise the need for care and protection of children, who are separated from parents, including children of prisoners.

414. The JJ (Amendment) Act, 2006, and JJ Rules, 2007, focus on placing children without parental care and support in alternative care within families and use of institutionalisation only as a step of last resort. The JJ Rules, 2007, also provide that parents and relatives of a juvenile placed in an institution should be allowed to visit him/her once a month or more frequently in special circumstances. It also provides the juvenile freedom to write and receive letters.<sup>154</sup>

415. Welfare of children of mothers living in prison as under-trial prisoners or convicts has been a matter of concern. Children forced to live with their mothers in prison in case there is nobody to look after at home, face the problem of social isolation and the absence of healthy interaction, while those separated from their imprisoned mothers and fathers have similar problems of healthy development.<sup>155</sup> Responding to a Public Interest Litigation, the Supreme Court of India, in its judgement dated April 13, 2006, issued guidelines to the Central and State Governments to follow minimum standards that provide these children an opportunity to lead normal healthy lives. Taking note of the Model Prison Manual, prepared by a National Expert Committee, 1986, on Women Prisoners, which makes special provision for children of women prisoners, the Supreme Court also directed the amendment in existing jail manuals, rules, regulations and instructions within three months to implement the guidelines. The Supreme Court has laid down a uniform guideline

<sup>153</sup> India Country Report on Violence Against Children 2005, Department of Women and Child Development, Ministry of Human Resource Development, GoI, page 53 and Sub-Group Report on Child Protection for the 11th Five Year Plan, Ministry of Women and Child Development, GoI, page 54.

<sup>154</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 172.

<sup>155</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 217.

applicable to all prisons in the country. It has further allowed female prisoners to keep children up to the age of six years with them. After the age of six, the child has to be handed over to a suitable surrogate, in accordance with the mother's wishes, or put in an institution run by the social welfare department in the same city.<sup>156</sup>

416. The Family Courts Act, 1984, provides for establishment of Family Courts by the State Governments in consultation with High Courts to deal with issues of guardianship, custody and access to a child. In places, where there are no Family Courts, the matter is taken up by the District Courts in India. So far, 190 Family Courts have been set up in 24 States and Union Territories (UTs) across the country. Based on the recommendation of the Parliamentary Committee on Empowerment of Women, all the State Governments/UT Administrations have been requested to set up Family Courts in each District.<sup>157</sup> These Courts are required to take a decision in favour of the best interests of the child and may consult children to know their wishes.

417. Successive court judgements in recent years have given prime consideration to the best interest and welfare of the child while appointing a guardian in matters of custody, education and maintenance of children.<sup>158</sup> In some of the judgements, the court has recognised the mother as much a natural guardian as the father.<sup>159</sup> Prior to the judgement given by the Supreme Court of India (*in Githa Hariharan vs. Reserve Bank of India*, February 18, 1999), that mother was as much the child's natural guardian as the father) (See India First Periodic Report 2001, Box 5.1, page 107 for details.), the courts mostly gave importance to the father's right as a natural and legal guardian, but after this landmark judgment, courts all over India have interpreted in favour of welfare of the child in matters of custody, overriding the supremacy of parental rights. For instance, in *Amit Beri vs. Sheetal Beri*,<sup>160</sup> the Supreme Court gave the custody to the mother, with whom the child was for 10 years, saying that affluence of father cannot be a substitute for affection, whereas in *Mausami Moitra Ganguli vs. Jayant Ganguli*,<sup>161</sup> the court gave the custody rights of the child to the father with visitation rights to the mother. (See Annexure 5C.1 for details of recent court judgments on the best interest of children.)

### 5C.3 Programmes

418. The MWCD is implementing several programmes and schemes to reach out to children having no support of parents and families, including those in situation of destitution. These programmes include the Scheme of Assistance to Homes for Children (Shishu Greh) to promote in-country adoption, Programme for Juvenile Justice, Integrated Programme for Street Children and the ICPS. (See Section 1.5 for details.)

419. Several States have also taken initiatives for providing care and support to children without parental care. In Rajasthan, the Government has launched 'Palanhar Yojana', a unique Scheme to provide alternative care to children without parental care and support. Under this Scheme, a child, whose parents have both died due to accident or illness, or have

<sup>156</sup> *R. D. Upadhyay vs. State of AP & Ors.*, Writ Petition (civil) 559 of 1994, April 13, 2006, Sub folder 'Judgements', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>157</sup> Family Courts, Ministry of Home Affairs, <http://mha.nic.in/pdfs/Familycourts.pdf>.

<sup>158</sup> Asha Bajpai, *Child Rights in India*, Oxford University Press, 2006, page 97.

<sup>159</sup> Asha Bajpai, *Child Rights in India*, Oxford University Press, 2006, pp. 98, 127.

<sup>160</sup> *Amit Beri vs. Sheetal Beri*, All India Reporter (AIR) Allahabad, 2006, page 267, Sub folder 'Judgements', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>161</sup> *Mausami Moitra Ganguli vs. Jayant Ganguli*, AIR 2008 SC 2262, Sub folder 'Judgements', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

been awarded life imprisonment/ death sentence, is placed in the care of a willing family, for which financial assistance is provided by the State Government. The Department of Social Justice and Empowerment, Rajasthan, is running Shishu Grehs for newborn children abandoned by their mothers/ families and *Balika Grehas* for destitute and neglected girls in 6-18 age group.<sup>162</sup> The Maharashtra State Government is implementing a foster-care programme called 'Bal Sangopan Yojana', for children without family support.<sup>163</sup> In Delhi, the State Government has framed Foster-Care Placement Services to regulate the placement of illegitimate and abandoned children in the 0-6 age group, including those from fondling homes, juvenile homes and children referred by hospitals, nursing homes, social workers and welfare institutions with foster parents.<sup>164</sup> (See Annexure 5C.2 for details on State initiative for alternative care and support to children.)

## **5D. Family Reunification (art. 10)**

### **5D.1 Status and Trends**

420. The Government of India recognises the need for effective measures to protect and safeguard the interests and rights of families, especially the children of migrants for reunification with the family. There are an estimated 25 million<sup>165</sup> overseas Indians spread globally and about five million Overseas Indian Workers (OIWs) employed all over the world (over 90% being in Gulf countries and South-East Asia). The process for family reunification has been simplified with the creation of the Ministry of Overseas Indian Affairs (MOIA), in 2004, as the nodal Ministry to manage the migration issues of Indian workers for overseas employment, and ensure protection of emigrants and their families.

421. India has policy and legislative provisions to deal with emigration issues of Indian citizens overseas and their return.

### **5D.2 Policy and Legislation**

422. The NPAC, 2005, the JJ Act, 2000, the JJ (Amendment) Act, 2006, and the JJ Rules, 2007, recognise the need for care and protection of children, who are separated from parents.

423. The JJ Rules, 2007, under the principle of repatriation and restoration, recognise the right of every juvenile or child or juvenile in conflict with law to be re-united with his/her family, and restored back to the same socio-economic and cultural status as before coming within the purview of the Act, or becoming vulnerable to any form of neglect, abuse or exploitation.<sup>166</sup> A juvenile or child, who has lost contact with his family, shall be repatriated and restored, at the earliest, to his family, unless such an action is against the best interest

<sup>162</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Rajasthan State, 2004-07, pp. 48, 49, 51.

<sup>163</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Maharashtra State, page 39.

<sup>164</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Delhi State, September 2009.

<sup>165</sup> Annual Report (2007-08), Ministry of Overseas Indian Affairs, GoI, pp. 2 and 37.

<sup>166</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 139.

of the juvenile or child.<sup>167</sup> A juvenile or child, who is a foreign national, shall be repatriated at the earliest to the country of his origin in co-ordination with the respective Embassy or High Commission.<sup>168</sup>

424. The Emigration Act, 1983, deals with all emigration from India to overseas countries and the return of emigrants. To transform the emigration system into a simple, transparent, humane and orderly process, the MOIA is in the process of finalising the amendments proposed in the Emigration Act, 1983.<sup>169</sup>

425. To make the migration process of OIWs emigrant-friendly, and enable the reunification of families, the MOIA has decentralised the process of emigration clearance. Furthermore, the Emigration Check Required Suspension has been abolished with effect from October 1, 2007. With this, children and spouses of migrant workers are now entitled to get Emigration Check Not Required endorsement on their passports after showing proof of their eligibility. The number of emigration clearances increased from Rs 0.466 million in 2003 to Rs 0.809 million in 2007.<sup>170</sup>

426. Issues related to children in India seeking to join their parents abroad, and the process and purpose of visit by foreign nationals wishing to visit India, are described in the last periodic report. (See India First Periodic Report 2001, paras 32-35, page 112 for details.)

## **5E. Recovery of Maintenance for the Child (art. 27, para. 4)**

### **5E.1 Legislation**

427. The issue of guardianship and custody of minors in India is governed by the Guardianship and Wards Act (GWA), 1890, the Hindu Minority and Guardianship Act, 1956, and the unmodified Muslim Law of Custody and Guardianship. Sections 41 to 44 of the Indian Divorce Act, 1869, deal with matters related to custody, education and maintenance of children below 18 years of age.<sup>171</sup> The personal laws of Hindus, Parsis, and Christians lay down the principles relating to custody and guardianship of children (See India First Periodic Report 2001, paras 39-43, page 114 for details).

428. In cases of custody dispute during separation, the Family Courts pass orders in matters related to custody, education and maintenance of children, based on provisions of the prevailing legislations on custody and guardianship, giving paramount consideration to the best interest of the child, besides considering age, sex and wishes of the child if old enough to form an opinion, and fitness of the parent to whom custody is to be handed over.<sup>172</sup> A guardian is expected to take custody of the minor and is obliged to provide financial support, healthcare and education.<sup>173</sup> (See Section 5C.2 for details.)

429. India participated in the negotiations for the 'Convention on the International Recovery of Child Support and Other Forms of Family Maintenance', adopted in

<sup>167</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 139.

<sup>168</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 183.

<sup>169</sup> Annual Report (2007-08), Ministry of Overseas Indian Affairs, GoI, pp. 27-29.

<sup>170</sup> Annual Report (2007-08), Ministry of Overseas Indian Affairs, GoI, page 38.

<sup>171</sup> The Indian Divorce Act, 1869.

<sup>172</sup> Asha Bajpai, *Child Rights in India*, Oxford University Press, 2006, page 101.

<sup>173</sup> Asha Bajpai, *Child Rights in India*, Oxford University Press, 2006, page 96.

November 2007 by the Hague Conference on Private International Law, and the Convention is being examined with a view to ratify and for enacting the implementing legislation.<sup>174</sup>

## **5F. Children Deprived of a Family Environment (art. 20)**

### **5F.1 Status and Trends**

430. According to estimates, a large proportion of children in India are destitute, orphan and without parental support. Many of these children get separated, temporarily or permanently, from their family, under vulnerable and exploitative situations or desertion by the family. To safeguard their best interest and their ultimate rehabilitation, legislative provisions have been made and programmes initiated to place these children in community-based alternative care or institutional care.

### **5F.2 Legislation, Programme and Monitoring**

431. The JJ Act, 2000, and JJ (Amendment) Act, 2006, outline provisions for non-institutional (adoption, foster placement and sponsorship), as well as institutional care. (See Sections 5G and 8B.4 for details.) The ICPS provides for sponsorship of education, health, nutrition and other developmental needs of children at risk, to support the family in taking care of the child. Section 43 of the JJ (Amendment) Act, 2006, lays down a provision for developing sponsorship programme for providing supplementary support to families, children's homes and special homes to meet medical, nutritional, educational and other needs of children for improving their quality of life. The State Government may make rules for the purpose of carrying out various schemes of sponsorship of children, such as individual-to-individual sponsorship, group sponsorship or community sponsorship.<sup>175</sup> The State has the obligation to prepare the sponsorship programme in consultation with Non-Governmental Organisations (NGOs), Child Welfare Committees (CWCs), relevant Government agencies and the corporate sector.<sup>176</sup> The Central Adoption Resource Authority (CARA) promotes domestic adoption for the rehabilitation of orphaned, abandoned and destitute children.

432. A few attempts have been made by NGOs such as Udayan Care (a Delhi-based NGO) to promote group foster-care model, providing long-term residential care for orphaned and abandoned children above six years of age, and SOS Children's Villages of India that provide a family-like environment to enable children's healthy development through 40 SOS Children's Villages.<sup>177</sup> Maharashtra has introduced Bal Sangopan Yojana, a foster-care scheme (tending to function as a sponsorship programme).<sup>178</sup> (See Annexure 5C.2 for details of State initiative for alternative care and support to children.)

<sup>174</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of External Affairs, GoI, October 2009.

<sup>175</sup> Section 43, Juvenile Justice (Care and Protection of Children) Amendment Act, 2006.

<sup>176</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 159.

<sup>177</sup> SOS Children's Villages, <http://www.soscvindia.org/charity/index.php>.

<sup>178</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Maharashtra State, 2007, page 24.



## **5G. Adoption (art. 21)**

### **5G.1 Status and Trends**

433. CARA, through its agencies, gives approximately 3,000 children in adoption every year. There has been a decline in the number of in-country adoptions by CARA from 2,533 in 2001 to 2,294 in 2004 and further to 2,169 in 2008. The number of cases of inter-country adoption of Indian children has also steadily declined in the reporting period, from 1,298 in 2001 to 1,021 in 2004, and 821 in 2008.<sup>179</sup> (See Annexure 5G.1 for details of number of children placed in adoption through Recognised Indian Placement Agencies and Shishu Grehs.) In addition, a large number of adoptions take place between families and relatives, and through direct adoption.

### **5G.2 Policy and Legislation**

434. At present, adoption takes place both formally and informally in the country. Formal adoptions take place under the Hindu Adoption and Maintenance Act, 1956, (applicable to Hindus, Sikhs, Jains and Buddhists, wherein the child gets all the rights of a biological child) and recently under JJ Act, 2000, amended in 2006. A child can also be taken as a ward under the GWA, 1890, (applicable to all other communities, but wherein the child does not have the rights of a biological child).

435. The JJ (Amendment) Act, 2006, has widened the scope of adoption of children by adoptive parents. For the first time, this Act defines 'adoption' in absolute terms as a process through which the adopted child is permanently separated from his biological parents, and becomes the legitimate child of the adoptive parents and enjoys the rights, privileges and responsibilities of a biological child. The Act also talks about setting up of specialised adoption agencies in every District and giving all children living in institutional care an opportunity for adoption.

436. The JJ Act, 2000, makes it mandatory to register all child-care institutions, including orphanages and homes actively taking up adoption, and to ensure that adoptions take place only after proper documentation and scrutiny of prospective parents.

437. The Provisions of the JJ Act, 2000, and the JJ (Amendment) Act, 2006, are applicable in the entire nation, except in the State of Jammu & Kashmir (J&K). The State has J&K JJ Act, 1986, under which it has recently formulated the J&K Juvenile Rules, 2007. Both the J&K JJ Act, 1986, and the J&K Juvenile Rules, 2007, are being amended to bring them in line with the JJ (Amendment) Act, 2006.

438. In-Country Adoption: To regulate and monitor all adoption programmes and the working of recognised social/child welfare agencies engaged in in-country adoptions through State Governments and UT Administrations, CARA has notified the In-Country Adoption Guidelines, 2004, formulated after a consultative process with stakeholders.

439. Inter-Country Adoption: Inter-country adoption is now governed by Guidelines for Adoption from India, 2006, issued on February 14, 2006, following India's ratification of the Hague Convention in 2003.<sup>180</sup> These guidelines replaced the earlier guidelines, in order to make adoption procedures simple and more transparent. These guidelines provide a

<sup>179</sup> Annual Report (2008-09), Ministry of Women and Child Development, GoI, page 201.

<sup>180</sup> Report of Working Group on Development of Children for the 11th Five Year Plan, Ministry of Women and Child Development, GoI, page 42.

framework to protect the interests of both biological and adoptive parents along with that of children through the mechanisms of licensing, follow-up reports, documents, etc.<sup>181</sup>

440. At present, the In-Country Guidelines, 2004, and Inter-Country Guidelines, 2006, are under revision, keeping in view the JJ Amendment Act, 2006. Some of the salient features of the proposed guidelines include more transparency across the adoption system, production of surrendered children in front of CWCs, procedure for adoption of children with special needs, central system for inter-country adoption, etc.<sup>182</sup> (See Annexure 5G.2 for salient features of the proposed adoption guidelines.)

### 5G.3 Institutions and Programmes

441. CARA, as nodal authority, promotes domestic adoption and regulates inter-country adoptions in India, as provided under guidelines of the Government of India.

#### 5G.3.1 In-Country Adoption

442. CARA is implementing the 'Scheme of Assistance to Homes for Children (Shishu Grehs) to Promote in-country Adoption'. (See Section 1.5 for details and Annexure 5G.1 for details of number of children placed in adoption through Shishu Grehs.) At present, 74 organisations are being provided Grant-in-Aid to promote domestic adoption.<sup>183</sup> The States implementing Shishu Greh Projects include Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Delhi, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Orissa, Rajasthan, Tripura and West Bengal.<sup>184</sup>

443. CARA recognises 18 Adoption Coordinating Agencies (ACAs) to promote in-country adoptions. These agencies maintain a State-level list of children available for adoption, and prospective parents willing to adopt. Besides, they also undertake publicity and awareness on adoption, and issue clearance for inter-country adoptions.

444. Regular monitoring and evaluation through follow-up on adoptive children/families has been prescribed by CARA in case of in-country adoption. During pre-adoption foster-care placement of a child, a professionally-trained social worker visits the family regularly. After the legal adoption, the agency maintains a follow-up with the family for a period of at least one year or as directed by the court. Post-adoptive counselling is provided by the agency to the adoptive parent(s) and the adoptee till the child has adjusted to the new environment. To deal with fears and apprehensions of prospective adoptive parents, pre-adoptive counselling sessions are also taken by social workers.<sup>185</sup>

445. During the 11th Plan period, the ICPS will promote in-country adoption by setting up a State Adoption Resource Agency (SARA) in every State/UT. SARA will coordinate, monitor and develop the work of adoption, and provide assistance to the State Adoption Advisory Committee.

<sup>181</sup> Annual Report (2007-08), Ministry of Women and Child Development, GoI, page 72.

<sup>182</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Central Adoption Resource Authority, September 2009.

<sup>183</sup> Annual Report (2008-09), Ministry of Women and Child Development, GoI, page 132.

<sup>184</sup> Annual Report (2008-09), Ministry of Women and Child Development, GoI, page 204.

<sup>185</sup> Guidelines for In-Country Adoption 2004, Central Adoption Resource Authority, [http://www.adoptionindia.nic.in/ad\\_procedure\\_in\\_country.htm](http://www.adoptionindia.nic.in/ad_procedure_in_country.htm).

446. The ICPS focuses on identifying bottlenecks to complete the adoption process in the shortest possible time, and reaching out to children, whose parents are unable to care for them.<sup>186</sup>

447. Recently, CARA has taken various initiatives, such as establishing an online database, revision of existing adoption guidelines, training and development programmes and multimedia campaigns to revamp the adoption programme in the country and developing of Central Adoption Resource Information and Guidance System (CARINGS), a web-based MIS portal for child protection to reorganise adoption system in the country and establishing transparency in adoption process.<sup>187</sup>

448. The central aim of CARA is to facilitate the adoption of as many Indian children as possible who would benefit from adoption and to ensure that number of eligible children are available for adoption without prospective adoptive parents having to endure unnecessary onerous requirements, unreasonable delays and illegal demands. CARA is also required to act as a clearing house for information about children eligible for adoption; develop public awareness campaigns; undertake research and evaluation; monitor and regulate the work of recognised and associated agencies; liaison with the other central authorities and foreign missions and ensure post-adoption follow-up and care for the adopted children.

449. CARA has been taking several initiatives such as training and development activities through State orientation programmes, zonal meets, national-level meets for various stakeholders in the adoption process for promoting adoption and non-institutional care for children in need of care protection in general and for orphan, abandoned and surrendered children in particular. The participants include adoption agencies and children homes housing orphan, abandoned and surrendered children, CWC members, District Welfare Officers / Superintendents of Government run homes and homes run by NGOs, advocates dealing with adoption matters, representatives of the State chapters of Indian Medical Association (IMA), paediatric association, gynaecologic association and District medical association, members of civil society/Childline, etc. for their capacity building. The participants are imparted training on adoption guidelines, laws dealing with adoption to minimise delay in the adoption process so also to get feedback from the participants about regional needs and requirements. CARA has also initiated workshops to promote domestic adoption, feedback and interactive meets with prospective adoptive parents and adoptive parents.

### **5G3.1.1 State Initiative to Promote In-Country Adoption**

450. Most States are making efforts to promote adoption by spreading awareness through radio, television, newspapers, hoardings, leaflets, etc. The Government of Bihar set up an Adoption Cell and constituted State-level Advisory Board on Adoption in June 2005, and held an orientation workshop on adoption for placement agencies and Government functionaries in December 2006. Karnataka State has also constituted a State Adoption Cell to supervise and monitor all adoption programmes and agencies at the State level with the support of CARA.<sup>188</sup> Adoptive parents in the city of Bangalore have formed an association called Sudatta to look into the issues of adoptive parents. Chhattisgarh has constituted a

<sup>186</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 213.

<sup>187</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Central Adoption Resource Authority, September 2009.

<sup>188</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Karnataka State, July 2009.

State-level Committee to monitor inter-state adoption and other related issues.<sup>189</sup> In Orissa, CARA collaborated with Sanjog, a State-based adoption coordinating agency, to hold a consultative meet on legal adoption in 2007. The State has also constituted a State Adoption Cell for promotion and monitoring of adoption activities. Maharashtra too has formed an Adoptive Parents Association. The Kerala State Council for Child Welfare, a recognised agency for local adoption, facilitated in-country adoption of 787 children in 2004-05. The agency however, faces difficulties in nurturing the differently-abled children, who face difficulty in getting adopted. (See Annexure 5G.3 for details on State initiative to promote in-country adoption.)

### **5G.3.2 Inter-Country Adoption**

451. CARA is the Central authority to implement the Hague Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption, 1993, ratified by India on June 6, 2003. It has developed mechanisms to implement the salient features of the Convention and to ensure that all orphan, abandoned and surrendered children are expeditiously placed in adoption. Regular inspection is done by CARA to ensure quality child-care and compliance of existing guidelines.<sup>190</sup> In consonance with the Hague Convention, CARA ensures that all efforts are made to place a child in his/her own socio-cultural milieu in his best interest, before giving him/her in inter-country adoption.

452. CARA grants recognition to Indian placement agencies and enlists foreign agencies engaged in sponsoring applications, which are recognised under the appropriate laws of their own country or are recommended by Indian Missions abroad.

453. At present, there are 73 Indian adoption agencies recognised by CARA for placing children in inter-country adoption. However, these agencies are required to give priority to in-country adoption. There are 91 foreign adoption agencies enlisted with CARA for processing the application of the prospective foreign adoptive parents for adoption of Indian children. In addition, 46 Government departments from 24 countries are also involved in the process.

454. CARA organised its second International Conference on Adoption, from October 8-10, 2007, to discuss issues such as compliance of Hague Convention on Inter-Country Adoption and the concerns and challenges faced in inter-country adoption.<sup>191</sup>

455. The ICPS aims to regulate inter-country adoption through the State Adoption Advisory Committee with the support of SARA, which will coordinate, monitor and develop the work of adoption.

## **5H. Illicit Transfer and Non-Return (art. 11)**

### **5H.1 Policy, International Legal Instruments and Legislation**

456. The Government's commitment to counter the problem of trafficking and illicit transfer of children to foreign destinations, including Middle-East and European destinations, due to country's porous border with Bangladesh and Nepal is reflected in the

<sup>189</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Chhattisgarh State, August 2009.

<sup>190</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of the Central Adoption Resource Authority, September 2009.

<sup>191</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of the Central Adoption Resource Authority, September 2009.

existing policies, international conventions and legislations. (See Section 8C.5 for details.) The Hague Convention on the Civil Aspects of International Child Abduction is under examination before India becomes a party to it.<sup>192</sup> Draft legislation for implementing the Convention is also under consideration.<sup>193</sup>

## **5H.2 Programmes**

457. The Government of India has taken multi-dimensional initiatives to combat the problem of illicit transfer and non-return of children. (See Section 8C.5 for details.)

## **5I. Abuse and Neglect, including Physical and Psychological Recovery and Social Reintegration (arts. 19 and 39)**

### **5I.1 Status and Trends**

458. Crime in India, published by the National Crime Record Bureau, which provides statistics on crimes committed against children, including abuse and neglect, reports an increase in crimes committed against children since 2001. While the total number of cases of crime reported in 2001 was 10,814 in the country, the number increased to 14,975 cases in 2005, suggesting an increase of 38.5%. The number of crimes against children in 2007 increased to 20,410, suggesting an increase of 7.6% over 18,967 cases of crime reported in 2006. (See Annexure 3C.1 for details on crimes against children in the country.)

459. Current data on children affected by abuse and neglect have limitations, which adversely affects the formulation of specific policy, legislation and programmes to address the problem. The Study on Child Abuse: India 2007 was conducted to collect data and information on the extent and magnitude of child abuse/offences against children.<sup>194</sup> The Study, for the first time, brought out data on emotional abuse and girl child neglect in the country. The findings of the Study have strengthened the understanding of stakeholders, including families, civil society organisations and States, and paved the way for the launch of ICPS, which provides for setting up strong child-protection mechanisms at national, State, District, block and community levels. (See Section 1.5.1 for details.)

### **5I.2 Policy and Legislation**

460. The NPAC, 2005, has set goals, objectives and strategies for rehabilitation and support programmes for victims/survivors of abuse and exploitation, including sensitisation of adolescents on violence, abuse and exploitation.<sup>195</sup> (See Section 1.2 for details.)

461. Reducing child vulnerability through systemic preventive measures to address protection issues at various levels, convergence of provisions and services for health, child day-care, and education to strengthen families and to reduce the likelihood of child neglect,

<sup>192</sup> Annual Report (2007-08), Ministry of External Affairs, GoI, page 99.

<sup>193</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of External Affairs, GoI, October 2009.

<sup>194</sup> Study on Child Abuse: India 2007, Ministry of Women and Child Development, GoI, 2007, Preface.

<sup>195</sup> National Charter for Children, 2003, GoI, point 9a, and National Plan of Action for Children, 2005, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2005, page 19.

abuse and vulnerability, along with provisions for shelter, care, psychological recovery, social re-integration and legal services are the focus areas of the 11th Five Year Plan.<sup>196</sup>

462. The National Human Rights Commission released a set of guidelines in 2007 for speedy disposal of child rape cases. The measures proposed by the guidelines to be followed by the police officer investigating a rape case include: Fast-Track Courts presided over by lady judge, in-camera trial, child-friendly atmosphere in courts and video conferencing to avoid proximity with the accused.<sup>197</sup> (See Annexure 5I.1 for details of guidelines for speedy disposal of child rape cases.)

463. To prevent revictimisation of children in legal proceedings and to respect their privacy rights, the JJ (Amendment) Act, 2006, prohibits the publication of name of the juvenile in conflict with law or child in need of care and protection involved in any proceedings under the Act.<sup>198</sup> The JJ Rules, 2007, have provisions to protect a child's right to privacy and confidentiality through all stages of proceedings and care and protection processes.<sup>199</sup> Section 23 of the JJ (Amendment) Act, 2006, provides for punishment for cruelty to juvenile or child with imprisonment for a term extendable to six months, or fine, or both. Section 28 of the JJ (Amendment) Act, 2006, also provides for alternative punishment, such as community service, etc. The JJ (Amendment) Act, 2006, provides for institutional care systems for children, who are victims of abuse and neglect.

464. The proposed Prevention of Offences against the Child Bill, 2009, aims to address all offences against children. The Bill proposes to address issues related to child abuse, exploitation and neglect of children.

### 5I.3 Programmes

465. The CSWB and its 33 State Social Welfare Boards provide grants to registered voluntary organisations for running short-stay homes, FCCs and for innovative schemes. (See Section 5A.2 for details.)

466. The Rajiv Gandhi National Crèche Scheme, Programme for Juvenile Justice, Integrated Programme for Street Children (IPSC) and Scheme for Welfare of Working Children in Need of Care and Protection are being implemented with the aim to create protective environment for children. Programme for Juvenile Justice and IPSC are now merged under the ICPS, which provides for a safe and secure environment for overall development of children, who are in need of care and protection. (See Section 1.5.1 for details.)

467. Several States have involved the police to take up issues of protection of all children on priority and are providing special care to all child victims of abuse and neglect, such as West Bengal and Karnataka.<sup>200</sup>

<sup>196</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 213.

<sup>197</sup> Draft Guidelines for Speedy Disposal of Child Rape Cases, National Human Rights Commission, [www.nhrc.nic.in/dispatcharchive .asp?fno=1502](http://www.nhrc.nic.in/dispatcharchive.asp?fno=1502).

<sup>198</sup> Section 21, Juvenile Justice (Care and Protection of Children) Amendment Act, 2006.

<sup>199</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 138.

<sup>200</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of West Bengal State, 2007, page 47, India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Karnataka State, 2007, page 20.

## 5I.4 Monitoring

468. All institutions for children/juveniles being run by the State Governments/voluntary organisations have to be registered within a period of six months from the date of commencement of the JJ (Amendment) Act, 2006, bringing them into the purview of monitoring.<sup>201</sup> The JJ Act, 2000 has provisions for CWCs, Juvenile Justice Board (JJBs) and Special Juvenile Police Units for receiving, monitoring and investigating complaints related to children, and for recommending orders for their rehabilitation.

469. The ICPS aims to create an effective system of monitoring at the District, State and national level by establishing a standardised format and a minimum set of input and outcome indicators for evidence-based monitoring, based on structures provided under the Scheme.

470. The National Commission for Protection of Child Rights (NCPCR) is actively taking up *suo motu* cognizance of child-rights violations. Complaints can be made to the Commission in any language of the 8th Schedule of the Indian Constitution, for which no fee is charged. The State Commissions for the Protection of Child Rights have already been set up in the States of Assam, Delhi, Madhya Pradesh, Maharashtra, Goa, Karnataka, Rajasthan and Sikkim. (See Section 1.1 for details.)

## 5I.5 Awareness Generation and Capacity Building

471. The MWCD undertakes awareness activities on issues of sexual abuse and exploitation of children to bring about attitudinal changes and mobilise public opinion.

472. Comprehensive advocacy and communication strategies will be taken up by the Central Government, State Child Protection Society, SARA and District Child Protection Society under the ICPS, to promote favourable attitudes and address harmful ones. The ICPS aims to equip all those, who are associated with child protection with skills, knowledge and motivation, to identify, report and deal with child protection issues.

473. The National Institute of Social Defence, NIPCCD and some NGOs have been imparting training to law enforcement officials, social work professionals, personnel of NGOs, chairpersons/members of CWCs and JJBs on ways to deal with matters on child rights.<sup>202</sup>

474. The NCPCR is creating public awareness on child rights through visits to States, and consultations with officials, NGOs, trade unions, children and others.<sup>203</sup> It has taken action to address the issue of violation of child rights in schools. (See Section 1.8 for details.)

## 5I.6 Collaboration

475. Initiatives, such as Crisis Intervention Centres (CICs), a partnership programme of police, NGOs and medical professionals, are being run in Delhi and Chennai. The objective of CIC is to rescue children from abusive circumstances and place them in a positive

<sup>201</sup> Section 34, Juvenile Justice (Care and Protection of Children) Amendment Act, 2006.

<sup>202</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of the National Institute for Public Cooperation and Child Development, GoI, 2007.

<sup>203</sup> Infocus, National Commission for Protection of Child Rights, Vol. 1, No. 1, GoI, September 2007.

environment, where their rehabilitation is ensured. Under this programme, victims are also provided counselling and other mental health and legal services.<sup>204</sup>

476. Childline, a 24-hour telephone outreach service, being run in collaboration by Childline India Foundation with Government and NGOs, is a helpline for children in distress and provides counselling and referral services to children.

477. The MWCD collaborates with United Nations agencies in the formulation of various policies and legislations. These agencies have been providing technical support in capacity-building initiatives, programme development and research studies. (See Section 1.11 for details.)

## **5J. Periodic Review of Placement (art. 25)**

### **5J.1 Legislation and Monitoring**

478. The JJ (Amendment) Act, 2006, and the JJ Rules, 2007, lay down the process of restoration, rehabilitation and social re-integration, as well as follow-up mechanisms to assess the situation of child/juvenile, post-restoration and rehabilitation. Section 36 of the JJ Act, 2000 has provisions for social audit, which enables the Central and State Governments to monitor and evaluate the functioning of the children's homes and also periodically review the situation of children placed in these institutions. The JJ Rules, 2007, focus on promoting the well-being of the juvenile or child through preparation of individual care plans and also provide comprehensive guidelines for monitoring and periodic review of standards of care in homes and of children placed in adoption, foster care and institutions.

479. The CWC has powers to direct officer-in-charge in a children's home to submit a quarterly progress report of any child, and produce the child before the Committee for annual review of the progress.<sup>205</sup> The Committee is required to visit each institution, where children are sent for care and protection or adoption, at least once in three months to review the condition of children in institutions with the support of State Government and suggest necessary action.<sup>206</sup> The Committee is empowered to order re-integration of the child with the family, if it's in the best interest of the child, based on the assessment of the family situation.<sup>207</sup>

480. CARA provides for monitoring and follow-up of children placed in adoption. (See Section 5G.3.1 for details.)

481. The Commission for the Protection of Child Rights Act, 2005 empowers the NCP-CR to monitor the conditions and functioning of all categories of juvenile homes in the country. The NCPCR has recently initiated a process of reviewing the pending cases of children placed in institutional care system in the country. (See Section 8 B-2.3.1 for details.)

<sup>204</sup> Crisis Intervention, Swanchetan, [http://www.swanchetan.org/Crisis\\_Intervention.aspx](http://www.swanchetan.org/Crisis_Intervention.aspx) and Crisis Intervention Center for Prevention of Child Abuse and Neglect, Indian Council for Child Welfare, Tamil Nadu, [http://iccwtn.org/iccw/child\\_abuse.php](http://iccwtn.org/iccw/child_abuse.php).

<sup>205</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 154.

<sup>206</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 151.

<sup>207</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 154.



482. Sections 14 and 33 of the JJ (Amendment) Act, 2006, have provision for review of cases pending with CWC and JJB every six months. To deal with pending enquiries, the State Government can direct the CWC and JJB to increase the frequency of its sittings or cause the constitution of additional CWCs or JBJs.

## **5K. Challenges**

483. The ICPS, with its budget of Rs 107.3 million for the 11th Plan, will contribute significantly to develop systems and infrastructure to efficiently and effectively protect children in need of care and protection. (See Section 1.5.1 for details.) The JJ (Amendment) Act, 2006, also provides for strengthening provisions for setting up administrative mechanisms, and capacity-building of personnel concerned with child protection and non-institutional/ alternative care system. It has also simplified the process for adoption of children.

484. The proposed Prevention of Offences against the Child Bill, 2009, aims to address all the issues concerning children, including abuse and neglect of children, and be a comprehensive legislation for protecting children.

485. In order to strengthen a supportive, enabling and protective environment for children, the MWCD has identified the following issues for priority attention in the coming years:

- Creation of support services to families at risk and strengthening of implementation of policies, legislation and programmes to protect children from vulnerable and exploitative situations;
- Adequate child-care services and institutions for children in need of care and protection, including child victims of abuse and exploitation, children of vulnerable groups, such as prisoners, and children of working parents;
- Strengthening lateral linkages with essential services for children, such as education, health, police, judiciary, services for the disabled, etc.;
- Capacity-building of parents, caregivers and professionals engaged in child care at various levels;
- Training and sensitisation of judges, lawyers and counsellors for adopting a ‘child-centred approach’;
- Adequate trained manpower and infrastructure, such as CWCs and Shishu Grehs to deal with issues of abandonment, abuse and neglect of children;
- Comprehensive reporting of incidences of child sexual abuse and prosecution of perpetrators;
- Expanding family-based non-institutional care services such as sponsorship, kinship care, foster care and adoption for rehabilitation of children without family care and support and strengthening follow-up and monitoring of these;
- Simplification of adoption process, supported by provision of trained staff, and adequate counselling support to parents;
- Establishment of specialised adoption agencies in every District, supported by a centralised and comprehensive database to identify children for adoption;
- Strengthening State adoption programmes to rehabilitate large number of children in institutional care without homes/ family;

- Mapping of children in need of care and protection and the services available for them at the city/District/State levels;
- Enhancement in allocation of resources for strengthening protection of vulnerable children;
- Strengthening monitoring and systems for analysing implementation of these provisions and their outcomes for children.

## **VII. 6. Basic Health and Welfare (arts. 6, 18 (para. 3), 23, 24, 26 and 27 (paras. 1-3))**

486. The Concluding Observations (CRC/C/15/Add.228) (CO) addressed in this chapter include:

- Policies and programmes, CO para. 53;
- Prevention of HIV/AIDS, CO para. 55 (a);
- Mother-to-child transmission of HIV/AIDS, CO para. 55 (b);
- Awareness on HIV/AIDS, CO para. 55 (c);
- Technical assistance on HIV/AIDS, CO para. 55 (d);
- Policy for Children with Disabilities (CWDs), CO para. 57 (a);
- Statistical data on disability, CO para. 57 (b);
- Programmes for CWDs, CO para. 57 (c) and (d);
- Awareness on CWDs, CO para. 57 (e);
- Resources for CWDs, CO para. 57 (f);
- Technical cooperation for training of staff dealing with CWDs, CO para. 57 (g);
- Dowry Prohibition Act, CO para. 59 (a);
- Awareness on harmful traditional practices, CO para. 59 (b) and (c);
- Implementation of the Child Marriage Restraint Act, CO para. 61 (a);
- Awareness programmes to prevent early and forced marriage, CO para. 61 (b);
- Strengthening sexual and reproductive health education, mental health and adolescent sensitive counselling services, CO para. 61 (c);
- Standard of living, CO para. 63.

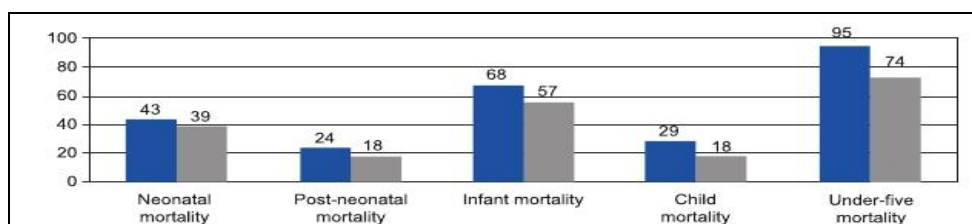
## 6A. Survival and Development (art. 6, para. 2)

### 6A.1 Childhood Mortality and Morbidity: Status and Trends

487. There has been an impressive decline in overall mortality rates since 1998-99 (See Figure 6.1.). Even so, more than one in 18 children die within the first year of life, and more than one in 14 die before reaching the age of five.<sup>208</sup>

Figure 6.1

#### Early childhood mortality rates in the National Family Health Surveys (NFHS)



Source: National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, page 180.

488. Children in the 0-4 age group account for about 19% of total deaths in the country. Major causes of death in this age group include perinatal conditions, respiratory infections, diarrhoeal diseases and other infections and parasitic diseases. All of these together account for nearly 80% of deaths in this age group.<sup>209</sup>

489. The infant mortality rate (IMR), according to 2008 Sample Registration System (SRS) in the country, is 53 per thousand live births. Again in this age group, perinatal conditions, respiratory infections, diarrhoeal diseases and other infectious and parasitic diseases are the main killer causes.<sup>210</sup> IMR is marginally higher for females (58) than males (56). However, in the neonatal period, like elsewhere, mortality in India is lower for females (37) than for males (41). As children get older, females are exposed to higher mortality than males. Females have 36% higher mortality than males in the postneonatal period, but 61% higher mortality than males at age 1-4 years.<sup>211</sup> (See Annexure 6A.1 for details on early childhood mortality rates for demographic characteristics.)

490. The perinatal mortality rate, which includes still births and very early infant deaths (in the first week of life), was estimated at 49 deaths per 1,000 pregnancies for the period 2001-05. In terms of socio-economic characteristics, perinatal mortality was highest among children of rural mothers, mothers with no education or less than five years of education, and mothers in the lowest wealth quintile.<sup>212</sup> Disaggregation of perinatal deaths by its sub-causes shows that out of the total perinatal deaths, 56% are males and 44% females. Among the sub-causes, deaths due to premature birth or slow foetal growth are the maximum,

<sup>208</sup> National Family Health Survey-2 and 3, The Ministry of Health and Family Welfare, GoI, 2000 and 2007, pp. 179-180 and page xxxiv.

<sup>209</sup> The Report on Causes of Deaths in India (2001-03), Office of the Registrar General India, GoI, 2009, page 19.

<sup>210</sup> The Report on Causes of Death in India (2001-03), Office of the Registrar General India, GoI, 2009, page 22.

<sup>211</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, page 183.

<sup>212</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, Table 7.5, page 188.

followed by other causes, including haemolytic disease, asphyxia, and other perinatal jaundice.<sup>213</sup>

491. Out of about 26.1 million children born every year in India, 0.892 million newborns die before one month of life.<sup>214</sup> Neonatal Mortality Rate (NMR) in India is 34 per thousand live births, contributing to about 50% of all deaths in childhood.<sup>215</sup> The prominent causes of death among neonates are: perinatal conditions, respiratory infections, other infectious and parasitic diseases, diarrhoeal diseases and congenital anomalies. The proportion of female deaths is higher on all these counts, except perinatal conditions and congenital anomalies.<sup>216</sup> (See Annexure 6A.2 for details on top ten causes of death in the 0-4 age group).

492. The major childhood illnesses prevalent in the country are acute respiratory infections (ARI), diarrhoea, measles and malaria. Malnutrition is responsible for 56% of under-five deaths. The risk of death rises among children who are mildly, moderately and severely malnourished. On an average, a child who is severely underweight is 8.4 times more likely to die from infectious diseases than a well-nourished child.<sup>217</sup> The National Family Health Survey-3 (NFHS-3) shows 6% prevalence of ARI among children under five years, which is highest among infants aged 6-11 months (8%).<sup>218</sup>

493. Vaccine-preventable diseases are also major childhood killers. The proportion of fully-immunised children in India in the age group of 12-23 months has increased from 45.9% (District Level Household Survey (DLHS-2) (2002-03)) to 54% (DLHS-3 (2007-08)). According to NFHS-3, the proportion of fully-vaccinated children in the age group of 12-23 months has increased from 42% (NFHS-2) to 43.5% (NFHS-3). Pulse Polio campaigns are being organised frequently to reduce the incidence of polio in the country. Pulse polio immunisation has been a massive programme, covering 166 million children in every National Immunisation Day (NID) round.<sup>219</sup> Out of the 35 States and Union Territories (UTs), 33 have become free from indigenous transmission of polio virus since 2004-05. Uttar Pradesh and Bihar are taking more time to achieve zero transmission due to several factors, including high population density and poor sanitation.<sup>220</sup>

#### 6A.1.1 Urban-Rural Variations

494. Infant mortality rates are considerably higher in rural areas than in urban areas. However, there has been improvement since 2000. In 2000 the IMR for rural areas was 74, compared to 44 in urban areas; it declined to 58 in rural areas and 36 in urban areas in 2008.<sup>221</sup>

<sup>213</sup> The Report on Causes of Death in India 2001-2003, Office of the Registrar General India, GoI, 2009, page 24.

<sup>214</sup> The estimate is based on Crude Birth Rate of 22.8 in 2008 (Sample Registration System, 2008), projected population of 1,050,196 in 2008 (Census), and Neonatal Mortality Rate of 34/1,000. (Sample Registration System, 2008).

<sup>215</sup> Under-Five mortality rate of 69/1,000 live births for the year 2008, according to State of the World's Children, UNICEF, 2010.

<sup>216</sup> The Report on Causes of Death in India (2001-2003), Office of the Registrar General India, GoI, 2009, page 24.

<sup>217</sup> Burden of Disease in India, Background Papers, National Commission on Macroeconomics and Health, Ministry of Health and Family Welfare, GoI, September 2005, page 94.

<sup>218</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, pp. 234-235.

<sup>219</sup> Annual Report (2004-05), Ministry of Health and Family Welfare, GoI, page 208.

<sup>220</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 68.

<sup>221</sup> Sample Registration System Bulletin, April 2002, and Sample Registration System Bulletin, October 2008, Sample Registration System, Office of the Registrar General India, GoI.

495. According to NFHS-3, the IMR and child mortality rates are considerably higher in rural areas than in urban areas. The rural-urban difference in mortality is especially large for children in the 1-4 age group, for whom the rate in rural areas is twice as high as the rate in urban areas. In both the neonatal and postneonatal periods, mortality in rural areas is about 50% higher than mortality in urban areas. A comparison of NFHS-2 and 3 shows that infant and child mortality rates have declined slightly faster in rural areas than in urban areas. Between 1991-95 and 2001-05, infant mortality declined by 27% in rural areas, compared to 21% in urban areas. During the same period, the child mortality rate declined by 45% in rural areas, compared to 40% in urban areas. Even in the neonatal period, the decline in mortality was slightly faster in rural areas (26%) than in urban areas (18%)<sup>222</sup>. The top 10 causes of death are common in rural as well as urban areas, with striking overall similarity in patterns, as observed in case of ages 0 to 4. Perinatal conditions, respiratory infections, diarrhoeal diseases and other infectious and parasitic diseases clubbed together account for more than 80% infant deaths in rural areas as well as in urban areas. The proportion of infant deaths due to malaria is more than twice in rural areas (1.2%) than urban areas (0.5%).<sup>223</sup>

#### 6A.1.2 State Variations

496. The IMR is highest in Uttar Pradesh (73), and lowest in Kerala and Goa (15). With respect to under-five mortality, Uttar Pradesh again has the highest rate (96) and Kerala has the lowest (16). Apart from Uttar Pradesh, high levels of infant and child mortality are found in Chhattisgarh and Madhya Pradesh in the central region, Assam and Arunachal Pradesh in the north-eastern region, Jharkhand, Orissa and Bihar in the eastern region, and Rajasthan in the northern region. In contrast, all States in the southern and western regions have lower levels of infant and child mortality. Three States in the north-eastern region have lower-than-average reported levels of neonatal mortality but higher-than-average rates of postneonatal and child mortality (Arunachal Pradesh, Meghalaya and Nagaland). (See Annexure 6A.3 for details on early childhood mortality rates by State.) The Office of the Registrar General India (ORGI) provides variation in the causes of IMR as a proportion of all infant deaths for two categories of States; the first category comprises the 'Empowered Action Group (EAG) States'.<sup>224</sup> The State of Assam has also been added to this list. The second category covers the remaining States and is labelled as 'Other States'. Infant deaths account for about 19% of the total deaths in the EAG States and Assam and 9% in the Other States. Perinatal conditions, the top cause in both the category of States, accounts for 10% more deaths in the Other States, as compared to the EAG States and Assam. However, respiratory infections, diarrhoeal diseases and other infectious and parasitic diseases together account for about 45% deaths in EAG States and Assam, *vis-à-vis* 30% in Other States. Deaths due to nutritional deficiencies and malaria are also more prevalent in EAG States and Assam. In contrast, perinatal conditions and congenital anomalies dominate in the Other States. The proportion of males dying from perinatal conditions, congenital anomalies and unintentional injuries is higher than females in both the categories.<sup>225</sup>

<sup>222</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, pp 180-181.

<sup>223</sup> The Report on Causes of Death in India (2001-03), Office of the Registrar General India, GoI, 2009, pp. 23-24.

<sup>224</sup> EAG States include: Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Orissa, Rajasthan, Uttar Pradesh and Uttarakhand.

<sup>225</sup> The Report on Causes of Death in India (2001-03), Office of the Registrar General India, GoI, 2009, page 23.

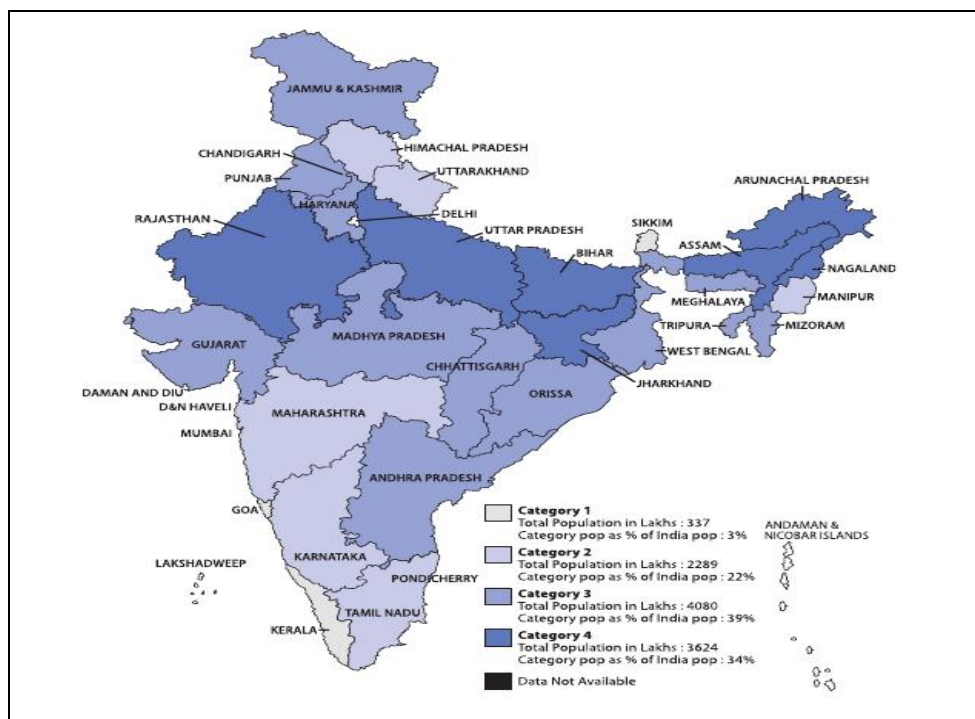
497. A preliminary analysis of States was carried out by the Third Joint Review Mission (JRM) of Reproductive and Child Health Phase-II (RCH-II) in 2007, in terms of current status of maternal mortality ratio (MMR), IMR, Total Fertility Rate (TFR), and past trends in terms of selected maternal health, child health, and family planning indicators. Eleven outcome indicators were studied, i.e. neonates who were breastfed during the first hour of life; neonates who were breastfed exclusively till six months of age; infants receiving complementary feeds apart from breastfeeding at nine months; 12-23-month-old children fully immunised; 6-35-month-old children, who are anaemic; pregnant women getting full antenatal care (ANC); pregnant women who are anaemic; deliveries by Skilled Birth Attendants (SBAs); contraceptive-prevalence rate for any modern method; and unmet need for spacing methods and terminal methods among eligible couples. The analysis suggests that in terms of RCH outcomes, the States can be grouped into four categories, category one being the best and category four being the worst.<sup>226</sup> (See Figure 6.2.)

## 6A.2 Programmes

498. The Ministry of Health and Family Welfare (MoH&FW) is implementing several programmes and schemes to address the issue of infant and child mortality. Notable among these are Universal Immunisation Programme, where immunisation of children is carried out against six vaccine-preventable diseases; control of deaths due to ARIs; Integrated Child Development Services (ICDS) Scheme, with focus on improving nutritional and health status of children below six years of age; and essential new-born care to address the issue of the neonates. (See Section 6C.3 for details.)

Figure 6.2

### Outcomes of RCH-II



<sup>226</sup> Reproductive and Child Health Programme-II, Third Joint Review Mission, January 15 – February 8, Ministry of Health and Family Welfare, GoI, 2007, page 8.

*Source:* Reproductive and Child Health Programme-II, Third Joint Review Mission, January 15-February 8, Ministry of Health and Family Welfare, GoI, 2007, page 8.

### 6A.3 Challenges

499. The Government is continuously strengthening child-health services, which include universalisation of ICDS in the 11th Five Year Plan; adoption of holistic approach through Integrated Management of Neonatal and Childhood Illnesses (IMNCI); launch of second phase of RCH; and launch of the National Rural Health Mission (NRHM). (See Section 6C.3 for details.)

500. The following are the key challenges related to survival and development of children:

- High levels of neonatal mortality, which contribute to about 50% of all childhood deaths. For this, focused efforts are being made to address the key causes and determinants of neonatal mortality through interventions on continuum of care.
- High levels of under-nutrition, particularly in the States of Madhya Pradesh, Bihar, and Jharkhand.
- To improve access to food and knowledge of appropriate feeding care practices and services, especially among vulnerable population. Focused behaviour change communication efforts are underway to improve key new-born and child-care practices at the community level.
- To improve access and questionable quality of public health services in certain regions. Government efforts are focussed on scaling up and improving the quality of services by expansion of NRHM and IMNCI and improved monitoring.

## 6B. Children with Disabilities (art. 23)

### 6B.1 Status and Trends

501. The Census of India, which provides data on disability, is available for the year 2001, and the next Census will be taken up in 2011; thus, the reporting period does not have new data to show changes in the status of Children with Disabilities (CWDs). (See Section 3B.3.1 for details.)

502. India has made progress in reducing the incidence of specific diseases leading to disabilities, such as polio. (See Section 6C.1.7 for details.) It is estimated that more than 71 million persons are suffering from goitre, and other Iodine Deficiency Disorders (IDDs).<sup>227</sup> Iodine deficiencies could result in abortions, still-births, mental retardation, deaf mutism, squint, goitre and neuromotor defects.

503. Disability arising from maternal causes is difficult to assess and estimate, but it is well known that premature births, low birth weight, maternal anaemia and malnutrition increase the risk of disability among babies. The prevalence of Neural Tube Defects (NTDs) is reported to be 3.63 per 1,000 live births. It can result in major and irreversible disabilities in infant neonates, and can be prevented by including folic acid supplements in the diet of pregnant women. The prevalence of NTDs is particularly high in the northern States of Punjab, Haryana, Rajasthan and Bihar.

<sup>227</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 100.

## **6B.2 Policy**

504. The National Policy for Persons with Disabilities (PWDs), 2006, provides for prevention of disabilities and includes rehabilitation measures. (See Section 1.2 for details.) Initiatives have also been taken by MoH&FW to prevent disabilities. In order to check disorders caused by iodine deficiency, MoH&FW issued a notification, banning the sale of non-iodised salt for direct human consumption in the entire country with effect from May 17, 2006. (See Section 3B.3.2 for details.)

## **6B.3 Legislation**

505. The Government has initiated steps to amend the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, to harmonise with Convention on the Rights of Persons with Disabilities, ratified by India in 2007. The amendments propose to comprehensively cover all kinds of disabilities and more specific obligations of the States and local authorities. (See Section 1.4.3 for details.)

506. The Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006, (JJ (Amendment) Act, 2006), provides for care and protection of children with disabilities. The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, has provisions to enable and empower PWDs. (See Section 3B.3.3 for details.)

## **6B.4 Programmes**

507. Several schemes are being implemented by various Ministries for empowerment and rehabilitation of PWDs. These schemes aim at promoting physical, psychological, social, educational and economic rehabilitation and development of PWDs to enhance their quality of life and also enable them to lead a life with dignity.

508. The major schemes of the Ministry of Social Justice & Empowerment (MSJ&E), which is the nodal Ministry, include:<sup>228</sup>

- (i) The Scheme of Assistance to Disabled Persons for Purchase/Fitting of Aids/Appliances (ADIP) provides assistive devices. Approximately 0.2 million PWDs have been provided assistive devices under the Scheme. Under Sarva Shiksha Abhiyan (SSA), assistive aids and appliances are distributed to school children below 14 years of age;
- (ii) The Deendayal Disabled Rehabilitation Scheme includes projects for providing education and vocational training, and rehabilitation of persons with orthopaedic, speech, visual and mental disabilities. The services provided under the Scheme include: programmes for pre-school and early intervention, special education, vocational training and placement, community-based rehabilitation, etc.;
- (iii) The Scheme for Implementation of PWD Act, 1995: Under this Scheme, Grant-in-aid is provided to various bodies set up by the Central Government and State Government, including autonomous bodies and universities, to support activities related to implementation of the provisions of the PWD Act, 1995. The range of activities, for which grant-in-aid is provided with regard to barrier-free

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<sup>228</sup> Annual Report (2008-09), Ministry of Social Justice and Empowerment, GoI, pp. 99-126.



access, is wide, including ramps, lifts, tactile paths, new product development and research;

(iv) There are schemes to support various organisations of the Ministry that are involved in different aspects of rehabilitation of PWDs, such as Artificial Limbs Manufacturing Cooperation of India, Rehabilitation Council of India and National Handicapped Finance and Development Corporation;

(v) The National Fund for PWDs is implementing a scholarship scheme for students with disabilities, under which 500 new scholarships are awarded each year for four major categories of disabilities: orthopaedic, visual, hearing and others. Further, 40% of the scholarships in each category are reserved for girls.

509. A pilot project for creation of awareness on prevention and early detection of various types of disabilities in children has been developed by the MSJ&E. The project envisages dissemination of information about disabilities in rural areas through *Anganwadi* Workers (AWWs). The project is to be taken up in 30 Districts of the country (17 in Uttar Pradesh and 13 in Bihar). A similar programme is being taken up in 13 Districts of Assam.<sup>229</sup>

510. Consequent to the enactment of the PWD Act, 1995, a scheme of setting up Composite Regional Centre was formulated, which is a part of overall strategy to reach out to PWDs and to facilitate the creation of the required infrastructure and capacity-building at central, State and District levels, and even below, for awareness generation, training of rehabilitation professionals, service delivery, etc. At present, there are six Composite Regional Centres functioning in the country. The Ministry, with support from State Governments, is also facilitating creation of infrastructure and capacity building at District level for awareness generation, rehabilitation, training and guiding of grassroot-level functionaries by setting up District Disability Rehabilitation Centres (DDRCs) in all the unserved Districts of the country.

511. The State Nodal Agency Centres (SNACs) are leading Non Governmental Organisations (NGOs) and nodal agencies in each State, and supporting them are State Nodal Agency Partners (SNAPs), each networking in 10 Districts in the larger States. The activities of SNACs/SNAPs include sensitising families, PWDs and other related professionals and community members; training private school teachers to handle the special needs of students; facilitating formation of Parent's Association and Disabled People's Organisation, etc. The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities specifically focuses on early intervention. Under its Aspiration Scheme, day-care centres have been set up for children upto six years with developmental disabilities, to make them ready for mainstream and special schools.

512. Besides MSJ&E, other Ministries are also implementing programmes/activities related to disability. The ICDS, implemented by the Ministry of Women and Child Development (MWCD), addresses prevention of disability by reaching out to children below six years, through early childhood health and nutrition interventions. The ICDS network is vigorously working for prenatal and postnatal care of mother and child, pre-school education and awareness through *Anganwadi* Centres (AWCs). In 2008, the MWCD adopted the new WHO Child Growth Standards under the ICDS for monitoring the growth of children. The proposed Rajiv Gandhi Scheme for Empowerment of Adolescent Girls aims to improve the nutritional and health status of adolescent girls. (See Section 6C.3.2 for details.) The Integrated Child Protection Scheme (ICPS), launched by the MWCD, provides

<sup>229</sup> Annual Report (2007-08), Ministry of Social Justice and Empowerment, GoI, page 38.

for a safe and secure environment for overall development of children in need of care and protection, including CWDs. The Scheme's primary focus is on integrating services for children with special needs in existing institutional services, such as children's homes and special homes. It also provides for a separate home for such children in a situation, where there are a large number of children with special needs, in a District or group of Districts.

513. The MoH&FW is also implementing programmes to address disability. These include the National Programme for Control of Blindness, which addresses reduction in the prevalence of blindness; the National Leprosy Eradication Programme, focusing on early detection and prompt treatment of leprosy to prevent disability; the Urban Leprosy Control Programme, which addresses the complex problems related to leprosy control in urban areas like larger population size, migration and poor health infrastructure that increase prevalence of the disease; and the National Iodine Deficiency Disorders Control Programme, which includes surveys to assess the magnitude of IDD and the impact of control measures, supply of iodised salt in place of common salt and Information, Education and Communication (IEC) materials.<sup>230</sup> In order to monitor the quality of iodised salt and urinary iodine excretion, 18 States/UTs have set up IDD monitoring laboratories, while the remaining States are in the process of establishing the same. Since its inception in 1995, the Pulse Polio Immunisation Programme of the Ministry has achieved significant success in reducing the number of polio cases in the country. The annual strategy for polio eradication is decided on the basis of the recommendations of the India Expert Advisory Group (IEAG), consisting of national and international experts from WHO, UNICEF and the Centre for Disease Control and Prevention, Atlanta. The IEAG reviews the polio epidemiological situation twice a year and recommends suitable strategies for the country. The National Polio Surveillance Project of WHO provides technical support for high-quality acute flaccid paralysis surveillance, and assists the Government in micro planning, training and monitoring of polio immunisation campaign.<sup>231</sup>

514. The Ministry of Rural Development provides for 3% reservation for PWDs in major poverty-alleviation programmes under the National Rural Employment Guarantee Act (NREGA), the Swarnjayanti Gram Swarozgar Yojana (SGSY) and the Indira Awaas Yojana (IAY).<sup>232</sup>

515. The SSA, a flagship programme of the Ministry of Human Resource Development (MHRD), has specific interventions for inclusive education, such as identification, functional and formal assessment, appropriate educational placement, preparation of Individualised Educational Plan, provision of aids and appliances, teacher training, resource support, removal of architectural barriers, research, monitoring and evaluation and a special focus on girls with special needs. SSA ensures that every child with special needs, irrespective of the kind, category and degree of disability, is provided meaningful and quality education. Hence, SSA has adopted a zero-rejection policy. The measures include special schools, Education Guarantee Scheme (EGS), Alternative and Innovative Education (AIE) and even home-based education. Convergence has also been established with the MSJ&E to provide aids and appliances to CWDs under SSA. The Scheme of Inclusive Education of the Disabled at Secondary Stage (IEDSS) enables students with disabilities to complete secondary and higher secondary education, and also supports a training programme on inclusive education for general school teachers.

516. In addition, several States are taking up initiatives for the prevention and early detection of disabilities through the Department of Health and Family Welfare or through

<sup>230</sup> Annual Report 2008-09, Ministry of Social Justice and Empowerment, GoI, page 136.

<sup>231</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 67.

<sup>232</sup> Annual Report (2008-09), Ministry of Social Justice and Empowerment, GoI, page 137.

the SSA. For example, in West Bengal, efforts are being made through sensitisation of AWWs and orientation of community leaders and teachers of primary and upper primary schools to integrated education for disabled (IED) issues, including early detection and prevention of disabilities, training of key resource persons from the family of CWDs, and parental counselling through home visits, etc. (See Annexure 6B.1 for State initiatives for children with disabilities.)

## 6B.5 Resources

517. In 2008-09, the percentage of expenditure on disabilities in the nodal Ministry (MSJ&E) to the total Government of India expenditure was 0.03%.<sup>233</sup> While spending under other Ministries may have risen in some cases, the MSJ&E does not have figures of expenditure incurred on PWDs from other Ministries, such as the Ministry of Health and Family Welfare, the Ministry of Human Resource Development, the Ministry of Women and Child Development, etc.<sup>234</sup> The information on trends in resource allocation and percentage increase in number of beneficiaries since 2002-03 is given in Table 6.1.

## 6B.6 Awareness Generation

518. Various awareness campaigns are being organised by the Information and Mass Education Cell of MSJ&E, through the print, electronic and folk media. On December 3, the International Day for PWDs is commemorated, with organisation of events related to sports, games, debates, workshops and cultural programmes in several States.

519. State Governments organise sensitisation camps regularly at the Municipal Corporation, Sub-Divisional, Divisional, and District levels. Books on relevant Acts/ Rules related to disability have also been printed in local languages, and distributed to diverse stakeholders such as NGOs, teachers and community-based workers.<sup>235</sup>

Table 6.1

### Plan outlay on disability-related programmes and number of beneficiaries

<i>Year</i>	<i>Plan outlay (Rs in millions)</i>	<i>No. of beneficiaries (in millions)</i>
2002-03	2,295	0.454
2003-04	2,195	0.443
2004-05	2,255	0.453
2005-06	2,506	0.500
2006-07	2,430	0.438
2007-08	2,210	0.450

*Source:* India: Third and Fourth Combined Periodic Report on the Convention draft, Inputs of Ministry of Social Justice and Empowerment, September 2009, Annexure 1.

<sup>233</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Social Justice and Empowerment, September 2009, page 1.

<sup>234</sup> People with Disabilities in India: From Commitments to Outcomes, World Bank, 2007, page 132.

<sup>235</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of West Bengal State, 2007, page 67.

520. A study conducted by the World Bank in rural Uttar Pradesh and Tamil Nadu in 2005 revealed that the overall awareness about the PWD Act, 1995, in these States was very low, specifically among households with PWDs compared to others. These findings were supported by evidence from other States, such as Orissa, indicating low awareness about the PWD Act, 1995, entitlements among a range of civil society and public sector actors. The findings point not only to a general need for raising awareness about the rights of PWDs, but also specifically the need for enhanced and focused information outreach to the core target group of PWDs.

## 6B.7 Capacity Building

521. National Institute of Public Cooperation and Child Development (NIPCCD) undertakes training programmes for persons engaged/working in the area of disability, both at the headquarters as well as its regional centres. The broad contents of the programme include prevalence, causes and implications of the various types of disabilities in children; prevention of childhood disabilities; rehabilitation of CWDs; and community-based approaches for prevention, early detection and management of disabilities.<sup>236</sup>

522. The Rehabilitation Council of India, established as a statutory body, regulates the training policies, programmes and standardisation of training courses for professionals dealing with PWDs. The Council is running 57 long-term/short-term courses, to update the knowledge of professionals and personnel in the area of disabilities.<sup>237</sup>

523. The Composite Regional Centres functioning in six States facilitate capacity building at the central, State and District levels and below, to establish, strengthen and upgrade rehabilitation services to reach the un-reached disabled population. The District Disability Rehabilitation Centres provide supportive and complementary services to promote education, vocational training and employment for PWDs by providing orientation training to teachers, community and families; and providing training to PWDs for early motivation and early stimulation for education, vocational training and employment.<sup>238</sup>

524. The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, provides for training of school teachers to handle the special needs of students with disabilities in inclusive classrooms through the State Nodal Agency Centres. Special training is also provided to teachers with focus on early intervention and autism.<sup>239</sup>

## 6B.8 Challenges

525. The Government has strengthened its commitment towards PWDs, as is evident from the ratification of the Convention on the Rights of Persons with Disabilities in 2007, adoption of National Policy for PWDs in 2006 and focus on inclusion in the 11th Plan. The shift from welfare-based approach till the Ninth Plan to the rights-based approach since then, and review of the PWD Act, 1995, to make it more effective, are indicative of Government's continued commitment.

526. The following are the challenges related to children with disabilities (CWDs):

<sup>236</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of National Institute for Public Cooperation and Child Development, GoI, 2007.

<sup>237</sup> Annual Report (2008-09), Ministry of Social Justice and Empowerment, GoI, page 134.

<sup>238</sup> Annual Report (2008-09), Ministry of Social Justice and Empowerment, GoI, page 116.

<sup>239</sup> Annual Report (2008-09), Ministry of Social Justice and Empowerment, GoI, page 130.

- To harmonise definitions of disability used in collection of data, and to include all types of disabilities, leading to better data;
- Effective coordination in planning and implementing programmes among Ministries to comprehensively address the needs of CWDs;
- Limited access to education, health and nutrition services for CWDs;
- Improving an understanding of skills of service providers, including teachers, on the needs of CWDs;
- Generating and increasing awareness about the provisions of the PWD Act, 1995, especially among the target group;
- To tackle instances of discrimination faced by CWDs in access to education, health, etc.;
- To improve resource allocations for CWDs.

## **6C. Health and Health Services (art. 24)**

### **6C.1 Status and Trends**

527. This section provides the status and trends about nine indicators of child health, that is infant and neonatal mortality, maternal mortality, under-nutrition, childhood diseases, communicable diseases, vector-borne diseases, water-borne diseases, Human Immunodeficiency Virus (HIV)/ Acquired Immunodeficiency Syndrome (AIDS) and new emerging diseases.

#### **6C.1.1 Infant and Neonatal Mortality**

528. For information on infant and neonatal mortality, see Section 6A .

#### **6C.1.2 Maternal Mortality**

529. The goal of the NRHM is to reduce the MMR to 100/100,000 by 2012. In 2001-03, the MMR in India was 301 per 100,000 live births, representing a decline of 24% from 1997-98, when it was recorded as 407.<sup>240</sup> The SRS for 2004-06 shows that the MMR has declined further to 254.<sup>241</sup> Nearly two-thirds of the maternal deaths in the country are reported from Assam, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Orissa, Rajasthan, Uttar Pradesh and Uttarakhand.

530. In India, more than one-third of women in the 15-49 age group have Body Mass Index (BMI) less than 18.5 kg/m<sup>2</sup> and 55.3% have anaemia. Efforts are being made to increase attention to maternal nutrition, as a woman's nutritional status has important implications for her health, as well as the health of her children. A woman with poor nutritional status, as indicated by a low BMI, short stature, anaemia or other micronutrient deficiencies, has a greater risk of obstructed labour, having a baby with a low birth weight, having adverse pregnancy outcomes, producing lower-quality breast milk, death due to postpartum haemorrhage, and illness for herself and her baby.

<sup>240</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, page 16.

<sup>241</sup> Special Bulletin on Maternal Mortality in India 2004-06, Sample Registration System, Office of the Registrar General India, Ministry of Home Affairs, GoI, April 2009, page 3.

531. The lacunae in maternal health include varying availability and understanding of technical guidelines, resulting in differences in implementation. The training of Auxiliary Nurse Midwives (ANMs) needs greater attention at the State level. The pace of comprehensive emergency obstetric and neonatal care training requires acceleration. Safe medical termination of pregnancy (MTP) needs greater attention in most States. Further, the data on anaemia in women underscore the need for improvement in the nutritional status of women both before and during pregnancy. Also, there are constraints in public facilities for meeting an increased demand for institutional deliveries, often leading to sub-standard quality of institutional deliveries and lack of full complement of inputs in the First Referral Units (FRUs).<sup>242</sup>

### 6C.1.3 Under-Nutrition

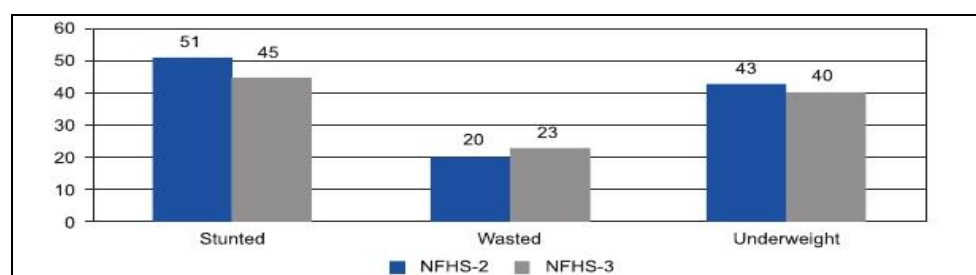
532. Under-nutrition continues to affect a large number of children in the country. Almost half of children under five years of age (48%) are stunted and 43% are underweight. The proportion severely undernourished children is 24% according to height-for-age (stunting) and 16% according to weight-for-age (wasting).

533. The proportion of stunted or underweight children increases rapidly with the child's age through age 20-23 months. Under-nutrition decreases thereafter for stunting and levels off for underweight. For both of these measures, under-nutrition peaks at the age of 20 months. Wasting generally decreases throughout the age range. Even during the first six months of life, when most babies are breastfed, 20-30% of children are under-nourished, according to the three nutritional indices. It is notable that at the age of 18-23 months, when many children are being weaned from breast milk, 30% of children are severely stunted and one-fifth are severely underweight.<sup>243</sup>

534. A comparison of nutritional status of children under three years of age for NFHS-2 and NFHS-3<sup>244</sup> is given in Figure 6.3. The improvement in height-for-age, combined with a somewhat slower improvement in weight-for-age, actually produced an increase in wasting and severe wasting over time.<sup>245</sup>

Fig 6.3

**Trends in nutritional status of children (Percentage of children under three years of age)**



<sup>242</sup> Reproductive and Child Health Programme-II, Third Joint Review Mission, January 15–February 8, Ministry of Social Justice and Empowerment, GoI, 2007, pp. 8-11.

<sup>243</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, page 269.

<sup>244</sup> In the National Family Health Survey -2 (1998-99), the nutritional status of children was measured only in case of children under three years of age of ever-married women who were interviewed, whereas in the National Family Health Survey-3 (2005-06), all the children in the household under five years of age were eligible to be measured. Therefore, in comparing nutritional indicators in the two surveys, it is necessary to restrict the calculations to the National Family Health Survey-2 criteria for eligibility. However, for both the years the WHO reference population was used.

<sup>245</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, page 273.

Source: National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, page 274.

535. Anaemia is very common in India. NFHS-3 shows that 70% of children in the age group of 6-59 months are anaemic. To allow a comparison of NFHS-2 and NFHS-3 anaemia estimates, it is necessary to restrict the analysis to only two children aged 6-35 months of ever-married women, who were interviewed. In this group, the prevalence of anaemia increased from 74% in NFHS-2 to 79% in NFHS-3. The increase is seen primarily in rural areas, where anaemia rose from 75% to 81% between the two surveys.<sup>246</sup> Other characteristics of children affected by under-nutrition, as indicated by NFHS-3, are:<sup>247</sup>

- (i) Overall, girls and boys are almost equally undernourished. Under-nutrition is generally lower for first birth than for subsequent births, and consistently increases with increasing birth order for all measures of nutritional status;
- (ii) Under-nutrition is much more common for children of mothers whose BMI is below 18.5 than for children whose mothers are not underweight;
- (iii) Under-nutrition is substantially higher in rural areas than in urban areas;
- (iv) Children from households with a low standard of living are twice as likely to be under-nourished, compared to children from households with a high standard of living;
- (v) Under-nutrition has a strong correlation with the mother's education. The percentage of severely underweight children is almost five times high in case of children, whose mothers have no education, compared to children, whose mothers have 12 or more years of education;
- (vi) Among children for whom birth weight was reported, 22% had a low birth weight (weighed less than 2.5 kg). The proportion of children weighing less than 2.5 kg is slightly higher in rural areas (23%) than in urban areas (19%). The proportion of children with low birth weight is greater among those born to women of Jain and Sikh communities, women who use tobacco, and young women (age at birth <20 years). The proportion of children with a low birth weight declines with increase in the wealth quintile and with higher levels of education;
- (vii) Although breastfeeding is almost universal in India, only 46% of children under six months of age are exclusively breastfed, while 53% are given complementary feeding (breast milk and complementary food), and only 21% are fed according to Infant and Young Child Feeding (IYCF) recommendations;<sup>248</sup>
- (viii) Inadequate nutrition is a problem throughout India, but under-nutrition is most pronounced in Madhya Pradesh, Bihar and Jharkhand. Nutritional problems are also substantially higher than average in Meghalaya and Uttar Pradesh (for stunting). Nutritional problems are least evident in Mizoram, Sikkim, Manipur and Kerala, and relatively low levels of under-nutrition are also notable in Goa and Punjab.

#### 6C.1.4 Childhood Diseases

536. The NFHS-3 provides information on the prevalence of three childhood diseases: ARI, fever and diarrhoea. ARI is one of the leading causes of childhood morbidity and

<sup>246</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, pp. 289-290.

<sup>247</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, Summary of Findings.

<sup>248</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, pp. 275-287.

mortality. A comparison of NFHS-3 and NFHS-2 for ARI prevalence data is not meaningful, because the questions employed to estimate ARI have changed between the two surveys, and because the prevalence of ARI is subject to seasonal variation, and the surveys took place at different times of the year. In NFHS-3, 36.2% of children under five years of age reported symptoms of ARI. ARI is less prevalent among older children, children of mothers who have completed 12 or more years of school education, children in households belonging to the highest wealth quintile, Buddhist/Neo-Buddhist children, and children in the 'other'<sup>249</sup> religion category. Overall, however, respiratory infections affect children from all strata, irrespective of their socio-economic background. The percentage of children with ARI symptoms varies greatly by State, from 1% in Himachal Pradesh to 13% in West Bengal, and 14% in Tripura.<sup>250</sup>

537. Fever is a major symptom of malaria and other acute infections in children. Malaria and fever contribute to high levels of malnutrition and mortality. NFHS-3 indicated that 15% of the children under five years of age suffered from fever at the time of the survey, while NFHS-2 indicated that 30% of children were suffering from fever during two weeks before the survey. The prevalence of fever is higher among infants in the 6-11 months age group, and children in the 12-23 months age group (21% and 19% respectively).<sup>251</sup>

538. Following ARI, diarrhoea is one of the single-most common causes of death among children under-five worldwide. A comparison of NFHS-2 and NFHS-3 reveals that there is very little change in the seven-year period in the percentage of children with diarrhoea in the two weeks prior to the survey, who received Oral Rehydration Solution (ORS) (26% in NFHS-2 and 27% in NFHS-3).

539. The Use of ORS packets for treatment of diarrhoea remains particularly limited in several States. The use of ORS for children sick with diarrhoea ranges from 13% in Uttar Pradesh, 15% in Assam and 17% in Rajasthan, Nagaland and Jharkhand to almost two-thirds of children sick with diarrhoea receiving ORS in Meghalaya and almost half or more in Tripura, Himachal Pradesh, Goa and Mizoram. In Kerala, on the other hand, more than 8 out of 10 children received ORS or increased fluids, and in Himachal Pradesh, this proportion was only somewhat lower, at 75%.

540. According to NFHS-3, overall, one in six women (16%) aged 15-19 years had begun child bearing; 12% had become mothers; and 4% were pregnant with their first child at the time of the survey. Early marriages are associated with a number of health problems among adolescent girls, as early sexual activity leads to early pregnancy. Early pregnancy not only leads to a high risk of abortion, but also causes severe health damage to the adolescent girls.

#### 6C.1.5 Vector-Borne Diseases

541. Japanese Encephalitis (JE) has been reported from different parts of the country, and so far, 26 States/UTs have reported JE viral activity. However, the prevalence of the disease has been reported from 15 States, of which, Andhra Pradesh, Assam, Bihar, Haryana, Karnataka, Kerala, Maharashtra, Manipur, Tamil Nadu, Uttar Pradesh and West Bengal have been reporting recurrent outbreaks. The total number of cases reported has declined

<sup>249</sup> 'Other' religion includes Jews, Parsis, Zoroastrians, Doni-polo of Arunachal Pradesh, other religions and those with no religion.

<sup>250</sup> The National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, pp. 234-236.

<sup>251</sup> The National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, pp. 237-239.



from 2,061 in 2001 to 391 in 2007 (till July), and the number of deaths has also declined from 479 to 92 for the same period.<sup>252</sup>

542. The high-risk areas of malaria are largely tribal, difficult, remote and inaccessible, and forested and forest fringed, with operational difficulties, although risk factors also exist in other parts of the country.<sup>253</sup> Over the years, the incidence of malaria has shown a definite decline. In 2001, there were 2.09 million cases of malaria, which declined to 1.82 million cases in 2005, 1.66 million in 2006, and declined further to 0.32 million cases till May 2007.<sup>254</sup> The pattern of drug use for malaria does not differ much between rural and urban areas.

543. The Third JRM of RCH-II, 2007, points to the need for: (i) distribution of insecticide-treated bed nets in malaria endemic areas to pregnant women at ANC registration; (ii) specific IEC materials for malaria intervention; and (iii) strengthened malaria prevention and treatment during pregnancy, and for children. This includes clarification of policy for treatment of malaria among pregnant women. There is also a need for greater convergence of RCH-II with the Malaria Control Programme.<sup>255</sup>

544. Dengue fever is endemic in 18 States/UTs, with the population of about 450 million at risk. The number of cases of dengue has risen from 3,306 cases and 53 deaths in 2001 to 12,317 cases and 184 deaths in 2006.<sup>256</sup> In 2007, up to July, 536 cases and 6 deaths had been reported in the country.<sup>257</sup>

545. The States reporting confirmed cases of chikungunya are Andhra Pradesh, Karnataka, Maharashtra, Tamil Nadu, Madhya Pradesh, Gujarat, Kerala, Andaman and Nicobar Islands, Rajasthan, Goa, Orissa, West Bengal, Lakshadweep, Uttar Pradesh, Delhi, including National Capital Region (NCR), and Puducherry. However, there are no reported deaths directly related to chikungunya. The number of confirmed cases up to July 2007 was 733, compared to 2,001 cases in 2006.<sup>258</sup>

#### **6C.1.6 Water-Borne Diseases**

546. Children under five years of age are vulnerable to water-and sanitation-related illness. As per NFHS-3, it is estimated that along with malnutrition, the primary reason for the high infant mortality and child morbidity rates is water and sanitation related illnesses, such as diarrhoea, malaria, etc. NFHS-3 reveals that overall, 9% of all children under-five had diarrhoea, with 1% having diarrhoea with blood.

##### **6C.1.6.1 Access to Water and Sanitation**

547. The status of provision of water has improved slowly in the country. As of April 1, 2007, 74.39% of rural habitations in the country were fully covered, and 14.64% were partially covered. Similarly as of March 31, 2004, about 91% of the urban population had access to water supply facilities. However, this access needs to be improved, and the per capita availability is not as per norms in many areas.<sup>259</sup>

<sup>252</sup> Annual Report (2006-07) and (2007-08), Ministry of Health and Family Welfare, GoI, pp. 82, 78.

<sup>253</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 66.

<sup>254</sup> Annual Report (2006-07) and (2007-08), Ministry of Health and Family Welfare, GoI, pp. 80, 72.

<sup>255</sup> Reproductive and Child Health Programme -II, Third Joint Review Mission, January 15-February 8, Ministry of Health and Family Welfare, GoI, 2007, pp. 11, 101, 113, 157.

<sup>256</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 87.

<sup>257</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 80.

<sup>258</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 82.

<sup>259</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 162.

548. Though sanitation coverage has gone up considerably over the years, a large proportion of the population, especially in rural areas, still lacks basic facilities. According to the online monitoring system under Total Sanitation Campaign (TSC), the sanitation coverage in rural areas is 58.38%, as against a projected coverage of households in 2009. (See Annexure 6C.1 for details on State-wise progress under TSC.) As of March 31, 2004, 63% of the urban population had access to sewage and sanitation facilities (47% sewer and 53% low-cost sanitation). As a consequence, open defecation is widely prevalent in rural areas, but also significantly in urban areas.<sup>260</sup> Lack of urban sanitation directly affects the quality of river water and also contaminates urban water supply. Only 30% of sewage is treated.

549. The results of DLHS-3 (2007-08) suggest some improvements in housing conditions. Seventy percent of households in India have electricity. Most households (84.4%) have access to an improved source of drinking water in 2007-08, with greater access in urban areas (94.4%), compared to rural areas (79.6%). The percentage of households that have access to toilet facility has increased from 36.2% (2002-04) to 49.3% in 2007-08.<sup>261</sup> However, in terms of numbers, open defecation is practised by 665 million people in India.<sup>262</sup>

550. There are about 0.217 million water quality-affected habitations in the country, with more than half of the habitations affected with excess iron, followed by fluoride, salinity, nitrate and arsenic. There are about 25,000 habitations affected with multiple problems. About 66 million population is at risk due to excess fluoride in 200 Districts of 17 States. Arsenic contamination is widespread in West Bengal and it is now also seen in Bihar, Eastern Uttar Pradesh and Assam. The hand-pump-attached defluoridation, iron-removal plants and desalination plants have not yielded desired results since there is a need to enhance the quality of technology and involve the local community in a greater manner.<sup>263</sup>

#### 6C.1.7 Other Communicable Diseases

551. Significant success has been achieved in reducing the number of polio cases in the country. As against 1,600 cases in 2002, total cases declined gradually to only 66 cases in 2005.<sup>264</sup> The total number of cases reported in 2006 was 676 (after occurrence of an outbreak in western Uttar Pradesh in 2006). In 2007, a total of 874 cases were reported, and in 2008 (up to August), 420 cases were reported, mainly from Uttar Pradesh and Bihar. In Uttar Pradesh, the number of polio cases has fallen from 341 in 2007 to 184 in 2008. The figures for Bihar show a sharper decline from 503 cases in 2007 to 222 cases in 2008.<sup>265</sup>

552. Tuberculosis (TB) is a major public health problem in India. Two persons die from TB in India every three minutes; more than 1,000 people every day; and almost 370,000 every year. TB has devastating social costs as well. Data suggests that each year, more than 300,000 children are forced to leave school because their parents have TB, and more than

<sup>260</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 163.

<sup>261</sup> District Level Household and Facility Survey-3 (2007-08), Fact Sheet India, Ministry of Health and Family Welfare, GoI.

<sup>262</sup> Progress on Drinking Water and Sanitation, Special Focus on Sanitation, UNICEF, WHO, 2008, Figure 18, page 19.

<sup>263</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 164.

<sup>264</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 61.

<sup>265</sup> National Polio Surveillance Project, AFP Surveillance Bulletin India, GoI, <http://www.npsindia.org/bulletin.pdf>.

100,000 women with TB are rejected by their families. This continued burden of the disease is particularly tragic, given the fact that TB is nearly 100% curable.<sup>266</sup>

553. It is estimated that 2.31 million people are infected with HIV/AIDS, of which 39% are women and 35% are children. (See Section 3B.4.1 for details.)

#### **6C.1.8 New Diseases**

554. Diabetes and obesity among children are emerging areas of concern in the country. According to hospital statistics, in 2002, Delhi alone had about 4,000 to 5,000 diabetic children, and it is estimated that there might be an equal number of undiagnosed cases.<sup>267</sup>

### **6C.2 Policy and Legislation**

555. The National Population Policy, 2000, and the National Health Policy, 2002, aim to achieve universal immunisation of children against all major preventable diseases, addressing the unmet needs for basic and reproductive health services, and supplementation of infrastructure. The synchronised implementation of these two Policies is the cornerstone of every national structural plan to improve the health standards in the country.

556. The National Plan of Action for Children (NPAC), 2005, through its goals, objectives and strategies, targets the highest attainable standards of health and provides for preventive and curative facilities at all levels, especially immunisation and prevention of micronutrient deficiencies for all children.

557. The Infant Milk Substitute, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992, promotes breastfeeding and ensures proper use of infant foods by regulating their production, supply, distribution and marketing. (See India First Periodic Report 2001, paras 87-88, pp. 168-169 for details.) The Act was amended in 2003 by widening its scope, making the violations punishable under law, and strengthening its provisions on publicity and advertisement. The amendments to the Act include continued breast feeding up to the age of two years, along with complementary food after six months under the definition of infant food; continued breastfeeding up to two years of age in the definition of infant milk substitutes; and bringing the healthcare workers, pharmacies and drug stores, and professional associations of health workers within the purview of the Act.

558. The environmental quality is a priority in the present scenario of increasing urbanisation, industrial and vehicular pollution, as well as pollution of water courses due to discharge of effluents without conforming to the environmental norms and standards. Recognising that these lead to several water-borne, vector-borne and air-borne diseases, the Government has taken various steps, such as adoption of stringent regulations, development of environmental standards, control of vehicular pollution, control of air & water pollution, etc. The Government further adopted the National Environment Policy (NEP), 2006, which seeks to extend the coverage, and fill in the gaps that still exists.

559. A National Consultation on Children Affected by and Vulnerable to HIV/AIDS, jointly organised by the Ministry of Women and Child Development, National AIDS Control Organisation (NACO) and UNICEF in 2006, ensured convergence of various agencies working on the issue. They formulated an action plan for the next two years, and

<sup>266</sup> Implementation of the International Covenant on Economic, Social and Cultural Rights, Combined Second, Third, Fourth and Fifth Periodic Report of India, 2007, page 142.

<sup>267</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 206.

formed a National Task Force to plan and conduct assessments, strengthen policy and monitor the implementation of key actions from the consultation.<sup>268</sup>

560. The MWCD and NACO participated in the development of the South Asian Association for Regional Cooperation (SAARC) Regional Strategic Framework for protection, care and support for children affected by HIV/AIDS in 2007. The Framework, released in 2008, provides programmatic guidance to all the member States in South Asia for addressing the needs of these children in a low-prevalence as well as in concentrated situation.

561. A Policy Framework for Children and AIDS, 2007, based on the principles of SAARC Regional Strategy and the Convention on the Rights of the Child, provides direction for key programme strategies and also lays down the mandate of all Ministries, which provide services to children. (See Section 1.2 for details.)

562. The National Task Force for Children Affected by HIV/AIDS formulated operational guidelines for implementation of protection, care and support services for children affected by HIV/AIDS. To implement these guidelines, NACO has agreed to implement a National Scheme for Children Affected by HIV/AIDS in all the high-prevalence Districts in the country. This will involve a multi-sector approach and the goal will be to reach the maximum number of children living with HIV/AIDS to bring them under treatment and care at the earliest, and to make sure that all affected children and their families are able to access services under various departments.

## 6C.3 Programmes

### 6C.3.1 National Rural Health Mission (NRHM) 2005-12

563. The NRHM was launched on April 12, 2005, to provide accessible, affordable and accountable quality health services to rural population throughout the country, with special focus on 18 States<sup>269</sup>, which have weak public health indicators, and/or weak infrastructure. Its key components include: provision of a female health activist in each village, called Accredited Social Health Activist (ASHA); a village health plan prepared through a local team headed by the health and sanitation committee of the *Panchayati Raj* Institutions (PRIs); and strengthening of the rural hospital for effective curative care, made measurable and accountable to the community as per Indian Public Health Standards (IPHS). Primary Health Centres (PHCs) will be strengthened for quality, preventive, promotive, curative, supervisory and outreach services. The 3,222 existing Community Health Centres (CHCs) will be operationalised as 24-hour FRUs, including posting of anaesthetics. District health plans will be formulated, which will be an amalgamation of field responses through village health plans, and State and national priorities for health, water supply, sanitation and nutrition. Public-Private Partnership (PPP) for achieving public health goals, including regulation of private sector, will be formulated. *Panchayats* and NGOs will play an active role.<sup>270</sup>

<sup>268</sup> Special Policy on Universal Access for Children affected by HIV and AIDS, [http://www.unicef.org/india/hiv\\_aids\\_3556.htm](http://www.unicef.org/india/hiv_aids_3556.htm).

<sup>269</sup> The 18 States are: Uttar Pradesh, Uttarakhand, Madhya Pradesh, Chhattisgarh, Bihar, Jharkhand, Orissa, Rajasthan, Himachal Pradesh, Jammu & Kashmir, Assam, Arunachal Pradesh, Manipur, Meghalaya, Nagaland, Mizoram, Sikkim and Tripura.

<sup>270</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, pp. 20-21.

564. All the vertical programmes have been merged under the NRHM, such as the RCH-II, National Vector-Borne Disease Control Programme (NVBDCP), National TB Control Programme, National Leprosy Eradication Programme, Iodine Deficiency Control Programme, and the National Programme on Prevention of Blindness. (See India First Periodic Report 2001, paras 74, 96-99, pp. 163, 171-172 for details.) The IMNCI, control of deaths due to ARI, and control of deaths due to diarrhoeal diseases are all budgeted under RCH-II.

#### **6C.3.1.1 Reproductive and Child Health Programme Phase-II (RCH-II) 2005-10**

565. The RCH-II aims to ensure a change in three critical health indicators, i.e. reducing TFR, IMR and MMR, with a view to realise the outcomes envisioned in the Millennium Development Goals (MDGs), the National Population Policy 2000, the National Health Policy 2002, and Vision 2020 India. It is an important and integral component of the NRHM.

566. The MoH&FW appraised and approved the State Programme Implementation Plans (PIPs) for the RCH-II programme during the years 2005-06 and 2006-07. The Ministry, in partnership with other development agencies and States, conducts quarterly JRMs to monitor the progress of RCH-II programme.

567. The Third JRM of RCH-II, 2007, indicated that over one million monthly Village Health and Nutrition Days (VHND) have been held at AWCs across the country. This initiative brings together a range of services from RCH, ICDS and other sectors to the community. The JRM points to the need for a more focused nutrition education among pregnant and lactating women, and also the community, for appropriate care of children.<sup>271</sup>

568. The PIP of National RCH-II has approved an Adolescent Reproductive and Sexual Health (ARSH) strategy. This strategy focuses on re-organising the existing public health system in order to meet the service needs of adolescents. Steps are being taken to ensure improved service delivery for adolescents during routine sub-centre clinics and ensure service availability on fixed days and timings at the PHC and CHC levels. This is in tune with outreach activities. A core package of services would include preventive, promotive, curative and counselling services for adolescents.

569. Most States have incorporated this strategy in their respective State PIPs. In order to facilitate the effective implementation of the national strategy, the IEC Division brought out an implementation framework along with training modules, which were launched in 2006.<sup>272</sup> Adolescent health has also been included in the training of ASHAs.<sup>273</sup>

570. During the 11th Five Year Plan period, adolescent issues will be incorporated in all RCH training programmes. Materials are being developed for communication and behavioural change. The existing services at PHCs and CHCs will also be made adolescent-friendly, by providing a special window for their needs; strengthening sexual and reproductive health education; providing mental health and adolescent-sensitive counselling services; and making them accessible to adolescents. The 11th Five Year Plan will also work on the health of school-going children. One innovative school health programme is under implementation in Udaipur District of Rajasthan. In view of the low cost versus achievements of the programme, it is a good case for replication in other parts of the

<sup>271</sup> The Reproductive and Child Health Programme-II, Third JRM, January 15–February 8, Ministry of Health and Family Welfare, GoI, 2007, page 2.

<sup>272</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 106.

<sup>273</sup> The Reproductive and Child Health Programme -II, Third Joint Review Mission, January 15-February 8, Ministry of Health and Family Welfare, GoI, 2007, page 17.

country.<sup>274</sup> (See Annexure 6C.2 for details on the innovative School Health Programme–Udaipur, Rajasthan.)

### 6C.3.1.2 Initiatives under NRHM to Reduce Maternal Mortality

571. Janani Suraksha Yojana (JSY) – A cash assistance scheme for women, launched in April 2005 by MoH&FW, the JSY specifically focuses on reduction of maternal and infant mortality, by promoting institutional delivery among poor women. Some of the key features of JSY are cash benefits to pregnant women below poverty line (BPL) and the village link worker/ASHA for bringing pregnant women to a health institution for delivery, and provision of cost of transportation. The Scheme has classified States according to institutional delivery status; thus, 10 States (Uttar Pradesh, Uttarakhand, Bihar, Jharkhand, Madhya Pradesh, Chhattisgarh, Assam, Orissa, Rajasthan, and Jammu & Kashmir (J&K)) are classified as Low Performing States (LPS), and the remaining are High Performing States (HPS).

572. The year 2006-07 was declared as the year for institutional deliveries, with focus on disadvantaged communities. As a result, 2.81 million pregnant women benefited from the Scheme in 2006-07, out of which 1.87 million were institutional deliveries, an increase of almost five times since 2005-06.<sup>275</sup> An evaluation of JSY was conducted by the MoH&FW in six States (Uttar Pradesh, Rajasthan, Madhya Pradesh, Orissa, Assam and West Bengal) in 2007. It revealed that the number of beneficiaries under JSY had increased from 0.74 million in 2005-06 to 3.16 million in 2006-07, and further to 5.57 million in 2007-08. The major highlights of JSY have been substantial increase in institutional deliveries, largely in CHCs and PHCs, with social equity issues being addressed.<sup>276</sup>

### 6C.3.1.3 Newborn Care

573. Community and home-based newborn care is provided through home visits to all mothers of newborns by IMNCI-trained workers in more than 100 high-mortality Districts. However, the progress of the programme is slow.

574. It is also proposed to expand the community-based new-born care through Home Based Newborn Care (HBNC), based on the Gadchiroli model.<sup>277</sup> ASHAs will be trained in identifying aspects of newborn care during the second year of their training.<sup>278</sup> The modules have been finalised, and State sensitisation workshops have been held in five high focus States (Madhya Pradesh, Uttar Pradesh, Orissa, Rajasthan and Bihar).<sup>279</sup>

575. At the facility level, assessment of needs for newborn care is being carried out in 10 States (one District each), so that an appropriate facility-based newborn care model can

<sup>274</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, pp. 92-93.

<sup>275</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, pp. 59-60.

<sup>276</sup> Janani Suraksha Yojana: A Demand Side Intervention for Promoting Safe Delivery, Ministry of Health and Family Welfare, GoI, [http://mohfw.nic.in/NRHM/GOA%20Workshop/PDFs/03-05-08\\_pdf/JSY.pdf](http://mohfw.nic.in/NRHM/GOA%20Workshop/PDFs/03-05-08_pdf/JSY.pdf).

<sup>277</sup> The Gadchiroli model successfully employed by SEARCH, an NGO, in the Gadchiroli District of Maharashtra, used Home Based Newborn Care (HBNC) approach to train Community Health Workers to identify and manage hypothermia, asphyxia and sepsis.

<sup>278</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 57, and India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, pp. 7, 10.

<sup>279</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 57, and India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, pp. 7, 10.

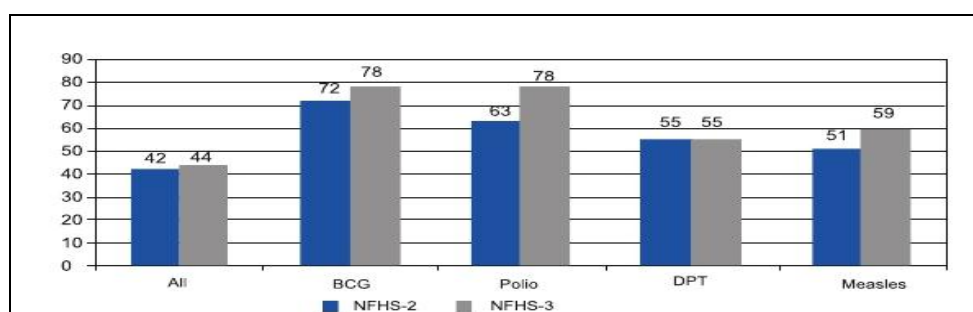
be initiated. Health personnel in PHCs and CHCs are being trained through the National Neonatology Forum (NNF), with support from development partners. Neonatal care centres (Special Newborn Care Units) are being set up at District headquarters in various States, with focus on States with the weakest indicators. Eighty Districts in Phase I and 60 in Phase II of the EAG States<sup>280</sup> were provided newborn care equipment to upgrade neonatal care facilities.<sup>281</sup>

#### 6C.3.1.4 Immunisation Programme

576. Between NFHS-2 and 3, the percentage of Bacillus Calmette Guerin (BCG), polio and measles vaccinations has gone up by 8%, 24% and 16% respectively, though diphtheria, pertussis and tetanus (DPT) vaccine coverage has not changed. The relatively low percentages of children vaccinated with the third dose of DPT and measles are mainly responsible for the low proportion of fully-vaccinated children, which has registered marginal improvement from 42% to 44%.<sup>282</sup> (See Figure 6.4.)

Figure 6.4

**Percentage of 12-23 months old children, who have received specific vaccination**



Source: National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, page 232.

577. The percentage of children, who are fully vaccinated, ranges from 21% in Nagaland to 81% in Tamil Nadu. Tamil Nadu, Goa, Kerala and Himachal Pradesh stand out in full immunisation coverage, with about three-fourth or more children in these States being fully immunised. The more populous States of Uttar Pradesh, Rajasthan, Assam, Bihar, Jharkhand and Madhya Pradesh report a much lower percentage of fully vaccinated children, as compared to the national average of 44%. (See Annexure 6C.3 for details on childhood vaccination by State.) In 11 States, there has been a substantial deterioration in full immunisation coverage in the last seven years, due to a decline in vaccination coverage for both DPT and polio. Particularly large decreases in vaccination coverage were seen in Maharashtra, Mizoram, Andhra Pradesh and Punjab. In contrast, there was major improvement in full immunisation coverage in Bihar, Chhattisgarh, Jharkhand, Sikkim and West Bengal. The other States with marked improvements in full immunisation coverage were Assam, Haryana, J&K, Madhya Pradesh, Meghalaya and Uttarakhand. These results have been achieved by promoting alternate vaccine delivery wherever required, providing

<sup>280</sup> To facilitate the preparation of area-specific programmes with special emphasis on eight States (Bihar, Jharkhand, Orissa, Madhya Pradesh, Chhattisgarh, Rajasthan, Uttar Pradesh and Uttarakhand) lagging in containing population growth to manageable limits, the GoI constituted an Empowered Action Group in the Ministry of Health and Family Welfare on March 20, 2001.

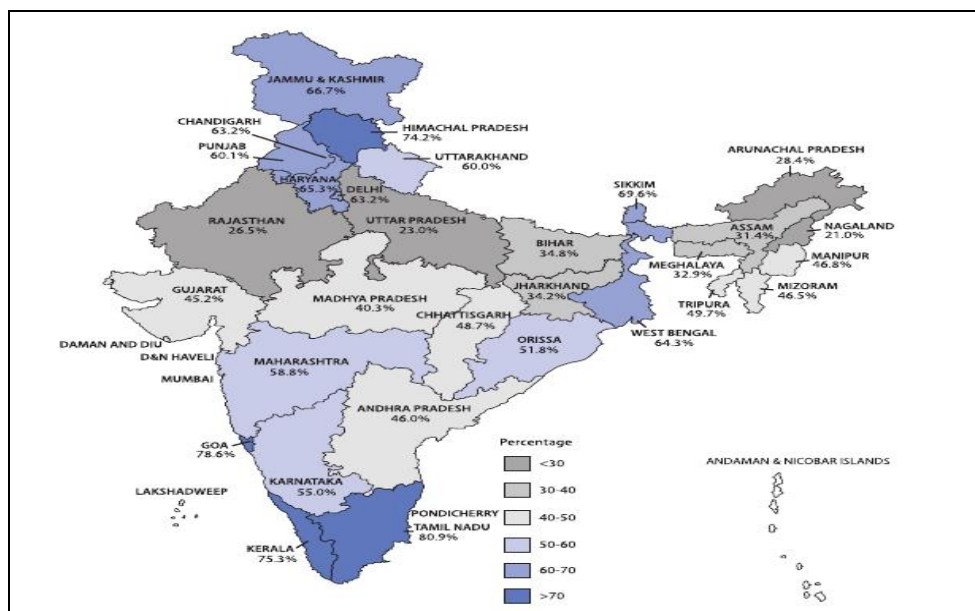
<sup>281</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page. 57, and India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, page 7.

<sup>282</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, page 233.

incentives for immunisation sessions, conducting catch-up rounds like those organised in Jharkhand, and ensuring proper maintenance of the cold chain. With popularisation of the monthly health days at AWCs, routine immunisation has got a further fillip.<sup>283</sup> (See Figure 6.5.)

Figure 6.5

**Percentage of children 12-23 months old who have received full vaccination, by State, 2005-06**



Source: National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, page 232.

578. The NFHS-3 reported that only 20% children received immunisation at AWCs.<sup>284</sup> However, the mobilisation of children by ASHAs and AWWs together is helping to increase coverage and convergence of nutrition with immunisation.<sup>285</sup>

579. To prevent the outbreak of JE, vaccination has been started. Ground work for expansion of Hepatitis-B vaccine to 11 States has been finalised. In order to achieve zero transmission of polio virus, the Government has strengthened its implementation strategy, which includes: vaccination of children at fixed booths and making house-to-house visits; coverage of children in transit at railway stations, inside long distance trains, major bus stops, market places, religious congregations, major road crossings, etc; immunisation of migratory population from Uttar Pradesh and Bihar in Haryana, Punjab, Gujarat and West Bengal; involvement of ASHAs as team member for mobilisation and vaccination of children; coverage of missed children during the monthly health days; and adoption of strategy to involve the leaders and opinion makers of the underserved community in Districts of western Uttar Pradesh.<sup>286</sup>

<sup>283</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, page 23.

<sup>284</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, page 257.

<sup>285</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 22.

<sup>286</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 68.



580. There is a need to strengthen other interventions for maternal and child care, besides the Intensified Pulse Polio Immunisation (IPPI) Programme, which received 87.8% of the allocation for child health under the RCH-II Programme.<sup>287</sup>

#### **6C.3.1.5 Integrated Management of Neonatal and Childhood Illnesses**

581. A new strategy has been adopted to shift child health intervention towards a holistic approach, through the IMNCI. This new strategy encompasses a range of interventions to prevent and manage five major childhood problems: ARI, diarrhoea, measles, malaria and malnutrition, as well as the major causes of neonatal mortality, prematurity and sepsis. In addition, the IMNCI promotes nutrition, including breastfeeding promotion, complementary feeding and micronutrients. It focuses on the preventive, promotive and curative aspects among newborns and children.<sup>288</sup> The major components of this strategy are: strengthening the skills of healthcare workers; strengthening healthcare infrastructure; and involvement of the community.<sup>289</sup>

582. According to the Third JRM of RCH-II, 2007, more than 100 Districts have indicated plans for IMNCI implementation. The IMNCI is being expanded to include larger number of Districts in Rajasthan, Orissa, Uttar Pradesh, Bihar, Gujarat and Madhya Pradesh. To accelerate implementation, more training sites at the national and State levels have been included and the National Institute of Health and Family Welfare (NIHFW) has been appointed as the nodal agency for coordinating IMN-CI training at the national level. Pre-service IMNCI in the teaching curriculum of undergraduate medical students currently involves nearly 50 medical colleges, and work has started with the Indian Nursing Council to finalise the materials for teaching nursing students and ANMs.<sup>290</sup>

583. The IMNCI and Universal Immunisation Programme need to be strengthened with a comprehensive strategy that includes focus on improving health facilities for newborn and child health, promoting diarrhoea-control measures, focused behaviour change communication and enhancing essential and special care of new-borns. New policies and technical guidelines for simple measures (ORS/zinc, vitamin A, etc.) to be adopted across the country need to be widely disseminated with an emphasis on rapid implementation in IMNCI Districts.

#### **6C.3.2 Integrated Child Development Services Scheme**

584. The ICDS is one of the flagship programmes of the Government of India and represents one of the world's largest and most unique programmes for Early Childhood Care and Education. Since 2006, the care of pre-school children including pre-primary education component of SSA is being promoted as part of ECCE under ICDS. The ICDS is the visible symbol of the country's commitment to its children and nursing mothers, and is also its response to the challenge of providing preschool non-formal education, breaking the vicious cycle of malnutrition, morbidity, reduced learning capacity and reducing the incidence of under-nutrition by laying the foundation for physical, psychological and social development of children and building the capacities of their mothers.

<sup>287</sup> Burden of Disease in India, Background Papers, National Commission on Macroeconomics and Health, Ministry of Health and Family Welfare, GoI, September 2005, pp. 95-96.

<sup>288</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, page 7.

<sup>289</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, page 9.

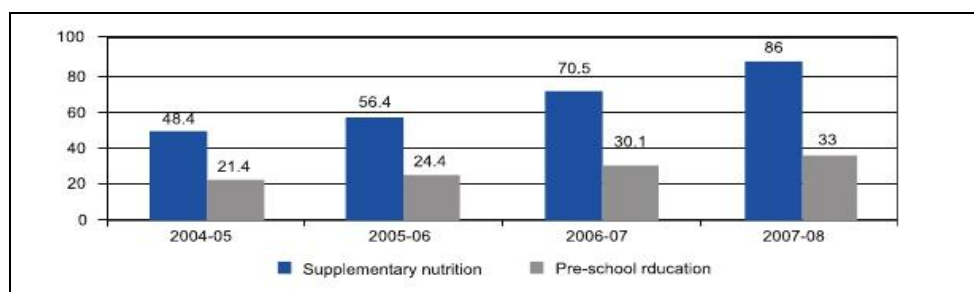
<sup>290</sup> Reproductive and Child Health Programme-II, Third Joint Review Mission, January 15–February 8, Ministry of Health and Family Welfare, GoI, 2007, pp. 3, 13.

585. The Scheme was launched with the primary objective of improving the nutritional and health status of children below six years of age and pregnant and lactating mothers. To achieve these objectives, a package of six services, namely supplementary nutrition, pre-school non-formal education, nutrition and health education, immunisation, health check-up and referral services is provided under the Scheme. Three of the six services viz. immunisation, health check-up and referral services are related to health and are provided by the MoH&FW through NRHM and public health infrastructure.

586. The ICDS was expanded twice (in 2005-06 and 2006-07) during the 10th Five Year Plan period. Today there are 7,076 sanctioned ICDS projects, with 1.4 million AWCs, with about two million AWWs and *Anganwadi* Helpers (AWHs) reaching out to 86 million children and mothers with Supplementary Nutritional Support (SNP), and reaching out to 33 million children (3-6 years) with pre-school education. The progress on beneficiaries under supplementary nutrition and pre-school education has been substantial between the periods 2004-05 and 2008-09 (as on December 31, 2008), as depicted in Figure 6.6.

Figure 6.6

**ICDS beneficiaries (in millions)**



Source: Integrated Child Development Services Division, Ministry of Women and Child Development, GoI.

587. To cover the hitherto uncovered habitations across the country, the MWCD, in October 2008, approved the third phase of expansion of the Programme for 792 additional projects, 0.213 million additional AWCs and 77,102 mini-AWCs, with a provision for 20,000 AWCs on demand. This would take the total number of AWCs to 1.4 million across the country. Special focus has been given to habitations/settlements predominantly covered by SC/ST and minority populations.

588. To achieve the intended objectives during the third expansion phase of the ICDS, the 11th Five Year Plan has made an increased budgetary allocation of Rs 444,000 million. The key features of the third expansion phase of ICDS include:

- (i) Introduction of cost sharing between the Centre and States, with effect from the financial year 2009-10, in the following ratio:
  - 90:10 for all components, including SNP for the north-east
  - 50:50 for SNP and 90:10 for all other components for all States other than the north-east;
- (ii) Enhancement of honoraria by Rs 500 above the last honorarium drawn by AWWs, and by Rs 250 above the last honorarium drawn by helpers of AWCs and workers of mini-AWCs;
- (iii) Provision of uniform for AWWs and AWHs;
- (iv) Revision of financial norms in the existing interventions to improve the service delivery;

- (v) Provision of flexi funds at Anganwadi level;
- (vi) Strengthening of Management Information System (MIS);
- (vii) Revision in cost norms of training component of ICDS programme;
- (viii) Reward mechanism for ICDS functionaries;
- (ix) Introduction of WHO Growth Standards.

589. Due to the prevalence of persistent malnutrition in the country, simultaneous revisions were made in the financial, nutritional and feeding norms under the ICDS. Separate norms were prescribed for different age groups: 0-6 months, 6 months-3 years, 3-6 years, and pregnant and lactating mothers. Provisions have also been made for more than one food supplement per day. The orders for new norms were issued in February 2009. The Supreme Court, in its order dated February 24, 2009, has directed the State Governments to implement these norms. (See Annexure 6C.4 for details on guidelines on revision of nutritional and feeding norms under ICDS.)

590. The MWCD is implementing two schemes for the development of adolescent girls, viz. Kishori Shakti Yojana (KSY) and Nutrition Programme for Adolescent Girls (NPAG). The KSY is an intervention for adolescent girls, which aims at addressing the needs of self-development, nutrition and health status, literacy and numerical skills, and vocational skills of girls in the age group of 11-18 years. The Scheme is currently operational in 6,118 ICDS projects.

Table 6.2

**Revision in financial norms of supplementary nutrition**

<i>S. No.</i>	<i>Category</i>	<i>Existing (per beneficiary per day)</i>	<i>Revised (per beneficiary per day)</i>
1.	Children (6-72 months)	Rs 2.00	Rs 4.00
2.	Severely malnourished children (6-72 months)	Rs 2.70	Rs 6.00
3.	Pregnant women and nursing mothers	Rs 2.30	Rs 5.00

*Source:* Ministry of Women and Child Development, GoI.

591. To address the problem of under-nutrition among adolescent girls (11-19 years), pregnant women and lactating women, the Planning Commission, in 2002-03, launched the NPAG, on a pilot project basis in 51 Districts of the country. Under this Scheme, six-kilogram foodgrains were provided to undernourished adolescent girls, pregnant and lactating women. Both these Schemes will be merged in the proposed universal programme for adolescent girls, viz. Rajiv Gandhi Scheme for Empowerment of Adolescent Girls, also named Sabla, which aims at improving the nutritional health and development status of adolescent girls; promoting awareness of health, hygiene, nutrition and family care; linking them to opportunities for learning life skills; helping them going back to school; helping them gain a better understanding of their social environment and take initiatives to become productive members of society. The success of these interventions, administered through the ICDS, is dependent on effective convergence and synergy between the health services, Public Distribution System (PDS), water and sanitation, Mid-day Meal Scheme (MDMS) and other nutrition-related schemes.

592. The 11th Five Year Plan includes increased outreach to adolescent girls to break the cycle of ill-health. In addition to supplementary nutrition and Iron and Folic Acid (IFA) tablets, these girls require proper counselling, and health and nutrition education. The ANMs and AWWs will conduct monthly meetings to educate and counsel this group.

593. The National Commission for Protection of Child Rights (NCPCR) has taken up the issue of under-nutrition in Melghat area of Amravati in Maharashtra, Satna in Madhya Pradesh and Adilabad in Andhra Pradesh. It has also made specific recommendations to the respective State Governments on the issues for remedial measures.<sup>291</sup>

### 6C.3.3 National AIDS Control Programme (NACP)-III

594. The overall goal of NACP-III (2007-2012), implemented by the MoH&FW and NACO, is to halt and reverse the HIV/AIDS prevalence in India by integrating programmes for prevention, care and support, and treatment. The NACP-III is committed to address the needs of persons infected and affected by HIV, especially children. This will be done through the sectors and agencies involved in child protection and welfare. In mitigating the impact of HIV, support is also drawn from welfare agencies providing nutritional support, opportunities for income generation and other welfare services. Prevention needs of children are addressed through universal provision of Prevention of Parent-to-Child Transmission (PPTCT) services. Children infected with HIV are assured of access to paediatric Anti-Retroviral Treatment (ART).

595. The NACP-III follows a four-pronged strategy:<sup>292</sup>

- (i) Prevent infections through complete coverage of High-Risk Groups (HRGs) with Targeted Interventions (TIs), and enhanced interventions among the general population;
- (ii) Provide greater care, support and treatment to a larger number of People Living with HIV/AIDS (PLHA);
- (iii) Strengthen the infrastructure, systems and human resources in prevention, care and support, and treatment programmes at District, State and national levels;
- (iv) Strengthen the nation-wide strategic MIS.

596. The NACP-III provides for early diagnosis and treatment of HIV-exposed children; comprehensive guidelines on paediatric HIV care for each level of the health system; special training to counsellors for counselling HIV positive children; linkages with social sector programmes for accessing social support for infected children; outreach and transportation subsidy to facilitate ART and follow-up; nutritional, educational, recreational and skill development support; and establishing and enforcing minimum standards of care and protection in institutional, foster care and community-based care systems. The HIV/AIDS policies and guidelines in the NACP-III are integrated with various development programmes, such as the NRHM, RCH Programme and the Revised National Tuberculosis Control Programme (RNTCP).

597. The various programmes aimed at prevention, treatment, care and protection of children vulnerable to, and affected by, HIV/AIDS include the PPTCT, National Paediatric HIV/AIDS Initiative, and the Adolescent Education Programme (AEP).

598. Prevention of Parent-to-Child Transmission Programme: The PPTCT Programme aims at preventing prenatal transmission of HIV from an HIV-infected pregnant mother to her newborn baby by counselling and testing in the Integrated Counselling and Testing Centres (ICTCs). Pregnant women, who are found to be HIV positive, are administered a single dose of Nevirapine at the time of labour; their newborn babies also get a single dose

<sup>291</sup> India: Third and Fourth Combined Report on the CRC draft, Response of National Commission for Protection of Child Rights, October 2009, page 2.

<sup>292</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of National AIDS Control Organisation, Ministry of Health and Family Welfare, GoI, page 4.

of Nevirapine immediately after birth, so as to prevent transmission of HIV from mother to child.<sup>293</sup> Out of 27 million annual pregnancies in India, it is estimated that 53,000 are HIV positive women. In the absence of any intervention, an estimated 16,000 HIV infected babies will be born annually. The PPTCT Programme covers approximately 15% of all pregnancies. About 4.6 million pregnant women benefited from this service in 2008, while more than 20,000 were HIV positive. In order to provide universal access, these services would be expanded to the level of CHCs and the PHCs. PPPs would be promoted in this direction.

599. National Paediatric HIV/AIDS Initiative: The Initiative, launched in December 2006, focuses on early diagnosis of children up to 18 months, and life-long ART in paediatric formulation to eligible HIV positive children. Since September 2006, children, particularly from high-risk States, were mobilised, screened and put on treatment. Since the beginning of the Initiative, 15,000 children have been on ART. This Initiative has set-up a unique partnership between the technical agencies, NGOs and networks of positive people of NACO.

600. The Life Skills Education (LSE) Programme (formerly known as AEP): The LSE Programme, launched in 2005, is a key policy initiative of the NACP-III, MHRD and NACO. The Programme is placed as a key intervention to build life skills and help adolescents cope with negative peer pressure, develop positive behaviour, improve sexual health and prevent HIV infection. In view of this, the MHRD scaled up the LSE Programme, in collaboration with NACO, as a classroom-based co-curricular activity in 2005. The objective is to reach about 33 million students in the country. So far (as of March 2009), 92,289 schools have been covered out of 144,409 Government schools in the country, and around 0.29 million teachers have been trained under this programme.

601. The LSE Programme aims to support young people's right to know about their adolescence; cope with the growing-up process; know basic facts on HIV and other Sexually Transmitted Infections (STIs); inculcate values of abstinence before marriage, delay sexual debut, be faithful to one's partner and be responsible sexually; develop and reinforce life skills that enable them to protect themselves; dispel myths and clarify misconceptions; find ways through which they can help fight HIV prevalence; and encourage positive attitude towards PLHA.

602. The Programme suffered an initial setback, as some State Governments, refused to implement LSE due to opposition to some of the material used under the Programme.<sup>294</sup> This led to delay in implementation of the Programme.

#### **6C.3.4 Water and Sanitation Programmes**

603. The TSC, launched in 1999, is a demand-driven programme, implemented by the Department of Drinking Water Supply, Ministry of Rural Development. TSC aims at provision of sanitation facilities in all individual households, schools and child-care centres in rural areas. The programme lays emphasis on IEC for demand generation of sanitation facilities. Components of TSC also include setting up an alternative delivery mechanism for provision of affordable sanitary wares; community sanitary complexes for women, the poor, and landless labourers; and solid and liquid waste management. TSC has been implemented in 593 rural Districts spread across 30 States and UTs, with consistent support from the Government of India. Under TSC, of the 108.2 million rural households without

<sup>293</sup> Prevention of Parent-to-Child Transmission, National AIDS Control Organisation, [http://www.nacoon-line.org/National\\_AIDS\\_Control\\_Program/Services\\_for\\_Prevention/PPTCT/](http://www.nacoon-line.org/National_AIDS_Control_Program/Services_for_Prevention/PPTCT/).

<sup>294</sup> 'Red Ribbon Express' Project Reaches Millions, National AIDS Control Organisation, World AIDS Day, December, 1, 2008, [http://www.nacoonline.org/NACO\\_Action/Media\\_Press\\_Release/](http://www.nacoonline.org/NACO_Action/Media_Press_Release/).

toilets in India (Census 2001), nearly 57.62 million households have been provided with toilets, including 31.40 million toilets for BPL households and 16,498 community sanitation complexes for the poor, landless labourers and women. A significant achievement has been the construction of 0.90 million school toilets, 0.28 million *Anganwadi* toilets and 8,822 production centres/rural sanitary marts, mostly managed by Self-Help Groups (SHGs)/youth groups, and local Community-Based Organisations (CBOs) and NGOs.<sup>295</sup> The Sulabh International, an NGO, has been doing commendable service in urban areas in maintaining pay and use community toilets.

604. Toilet use lags behind toilet construction considerably. Government programmes record toilet construction (coverage on account of construction is nearly 66%) but many of the constructed facilities are not actually being used. The NFHS-3 (2006) shows that toilet use, although up from 9.5% in 1991, is a mere 31% of the population, still 26% short to achieve the MDG of 57% in 2015. With an estimated population of 1.25 billion in 2015, an additional five million people per month need to use toilets in order to reach the MDG target.<sup>296</sup>

605. Young children, girls and women pay the highest price for this situation. Of all deaths due to diarrhoea, 80% are among children below five years of age. The lack of safe toilets in schools is also a leading factor behind high drop-out rates of girls.

606. Considering the harmful impact of poor water and sanitation facilities on children's health and learning ability, the School Sanitation and Hygiene Education (SSHE) programme is a prominent component of TSC. With individual household sanitation coverage of just 58%, SSHE is most often the first introduction to the consistent use of latrines, cleaning toilets, and good health and hygiene practices such as washing hands before and after meals. SSHE recognises the role of children as the best change agents in absorbing and popularising new ideas and concepts of sanitation, not only in their schools but also in their household and neighbourhood.

607. Recognising the importance of bringing a behaviour change in young children and their attending mothers in the consistent use of toilets and good sanitation and hygiene practices, TSC has the provision of improving the behavioural habits of children in the following ways:

- (i) Teaching children good hygiene habits, and use of sanitation facilities;
- (ii) Encouraging water and sanitation programmes in schools through Water and Sanitation/Health Clubs in schools;
- (iii) Involving children in the operation and maintenance of school water and sanitation facilities;
- (iv) Encouraging the spread of awareness on hygiene habits through child-to-child, and child-to-home/community.

608. The community-based National Rural Drinking Water Quality Monitoring and Surveillance Programme, launched in 2006, aims at testing of all drinking water sources by

<sup>295</sup> Total Sanitation Campaign, All-India Figures of Physical Achievement, Department of Drinking Water Supply, Ministry of Rural Development, GoI, Annual Report (2007-08), Ministry of Rural Development, GoI, page 207, and India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Rural Development, September 2009.

<sup>296</sup> Estimated population in India 2015 is 1,254,019,000. The MDG target for India is 57% of people using improved sanitation, up from 9.5% in 1991, equivalent to 714,791,000 users. With 31% users (355,499,000 people) in 2009, still 379,222,000 have to be reached between October 2009 and December 2015.

grassroot workers in each *panchayat* by easy-to-use field test kits and joint sanitary surveys. So far, 7,729 sanitary surveys for surveillance of the drinking water spot source have been conducted.<sup>297</sup> The Bharat Nirman Programme aims at addressing water quality problems in all the quality-affected habitations by 2009. While higher allocation of funds has been addressed, the next important step is to achieve convergence, ensure community participation and an IEC campaign.<sup>298</sup> The Government of India's Child Environment Programme (CEP), in partnership with UNICEF,<sup>299</sup> supports Government efforts to provide a safe and more conducive environment for, and healthy start to, life and development for children, especially of the poor and marginalised communities. The Programme, implemented in 161 Districts across 14 States, focuses on improving personal and home hygiene and sanitation practices; improving hygiene practices in *Anganwadis* and schools; safe handling, storage, retrieval and home-based treatment of water; and improving sustainability in rural water and sanitation.

## 6C.4 Health Services

### 6C.4.1 Rural Health Infrastructure

609. The health infrastructure varies across the States, with some States such as Bihar, Maharashtra, Madhya Pradesh, Orissa, Uttar Pradesh and West Bengal having a shortfall, and others like Andhra Pradesh, Himachal Pradesh, Kerala, Rajasthan and Tamil Nadu having a surplus. Some of the inadequacies in the rural health infrastructure are absence of building in a large number of health facilities like Sub-Health Centres (SHCs), PHCs and CHCs; and inadequate availability of toilets, electricity, drinking water, equipment and medicines in many institutions.<sup>300</sup>

610. An analysis of the availability of ANMs, who are the first contact point between the health services and rural communities across the States, shows that in States such as Tamil Nadu and Kerala, an individual ANM caters to much fewer villages and population, whereas in States such as Chhattisgarh, Madhya Pradesh and Uttar Pradesh, the number of villages and population covered by a single ANM is much larger. This affects the ANM's quality of work.<sup>301</sup> Chhattisgarh has adopted an innovative approach and identified 70,000 *Mitanins*, who have been trained like ANMs to strengthen their skills in health services, in order to better serve the hilly and tribal area.<sup>302</sup>

611. The CHCs provide referral services for four PHCs, and have a staff of four medical specialists: general physician, general surgeon, paediatrician, and an obstetrician-gynaecologist. In 2005, there was a shortfall of 62% in the number of sanctioned posts of

<sup>297</sup> Annual Report (2007-08), Ministry of Rural Development, GoI, page 193.

<sup>298</sup> 11th Five Year Plan (2007-12), Rural Drinking Water and Sanitation, GoI, December 2007, pp. 164-165.

<sup>299</sup> Progress towards the Millennium Development Goals in India, UNICEF, [www.unicef.org/india/MDG\\_Final\\_Note7Dec.doc](http://www.unicef.org/india/MDG_Final_Note7Dec.doc).

<sup>300</sup> Report of the Working Group on Public Health Services (including Water and Sanitation) for the 11th Five Year Plan (2007-12), GoI, October, 2006, page 50.

<sup>301</sup> Report of the Working Group on Public Health Services (including Water and Sanitation) for the 11th Five Year Plan (2007-12), GoI, October, 2006, page 50.

<sup>302</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Chhattisgarh State, August 2009, page 2.

these specialists at CHCs. Even out of the sanctioned posts, 38% were lying vacant. There was a negligible number of CHCs with sanctioned posts for anaesthetists.<sup>303</sup>

612. Further, the doctor-to-population ratio in India is low, with better-performing States having thrice the number of doctors compared to poorly-performing ones. (See Annexure 6C.5 for details on human resources for selected States' allopathy and Annexure 6C.6 for details on doctors, nurses and hospitals across India.)

613. There is an extensive network of public health facilities; however, there is a need to renew public confidence in the public health system. The reasons for this include limited public funding and overall lack of adequate staffing, essential supplies, maintenance, connectivity, supervision and monitoring to secure adequate performance and appropriate health outcomes.<sup>304</sup> Also, the implementation of different programmes and schemes is not suitably integrated, thereby limiting the health outcomes. Furthermore, lack of facilities, particularly for emergency obstetric care, and non-availability of specialists have impacted health seeking behaviour, resulting in a move towards the private sector or not accessing healthcare at all.<sup>305</sup> Access to medical care continues to be problematic due to locational reasons. This explains the under-utilisation of the existing health infrastructure at the primary level and contributes to avoidable waste.<sup>306</sup> Lack of access to public health services makes health expenditure higher for the poor.

614. Initiatives under NRHM to Improve Health Infrastructure: The NRHM seeks to provide effective healthcare to the rural population, especially the disadvantaged groups, including women and children, by improving access, enabling community ownership and demand for services, strengthening public health systems for efficient service delivery, enhancing equity and accountability, and promoting decentralisation.

615. Major initiatives that have been taken up under the NRHM to improve health services include decentralised village-and District-level health planning and management; appointment of ASHAs to facilitate access to health services; setting up of Mobile Medical Units (MMUs) to improve the outreach of services in remote areas; strengthening the public health service delivery infrastructure, particularly at village and secondary levels; mainstreaming (Ayurveda Yoga-naturopathy, Unanai, Sidha and Homeopathy (AYUSH)), such as setting up of AYUSH facilities in PHCs and CHCs that are manned by qualified AYUSH physicians appointed on contract basis; improved management capacity to organise health systems and services in public health; emphasising evidence-based planning and implementation through improved capacity and infrastructure; promoting the non-profit sector to increase social participation and community empowerment; promoting healthy behaviours; and improving inter-sector convergence. (See Annexure 6C.7 for details on initiatives under NRHM to improve health services.)

616. The process of decentralised planning has been initiated across the country with the bottom-up approach, with the village serving as the first unit of planning. District Health Action Plans (DHAPs) are prepared through a consultative process involving communities and health functionaries at each level. A grant of Rs one million has been provided to every District for decentralised planning. Every District of Madhya Pradesh and Chhattisgarh has completed the process of District-level plans. Chhattisgarh has taken up the innovative

<sup>303</sup> Report of National Commission on Macroeconomics and Health, Ministry of Health and Family Welfare, GoI, 2005, page 58.

<sup>304</sup> Mid-Term Review of the 10th Five Year Plan (2002-07), Planning Commission, 2007, GoI, page 102.

<sup>305</sup> Report of the Working Group on Public Health Services (including Water and Sanitation) for the 11th Five Year Plan (2007-12), October 2006, page 26.

<sup>306</sup> Report of the National Commission on Macroeconomics and Health, Ministry of Health and Family Welfare, GoI, 2005, page 4.



exercise of developing a Human Development Index (HDI) for each *panchayat*, and is rewarding them on the basis of their ranking in human development.<sup>307</sup>

#### 6C.4.2 Urban Health Infrastructure

617. The efforts made so far to create a well-organised health service delivery structure in urban areas, especially for poor people living in slums, need to be augmented.<sup>308</sup> Urban population in the country is presently as high as 30%, and is likely to increase to about 33% by 2010. The bulk of the increase is likely to take place through migration, resulting in slums without any infrastructure support. Even the insufficient public health services that are available do not percolate to such unplanned habitations, forcing people to avail of private healthcare through out-of-pocket expenditure.<sup>309</sup>

618. Responding to urban population needs, the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) was launched in 2005, which aims at giving focused attention to integrated development of urban infrastructure and services in select 63 cities, with emphasis on provision of basic services to the urban poor, including housing, water supply, sanitation, slum improvement, community toilets/baths, etc.

619. The objective of JNNURM is to encourage the city Governments to initiate measures that would bring about improvements in the existing service levels in a financially sustainable manner. A significant progress has been made since the launch of the Mission. All the 63 mission cities have submitted their city development plans, delineating their long-term vision for development. So far, 305 projects have been sanctioned under the submission for urban infrastructure and governance across 52 cities and 26 States.<sup>310</sup>

620. Recognising the significance of the problem, urban health has been taken up as a thrust area during the 11th Five Year Plan. The National Urban Health Mission (NUHM) will be launched during the Plan period, with focus on slums and other urban poor, by making available to them essential PHC services. The NUHM is expected to ensure resources for addressing the health problems in urban areas, especially among the urban poor; need-based, city-specific urban healthcare system to meet the diverse health needs of the urban poor and other vulnerable groups; and partnerships with community, NGOs, charitable hospitals and other stakeholders for a more proactive involvement in planning, implementation and monitoring of health activities. The NUHM would cover all cities with a population of more than 0.1 million, with focus on slum dwellers, other marginalised urban dwellers like rickshaw pullers, street vendors, railway and bus station porters, homeless people, street children and construction site workers.

#### 6C.4.3 Private Service Providers

621. Seventy-eight percent of health providers in rural areas and 81% in urban areas are private health service providers. The reliance on the private sector is highest in Bihar.<sup>311</sup>

622. The growth of the private health sector in India has been considerable in both provision and financing. There is diversity in the composition of private sector, which ranges from voluntary, not-for-profit, for profit, corporates, trusts, stand-alone specialists

<sup>307</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, page 25.

<sup>308</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 12.

<sup>309</sup> National Health Policy (2002), GoI, pt 2.12.

<sup>310</sup> Annual Report (2007-08), Ministry of Urban Development, GoI, pp. 18-20.

<sup>311</sup> Draft Report on Recommendation of Task Force on Public-Private Partnership for the 11<sup>th</sup> Five Year Plan, page 3.

services and diagnostic services to pharmacy shops, and from highly qualified to unqualified providers, each addressing different market segments. The growth of private hospitals and diagnostic centres has also been encouraged by the Central and State Governments by offering tax exemptions and land at concessional rates, in return for provision of free treatment for the poor as a certain proportion of out-patients and in-patients. Apart from subsidies, private/corporate hospitals receive huge amounts of public funds in the form of reimbursements from the Public Sector Undertakings (PSUs), and the Central and State Governments for treating their employees.<sup>312</sup>

623. The cost of healthcare in the private sector is much higher than in the public sector. Many small providers have poor knowledge base, and tend to follow irrational, ineffective, and sometimes even harmful practices for treatment of minor ailments. Regulation of these providers is weak.<sup>313</sup>

## 6C.5 Resources

624. The existing level of public expenditure on health as a percentage of Gross Domestic Product (GDP) in the country is about 1%. The proportion of child health under child budget has increased from 0.33% in 2001-02 to 0.54% in 2008-09. (See Section 1.12 for details.) Healthcare is financed primarily by State Governments, and State allocations on health are usually affected by any fiscal stress they encounter.

625. To address these issues, the Government has initiated several interventions under the NRHM, such as the DHAP, National Health Accounting Systems, management capacity at all levels, improved financial management and close monitoring. Efforts will be made to increase the total expenditure by the Centre and the States to at least 2% of GDP by the end of the 11th Five Year Plan period. This will be accompanied by innovative health financing mechanisms adopted by some States. (See Annexure 6C.8 for details on innovative health financing mechanisms of States.)

## 6C.6 Public-Private Partnerships

626. The NRHM seeks to build greater ownership of the programme among the community through partnerships with NGOs. Promotion of PPP for achieving public health goals is one of the strategies initiated by the MoH&FW.<sup>314</sup>

627. NGOs are playing a very important role in capacity-building efforts of ASHAs and community workers in every State. Under the JSY, 2,458 non-governmental providers have been given accreditation.<sup>315</sup> The responsibility of running PHCs in remote locations of Arunachal Pradesh is being taken up by NGOs. Non-Governmental specialists are being reimbursed on a per-case basis for work in Government hospitals. Under the Chiranjeevi Scheme<sup>316</sup> operational in five tribal Districts of Gujarat, institutional delivery of BPL women is taking place in nursing homes of private gynaecologists at the Government's

<sup>312</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 67.

<sup>313</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 67.

<sup>314</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, page 109.

<sup>315</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of the Ministry of Health and Family Welfare, GoI, 2007, page 24.

<sup>316</sup> The Chiranjeevi Scheme, launched in January 2006 in five tribal Districts of Gujarat, aims to reduce IMR and MMR among BPL families.

cost.<sup>317</sup> In Uttarakhand, large number of scattered and difficult-to-reach hamlets are being served through well-equipped mobile health clinics, with support from NGOs. Two models have been initiated in the Districts of Kumaon and Garhwal, namely, '*Sehat Ki Sawari*' and '*Mobile Clinic*'.<sup>318</sup>

628. The Mother NGO (MNGO) Scheme under RCH aims to nurture and build capacities through partnerships. Till 2007, 317 MNGOs were working in 429 Districts in the country. The objective of the Scheme is to improve RCH indicators in the underserved and unserved areas, with specific focus on Mother and Child Health (MCH), family planning, immunisation, institutional delivery, RTI/STI and adolescent reproductive healthcare. The Service NGO Scheme provides clinical service and other specialised aspects such as *dai* training, MTP and male involvement, covering 0.1 million population and contributing to achieving the RCH objectives.<sup>319</sup>

629. Under ICDS, in the 11th Five Year Plan period, NGOs will be further encouraged to adopt local AWCs, and to augment their resources.<sup>320</sup>

630. The Government seeks technical assistance from a Joint United Nations Team on AIDS, and Theme Group on HIV/AIDS. UNAIDS works closely with the Government through NACO, and other key partners, including State AIDS Control Societies (SACS), civil society, academia, private sector, etc. to share knowledge, skills and experience to lead the fight against HIV. Other bilateral, multilateral and International Non Governmental Organisation (INGO) partners of the Government of India are UNICEF, AusAid, Department for International Development (DFID), US Government Assistance, German Aid, Bill and Melinda Gates Foundation (BMGF), Clinton Foundation, the Global Fund for HIV/AIDS and ILO.

631. Numerous NGOs/Civil Society Organisations (CSOs) are working on HIV/AIDS at the local, State and national levels, and have made significant contribution in making HIV prevention and care services available to highly vulnerable population groups. They bring with them their experience of community mobilisation and empowerment, which are essential for successful transition of a programme to the communities. Their participation has immensely benefited the HIV/AIDS programme.

632. In urban areas, a large number of PPP initiatives are related to water supply, sanitation and solid waste management. Lack of properly designed PPP models and the absence of a regulatory framework to govern such partnership arrangements has inhibited the full utilisation of PPP arrangements for urban development.<sup>321</sup>

## 6C.7 Awareness Generation

633. A key component of the IEC strategy under the NRHM relates to interpersonal communication methods. State-driven, local and region-specific IEC has been initiated in key NRHM States.

634. Theme-based campaigns on immunisation, including pulse polio, breastfeeding, institutional delivery, Save the Girl Child, iodised salt, JSY, etc. are some important

<sup>317</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, page 24.

<sup>318</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Uttarakhand State, 2007, page 54.

<sup>319</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 112.

<sup>320</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, pp. 211-212.

<sup>321</sup> Mid-term Review of the 10<sup>th</sup> Five Year Plan (2002-07), Planning Commission, GoI, 2007, page 366.

initiatives that have been taken through the print, electronic and traditional media. Messages on various aspects related to these issues are displayed on public transport and billboards in prominent public places. Programmes are telecast on various channels, in which celebrities from the film and sports industries are used to spread awareness on these issues. In addition, in the rural areas, such messages are also spread through street plays, human chains, cycle rallies, wall writings, etc.<sup>322</sup>

635. The media unit of the Ministry of Information and Broadcasting provides communication support to Ministry of Health and Family Welfare, based on the requirements and guidelines of the IEC division. The focus is on mother and child health issues, community needs assessment, and issues related to health programmes such as tobacco, cancer, etc. The telecast of such programmes on both national and commercial channels reaches out to millions, including those living in remote areas.

636. The world's largest mass mobilisation drive, the Red Ribbon Express (RRE), launched on World AIDS Day in December 2007, was a specially-designed seven-coach train that endeavoured to generate a national movement against the HIV prevalence. It was a national campaign to mainstream the issue of HIV/AIDS through a train that traversed over 27,000 km during a period of one year, covering about 180 Districts/ halt stations, and holding programmes and activities in 42,000 villages. During this period of 12 months, from December 1, 2007, to November 2008, the RRE covered 24 States across the country. The objective of the initiative was to increase the levels of accurate knowledge about HIV/AIDS; build an enabling environment (with the help of an open dialogue), which results in people seeking health services and information required to promote safe behaviour, and contribute towards strengthening District-and village-level partnership of all relevant stakeholders. The key outreach achieved through this project is as follows:

- (i) Over 6.2 million people were reached by the train and through outreach activities by bus and cycle troupes.
- (ii) Around 0.1 million people were counselled, including 22% females.
- (iii) A total of 68,244 select resource persons were trained in the training coach on board.

637. NACO's media campaign has focused not only on conventional media but also on non-conventional media. While focusing on young people, the multimedia campaign has been made more youth and women-oriented, with NACO sending out its messages through the internet, cable and satellite services, and through plays in college and on university campuses.

## 6C.8 Monitoring and Evaluation (M&E)

638. The NRHM has set up effective M&E systems. A detailed MIS, which provides disaggregated information about performance with respect to vulnerable groups like SCs and STs, has been operationalised. An effective financial management reporting system has become functional, with quarterly activity-wise reports coming in from the States. The first phase of community monitoring has been initiated in partnership with NGOs in eight States under the Advisory Group on Community Action. The Institute of Public Auditors of India has undertaken comprehensive evaluation in five States (Bihar, Assam, Uttar Pradesh, Tamil Nadu and Kerala). An assessment of the ASHA programme in Madhya Pradesh, Rajasthan, Orissa, Uttar Pradesh and Bihar is underway, with the support of UNFPA/UNICEF. A system of independent assessment of performance of States by

<sup>322</sup> Annual Report (2006-07), Ministry of Health and Family Welfare, GoI, pp. 99-108.

institutions of excellence is in the process of finalisation. An intensive field-based joint review mechanism is in place for RCH-II that covers core areas of the NRHM as well. Three such reviews have already been conducted.<sup>323</sup>

## 6C.9 Harmful Traditional Practices

639. To address the issue of sex-selective abortion, the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (PCPNDT Act), 1994, was enacted, which pre-empts the use of technologies that contribute to the declining child sex ratio. (See Section 3B.5.3 for details.)

640. The Dowry Prohibition Act, 1961, amended in 1984 and 1986, continues to address the social evil of dowry. The Protection of Women from Domestic Violence Act (PWDVA), 2005, also includes any harassment, harm, injury or danger related to any unlawful demand for any dowry or other property or valuable security as a component of domestic violence.

641. The Government adopted the Prohibition of Child Marriage Act, 2006, to address the harmful social practice of early marriage leading to early pregnancy, which is a major contributing cause for high maternal and infant mortality and inter-generational cycle of malnutrition. The legislation has enabling provisions to prohibit child marriages, protect and provide relief to victims and enhance punishment for those who abet, promote or solemnise child marriages. (See Section 1.4.1 for details).

642. To strengthen the implementation of the Karnataka Devadasis (Prohibition and Dedication) Act, 1982, the Department of Women and Child Development (DWCD), Karnataka, created a special cell to handle this issue. Publicity campaigns are being organised in Districts on the provisions of the Act, workshops and seminars are also being conducted to create awareness about benefits available under various schemes of the Department.<sup>324</sup>

643. The proposed Prevention of Offences against the Child Bill, 2009, covers offences against children, which includes all harmful traditional and cultural practices.

644. The ICPS, launched by the MWCD, provides for preventive, statutory, and care and rehabilitation services to all vulnerable children, including those who are victims of harmful traditional practices, which affect their health, survival and development.

645. The MWCD, through its awareness generation measures, which involves community leaders, practitioners and the general public, aims to change traditional attitudes and discourage harmful practices, which affect the lives of children. The ICPS has specific component of effective communication and public education, under which all the means of mass media, including television, newspapers, periodicals, magazines, hoardings, bus panels, cinema halls, radio, street plays, discussion forums, etc., will be utilised for spreading awareness on issues concerning children, including harmful traditional practices.

<sup>323</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Health and Family Welfare, GoI, 2007, page 25.

<sup>324</sup> Department of Women and Child Development, Government of Karnataka, [http://www.dwcd.kar.nic.in/dwcd\\_english/prg\\_women.html#social](http://www.dwcd.kar.nic.in/dwcd_english/prg_women.html#social).

## 6C.10 Challenges

646. The Government has adopted several measures to address the issues related to child health, such as adoption of IMNCI; launch of NACP-III; launch of National Paediatric HIV/AIDS initiative; adoption of SSHE as a prominent component of TSC; launch of NRHM; increased Central Government budgetary outlay for health with matching increase in State outlays; and improved capacities of States to absorb such fund flows.

647. The present challenges in comprehensive health delivery include:

- Accelerating the progress achieved in reducing childhood diseases.
- Prevention of mother-to-child transmission of HIV due to a high percentage of HIV positive pregnant women not being identified during pregnancy.
- To improve standardised health infrastructure across States.
- To improve trained healthcare personnel at all levels to provide skilled birth attendance and emergency obstetric and newborn care, and care of sick children.
- To improve efficiency and effectiveness in deployment of existing resources.

## 6D. Social Security and Childcare Services and Facilities (arts. 26 and 18, para. 3)

### 6D.1 Status and Trends

648. According to National Sample Survey Organisation (NSSO) survey in 1999-2000,<sup>325</sup> the total strength of the country's workforce is 397 million, out of which 28 million workers are employed in the organised sector, and remaining are in the unorganised sector. Only 7% of the workforce, which is in the organised sector, has the benefits of formal social security protection. The remaining 93% of the total workforce face insecure employment and low incomes.

649. The existing social security system in India exhibits diverse characteristics. There are a large number of schemes, administered by different agencies, each scheme designed for a specific purpose and target group of beneficiaries, floated as they are by the Central and State Governments, as well as by voluntary organisations, in response to their own perceptions of needs of the particular time. There are some gaps in coverage and overlapping of benefits in the existing system.

650. With increased employment opportunities for women, and the need to supplement household income, more and more women are entering the job market. With the breaking up of joint family system, working women need support in terms of care for their young children while they are at work. Effective daycare for young children is essential, for which a cost-effective investment is required, as it provides support to both the mothers and young children. It is also a protection measure, as it addresses issues such as school dropouts and trafficked children in labour and prostitution, and serves as an outreach for medical, health and literacy programmes.

<sup>325</sup> The NSSO data quoted is the latest data available on workforce.

## 6D.2 Legislation

651. There are a number of social security legislations in India; however, most of these laws are applicable to workers belonging to the organised sector. (See India First Periodic Report 2001, paras 227-228, pp. 220-221 for details.)

652. The Unorganised Sector Workers Social Security Act, 2008, provides social security to millions of workers in the unorganised sector. The definition of 'unorganised worker' has been enlarged to include all such workers, who are not covered by the existing social security legislations. (See Section 1.4.1 for details.)

## 6D.3 Programmes

653. Several Ministries, such as the Ministry of Women and Child Development, the Ministry of Health and Family Welfare and the Ministry of Rural Development implement schemes that reach out to the 44 million destitute children in the country, many of whom belong to families, who work in the unorganised sector.

654. The MWCD is implementing the Conditional Cash Transfer Scheme for Girl Child on a pilot basis. This provides for insurance coverage of the girl child based on fulfilling certain specific conditions (See Section 1.5.1 for details). Other schemes of the MWCD are the Rajiv Gandhi National Crèche Scheme for the Children of Working Mothers and the Scheme for Welfare of Working Children in need of care and protection. The Programme for Juvenile Justice, Childline Service and the Integrated Scheme for Street Children also provide social security to children. (See Section 5B.3 for details.) These have been merged into the ICPS.

655. The organised sector has a structure, through which social security benefits are extended to its workers. While some of them, such as provident fund, pension, insurance, medical and sickness benefits are contributory, others like employment injury benefits, gratuity and maternity benefit are purely non-contributory, and are met by the employers alone. Most workers under the organised sector are covered under the institutionalised social security provided through Employees Provident Fund Organisation (EPFO), and the Employees State Insurance Corporation (ESIC).<sup>326</sup>

656. A scheme for providing employment to PWDs in the organised sector has been proposed in the 11th Five Year Plan period. The main objective of the scheme is to provide incentives to the employers in the organised sector for promotion of regular employment to PWDs.<sup>327</sup>

657. A number of schemes and systems are in operation in the nature of social security to workers in the informal economy. However, major deficiency is the limited coverage (geographical areas and industrial activity). The benefits are confined to only about 5-6% of the informal sector workers. With the exception of a small number of States, with some social security cover for workers in the unorganised sector, a majority of the States do not offer any cover, especially for addressing such core concerns as healthcare and maternity.<sup>328</sup>

658. The Aam Admi Bima Yojana (AABY), 2007, and Health Insurance Scheme for Unorganised Sector BPL Workers, 2007, are the major initiatives taken during the reporting period.

<sup>326</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, pp. 150-151.

<sup>327</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, pp. 150-151.

<sup>328</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II Social Sector, Planning Commission, GoI, 2008, page 152.

659. The AABY was launched in 2007. Under this scheme all rural landless households in the 18-59 age group are eligible. The Scheme also has a provision for the payment of a scholarship per child for two children of the beneficiaries studying in IX to XII standards.

660. The Government launched the NRHM in 2005 to provide accessible, affordable and accountable quality health services to households in rural areas. The principle thrust of NRHM is to make the public system fully functional at all levels, and to place a framework that would reduce the distress of households in seeking healthcare facilities through the Health Insurance Scheme. The Government introduced the Rashtriya Swasthya Bima Yojana to provide health insurance cover to all BPL unorganised sector workers and their families (of five members). As of July, 2009, there are about five million beneficiaries under the Scheme.<sup>329</sup>

661. Kerala and Tamil Nadu offer some reasonable coverage of both old-age pension for the aged poor and other protective social security schemes for the workers in the unorganised sector. Some States, such as Maharashtra, Gujarat, West Bengal, Punjab, Haryana, Tripura, Karnataka and Goa, have a number of schemes for the aged poor and vulnerable population.<sup>330</sup>

662. In the 11th Five Year Plan, social security is treated as an inclusive concept that also covers housing, safe drinking water, sanitation, health, educational and cultural facilities for the society at large. A number of schemes implemented by the Government, both in the rural and urban areas, seek to provide many services that supplement incomes of the people, which otherwise are fairly low.<sup>331</sup>

#### 6D.4 Challenges

663. To improve the implementation, administration, and delivery of the existing social security schemes, especially for the unorganised sector, the Government has launched AABY and Rashtriya Swasthya Bima Yojana in 2007. With the launch of Conditional Cash Transfer Scheme for Girl Child and the NREGA, the Government has reinforced its commitment towards livelihood security in rural areas. (See Section 6E for details.)

664. The challenges in addressing social security and childcare services are:

- Ninety-three percent of workforce is in the unorganised sector, which is devoid of formal social security measures.
- To improve access to social services for the poor and vulnerable, including monitoring of these systems.
- To improve awareness on livelihood entitlements among the vulnerable population.

#### 6E. Standard of Living (art. 27, paras. 1-3)

##### 6E.1 Status and Trends

665. India's per capita income has witnessed acceleration between the period 2003-04 and 2007-08, almost doubling to an average of 7.2% per annum. Prior to 2003-04, the per

<sup>329</sup> India: Third and Fourth Combined Period Report on the CRC draft, Response of Ministry of Labour and Employment, September 2009, page 2.

<sup>330</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 152.

<sup>331</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 150.



capita income accelerated marginally to 3.7% per annum between 1992-93 and 2002-03. The increase in per capita income has resulted in an overall improvement in the standard of living.<sup>332</sup>

666. The percentage of BPL population has come down from 36% in 1993-94 to 28% in 2004-05. However, not only is this still high, but also the rate of decline in poverty has not accelerated with GDP growth. Because population has also grown, the absolute number of poor people has declined only marginally, from 320 million in 1993-94 to 302 million in 2004-05.<sup>333</sup>

667. Four States (Uttar Pradesh, Bihar, Madhya Pradesh and Maharashtra) accounted for nearly 58% of India's poor population in 2004-05. In the States of Haryana, Himachal Pradesh, Orissa and Mizoram, the number of poor, overall, has remained roughly constant over the last two decades. However, there are also States that have succeeded in reducing the absolute number of the poor in rural areas over the three decades from 1973 to 2004-05, such as Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, West Bengal, Assam and Gujarat.<sup>334</sup>

668. Child poverty is prevalent in India, both in rural and urban areas. In 2004-05, the percentage of children below 15 years living in BPL households was 44% in rural areas and 32% urban areas. The high level of child poverty is not only linked to high incidence of child malnutrition, but also undermines their future capabilities, and adversely affects equality of opportunity.<sup>335</sup>

669. NFHS-3 indicates that 48% of the population in urban areas is in the highest wealth quintile,<sup>336</sup> in contrast, only 7% of the rural population is in the highest wealth quintile. (See Figure 6.7) The distribution of population across wealth quintiles shows large variations across States, with Delhi (70%) and Goa (55%) having over one-half of their populations in the highest quintile, and Chhattisgarh, Orissa, Bihar, and Tripura having only about one-tenth or less of their populations in the highest quintile. In Jharkhand, half of the population falls into the lowest wealth quintile. By contrast, in about half of the States, less than 10% of households are in the lowest wealth quintile.<sup>337</sup>

<sup>332</sup> Economic Survey (2007-08), Economic Division, Ministry of Finance, GoI, 2008, page 1.

<sup>333</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. I, Inclusive Growth, Planning Commission, GoI, 2008, page 1.

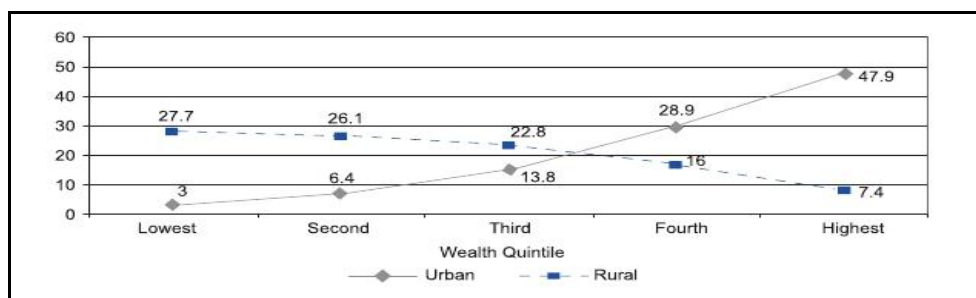
<sup>334</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. III, Agriculture, Rural Development, Industry, Services and Physical Infrastructure, Planning Commission, GoI, 2008, pp. 79-99.

<sup>335</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. III, Agriculture, Rural Development, Industry, Services and Physical Infrastructure, Planning Commission, GoI, 2008, pp. 79-99.

<sup>336</sup> The National Family Health Survey-3 wealth index is based on 33 assets and housing characteristics: household electrification, type of windows, drinking water source, type of toilet facility, type of flooring, material of exterior walls, type of roofing, cooking fuel, house ownership, number of household members per sleeping room, ownership of a bank or post office account, and ownership of a mattress, a pressure cooker, a chair, a cot/bed, a table, an electric fan, a radio/transistor, a black-and-white television, a colour television, a sewing machine, a mobile telephone, any other telephone, a computer, a refrigerator, a watch or clock, a bicycle, a motorcycle or scooter, an animal-drawn cart, a car, a water pump, a thresher, and a tractor.

<sup>337</sup> National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, pp. 43-44.

Figure 6.7

**Percentage distribution of the population by wealth quintile according to residence, 2005-06**

Source: National Family Health Survey-3, Ministry of Health and Family Welfare, GoI, 2007, page 43.

670. The poor depend upon Common Property Resource (CPR) far more than the rich, due to their lack of access or low productive assets, and lack of work and purchasing power. This adversely affects their standard of living. The importance of land as a livelihood resource cannot be overstated. While only 18% of the GDP comes from agriculture today, the proportion of the workforce that is engaged in agriculture is 58%. The estimated number of landless rural families in the country is 13-18 million. While the economy is at present growing at a rate of about 8-9%, agriculture, which provides employment to 58% of the country's workforce, is growing at less than 3%. This clearly indicates the rising economic disparities between the agricultural and non-agricultural sectors of the economy, and also signifies continued poverty of the lower strata in the rural community in an absolute sense. Such a scenario adversely affects the standard of living of such rural communities.

## 6E.2 Policy

671. The National Rehabilitation and Resettlement Policy, 2007, aims at providing a better standard of living with sustainable income to project-affected families through a process of adequate and expeditious rehabilitation. (See Section 1.2 for details.) In order to address the issue of forced relocation and other types of involuntary population movement, amendments have been proposed in the Land Acquisition Act, 1894.

672. The National Urban Housing and Habitat Policy addresses the need for affordable housing for all, with special emphasis on the urban poor. (See Section 1.2 for details.)

673. The National Policy on Urban Street Vendors, circulated by the Ministry of Housing and Urban Poverty Alleviation in 2004, is being comprehensively revised. The revised Policy will take care of all aspects of street vendors, including exploitation of child vendors. Also, in the Basic Services to the Urban Poor (BSUP)/Integrated Housing and Slum Development Programme (IHSDP) components of JNNURM, the seven-point charter focuses on the convergence approach to ensure basic facilities such as health, education and social security to the marginalised sections of society. (See Annexure 6E.1 for details on National Policy on Urban Street Vendors.)

## 6E.3 Legislation

674. Based on the experience of various wage employment programmes, NREGA was enacted to reinforce the commitment of the Government towards livelihood security in rural

areas. The Act was notified on September 7, 2005. The significance of NREGA lies in the fact that it creates a rights-based framework for wage employment programmes, and makes the Government legally bound to provide employment to those who seek it. In this way, the legislation goes beyond providing a social safety net, and towards guaranteeing the right to employment. The experience with NREGA so far suggests that it is one of the main planks of rapid poverty reduction in the 11th Five Year Plan period.

## 6E.4 Programmes

675. India has a long history and experience in implementing wage employment programmes. These wage employment programmes, implemented by State Governments with Central assistance, are self-targeting, with the objective of providing enhanced livelihood security, especially to those dependent on casual manual labour.

676. The Sampoorna Grameen Rozgar Yojana (SGRY) was launched in 2001 with an objective of providing additional wage employment in the rural areas, as also food security, alongside creation of durable community, social and economic infrastructure in the rural areas. The National Food for Work Programme (NFWP) was launched in 2004 in 150 most backward Districts of the country, with the objective to intensify the generation of supplementary wage employment. The Pradhan Mantri's Gramodaya Yojana (PMGY) was launched in 2000-01 and provides allocation of Additional Central Assistance (ACA) to States and UTs for selected basic services, such as primary health, primary education, rural shelter, rural drinking water, nutrition and rural electrification. The Antyodaya Anna Yojana (AAY) was launched in 2000 and provides foodgrains at a highly-subsidised rate to poor families under the Targeted Public Distribution System (TPDS).<sup>338</sup>

677. The National Rural Employment Guarantee Scheme (NREGS), launched on February 2, 2006, in 200 Districts across various States in the country, is a historic rights-based employment guarantee that provides income support to the weaker sections of the rural society. The SGRY and NFWP have been subsumed under the NREGS. It also serves the larger objective of enhancing agricultural productivity because the first priority under NREGS is being given to projects aimed at water conservation. Starting with 200 Districts across the country in Phase-I during 2006-07, the NREGS was extended to additional 130 Districts in Phase-II during 2007-08. From April 1, 2008 onwards, the Act covers the whole of rural India. In 2008-09, over 40 million households were provided employment, which is a significant jump over the 30.39 million households covered under the Scheme in 2007-08.

678. Awareness about the existence of NREGS is low in many areas, especially in the States of Bihar and Maharashtra. Many States are still in the process of notifying the State scheme, and putting in place State-specific guidelines. Only 13 States, namely Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Karnataka, Kerala, Madhya Pradesh, Orissa, Punjab, Rajasthan, Tamil Nadu, West Bengal and Tripura have finalised State-specific operational guidelines.<sup>339</sup>

679. The Ministry of Housing and Urban Poverty Alleviation (MoHUPA) is implementing an employment-oriented urban poverty alleviation scheme of Swarna Jayanti Shahari Rozgar Yojana (SJSRY) since 1997. Under SJSRY, urban poor are assisted in income generation activities, so as to bring them above the poverty line. It is presumed that

<sup>338</sup> Economic Survey (2004-05, 2006-07, 2007-08), Economic Division, Ministry of Finance, GoI, Section 10, Social Sectors.

<sup>339</sup> NREGS, A National Progress Report, Backgrounders and Discussion Papers, <http://www.empowerpoor.com/backgrounder.asp?report=384>.

this will lead to a better life for their children and also reduce the exploitation of children in poor families. The community empowerment component of the Scheme focuses on community participation in addressing the needs of marginalised section of the society.<sup>340</sup>

680. SSA, the principle programme for the universalisation of elementary education, has brought elementary education to the doorsteps of millions of children, and enrolled them through successive fast-track initiatives, both in unserved and underserved habitations. With the opening of 0.12 million primary schools, access to primary education has been nearly achieved. More thrust has been given to children with special needs (CWSN) through the adoption of a multi-optional model for educating CWSN. This initiative has been successful in enrolling 1.99 million out of the identified 2.4 million CWSN (81%) in schools.

681. The NRHM was launched in 2005 to address the problems across primary healthcare and to bring about improvement in the health system and health status of those who live in poor areas. (See Sections 6C.3.1 and 6C.4.1 for details.) The 11th Five Year Plan also provides an opportunity to restructure policies to achieve a new vision based on faster, broad-based and inclusive growth. The Plan will facilitate convergence and development of public health systems and services that are responsive to health needs and aspirations of people.<sup>341</sup>

682. A Farm Loan Waiver Scheme was announced in 2008 to bail out small and marginal farmers, and those engaged in allied activities such as livestock rearing, who had availed of credit from banks for purposes such as deepening of wells, and purchasing tractors from the debt trap. The results of the Scheme so far show that it has been able to restore institutional credit to farmers and has helped to support demand and revive investment in the rural and agricultural sectors.

683. The 11th Five Year Plan emphasises expansion of opportunities and human capabilities in the policies and programmes directed at the problems of poverty, unemployment and low standards of living, and at the widening urban-rural gap as a result of urbanisation and industrialisation.

## **6E.5 Challenges**

684. The 11th Plan, with its focus on inclusive growth, helps to trigger a development process and ensures broad-based improvement in the quality of life of people. The vision of the 11th Plan includes several inter-related components, such as poverty reduction and creation of employment, access to essential services, equality of opportunity, recognition of child rights, etc. However, the major challenge before India is to ensure that the benefits of economic growth trickle down to all sections across regions and social areas. The widespread child poverty, both in rural and urban areas, which is a cause of concern, needs sustained efforts towards it. Improved targeting and monitoring of poverty reduction, livelihood security and social security programmes are required, to ensure that the benefits reach the most in need.

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<sup>340</sup> India: Third and Fourth Combined Period Report on the CRC draft, Response of Ministry of Housing and Urban Poverty Alleviation, GoI, August 2009, Annexure 1.

<sup>341</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol.II, Social Sector, Planning Commission, GoI, pp.57-58.

## **VIII. 7. Education, Leisure and Cultural Activities (arts. 28, 29 and 31)**

685. The Concluding Observations (CRC/C/15/Add.228) (CO) addressed in this chapter include:

- Aims of education, CO para. 65 (a);
- Equal access, CO para. 65 (b);
- Awareness on early childhood education, CO para. 65 (c);
- Participation of children, CO para. 65 (d);
- Quality of education, CO para. 65 (e);
- Teachers training, CO para. 65 (f);
- Teacher absenteeism, CO para. 65 (g);
- School infrastructure, CO para. 65 (h);
- Assistance from UNICEF and UNESCO, CO para. 65 (i).

### **7A. Education, including Vocational Training and Guidance (art. 28)**

#### **7A.1 Status and Trends**

##### **7A.1.1 Pre-School Education**

686. The Integrated Child Development Services (ICDS) Scheme is being universalised, and its Pre-School Education (PSE) component strengthened to ensure universalisation of early childhood education and preparation of children, particularly those belonging to socially disadvantaged groups, for formal schooling. The beneficiaries under PSE have increased from 21.4 million in 2004-05 to 33 million in 2007-08. Recent studies have confirmed the positive impact of attendance in pre-school centres on children's psycho-social and cognitive competencies, and their continuation into primary school. Steps are being taken for quality improvement, which will be intensified during the 11th Five Year Plan period (2007-12).<sup>342</sup>

687. An independent nation-wide survey of rural education found a rapid increase in the total proportion of children (3-6 years) attending PSE. In 2006, 68% of 3-4 year olds were attending public or private pre-schools, which increased to 76% in 2008. The figure for five year olds in 2008 was 90.5%. This study also included unrecognised pre-schools (day-care centres, kindergartens, nurseries, etc.) in the private sector.<sup>343</sup>

##### **7A.1.2 Elementary Education**

###### **7A.1.2.1 Universal Enrolment and Access**

688. Sarva Shiksha Abhiyan (SSA), a flagship programme of the Government, focuses on universal enrolment through improved access and targeted interventions for out-of-school

<sup>342</sup> 11th Five Year Plan (2007-12) Volume II, Social Sectors, Planning Commission, GoI, page 9.

<sup>343</sup> Annual Status of Education Report-Rural 2008, Pratham Resource Centre, January 13, 2009, pp 50-51.

children. For improving access, SSA provides for primary school within one kilometre of a habitation and upper primary school for every two primary schools. Un-served habitations are mainly covered through Education Guarantee Scheme (EGS) centres; for out-of-school children there are context-specific targeted interventions, mainly under Alternative and Innovative Education (AIE) centres.

689. During 1999-2000 through 2006-07, the number of primary schools increased from 0.642 million to 1.118 million, and upper primary schools increased from 0.198 million to 1.054 million.<sup>344</sup>

690. Consequent to opening of 0.151 million primary schools and 0.137 million upper primary schools under SSA, access has increased manifold. By March 2008, 99% habitations in the country had access to school within one kilometre and about 92% habitations had access to upper primary school within three kilometre. Availability of schools within a reasonable distance of habitations has had a positive impact on enrolments in primary and upper primary schools.

#### 7A.1.2.2 School Access and School Infrastructure

691. SSA supports the creation of required physical infrastructure in new schools, as well as augmentation of infrastructure in existing schools. School buildings sanctioned under SSA are composite school buildings, with the required number of classrooms, drinking water and sanitation facilities and a kitchen for cooking the mid-day meals. With the increase in school enrolments, there is a requirement of additional classrooms in existing schools, which are also being constructed under SSA. Substantial progress has been made in provisioning of schools, toilets and water supply in most States. SSA mandates the participation of the local community in all civil work activities in order to instil a sense of ownership in them. An extensive supervision and monitoring system has been put in place to ensure the quality of construction. Social audit by the community is the basis of this supervision system.<sup>345</sup> Although designs of school buildings and cost of construction vary across different States, it is expected that all designs must incorporate certain basic features, such as barrier-free access and resistance against hazards like earthquakes, especially in schools located in high-risk seismic zones. Under SSA, 0.263 million school buildings and 1.105 million additional classrooms have been provided, consequent to which student classroom ratio has decreased from 42:1 to 33:1. The provision of 0.198 million drinking water facilities and 0.334 million toilets has improved basic facilities in the school. In addition, Total Sanitation Campaign and Drinking Water Mission also provide for drinking water and toilet facilities that will accelerate provision of the facilities.

Table 7.1

#### Student classroom ratio, 2002-03 to 2007-08

<i>Level</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>2005-06</i>	<i>2006-07</i>	<i>2007-08</i>
Primary	48	45	44	41	39	36
Upper Primary	36	35	33	33	34	34

*Source:* District Information System for Education, 2007-08.

<sup>344</sup> Selected Educational Statistic (SES).

<sup>345</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 20.

### 7A.1.2.3 Enrolment

692. The number of children enrolled in the elementary education system in India was 169.3 million in 2002-03, and increased to 194 million in 2008-09. According to District Information System for Education (DISE<sup>346</sup>) data the annual growth rates for enrolment at primary and upper primary levels during the period 2003-04 to 2005-06 were 4.4% and 12.5% respectively.

693. School enrolment for rural areas (6-14 age group) has increased from 93.4% in 2006 to 95.8% in 2007. The percentage enrolled in Government schools has gone up from 73.4% to 75.3%; those in private schools from 18.86% to 19.50% (DISE 2007-08); and consequently, the share of others (*Madrassa* and EGS/AIE) has marginally declined from 1.3% to 1.2%. School enrolment for rural areas (7-10 age group) increased from 95.3% in 2006 to 97.3% in 2008.<sup>347</sup>

### 7A.1.2.4 Reduction in Number of Out-of-School Children

694. Remarkable progress has been made in the reduction of out-of-school children through targeted interventions of EGS and AIE. While EGS is a transitory facility following the formal primary school curriculum in un-served habitation, AIE provides for more context-specific targeted interventions for out-of-school children. AIE has been effective in providing education to out-of-school children, particularly the older children of 11-14 years; children who never got enrolled or dropout children; children, who migrate seasonally with their families; street children and other deprived urban children; working children and other vulnerable children in difficult circumstances. There has been a significant reduction in the number of out-of-school children in the 6-14 age group by 4.4%. (See Table 7.2.). An independent study conducted in July 2009 estimated 8.1 million children out-of-school.

Table 7.2

#### Trend in the number of out-of-school children (in millions)

2001-02 Census 001	2004-05 Independent survey	2008-09 Independent survey
32	13.5	8.1

Source: Data reported for 2005, 2009 as per independent sample study.

695. The multi-grade centres in Kerala use the services of volunteers in the forest and coastal areas of the State, as children from these areas are not enrolled in schools. The volunteers, who belong to these habitations, work with the community and persuade parents to send their children to school. The teachers for the multi-grade centres are from the same community, identified and appointed by the community. This has helped in addressing problems associated with sensitivity towards the lives of these communities, including language and local contextualities. The school has incorporated pedagogic innovations by using a variety of self-learning material, with the teacher performing the role of a facilitator. The self-learning material was developed with technical support from the Rishi Valley School, Madanappalli, Andhra Pradesh. Volunteers track children's attendance and teaching in these centres.

<sup>346</sup> District Information System for Education, Ministry of Human Resource Development and Selected Education Statistics, yield data on school enrolment levels, dropout levels, etc. There can be significant differences in the data, due to different methodologies being used.

<sup>347</sup> Annual Status of Education Report-Rural 2008, Pratham Resource Centre, 2009, pp. 43, 47.

### 7A.1.2.5 Gross Enrolment Ratio (GER) vs. Net Enrolment Ratio (NER)

696. The GER for primary level (number of children enrolled as a ratio of total number of children aged 6-11 years in the population) was 94.9% in 1999-2000, which increased to 111.24% in 2006-07 (provisional). While the GER for primary level during 2007-08 was 113.94%, the GER for overall elementary level (6-14 age group) was 81 % in 1999-2000, which rose to 97.1% in 2006-07 (provisional) and declined marginally to 96.9% in 2007-08 (See Table 7.3.) The NER (enrolment of children of the right age group as a proportion of the total children in the relevant age group) for 2007-08 has been calculated as 95.92% at primary level, (DISE 2007-08). The difference between GER and NER is due to significant percentage of under-age/ over-age children. This is primarily due to varied entry age, ranging from 5 to 6 years in different States.

Table 7.3

#### Gross Enrolment Ratio For Primary And Elementary Levels (In Percentage)

Year	GER (Primary)	GER (Elementary)
1999-2000	94.9	81.0
2000-01	95.7	81.6
2001-02	96.3	82.4
2002-03	95.3	82.5
2003-04	98.2	84.8
2004-05	107.8	93.5
2005-06	109.4	94.9
2006-07	111.24	97.1
2007-08	113.94	96.92

Source: Selected Education Statistics, Ministry of Human Resource Development, GoI.

### 7A.1.2.6 Drop-Out Rates

697. With a view to enhance enrolment, retention and attendance and simultaneously improve nutritional levels among children, the National Programme of Nutritional Support to Primary Education (NP-NSPE) was launched in 1995. Since then it has been expanded as Mid-Day Meal Scheme (MDMS) to include all children studying at the elementary level. The Scheme covers almost 117.4 million children and provides for hot cooked meal in schools.

698. There has been a steady decline in the proportion of children dropping out of classes I-VIII. The drop-out rate has declined by 13.6% at primary level and 8.6% at elementary level (See Table 7.4). School access at upper primary level is one of the critical inputs for improving retention at upper primary level. As the transition rates will improve from primary to upper primary level, there will be a consequential improvement in retention at elementary level.

Table 7.4

#### Change in drop-out rates between 2001-02 and 2006-07

Dropout Rate	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	Remarks (Change from 2001-02 to 2006-07)
Overall (Primary)	39.00	34.9	31.5	29.0	25.7	25.43	13.57↓
Girls (Primary)	39.90	33.7	28.6	25.4	21.7	26.56	12.44↓



<i>Dropout Rate</i>	<i>2001-02</i>	<i>2002-03</i>	<i>2003-04</i>	<i>2004-05</i>	<i>2005-06</i>	<i>2006-07</i>	<i>Remarks (Change from 2001-02 to 2006-07)</i>
Overall (Elementary)	54.60	52.8	52.3	50.8	48.8	46.03	8.57↓
Girls (Elementary)	56.69	53.5	52.9	51.2	48.9	45.33	11.36↓

*Source:* Selected Education Statistics, Ministry of Human Resource Development, GoI, 2004-05 and 2006-07.

#### 7A.1.2.7 Reduction of Disparities for Socially-Disadvantaged Groups

699. National Policy on Education (NPE) 1986, emphasises education as an agent of basic change in the status of disadvantaged groups like Scheduled Castes (SCs)/Scheduled Tribes (STs) and minorities. SSA provides for targeted provisioning in Districts with concentration of SCs, STs and minority population; there are 61 Districts with SC population concentration, 74 Districts with high tribal populations and 121 Districts with high minority population. These Districts have been prioritised for infrastructure provisioning. For promoting education of SC/ST/minorities, SSA provides for small schools for sparsely-populated unserved areas; residential school buildings in low-population density blocks; flexible norms for EGS/AIE to target difficult to reach children; support to *Madrasa/Maqtab* for transacting regular curriculum; focus on coverage of SC/ST and Muslim girls; statutory representation of the disadvantaged groups in school-based bodies and Village Education Committee (VECs)/School Development and Monitoring Committee (SDMCs)/ Parent-Teacher Association (PTAs); target provision of school infrastructure in SC-, ST- and Muslim-dominated Districts; improving learning outcomes of disadvantaged groups through sensitisation of teachers; use of primers in tribal languages; training of teachers and remedial teaching; untied funds at District level for SC, ST, Muslim and urban deprived children; and free textbooks and incentives like uniforms. The share of SCs/STs and girls at primary and upper primary level is given in Table 7.5.

Table 7.5

#### Share of girls, SCs and STs at primary and upper primary levels

<i>DISE</i>	<i>Level</i>	<i>2003-04</i>	<i>2008-09</i>	<i>Remarks</i>
Share of girls	Primary	47.47	48.38	0.91 ppt
	Upper primary	45.02	47.58	2.56 ppt
Share of SC students	Primary	20.84	19.94	16% population
	Upper primary		19.18	
Share of ST students	Primary	9.71	11.68	8% population
	Upper primary		9.41	

*Source:* District Information System for Education, 2003-04 and 2008-09.

700. The drop-out rate for SCs in classes 1-V has declined from 36.56 in 2003-04 to 31.9 in 2007-08, whereas for STs for the same period, the drop-out rate has declined from 48.93 to 32.2. Similarly the drop-out rate for SCs in classes 1-VIII shows a decline from 59.42 in

2003-04 to 52.6 in 2007-08. The drop-out rate for STs in this category also shows a decline for the same period, from 70.05 to 63.4.<sup>348</sup>

#### 7A.1.2.8 Reduction of Disparities among Girls

701. The NPE, 1986, emphasises education for women's equality. It states that education will be used as an agent of basic change in the status of women. It will foster the development of new values through redesigned curricula, textbooks, training and orientation of teachers, decision-makers and administrators, and the active involvement of educational institutions. This will be an act of faith and social engineering.

702. Education of girls, especially those belonging to the SCs and STs, is the primary focus in universalising elementary education through SSA. For promoting girls education, the SSA provides for free textbooks, recruitment of women teachers, promotion of Early Childhood Care and Education (ECCE), bridge courses for out-of-school children, gender sensitisation of teachers, girls' toilets, untied funds under innovation, and remedial teaching in Districts with low female literacy.

703. Under Kasturba Gandhi Balika Vidyalaya (KGBV), launched in 2004, out of 2,573 KGBVs, 2,558 were operational as on December, 2009, in 27 States. Of the total enrolment of 0.196 million students, 27% are SC, 29%, ST, and 27% belong to Other Backward Castes (OBC). Of students enrolled in Educationally Backward Blocks (EBBs) with Muslim concentration, about 8% are Muslims.<sup>349</sup>

704. The National Programme for Education of Girls at Elementary Level (NPEGEL), launched in 2003, has been successful in development of 40,322 Model Schools; gender-sensitisation of 0.288 million teachers; support to 9,957 ECCE centres (in non-ICDS areas); remedial teaching to 24.18 million girls; bridge courses for 0.438 million girls; and distribution of free uniforms and other incentives to about 141.3 million girls.<sup>350</sup>

705. Gender Parity Index (GPI) has been improving both at primary and upper primary levels. (See Table 7.6.)

Table 7.6

#### Gender Parity Index at primary and upper primary levels

<i>Level</i>	<i>2001-02</i>	<i>2006-07</i>
Class-I-V (Primary)	0.83	0.94
Class-VI-VIII (Upper Primary)	0.77	0.90

*Source:* Annual Report (2009-10) Department of School Education and Literacy, Department of Higher Education, Ministry of Human Resource Development, GoI, page 23.

<sup>348</sup> Annual Report (2003-04), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 283-284, Annual Report (2005-06), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 283-284, Annual Report (2009-2010), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 342-345.

<sup>349</sup> India: Third and Fourth Combined Period Report on the CRC draft, Response of Ministry of Human Resource Development, GoI, 2009.

<sup>350</sup> India: Third and Fourth Combined Period Report on the CRC draft, Response of Ministry of Human Resource Development, GoI, 2009.

### 7A.1.2.9 Including Children with Special Needs (CWSN)

706. SSA is committed to ensuring that every child with special needs is provided education in an appropriate environment. For achieving this, SSA has adopted 'zero rejection' policy, so that no child with special needs is left out of the education system. The thrust is to provide integrated and inclusive education to CWSN in general schools. Household surveys and special surveys, conducted in all States, led to the identification of 2.621 million CWSN by 2007-08. Of these, 90.22% have been covered under various educational strategies – 2.158 million (i.e. 82.33%) enrolled in schools, 0.094 million covered through EGS/ AIE in 22 States/Union Territories (UTs), and 0.112 million provided home-based education in 23 States/UTs.<sup>351</sup>

### 7A.1.2.10 Improving the Quality of Education

707. SSA invests about 57% of its funds towards quality, of which about 30% is towards teachers' salary and 23% for various components like teacher-training, textbooks, remedial teaching, etc. SSA contributes to improvement of learning levels in schools through a multi-pronged approach of more investment in quality-centric intervention; focus on holistic and comprehensive plan development; emphasis on assessment evaluation and remedial access; regular tracking and monitoring; and facilitation of capacity-building, exchange of good practices and monitoring.

708. States are also encouraged to design comprehensive quality-improvement programmes by integrating all the quality-related interventions, with a focus on child-friendly and activity-based pedagogy. Education of Equitable Quality (EEQ) is being promoted, adhering to the basic guiding principles of child-friendly pedagogy and learning assessment.

709. Activity-based Learning (ABL) is an innovative and significant approach to improve quality at the primary stage. This activity-based learning is adopted from the Rishi Valley Pattern of education. This method has been implemented in Chennai Corporation Schools and found to be effective in increasing enrolment, preventing drop-outs and retaining children in the classrooms. As the results are encouraging in Chennai Corporation Schools, the ABL approach has been expanded to 402 blocks all over Tamil Nadu. Teachers' manual has been distributed to teachers. Besides these, self-learning material has also been prepared for use in the classrooms. Training has been given to teachers of all primary schools in two phases. For effective monitoring and supervision of the ABL, all Block Resource Teacher Educators, Head Masters (HMs), District Education Officers, Chief Education Officers, Additional District Project Coordinators, Supervisors and Assistant Elementary Education Officers have been trained. Teachers are being provided on-the-spot support by expert team periodically and regularly.

710. National surveys on learning achievement of students are conducted by National Council of Educational Research & Training (NCERT) at the end of classes III, V and VII/VIII every three years for a cross-State study, to assess the level of achievement of children in different subject areas, including factors affecting students' learning differentiated by category, area and gender. In the last two rounds the average achievement improved in all subjects and at all stages and gaps in achievement within gender, geographical area and social groups have narrowed.

<sup>351</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 44.

### 7A.1.3 Secondary Education

711. The total number of recognised educational institutions providing secondary and senior secondary education in the country has increased from 0.126 million in 2000-01 to 0.159 million in 2005-06 and further to 0.168 million in 2006-07 (provisional). The total number of students enrolled in secondary and higher secondary schools in the country increased from 27.6 million in 2000-01 to 38.4 million 2005-06 and further to 39.4 million in 2006-07 (provisional).<sup>352</sup>

712. The GER for classes IX-X has increased from 51.65% in 2004 to 53.25% in 2006-07; and for classes XI-XII, from 27.82% to 28.01% in the same period. The combined GER for classes IX-XII and drop-out rates for classes I-X also show an increase from 2001-02 to 2006-07. (See Table 7.7.) Some States like Bihar, Uttar Pradesh, West Bengal, Chhattisgarh, Jharkhand and some north-eastern States of Assam, Meghalaya, Nagaland and Sikkim have even lower GER.<sup>353</sup>

Table 7.7

#### Status of enrolment and drop-out rates in classes IX-XII (in percentage)

Indicators	2001-02			2006-07 (Provisional)		
	Boys	Girls	Total	Boys	Girls	Total
GER (IX-XII)	38.23	27.74	<b>33.26</b>	44.42	36.41	<b>40.62</b>
Drop-out Rates (Classes I-X)	64.2	68.6	<b>66.00</b>	58.62	61.47	<b>59.87</b>

Source: Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development (citing Selected Educational Statistics (2004-05) Provisional Data, page 60), and Selected Educational Statistics (2006-07) Provisional Data, pp. 35-36, 49.

713. Gender gap (for classes IX-XII) also shows a decline, from a difference of 9.2% (on September 30, 2004) to a difference of 8.01% in 2006. There is a gross shortage of secondary schools for girls, particularly in north India<sup>354</sup>, leading to extremely high drop-out of girls after elementary school.<sup>355</sup> The pupil-teacher ratio for classes IX-X shows an improvement from 32 in 2004 to 31 in 2006-07, whereas for classes XI-XII it has remained the same at 33 for the same period. In 2006-07, there were 89% trained teachers for classes IX-X and 90% trained teachers for classes XI-XII.<sup>356</sup>

714. In case of socially-disadvantaged groups, the GER shows an improvement. The GER for SCs has increased from 32.55% in 2001-02 to 38.80% in 2006-07 (provisional) and for STs, from 25.65% to 30.71% in the same period. The lowest GER

<sup>352</sup> Selected Educational Statistics (2005-06), Time Series Data, Ministry of Human Resource Development, GoI, pp. C1 and C4, and Selected Educational Statistics (2006-07) (Provisional), Ministry of Human Resource Development, GoI, pp. 4-5.

<sup>353</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 3, and Selected Educational Statistics (2006-07) Provisional Data, page 36.

<sup>354</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, pp. 19-20.

<sup>355</sup> 11th Five Year Plan (2007-12), Volume II, Social Sectors, Planning Commission, GoI, 2008, page 15.

<sup>356</sup> Selected Educational Statistics (2006-07) (Provisional), Ministry of Human Resource Development, GoI, pp. 53, 55.

among these is that for ST girls, which has also shown an increase from 19.76% in 2001-02 to 25.27% in 2006-07 (provisional).<sup>357</sup>

715. To promote secondary and higher secondary education of children from socially disadvantaged groups, measures are being taken for special provisioning for sub-categories such as SC/ST girls and disabled children, etc. The 11th Five Year Plan emphasises upgradation of elementary schools to secondary level, with priority being assigned to high SC, ST and minority population.<sup>358</sup>

716. The average number of secondary and higher secondary schools per 100 square kilometre area is as low as four, with several large States, such as Bihar, Uttar Pradesh, West Bengal, Jharkhand and Chhattisgarh, being much below this low national average. The 11th Five Year Plan targets provision of a secondary school within five kilometre of every habitation. The recently launched Rashtriya Madhyamik Shiksha Abhiyan (RMSA) envisages providing facilities for an estimated additional enrolment of 3.22 million students at secondary stages by 2011-12, through strengthening of about 44,000 existing secondary schools, opening of 11,000 new secondary schools, appointment of 0.18 million additional teachers and construction of additional classrooms.

717. Vocational Education (VE) is being provided at the higher secondary stage to approximately 5% of those in the age group of 16-18 years<sup>359</sup> under the centrally-sponsored scheme for Vocationalisation of Secondary Education at the +2 level. However, according to the recent National Sample Survey Organisation (NSSO) data, only 5% of the population in the 19-24 age group in India has acquired some sort of skills through VE.<sup>360</sup> The National Institute of Open Schooling (NIOS) provides about 70 Vocational Education and Training (VET) courses through distance education mode.<sup>361</sup> A National Skills Development Mission (NSDM) has been launched. It is envisaged to evolve a comprehensive scheme for building up diverse and wide range of skills amongst the youth.<sup>362</sup>

718. Under Integrated Education for Disabled Children, initiatives have been taken to integrate children with mild to moderate disabilities in the school system, at secondary and higher secondary levels.<sup>363</sup> During the 10th Five Year Plan period, 28 States/UTs implemented the scheme, covering about 50,000 schools.<sup>364</sup>

## 7A.2 Progress made to Achieve Millennium Development Goals (MDGs)

719. India has made rapid progress towards Goals 2 and 3 for universal enrolment and gender parity at the primary level. The Government of India set 2010 (revised from 2003)

<sup>357</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 3. Selected Educational Statistics (2006-07) (Provisional), Ministry of Human Resource Development, GoI, pp. 39, 42.

<sup>358</sup> 11th Five Year Plan (2007-12), Volume II, Social Sectors, Planning Commission, GoI, 2008, page 18.

<sup>359</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 30.

<sup>360</sup> 11th Five Year Plan (2007-12), Volume II, Social Sectors, Planning Commission, GoI, 2008, page 21.

<sup>361</sup> Annual Report (2006-2007), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 78-81.

<sup>362</sup> 11th Five Year Plan (2007-12), Volume II, Social Sectors, Planning Commission, GoI, 2008, page 21.

<sup>363</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 5.

<sup>364</sup> Mid-Term Appraisal of the 10th Five Year Plan (2002-07), Planning Commission, GoI, 2005, page 62.

as the target year for achieving Universalisation of Elementary Education (UEE).<sup>365</sup> Towards this, the GER has consistently increased and retention has improved at elementary level. Gender parity has improved and gender gap between enrolment and retention is narrowing down. However, gender gap between upper primary, secondary and higher secondary education remains high.

720. Universalisation and gender parity seem to be within reach at the primary level by the year 2015, given the present pace and direction. The prognosis for universal education and gender parity at the upper primary level needs continued thrust, by focussing on unserved areas.

### 7A.3 Policy

721. The NPE, 1986, revised in 1992, remains the abiding policy document for education. The Policy envisages a national system of education, with focus on education for equality and removal of disparities across all stages of education. It stresses on reducing drop-out rates, improving learning achievements and expanding access to students, who have not had an easy opportunity to be a part of the education system. (See India First Periodic Report 2001, para 13, page 243 for details.)

722. The NPE, 1986 has given importance to ECCE. It has also taken into account the holistic nature of ECCE and has pointed out the need for early care and stimulation of children belonging to the vulnerable sector. Since the age span covered under ECCE is from conception to six years, emphasis has been given to a child-centered approach, with focus on play and individuality of the child. It discourages formal methods of teaching and emphasis on the three Rs (reading, writing and arithmetic) at this stage.

723. The NPE, 1986 concretises approach for elementary education as a warm, welcoming and encouraging approach, in which all concerned share solicitude for the needs of the child. A child-centred and activity-based process of learning is being promoted at the primary stage.

724. The National Curriculum Framework (NCF) was revised in 2005 through a nation-wide process of consultation. NCF, 2005 identifies certain broad aims of education, derived from the Constitutional vision of India as a secular, egalitarian and pluralistic society. The aims of education include independence of thought and action, sensitivity of others' well-being and feelings, learning to respond to new situations in a flexible and creative manner, predisposition towards participation in democratic processes and ability to work towards, and contribute to, economic processes and social change. NCF, 2005 proposes guiding principles for curriculum development, namely: (i) connecting knowledge to life outside the school, (ii) ensuring that learning shifts away from rote methods, (iii) enriching the curriculum so that it goes beyond textbooks, (iv) making examinations more flexible and integrating them with classroom life, and (v) nurturing an overriding identity informed by caring concerns within the democratic polity of the country. The NCF, 2005 recognises the need for child-centered pedagogy, which means giving primacy to children's experiences, their voices, and their active participation. The curriculum enables children to find their voices; nurtures their curiosity to do things, to ask questions and pursue investigations; and helps share and integrate their experiences with school knowledge, rather than their ability to reproduce textual knowledge.<sup>366</sup> (See Section 3D for details.)

<sup>365</sup> Mid-Term Appraisal of the 10th Five Year Plan (2002-07), Planning Commission, GoI, 2005, page 2.

<sup>366</sup> National Curriculum Framework, National Council of Education Research and Training, GoI, 2005, pp.12-13.

725. In the 11th Five Year Plan, the focus is on three policy initiatives – quality upgradation in primary education, expansion of secondary education<sup>367</sup> and strengthening of strategies for educational provision for all disadvantaged groups.<sup>368</sup>

726. The National Plan of Action for Children, 2005, includes goals, objectives and strategies for increasing the enrolment of 3-6-year-old children in PSE. This policy will help to check enrolment of under-age children in class I, which in turn will lead to reduction in level of drop-outs in classes I-II.<sup>369</sup>

## 7A.4 Legislation

727. The Constitutional (Eighty Sixth) Amendment Act, 2002, notified on December 13, 2002, inserted Article 21-A in the Constitution, which provides that '*the State shall provide free and compulsory education to all children of the age of 6-14 years in such manner as the State may, by law, determine*'. Section 1(2) of the Constitutional (Eighty Sixth) Amendment Act, 2002, provides that '*it shall come into force on such date as the Central Government may, by notification in the official Gazette appoint*'. The consequential legislation, titled the Right of Children to Free and Compulsory Education Act, 2009, was notified in the official Gazette in August 2009. (See Section III.E.1 for details.) The new legislation would lead to significant reform in the elementary education system and would ensure universalisation of elementary education of equitable quality in a neighbourhood school.

## 7A.5 Programmes

### 7A.5.1 Pre-Primary School Education or Early Childhood Care and Education

728. Since 2006, the care of pre-school children including pre-primary education component of SSA is being promoted as part of ECCE under ICDS. The ICDS, including its PSE component, is largely directed towards children belonging to disadvantaged communities, particularly those residing in rural and marginalised areas.<sup>370</sup> Universalisation of ICDS coverage will directly impact access to PSE for the 3-6 age group. Private sector initiatives in PSE are also rapidly increasing. The third expansion phase of the programme (ICDS IV) recognises that the first six years in the life of a child are critical, since growth and development is very rapid during this period; there is need of an environment, which is both supportive as well as stimulating, and will be intensified in the ICDS IV. (See Section 6C.3.2 for details.) The ECCE component under ICDS IV will have two sub-components: policy and programme support at national/State levels, and targeted service delivery in high-burden Districts. A number of steps, such as need-based training of *Anganwadi* Workers; provision of learning material at *Anganwadi* Centres (AWCs); setting up of PSE centres in uncovered areas; building advocacy; and training of community leaders will be taken up in the 11th Plan.

<sup>367</sup> 11th Five Year Plan (2007-12), Volume II, Social Sectors, Planning Commission, GoI, 2008, page 51.

<sup>368</sup> Mid-Term Appraisal of the 10th Five Year Plan (2002-07), Planning Commission, GoI, 2005, page 52.

<sup>369</sup> National Plan of Action for Children, 2005, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2005, pp 14-16.

<sup>370</sup> Sub-Group Report on Early Childhood Education, Ministry of Women and Child Development, GoI, 2007, pp. 34, 44-45.

### 7A.5.2 Elementary Education

729. By 2008-09, SSA expanded its outreach to 194 million children across the country. Over 369 Districts with substantial population of SC/ST/minorities/and high gender gaps have been identified as 'special focus Districts' for targeted interventions, of which 61 have high SC population, 106 have high ST population, and 88 have high Muslim population. Over 3,000 blocks, with low female literacy and high gender gaps have been identified as EBBs. Of the total SSA outlay for school infrastructure, special-focus Districts are being allocated 64% for primary schools, 65% for upper primary schools, 71% for classrooms, and 79% for teachers (2007-08).<sup>371</sup>

730. SSA has spearheaded several innovative schemes to mainstream SC and ST children, including adequate school infrastructure in Districts with SC/ST concentration, EGS in remote and sparsely-populated regions, provision of Rs 1.5 million to each District for special innovative activities for SC/ST students, teacher sensitisation programmes, reservation for SCs and STs in recruitment of teachers, provision of free textbooks to SCs/STs/girls, and preparation of learning material in tribal languages.<sup>372</sup> (See Annexure 7A.1 for details on provisions for SC/ST under SSA.)

731. The KGBV, launched as a separate scheme in July 2004, has been merged with SSA with effect from the 11th Plan. It sets up residential schools at upper primary level for girls belonging predominantly to SCs, STs, OBCs and minority community. The hostels are being set up in blocks, where rural female literacy is less than 30%, and urban areas, where urban female literacy is below national average. The NPEGEL, launched in July 2003, is a focused intervention for girls, who are difficult to reach. It provides additional support for enhancing girls' education over and above the investments for girls' education under SSA, including gender sensitisation of teachers, development of gender-sensitive material and provision of need-based incentives. The Scheme is being implemented in EBBs, where rural female literacy is less than the national average and gender gap is above the national average, blocks where SC/ST population is greater than 5% and female literacy is less than 10%, and selected urban slums.

732. There has been considerable impact of NPEGEL and KGBV Schemes. Since its launch in 2003, the NPEGEL has been successful in development of 40,322 Model Schools, gender sensitisation of 0.288 million teachers, support to 9,957 ECCE centres (in non-ICDS areas), remedial teaching to 24.18 million girls, bridge courses for 0.438 million girls, and distribution of free uniforms and other incentives to about 141.3 million girls.<sup>373</sup> By 2008-09, 2,573 KGBVs were sanctioned and by October, 2009, 2,558 were operational. Of the total enrolment of 0.196 million students, 27% belong to SCs, 29% belong to ST, and 27% belong to OBCs. Of students enrolled in EBBs with Muslim concentration, about 8% are Muslims.<sup>374</sup> By 2008-09, 2,573 KGBVs were sanctioned.<sup>375</sup>

733. Under EGS, educational facilities are being set up in habitations that do not have a primary school within a distance of one kilometre. Habitation with 25 out-of-school

<sup>371</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 42-43.

<sup>372</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, 2007, page 25.

<sup>373</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 37.

<sup>374</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 39.

<sup>375</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 22-23.



children in the 6-14 age group (reduced further to 15 out-of-school children in the case of hilly and desert areas, and tribal hamlets) are eligible for an EGS centre. EGS is a transitory facility till a primary school replaces it normally in two years. It follows the same curriculum as any other formal primary school and all children enrolled in EGS centres are provided free textbooks and a mid-day meal. The EGS centre is managed by local community bodies, viz. PTA, VEC or the *Gram Panchayats*. The community engages a local teacher for teaching in such centres, till they are upgraded to regular schools. Till December 2008-09, 2.413 million children had been enrolled in 29,817 EGS centres, and 0.100 million EGS centres had been upgraded to primary schools. In some States, the learning centres have been able to draw in hard-to-reach children and nurture their learning through innovative interventions and pedagogies. Enormous benefits have accrued from accelerated learning opportunities at residential camps, such as *Balika Shivirs* for girls in Rajasthan.<sup>376</sup> (See Annexure 7 A.2 for details on experiences of States in EGS/AIE.)

734. Schemes for CWSN include specific interventions like appropriate educational placement, preparation of individualised education plans, provision of aids and appliances, etc. Approximately 1.4 million CWSNs have been provided assistive devices under SSA.<sup>377</sup> Innovative methods of inclusion are being encouraged. For instance, in Tamil Nadu, a Simulation Park has been built by each Block Resource Centre (BRC). This park provides CWSN and their peers a chance to experience various kinds of play equipments jointly.<sup>378</sup>

#### 7A.5.2.1 Quality of Elementary Education

735. Significant progress has been made towards all the four goals of SSA. SSA has effectively enabled the system of elementary education to expand itself by the recruitment of a massive number of teachers across the country. It has also reinforced the culture of in-service training as a professional need. In-service training routines are in place in all States, but their quality remains a matter of concern. Selection and training of teachers are now among the most relevant factors shaping further progress towards all SSA goals. A number of States have initiated learning enhancement programmes (LEP), leading to improved learning levels. (See Annexure 7A.3 for details on LEP.) Objectives like non-discriminatory classroom interaction, stopping of corporal punishment and mental harassment, and holistic pedagogy for meeting curricular requirements call for substantial improvement in identification, selection and training of teachers. Equally important is the need to put in place certain systemic mechanisms to bring about greater professional accountability among teachers.

#### 7A.5.2.2 National Programme of Nutritional Support to Primary Education or Mid-Day Meal Scheme

736. The NP-NSPE a centrally-sponsored scheme operational in 2,408 blocks in the country, was revised in September, 2004, to provide cooked mid-day meal with 300 calories and 8-12 grams of protein to all children studying in classes I-V in Government and aided schools and EGS/AIE centres. The objective was to enhance enrolment, retention and attendance and simultaneously improve nutritional levels among children.

<sup>376</sup> Vimala Ramachandran, *Fostering Opportunities to Learn at an Accelerated Pace: Why Do Girls Benefit Enormously?* UNICEF, WP, 2005, pp. 10-13.

<sup>377</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 44-45.

<sup>378</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 26-28.

737. In October, 2007, the Scheme was further revised to cover children at upper primary level (classes VI to VIII), initially in 3,479 EBBs. Around 17 million upper primary children were included by this expansion of the Scheme. Since April 1, 2008, the MDMS covers all children studying in classes I-VIII (84 million children at primary stage and 33.6 million children at upper primary stage) of Government/ Government-aided/local body schools/EGS/AIE centres. The programme has also been extended to all *Madrasas/Maqtabs*, which are supported by SSA on EGS/AIE interventions. The calorific value of an MDMS at upper primary stage has been fixed at a minimum of 700 calories and 20 grams of protein by providing 150 grams of food grains (rice/wheat) per child/school day. For the year 2009-10, a budget provision of Rs 80,000 million and food grain allocation of 2.771 million metric tonne has been made. During 2008-09, 82.4 million children of primary classes and 35 million children of upper primary classes were provided MDMS, utilising 1.761 million metric tonnes of food grain at a cost of Rs 66,880.2 million. (See Annexure 7A.4 for State experiences under MDMS.)

738. Independent evaluation studies on MDMS have revealed enhancement in enrolment and attendance. The Programme has made positive intervention in universalisation of primary education by increasing enrolment and attendance, particularly with respect to girls and children of SC/ST categories. There has also been reduction in teacher absenteeism.<sup>379</sup>

#### **7A.5.2.3 Area Intensive and Madrasa Modernisation Programme (AIMMP)**

739. The Scheme of AIMMP was re-formulated in November, 2008, into two schemes, namely (a) Scheme for Providing Quality Education in *Madrasas* (SPQEM) and (b) Scheme for Infrastructure Development of Private Aided/Unaided Minority Institutes for Elementary/Secondary/Senior Secondary Schools (IDMI).

740. The objective of the SPQEM is to provide financial assistance and encourage traditional institutions like *Madrasas* and *Maqtabas* to introduce Science, Mathematics, Social Studies, Hindi and English in their curriculum, so that children studying in these institutions gain academic proficiency for classes I-XII. The SPQEM also provides for accreditation of *Madrasas* to NIOS and VE for children in the 14+ age group. In addition, it provides for assistance for computer and science laboratories in *Madrasas* of Secondary and Higher Secondary level, as also assistance for book banks and science kits at all levels.

741. The objective of IDMI is to facilitate the education of minorities by augmenting and strengthening school infrastructure in minority institutions (elementary/secondary/senior secondary schools) in order to expand facilities for formal education to children of minority communities. The Scheme aims at, *inter alia*, encouraging education facilities for girls, CWSNs and those who are most deprived educationally amongst minorities.

#### **7A.5.3 Secondary Education**

742. Comprehensive review and re-formulation of curricula and textbooks under the NCF, 2005, is ushering in improvements in quality of education. NCF, 2005 provides a framework for a paradigm change in teaching and learning, with core values and transformative goals, which different States are adopting.<sup>380</sup>

743. As part of the Government's commitment to make secondary education of good quality available and affordable to all young persons, the Government of India has launched

<sup>379</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 66-67.

<sup>380</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, pp. 7-8.

the RMSA. The objective of the Scheme is to (a) achieve an enrolment ratio of 75% for IX-X classes within five years by providing a secondary school within a reasonable distance of every habitation, (b) improve quality of education imparted at secondary level by making all secondary schools conform to prescribed norms; (c) remove gender, socio-economic and disability barriers. It aims at achieving universal access by 2017 and universal retention by 2020. Facilities for an estimated additional enrolment of 3.22 million students are proposed to be provided by 2011-12 through strengthening of 44,000 existing secondary schools, opening 11,000 new secondary schools, appointment of 0.18 million additional teachers and construction of 88,500 additional classrooms. The Central Government will bear 75% of the project expenditure during the 11th Five Year Plan, with 25% of the cost to be borne by State Governments.

744. The Government of India has launched a centrally-sponsored scheme in November, 2008, to set up 6,000 Model Schools, one school per block, as a benchmark of excellence. In the first phase, 2,500 high-quality Model Schools would be established by State Governments in EBBs throughout the country. Land for these schools will be identified and provided by the State Government free of cost. The financial sharing pattern between the Centre and States is in the 75:25 ratio for both recurring and non-recurring cost. In the second phase, 1,000 schools will be set up by the Government and the remaining 2,500 schools will be set up under Public-Private Partnership (PPP) mode, details of which are under formulation.<sup>381</sup>

745. The Scheme for Girls' Hostel with 100 seats in about 3,500 EBBs has also been launched in October, 2008. This Scheme replaces an earlier scheme for construction and running of Girls Hostels for Students of Secondary and Higher Secondary Schools. The main objective of the revised Scheme is to retain girls in secondary schools, so that they are not denied the opportunity to continue their study due to distance to school, parent's financial constraints and other connected societal factors. Girls in the age group of 14-18 years, studying in classes IX to XII and belonging to SCs, STs, OBCs, minority communities and below poverty line families are the focus of this Scheme.

746. Under the Prime Minister's 15 Point Programme for the Welfare of Minorities, 2006, a merit-cum-means scholarship scheme is being implemented for minority students (classes I-XII). In addition, *Madrassa* education modernisation will receive a fillip, and educational infrastructure will be improved through the Maulana Azad Educational Foundation.<sup>382</sup>

747. The Scheme for addressing the needs of disabled children has been revised as the Scheme of Inclusive Education of the Disabled at the Secondary Stage (IEDSS) to enable students with disabilities complete secondary and higher secondary education, provisioning for assistive aids and appliances, and providing barrier-free access to schools. IEDSS will also support a training programme on inclusive education for general school teachers.

748. The Kendriya Vidyalayas (KVs) continue to cater to the educational needs of the wards of transferable Central Government employees. There are 981 KVs, functional in different parts of the country. In addition, there are Navodaya Vidyalayas (NVs), which provide good-quality modern education, including a strong component of cultural values, environment awareness and physical education to talented children in rural areas,

<sup>381</sup> Annual Report (2008-09), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 67-68.

<sup>382</sup> 11th Five Year Plan (2007-12), Volume II, Social Sectors, Planning Commission, GoI, 2008, page 137.

irrespective of their family's socio-economic condition. There are 562 NVs, covering as many Districts in 34 States/UTs in the country.<sup>383</sup>

749. The Adolescence Education Programme, funded by National AIDS Control Organisation and implemented by the Ministry of Human Resource Development (MHRD), targets to cover all Government and Government-aided schools in the country by implementing 16 hours of co-curricular life-skills programme for classes IX to XII.<sup>384</sup> During the 11th Five Year Plan period, necessary inputs will be provided, such as training teachers to act as counsellors.<sup>385</sup> (See Section 6C.3.3 for details.)

#### 7A.5.4 Vocational Education

750. In 2007-08, under the Scheme of Vocationalisation of Secondary Education at +2 level, about one million students were diverted to vocational courses in classes XI-XII.<sup>386</sup> The 11th Five Year Plan envisages expansion of the scheme. The Government has embarked on the strategic objective of modernising the Industrial Training Institutes (ITIs) and improving the quality of training in Government-run ITIs, with the involvement of stakeholders. Action has been initiated for upgradation of 100 ITIs from domestic resources, and 400 ITIs through World Bank assistance, so as to create Centres of Excellence for producing multi-skilled workforce of world standard.

751. Formal vocational training is being provided to only 0.9% of those in the 15-19 age group.<sup>387</sup> The NSSO data indicates that only 5% of the population in the 19-24 age group has learnt skills through the VET stream.<sup>388</sup> The number of youth needing initial vocational training is estimated at 15 million per year. Government has launched NSDM that aims at five-fold expansion of the public sector skills development infrastructure and utilisation, and conversion of polytechnics and VE programmes in schools into the PPP mode. A new scheme titled 'Skill Development Initiative' was launched in 2007-08. It is a five-year scheme, during which one million persons would be trained or their existing skills tested and certified. The Ministry of Labour & Employment has developed demand-driven, short-term training courses based on Modular Employable Skills framework for skill development of school leavers, dropouts and existing workers, especially in the informal sector, in close consultation with industry, micro enterprises in the informal sector, State Governments, experts and academia. This is essential, considering their educational, social and economic background. It also offers certain courses with multi-entry and multi-exit options, flexible delivery schedule and lifelong learning.<sup>389</sup> (See Annexure 7A.5 for details on progress made under the Skill Development Initiative.)

752. The NIOS offers VE courses in areas such as basic rural technology, computer application, computer hardware assembly and maintenance, radiography, library science, etc. The courses are offered through about 1,001 accredited vocational institutes in the

<sup>383</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 106.

<sup>384</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 95-98.

<sup>385</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 22.

<sup>386</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 86.

<sup>387</sup> 11th Five Year Plan (2007-12), Volume I, Inclusive Growth, Planning Commission, GoI, 2008, page 110. (citing NSS Report 517, Table 10).

<sup>388</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 30

<sup>389</sup> Annual Report (2008-09), Ministry of Labour and Employment, GoI, pp.212-213.

country, including ITIs, Community Polytechnics, Krishi Vigyan Kendras, Jan Shikshan Sansthan and Non-Governmental Organisations (NGOs). NIOS has initiated Rural Community Workshops, providing rural-based vocational courses, with facilities for hands-on vocational training. It has prepared a draft Curriculum Framework for Open Vocational Education (in 2006-07), taking into account the curricular diversity required by various groups of learners.<sup>390</sup> NIOS programmes will be up-scaled during the 11th Five Year Plan period, with measures to ensure quality.<sup>391</sup> The number of State Open Schools will be increased from the existing 10, and these will be set up in the remaining 19 States too.<sup>392</sup>

## 7A.6 Capacity Building and Awareness Generation

753. ICDS supports early childhood education in the form of ECCE as a part of the interventions relating to innovations. Every District is provided an amount of Rs 1.5 million per year to strengthen their measures towards ECCE material development, teacher training and classroom processes. Many States, including Sikkim, Chandigarh, Punjab, Assam, etc. have utilised this provision effectively to promote ECCE. For this, Ministry of Women & Child Development (MWCD) collaborates with SSA to run AWCs and take up related activities. To raise awareness about the importance of ECCE, many interventions were taken up during the reporting period such as *ma-beti* fairs, *Meena* campaigns, *prabhat pheris*, meetings with religious leaders, community-based *sammelans*, etc. Under *ma-beti* fairs, through different activities, awareness about the importance of early education is created, such as information about the functioning of the local school, the education system in general and the special provisions available for girls in particular. Children's organisations, such as *Meena Manch*, school cabinets, etc. are functioning in many States, to provide opportunity to children to voice their concerns. *Prabhat pheris* are organised as awareness-generation measures that entail mobilisation walks in the villages, slogan and wall writings, distribution of pamphlets and posters, door-to-door contact, etc. Dialogues with religious leaders and opinion makers of some communities are considered critical to get children of their communities into schools. Their influence on community behaviour makes it important to convince them, so that they can influence popular views about educating girls and generate community commitment for girls' education. This has been a key strategy that worked in getting Muslim minority girls and girls from other communities to participate in education.<sup>393</sup>

754. SSA places great emphasis on building the capacity of teachers for teaching, through regular training programmes. It provides support for three kinds of training: (i) annual in-service teachers' training for up to 20 days; (ii) 30-day induction training for newly-recruited teachers; and (iii) 60-day training for professionally-untrained teachers to acquire requisite qualifications, primarily through distance mode, with the help of Indira Gandhi National Open University. Basic guidelines for teachers training in SSA have been framed, though each State defines its own priorities, teacher training modules, follow-up programmes and a decentralised training calendar. A total of 3.16 million teachers received in-service training in 2008-09 and 0.506 million teachers received 30-day induction training in the last three years, from 2006-07 to 2008-09. Nearly 0.707 million untrained teachers

<sup>390</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 70-71, 78-80.

<sup>391</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 23.

<sup>392</sup> 11th Five Year Plan (2007-12), Volume II, Social Sectors, Planning Commission, GoI, 2008, page 18.

<sup>393</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 35.

were trained through the 60-day training module offered by SSA in the last three years, from 2006-07 to 2008-09. Across the country, 6,472 BRCs and 69,268 Cluster Resource Centres have been set up to provide decentralised academic support and supervision to teachers and schools. BRCs are venues for training of teachers. Training is also held at Cluster Resource Centres for facilitating peer learning and interaction amongst teachers. There are subject-specific resource persons at Block and Cluster Resource Centres, who periodically visit schools to observe classroom transactions and provide feedback and on-site training to teachers, on pedagogic and content related issues.

755. To identify, understand and enhance the performance of teachers, teacher trainers and teacher support institutions, the MHRD has catalysed an initiative named Advancement of Educational Performance through Teacher Support from 2006-07 onwards, in collaboration with UNICEF, to promote development and use of performance indicators for teachers and teacher support structures, including Block and Cluster Resource Centres, District Institutes of Education and Training and State Councils of Educational Research and Training. Twenty-nine States have developed such performance indicators, out of which some have already begun to use them to track teachers' and trainers' performance (including Gujarat, West Bengal, Madhya Pradesh, Assam, Orissa, Chhattisgarh), while others are in the process of operationalising them.

756. There is recognition that community awareness is critical for ensuring quality teaching and accountability in the education system. To underscore the importance of community ownership for quality education, SSA has launched several social mobilisation campaigns, using mass media, traditional communication forms like songs and street theatre, and print messages and posters. Community consensus that children should not work and that all children should attend school, is gradually being achieved through anti-child labour campaigns.<sup>394</sup>

757. The UNESCO division in the MHRD coordinates work related to external academic relations, international cooperation and Auroville Foundation. The Indian National Commission for Cooperation with UNESCO organises training courses for the officers of MHRD and experts from State Governments and NGOs. Forty-two schools and teacher training institutions from all over India are enlisted under a project named Associated School Project. Under this, activities are organised related to education for international understanding, cooperation and peace.

## 7A.7 Monitoring and Evaluation

758. Monitoring of PSE involves regular documentation of enrolment, attendance and activities data at each ICDS centre, and preparation of periodic reports by supervisory and senior staff at District and State levels. Concerned professional agencies, including National Institute of Public Cooperation and Child Development, National Council of Educational Research & Training, National University for Educational Planning and Administration (NUEPA), National Council of Applied Economic Research, UNICEF and the World Bank, conduct periodic studies for evaluation of various ICDS components.

759. There are diverse monitoring mechanisms for elementary education. Data collected by DISE and Geographical Information Systems facilitate sound planning and monitoring. Detailed school-wise information is available through Education Management Information System that provides annual data for important educational indices, such as enrolment,

<sup>394</sup> Fifth Joint Review Mission of Sarva Shiksha Abhiyan, Aide Memoire, Ministry of Human Resource Development, GoI, January 2007, page 18.

attendance and retention, for all schools. Along with school-wise educational data, State and District outcome indicators are also provided.<sup>395</sup> In addition, the internal monitoring system of SSA regularly reviews various components of programme implementation. Comprehensive reviews are held during appraisal of annual work plans, Project Approval Board meetings, and by financial controllers. This is supported by community-level monitoring, conducted by VECs. State-and national-level monitoring is carried out by State Project Offices and Education Departments.<sup>396</sup> Independent reviews of field processes are conducted through Pupil Achievement Sample Surveys (undertaken by NCERT every three years); visits and evaluations by 41 national apex social science institutions; and the Joint Review Missions which review progress of SSA twice a year, along with external funding agencies.<sup>397</sup>

760. NUEPA has developed an Educational Development Index (EDI) to track the progress of States towards UEE. EDI includes parameters of access, infrastructure, teacher-related indicators and outcomes. In 2007-08, Puducherry topped the list, while Bihar was at the bottom.<sup>398</sup> (See Annexure 7A.6 for details on EDI.) The All India Education Survey provides national-level tabulation and comprehensive reports on major indices regarding school education up to Class XII. The data is published and made available online.<sup>399</sup>

761. The mainstay of secondary education monitoring is educational surveys and data processing of significant indicators, systematically undertaken by NCERT and NUEPA. MHRD's Planning and Monitoring Unit formulates Annual Plans and Five Year Plans on education. The Unit reviews schemes and programmes, monitors Plan expenditure vis-à-vis outlays in Budget estimates, and analyses actual expenditure as against targets.<sup>400</sup> The public relations unit of MHRD keeps a vigilant eye on educational activities of private organisations and institutions, monitors misleading advertisements appearing in national or regional dailies, and receives complaints from other public sources. After verification, appropriate action is taken against the concerned schools/institutions.<sup>401</sup>

## 7A.8 Public-Private Partnerships

762. Fulfilling educational goals of 'quality education for all' necessitates synergy and partnership between governmental and non-governmental institutions, as well as with local communities, to ensure success of educational initiatives at all levels.<sup>402</sup> Therefore, private delivery of educational services is expanding rapidly, to the public in general and even to

<sup>395</sup> Education For All, Department of Elementary Education and Literacy, Ministry of Human Resource Development, GoI, 2005, pp. 84-86.

<sup>396</sup> Education for All, Department of Elementary Education and Literacy, Ministry of Human Resource Development, GoI, 2005, page 84.

<sup>397</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 35-38.

<sup>398</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 53-54.

<sup>399</sup> Annual Report (2005-06), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 128, and Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 71-72.

<sup>400</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 10.

<sup>401</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 101.

<sup>402</sup> Education for All, Ministry of Human Resource Development, GoI, 2005, pp. 62-64.

the poor.<sup>403</sup> Schools under private management, widely perceived as providing quality education, have been expanding at a faster rate than public schools. Approximately 15% elementary schools and 60% secondary schools are privately managed (2004-05).<sup>404</sup> Recent years have seen the emergence of a number of committed organisations outside the Government, actively supporting the development of public schooling system.<sup>405</sup> Under the Corporate Social Responsibility agenda, several corporate-run NGOs are providing educational services, especially for marginalised children. Partnerships with local communities and NGOs play a significant role in provisioning of education facilities, especially in socially and economically backward areas, for tribal communities, communities in difficult circumstances like migrant labourers, and children affected by natural calamities like floods and earthquakes.<sup>406</sup>

763. At the elementary level, the partnership with community-based bodies like VECs and PTAs has led to an increase in enrolment of out-of-school children in all States, and significant community contribution (donations and funds) in construction works, particularly in Uttar Pradesh, Bihar, Andhra Pradesh and Gujarat. This has resulted in optimum use of local resources and greater transparency.<sup>407</sup>

764. Some major PPPs for quality improvement have led to Learning Guarantee Programmes (with Azim Premji Foundation in Karnataka), Reading Promotion Programmes (with Pratham in Madhya Pradesh, Bihar, Uttar Pradesh, Uttarakhand, Himachal Pradesh, Orissa, etc.), Capacity-Building of Teacher Educators (Naandi Foundation, Andhra Pradesh), etc.<sup>408</sup>

765. Several States/UTs have entered into partnership with NGOs and Civil Society Organisations (CSOs) for effective improvements in school quality. Involvement of potential partners at the planning stage helps to strategise interventions.<sup>409</sup> Over 4,500 NGOs are involved in SSA – in capacity building, awareness generation, running EGS/AIE and KGBVs, and various other interventions. Almost all States have constituted Grants-in-Aid Committee to facilitate engagement with, and funding of NGOs. NGOs place education within the larger socio-economic context as part of the overall development of the region. Students graduating from these schools are seen as potential change agents.<sup>410</sup> NGOs and corporate sector support the MDMS in many areas, by setting up centralised kitchens for providing hot meals to children in a number of schools.<sup>411</sup> (See Annexure 7A.7 for details on State interventions in PPP in education.) ECCE services, provided by the private sector, existed mainly in the urban sector until a decade ago, but have now also spread in semi-urban and rural areas. According to one estimate, data for five-year-old

<sup>403</sup> India: Reducing Poverty, Accelerating Development, The World Bank, OUP, Delhi, 2000, page 21.

<sup>404</sup> 11th Five Year Plan (2007-12), Ministry of Human Resource Development, GoI, 2008, pp. 8, 15, (citing Selected Educational Statistics (2004-05)).

<sup>405</sup> R Govinda, Elementary Education in India: Promise, Performance and Critical Issues in Securing Rights – Citizens' Report on MDGs, Wada Na Todo Abhiyan, New Delhi, 2005, pp. 23-24.

<sup>406</sup> Sub-Group Report on Early Childhood Education, Ministry of Women and Child Development, GoI, 2007, pp. 35-36.

<sup>407</sup> Fifth Joint Review Mission of SSA, Aide Memoire, Ministry of Human Resource Development, GoI, January 2007, page 16.

<sup>408</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 51.

<sup>409</sup> Report of Working Group on Elementary Education and Literacy for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, pp. 93-95.

<sup>410</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 23.

<sup>411</sup> Mid-Term Appraisal of the 10th Five Year Plan (2002-07), Planning Commission, GoI, 2005.



children in rural areas indicates that 12.7% children in this age group were in private schools in 2006, which has risen to 17.7% in 2008.<sup>412</sup>

766. Private schools at all levels are gaining greater acceptability, which can be attributed to the widespread belief that quality of education is better in private schools.<sup>413</sup> The key to successful PPP is a sound regulatory structure, so that public and private sectors are accountable to each other in a transparent manner. There is a strong case for strengthening the tripartite relationship between Government, NGOs and the private sector, particularly for helping improve the quality of school education in different parts of the country. Models for such partnerships already exist, and some of the more successful ones may well be replicated by the Government.<sup>414</sup>

767. The critical urgency in secondary education is of developing strategies for involving CSOs, NGOs, communities, and public and private sector in VET. The possibility of involving apex industry associations like Confederation of Indian Industry, Federation of Indian Chambers of Commerce and Industry and Associated Chambers of Commerce and Industry would be explored in the implementation of VET as also establishing industry-institution collaboration for identification and development of courses and learning materials, workplace training, assessment and joint certification.<sup>415</sup>

## 7A.9 Resources

### 7A.9.1 Central Plan Outlay of Education Departments

768. The Table 7.8 shows trends in Central plan outlays for the nodal Ministry for education, the MHRD, and the Departments within the Ministry.

769. Of the outlay for 2008-09, part of the expenditure, Rs 121,870 million will be met through the Education Cess.<sup>416</sup> These funds will be utilised mainly for SSA and MDMS.<sup>417</sup>

770. The financial allocation for education sector has been made, keeping in mind the special needs of under-developed regions and communities. Overall, for general education, an allocation of Rs 344 billion has been made. Of this, an allocation of Rs 45.54 billion has been made for secondary education. Ten percent of this allocation will be for north-eastern Region and Sikkim. In the higher education sector, a provision of Rs 8,750 million has been made for implementation of Oversight Committee recommendations for reservation for OBC communities.

<sup>412</sup> Annual Status of Education Report-Rural 2008, Pratham Resource Centre, 2009.

<sup>413</sup> Child Budgeting in India: Analysis of Recent Allocations in the Union Budget, UNICEF and Centre for Budget and Governance Accountability (CBGA), 2006-2007, Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, 2006, page 11.

<sup>414</sup> Annual Status of Education Report-Rural 2007, Pratham Resource Centre, page 8.

<sup>415</sup> Report of Working Group on Secondary and Vocational Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, pp. 31-34.

<sup>416</sup> Education Cess is a 3% (initially began as 2% ) levy on all major Central taxes through the Finance (No. 2) Act, 2004, to help finance the Government's commitment to 'quality elementary education'. Education Cess proceeds are credited to the Prarambhik Shiksha Kosh, a non-lapsable fund for elementary education.

<sup>417</sup> Expenditure Budget Vol. 1, 2008-09, GoI.

Table 7.8  
Central plan outlay (Rs in million)

Ministry/Department	2004-05 RE	2005-06 RE	2006-07 RE	2007-08 BE	2007-08 RE	2008-09 BE
Ministry of Human Resource Development	102,241	147,912	207,440	286,740	254,530	344,000
Department of School Education & Literacy	86,656	132,911	182,150	221,910	221,910	268,000
Department of Higher Education	15,585	15,001	25,290	64,830	32,620	76,000

*Source:* Central Plan Outlay by Ministries/Departments, Union Budget and Economic Survey 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, <http://indiabudget.nic.in> BE = Budget Estimates; RE = Revised Estimates; 2006-07 onwards excludes provisions for Department of Women and Child Development which became a separate Ministry.

771. During 2004-09, the Central Government allocation for SSA increased significantly, from Rs 30,570.8 million in 2004-05, to Rs 71,560 million in 2005-06, Rs 110,000 million in 2006-07, Rs 10,6710 million in 2007-08, and Rs 1,31,000 million in 2008-09. During the same period, allocation for MDMS increased five-fold – from Rs 16,750 million (2004-05) to Rs 80,000 million (2008-09).<sup>418</sup>

772. From 2008-09, the MDMS will cover children up to upper primary level (from classes I to VIII) in all areas across the country. The enhanced outlay includes Rs 8,000 million for north-eastern Region and Sikkim. Following SSA guidelines, the 10th Five Year Plan initiatives operated under the formula of 75:25 between the Central and State Governments. This is being gradually moved to a 50:50 formula during the 11th Five Year Plan.

773. Child Budget analysis conducted by the MWCD reveals that budgetary provision for child education has increased from 1.37% in 2001-02 to 3.41% in 2006-07, to 3.63% of the total Union Budget in 2007-08. The increase in the priority accorded to child education in Union Budget 2007-08 has been mainly on account of a substantial rise in the allocation for MDMS, and almost doubling of the allocation for secondary education (under the MHRD).

#### 7A.9.2 Trends in Education Expenditure

774. Central plan expenditures under the Budget head of development called 'Education, Arts & Culture' show significant increase during 2004-09. The expenditure increased from Rs 10,774 billion in 2004-05 to Rs 15,259 billion in 2005-06 (a 41.62% increase over the previous year), to Rs 21,119 billion in 2006-07 (a 38.40% increase), Rs 24,124 billion in 2007-08 (a 14.22% increase), to Rs 32,779 billion in 2008-09 (a 35.87% increase).<sup>419</sup>

775. The current level of total public spending on education is estimated to be 3.63% of the Gross Domestic Product (GDP) in 2007-08.

776. Over the last decade, States' efforts towards containing their fiscal crisis have resulted in a reduction in the priority for education within their budgets. Many of the State Governments have become heavily dependent on Union Budget outlays for the centrally-sponsored schemes for children, such as SSA, MDMS, etc.

<sup>418</sup> Economic Survey, 2007-08, and Expenditure Budget, Vol. I, 2004-05, 2005-06, 2006-07, 2008-09.

<sup>419</sup> Expenditure Budget, Vol. I, 2008-09, Annex. 3.3, GoI.

777. The statistics for allocations and expenditures reveal that although allocations under education have increased over the years, they are not matched by similar increases in expenditures. Moreover, the increase in allocations is not sufficient to cover the large population of children in the country.

778. The amount of funds released to the States and UTs under SSA is impressive. However, in comparison with the magnitude of tasks involved and the estimate of financial requirement for achieving UEE, the amount of resources invested is not satisfactory.<sup>420</sup> An analysis of financial data under District Primary Education Programme, the forerunner of SSA, shows that a major part of the expenditure was made under heads, such as infrastructure development, supply of material for teachers and salary of personnel. Other allocations remain unutilised or under-utilised.

779. It is estimated that out of every rupee spent on elementary education, the Central Government spends 17 paise, State Governments spend 71 paise, and Local Government bodies spend 10 paise. The remaining 2 paise is met by other sources. The composition of this expenditure, however, varies across States. Per capita public expenditure on elementary education from all sources accounted for around Rs 7,255 in 2004-05. A large chunk of this goes towards salaries of teachers and other services.<sup>421</sup>

780. While Government schools provide free education, parents do spend additional amounts to get their children to school. Parents incur expenditure on conveyance, books and stationery, uniform, coaching and other associated expenses. According to the 52nd Round of the NSSO, it is estimated that an average Indian parent spent Rs 701 per annum on primary education and Rs 1,281 per annum on upper primary education of their children in 2005-06. Of the total cost of availing elementary education in India in 2005-06, the Government spent 89% and parents absorbed the remaining 11% cost.

781. There is a large variation across States in out-of-pocket expenditure of parents, depending on regions and types of schools. The per capita annual private expenditure in rural primary Government schools is the lowest, at Rs 307. It is as high as Rs 4,091 for urban private unaided upper primary schools. Similarly, it is as low as Rs 279 per capita in rural primary schools in Orissa, while the national average for rural primary schools is Rs 416. The poorest 20% countrymen spend Rs 276 per capita in primary schools (rural and urban combined), while the richest 20% spend Rs 1,610. At the upper primary level, the poorest 20% spend Rs 596 per capita on education, while the richest 20% spend Rs 2,166. Thus, vast disparities still exist in private expenditures and hence, in affordability of education.<sup>422</sup> (See Annexure 7A.8 for details on per capita out-of-pocket expenditure for education in India.)

## 7A.10 Challenges

782. The Government has taken several measures to address issues in education sector, such as adoption of Right of Children to Free and Compulsory Education Act, 2009, adoption of NCF, 2005, universalisation of ICDS, launch of RMSA, a comprehensive scheme to build wide range of skills amongst the youth, strengthening in-service training of teachers, and strengthening tracking of progress towards UEE. In addition, the Government is also committed to increase education expenditure to 6% of GDP.

<sup>420</sup> Elementary Education in India: Promise, Performance and Critical Issues, page 23.

<sup>421</sup> Primer on Budget Analysis: Taking the Case of Elementary Education, 2007, Centre for Budget and Governance Accountability.

<sup>422</sup> National Sample Survey, 52nd Round.

783. The following are priority concerns for the Government of India in the education sector:

- There has been a rapid increase in the total proportion of children in the 3-6 age group attending pre-school education; however there is still a gap of 24% for 3-4-year-olds and 9.5% for five-year-olds.
- Despite overall progress in GER and NER, the GER for ST girls is low (GER of ST girls at secondary level was 25% in 2006-07).
- Drop-out rates continue to be high: overall elementary level (classes I VIII) – 46%; secondary level (classes IX-XII) – 60%.
- A relatively large number of children are still out of school (8.1 million).
- In spite of improvement in learning achievements for both boys and girls, there is scope for improvement of learning achievement at the upper primary level.
- Access to secondary schools is still low in states, such as Bihar, Uttar Pradesh, West Bengal, Jharkhand and Chhattisgarh.
- Need to expand VE (Only 5% of the population in the 19-24 age group has acquired some skills through VE).
- Improving quality of education through teacher training and improving the quality of recruitment procedures.
- Institutionalisation of the process and gains of SSA to benefit the implementation of RMSA.
- To improve current level of education expenditure (at 3.6% of GDP).

## **7B. Aims of Education with reference also to Quality of Education (art. 29)**

### **7B.1 Status and Trends**

784. Education in India is associated with equity, social justice and economic progress. Seeking guidance from the Constitutional vision of India, certain broad aims of education have been identified by the NCF, 2005. (See Section 7A.3 for details.) The NCF, 2005 also emphasises on education for peace as a significant national and global concern. In the context of escalation of violence in society and school life, education aims to foster responsible citizenship by bringing about peace orientation in individuals, nurturing social skills to live together in harmony, reinforcing social justice, propagating a secular culture, activating a democratic culture, and promoting national integration.<sup>423</sup> Initiatives were taken during 2006-07<sup>424</sup> and 2007-08 for teacher training, material preparation and development of strategies to promote Peace Education<sup>425</sup>, with the aim of equipping teachers and students to appreciate human rights, cultural plurality and peaceful co-existence.

785. While early years of schooling lay the foundation for personality and skills formation, the focus in high school shifts to citizenship education, emphasising respect for

<sup>423</sup> Position Paper on National Focus Group on Education for Peace, National Council of Education Research and Training, 2006, pp. iii-iv.

<sup>424</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 70.

<sup>425</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 90.

diversity and differences.<sup>426</sup> Value education, development of personality and training of character have been integrated into school curriculum and co-curricular activities at various stages of education.<sup>427</sup>

786. With the aim of equity, inclusion and social justice, affirmative actions, including incentives for children from disadvantaged groups, are in-built into the national educational process. The special programmes targeted for disadvantaged groups are leading to increased presence of these groups in the school population.<sup>428</sup>

787. Education should inculcate environmental awareness. Environmental issues are integrated into primary and upper primary stages of schooling, in Environmental Science (EVS), Social Science and Science subjects. Environmental Education is imparted through the infusion model, that is, syllabi of different subjects at all stages of school education have components of EVS infused in them.<sup>429</sup> In 2006-07, the NCERT finalised a project-based Environmental Education syllabus for the higher secondary stage, which is being implemented in Meghalaya, Tamil Nadu, Puducherry and some other States.<sup>430</sup> A number of civil society initiatives are reflected in the educational system. Uttarakhand Seva Nidhi, an NGO, designed an environmental education programme called 'Our Land Our Life', which has been adopted by Uttarakhand State Government, and integrated in the curriculum of classes VI-VII.<sup>431</sup>

788. Human Rights is recognised as a subject of academic study, and innovative programmes are being implemented in different parts of the country.<sup>432</sup> The Karnataka Government has introduced human rights issues, including child rights, into the school curriculum.<sup>433</sup> The Madhya Pradesh Government includes human rights in school curricula since 2005-06, and provides 20-day training to teachers on human rights and child rights, since 2006-07.<sup>434</sup> The Bihar Government has introduced child rights into school curricula, through the Bihar Curriculum Framework-2006.<sup>435</sup> The Orissa State Government has taken the initiative of imparting training on child rights to teachers.<sup>436</sup>

<sup>426</sup> Position Paper on National Focus Group on Education for Peace, National Council of Education Research and Training, 2006, page iv.

<sup>427</sup> C Seshadri, 'An Approach to Value Orientation of Teachers' Education', in Value Education in Indian Schools – Experiences and Strategies of Implementation, ed JS Rajput, National Council of Education Research and Training, 2003, pp. 328-330. See also India First Periodic Report 2001, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2001, pp. 306-309.

<sup>428</sup> Report of Working Group on Development of Education of SCs/STs/Minorities/Girls and Other Disadvantaged Groups for 11th Five Year Plan (2007-12), Volume II, Social Sectors, Planning Commission, GoI, December 2006, pp. 18-19.

<sup>429</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 68.

<sup>430</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 68.

<sup>431</sup> Kumar and Sarangapani, Our Land Our Life, in Improving Government Schools – What Has Been Tried and What Works, Books for Change, 2005.

<sup>432</sup> India First Periodic Report 2001, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2001, pp. 312-313.

<sup>433</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Karnataka State, 2008, page 17.

<sup>434</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Madhya Pradesh State, 2008, page 45.

<sup>435</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Bihar State, 2007, pp. 66, 70.

<sup>436</sup> India: Third and Fourth Periodic Report on the CRC draft, Inputs of Orissa State 2008, page 53.

789. The Central Board of Secondary Education has introduced an elective course in the subject Human Rights and Gender Studies, at the +2 level.<sup>437</sup> NCERT textbooks (2006-08) for the different stages of schooling aim to bring about a positive thrust towards empowerment of girls and women.<sup>438</sup>

790. Secondary and higher secondary education is emphasised in the current policy framework: '... as it prepares the students for higher education and also for the world of work.'<sup>439</sup> Recognising that educational preparation of youth for work is inadequate in India, educational programmes are increasingly being 'designed to face the challenges associated with global developments, emerging technology and cross-cultural complexities.'<sup>440</sup> The SDM envisages creating a wide range of skills for the youth, emphasising hands-on training/exposure, vertical mobility, and flexibility.<sup>441</sup>

## **7B.2 Challenges**

791. Young people need to acquire appropriate values and skills to become productive workers, good parents and responsible citizens. As a result of skill-based technological change, and the growing importance of knowledge worldwide, the demand for workers with post-primary education is increasing. Yet, educational preparation of youth for work and life remains low in India.

792. The present education system faces many challenges, including inflexibility, burden of schooling and pressure of competitive examinations. In addition, rapid social change, migration and dilution of community-based support systems further strengthen the need for value education, with a focus on respect and human rights, in order to create a global perspective in children.

## **7C. Rest, Leisure, Recreation and Cultural and Artistic Activities (art. 31)**

### **7C.1 Policy and Programmes**

793. The National Charter for Children, 2003, recognises that all children require adequate play and leisure for their healthy development and the State must ensure means to provide for recreational facilities and services for children of all ages and social groups. The Government of India is promoting sports through adequate budgetary support, trained teachers, physical infrastructure and a positive attitude on the part of school authorities. Where there is a supportive school atmosphere, the transaction of sports subjects has been effective.<sup>442</sup> India became the first country from Asia to ratify the UNESCO Convention on

<sup>437</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 76.

<sup>438</sup> Position Paper on National Focus Group on Gender Issues in Education, National Council of Education Research and Training, GoI, 2006.

<sup>439</sup> Report of Working Group on Secondary and Vocational Education for 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 2.

<sup>440</sup> Report of Working Group on Elementary Education and Literacy for 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 2.

<sup>441</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 20.

<sup>442</sup> Position Paper on Health and Physical Fitness, National Curriculum Framework, 2005, National Council of Education Research and Training, GoI, 2006, pp. 6-8.

the Protection and Promotion of the Diversity of Cultural Expression in March 2007, thereby demonstrating India's commitment to protect cultural diversity.<sup>443</sup>

794. The Ministry of Youth Affairs and Sports (MoYAS) has prepared a draft comprehensive National Sports Policy 2008, which aims at integrating sports development with youth development on the one hand, and linking youth development to national development on the other.<sup>444</sup> The MoYAS is actively encouraging 'Sports for All', extensive development of playgrounds, preservation of traditional sports, yoga and self defence, and greater PPP and involvement of *Panchayati Raj* Institutions.<sup>445</sup> MoYAS' National Sports Talent Contest Scheme provides opportunities for special coaching to budding sportspersons (aged 8-14 years).<sup>446</sup> Sports, art and cultural activities have been integrated in SSA interventions. Guided outdoor and indoor play, art and creative activities are essential components of ECE, being provided at ICDS centres, play schools and day-care centres run by private agencies.<sup>447</sup>

795. The MoYAS is strengthening a number of schemes for sports, adventure, social service and national integration during the 11th Five Year Plan period. These include the Nehru Yuva Kendra Sangathan (NYKS), which has eight million youth in 0.25 million village-based Youth Clubs; National Service Scheme, which seeks to imbue 2.66 million school and college students with the spirit of voluntarism and social service; Rural Youth and Sports Clubs, which spot and nurture young talent; Bharat Scouts and Guides, which will be further broad-based from 3.5 million (in 2006-07) to 5.0 million volunteers by 2012; promotion of national integration through camps promoting secular outlook and communal harmony; and promotion of adventure. The Scheme for Promotion of Adventure, revised in 2004, includes new activities, such as mountain biking, river rafting, fishing, sky diving, snorkelling, scuba diving, bungee jumping, desert and jungle safaris. The Indian Mountaineering Federation, Aero Club of India, and National Institute of Water Sports provide opportunities for training and expeditions in land, air and water sports.<sup>448</sup>

796. Preparatory work has been undertaken to incorporate physical education and sports in school curricula.<sup>449</sup> The Panchayat Yuva Khel Abhiyan, launched during the 11th Five Year Plan, aims to further involve rural youth in organised games and sports activities. The yoga in Schools Scheme, under the MHRD, envisages teaching of yoga in all secondary schools across the country.<sup>450</sup> Targeted efforts are being initiated for inclusion in sports of Persons with Disabilities, by making District-and State-level infrastructure accessible during the 11th Five Year Plan period.<sup>451</sup>

<sup>443</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, page 245.

<sup>444</sup> Annual Report (2007-08), Ministry of Youth Affairs and Sports, GoI, page 59.

<sup>445</sup> Report of Working Group on Sports and Physical Education for 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, pp. 31-32.

<sup>446</sup> Report of Working Group on Sports and Physical Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, pp. 26-27.

<sup>447</sup> Sub-Group Report on Early Childhood Education in the 11th Five Year Plan (2007-12), Ministry of Women and Child Development, GoI, 2007, pp. 30-38.

<sup>448</sup> Draft Final Report of Working Group on Youth Affairs and Adolescents' Development, Volume I, Planning Commission, GoI, March 2007, pp. 49, 51, 58, 72-74, 77, 80-81, 88-89, 104.

<sup>449</sup> Report of Working Group on Sports and Physical Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, pp. 50-51, 84-85.

<sup>450</sup> Position Paper on Health and Physical Fitness, National Curriculum Framework, 2005, National Council of Education Research and Training, GoI, 2006, page 8.

<sup>451</sup> Report of Working Group on Sports and Physical Education for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, page 46.

797. The MWCD has instituted National Child Awards to provide recognition to children with exceptional abilities, who have achieved outstanding status in various fields, including arts, culture and sports. Recommendations are made by States/ UTs, and functions are held annually to encourage children.

798. Integrating arts subjects in the formal school system remains a challenge. Experts recommend that arts education be made compulsory, from pre-primary up to secondary level, with logical progression of teaching and learning at each stage.<sup>452</sup>

799. Cultural Heritage Volunteers (CHV) Scheme has been launched by the Ministry of Culture (MoC) in 2007-08, with the aim of increasing students' awareness of cultural heritage in order to promote a culture of peace, mutual understanding and respect.

800. NYKS, with eight million rural youth in its fold, through a network of about .25 million village-based Youth Clubs, Sports Clubs and *Mahila Mandals*, aims at social transformation through awareness, commitment to values of unity amidst diversity, discipline, self help, secularism, democracy and community service. Its activities include cultural programmes, work camps, seminars and workshops, celebration of national and international days/weeks, sports promotion and adventure tourism.<sup>453</sup>

801. The Centre for Cultural Resources and Training implements several schemes of MoC to motivate school children to acquire in-depth knowledge of India's rich natural and cultural heritage, and train teachers in drama, music and dance. These include: cultural clubs in schools, propagation of culture among school students and teachers, extension and community feedback and CHV Scheme. (See Annexure 7C.1 for details on initiatives by Central Government for Cultural Resources and Training for School Children.)

802. A Scheme for Training of Street Children and Slum Areas Children, launched in 2006-07 by MoC, is being implemented in seven zonal cultural centres. During 2006-07, training in classical music and dance was imparted to street children from Himachal Pradesh, Uttarakhand and Chandigarh. Under MoC's Cultural Talent Scholarship Scheme, 400 scholarships are awarded annually to children (aged 10-14 years), of which 75 are reserved for children of families practising traditional art forms.<sup>454</sup>

803. The National Book Trust provides accessible and affordable reading material for children of all ages, through book publication, a World Book Fair held in New Delhi every alternate year, and Book Fairs all across the country.<sup>455</sup> In May 2006, National Bal Bhavan (NBB) presented Bal Shree awards to 22 children for excellence in creative arts, writing, and scientific innovation.<sup>456</sup> In November 2007, NBB organised an International Children's Assembly on Education for Sustainable Development, and partnered with Centre for

<sup>452</sup> Position Paper National Focus Group on Art, Music, Dance and Theatre, National Council of Educational Research and Training, 2006, pp. 1-9.

<sup>453</sup> Draft Final Report of Working Group on Youth Affairs and Adolescents' Development, Planning Commission, GoI, pp. 45-48. See also India First Periodic Report 2001, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2001, page 318.

<sup>454</sup> Report of Working Group on Art and Culture for 11th Five Year Plan (2007-12), Planning Commission, GoI, 2007, pp. 48, 51-54.

<sup>455</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 231-233, 317.

<sup>456</sup> Annual Report (2006-07), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 56-58. Also see India First Periodic Report 2001, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2001, page 317.



Environmental Education, Ahmedabad, to hold an international conference on Environmental Education.<sup>457</sup>

804. Residential schools, such as KGBV and NVs, promote self-reliance and national integration by providing scope to youngsters from different parts of the country to live and learn together.

## 7C.2 Challenges

805. In the current scenario, leisure and recreational activities for children have become a challenge. Lack of adequate space and facilities for leisure for children in urban area is another challenge. The pressure of the present education system and increased pressure from parents to perform well in academics, as well as co-curricular activities, makes it difficult for children to take out time for leisure and recreational activities.

806. Leisure and recreation for children is equally challenging in rural areas, which lack facilities for recreational activities.

## IX. 8. Special Protection Measures (arts. 22, 30, 32-36, 37 (b)-(d), 38, 39 and 40)

807. The Concluding Observations (CRC/C/15/Add.228) (CO) addressed in this chapter include:

- Children affected by armed conflict, CO para. 69;
- Refugee children, CO para. 71;
- Implementation of Child Labour (Prohibition and Regulation) Act, 1986 and Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, CO para. 73 (a);
- Amendment to the Child Labour (Prohibition and Regulation) Act, 1986, CO para. 73(b);
- Community-based programmes for prevention of child labour, CO para. 73 (c);
- Ratification of ILO Conventions Nos. 138 and 182, CO para. 73 (d);
- Awareness generation on child labour, CO para. 73 (e);
- Collaboration with ILO/IPEC, CO para. 73 (f);
- Amendments to Immoral Traffic Prevention Act, 1956, CO para. 75 (a);
- Study on trafficking, CO para. 75 (b);
- Implementation of National Plan of Action, CO para. 75 (c);
- Prevention of trafficking and commercial sexual exploitation, CO para. 75 (d);
- Ensure perpetrators are brought to justice, CO para. 75 (e);
- Strengthening of policies, CO para. 75 (f);
- Ratification of Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, CO para. 75 (g);

<sup>457</sup> Annual Report (2007-08), Department of School Education and Literacy and Department of Higher Education, Ministry of Human Resource Development, GoI, pp. 73-74.

- Collaborations for working on trafficking, CO para. 75 (h);
- Strengthen street children programme, CO para. 77 (a);
- Development of street children, CO para. 77 (b);
- Abuse, recovery and re-integration, CO para. 77 (c);
- Collaboration, CO para. 77 (d);
- Measures to implement juvenile justice system, CO paras. 79 and 80 (d);
- Minimum age of criminal responsibility, CO para. 80 (a);
- Application of JJ Act in J&K, CO para. 80 (b);
- Amendment of POTA, CO para. 80 (c);
- State mechanisms for implementation of JJ Act, 2000, CO para. 80 (d);
- Training, CO para. 80 (e);
- Rehabilitation and re-integration, CO para. 80 (f);
- Deprivation of liberty, CO para. 80 (g);
- Technical assistance, CO para. 80 (h);
- Indigenous children, CO para. 82.

## **8A. Children in Situations of Emergency**

### **8A.1 Refugee Children (art. 22)**

#### **8A.1.1 Status and Trends**

808. India maintains an exemplary record on treatment of refugees and accords to them all necessary facilities for food, shelter and education.<sup>458</sup>

809. Presently, India hosts refugees from Sri Lanka and Tibet. There are about 74,110 Sri Lankan refugees, staying in 117 refugee camps in Tamil Nadu and one camp in Orissa. Besides, about 22,090 refugees are staying outside the camps on their own, after getting themselves registered at the nearest police station.<sup>459</sup>

810. The number of refugee children of school-going age as of January 31, 2008 was 3,782 (1,942 boys and 1,840 girls). Of these, 1,884 children were enrolled in schools (1,004 boys and 880 girls).<sup>460</sup>

811. Upon fresh arrival, refugees are shifted to refugee camps after complete verification of their antecedents. Pending repatriation, certain essential relief facilities are provided to them on humanitarian grounds. These facilities include shelter in camps, cash doles, subsidised ration, clothing, utensils, medical care and educational assistance.<sup>461</sup>

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<sup>458</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of External Affairs, GoI, October 2009.

<sup>459</sup> Annual Report (2007-08), Ministry of Home Affairs, GoI, page 121.

<sup>460</sup> Newsletter, UNHCR, 31 January 2008, page 1.

<sup>461</sup> Annual Report (2007-08), Ministry of Home Affairs, GoI, page 121.

812. The rehabilitation of Tibetan refugees is almost complete, and only two residuary housing schemes are at various stages of implementation in the States of Uttarakhand and Himachal Pradesh.<sup>462</sup>

### **8A.1.2 Policy and Legislation**

813. The National Plan of Action for Children (NPAC), 2005, addresses the survival, development, protection and participation rights of children in difficult circumstances, including refugee children. (See Section 1.2 for details.)

814. The National Commission for Protection of Child Rights (NCPCR) established under the Commission for Protection of Child Rights (CPCR) Act, 2005, ensures impartial and thorough investigations into cases of violation of rights of children. (See Section 1.1 for details.)

## **8A.2 Children in Armed Conflict, including Physical and Psychological Recovery and Social Reintegration (arts. 38 and 39)**

### **8A.2.1 Status and Trends**

815. India does not face either international or non-international armed conflict situations. India is a party to the 1949 Geneva Convention and remains committed to fulfilment of its obligations there under.<sup>463</sup>

### **8A.2.2 Legislation**

816. The Juvenile Justice (Care and Protection of Children) Act, 2000, (JJ Act, 2000), provides for care and protection, rehabilitation and social re-integration of children, who are vulnerable or victim of any form of abuse, torture, neglect or exploitation. The JJ Act, 2000, also includes children, who are victims of armed conflict or civil commotion, as children in need of care and protection.

817. The principles enshrined in the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, (JJ (Amendment) Act, 2006), and the Juvenile Justice (Care and Protection of Children) Rules, 2007, (JJ Rules, 2007) protect the interests of all children in need of care and protection. The JJ Rules, 2007, under the Principle of Safety, stipulate protection at all stages, from the initial contact till the time a child remains in contact with the care and protection system, and thereafter.

818. The NCPCR at Central level and State Commissions for Protection of Child Rights (SCPCRs) at State level investigate cases of child rights violation. (See Section 1.1 for details.) Besides, the National Human Rights Commission (NHRC) also investigates incidences of rights violation. (See Section 1.1 for details.)

### **8A.2.3 Programmes**

819. The Programme for Juvenile Justice, which provides shelter and rehabilitation for all children under care and protection, has been merged into the recently-launched Integrated Child Protection Scheme (ICPS). The Scheme has provisions for specialised care services, with physical, psychological, counselling support and medical services to children in need

<sup>462</sup> Annual Report (2007-08), Ministry of Home Affairs, GoI, page 122.

<sup>463</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of External Affairs, GoI, October 2009.

of care and protection, including those affected by various forms of exploitation and abuse, and victims of any armed conflict or civil strife.

## **8B. Children in Conflict with the Law**

### **8B.1 The Administration of Juvenile Justice (art. 40)**

#### **8B.1.1 Status and Trends**

820. During the reporting period, numerous initiatives were undertaken to strengthen the juvenile justice system to enhance the protective environment for vulnerable, neglected and abused children, and those in conflict with law in India. Landmark among these were:

- (i) The enforcement of the JJ (Amendment) Act, 2006 (See Section 1.4.2 for details.), and formulation of JJ Rules, 2007, thus creating new provisions on adopting child-friendly approach in the adjudication, disposition and rehabilitation of children, keeping their best interest in mind;
- (ii) Judicial interventions to enforce and monitor execution of juvenile justice system, such as order by the Supreme Court to form State-level committees for strengthening the implementation of juvenile justice;
- (iii) Creation of NCPCR under the CPCR Act, 2005, to monitor the implementation of juvenile justice (See Section 1.1 for details);
- (iv) Strengthened provisions for capacity-building of law enforcement officers, grassroots workers, judicial personnel and all those directly and indirectly concerned with child protection on a large scale, to make the system more efficient and responsive;
- (v) Review of juvenile justice care institutions and planning of further studies in this direction to address the gaps;
- (vi) Enhanced public awareness and discourse on issues of children as a result of reporting of crime against children and missing children;
- (vii) Launch of ICPS for implementation in the 11th Five Year Plan, to create a protective environment and reduce vulnerabilities, allowing comprehensive development of all children in the country (See Section 1.5.1 for details);
- (viii) Renewed attempts for ensuring minimum standards of care in institutions under the JJ Rules, 2007, and enhanced provision of resources, capacity building and monitoring support to institutions under the ICPS;
- (ix) Initiatives by States to create necessary administrative and implementing mechanisms such as Juvenile Justice Boards (JJBs) and Special Juvenile Police Units (SJPU)s;
- (x) Enhanced coordination and partnerships between Government and civil society, focusing on child-friendly measures in the juvenile justice system.

#### **8B.1.2 Policy and Legislation**

821. The NPAC, 2005, provides strategies for preventing children from getting into conflict with law, and promoting and protecting rights of children in conflict with law

through preventive, protective, reformatory and rehabilitative policies, laws, plans, strategies, programmes and interventions.<sup>464</sup>

822. The CPCRA Act, 2005, provides for creation of NCPCR, *inter alia*, 'to look into the matters relating ...children in conflict with law...and to recommend appropriate remedial measures'. The Act also provides for setting up of children's court for speedy trial of offences against children, violation of child rights and other matters related to children.<sup>465</sup>

823. The JJ (Amendment) Act, 2006, was enacted to address the gaps and lacunae in the JJ Act, 2000, making it more responsive to the emerging needs of children in conflict with law and keeping in mind the provisions of the international standards and guidelines. The JJ Rules, 2007, were notified on October 26, 2007, after a long consultative process, including a national consultation in February 2007, undertaken by the Ministry of Women and Child Development (MWCD) with Non-Governmental Organisations (NGOs), social activists and academicians. (See Annexure 8B.1.1 for details on the salient features of the JJ (Amendment) Act, 2006.) Some of the key features of the Amendment Act are:

- (i) Appropriate change in the definition of 'juvenile in conflict with law', which means a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on date of commission of such offence;
- (ii) Setting up of JJBs and Child Welfare Committees (CWCs) in each District;
- (iii) Prohibition of handcuffing of juvenile/child and placing of juvenile in police lock-up/jail;
- (iv) Review of pending cases every six months and special powers to magistrates for speedy disposal of pending cases;
- (v) Setting up of Child Protection Units (CPUs) at State and District level;
- (vi) Measures to prevent stigmatisation of juvenile in conflict with law; decriminalisation of child beggars (by placing them in the category of children in need of care and protection);
- (vii) Prime importance to 'best interest' of children/juveniles in conflict with law;
- (viii) Specification of minimum standards of care for child/juvenile institutions;
- (ix) Registration of all child-care institutions within six months of Amendment Act coming into force;
- (x) Prohibition on disclosing the name and information of child/juvenile in conflict with law to media;
- (xi) Prohibition of life imprisonment;
- (xii) Special emphasis on rehabilitation and social re-integration of child/juvenile in conflict with law;
- (xiii) Widening the scope of adoption for children under institutional care;
- (xiv) Social audit of implementation by academic institutions and other agencies such as National Institute of Public Cooperation and Child Development (NIPCCD), Childline India Foundation (CIF), Central Social Welfare Board (CSWB), etc.

<sup>464</sup> National Plan of Action for Children, 2005, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2005, page 32.

<sup>465</sup> The Commissions for Protection of Child Rights Act, 2005, Gazette of India: Extraordinary.

824. The JJ Act, 2000, and JJ (Amendment) Act, 2006, are applicable in the entire country, except in the State of Jammu & Kashmir (J&K) where the J&K JJ Act, 1986, still prevails. (See Section 5G.2 for details.)

825. The JJ Rules, 2007, specify that a juvenile or child is presumed to be innocent of any *malafide* or criminal intent up to the age of 18 years. However, this provision will gain significance only after appropriate changes are made in the minimum age of criminal responsibility in the Indian Penal Code (IPC), 1860. The JJ Rules, 2007, under protection of the right of children/juvenile in conflict with law through the entire process of justice, lay down principles and provisions for the application, interpretation and implementation of the JJ (Amendment) Act, 2006. These include every child's right to dignity and worth, right to be heard, best interest, procedural protection of innocence to juvenile/child or juvenile in conflict with law and provision of legal aid and other such assistance through legal services at the State expense.

826. The JJ (Amendment) Act, 2006, makes it mandatory for every State to set up CWC, JJB and SJPU for every District. With respect to this provision, some States have done significantly well and have set up these administrative mechanisms in every District, while other States are in the process of doing so. By March 24, 2008, 27 States/Union Territories (UTs) had established CWCs and JJBs in several Districts, while three were in the process of setting up these bodies. State Rules had been formulated by 26 States, while two were in the process of formulating and notifying these Rules.<sup>466</sup> (See Annexure 8B.1.2 for details of implementation of the JJ (Amendment) Act, 2006, in the States in 2007.)

827. Gaps in implementation, such as lack of infrastructure and personnel, are being further addressed by the support structures provided under ICPS, which has provisions for setting up juvenile justice implementation structures.

828. Significant initiatives such as establishment of fast-track courts and provision of legal aid to children and families have been taken up by a few States to deal with long-pending cases. Some of these initiatives include 'special sittings' by Delhi JJB, *Bal Samvad Adalat*, a unique fast-track process initiated by Bihar, and *Bal Adalat* by Jharkhand Legal Services Authority, to expedite process of enquiries and provide legal aid and counselling support for rehabilitation of children in conflict with law. (See Annexure 8B.1.3 for details on dealing with pending cases of children in conflict with law.) In the 11th Five Year Plan, financial and human resource support is being provided to the States/UTs for setting up statutory bodies under the JJ (Amendment) Act, 2006, in each District, and strengthening their service delivery.<sup>467</sup>

#### **8B.1.2.1 Judicial Interventions to Implement Juvenile Justice Act**

829. The Judiciary has played a proactive role in the implementation of juvenile justice provisions. Courts have expressed serious concern over slow compliance of the provisions of juvenile justice legislation, especially poor facilities in homes, inadequate children's courts and juvenile observation homes. The Supreme Court has issued an order directing all High Courts at the State level to form committees for strengthening the implementation of juvenile justice. (See Annexure 8B.1.4 for details on Court interventions to implement the JJ (Amendment) Act, 2006.)

<sup>466</sup> Status of the Implementation of Juvenile Justice (Care and Protection of Children) Act, 2000, in States/Union Territories as of March 24, 2008, <http://wcd.nic.in/childprot/jjimp.htm>.

<sup>467</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, pp. 213-214.

830. Pursuant to the Order dated February 2, 2009, of the High Court of Delhi in the case *Harsh Virmani vs. Government of National Capital Territory Delhi*<sup>468</sup> (GNCTD), a Committee has been constituted with NCPDR as its head to monitor the functioning of the Government run children's homes for girls (CHG-I and CHG-II) in Delhi.<sup>469</sup>

### 8B.1.3 Coordination and Monitoring

831. The MWCD is now responsible for coordination of all activities concerning the implementation of the Convention on the Rights of the Child (the Convention), JJ Act, 2000, and JJ (Amendment) Act, 2006. CWCs, JJBs, SJPU, Childline, NCPDR, National Crime Records Bureau (NCRB) and the judiciary are some of the monitoring mechanisms in place. As per the provision in Section 62 of the JJ (Amendment) Act, 2006, the process is underway for setting up of Central, State, District and city advisory boards, comprising related Government departments, social workers, representatives from voluntary organisations and other child welfare professionals, for establishing greater inter-agency coordination in implementation and monitoring of the juvenile justice system. The ICPS provides for a well-defined framework for this purpose.

### 8B.1.4 Awareness Generation

832. There is a need for creating awareness among people, since a large number of children in conflict with law belong to the most deprived sections of society (62.2% of total juveniles in 2008 belonged to economically deprived families).<sup>470</sup> The MWCD is concerned about the rise in crime against children and crime committed by children, and seeks to address these by conducting interactive sessions with school authorities, teacher training, counselling, development of child-friendly materials, sex education, raising awareness on juvenile delinquency, as well as sharing of best practices.

833. Several initiatives have been taken up by MWCD in collaboration with CIF and other NGOs to create awareness on issues related to child protection and juvenile justice, which include posters, documentaries and manuals to sensitise police, media, CWCs, JJBs and SJPU.<sup>471</sup> Few States and organisations working on child protection and juvenile justice have taken initiatives to create awareness on these issues among stakeholders at all levels. (See Annexure 8B.1.5 for details on awareness generation on child protection and juvenile justice system.) The ICPS will also focus on building awareness regarding children in conflict with law.

### 8B.1.5 Training and Capacity Building

834. The MWCD provides technical support in capacity-building on issues of child rights and child protection. There have been significant ongoing training and capacity building initiatives, targeting all judicial sector professionals on the provisions of the JJ Act, 2000. The National Institute of Social Defence (NISD), National Judicial Academy (NJA) and NIPCCD have been playing a key role in imparting regular training for capacity building of key functionaries, including members of JJBs and CWCs, magistrates and judges, police,

<sup>468</sup> *Harsh Virmani vs. Government of National Capital Territory Delhi*, WPC No. 6988/2007, Sub folder 'Judgements', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>469</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Commission for Protection of Child Rights, GoI, October 2009.

<sup>470</sup> Crime in India (2008), Chapter 10, Juvenile Delinquency, National Crime Records Bureau, Ministry of Home Affairs, GoI.

<sup>471</sup> Posters, Human Rights Law Network, [www.hrln.org](http://www.hrln.org) and Publications, CHILDLINE India Foundation, <http://www.childlineindia.org.in/publications.htm>.

social welfare officers, institutional staff and NGOs, on issues of juvenile justice and child protection. The focus of these training programmes have now progressed from training and capacity building on law to care-giving and psycho-social rehabilitation of children/juveniles in conflict with law.<sup>472</sup> NIPCCD has been organising orientation workshop on ICPS for NIPCCD faculty, MWCD staff, Central Adoption Resource Authority (CARA) and CIF functionaries; juvenile justice; and management of child-care institutions for executives of voluntary organisations.

835. The Ministry of Women and Child Development, Ministry of Social Justice & Empowerment (MSJ&E) and the NISD have been collaborating with various NGOs and International Non-Governmental Organisations (INGOs) throughout the country, for undertaking capacity-building and training of child protection professionals, especially on juvenile justice. Training and capacity-building of all personnel involved in child protection is being taken up across the country under ICPS. (See Section 1.10 for details. See Annexure 8B.1.6 for details on capacity building on juvenile justice system and Annexure 8B.1.7 for details of programmes on child protection conducted by NISD.)

836. States, such as Bihar, Chhattisgarh, Orissa, Madhya Pradesh, Karnataka, Tamil Nadu, Maharashtra, etc. have initiated training programmes for judicial members and officers engaged in implementing Juvenile Justice. (See Annexure 8B.1.8 for details on State initiatives for capacity building.)

## **8B.2 Children Deprived of their Liberty, including any Form of Detention, Imprisonment or Placement in Custodial Settings (art. 37 (b), (c) and (d))**

### **8B.2.1 Status and Trends**

837. Crime in India, published annually by NCRB, estimates that on an average, 32,000 children are apprehended and produced in the courts every year. Most of these children spend one week to one year in observation homes. On an average, 4,500 children are sent to special homes in a year.<sup>473</sup>

838. There has been a marginal increase in the trend of juvenile crime in the reporting period, from 0.9% in 2001 to 1% in 2004-05 and to 1.1% in 2006-07 of the total IPC crimes.<sup>474</sup> (See Annexure 8.1 for details on incidence and rate of juvenile delinquency under IPC (2001-07).) Madhya Pradesh, Maharashtra, Gujarat, Chhattisgarh, Rajasthan, Andhra Pradesh, Bihar and Haryana reported high incidence of juvenile crimes under IPC during this period, and accounted for 79.8% of total juvenile delinquency cases in 2007.<sup>475</sup> Delhi, which reported 1,513 juveniles apprehended in 2006, showed a decline to 970 in 2007, and

<sup>472</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Institute for Public Cooperation and Child Development, GoI, 2007, [www.ncdap.nisd.gov.in](http://www.ncdap.nisd.gov.in) & [http://nja.nic.in/images/annual report 2006-07](http://nja.nic.in/images/annual%20report%202006-07).

<sup>473</sup> Sub-Group Report on Child Protection for the 11th Five Year Plan (2007-12), Ministry of Women and Child Development, GoI, page 54.

<sup>474</sup> Crime in India (2007), National Crime Records Bureau, Ministry of Home Affairs, GoI, Chapter 10, Table 10.1, Incidence and Rate of Juvenile Delinquency under IPC.

<sup>475</sup> Crime in India (2007), National Crime Records Bureau, Ministry of Home Affairs, GoI, Chapter 10, State-wise Distribution of Juvenile Delinquency (IPC).



the number of cases pending disposal also decreased from 465 cases in 2006 to 209 in 2007.<sup>476</sup>

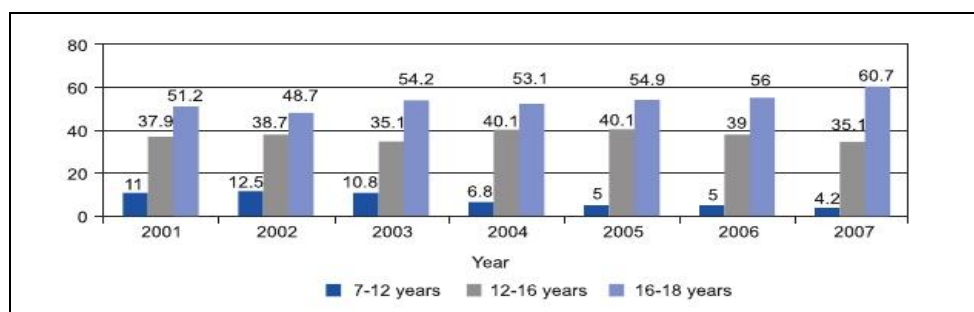
839. Figure 8.1 provides age-wise percentage of juveniles apprehended under IPC and Special and Local Laws (SLL) crimes since 2001. There has been a decline in the juveniles apprehended in the age group of 7-12 years from 11% in 2001 to 4.2% in 2007 and from 37.9% to 35% in the age group of 12-16 years in the same period. However, the percentage of juveniles apprehended in the age group of 16-18 years increased from 51.2% in 2001 to 60.7% in 2007. Lack of protective environment and several social and economic factors may be the reasons that push children to commit crimes.<sup>477</sup>

840. In the reporting period there has been an improvement in the exercise of the non-institutional care options available under the JJ Act, 2000. A fairly significant number of juveniles apprehended and brought before the JJBs are now being released after advice, and sent to families or to institutions certified 'fit for children' on probation by the presiding magistrate. According to Crime in India, 2007, out of the total juveniles apprehended, 13% were disposed after advice and admonition, 18.3% children were released on probation and placed under care of parents/guardians, while 3.9% were sent to institutions. Nearly 14.7% children apprehended were sent to special homes in 2007. (See Annexure 8B.2.2 for details on status of disposal of cases of children in conflict with law.)

841. Though alternatives to institutionalisation have been provided under the JJ Act, 2000, there is need to promote these non-institutional rehabilitative options further. Some States have reported that the judges have given decisions in favour of probation and community-based service/rehabilitation. A few States have also taken initiatives for improving probation and other alternatives to institutionalisation with support of local NGOs and community. To promote an effective use of existing community resources, the State Rules in Tamil Nadu recommend that the JJBs must prepare and maintain a list of NGOs and competent persons, who can provide care, community service work, and supervision on bail and probation.<sup>478</sup> (See Annexure 8B.2.3 for details on innovative community services initiated by the States.)

Figure 8.1

**Age wise percentage of Juveniles apprehended under IPC and SLL Crimes**



Source: Crime in India, 2003 to 2007, National Crime Records Bureau, GoI.

<sup>476</sup> Crime in India (2006 and 2007), National Crime Records Bureau, Ministry of Home Affairs, GoI, Table 10.13: State-wise figures of Disposal of Juveniles Arrested (under IPC and SLL Crimes) and Sent to Courts.

<sup>477</sup> Sub-Group Report on Child Protection for the 11th Five Year Plan (2007-12), Ministry of Women and Child Development, GoI, page 39.

<sup>478</sup> Juvenile Justice in South Asia, Improving Protection for Children in Conflict with Law, UNICEF, 2006, page 70.

842. It has been observed that children in conflict with law are often deprived of the variety of rehabilitative provisions available due to low awareness/interest of the presiding magistrate or due to stated resource crunch.<sup>479</sup> For instance, the provision of bail to the apprehended juveniles has been denied on grounds that the release might expose the child to moral, physical or psychological danger, or expose him/her to any known criminal without clearly establishing the name of the person/criminal. Limited appreciation of children's rights and progressive practices in juvenile justice due to inadequate training and sensitisation of JJB members also results in denial of bail. JJB members in most cases continue to function, as they would in any other adult court. This has led to an increase in number of pending cases. Initiatives for training of JJB members, as mandated, is being taken up across the country.

843. The JJ (Amendment) Act, 2006, explicitly prohibits the placement of a child in conflict with law in a police lock-up/jail.

844. The recently-launched ICPS has provisions to address these lacunae by providing funds for more staffing, capacity building, awareness generation, etc.

### **8B.2.2 Policy and Legislation**

845. Through the NPAC, 2005, JJ (Amendment) Act, 2006, JJ Rules, 2007, and the 11th Five Year Plan, attempts have been made to re-look at various aspects related to disposition, detention and placement in custodial settings of juvenile in conflict with law, as per international standards of care.

#### **8B.2.2.1 Apprehension and Pre-Trial Detention of a Juvenile in Conflict with Law**

846. According to the JJ (Amendment) Act, 2006, a juvenile in conflict with law apprehended by police shall be placed under the charge of SJPU or the designated police officer. The officer in-charge shall produce the juvenile before the JJB within a period of 24 hours of his apprehension, excluding the time necessary for the journey.<sup>480</sup> Soon after the juvenile is apprehended, the officer in-charge shall inform the parent or guardian of the juvenile about the apprehension, and direct him to be present at the Board, where the juvenile will appear.<sup>481</sup> According to the new provision, the apprehended juvenile may be released on bail with or without surety or placed under the care and supervision of a Probation Officer/fit institution/fit person or kept in an observation home until he/she is brought before the JJB and till the inquiry is completed.<sup>482</sup>

847. The JJ (Amendment) Act, 2006, provides seven types of orders that may be passed with regard to a juvenile apprehended and referred to the JJB. These include: allowing a juvenile to go home after advice or admonition; participating in group counselling; performing community service; paying a fine; release on probation for good conduct and placement under care of parent, guardian or fit person; release on probation for good conduct and placement under care of any fit institution (for a period not exceeding three years); and passing an order directing the juvenile to a special home or 'place of safety' for a maximum period of three years.<sup>483</sup> The period of stay may be reduced by the Board, having regard to the nature of offence. The Act also provides that all inquiries by the JJB

<sup>479</sup> Sub-Group Report on Child Protection for the 11th Five Year Plan (2007-12), Ministry of Women and Child Development, GoI, page 42.

<sup>480</sup> Section 10, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>481</sup> Section 13, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>482</sup> Section 12, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>483</sup> Section 15, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

regarding the child should be completed within a period of four months from the date of its commencement.<sup>484</sup>

848. The JJ Rules, 2007, prescribe institutionalisation as the last resort and the principle of fresh start, i.e. giving the child a chance for a new beginning. The 11th Five Year Plan further re-enforces this by emphasising that non-institutional care would be promoted and institutionalisation will be used as a measure of last resort. Constant review of cases to encourage release of children from institutions will be carried out.<sup>485</sup>

849. The JJ (Amendment) Act, 2006, and JJ Rules, 2007, seek to promote child-friendly measures, i.e. any process, interpretation, environment and treatment that is humane, considerate and is in the best interest of the child.<sup>486</sup> JJ Rules, 2007, recommend that juvenile justice proceedings should be conducted in a closed, informal and friendly manner. For instance, the Board shall not sit on a raised platform, and there shall be no witness box. The Board shall address the juvenile in a child-friendly manner in order to put the juvenile at ease and encourage him to state facts and circumstances without fear. Acknowledging the principle of right to be heard, it promotes active involvement of children in all matters and decisions affecting their interest. To protect privacy rights and prevent stigmatisation, the JJ (Amendment) Act, 2006, prohibits media from disclosing the name, address or school or any other particulars, or publishing the picture that may lead to the identification of the juvenile in conflict with law.<sup>487</sup> (See Annexure 8B.2.4 for details on child-friendly practices under the juvenile justice system.)

850. Capacity-building programmes and training manuals for juvenile justice functionaries, focusing on counselling and family support, social re-integration and non-institutional alternatives, have been developed.

#### **8B.2.2.2 Age of Commission of Offence**

851. In conformity to the recommendations of the Committee on the Rights of the Child, the Government repealed the Prevention of Terrorism Act (POTA), 2002, by Prevention of Terrorism (Repeal) Ordinance, 2004 on September 21, 2004.<sup>488</sup>

852. The JJ Act, 2000, and the JJ Rules, 2007, clearly lay down the procedure for determination of age of a child/ juvenile in conflict with law, whenever the claim of juvenility is raised before the court.<sup>489</sup> To deal with the ambiguity in the age of commission of offence by a juvenile, the Supreme Court, in its judgement in *Pratap Singh vs. State of Jharkhand & Anr*<sup>490</sup> stated that the age, when the offence was committed, should be the date for basing charges in case of a juvenile, and not the date of production before the magistrate.

#### **8B.2.2.3 Detention**

853. The JJ Act, 2000, clearly mandates the segregation of children in conflict with law from those in need of care and protection by providing for observation homes and special

<sup>484</sup> Section 14, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>485</sup> 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 213.

<sup>486</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, The Gazette of India: Extraordinary, page 134.

<sup>487</sup> Section 21, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>488</sup> Annual Report (2005-06), Ministry of Home Affairs, GoI, page 32.

<sup>489</sup> Section 49, Juvenile Justice (Care and Protection of Children) Act, 2000, and Juvenile Justice (Care and Protection of Children) Rules, 2007, Gazette of India: Extraordinary, page 143.

<sup>490</sup> *Pratap Singh vs. State of Jharkhand & Anr.*, All India Reporter (AIR) 2005 3SCC 551, Sub folder 'Judgements', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

homes for children in conflict with law and children's homes for children in need of care and protection. Most States have established one or more observation home and special home to cater to the specific needs of children.

854. The NCPCR has reviewed the functioning of the juvenile homes and made recommendations and guidelines for key reforms in the juvenile justice system in the country. The sub-committee constituted by the NCPCR, examining conditions of observation homes and children's homes in the country, has been holding consultations with Government officials, NGOs and staff of children's homes to understand comprehensively the challenges faced by them and key strategies for strengthening the operation of the homes, children's well-being and protection of their rights.<sup>491</sup>

855. In a study conducted by a sub-committee set up by NCPCR on observation homes in nine States in 2007,<sup>492</sup> found that overcrowding, sub-standard food, poor sanitation, absence of water, lack of productive activity and lack of segregation between children in conflict with law and those in need of care and protection were common problems. The sub-committee, in its report, has made comprehensive recommendations on improving the standards of care in institutions across the country.<sup>493</sup>

856. Lack of specialised agencies/institutions with minimum standards of care laid down for licensing have also created problem in the registration of institutions/homes.<sup>494</sup> State Governments are in the process of developing systems to address the issue. (See Annexure 8B.2.5 for details on registration of institutions under the juvenile justice system.) The NCPCR has initiated use of monitoring tool for homes in Maharashtra to self-monitor, with linkages to external monitoring. The programme has components of staff appreciation awards to motivate and recognise the contribution of the institutional staff at various levels, such as cooks, caretakers and superintendents of homes. States of Jharkhand and Uttar Pradesh have taken measures and initiatives to improve the standards of care in children's homes in the best interest of the child. Some civil society initiatives have been taken to ensuring quality standards of care and protection in residential institutions and alternative care settings.<sup>495</sup> (See Annexure 8B.2.6 for details on standards of care in children's homes.)

857. The issues of limited rehabilitation infrastructure and inadequate resources/funds, which have affected the setting up of institutions/homes as mandated under the law, are now being dealt with under the ICPS. The JJ Act, 2000, has provisions that encourage partnership in establishing and running observation homes with voluntary organisations.<sup>496</sup> (See Section 8B.4.4 for details and Annexure 8B.2.7 for details on partnership and collaboration.)

858. The MWCD conducted the Study on Child Abuse: India 2007 in 13 States of the country to proactively collate data on conditions of children in institutions. According to the Study, 56.73% of children in institutions in all the 13 States were subjected to physical

<sup>491</sup> Review of Operations of Observation and Children's Homes, November 2007 to March 2008, and Strengthening Juvenile Justice Nationally, Infocus, National Commission for Protection of Child Rights, February 2008, Vol. I, No. 3, page 9.

<sup>492</sup> Assam, Bihar, Delhi, Maharashtra, Karnataka, Kerala, Tamil Nadu, Uttar Pradesh and West Bengal.

<sup>493</sup> Review of Operations of Observation and Children's Homes, November 2007 to March 2008, page 53.

<sup>494</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Bihar State, 2007, page 92, and India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Orissa State, 2007, page 68.

<sup>495</sup> India Country Report on Violence against Children, Department of Women and Child Development, Ministry of Human Resource Development, GoI, 2005, page 59.

<sup>496</sup> Section 8, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

abuse by staff members of the institutions.<sup>497</sup> The NCPCR has made recommendations for introducing and implementing a comprehensive domestic child abuse policy and legislative framework for preventing abuse, neglect and exploitation of all children.<sup>498</sup>

### **8B.3 The Sentencing of Juveniles, in particular, the Prohibition of Capital Punishment and Life Imprisonment (art. 37 (a))**

859. As per provisions of the JJ Act, 2000, no juvenile in conflict with law shall be sentenced to death or imprisonment for any term, which may extend to imprisonment for life, or committed to prison in default of payment of fine or in default of furnishing security.<sup>499</sup>

### **8B.4 Physical and Psychological Recovery and Social Re-integration (art. 39)**

#### **8B.4.1 Status and Trends**

860. According to Crime in India, 32,000 children are apprehended and produced before the courts every year. The courts issue order for rehabilitation and social-reintegration of these children by exercising the options available under the JJ Act, 2000. (See Section 8B.2.1 for details.)

#### **8B.4.2 Policy and Legislation**

861. The NPAC, 2005, emphasises rehabilitation of juvenile offenders in a child-friendly environment by utilising the network of institutional and non-institutional facilities, and ensures holistic social re-integration through partnership with allied services.

862. The JJ (Amendment) Act, 2006, and JJ Rules, 2007, provide for effective provisions and various alternatives for care, protection, rehabilitation and social re-integration of delinquent juveniles. They provide for institutional as well as non-institutional rehabilitative options, and mechanisms for review and monitoring of implementation of standards and protection norms in institutional care.

863. The JJ Rules, 2007, provide for medical care, counselling and preparation of 'individual care plan' for comprehensive development of children/juveniles in conflict with law by addressing the health needs, and emotional and psychological needs, besides educational, recreational and protection needs. They also provide for free legal services to all juveniles in conflict with law by the legal officer in the District Child Protection Unit.<sup>500</sup>

864. The JJ (Amendment) Act, 2006, prescribes punishment to any person in charge or control of the child for inflicting cruelty that may cause such child mental or physical suffering.<sup>501</sup>

865. The CPCR Act, 2005, lays down provisions for monitoring of rehabilitative premises.

<sup>497</sup> Study on Child Abuse, India 2007, Ministry of Women and Child Development, GoI, page 55.

<sup>498</sup> Key Recommendations and Guidelines for Reform in Juvenile Justice System, National Commission for Protection of Child Rights, April 2009, page 10.

<sup>499</sup> Section 16 (1), Juvenile Justice (Care and Protection of Children) Act, 2000, and Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>500</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, Gazette of India: Extraordinary, pp. 134-135, 146.

<sup>501</sup> Section 23, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

### 8B.4.3 Programmes

866. The Programme for Juvenile Justice, a Centrally Sponsored Scheme, provides for establishment and maintenance of various levels of institutions for the rehabilitation of juveniles in conflict with law and children in need of care and protection, and services for preventing children from coming into conflict with law.

867. Under the ICPS, all the existing programmes for children in need of care and protection and children in conflict with law, including the Programme for Juvenile Justice, have been merged. The ICPS has provisions that focus on rehabilitation of children in conflict with law based on institutionalisation as the last resort. Enhanced budget provision has been made for building of institutions and services, including construction cost, to strengthen the rehabilitative services. (See Section 1.5.1 for details.)

#### 8B.4.3.1 Institutional Rehabilitation

868. At present, 794 homes established under the JJ Act, 2000, for juveniles in conflict with law, as well as children in need of care and protection, which cater to 46,957 children (as of December 3, 2008), are being assisted under the Programme for Juvenile Justice.<sup>502</sup> Table 8.1 provides an overview of institutional care services since 2002-03.

Table 8.1

#### **Institutional care services**

<i>Year</i>	<i>Facilities</i>	<i>Beneficiaries</i>
2007-08	794 homes	46,957 children
2006-07	711 homes	39,962 children
2005-06	675 homes	38,359 children
2004-05	593 homes	40,739 children
2003-04	623 homes	38,749 children
2002-03	625 homes	38,821 children

*Source:* Schemes being Implemented for Children, Ministry of Women and Child Development, March 2008.

869. The JJ Act, 2000, empowers the State Governments and local authorities to provide various types of services, such as creation of funds for the welfare, rehabilitation and re-socialisation of the juvenile through voluntary donations, and contributions or subscriptions made by an individual or organisation. Such funds are to be administered by the State Advisory Boards.<sup>503</sup> Several States, such as Bihar, Chhattisgarh, Delhi, Maharashtra and Madhya Pradesh, have set up welfare funds and societies to support education and technical qualification for the rehabilitation of children in institutions, including special homes.<sup>504</sup> However, there is need to create adequate facilities and involve more human resources for

<sup>502</sup> Schemes being implemented for Children, Ministry of Women and Child Development, GoI, March 2008.

<sup>503</sup> Section 8, 9 & 61, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>504</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Chhattisgarh State, page 28, India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Bihar State, 2007, page 93, India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Maharashtra State, 2007, page 6, and India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Madhya Pradesh State, 2007, page 99.

catering to the various needs of children, including counselling, education and vocational training.<sup>505</sup> (See Annexure 8B.4.1 for details on State initiative to promote rehabilitation.)

#### 8B.4.3.2 Non-Institutional Rehabilitation

870. According to the JJ Act, 2000, the JJB may allow a juvenile to go home after taking into consideration the findings of the social investigation report on the juvenile through a probation officer or a recognised voluntary organisation, and counselling of parent/guardian and the juvenile. Some NGOs conduct family assessment on willingness/suitability but there is a gap in re-integration assistance for survivors. Children are sometimes returned to their families without a comprehensive pre-reunification assessment.

871. The JJ Act, 2000, recommends initiation of rehabilitation and social re-integration of children in conflict with law during their stay in special homes through non-institutional alternative care services.<sup>506</sup> The NCPCR, in its report 'Key Recommendations and Guidelines for Reform in the Juvenile Justice System', submitted to the Government in April 2009, has made specific recommendations for remedial measures towards creating child-friendly protective services and promoting non-institutional services on a larger scale so that children can live with families, if required, with sponsorship aid or be referred for adoption or foster care.<sup>507</sup> To ensure stable and durable placement for children without parental care and appropriate reunification processes of children returning to parental care, it has recommended strengthening of non-institutional and alternate care, and procedural reform in the placement processes.<sup>508</sup> Following the recommendation of the NCPCR, the Government of National Capital Territory of Delhi, Department of Women and Child Development (DWCD) is implementing a Pilot Project on 'Action Research on Progressive Approaches to Non-Institutional Care' within the legal framework of the JJ Act, 2000.<sup>509</sup>

872. The sponsorships programme under the JJ Act, 2000, has provisions for supplementary support to special homes to meet medical, nutritional, educational and other needs of children for improving their quality of life.<sup>510</sup> NGOs offer financial and other support services to families in distress to prevent abandonment and institutionalisation of children, and ensure their development in a family environment. However, no data is available on the number of children/juveniles in conflict with law receiving assistance and NGOs providing such assistance.<sup>511</sup> The recently-launched ICPS will provide systemic support structures to promote adoption, foster care and sponsorship.

873. The JJ Act, 2000, has provisions for after-care programmes to assist in successful social re-integration of juveniles leaving special homes, by preparing them to sustain during the transition from institutional to independent life. The guiding principles and the community-based after-care services for achieving this objective however is not laid down

<sup>505</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Bihar State, 2007, page 106.

<sup>506</sup> Section 40, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>507</sup> Review of Operations of Observation and Children's Homes, National Commission for Protection of Child Rights Sub-Committee Report, November 2007 to March 2008, pp. 80-81.

<sup>508</sup> Key Recommendations & Guidelines for Reform in the Juvenile Justice System, National Commission for Protection of Child Rights, GoI, April 2009, page 15.

<sup>509</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Commission for Protection of Child Rights, GoI, October 2009.

<sup>510</sup> Section 43, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>511</sup> Sub-Group Report on Child Protection for the 11th Five Year Plan (2007-12), Ministry of Women and Child Development, GoI, page 57.

in the Act. Therefore the after-care homes often function with an institutional approach.<sup>512</sup> The provision of additional three-year period in after-care needs to be reviewed and alternatives found.

#### 8B.4.4 Partnership and Collaboration

874. The JJ (Amendment) Act, 2006, JJ Rules, 2007 and ICPS promote partnership with voluntary organisations in establishment and running of homes/institutions, and protection and *development* of children. This partnership approach has received encouragement by the Government and has shown considerable success in different parts of the country, especially in Delhi, Karnataka, Maharashtra and Tamil Nadu. It has helped improve the quality and range of services being provided to children in observation homes and special homes.<sup>513</sup> In Orissa, out of 15 observation homes, 12 are being run by NGOs and two are being run by the State Government.<sup>514</sup>

875. There have been notable initiatives to encourage rehabilitation of children in conflict with law by the State Governments. The Juvenile Justice Forum, established in Karnataka, holds meetings of all relevant agencies, including DWCD, JJBs, CWCs, police and NGOs, to share information, make joint plans and to coordinate local juvenile justice reform initiatives.<sup>515</sup> In Jharkhand, collaboration between judiciary, executive and local community has helped improve lives of children in special institutions.

876. Technical assistance in the implementation of juvenile justice in the country is being provided by UNICEF and the United Nations Office on Drugs and Crime (UNODC). For instance, in West Bengal, web-enabled missing-children tracking system has been developed with the support of UNICEF. UNODC has provided funds for training of police officers on the JJ Act, 2000 in West Bengal.<sup>516</sup> UNICEF has provided support in capacity-building and training of counsellors placed in institutions in Bihar.<sup>517</sup>

877. United Nations agencies were also a part of the process for identifying the inputs required for the formulation of the JJ (Amendment) Act, 2006, JJ Rules, 2007, and in preparation of minimum standards guidelines.

### 8B.5 Challenges

878. The MWCD is committed to its mandate of child protection. It has formulated the JJ (Amendment) Act, 2006, and JJ Rules, 2007, which have provisions to address the above issues and respond to the care, protection and rehabilitation needs of children. States have initiated the process of creating the necessary administrative mechanisms for effective implementation of the JJ (Amendment) Act, 2006. (See Section 8B.1.2 for details.) The ICPS aims to create a safe and secure environment for children in the country, with

<sup>512</sup> Juvenile Justice in South Asia, Improving Protection for Children in Conflict with the Law, UNICEF, 2006, page 69.

<sup>513</sup> Juvenile Justice in South Asia, Improving Protection for Children in Conflict with the Law, UNICEF, 2006, page 68.

<sup>514</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Orissa State, 2007, page 1.

<sup>515</sup> Juvenile Justice in South Asia, Improving Protection for Children in Conflict with the Law, UNICEF, 2006, page 70.

<sup>516</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of West Bengal State, October 2007, page 17.

<sup>517</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Bihar State, 2007, page 6.



emphasis on non-institutional family-based care and convergence of services of various sectors.

879. Recent Government initiatives have contributed in developing a progressive juvenile justice system. To strengthen the juvenile justice system in the country, the Government will be focusing on the following issues:

- Creation of a protective environment to prevent children from getting into various situations of destitution and conflict with law.
- Setting up adequate decentralised administrative mechanisms, as mandated under the JJ Act, 2000, supported by strong monitoring and evaluation.
- Establishing quality infrastructure and institutional care systems adhering to minimum standards, and supervision and commitment.
- Setting up a single window mechanism and method of accreditation for registration of institutions/homes.
- Capacity-building of manpower at every level of implementation, including the law-enforcement agencies, such as judiciary, police, and healthcare professionals.
- Setting up children's courts and resources along with access to legal aid to children to deal with long-pending cases.
- Expanding the non-custodial rehabilitative care options for de-institutionalisation of children.
- Model probationary programme to effectively respond to the increasing number of children in conflict with law.
- Effective provision for review and re-consideration of the child's placement in institutions at regular intervals.
- Data collection and information on the number of children in institutions, who could be placed in alternative family care.
- Adequate facilities, especially counselling services and vocational skills training to strengthen physical and psychological re-integration.
- Creation of new options and strengthening existing initiatives for the rehabilitation of children in institutions.

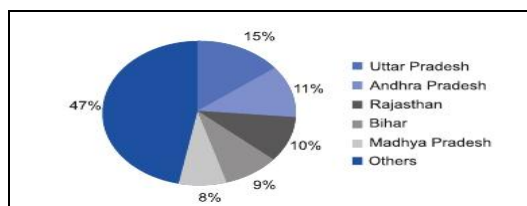
## **8C. Children in Situations of Exploitation, including Physical and Psychological Recovery and Social Re-integration (art. 39)**

### **8C.1 Economic Exploitation, including Child Labour (art. 32)**

#### **8C.1.1 Status and Trends**

880. The Government of India has taken proactive measures to tackle the problem of child labour through strict enforcement of legislative provisions, along with simultaneous rehabilitative measures. More than half of the child labour was distributed in five States of the country. (See Figure 8.2.) These were mostly States with higher levels of poverty and lower levels of literacy, compared to the National average.

Figure 8.2  
Percentage of child labour in States and UTs



Source: Census 2001.

881. The classification of occupations in the Census data is not directly comparable with the occupations listed as hazardous under the Child Labour (Prohibition and Regulation) Act, 1986; however, tentative segregation into hazardous and non-hazardous occupations has been undertaken for a broad estimation of children working in different occupations.<sup>518</sup>

882. Compared to the Census 2001 data, the 61st round of National Sample Survey Organisation (NSSO) data, 2004-05, reported that there were 9.07 million working persons of 5-14 age group. While the Census is conducted during the beginning of every decade, the NSSO collects data twice in each decade. The 61st round of NSSO data (2004-05) shows

Source: Census 2001. a declining trend in the magnitude of child labour, compared to previous round (10.13 million in the 55nd round, 1999-00).<sup>519</sup> The NSSO will be conducting a survey on child labour in its 66th round.<sup>520</sup>

883. According to the National Family Health Survey-3 (NFHS-3), nearly one in every eight (12%) children aged 5-14 years worked either for their own household or for somebody else.<sup>521</sup> The Survey also revealed that the percentage of children aged 5-14 years, who worked in the seven days preceding the Survey, varied from 5% or less in Chhattisgarh, Himachal Pradesh, Mizoram, Goa and Kerala, to 20% in Rajasthan and Arunachal Pradesh, and 32% in Gujarat. One in five children in Gujarat is engaged in unpaid work for a non-household member, whereas in Rajasthan and Arunachal Pradesh, a larger proportion of working children are engaged in family work.<sup>522</sup>

884. The issue of bonded child labour has been a subject of concern for Government. As a result of concerted efforts made through various anti-poverty programmes, awareness and sensitisation campaigns etc, the incidence of bonded labour in several States has witnessed a downward trend.<sup>523</sup> (See Annexure 8C.1.1 for details on incidence of bonded labour.)

### 8C.1.2 Policy and Legislation

885. The NPAC, 2005, speaks of moving progressively towards the complete eradication of child labour.

<sup>518</sup> Report of the Working Group on Child Labour for the 11th Five Year Plan (2007-12), Planning Commission, GoI, 2006, page 5.

<sup>519</sup> Magnitude of Child Labour in India, An Analysis of Official Sources of Data (Draft), National Commission for Protection of Child Rights, page 12.

<sup>520</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Labour and Employment, GoI, September 2009, page 2.

<sup>521</sup> National Family Health Survey-3 (2005-06), Ministry of Health and Family Welfare, Vol. 1, GoI, 2007, pp. 47-51.

<sup>522</sup> National Family Health Survey-3 (2005-06), Ministry of Health and Family Welfare, GoI, 2007, pp. 50-51.

<sup>523</sup> Annual Report (2007-08), Ministry of Labour and Employment, GoI, 2008, page 80.

886. The National Policy on Urban Street Vendors, 2004, is being revised by the Ministry of Housing and Urban Poverty Alleviation to prevent vending by minor children, in conformity with the Child Labour (Prohibition and Regulation) Act, 1986.

887. The Ministry of Labour and Employment (MoL&E) issued notices in 2006 and 2008, expanding the list of banned processes and occupations. (See Section 1.4.2 for details and Annexure 8C1.2 for details on processes and occupations banned under the Child Labour (Prohibition and Regulation) Act, 1986.)

888. The MoL&E issued a Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Migrant and Trafficked Children for Labour for implementation by various stakeholders.<sup>524</sup>

889. The NCPCR submitted a Policy Document on Abolition of Child Labour and Making Education a Reality for Every Child, along with the recommendations for amending the Child Labour (Prohibition and Regulation) Act, 1986 to the Ministry of Women and Child Development, Ministry of Labour and Employment, Ministry of Human Resource Development (MHRD), Ministry of Social Justice and Empowerment and Ministry of Law and Justice.<sup>525</sup>

890. The Child Labour (Prohibition and Regulation) Act, 1986, prohibits employment of children up to 14 years. The JJ (Amendment) Act, 2006, has been enacted to provide care, protection, development and rehabilitation to the neglected and delinquent children below 18 years. Section 2 (d) (ia) of the JJ (Amendment) Act, 2006, includes 'working children' within the definition of a 'child in need of care and protection'. To address the difference in the definition of child in the two Acts, the MWCD has been taking initiatives to raise the age of children under the Child Labour (Prohibition and Regulation) Act, 1986 and bring it in conformity with the JJ Act, 2000. The NCPCR has also given recommendation for raising the age of children under the Child Labour (Prohibition and Regulation) Act, 1986.

891. Section 26 of the JJ Act, 2000, holds a person liable for imprisonment for procuring and employing a child in any hazardous employment or using the child's earning for his own purpose.

892. As regards the ILO Convention No. 138 and 182, the Government accepts the spirit of the Convention but has not ratified these on account of minimum age for employment as 18 years. Given the existing socio-economic condition, it is difficult to prohibit employment of children in all walks of life; hence, the Government has kept 14 years as the age of employment in hazardous work.<sup>526</sup> The Government of India has maintained that the time is not ripe enough to ratify these ILO Conventions, since ratification without implementation will not do justice to the letter and spirit of these Conventions.<sup>527</sup>

### 8C.1.3 Programmes

893. The Government is implementing National Child Labour Project (NCLP) for the rehabilitation of child labour. Project societies at the District level are fully funded for opening up of special schools/rehabilitation centres for the rehabilitation of child labour.

<sup>524</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Labour and Employment, GoI, September 2009, page 3.

<sup>525</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Commission for Protection of Child Rights, GoI, October 2009.

<sup>526</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Labour and Employment, GoI, April 2008, page 4.

<sup>527</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Labour and Employment, GoI, September 2009, page 1.

As on date, the NCLP is in operation in 271 Districts, with about 10,000 special schools with a sanctioned enrolment strength of over 0.5 million.<sup>528</sup> These special schools impart non-formal/formal education, vocational training, etc. to children withdrawn from employment, so as to prepare them to join mainstream education system.<sup>529</sup>

894. In addition, the Government has implemented projects supported by United Nations agencies and ILO for elimination of child labour. INDUS Project, jointly funded by the Government of India and the US, was implemented in 21 Districts of Uttar Pradesh, Madhya Pradesh, Tamil Nadu, Maharashtra and Delhi. This Project, with additional features of vocational training programme for adolescents, convergence with Education Department, etc. over the NCLP, concluded on March 31, 2009. In addition, the MoL&E, along with ILO, implemented two more child labour projects, one in the State of Karnataka, funded by the Government of Italy and another one in Andhra Pradesh, funded by Department for International Development (DFID). The Project in Andhra Pradesh concluded on September 31, 2009. Evaluations of NCLP and INDUS Project have been conducted by National Labour Institute and ILO respectively and the final reports are awaited.<sup>530</sup> Another project on convergence with funding from the Department of Labour, Government of USA, has been approved in 10 Districts in five States on a pilot basis. UNICEF, in cooperation with the MoL&E, MWCD and MHRD has also started a programme, specifically for promoting educational rights of children in 13 Districts in the 'cotton areas' of Gujarat, Rajasthan, Maharashtra and Tamil Nadu.<sup>531</sup>

895. The Grant-in-Aid Scheme of the MoL&E provides financial assistance to NGOs for elimination of child labour in Districts not covered by NCLP. Under the Scheme, voluntary agencies are given financial assistance on the recommendation of the State Government to the extent of 75% of the project cost for the rehabilitation of working children.

896. The Scheme for Welfare of Working Children in Need of Care and Protection being implemented by the MWCD since 2004-05, lends support to projects in urban areas not covered by existing schemes of the MoL&E. It provides support for the wholesome development of child workers and potential child workers, especially those with none or ineffective family support, such as children of slum/pavement dwellers/drug addicts, children living on railway platforms/along railway lines, children working in shops, *dhabas*, mechanic shops etc, children engaged as domestic workers, children whose parents are in jail, etc. The components of the Scheme are: (a) facilitating introduction to/return to the mainstream education system, as children at study are not children at work; (b) counselling of parents, heads of families and relatives of the targeted children so as to prevent their exploitation; and (c) giving vocational training wherever necessary. NGOs are eligible for financial assistance and can set up composite centres under this scheme. The Ministry provides 90% financial assistance, and the concerned organisation has to bear 10% expenditure of the project as per the norms of the Scheme.

897. Childline addresses the needs of vulnerable children, including children living alone on urban streets and child labourers, especially in the unorganised sector. Over the last three years Childline has sharpened its focus on the issue of child labour. The learning has

<sup>528</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Labour and Employment, GoI, September 2009, page 3.

<sup>529</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Labour and Employment, GoI, April 2008, page 3.

<sup>530</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Labour and Employment, GoI, April 2008, page 4.

<sup>531</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Labour and Employment, GoI, September 2009, page 3.

been that mere rescue and rehabilitation of children without prosecution of traffickers and employers of child labourers renders interventions incomplete. Positive court judgements serve as powerful advocacy tools for effecting policy change and eliciting action from Government systems. In accordance with this, Childline has initiated legal intervention programmes in West Bengal, Orissa and Delhi. Currently, Childline has one case in appeal in the Supreme Court, one intervention appeal in Supreme Court, three writ petitions in Orissa High Court and one Public Interest Litigation (PIL) in Kolkata High Court.<sup>532</sup> The Childline will be extended to the entire country under the ICPS.

898. Efforts to eliminate child labour are strengthened by linking them with Sarva Shiksha Abhiyan (SSA) of the MHRD. As part of this, child workers in the 5-8 age group are being directly mainstreamed through formal schools. The Alternative and Innovative Education (AIE) component provides education to older age group (11-14 years) and covers children in difficult circumstances, including working children. To address the issue of seasonal migration, SSA encourages identification of Districts, blocks and villages with high incidence of migration, and focuses on bringing such children to regular schools. It also explores alternatives such as seasonal hostels, worksite schools, residential and non-residential bridge courses, etc.<sup>533</sup>

899. The NCPCR submitted an Action Plan for Abolition of Child Labour in Delhi, which has been accepted by the High Court of Delhi with some modifications vide its Order dated July 15, 2009, in the case *Save the Childhood Foundation vs. Government of National Capital Territory of Delhi & Ors*.<sup>534</sup> The relevant departments/authorities of Government of Delhi, Municipal Corporation of Delhi, Delhi Police and the concerned State Governments have been directed to implement this Action Plan.

#### 8C.1.4 Coordination

900. The Government is following a multi-pronged strategy to tackle the problem of child labour. Educational rehabilitation of these children has to be supplemented with economic rehabilitation of their families so that economic circumstances do not compel the families to send their children to work.

901. The Ministry of Labour and Employment is taking proactive measures towards convergence between the schemes of different Ministries, such as Ministry of Human Resource Development, Ministry of Women and Child Development, Ministry of Housing and Urban Poverty Alleviation (MoHUPA), Ministry of Rural Development (MoRD), Ministry of Panchayati Raj (MoPR), etc., so that child labour and their families get covered under the benefits of the schemes of these Ministries also. The MoL&E has formed a Working Group on convergence-based models, with representatives from Ministries, State Governments, ILO, etc. Ten Districts in five States — Delhi, Bihar, Orissa, Madhya Pradesh and Gujarat — have been identified for implementation of the convergence-based models as a pilot, which would later be replicated in other Districts.<sup>535</sup>

902. The MoL&E and MWCD have been partnering with civil society towards elimination of child labour. Most of the special schools run under the NCLP are being run by NGOs. Under the Grant-in-Aid Scheme, more than 100 NGOs are running special

<sup>532</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Childline India Foundation, September 2009, page 4.

<sup>533</sup> Annual Report (2007-08), Ministry of Human Resource Development, GoI, page 23.

<sup>534</sup> *Save the Childhood Foundation vs. Government of National Capital Territory of Delhi & Ors.*, AIR 2005 SC 2731, Sub folder 'Judgements', India: Third and Fourth Combined Periodic Report on the CRC Attachments.

<sup>535</sup> Annual Report (2007-08), Ministry of Labour and Employment, GoI, page 94.

schools for children withdrawn from work. Moreover, the Central Advisory Board on Child Labour consists of members representing employers, employees, NGOs and other experts in this field. NGOs were also involved in developing the Protocol for the Rescue, Repatriation and Rehabilitation of the Migrant Child Labour.

### 8C.1.5 Monitoring

903. Under the Child Labour (Prohibition and Regulation) Act, 1986, between 1997-98 and 2005-06, about 0.26 million inspections were carried out, around 0.61 million violations were detected, 67,691 prosecutions launched and 25,588 convictions obtained. These enforcement measures have also created awareness among employers against employment of children in their respective units.<sup>536</sup>

904. The Union and State Government officials inspect the various activities of the special schools under the NCLP/INDUS Project from time to time.

905. There has been significant improvement in inspections conducted, violations detected and prosecutions launched between the period 2001-02 and 2006-07. (See Annexure 8C.1.3 for details on inspections conducted, violations detected, prosecutions launched, convictions and acquittals under the Child Labour (Prohibition and Regulation) Act, 1986.)

906. Monitoring mechanism on implementation of the provisions of the Act and other child labour-related policies exist in the form of the Central Monitoring Committee (CMC) on Child Labour, which has State Labour Secretaries as members and representatives of ILO as special invitees.<sup>537</sup> The CMC, under the chairpersonship of the Union Secretary for Labour, meets from time to time to assess the enforcement of the Act, and also implementation of NCLP in the country. After analysing the position of implementation of the policies and programmes, the CMC has given some recommendations to the State Governments, which are currently being examined.<sup>538</sup>

907. The MoL&E set up a Working Group on Tracking and Monitoring of Child Labour to recommend an appropriate tracking and monitoring system for child labour under NCLP. Important recommendations of the Working Group include:<sup>539</sup>

- (i) Developing a model Child Profile Card;
- (ii) Tracking of 9-14-year-old children by instructors/teachers of the special schools and for children in the age group of 5-8 years by Education Departments;
- (iii) Initiating tracking of children from the time of their enrolment in special schools till two years after their mainstreaming;
- (iv) Quarterly updating of data;
- (v) Ensuring accuracy and reliability of data, and validation of child-wise tracking information by Panchayati Raj Institutions (PRIs);
- (vi) Allocation of additional funds to each NCLP District for purchase of computers and re-training of officials accordingly;

<sup>536</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Labour and Employment, GoI, April 2008, page 5.

<sup>537</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Labour and Employment, September 2009, page 1.

<sup>538</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Labour and Employment, April 2008, page 6.

<sup>539</sup> Annual Report (2007-08), Ministry of Labour and Employment, GoI, page 94.

## (vii) Using the system for project management.

908. The monitoring of the Child Labour (Prohibition and Regulation) Act, 1986, is also done at the highest level. The Supreme Court of India has issued various directions from time to time for elimination of child labour. The MoL&E monitors the implementation of these directions on the basis of information received from the States/UTs.<sup>540</sup>

909. The NCPCR monitors enforcement of child rights, and also monitors effective implementation of laws and programmes related to children. (See Section 1.1 for details.) The Commission has taken various initiatives to check child labour, which includes issuing guidelines, conducting studies, public hearings, etc. The Commission has asked the State Governments to take immediate steps to check child labour and rehabilitate rescued children, and to evolve a code of conduct for employees of all public sector institutions, Government undertakings, Government-funded institutions and Government offices for not engaging children as domestic workers or encouraging child labour in any form at their workplaces. In a communication sent to the Chief Secretaries of the States and copies to the District Collectors, the Chairperson of NCPCR has urged the States to take strict action against employers of children and issue strict warning to all the potential employers.

910. The NCPCR has written to the chief secretaries of all the States in June 2008, asking them to set up a Task Force to track child labour. The NCPCR has asked District authorities to put in place a system of 'social audit' through a Task Force to ensure that children are not employed in the processes and occupations listed in the Child Labour (Prohibition and Regulation) Act, 1986, to strengthen the enforcement of law.<sup>541</sup>

911. The Commission has taken initiative to work for children, who are migrant child labour and victims of trafficking in Rajasthan, Gujarat and Andhra Pradesh. It has made specific recommendations for the removal/abolition of child labour working in BT Cotton seeds in Kurnool and Mehboobnagar in Andhra Pradesh, and Banaskantha, Sabarkantha and Mehsana in Gujarat from Dungarpur in Rajasthan.<sup>542</sup>

912. The NCPCR has also urged the Export Promotion Councils to monitor prevention of child labour in their manufacturing units in the same manner, as it monitors quality of manufactured goods. In a letter written in June 2008 to the chairpersons of all the 22 Export Councils under the Department of Commerce and the MoL&E, NCPCR has recommended formulation of self-regulatory mechanisms to ensure abolition of child labour in manufacture on the lines adopted by some leading international carpet and garment exporters.<sup>543</sup>

913. The NHRC observes that children in the age group of 6-14 years should be in schools and should not be working for livelihood and that there should be stricter enforcement of protective provisions of law. The Commission regularly monitors the measures towards elimination of practice of child labour and bonded labour in hazardous work through its Special Rapporteurs and issues directions for compensation as well as penal action. The Commission has been making State-wise status reviews on this issue since 2000. During 2005-2006, two reviews were carried out for the State of Uttar Pradesh, focusing on the Districts of carpet-weaving belt. During 2006-2007, it focused attention on the States of Andhra Pradesh, Tamil Nadu, Haryana, Orissa, Madhya Pradesh and

<sup>540</sup> Annual Report (2007-08), Ministry of Labour and Employment, GoI, page 97.

<sup>541</sup> National Commission for Protection of Child Rights letter dated June 24, 2008, D.O.No. CP/NCPCR/Child Labour Task Force/2008.

<sup>542</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Commission for Protection of Child Rights, GoI, October 2009.

<sup>543</sup> Infocus, National Commission for Protection of Child Rights, Vol. I, No.5, August 2008, page 12.

Rajasthan, while in 2007-2008, it made visits to the States of Karnataka, Orissa, Jharkhand, Punjab and Chhattisgarh to review the situation and put an end to the problem of child labour.<sup>544</sup>

914. In West Bengal, three inspection teams were sent on the day the MoL&E issued a circular on prohibition of child labour in the domestic sector and hospitality industry. In the course of inspection, 15 cases of child labour were detected and show-cause notices issued to employers.

#### **8C.1.6 Awareness Generation**

915. Addressing child labour is a concern for Government of India. Advertisements at regular intervals are released by the MoL&E in order to generate awareness about evils of child labour. A nation-wide enforcement and awareness drive was launched for a fortnight from November 14, 2007. During this period, advertisements were released in various national and regional dailies, and television spots were telecast on various channels to create awareness on child labour. The State Governments are also provided funds for creating public awareness. Besides, the Government of India provides funds under NCLP to the Districts for awareness generation.<sup>545</sup> Regional workshops on migration of children were held by MoL&E in 2007 to deliberate upon the problems faced by States.

916. The NCPCR has been conducting national consultations on the right to education and abolition of child labour. It has also held public hearings in the States of Jharkhand, Bihar, Gujarat, Rajasthan, Assam, Tripura, Chhattisgarh and Madhya Pradesh. The issues discussed in the meetings are being taken up with State Governments.

917. The NCPCR, in collaboration with ILO and UNICEF, organised a conference on June 12, 2008 (the Elimination of Child Labour Day), to reiterate that education is the right of every child and to emphasise that access to education is the only strategy to address the problem of child labour.

918. Some of the State experiences reveal that better enforcement and awareness generation has shown good results. For example, the Chief Minister of Himachal Pradesh issued directions to top officials of the Departments of Labour, Women and Child Development, Education, etc, to implement the Child Labour (Prohibition and Regulation) Act, 1986, in letter and spirit. As a result, the number of inspections conducted increased from 1,096 in 2004-05 to 2,301 in 2006-07. In Kerala, which is presently a child-labour-free State, 7,867 inspections were conducted between 2004 and 2008, 18 children identified, 11 sent back to their families, three placed in shelter homes and four mainstreamed in regular schools. The Government of Maharashtra set up a Task Force on Child Labour in every District of the State to spread awareness on the issue and effectively monitor implementation of the Act. To create awareness, the matter was widely publicised in Bihar, where children took centre-stage at an awareness campaign against child labour, forming human chains and taking pledges after morning school prayers. The number of prosecutions filed in the State between the periods 2004-05 to 2006-07 increased from 274 to 301. Bihar is the only State which has set up an independent Commission on Child Labour.

919. The Bihar Government's scheme of appointing community education volunteers has shown positive results in improving children's participation and retention in schools. Under

<sup>544</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Human Rights Commission, January 2010, page 5.

<sup>545</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Ministry of Labour and Employment, GoI, April 2008, page 7.



the scheme, apart from engaging the child in positive activities after school hours, the child is prevented from being engaged in work.<sup>546</sup>

920. The State of Orissa has come out with innovative awareness strategies, such as involving PRIs for spreading awareness at the grassroots level, placing stickers against child labour on all commercial vehicles in the State, telephone voice warning on child labour through various service providers, such as Bharat Sanchar Nigam Limited (BSNL), AIRCEL, AIRTEL, Reliance, TATA Indicom telephones, etc.<sup>547</sup>

921. Nehru Yuva Kendra Sangathan (NYKS), an autonomous body of the Ministry of Youth Affairs and Sports (MoYAS) along with Save the Children, undertook 'Youth for Combating Child Domestic Work' project in 58 Districts of four States of Bihar, Madhya Pradesh, Chhattisgarh and Orissa in 2004-05. The objectives of the project included sensitising the community about the hazards associated with child migration; generating awareness on child domestic work as exploitative; and educating the communities about the violation of child rights and the entitlements for such children under various development programmes.<sup>548</sup>

### 8C.1.7 Capacity Building

922. V.V. Giri National Labour Institute is the nodal agency of the MoL&E for conducting training programmes for labour enforcement officers, labour inspectors, trade union leaders, members of employers' organisations and NGOs through financial assistance from the regional office of the ILO, New Delhi. The training programmes conducted during the periods 2004-05 and 2005-06 focussed mostly on NCLP. A few training programmes were conducted for sensitising teachers of special schools under NCLP. During 2006-07 and 2007-08, the focus of training was on the officials of the Social Welfare Department, staff and teachers of NCLP, members of employers' organisations, and trade union leaders. These training programmes have been extremely effective in sensitising stakeholders on child labour and have resulted in greater awareness on the related legislative and policy aspects.<sup>549</sup> The Central Board of Workers Education also provides training to enforcement officials, NGOs and persons connected with NCLP.

923. The V.V. Giri National Labour Institute also held a workshop to sensitise the officials of various State Governments on implementation of Protocol on prevention, rescue, repatriation and rehabilitation of migrant and trafficked children for labour.<sup>550</sup>

924. The Ministry of Women and Child Development, in collaboration with the Ministry of Home Affairs (MHA) and UNODC, conducted intensive training of law enforcement officers, including police and prosecutors, on human trafficking, which included comprehensive information on the issue of child labour. (See Section 8C.5.9 for details.)

925. Specialised training on international strategies to tackle issue of migrant and trafficked child labour was organised by ILO at its International Training Centre at Turin, Italy from January 28 to February 1, 2008.<sup>551</sup> Representatives from MoL&E, MWCD, MHRD, V.V. Giri National Labour Institute, NHRC, etc. participated in this training.

<sup>546</sup> Infocus, National Commission for Protection of Child Rights, Vol. I, No. 5, August 2008, page 3.

<sup>547</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Orissa State, 2007, page 62.

<sup>548</sup> Annual Report (2007-08), Ministry of Youth Affairs and Sports, GoI, page 42.

<sup>549</sup> V.V. Giri National Labour Institute, <http://www.vvgnli.org/>

<sup>550</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Labour and Employment, GoI, September 2009, page 3.

<sup>551</sup> Annual Report (2007-08), Ministry of Labour and Employment, GoI, page 95.

### 8C.1.8 Resources

926. The year-wise break up of allocation and expenditure under the NCLP and INDUS Project of MoL&E and the Scheme for Welfare of Working Children of MWCD during 2002-08 shows a significant increase, as depicted in Table 8.2.

### 8C.1.9 Challenges

927. The Government of India is implementing several programmes such as NCLP, Scheme for Welfare of Working Children in Need of Care and Protection, Childline and projects in collaboration with United Nations agencies. The MoL&E has undertaken steps for eliminating child labour through effective implementation of NCLP and convergence with SSA programme. The Government is now focusing on implementing the Right of Children to Free and Compulsory Education Act, 2009, under which it is the duty of every parent to admit his or her child to elementary education in neighbourhood school.

928. The NCPCR has taken initiative to address the issue of child labour and bring out-of-school children into the fold of education. It has held consultations and public hearings on the right to education and abolition of child labour.

929. The Government of India remains committed to eliminating child labour in the country and is focusing on the following priority issues:

- Withdrawal of children working in the informal/unorganised sector.
- Provision of alternative rehabilitative options for children withdrawn from work and economic rehabilitation of their families.
- Enhancing resources for rehabilitation and setting up of minimum standards for rescue and rehabilitation.
- Sensitising law enforcement agencies and generating awareness among people.
- Strict enforcement of provisions of child labour law, and prosecution and conviction of offenders.
- Strengthening inter-ministerial convergence on elimination of child labour.

Table 8.2

#### Budget estimate and actual expenditure under NCLP and INDUS Project

Year	NCLP (250 districts)		INDUS (21 districts)		Scheme for Welfare of Working Children	
	Budget estimate (Rs in Millions)	Actual expenditure (Rs in Millions)	Budget estimate (Rs in Millions)	Actual expenditure (Rs in Millions)	Budget estimate (Rs in Millions)	Actual expenditure (Rs in Millions)
2002-03	700.00	651.0	100.00	Nil	-	-
2003-04	673.80	667.77	50.00	05.70	-	-
2004-05	870.00	830.90	100.00	100.00	10.00	0.70
2005-06	1,013.00	1,007.77	250.00	127.40	20.00	11.20
2006-07	1,050.00	1,093.60	250.00	108.10	30.00	27.70
2007-08	1,430.00	1,418.00	300.00	129.90	70.00	60.10

Source: India: Third and Fourth Combined Periodic Report on the Convention draft, Response of Ministry of Labour and Employment, April 2008, page 9, and Ministry of Women and Child Development, GoI.

## 8C.2 Drug Abuse (art. 33)

### 8C.2.1 Status and Trends

930. The National Survey on the Extent, Trends and Pattern of Drug Abuse in the Country, conducted by MSJ&E in 2004 in collaboration with the UNODC, indicated that there were 73.2 million drug users in the country and the major drugs of abuse were alcohol, cannabis, opium and heroin. A report by the Ministry of Health and Family Welfare (MoH&FW) cites data indicating that the percentage of child tobacco users is low, at 2.2% in the rural areas, and 0.6% in the urban areas in the 10-14 age group.<sup>552</sup> It is estimated that 5,500 adolescents consume tobacco every day in India, joining the four million children (under 15 years), who already consume tobacco regularly. While 80% children know that tobacco is injurious to health, 22% consume tobacco as a first thing in the morning. It has been observed that drug use is prevalent among youth. Among the child respondents, 44% use nicotine, 24% use inhalants, 22% use alcohol, and 26% use cannabis.<sup>553</sup> The Global Youth Tobacco Survey, conducted in 2006, and published in the WHO Report on the Global Tobacco Epidemic, 2008, shows 14.1% tobacco users in the 13-15 age group in India, out of which males constituted 17.3% and females 9.7%.

931. According to data collected by Childline, 20 million children are estimated to be getting addicted to smoking every year, and nearly 55,000 children are becoming smokers every day. Recent available data points out that among the alcohol, cannabis and opium users, about 21%, 3% and 0.1% respectively were below 18 years. Children start on drugs for a number of reasons, ranging from curiosity and recreation to the need to cope with stress. But drug abuse and addiction lead to a complex set of social, medical and economic problems with serious implications.<sup>554</sup>

932. The common drugs of abuse amongst children and adolescents in India are tobacco and alcohol, but use of illicit and stronger drugs like cannabis, opium or even intravenous use of drugs such as heroin have also been reported. A new trend has emerged in drug and substance abuse, with children now taking a cocktail of drugs through injection, and often sharing the same needle, which increases their vulnerability to Human Immunodeficiency Virus (HIV) infection. Though drug addiction has become a large phenomenon in India in the past two decades, affecting all segments of society, the use of whitener, alcohol, tobacco, and hard and soft drugs is an especially widespread phenomenon among street children, working children and trafficked children. But there is currently a lack of reliable data on drug abuse amongst children.<sup>555</sup>

### 8C.2.2 Policy

933. The NPAC, 2005, addresses the survival, development and protection rights of children in difficult circumstances, including children addicted to drugs. The Government of India has issued a directive banning smoking in public places, effective from October 2, 2008. The law imposes strict ban on smoking in public places, such as parks, educational institutions, libraries, roads, etc. Delhi, Jharkhand and Chandigarh are some States, which have already begun implementing the ban.

<sup>552</sup> Tobacco Control in India, Ministry of Health and Family Welfare, GoI, November 2004, page 69.

<sup>553</sup> Report of the Sub-Group I on Drug Demand Reduction for formulation of strategies for the 11<sup>th</sup> Five Year Plan (2007-12), Ministry of Social Justice and Empowerment (Social Defence Division), GoI, page 26.

<sup>554</sup> Drug Abuse among Children, Childline, <http://www.childlineindia.org.in/cr-drug-abuse.htm>.

<sup>555</sup> Drug Abuse among Children, Childline, <http://www.childlineindia.org.in/cr-drug-abuse.htm>.

### 8C.2.3 Legislation

934. Two legislative provisions directly address the issue of drug abuse in India the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, and the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988. (See India First Periodic Report 2001, para 176-180, page 385 for details.)

935. The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, was notified in the Official Gazette on May 19, 2003. The Act is applicable to whole of India and covers all types of tobacco products. The provisions of the Act directly impacting children are: (a) No person shall sell tobacco products to any person below the age of 18 years, and this provision is being implemented with effect from May 1, 2004; and (b) ban on sale of tobacco products within 100 yards of educational institutions, which is being implemented with effect from December 1, 2004.<sup>556</sup>

936. The JJ (Amendment) Act, 2006, strengthens services to children in need of care and protection, which includes children affected by drug abuse. Section 25 of the JJ Act, 2000, prescribes punishment/ imprisonment to a person for giving a child any intoxicating liquor or narcotic drug, except done on the order of a qualified medical practitioner or in case of sickness.

937. India is a signatory to all the major global conventions related to drug abuse. In December 2003, India ratified the WHO Framework Convention on Tobacco Control (FCTC). The FCTC provides a framework for tobacco control measures to be implemented by parties to the Convention at International, National and Regional levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.<sup>557</sup>

### 8C.2.4 Programmes

938. At the national level, the problem of drug abuse is tackled through a two-pronged strategy of supply and demand reduction. While the supply reduction strategy is under the purview of the MHA, with the Department of Revenue as the nodal agency, and is executed by various enforcement agencies, the demand reduction strategy, which focuses on awareness building, treatment and rehabilitation of drug-using patients is being run by agencies under MoH&FW and the MSJ&E.

939. The MoH&FW provides a one-time grant to States for construction of drug de-addiction centres. At present, there are 122 such centres in the country.<sup>558</sup> The MSJ&E launched the revised Scheme for Prevention of Alcoholism and Substance (Drugs) Abuse, 2008. The Scheme is to provide the whole range of services, including awareness generation, identification, counselling, treatment and rehabilitation of addicts through voluntary and other organisations.<sup>559</sup>

940. In response to ratification of FCTC by India, a comprehensive National Tobacco Control Programme was launched in 2007. The programme provides for training the health

<sup>556</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, pp. 152-153.

<sup>557</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, pp. 153-154.

<sup>558</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 151.

<sup>559</sup> Central Sector Scheme of Assistance for Prevention of Alcoholism and Substance (Drugs) Abuse and for Social Defence Services (Effective from October 1, 2008), Ministry of Social Justice and Empowerment, GoI, October 2008, page 6.

workers, school teachers, etc. on ill effects of tobacco. It also provides for engaging NGOs to carry out school health campaign in the Government schools.<sup>560</sup>

941. The MSJ&E supported the project IND/G86: Empowering Communities for Prevention of Drug and HIV/AIDS in India, launched by UNODC in April 2005. The aim of the project was to: (i) prevent and reduce the abuse of drugs and the spread of drug related HIV in India; and (ii) strengthen the capacity of Government and Civil Society Organisations (CSOs) to prevent drug abuse and scale up interventions, which reduce the harmful consequences of drug abuse. Based on the findings of the National Survey on Extent, Patterns and Trends of Drug Abuse, published in 2004, and the related recommended programme interventions, four components were proposed in the project: (i) to develop drug awareness programmes in schools; (ii) to develop a national drug awareness programme; (iii) to establish Self-Help Groups (SHGs) for young women affected and afflicted by drug abuse and HIV; and (iv) document good practices. The project helped develop an awareness programme for prevention of drug abuse in schools, a drug awareness programme for youth, a programme for young women's SHGs affected and afflicted by drug use and HIV, and recording of good practices.<sup>561</sup> The project has a school-based drug awareness programme, in which UNODC is working closely with the MSJ&E and MHRD for integration of drug education into the school textbooks. The Adolescence Education Programme (AEP) co-curricular module of MHRD has already included content on substance abuse. The accompanying frequently asked questions book has 25 questions out of 100 on alcohol and substance abuse. To cover the entire spectrum of children, a module on Drugs and HIV Prevention for out-of-school children is also being developed. Partner NGOs with prior experience of working with out-of-school children will be trained to impart knowledge and skills to these children through the peer-led approach.<sup>562</sup>

942. The MWCD is implementing a Scheme titled 'An Integrated Programme for Street Children', under which one of the component aims at reducing the incidence of drug and substance abuse, HIV/AIDS and Sexually Transmitted Diseases (STDs), and other chronic disorders among these children. This programme has been integrated into the newly-launched ICPS, which provides preventive, statutory and care and rehabilitation services to vulnerable children, including child drug abusers.

### 8C.2.5 Awareness Generation

943. The Ministry of Social Justice and Empowerment, in partnership with the Department of Education, Ministry of Human Resource Development, Department of Youth Affairs, and the health sector has expressed need to strengthen capacity and use their large network and infrastructure to step up drug use prevention and awareness efforts, especially for children/adolescents in and out-of-school, especially in the north-east region and vulnerable States across the country.

944. The Government of India has been collaborating with international agencies, such as the WHO, in spreading awareness among women and children on the issue of drug/substance abuse. Taking this theme forward, the Cancer Patients Aid Association, Mumbai, organised a series of events in collaboration with WHO and MoH&FW, to commemorate the World No Tobacco Day.

945. The States have taken a number of initiatives to spread awareness on drug abuse. In Himachal Pradesh, the police organises drug awareness programmes for school and

<sup>560</sup> Annual Report (2007-08), Ministry of Health and Family Welfare, GoI, page 154.

<sup>561</sup> Annual Report (2007-08), Ministry of Social Justice and Empowerment, GoI, page 47.

<sup>562</sup> Project G86: Project Activities - School-based drug Awareness Programme, [http://www.unodc.org/india/g86\\_sch\\_program.html](http://www.unodc.org/india/g86_sch_program.html).

college students,<sup>563</sup> while in West Bengal, the police has developed a website on drug abuse for creating awareness among parents, and the State has set up a State Drug Control Bureau. In Maharashtra, the Department of Health has directed State officials to set up Tobacco Control Cells at District level. The Government of Tamil Nadu is working towards making Chennai a 'Smoke and Tobacco Free' city by 2010. The WHO recommended steps to fight the tobacco epidemic in Assam, including monitoring and prevention policies, ban on tobacco advertising, promotion and sponsorship, and raising taxes on tobacco. Chandigarh banned smoking in public places in July 2007, making it the first city in the country to do so. A fine of Rs 100 is imposed on those violating the ban (200 people were fined in the first two months of the ban). In Chhattisgarh, the Government has banned production and sale of *gutka*, which was leading to increased incidence of oral cancer, with a three-year jail term for those violating the ban. The Delhi Government is laying plans to make it a smoking-free city by 2010, and Delhi University administration made a start by launching an anti-tobacco campaign in January 2008. (See Annexure 8C.2.1 for details on State initiatives on awareness generation on drug abuse.)

946. Every year, the Narcotics Control Bureau (NCB) organises sensitisation programmes in schools across the country to coincide with the International Day against Drug Abuse. The initiative is an attempt to educate vulnerable youth, particularly in big cities and metros, against rising drug addiction. The NCB has targeted students between classes VI and XI to sensitise them on the ill effects of narcotic drugs and psychotropic substances.

947. The Supreme Court of India issued a notice to the Centre and a host of tobacco companies on January 25, 2008, on a petition seeking implementation of the Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, relating to the display of warnings on every pack of tobacco products, including cigarettes.<sup>564</sup>

948. A group of NGOs has appealed to the Members of Parliament (MPs) to push for early implementation of effective pictorial warnings on packs of tobacco products. On the basis of the petition and the pressure being exerted from different corners, the Union Health Minister has issued a notification to tobacco companies, according to which 40% of space on tobacco packs would have to carry warnings.

### 8C.2.6 Capacity Building

949. The National Centre for Drug Abuse Prevention (NCDAP) of the NISD, with a network of eight Regional Resource and Training Centres, is imparting training to NGOs in the field of drug abuse prevention, counselling, treatment, rehabilitation, community mobilisation and HIV prevention. The NCDAP maintains an extensive database of NGOs, their areas of strength and specialisation, and resource persons available, and acts as a National clearing house on drug related issues. The NCDAP also endeavours to bring about convergence in the activities of concerned Ministries, Departments, NGOs and civil society. It has been organising certificate courses, thematic skills-based programmes, as well as strategic consultations.

<sup>563</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Himachal Pradesh State, October 2007, page 77.

<sup>564</sup> A bench of Chief Justice KG Balakrishnan and Justice RV Raveendran issued notice on a petition filed by advocates Narinder Sharma and Himangi Gupta. The petition submitted that though the rules were notified on July 5, 2006, they were yet to be implemented due to political pressure.

### 8C.2.7 Challenges

950. The Government is continuously trying to address the issue of drug abuse. The reporting period has seen several efforts directed towards this result, such as issue of directive to ban smoking in all public places and launch of a comprehensive National Tobacco Control Programme. Further, the Government has also launched the ICPS that will address the issue of inadequate and existing gaps in services, and provide for rehabilitation, supported by proper counselling and sensitive de-addiction camps. In addition, the Government is also implementing a community empowerment and awareness generation programmes for prevention of drug abuse among vulnerable groups.

951. Some of the key areas identified for action include:

- Forceful implementation of the available legislation and provisions banning smoking.
- Comprehensive pack warnings and ban on tobacco advertising and promotion.
- Setting up of adequate drug de-addiction centres for rehabilitation of children affected by substance abuse.
- Sufficiently trained/qualified counsellors.
- Spreading awareness on drug abuse, since most awareness programmes and anti-smoking laws are restricted to major cities.

## 8C.3 Sexual Exploitation and Sexual Abuse (art. 34)

### 8C.3.1 Status and Trends

952. According to a study commissioned by the MWCD, there were about 2.8 million girls/women in prostitution in 31 States /UTs in India in 2002. Induction of girl child forms an integral part of the trade. About 36% of the girls/women in sex trade have entered the trade prior to attaining 18 years of age. There are regional variations linked with socio-economic and cultural conditions that affect this phenomenon. States where a large number of adolescent girls are inducted into the trade include Madhya Pradesh (72.8%), Bihar (72.3%), Rajasthan (66.4%), Uttar Pradesh (55.6%) and Jharkhand (50%).<sup>565</sup>

953. Some major findings of the MWCD's Study on Child Abuse: India 2007 conducted in 13 States covering about 17,000 respondents, with respect to sexual abuse are:<sup>566</sup>

- (i) Approximately 53.22% children reported having faced one or more forms of sexual abuse;
- (ii) Andhra Pradesh, Assam, Bihar and Delhi reported the highest percentage of sexual abuse among both boys and girls;
- (iii) About 21.90% child respondents reported facing severe forms of sexual abuse and 50.76% other forms of sexual abuse;
- (iv) Out of the total child respondents, 5.69% reported being sexually assaulted;
- (v) Street children, children at work and children in institutional care reported the highest incidence of sexual assault;
- (vi) About 50% abusers are persons known to the child or in a position of trust and responsibility;

<sup>565</sup> Girls and Women in Prostitution in India - A Report, Gram Niyojan Kendra, pp. 174-175.

<sup>566</sup> Study on Child Abuse: India 2007, Ministry of Women and Child Development, GoI, page vi.

(vii) Most children did not report the matter to anyone.

954. Tourism contributes around 11.6% of India's Gross Domestic Product. More than 2.4 million tourists visit India every year. The growth of tourism industry in India has contributed to increased vulnerability of children to sexual exploitation by tourists in places such as Goa. Child sex tourism generally involves hotels, travel agencies and tour operators.<sup>567</sup>

955. Child pornography is also a part of cyber pornography and is recognised as a cybercrime, and in India, with increasing access to internet, there is increased risk of children falling victim to the aggression of paedophiles.

### **8C.3.2 Policy and Legislation**

956. The NPAC, 2005, emphasises the need for protection of children from sexual and physical abuse of all kinds and legal action against those committing such violations against children.

957. The principal legislation dealing with child sexual abuse is the JJ Act, 2000. (See India First Periodic Report 2001, para 49-66, page 340-348 for details.) The JJ (Amendment) Act, 2006, and the JJ Rules, 2007, have further strengthened mechanisms to better address the issues of children in need of care and protection, including victims of abuse and exploitation. The enactment of CPCRA Act, 2005, followed by setting up of the NCPCR, is a major step to address the violation of child rights. The CPCRA Act, 2005, also provides for setting up of children's courts for speedy trial of cases and matters related to children.

958. To address the issues of exploitation and neglect of children in the country, the MWCD has formulated a Prevention of Offences against the Child Bill 2009. MWCD is in the process of formulating a comprehensive legislation to specifically address sexual offences against children that also covers sexual assault, unlawful sexual contact and non-contact based sexual offences.

959. To ensure that children subjected to sexual abuse are treated with compassion and dignity, the NHRC issued a series of guidelines for the police, courts and doctors, on how children should be treated during investigation and trial, as well as during their medical examination.

960. The Information and Technology (Amendment) Act, 2008, provides for punishment for publishing or transmitting material depicting children in sexually explicit act, in electronic form. (See Section 1.4.2 for details.)

### **8C.3.3 Programmes**

961. The Swadhar Scheme of MWCD for women and children in difficult circumstances, including victims of sexual exploitation and abuse provides shelter, food and clothing and counselling; clinical, medical, legal and other support; training; economic rehabilitation; and helpline facilities. At present, about 318 Swadhar Shelter Homes and 238 women helplines are functional across the country.

962. The Programme for Juvenile Justice provides financial assistance to States/UTs for establishment and maintenance of various levels of institutions for children in need of care

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<sup>567</sup> Sub-Group Report on Child Protection in the 11<sup>th</sup> Five Year Plan (2007-12), Ministry of Women and Child Development, GoI, pp. 31-33.



and protection, which includes children who are victims of sexual exploitation and abuse. The Programme is now merged with the ICPS. (See Section 1.5.1 for details)

963. Childline provides emergency assistance to children in difficult circumstances, including victims of sexual abuse. Based upon the child's need, the child is referred to an appropriate organisation for long-term follow-up and care. (See Section 1.5.1 for details.)

964. Recognising the extent of abuse faced by students, the Central Board of Secondary Education formulated a Policy Paper on helpline for women and girl students for prevention of sexual-harassment-related incidents in schools. The Board has advised schools to set up a cell and send the 'action taken' report on quarterly basis to the designated nodal officer. The Policy Paper has also proposed training programmes for women employees and girl students on preventive measures with regard to sexual harassment.<sup>568</sup>

965. As an outcome of Study on Child Abuse: India 2007, regional consultations in four zones of the country were convened, in which all 13 States covered under the study were represented. The regional consultations facilitated discussions in the States on the State Plans of Action to counter child abuse. The consultations also ensured further awareness and advocacy on the critical issue of child abuse.

#### **8C.3.4 Challenges**

966. The Government of India has taken several initiatives to address sexual abuse and exploitation of children, such as the Study on Child Abuse: India 2007, which is a positive move in strengthening data on sensitive issues; and implementation of the Swadhar Scheme for women and children in difficult circumstances. In addition, implementation of the JJ Act, 2000, has been strengthened and amendments have been made in the Information and Technology Act to address the problem of child pornography. To address the issue of sexual abuse and exploitation of children, focus would be on the following key areas:

- Strengthening data on sexual abuse and exploitation.
- Strengthening knowledge on legal provisions among victims of sexual abuse and exploitation and providing support services.
- Safeguards for vulnerable population during occurrence of natural disasters.
- Specific law to address all offences against children, including sexual exploitation and abuse.
- Protection of children from becoming victims of sex tourism and child pornography.

### **8C.4 Other Forms of Exploitation (art. 36)**

#### **8C.4.1 Status and Trends**

967. Protection of children from various forms of exploitation and child-rights violation by media, police and research institutions in the reporting period remain continuing concerns. Instances of young and infant children dying during clinical trials conducted by reputed hospitals and clinical research conducted in the guise of routine medical check-up have been reported. Cases have also come to light, wherein police and/or media have violated children's right to protection of identity and have openly disclosed the name of the child.

<sup>568</sup> Policy paper on helpline for women and girl students, for prevention of sexual harassment-related incidents in schools, Central Board of Secondary Education, GoI.

### 8C.4.2 Measures to Prevent Exploitation of Children

968. The Government's commitment to protect the rights of children is reflected in its policies, legislations, various institutional mechanisms and programmatic frameworks. (See Sections 1.2, 1.4 and 1.5 for details.)

#### 8C.4.2.1 Policy, Legislation and Guidelines

969. There are several protective laws in line with constitutional provisions, and international standards to protect children from all forms of physical, sexual and emotional exploitation.<sup>569</sup> These laws provide for speedy prosecution of offenders, with no impunity for crime/offences against children.

970. The CPC Act, 2005, has provisions for inquiring into violations of child rights and for recommending initiation of proceedings.<sup>570</sup> The Act provides for setting up of children's courts for speedy trial of offences against children or of violation of child rights.

971. Section 21 of the JJ (Amendment) Act, 2006, 'prohibits the publication of name, address, school, etc. of juvenile in conflict with law, or children in need of care and protection involved in any proceeding under the Act'. Any person contravening this provision is punishable, with a fine up to Rs 25,000. The Act, however, permits the authority holding the inquiry to disclose a child's identity if such disclosure is in the interest of the child.<sup>571</sup> The JJ Rules, 2007, emphasise that children/juveniles in conflict with law shall have the right to privacy and confidentiality and protection from stigmatisation; shall be protected by all means and through all stages of the proceedings, and care and protection processes.<sup>572</sup>

972. Sections 23 – 27 of the JJ Act, 2000, lay down provisions to punish any person committing offences such as cruelty, neglect, abuse and exploitation of children.

973. The proposed Prevention of Offences against the Child Bill, 2009, aims to deal with all forms of exploitation, domestic violence, torture, neglect and corporal punishment in schools.

974. Indian Council of Medical Research (ICMR) and other premier institutions of the country have developed guidelines to prevent exploitation of children in all forms of research.<sup>573</sup>

975. While undertaking the Study on Child Abuse: India 2007, detailed ethical guidelines were developed to safeguard the child's rights and to protect the child from potential trauma. These included guidelines for conducting focus group discussions with children, guidelines for one-to-one interaction with children, ethical guidelines, consent from parents/guardians/caregivers, and informed consent from children.

976. The 11th Five Year Plan will undertake health system research as a priority and will provide for re-orientation of medical education to support health issues, including

<sup>569</sup> Sub-Group Report on Child Protection in the 11<sup>th</sup> Five Year Plan (2007-12), Ministry of Women and Child Development, GoI, page 10.

<sup>570</sup> Section 13, Commissions for Protection of Child Rights Act, 2005.

<sup>571</sup> Section 21, Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006.

<sup>572</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, Gazette of India: Extraordinary, Part II, page 138.

<sup>573</sup> Journal of the Academy of Hospital Administration.htm, Vol. 13, No. 1 (2001-01 – 2001-06), [www.indmedica.com](http://www.indmedica.com).

regulation of medical care and medical ethics, and audit of research, that is whether research is justified and relevant.<sup>574</sup>

#### 8C.4.2.2 Mechanisms

977. Crime in India, published annually by NCRB, records the incidence and nature of crimes and abuses committed against children in the country. Independent agencies such as NCPCR, along with respective State Commissions and NHRC, monitor and take *suo motu* cognizance of violations of child rights. Law enforcement agencies, viz. police, judiciary and children's institutions undertake monitoring and reporting of child rights issues. The CWCs, JJBs and SJPU's mandated by the JJ Act, 2000, are institutions for ensuring the physical, emotional and psychological, intellectual, social, and moral development of children/juveniles in conflict with law.<sup>575</sup> Childline, a 24-hour helpline operating in 83 cities, is accessible to all children. To protect the rights and ensure safety and welfare of children, premier agencies such as ICMR and Indian Medical Association (IMA) have formulated comprehensive guidelines to be followed in matters involving children.

978. Incidences of child-rights violation, such as irregular working conditions and emotional abuse of children participating in TV serials, reality shows and advertisements have drawn the attention of NCPCR. The Commission has taken cognizance of child-rights violations and has issued strict direction and notice to the concerned agencies and department to take necessary action. It has set up a working group, with representatives from print and electronic media, for examining concerns related to children participating in TV shows and advertisements. The working group has proposed the formulation of a set of guidelines for regulating the working conditions of children, setting up mechanism for redressal of complaints by children and their families, and prescribing actions against the TV channels/production houses in case of violation of child rights.<sup>576</sup> The matter is being discussed with the Ministry of Information and Broadcasting for further action.

979. Taking a strong view of the incidence of clinical research on minor school children, NCPCR registered a complaint with the Medical Council of India. The matter was considered by the Ethics Committee, which conducted an investigation. After discussing all aspects, the Committee declared that the team of doctors had failed to design, inform and conduct the medical examination in a proper and professional manner. The Committee issued a warning, stating that such medical examinations without proper design and protocol should not be conducted in future, and referred the case to Executive Committee for necessary action.<sup>577</sup>

980. The ICMR has published detailed guidelines on the composition and responsibilities of Institutional Ethics Committees for ethical review of bio-medical researches in India. To strengthen the capacity for bioethics in India, it has collaborated with National Institute of Health in the US, and global bodies like WHO and UNESCO. It has constituted a Bioethics Cell, created website with links to leading bioethics journals, established forums for ethics review committees and is putting together a database on Institutional Ethics Committees in the country. To enhance ethics capacity, the ICMR identifies mid-career professionals to be trained in bioethics through fellowships, and conducts training sessions

<sup>574</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, pp. 71, 99.

<sup>575</sup> Juvenile Justice (Care and Protection of Children) Rules, 2007, Gazette of India: Extraordinary, page 134.

<sup>576</sup> Infocus, National Commission for Protection of Child Rights, GoI, Vol. 1, No. 6, October 2008, page 12.

<sup>577</sup> Minutes of the meeting of Ethics Committee, January 21-22, 2008, Medical Council of India, [www.mciindia.org](http://www.mciindia.org), page 36.

for researchers, academicians, Institutional Ethics Committees members and students within India.<sup>578</sup>

### 8C.4.2.3 Programmes

981. The Programme for Juvenile Justice provides rehabilitative services for child victims and survivors of various forms of exploitation. The Programme is now merged with the ICPS. (See Section 1.5.1 for details.)

### 8C.4.3 Challenges

982. The Government has taken several measures to address exploitation of children, such as setting up of NCPCR, adoption of the JJ (Amendment) Act, 2006, and the JJ Rules, 2007. Furthermore, ICMR has developed ethical guidelines to protect children from exploitation in research activities. The proposed Prevention of Offences against the Child Bill, 2009, also aims to deal with all forms of exploitation of children. To ensure protection of children from any form of exploitation, the following issues need to be addressed:

- Safeguarding right to privacy from media, police and other agencies;
- Strengthening ethics and regulation, and transparency of research institutions to prevent exploitation of children in all forms of research.

## 8C.5 Sale, Trafficking and Abduction (art. 35)

### 8C.5.1 Status and Trends

983. Calculations of trafficked people are generally made with reference to commercial sexual exploitation. In India, the stigma attached to prostitution and the clandestine nature of operations make it doubly difficult to arrive at authentic numbers. To give a sense of the total magnitude of the problem, estimates of adult and child sex workers in India are quoted. Minors in commercial sex work are generally classified as cases of trafficking. The figures quoted show a high degree of discrepancy and the possibility of ascertaining the authenticity of the quoted figures is almost nil.

984. According to NCRB data, there were 8,765 cases of trafficked women and children in the country in 2001, which has declined to 3,133 cases in 2008. On an average, 5,804 cases of trafficking are reported every year since 2001.<sup>579</sup>

985. A large number of children are reported missing every year; many of them neither return, nor are they ever located. During rescue operations carried out by the police in red light areas, many children, who are rescued, turn out to be those who were reported missing elsewhere in the country. Parents and guardians are usually unaware of the fact that their children may have been trafficked.<sup>580</sup> In any given year, an average of 44,000 children are reported missing; of them, as many as 11,000 remain untraced.<sup>581</sup>

<sup>578</sup> Concerns about Ethical Review of Health Research in India, Indian Journal of Medical Ethics, Oct-Dec, 2004, 12 (4) [www.ijme.in/124vp119.html](http://www.ijme.in/124vp119.html)

<sup>579</sup> Crime in India (2006 and 2008), National Crime Records Bureau, Ministry of Home Affairs, GoI, pp. 99-104.

<sup>580</sup> Sen, Sankar and PM Nair, Trafficking in Women and Children in India, National Human Rights Commission, Orient Longman, 2005, pp. 163-164.

<sup>581</sup> Sen, Sankar and PM Nair, Trafficking in Women and Children in India, National Human Rights Commission; Orient Longman; 2005, pp 166-168.

### 8C.5.2 Policy

986. The MWCD had formulated a National Plan of Action in 1998 to combat trafficking for commercial sexual exploitation of women and children and to mainstream and re-integrate the women and child victims in the community. The Ministry of Women and Child Development, in collaboration with the Ministry of Home Affairs, National Human Rights Commission and the National Commission for Women (NCW) is in the process of developing an Integrated Plan of Action to Prevent and Combat Human Trafficking, with Special Focus on Children and Women, to make it more comprehensive, so as to cover 'trafficking in persons' for any purpose.<sup>582</sup>

987. The Central Advisory Committee (CAC) on trafficking, formed under the Chairpersonship of the Secretary, MWCD, meets regularly to discuss major issues and strategies for preventing and combating trafficking of women and children.

988. In 2005, the MWCD formulated a Protocol for Pre-Rescue, Rescue and Post-Rescue Operations of Child Victims of Trafficking for Commercial Sexual Exploitation. This Protocol contains guidelines for State Governments and a strategy for rescue team members in respect of pre-rescue, rescue and post-rescue operations, including rehabilitation, for children, who are victims of trafficking and sexual exploitation for commercial reasons. The Protocol has been distributed to State Governments.

989. To ensure smooth rescue, repatriation and rehabilitation of trafficked and migrant child labour, the MoL&E has developed a Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour, for all stakeholders.

990. The MWCD, with technical assistance from UNICEF, is developing procedures for humane and quick repatriation of child victims of trafficking between India and Bangladesh. A rapid assessment of the existing processes was taken up, after which a joint plan of action, a draft roadmap and a time matrix for quick repatriation of cross-border victims was prepared, which is proposed to be finalised in the next Indo-Bangladesh meeting.

991. Under the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking of Women and Children in Prostitution, a Regional Task Force was set up to ensure that the legislations, programmes, etc. are in place for operationalising the provisions of the SAARC Convention. Three Regional Task Force meetings were organised in July 2007, May 2009, and in April 2010 respectively. In the second meeting, the Standard Operating Procedures (SOPs) were finalised. A common helpline for SAARC countries is proposed to be instituted. The programme for capacity-building of personnel has been taken up in India by NIPCCD, with programmes on child rights and child protection, and on prevention and combating trafficking in children and women.

### 8C.5.3 International Conventions

992. India signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime on December 12, 2002. The Government has taken a decision to ratify the Convention and its protocol.

<sup>582</sup> Integrated Plan of Action to Prevent and Combat Human Trafficking with special focus on Children and Women, <http://www.nhrc.nic.in>.

993. In 2002, India signed the SAARC Convention on Prevention and Combating Trafficking of Women and Children in Prostitution to promote cooperation amongst member States. (See Section 1.3 for details.)

#### **8C.5.4 Legislation**

994. The Immoral Traffic Prevention Act (ITPA), 1956, is the principal legislation dealing with trafficking, which is proposed to be amended to widen its scope, and make its implementation more effective. In addition, the IPC, 1860 lays down provisions related to trafficking and the JJ Act, 2000, also provides protection to children in need of care and protection, which includes children who are vulnerable and are likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts.

995. Furthermore, the proposed Prevention of Offences against the Child Bill, 2009, is a comprehensive legislation to cover all crimes, violence and offences against children.

#### **8C.5.5 Programmes**

996. Three pilot projects were implemented from 2002-08, viz. i) to combat trafficking of women and children for commercial sexual exploitation under the sanction of tradition; ii) to combat trafficking of women and children for commercial sexual exploitation in source areas; and iii) to combat trafficking of women and children for commercial sexual exploitation in destination areas. So far, about 80 projects have been sanctioned in eight States/UTs (Maharashtra, West Bengal, Manipur, Karnataka, Uttar Pradesh, Andhra Pradesh, Assam and Puducherry) between 2004 and March 2008.

997. Based on the learnings from these pilot projects, Ujjawala – a comprehensive Scheme for ‘Prevention of Trafficking, and Rescue, Rehabilitation, Re-integration and Repatriation of Victims of Trafficking for Commercial Sexual Exploitation’ – was launched in December 2007. The scheme has five specific components:

- (i) Prevention, which consists of formation of community vigilance groups/adolescent groups; awareness and sensitisation of important functionaries such as police and community leaders; preparation of Information, Education and Communication (IEC) material; holding workshops, etc.
- (ii) Rescue or safe withdrawal of the victim from the place of exploitation.
- (iii) Rehabilitation, which includes providing safe shelter for victims with basic inputs of food, clothing, counselling, medical care, legal aid, vocational training and income generation activities.
- (iv) Re-integration, which includes restoring the victim into the family/community (if she so desires) and the accompanying costs.
- (v) Repatriation, to provide support to cross-border victims for their safe repatriation to their country of origin.

998. The MWCD runs shelter-based homes, such as short-stay homes and Swadhar homes for women/girls in difficult circumstances. The homes provide for counselling, rehabilitation and helpline facilities. State Governments also separately run shelter homes for women and children in distress.

999. The MWCD has formulated ICPS, an umbrella scheme, with a view to provide safe and secure environment for the overall development of children, who are in need of care and protection, including children in difficult circumstances. (See Section 1.5.1 for details.)

1000. Childline provides for the needs of children in distress or assistance to adults on behalf of children in distress. (See Section 1.5.1 for details.)

1001. Although there are no separate programmes for missing children, focused initiatives are being taken at the national level to address the issues of such children. The NHRC came out with recommendations to protect the rights of children and strengthen preventive measures. (See Section 1.1 for details.)

1002. At the behest of NCPCR, several States have issued detailed procedural guidelines for dealing with missing children by their police force and public. These include Andhra Pradesh, Delhi, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Uttar Pradesh and Uttarakhand.

1003. The Commission has also issued instructions to the Director General of Police in States/UTs to address the growing incidents of violence against children by the police force, affecting children's physical integrity, dignity and privacy. These include (i) issuing a circular to all police stations specifying the 'Dos' and 'Don'ts' for the police in protecting child rights; and (ii) organising more sensitisation training (both pre-service and in-service) for the police on the protection of child rights, as well as about their role, as envisaged under the JJ Act, 2000.<sup>583</sup>

1004. The Don Bosco Young at Risk (YaR) Forum, in collaboration with UNICEF and State Governments, such as Karnataka, is running a Missing Child Search and Homelink network, an e-based network to protect and restore the unaccompanied street children and children out of parental care to their homes or to safer places. The programme, which covers 72 cities in 16 States, has online information about 94,495 such children from partner organisations at present. Of these, 50,613 children were traced/contacted in 2007 alone. Out of these, 10,052 children have been restored back home. (See Annexure 8C.5.1 for details on State-level initiatives on missing children.)

#### 8C.5.6 Monitoring

1005. The MHA set up a nodal cell in 2006, which acts as a focal point for dealing with matters related to trafficking in human beings. The cell is responsible for collecting and analysing data related to trafficking from the State Governments/UTs, identifying problem areas, and analysing causes for their being source/transit/destination areas, monitoring action taken by the State Governments/UTs for combating the crime, and organising coordination meetings with the nodal police officers of States/UTs. At the behest of the MHA, in 2006, the NCRB for the first time added a separate new chapter on human trafficking statistics in their annual publication Crime in India.<sup>584</sup>

#### 8C.5.7 Awareness Generation

1006. Awareness generation and sensitisation is an in-built component of the MWCD programme. A communication strategy for prevention of trafficking for commercial sexual exploitation of children was also developed for specific target groups, such as parents, *panchayat* members, police, teachers and others. Various poverty alleviation programmes and women SHGs too have specially designed information packages to prevent sexual exploitation and trafficking.

1007. The MWCD's Ujjawala Scheme has components for prevention through awareness generation. The Scheme envisages awareness generation through mass media, including *kalajathas*, puppetry or other art forms, preferably traditional. The Scheme also has

<sup>583</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Commission for Protection of Child Rights, GoI, October 2009.

<sup>584</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Home Affairs, GoI, August, 2009, page 6.

provision for development and printing of awareness-generation material, such as pamphlets, leaflets and posters in vernacular languages.

#### **8C.5.8 Research**

1008. An action research project was commissioned by NHRC in 2003-04, to understand the complex problem of trafficking in women and children. The Study, published in 2005, was carried out by the Institute of Social Sciences (ISS), New Delhi, with support from UNIFEM. The research process was action-oriented, with several anti-trafficking activities, including prevention, protection and prosecution, being aided and facilitated by the NHRC-UNIFEM-ISS network. The study laid bare the multi-dimensional nature of the problem of trafficking, loopholes in the law, gaps in law enforcement, and the involvement of organised mafia.

1009. The MWCD, in collaboration with the MHA and UNODC, organised the South Asia Regional Conference on Human Trafficking in October 2007 as part of the United Nations Global Initiative to Fight Human Trafficking. The conference resulted in a Delhi Declaration, which includes concerted action in law enforcement for quick punishment to offenders, systematic training and capacity-building of stakeholders, education of the girl child; awareness campaigns to prevent trafficking by way of Public-Private Partnership (PPPs); focused programmes for vulnerable areas, availability of protocols and legal processes for rescue and repatriation procedures; and a coalition of media and popular personalities to advocate for prevention of trafficking. The MWCD also released a Compendium on Best Practices on Anti-Human Trafficking by Law Enforcement Agencies, which has been circulated to all State Governments and UTs for their use.

#### **8C.5.9 Capacity Building**

1010. The MWCD, in collaboration with MHA and UNODC, had initiated a two-year project for capacity-building of law enforcement officers on human trafficking. Under this project, Protocols and SOPs have been developed and Anti-Human Trafficking Units (AHTUs) have been set up under the police department of five project States (Andhra Pradesh, Maharashtra, Bihar, West Bengal and Goa.) A total of 390 training programmes for police and prosecutors have been organised, in which 13,490 police officials and prosecutors have been trained in the five project States. At the behest of the MHA, the Bureau of Police Research and Development (BPR&D) has prepared a Training Manual on Human Trafficking, a handbook for investigators, which has been circulated to the States for use in the Police Training Institutes. BPR&D has also conducted Regional Trainings of Trainers (ToTs) on prevention of trafficking of women and children at various police academies.<sup>585</sup>

1011. A comprehensive Scheme for strengthening the law enforcement response to trafficking through ToT programmes and by establishing AHTUs to be monitored by the MHA has been drafted, which is under consideration for approval by the Planning Commission. The Scheme intends to ensure sensitisation of the grassroots-level police personnel and other law enforcement agencies. The Scheme intends to cover 50% of the total police Districts in the country.<sup>586</sup>

1012. The MWCD, in collaboration with NIPCCD and UNICEF, has developed three manuals: a judicial handbook on combating trafficking of women and children for

<sup>585</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Home Affairs, GoI, August, 2009, page 6.

<sup>586</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Home Affairs, GoI, August, 2009, page 6.



commercial sexual exploitation; a manual for medical officers for dealing with child victims of trafficking and commercial sexual exploitation; and a manual on counselling services for child survivors of trafficking. The manuals are being used in the ToT programme. The MWCD, in collaboration with UNICEF and Nirmala Niketan, College of Social Work, Mumbai, organised a series of training workshops for field functionaries in Delhi, Hyderabad, Chennai, Mumbai, Bangalore and Kolkata. Regional workshops for building capacity of medical officers on issues related to trafficking and medical examination of child victims of trafficking, particularly on conducting age determination test, were organised in collaboration with UNICEF and IMA.

1013. A Judicial Handbook on Combating Trafficking of Women and Children for Commercial Sexual Exploitation was developed by the Ministry of Women and Child Development in collaboration with National Human Rights Commission, National Law School of India University, Bangalore, and UNICEF. For this purpose, State consultations were organised in Andhra Pradesh, Goa, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and West Bengal. This was followed by a national-level consultation at New Delhi. These consultations were attended by judges, magistrates, public prosecutors, officers of the State Police Departments, State Departments of Women and Child Development, representatives of NGOs and experts.<sup>587</sup>

1014. NIPCCD has been made the nodal agency for training of SAARC representatives on anti-trafficking and child rights as part of the SAARC Convention. Under this initiative, NIPCCD has organised training programmes for SAARC representatives. The MWCD, in collaboration with NIPCCD, has organised a series of workshops for NGOs on issues related to trafficking of children for commercial sexual exploitation. A special module for counsellors of trafficked victims has been formulated.

1015. In collaboration with Stop Trafficking and Oppression of Children & Women (STOP), UNIFEM and International Organisation for Migration (IOM), the Ministry organised a two-day workshop on Regional Experience Sharing: Dialogue Between Change Makers from the Civil Society Organisations, Policymakers, Judiciary, Law Enforcing Agency and Survivors in New Delhi in 2005.

1016. The BPR&D also imparts training to police personnel on issues of trafficking. In addition, efforts are also being made for wide dissemination of child helpline numbers in police stations and other law enforcement agencies. State Governments are also taking initiative for prevention of trafficking and for rehabilitation of children. For instance, the State of Karnataka has constituted anti-trafficking committees at decentralised level. Training programmes to sensitise the committee members were conducted and rallies and street plays were organised to create awareness among public.<sup>588</sup>

#### **8C.5.10 Collaboration**

1017. The Integrated Plan of Action to Prevent and Combat Human Trafficking, and the Protocol for Pre-Rescue, Rescue and Post-Rescue Operations of Child Victims of Trafficking and Commercial Sexual Exploitation, were prepared through a consultative process, which involved representatives of State Governments, NGOs, United Nations agencies and experts in the field. Meetings and workshops were held with them at the regional and national level to prepare these policy documents.

<sup>587</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of National Human Rights Commission, January 2010, page 6.

<sup>588</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Karnataka State, July 2009, page 1.

1018. The MWCD is also developing procedures for repatriation of child victims of trafficking across border, with technical assistance of UNICEF. The procedures were prepared in consultation with NGOs from India and Bangladesh.

1019. The CWCs/JJBs, which deal with trafficked children, promote greater civil society involvement in the juvenile justice system and encourage Government/NGO partnerships. As per the mandate of the JJ Act, 2000, one member of the CWC should be a social worker. Trafficked children or missing children are treated as children in need of care and protection, and are produced before CWCs, which have a strong involvement of NGOs. NGOs are also involved in rescue and post-rescue operations, and their assistance is sought for counselling services also.

1020. The Ujjawala Scheme provides for NGO involvement in its implementation. Other schemes, such as the Integrated Scheme for Street Children, Scheme for Welfare of Working Children in Need of Care and Protection, etc. are being implemented with NGO cooperation.

1021. Homes for children in need of care and protection are run in partnership with Government and NGOs. The Childline, under the aegis of the MWCD, is a link between children in need of care and protection, and available services. Childline operates in 83 cities and towns in partnership with NGOs.

1022. The MWCD, in collaboration with NGOs and United Nations agencies, has conducted research studies. The Study on Child Abuse: India 2007, undertaken by the MWCD through Prayas, was supported by UNICEF and Save the Children. The review of data, analysis of findings and final report, along with recommendations, were conducted through a Core Committee, which had representation from United Nations agencies and NGOs. Similarly, the study on Trafficking in Women and Children in India by NHRC was conducted in consultation with ISS, UNIFEM and USAID.

1023. The MWCD collaborates with United Nations agencies, such as UNICEF, in preparing Information, Education and Communication (IEC) material for campaigns, which are conducted with the assistance of NGOs, and which aim to spread awareness on various aspects of trafficking.

1024. The MWCD is making efforts towards Public-Private Partnership (PPP) as part of their Corporate Social Responsibility (CSR) for prevention of trafficking and rehabilitation of victims, in collaboration with UNODC and IOM, and has organised several workshops and consultations. In March 2008, the MWCD, in collaboration with UNODC and the Garment and Apparel Industry, organised a workshop on cleaning up supply chains for prevention of child trafficking for labour. As a follow-up to the meeting, a 'Think Tank' on PPP was constituted, with representatives from Ministries such as Home Affairs, Labour and Employment and Commerce; business bodies such as Confederation of Indian Industry (CII), Federation of Indian Chamber of Commerce and Industry (FICCI) Associated Chambers of Commerce and Industry of India (ASSOCHAM); and the National Commission for Protection of Child Rights. In the first meeting of the Think Tank, core groups for specific industries were set up. As a follow-up to the meeting, two projects were initiated: (i) Vocational Training and Skill Upgradation for Adolescent Boys and Girls of Vulnerable Groups by Apparel Export Promotion Council (APEC); and (ii) Vocational Training and Skill Upgradation for Women Self-Help Groups from Vulnerable Communities in Mewat Region, Haryana by Impulse and GAP.

#### **8C.5.11 Challenges**

1025. The MWCD has taken a number of initiatives at policy, legislation and programme levels to address the sale and trafficking of children. These include formulation of a Protocol for Pre-Rescue, Rescue and Post-Rescue Operations, launch of Ujjawala and

launch of ICPS, to holistically address child protection. In addition, the SAARC Convention on Preventing and Combating Trafficking was operationalised and the Government is in the process of developing procedures for humane and quick repatriation of child victims of trafficking between India and Bangladesh. Capacity building of law enforcement officers and development of manuals for stakeholders has also been taken up. An integrated Plan of Action to Prevent and Combat Trafficking with special focus on women and children is being developed.

1026. The key areas of focus in addressing sale, trafficking and abduction of children include:

- Strengthening anti-trafficking laws.
- Stringent laws to curb cross-border trafficking of children.
- Strengthening database on sale of children and trafficking.
- Strengthening skill training and sustainable livelihood options for women.
- Strengthening training programmes for judiciary, enforcement agencies, etc.
- Strengthening mechanisms for tracking of kidnapped and abducted children.

## **8D. Children Belonging to a Minority or an Indigenous Group (art. 30)**

### **8D.1 Status and Trends**

1027. The focus of Government of India is on inclusive growth to ensure that universal benefits are provided to all religious communities and social groups in the country, which have not equally benefited from the growth achieved by the country on crucial human development indicators, such as levels of literacy, education and health. Among these, the Muslims, the largest minority community in the country, are lagging behind on most of the human development indicators. (See Sections 3B.1.1 and 3B.2.1 for details.)

1028. Particularly Vulnerable Tribal Groups (PTGs) are tribal communities characterised by declining or stagnant population, primitive agricultural technology, low literacy levels and economic backwardness. There are 75 PTGs identified in 17 States/UTs. They reside in remote habitats, with poor administrative and infrastructure back-up.<sup>589</sup>

### **8D.2 Policy and Legislation**

1029. The 11th Five Year Plan ensures faster and inclusive growth, with broad-based improvement in the quality of life of the people, especially Scheduled Caste (SC), Scheduled Tribe (ST), Other Backward Caste (OBC) and minorities. The 11th Five Year Plan has adopted different strategies for two distinct groups of PTGs – Heritage Groups and Peripheral Communities. The approach for Heritage Groups will place emphasis on conservation of the ecosystem, lifestyles and traditional skills, along with an economic component. In the case of Peripheral Communities, the approach will be conservation of the ecosystem, along with stress on economic programmes.

1030. The National Urban Housing and Habitat Policy, 2007, provides for special efforts to cater to the needs of minorities and SCs/STs in relation to housing and access to basic services. (See Section 1.2 for details.)

<sup>589</sup> Annual Report (2006-07), Ministry of Tribal Affairs, GoI, pp. 86-87.

1031. The NPAC, 2005, provides for care, protection and welfare of children from marginalised and disadvantaged communities, including preserving their identity and encouraging them to adopt practices that promote their best interest.

1032. The Standing Committee on Labour and Welfare on the Development of Primitive Tribal Groups, 2002, made 20 recommendations for the development of PTGs, out of which eight were accepted by the Government. An important outcome of the recommendations is the formulation of the National Rehabilitation and Resettlement Policy, 2007. (See Section 1.2 for details.)

1033. In response to promotion of education and literacy in PTG areas, the MHRD has taken measures for creating and strengthening infrastructure in tribal areas for promotion of literacy among STs and PTGs.<sup>590</sup> (See Sections 7A.1.2.7, 7A.5.2 and 7A.5.2.3 for details.)

1034. There are several legislations to address the issues of minorities and indigenous groups, such as Protection of Civil Rights Act, 1955, Prevention of Atrocities Act, 1989, etc. (See Section 3B.1.3 for details.)

### 8D.3 Programmes

1035. The Prime Minister launched a 15-point programme for the minorities in June 2006. The Programme sought to enhance opportunities for education of minorities, equitable share in economic activities and employment, improving living conditions, and prevention and control of communal disharmony and violence. The target groups include the eligible sections among the minorities notified under National Commission for Minorities Act, 1992, namely, Muslims, Christians, Sikhs, Buddhists and Parsis.<sup>591</sup> An important aim of the Programme is to ensure that the benefits of various Government schemes for the underprivileged reach the disadvantaged sections of the minority communities. Some of the notable achievements during 2006-07 and 2007-08 are: (i) construction of primary schools in minority concentration areas, which increased from 961 in 2006-07 to 2,008 in 2007-08; (ii) construction of upper primary schools, which increased from 1,114 in 2006-07 to 3,001 in 2007-08; and (iii) increase in the number of Kasturba Gandhi Balika Vidyalayas (KGBVs), sanctioned for Educationally Backward Blocks (EBBs), and having a substantial minority population, from 97 in 2006-07 to 219 in 2007-08.<sup>592</sup>

1036. In pursuance of the Sachar Committee recommendations, 90 minority concentration Districts, which are backward in basic amenities and socio-economic parameters, were identified in 2007-08. A multi-sectoral development programme to address the 'development deficits', especially in education, employment, sanitation, housing, drinking water and electricity supply, has been launched in 2008-09. A baseline survey to identify 'development deficits' has been carried out in all the Districts, and District plans are getting finalised. Plans of 31 Districts covering Haryana, Uttar Pradesh, West Bengal, Assam, Bihar and Manipur have been approved by the competent authority.

1037. A Scheme titled 'Top Class Education for ST Students' was launched in 2007-08, in which top five eligible, meritorious ST students, admitted to each of the 125 identified premier educational institutions, are awarded scholarships for their course, with a ceiling of

<sup>590</sup> Action taken by the Government on the Recommendations/Observations contained in the 28<sup>th</sup> Report of the erstwhile Standing Committee on Labour and Welfare on 'Development of Primitive Tribal Groups', Lok Sabha Secretariat, March 2005, pp. 14-22.

<sup>591</sup> Guidelines for Implementation of Prime Minister's New 15 Point Programme for the Welfare of Minorities, Ministry of Minority affairs, page 1.

<sup>592</sup> Initiatives taken by Ministry of Minority Affairs, 2008, Press Release, Press Information Bureau, GoI.

total 625 scholarships per year. However, the family income of the ST students from all the sources should not exceed Rs. 0.2 million per annum.<sup>593</sup>

1038. The Integrated Child Development Services (ICDS) is being implemented in backward rural areas, tribal areas and urban slums. ICDS IV focuses on: IEC strategies for targeting tribals, keeping in view variations in languages and customs; preference to construction of *Anganwadi* Centres (AWCs) in SC/ST/minority areas; establishment of mini-AWCs in project States; and development of special tribal strategies in project States for improved maternal and child health. (See Section 6C.3.2 for details.)

1039. The existing provisions under the 100% Central Sector Scheme for the exclusive development of PTGs, introduced by the Ministry of Tribal Affairs, continue to provide for housing, land distribution, agricultural development, cattle development, income generation, health facilities, infrastructure development, insurance, etc. In 2004-05, the Ministry decided to provide insurance cover to the earning member of each PTG family throughout the country under the Janshree Beema Yojana of the Life Insurance Corporation of India. The number of PTG families covered under the Janshree Beema Yojana increased from 0.1 million in 2004-05 to double the number in the subsequent years. During 2007-08, 17 States and UTs with PTGs formulated long-term Conservation-cum-Development Plans for each PTG of their State for the entire period of the 11th Five Year Plan. The Plans were examined by an expert committee and funds were released on the basis of prioritised activities.<sup>594</sup>

1040. The ICPS provides for a safe and secure environment for the overall development of children, who are in need of care and protection, including children in difficult circumstances. (See Section 1.5.1 for details.)

## 8D.4 Challenges

1041. The 11th Five Year Plan aims to trigger a development process, which ensures broad-based improvement in the quality of life of the disadvantaged groups, including SCs/STs, OBCs and minorities. There has been progress in the implementation of Sachar Committee recommendations. The 15-point Programme for minorities, scholarship programmes for SCs/STs and special tribal development programmes are initiatives to address the issues of minority and indigenous groups. The key areas of focus in addressing issues of minority and indigenous groups include:

- Enhancing educational opportunities; equitable share in economic activities and employment; and improving living conditions for minority and indigenous groups.
- Comprehensive implementation of the recommendations of the Sachar Committee.
- Addressing inequalities and strengthening inclusion through all flagship programmes.

<sup>593</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Response of Ministry of Tribal Affairs, GoI, September 2009, page 1.

<sup>594</sup> Annual Report (2007-08), Ministry of Tribal Affairs, GoI, pp. 100-105.

## 8E. Children Living or Working on the Street

### 8E.1 Status and Trends

1042. India First Periodic Report, 2001, quoted the estimated number of street children in India as 11 million. (See India First Periodic Report 2001, para 75-79, page 354 for details.) The Census 2001, for the first time, estimated 13 million 'houseless households', with each household accounting for 5-6 members; the total population of houseless (or shelterless) amounted to at least 65 million in the country.<sup>595</sup> Based on such information, it can be inferred that the estimated number of street/homeless children requiring shelter is much more than that estimated by various sources. There is no Census data available on the number of street children (comprising shelterless/homeless poor, migrant labourers, pavement dwellers and child beggars), since they constitute a floating population.

1043. The Growth in urban sector has outpaced the development of the rural economy. As a result, a large number of people migrate from rural to urban areas in search of better economic opportunities, and many start living in slums, *jhuggi jhopris* or even on the streets and other public places. Many children are driven to live on the streets in highly deplorable and risky conditions, making them highly vulnerable. Street children and children without homes are very often exposed to abuse and exploitation due to lack of identification in the absence of birth certificates and school-leaving certificates. Micro studies reveal that the number of street children has been growing in the country due to factors such as dearth of educational opportunities, violent or abusive home conditions, trafficking and natural calamities. Many belong to families of seasonal migrants and/or families forcibly evicted from homes and lands as a result of development projects without adequate rehabilitation.<sup>596</sup> Migration to cities by families forces children to drop out of school, and many end up becoming child labourers, beggars or/and victims of drug abuse, smoking, gambling, drinking, prostitution or sexual abuse. Given the limited number of shelters in cities, street children are often exploited and harassed by the police. They are vulnerable to hunger, malnutrition, lack of healthcare and education, physical and sexual abuse, substance abuse and STD/HIV/AIDS.<sup>597</sup>

1044. The Study on Child Abuse: India 2007, undertaken by the MWCD, covered 2,317 street children, which was 18.7% of the total child respondents covered. The data revealed that the overall incidence of physical abuse among street children either by family members or by others or both was 66.8%, whereas sexual abuse was reported by 54.51%. The Study revealed the life of street children as exploitative, abusive and inhuman.

### 8E.2 Policy and Legislation

1045. The JJ (Amendment) Act, 2006, provides protection to children in need of care and protection, which includes street children. It lays down provision for effective services for recovery, re-integration and re-conciliation of street children with their families and communities.

<sup>595</sup> Economically Weaker Sections and Slum Dwellers in Metros: A Case for the Shelterless in Delhi, [http://www.naredco.org/d\\_articles.asp](http://www.naredco.org/d_articles.asp).

<sup>596</sup> Sub-Group Report on Child Protection for the 11<sup>th</sup> Five Year Plan (2007-12), Ministry of Women and Child Development, GoI, 2008, page 45.

<sup>597</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 217.

1046. The NPAC, 2005, lays down provisions for temporary shelters and institutional care for street children and other children in exploitative circumstances, such as *Raen Baseras* and drop-in shelters, to ensure some secure shelter.

1047. The National Urban Housing and Habitat Policy, 2007, has provision of shelter for poor children. (See Section 1.2 for details.)

1048. The 11th Five Year Plan focuses on inclusive growth and provides key interventions to strengthen the rehabilitation and re-integration services to support these children.<sup>598</sup>

### 8E.3 Programmes

1049. The Integrated Programme for Street Children (IPSC) aims to prevent destitution of children and facilitate their withdrawal from the streets. During the 10th Five Year Plan (2002-07), over 0.2 million children benefited from this programme.<sup>599</sup> To evaluate and assess the efficacy and impact of IPSC at the grassroots level, the MWCD undertook an evaluation study through NIPCCD in 117 sample centres in 17 States of the country. The major finding of the study revealed that the programme had brought about a perceptible change in beneficiaries' behaviour, attitude, livelihood patterns, values, habits and future aspirations.<sup>600</sup>

1050. The IPSC is now merged with ICPS, which provides preventive, statutory, and care and rehabilitation services for all categories of disadvantaged and vulnerable children, including street children. Services that will be provided for street children under ICPS include open shelters for children in need in urban and semi-urban areas, offering creative activities, counselling, guidance and life-skills education for channelling energies into productive endeavours, and protection from abuse and neglect.

1051. The National Urban Health Mission (NUHM) aims at providing essential primary healthcare services and health insurance for urban poor, covering all cities with a population of more than 0.1 million. It would cater to the healthcare needs of street children, street vendors, slum dwellers, homeless population and other marginalised urban dwellers.<sup>601</sup>

1052. The 11th Five Year Plan will set up walk-in ICDS centres at railway stations and bus stands. These centres will offer food to any child, who walks in after a proper health check-up, and distribution of appropriate medicines and identity cards. In the 11th Five Year Plan, the Department of Elementary Education and Literacy will start bridge schools with quality education packages for street children, who are out of the formal education system. Clear strategies for encouraging access to Vocational Education and Training (VET) for street children will also be adopted during the Plan period.<sup>602</sup>

1053. The street children and those at risk of taking to the streets due to their socio-economic status are being reached out to under SSA, through formal schools, Education Guarantee Scheme (EGS) and AIE centres.

1054. Childline provides emergency outreach service for children in distress, and is being universalised in the 11th Five Year Plan. (See Section 1.5.1 for details.) The Programme for Juvenile Justice, Scheme for Welfare of Working Children in Need of Care and Protection

<sup>598</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, pp. 212-213.

<sup>599</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 203.

<sup>600</sup> Integrated Programme for Street Children, an Evaluation, 2008, NIPCCD, Preface and Chapter 4.

<sup>601</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, 2008, page 73.

<sup>602</sup> 11<sup>th</sup> Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, pp. 21, 214.

(See Section 1.5.1 for details.) and NCLP (See Section 8C.1.3 for details.) are other services provided, targeting rehabilitation of children in need of care and protection including street children.

1055. The Study on Child Abuse: India 2007 has helped the Government in the planning process, and the findings are being used as a starting point for developing programmes and for advocacy on issues of child protection, including street children.

## 8E.4 Collaboration

1056. The IPSC was implemented in collaboration with the NGOs across the country, under which this programme will continue to reach out to the street children through the involvement of State Governments and NGOs. Several innovative rehabilitation initiatives have been undertaken by the States and NGOs. For example, in Orissa, Childline is working for rehabilitation, including vocational training, of street children; and in Bihar, nearly 75,000 street children were admitted to Government schools with the assistance of Police in 2007.<sup>603</sup> In Karnataka, de-addiction centres are encouraged by the Government, while the West Bengal Government has reached out to 10,500 children under IPSC. Himachal Pradesh is mainstreaming and rehabilitating 265 street children through the involvement of NGOs. Mobilisation drives and health camps are held to motivate parents to send their children to alternative education centres, and for health check-ups.<sup>604</sup>

1057. A large number of NGOs are working independently on issues related to street children, facilitating activities, such as non-formal education and vocational skills training. The Don Bosco Ashalayam, Kolkata, reaches out to approximately 2,000 street children every year. The Bosco National Forum for Young at Risk has developed a software called Homelink, with support from UNICEF, which can track the interventions for each child on the street in contact with an NGO. It is being used by 76 NGOs in 13 States and has an online database of over 70,000 street children. The Ministry plans to upscale this programme during the 11th Five Year Plan period.<sup>605</sup> The Indian Council for Child Welfare rehabilitates nearly 500 children in Chennai every year. Butterflies, an NGO working on street and working children in Delhi, has set up a Children's Development Bank, which has street children as its customers, with over Rs. 0.1 million as savings and 1,700 account holders. The Bank received the Global Development Network Japanese Award for Most Innovative Development Project (second place) in 2006.<sup>606</sup>

1058. Following a Directive from Delhi High Court after an incidence of police atrocity on street children,<sup>607</sup> guidelines on how to deal with issues affecting street children in Delhi were developed. These were submitted to the High Court in 2007.

1059. In a joint initiative by Kolkata Municipal Corporation, UNICEF and a group of 75 NGOs, led by City Level Programme of Action, a drive was launched in 2005 to identify children born in the city but without birth registrations. Around 50,000 such children were identified, and their certificates made. Since street children may not be in a position to

<sup>603</sup> Bihar Kids go to School, thanks to Police, <http://www.biharscoop.com/story/2007/4/14/35619/06840>.

<sup>604</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Himachal Pradesh State, 2007, page 69.

<sup>605</sup> Don Bosco PYaR (Project for Young at Risk), [www.donboscoindia.com/english/bis/default\\_ms.php?yr=2007&mn=7&newsid=1348&pno=1&newsidlis](http://www.donboscoindia.com/english/bis/default_ms.php?yr=2007&mn=7&newsid=1348&pno=1&newsidlis).

<sup>606</sup> Piggy Bankers, Delhi Newslines, <http://cities.expressindia.com/fullstory.php?newsid=251633>.

<sup>607</sup> *Abdul Shakeel Basha vs Government of National Capital Territory of Delhi and others*, Writ Petition (Civil) No. 24006/05. Sub folder 'Judgements', India: Third and Fourth Combined Periodic Report on the CRC Attachments.



safely keep these certificates, NGOs might keep them on behalf of the child/child's family.<sup>608</sup>

### **8E.5 Challenges**

1060. The 11th Five Year Plan has outlined several measures to address the issues of health, education and vocational training of street children. The ICPS provides preventive, statutory, care and rehabilitation services for all categories of disadvantaged groups, including street children. The JJ (Amendment) Act, 2006, has provision for effective services for recovery, re-integration and reconciliation of street children with their families and communities. The continuing challenges in addressing issues of street children include:

- Strengthening data on street children;
  - Strengthening programmes and services for rehabilitation of street children and improving their accessibility;
  - Efficient implementation of ICPS to protect vulnerable children.
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<sup>608</sup> India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of West Bengal State, October 2007, pp. 28-29.