

CHAPTER - V

CRITICAL APPRAISAL OF THE RIGHTS OF CHILD

5.1 PRELUDE

Scriptures may proclaim God manifests in the innocent smile of a child, a philosopher may gaze at the sparkling eyes of a growing child to feel the quintessence of the universe and a poet laureate may announce with divine solemnity that a child is the father of the nation.

Each year, millions of children are directly experiencing or witnessing increased violence and abuse in their homes, neighborhoods and school. Children from broken homes abandoned and destitute are easy targets of unscrupulous elements. Their tender age, innocence, lack of experience and absence of any guidance add to their vulnerability. The general penal code of this country and the various protective and preventive 'Special and Local Laws' specifically mention the offences where in children are known to be victims. The statistical analysis in the 'Crime in India', 1997, discloses that there has been a gradual increase in the incidence of child rate in kidnapping, abduction, exposure & abandonment and the procreation of minor girls. Other crimes against children are infanticide, feticide, buying and selling of girls for prostitution, abetment of suicide and child marriage.

Though accurate figures are unavailable, each year there are thousands of children who enter the multi-million dollar illegal sex market. Children are coerced, kidnapped, sold and deceived or otherwise trafficked into enforced sexual encounters. The damage, commercial sexual exploitation causes to the children is unquestionable. Children are robbed of their natural sexual development and their sense of dignity and self-esteem as well. Their physical and mental health are put at tremendous risk, their rights are violated and there only support may come from those who exploit them.

Over the past decade new manifestations of child victimization have emerged. Advance in technology have brought serious treats and potential harm to children. Video cameras are increasingly used to product child pornography. Computer equipped with scanners and access to the Internet is used to disseminate child pornography worldwide and to solicit children for sexual encounters.

Study of Victimlogy has revealed new information about intergenerational cycle of violence. A link between early victimization and the later involvement in violent crime has been identified. Witnessing violence at home and in the community also has adverse effects on the child's mental health and development, including an increased likelihood in some children to become directly involved in violence, whether as victims or perpetrators, as they mature.

Such tragedies are not just a day's happening. They happened yesterday; they are happening today; and they will happen again tomorrows – unless the nation decides to give priority to what can now be done to protect the victimization of these vast sections of its children.

In dealing with the victimization of children, the role of law enforcement agencies is most crucial, as any effort taken even in the best interest of the children should not cause secondary victimization. This calls for a sensitization of the personnel of the criminal justice system, particularly, the police as they are the first agency to come in contact with the child victims. Sensitization programmes should cover the prosecutors, lawyers and even the judges at all stages of the criminal proceedings. In fact, I would go one step further and advise that sensitization programmes should extend to the legislators and policymakers.

It is most unfortunate that victimization of child in these forms and various other forms and patterns continues to occur in developed as well as developing countries even ten years after the United Nations drew up its Convention on the

Rights of the Child which has been adopted by all but two countries (Somalia and the US) in the world. Consequently, **there exists a wide chasm between universal acceptance and universal observance** of this humanitarian international instrument concerning protection and promotion of human rights of the child. No wonder that the rights of tens of millions of children all over the world are being flouted on an enormous scale. Contemporary human civilization and world community are yet to traverse a long, long way in their tryst with a new world order which will ensure human rights of the child victims. But in recent times there has been unpleasant and unfortunate incidents against children in general and female child in particular.

5.2 UNIVERSAL PRIMARY EDUCATION: A DREAM YET TO BE FULFILLED

Through out the world, even in areas with high enrolment rates, education quality remains generally low. An education revolution is absolutely essential. An estimated 855 million people – **more than one-sixth of humanity – will be functionally illiterate** at the end of this century. At the same time, more than 130 million children of primary school age in the developing countries, including 73 million girls, are growing up without access to basic education. **Millions of others languish in sub-standard learning situations where little learning takes place.**

Without an education, people cannot work productively, care for their health, sustain and protect themselves and their families or live culturally enriched lives. Illiteracy makes it difficult for them to interact in society in a spirit of understanding, peace, tolerance and gender equality among all peoples and groups. On a wide scale, the denial of education harms the cause of democracy and social progress – and, by extension, international peace and security.

5.2.1 NATIONAL AND INTERNATIONAL RESPONSIBILITY

The primary responsibility for basic education rests with national governments. Many have frankly failed to make it a sufficient priority. It is standard for

developing countries to plead their own poverty as an excuse for not ploughing enough resources into the pursuit of "Education For All", yet all the evidence from decades of development suggests that even poor countries can work wonders if they only have the commitment.

UNICEF has made a detailed study of nine countries and the Indian state of Kerala that have achieved much better results in health and education than neighboring countries with similar incomes. Regardless of their position on the ideological spectrum, all these countries have given strong state support for basic social services, refusing to rely on a trickle-down from economic growth or on the free play of market forces. In common, they have:

Consistently spent a higher proportion of their per capital income on primary education than their neighbors, while also maintaining relatively low unit costs; Managed to improve quality by reducing pupil-teacher ratios while keeping repetition and drop-out rates low; Kept primary schooling free of tuition fees;

Managed (except for one) to achieve universal primary enrolment including broadly equal participation by girls and boys – and the exception, Malaysia, is not far short.

The lesson is clear. National governments can and should do much more to fund the push towards Education For All. But International aid donors and lenders have, in general, also not significantly increased their funding of education since Jomtien. The proportion of bilateral aid committed to education in 1993-1994 was 10.1 percent, compared with 10.2 percent in 1989-1990 and with 11.0 percent in 1987-1988.

Even the World Bank, one of the Jomtien conference conveners and now the greatest single provider of funds to the education sector, has an inconsistent record in funding education in the 1990s. Between 1989 and 1994 the proportion of Bank lending allocated to education went up from 4.5 percent to 10.4 percent. But by 1997, the proportion had fallen to 4.8 percent. The trend seems to be

changing again, and the Bank estimates that it will have to allocate 8.6 percent of its total lending to education in coming years.

5.2.2 RIGHT TO EDUCATION: INDIAN SCENARIO

It is said that parents don't send their children to schools because of economic reasons—they want their children to add to the family income and therefore they either do not send their children to school, or children drop out after a year or two. This is at best only half-truth and half-truth is more dangerous than falsehood..... Even where schools function, the physical condition is deplorable – there are no desks, no drinking water facilities, no lavatories. You visit any Corporation and Government schools and you find that children in primary sections are not provided with desks; they are required to squat. Children from poor families do deserve better physical environment than in their places of residence where they have no amenities of life. Let them have some amenities at least in their school where they can feel happy, and if they are happy they may not drop out.

Look at our priorities. Elementary and primary education (Upto the age of fourteen) which should have been on the priority list, is not in that category. The percentage of children going to school in our country is much less than in many underdeveloped countries including those in Africa. The drop-out rate, too, is much less in those countries. Our government has money for everything, but not for compulsory education. One does not have to be an economist to understand the simple fact that economic prosperity, or for that matter any development, is just not possible without education. Furthermore, abolition of child labour will be possible only when children are sent to school. As an example, we may refer to Kerala where child labour has been on the decline because of increasing literacy.

The greatest tragedy – a wholly avoidable one – that has befallen our country is the non-implementation of the programme of universal primary education

and not putting this trial welfare programme first on the list of priorities. For this builders of the new India during the period 1947 till the third smiles are squarely to blame. [Except Kerala, the picture is grim allover. In UP, for example, one-third of male children and more than fifths of female children are illiterate. It is the same in respect of school attendance for India as a whole, more so for UP. In rural areas more than quarter of boys and more than half the girls have never been enrolled. India is not only behind China, Sri Lanka and South Korea, but also behind "low income countries" (as defined by World Bank) including sub-Saharan Africa. Idealism of any kind has since the mid-sixties been replaced by such a foul atmosphere; progress of any kind is unthinkable.

Our leaders did not adhere to the very simple and rational approach first thing first. The first thing was to make the one social welfare programme, namely universal and compulsory primary education, successful. (Article 45 of the Constitution, had directed the State in 1949 "to endeavour to provide within a period of ten years from commencement of the Constitution, for free and compulsory education until they complete the age of 14"). It took another five decades for the Supreme Court of India to appreciate the fact that nothing has been done and that the provision of this Article be made part of fundamental rights. Again, there is no indication of any action that is to be taken against the State for violating this right. If we had successfully carried out only this welfare programme, all other problems would have remained under control and India would have been on the march forward. (As an example, we may refer to Kerala where because of high rate of literacy employment of children has been on the decline.) instead, the stark reality today is one of intractability.

Our leaders also chose not to take any cognizance of the fact that slavery thrives on illiteracy – and that precondition for any progress, apart from cultivating a culture of respect for the human being, in any field including realization of civil rights, is the eradication of illiteracy and the 'divinely ordained' hierarchical order of our society. Non-recognition of the basic fact has rendered India vulnerable in almost all fields.

In 1947 India's destiny was designed by leaders many of whom were intellectuals; they were well-versed in world history. They knew, or ought to have known, that the emperor of Japan in the 1870s concentrated on only one welfare Programme with a view to tackling all other problems – he introduced universal primary education; that Britain too realized its importance and made primary education compulsory about the same time. Our leaders knew that, that is how they achieved a break-through in population control. They also knew that the evil of child labour separated from these countries, thanks to their successful implementation of this one single welfare Programme. And yet our leaders exhibited a singular lack of will to make this successful in our country. Is it because it has not been our tradition to care for the poor, the deprived, the depressed?

Lack of funds is often cited as the main reason for failure in this sector. The country has money, however, for all "programmes". we have the money, for example, to send teams of ministers and members of Parliament on a world tour with the ostensible purpose of assessing the use of Hindi in our Missions abroad – the whole tour costing about rupees one crore. We have crores to spend on "security" of VVIPs. There is no dearth of money for our foreign mission people who are "required" to live in style, observing all pomp and show, hiding under the carpet the reality of India's poverty. There is no problem in spending money lavishly on our MPs and state legislators – they enjoy almost everything free of cost; over and above these they get a handsome pension for life after they have served a term of only four years. To all these the scandalous and diabolical scams involving thousands of crores of rupees can be added. Who can say India is a poor country!

Well, everything except children's education is unavoidable expenditure; compulsory primary education can wait, for the abuse of the child, who is God's gift! Human rights activists may consider whether it is possible to bring

about a change in the scenario including that of human rights so long as this willful and criminal neglect of the child persists.

According to the **report** of Human Development in South Asia published in 1998, income poverty is not barrier to the spread of basic education. Many countries which are poorer than India have managed a much higher rate of literacy. Political commitment to basic education in India remains both faint and fragile. With the result that India has the largest illiterate population in the world. If Sri Lanka and the Maldives could achieve over 90 per cent adult literacy rate, and if Bangladesh could make rapid strides in this regard, why can't India make progress?

Tazakistan – real GDP per capita income 1,117 dollars, and literacy rate 93 per cent;

Kenya – 1,404 dollars, and literacy rate 94 per cent;

Vietnam – 1,208 dollars and literacy rate 78 per cent.

In 1994, India's real per capita income was 1,348 dollars but its literacy rate was 52 per cent. So that poverty of resources [the reason for not achieving literacy not only given by government agencies but also by intellectuals and activists prominent among them was no less a person than the well-known Gandhian educationist, the late J. P. Naik] is not the real reason for India's dismal performance in the field of basic education. [Naik maintained this in a report prepared for the Citizens for Democracy of which Tarkundo was General Secretary]. In short, India, the report points out, is still first in the world in terms of the number of total illiterate persons.

The report states: India's problem is that the task of providing elementary education to all children is massive. The task was made even more difficult when India spent less than 4 percent of its GNP on education and then devoted less than one half of this expenditure to elementary level education. Both the low over-all spending on education and its distribution among primary and higher education make it extremely difficult for India to reach the goal of

Universal Primary Education. The amount allotted to elementary education in India has fallen from 56 percent in the First Plan to 29 percent in the Seventh Plan.

According to statistics collected by the authors of the report, from official sources, vulnerable groups in India are often deprived of educational opportunities. The literacy rate varies from 90 percent for rich urban males to a mere 17 percent for poor, rural Scheduled Castes women. Scheduled Castes and Scheduled Tribes have a literacy rate of 40 percent compared to nearly 60 percent for higher caste Hindus. The enrollment rate of 6 to 14-year-old Muslim children is 62 percent compared to 77 percent for non-Scheduled Castes Hindus.

Forty – five years after Independence, in 1991, only 52 Indians out of every 100 were able to read and write. More disturbing is the disparity between men and women: whereas 64 men out of 100 could read and write, only 39 women could do so. There achievements are also not uniform across the country. In Rajasthan, only 17 women out of 100 could read and write, whereas in Kerala, as many as 75 out of 100 could do so. The economic losses arising from such high levels of illiteracy are enormous, to say nothing of the social discrimination and lack of opportunities suffered by the illiterate. Even the health effects of female illiteracy are obvious in the correlation with infant mortality.

According to Official resources the gross enrolments ratios among boys at the primary school level exceeded 100 per cent in most of the 21 States and Union Territories of the country. However, their enrolment declines progressively as they move from the primary to the secondary level of schooling. In fact, there is a sharp decline in the enrolment ratio among girls, from 93 per cent in the age group 6-11 years to 55 per cent in the age group 11-14 years. Doubts have often been expressed on the validity and reliability of enrolment figures, as it is well-known that not all children attend school. Lack of more up-to-date data makes it difficult to assess recent advances that could have made.



Numerous efforts have been made through the country's modern history to enact laws, but there are often lack in mechanisms of enforcement, and are often criticized as placing a particular burden on the poor. It has been said that only compulsory education can effectively convince all parents to allow their children to participate fully in the educational opportunities made available by they State. At the same time, the State is obligated to provide educational facilities, such as infrastructure, teaching and learning materials, and most important of all, an adequate number of teachers properly trained to offer quality primary education. **Any effort towards compulsion in primary education must be seen as a two-way street**, both by those availing of the education and by those providing it.

Achieving universal primary education is indeed a challenging task, but not an impossible one. Every effort must be made to sustain and accelerate the public momentum that has been built up during recent years to achieve this most critical goal for children, and the country.

5.2.3 RIGHT TO EDUCATION: POSITION OF GIRL CHILD

It was in 1986 at the SAARC meeting that government leaders of seven South Asian countries decided to make the 'Child' a priority for planning. A major recommendation at that meeting was for planners, administrators, social workers and governments of SAARC region to come together and deliberate on the 'Girl Child'. Hence a workshop on the 'Girl Child' was organized at Delhi 1988.

The deliberations shed light on the unfortunate conditions of the Indian girl child. How she is under attack before her birth and regarded as unlucky and liability when she is born. She is not only neglected but deprived on necessary daily needs.

The Indian girl child is often uneducated, underfed, undernourished and her health needs are neglected. She is considered and **treated like a second class**

individual and this traditional culture of discrimination which runs through all sections of society.

Such social discrimination against the girl child will be effectively countered, through a massive campaign, to ensure equal treatment and equal opportunity for their growth and development. A holistic approach has increasingly been emphasized including appropriate intervention, gender sensitization, advocacy, social mobilization and using media for changing attitudes.

Educational status of girls child is also not applaudable. Maximum number of desks in the school is occupied by a boy. **An early end to education for girls** is generally assigned to **poverty**. The cost of 'voluntary' contributions, uniforms, books, and bus fares can make even free education expensive-especially if there are many children. When a poor family considers how much a daughter can help in cleaning, cooking, collecting wood and water, and looking after younger children, then how little opportunity there will be for her to get a paying job even if she is educated, then the returns rarely seem to warrant the expenditure. So it is usually the daughters who are withdrawn from school.

Even when girls are enrolled, the burden of domestic chores stands in the way of educational progress. A study in Mozambique's primary schools found that the single most important factor in poor performance was the strain imposed by the child's workload.

Close behind poverty follows tradition. And perhaps the strongest tradition of all is the idea that sons should be educated because they will be the bread winners of their own future families, and the supporters of their aging parents. A girl's work, though it may be longer and harder, is considered less likely to bring in monetary income. And in cultures where marriage means that a daughter becomes part of her husband's family, the incentive to educate girls is weaker still.

Yet when asked, many poor families will say that they want their daughters to be educated. Many girls stay home not because parents are poor or culturally intransigent, but because they do not believe that the kind of education on offer is appropriate for their daughters because they feel the risk are too great.

Those risks are real. Girls are sexually harassed, sometimes raped, by their fellow students, or their teachers, or sometimes by strangers as they walk to school. Girls get pregnant. And these sexual pressures and vulnerability are central to low enrolment and retention rates for girls in the class-room of many countries. If classes are overcrowded, if children are poorly supervised, if male students are unruly and violent, then many girls feel threatened and many parents fear for their safety. If no single-sex schools or classes are available, if there are not women teachers, and if the school is too far from the home or community, then female attendance tends to fall away. A study in Egypt, for example, showed that girls' enrolment was at a low 30 per cent when schools were three or more kilometers from the children's homes, but over 70 per cent when the school were located within one kilometer.

In recent years, the World Bank has lent its weight to the cause of girl's education. **In a speech in 1922, Lawrence H. Summers, the then Vice-President and Chief Economist of the World Bank, argued that "investment in the education of girls may well be the highest return investment available in the developing world."** Girl's schooling not only cuts child mortality and improves the nutrition and general health of children, it also reduces population growth, since educated women tend to marry later and choose to have fewer children.

The value of investing in basic education – and especially in the education of girls – is almost universally accepted. Why, then, has the international community not rushed to embrace this most essential project, which comes closer than anything else to being the long-sought magic bullet that will deliver 'human development' world-wide? The answer is disappointing but familiar. There has not been sufficient political will.

Though 1990 was declared as the year of the girl child, her status is unlikely to improve. She will still remain at the lowest rung of the ladder, unwanted by her family, abused, not bothered about or concern shown by employees. Unless some concrete measures are taken to help her sincerely and genuinely.

5.3 MALNUTRITION: HARM TO NATIONAL ASSET

Malnutrition, which is a by-product of poverty and unemployment, continues to be a major problem. In India where 32.7 % people in the rural areas and 19.4 % in the urban (1987-88) fall below the poverty line, a staggering 250 million Indians suffers from varying degrees of malnutrition.

It is more acute among infants, pre-school going children and expectant and nursing mothers of poor socio-economic groups. For example, an estimated 30% of all infants born in India are Low Birth Weight (LBW) babies. A study in rural areas of a few states reports that 37 % of children suffer from child malnutrition, 43 % are moderately affected and 8.7% suffer from extreme forms malnutrition.

Roughly, 56 % of pre-school children and almost 50% of expectant mothers in the third trimester of pregnancy suffer from iron deficiency anemia. All the states in India show prevalence of iodine deficiency. About 40% of all death in the country occurs in the age group of 0-6 years and the majority of these fatal cases are attributed to Kwashiorkor, Vitamin A deficiency and Anemia. Again $\frac{3}{4}$ of the children in this age group have body weights below 75% of the standard weight of well-nourished children, 52% suffer from moderate malnutrition, 23% from severe malnutrition and only 3 % can be considered as having normal body weight.

Further about 2.5 million children in the country suffers from iron deficiency anemia resulting in blindness in early childhood because their diet lack Vitamin A. the prevalence of blindness due to vitamin A deficiency in the country is

about 10 to 15 % and therefore about 12,000 to 15,000 children of the age group 1-5 years became blind every year.

Similarly continuing gender disparity in intra-familial distribution of food is also a major contributory factor in the premature birth of an infant. It has been found that 36 % of children deaths are due to prematurely as children continue to be vulnerable to seasonal food shortages which result in periodic and recurrent malnutrition which leaves the child more vulnerable and less about to recoup.

5.3.1 THE ASIAN ENIGMA

In the public imagination, the home of the malnourished child is sub-Saharan Africa. But the study clearly shows that the worst-affected region is not Africa but South Asia. Just over 30 percent of Africa's children are under-weight, but the corresponding figure for South Asia is over 50 percent. And in Bangladesh and India, the proportion of children malnourished is very significantly higher than in even poorest countries of the sub-Sahara.

Measured by absolute numbers, it is to be expected that problems of poverty will be concentrated in South Asia, simply because of the sheer size of its populations (India alone has 50 percent more people than 47 countries of Sub-saharan Africa put together). But when the proportion affected is also far higher, as is the case with child malnutrition, then the centre of gravity of the problem shifts still further. That is why half of the world's malnourished children are to be found in just three countries - Bangladesh, India, and Pakistan.

Poverty is a major underlying cause of malnutrition, but the average level of purchasing power in sub-Saharan Africa is almost identical. Food production per capita is roughly equal in both regions. Answer to malnutrition in Asia is nor found in agricultural performance. Neither can it be claimed that the answer lies in Africa's higher child death rates, which remove many malnourished children from the statistics of malnutrition. With an average difference in under-five

mortality rates of around 50 points between the two regions, of which perhaps one half can be assumed to be associated with malnutrition could be only about 7 percentage points.

Extreme inequality, leading to widespread destitution, is another possible factor that average figures may conceal; but inequality does not appear to be significantly worse in South Asia than in Africa.

Nor does it seem reasonable to give much weight to another popular belief – that malnutrition in South Asia is the result of its predominantly vegetarian diet. It is probably true that an exclusively plant-based diet cannot meet the high energy and nutrient needs (relative to body weight) of a small child. But vegetarian families in India have a wide choice of milk products, whereas animal protein may not feature prominently in the diets of Africa's poor; vegetarianism is not always a matter of choice.

Nor can the problem be laid at the feet of government neglect. The Government of India, for example, has sustained the largest effort in history to improve nutritional standards – through the Integrated Child Development Services (ICDS) programme, which was started over 20 years ago and now operates in 400,000 of the country's 600,000 villages.

Nor is the answer to be found in old saying about the inappropriateness of international growth standards for Asian countries. The debate about growth standards is dead. A recent investigation by the growth curves of children in better-off Indian families follow the same pattern as those of adequately nourished children in other parts of the world. At least until early adolescence, well-fed and well-cared-for children follow the same growth patterns whether they are born in Nairobi or New Delhi or New York.

Different growth rates for South Asia therefore mean that the children of the subcontinent are either not as well fed, or not as well cared for, or both. So what factors, among the many that are associated with malnutrition, are so different in

South Asia as to account for the very much poorer nutritional levels of its children?

To answer that question one has to generalize about the two heterogeneous regions of the world.

5.3.1.1 THE BIRTH WEIGHT FACTOR

Approximately one-third of all babies in India are born with low birth weight. In Bangladesh, the proportion is one half. In sub-Saharan Africa, the proportion is about one sixth (some of which can be put down to malaria). Low birth weight indicates that the infant was malnourished in the womb and/ or that the mother was malnourished during her own infancy, childhood, adolescence, and pregnancy. The proportion of babies born with low birth weight therefore reflects the condition of women and particularly their health and nutrition, not only during pregnancy but over the whole of their childhood and young lives.

During the pregnancy itself, the average women should gain about 10 kilos in weight. Evidence suggests that most women in Africa probably come close to that figure, whereas most women in South Asia probably gain little more than 5 kilos. As a result child is born with low birth weight, which is the best single predictor malnutrition.(birth weights below 2,500 grams.) This shows that women and girl children in Asian countries are less well regarded and less well cared for than in sub-Saharan Africa. This is why we find a ratio of female life expectancy to male life expectancy that is significantly below the world-wide norms.

They are less well cared for their families, their partners, and their societies. It is common for the men to eat the most and the best, leaving the women and children to eat the last and the least. The mother will then feed her sons the best of what is left, at the expense of her own and her daughters' nutritional well-being. Women indeed in all regions may be subordinated; but the demands

made in patriarchal South Asian societies on the time and energies of women are visibly more excessive and unfair than in other regions of the world.

Another cause of low birth weight is deficiency of iron. About 40 per cent of women in sub-Saharan Africa suffer from anemia, as opposed to approximately 60 per cent of women in South Asia, a proportion that rises to 75 per cent in pregnancy (and a staggering 83 per cent in India).

In short, the poor care that is afforded to girls and women by their husband and by elders is the first major reason for levels of child malnutrition that are markedly higher in South Asia than anywhere else in the world.

5.3.1.2 FOOD AND DISEASES

Since the rate of child malnutrition is greater than the incidence of low birth weight, this factor alone cannot account for all of the difference in nutritional levels between South Asia and sub-Saharan Africa. But the social conditions that lie behind low birth weights continue to affect the nutritional well-being of the small child. The search must therefore now turn to what happens after the child is born.

It is still widely assumed that lack of food is the only reason for malnutrition. But if this were true, why are there so many communities in the world where food shortage is not a problem but where malnutrition is? And why are there so many millions of families where very young children are malnourished but where adults and older children are adequately fed? Or why is it that children most commonly become malnourished between the ages of six months and two years, when the child's food need are relatively small, rather than from the age of two onwards, when food needs are significantly greater?

For most poor families, the real food problem is not lack of food on the table but the **inordinate cost**, in money, time and energy, of putting it there – meaning that there is too little of any of these resources left over to invest in other aspects of life.

Inadequate nutrition will make the malnourished, and malnourished child tend to become more ill. Illness depresses appetite. It inhibits the absorption of nutrients. It is an attack on the child's growth. And if such illnesses occur often, and if they are not managed properly then this steady onslaught causes nutritional reserves to fall and growth to falter. The result is an increased to illnesses, during which nutritional reserve are further depleted. So proceeds the downward spiral of frequent infection and poor growth leading to long-term stunting and for many children, an early grave.

The second major reason for significantly higher levels of malnutrition among South Asia's children is **poor hygiene**. But the situation in India is better than South Africa. As the statistics shows that child-survival rate in India is higher than South Africa. So the reason behind malnutrition is lack of proper knowledge regarding breastfeeding, providing of other nutritional food timely and child care.

5.3.2 NUTRITION: INDIAN POSITION

India has the unfortunate distinction of having nearly 75 million malnourished children below the age of five years, the largest number of malnourished children in the world. Even at birth, one in every three children born in India is of low birth-weight: the result of undernourishment in the womb. The rate of malnutrition among children below five years of age, 63 percent in India, is more than double the average for Sub-Saharan Africa. In the world today, only children in Bangladesh and Nepal are more malnourished than Indian Children. Even mild malnutrition can cause a critical increase in the likelihood that a child will die of a disease. Compared with the risks facing a well-nourished child, the risk of death from common childhood disease is doubled for a mildly malnourished child, tripled for a modern malnourished child. A lack of only 200-300 calories to a young child's daily diet is often the difference between normal growth and the faltering that starts the descent towards illness and death.

It used to be thought that biologically and genetically, Indian children do not normally grow as fast or as large as children in other countries. This is not true. Extensive studies by the Nutrition Foundation of India have now shown that global standards of height and weight apply to Indian children as well.

It has also been customary to regard poverty or a lack of purchasing power as an important factor contributing to malnutrition. But world-wide, the correlation of malnutrition and per capita incomes is extremely weak, and this is not surprising. Even within India, although the per-capita income of Maharashtra is more than one-and-a-half times that of Madhya Pradesh, both states report the same levels of child malnutrition: 55 percent. Again, whereas Gujarat and Kerala have the same proportion of population living below the poverty line, 17-18 percent in Gujarat and 35 percent in Kerala. Certainly, there is extensive malnutrition among the poor, but even in middle income families, malnutrition is common.

Again, common sense often attributes high levels of malnutrition to the non-availability of food. It is true that if children do not get food to eat, they will get malnourished. It is also true that there are several remote villages where the seasonality of harvests assures very little to eat during the monsoons. Heavy rains also frequently bring diseases, and make access by road extremely difficult. As a result, food grains are not available through government's Public Distribution System or in local markets; families have to wait until after the next harvest to purchase new stocks of food grains. But then this is true even for those which have purchasing power. Clearly, it is not the purchasing power but the proper interval of feeding and providing the well balanced diet.

Malnutrition, in Asia can be avoided if families establish command over food and health care, acquire and apply knowledge on child caring and rearing practices, allocate time to look after children and protect the cleanliness and safety of the environment. Considerable research points out that nutrition and

healthy growth are the outcome of three essential factors: accessibility of food in the home, health care, both preventive and curative, and child caring practices.

5.4 INADEQUATE CHILD HEALTH SERVICES: A MORAL OUTRAGE

Children in India face many health hazards and many die at young age for lack of timely health care. 40% of all deaths in India occur among children below 5 years of age, of these deaths, about half are of children less than a year old. In the lowest age group (0-12 months) 50% of death are due to dysentery, diarrhoea, respiratory diseases and gastro-intestinal disorders. In the 1-4 year group, mortality seems to be specifically related to respiratory, digestive and parasitic diseases.

It is estimated that 30% of all school-going children are suffering from one or other ailment. Of children's illness treated at health centers, 5% are reported to be related to intestinal infections, respiratory complaints and nutritional disorder. Eye ailments and defects due to poor hygiene are also common and many children needlessly go blind in early childhood.

Further about 80% of Indians live in rural and tribal areas, but only 30% of hospitals beds and 20% of doctors in the country are available there. Medical care for the rural population is provided by government run primary health centers. Each center is expected to serve from 70,000 to 80,000 people, spread over a 100 villages with the help of two doctors. But the situation is that some PHC's have only one doctor. Many children do not get timely attention because 50% of village women are daily wage earners and they cannot carry their small children to the PHC without losing family earnings. Again Neonatal tetanus remains a problem in states, which have a high proportion of deliveries conducted by untrained personnel. Further, after the birth of child proper vaccination facility is not provided as the country has only 25 children's hospitals and 424 Pediatric Wards, which are mostly located far from the villages.

Again the existing maternal and child health services reach to only small proportion of the women and children who need them and therefore the task of providing health care to ensure holistic development of over 300 million children in (0-14 years) in India, where one third of them live in conditions of abject poverty and neglect, is an enormous challenge.

Further Health Status of children has a direct link with the availability of safe drinking water and sanitation. About 163 million children (0-14 years) in rural areas of India do not have access to safe drinking water and are thus exposed to infections. Again in 113,000 villages the drinking water facility is more than 1.6 kms away and in another 24,000 villages, the water supply available from wells, streams, tanks, ponds and rivers is inadequate in quantity and is unprotected which is open to the risk of pollution. It is estimated that about 8.7% of deaths in the first year of life, 19.1% of deaths in age groups of 1-4 years and 15.2 % of deaths in the 5-15 age group are due to water spread diseases like diarrhea and cholera.

Thus the UNICEF Health Strategy, revised in 1995, continues the emphasis on reduction of child illness and death through such activities as immunization, breastfeeding, improved nutritional practices and sound management of illness. It also places greater stress on the protection of children in the second decade of life and on reproductive health. A sharpened focus on the needs of adolescents aligns UNICEF health policy more closely with the Convention on the Right of the Child and recognizes that the health, attitudes and behaviours of teenagers profoundly affect their capacities as adults.

The new strategy reflects the reality that, while infants and child mortality rates have fallen dramatically since the 1960s, communicable diseases such as malaria, diarrhea, pneumonia and measles remain widespread. In addition, health problems are related to increase in poverty, environmental hazards and risky behaviours, which are growing at the alarming rates.

The Bamako Initiative remained a benchmark for sustainable primary health care in 1995. The Initiative's guiding principles – community co-management and cost-sharing, more efficient use of resources and improved quality of care – provide countries with a flexible range of options to maintain and expand the health progress. Implementation of such initiatives / measures had helped many countries to lower down the rates of many diseases like diphtheria, measles, tetanus, polio, tuberculosis, pertussis etc.

Global infant immunization levels for measles, diphtheria, pertussis tetanus (DPT3 vaccine), polio and (BCG vaccine) were at 80 per cent or higher when 1995 began, and they advanced on most fronts as the year progressed. Despite some improvement, in countries undergoing or recovering from conflict in Eastern and Southern Africa, Cambodia and the Lao People's Democratic Republic had lower immunization rates than their neighbours in South – East Asia, but both counties improved substantially over the previous years.

The countries of Central Asia, Eastern Europe and the newly independent States remained poorly equipped to contain an ongoing diphtheria epidemic, and the International Committee of the Red Cross (ICRC), UNICEF and WHO launched a global campaign for vacancies.

By any standard, the international immunization effort is the greatest public health story in history. And immunization is also a bargain, with a price tag of just \$ 1.5 per child: \$ 1 for the six original vaccines plus the expenses of delivery to some of the least accessible places on earth. The impact of these modest investments on the lives of children and their parents is momentous.

To safeguard the health and well-being of children, two things need to happen. First, those children not receiving the existing low-cost vaccines must be reached. Second, we must take step now to ensure that these children are not bypassed by the wonders of the next generation of vaccines, which will cost many times more than those now in use.

Some of the poorest nations are moving mountains to improve their children, while other comparatively wealthy nation seem unable or unwilling to do so. The world as a whole is not doing, all it can to make vaccines available to the children who need them. That is not only a failure of leadership – it is a moral outrage.

When something becomes a right, it means that every child is entitled to it, not just those who are easy to reach. So national immunization plans must address not just the first 80 per cent but also the last 20 per cent: institutionalized children, children living on the streets, the hill tribe children in Thailand, the Romanies in Bulgaria and Romania, the isolated villages in Nigeria.

5.5 RIGHT OF THE CHILD AGAINST EXPLOITATION: CHILD LABOUR

The term child labour has been aptly defined by Homer Folks as “any work by children that interferes with their full physical development, their opportunities for a desirable minimum education or their needs for recreation.” The term, therefore, applies to “children engaged in all types of activities whether these be industrial or non-industrial but which are detrimental to their physical, mental and social well being and development”.

In developing countries a large number of children from poor families are victims of child labour. According to International Labour Organisation's Bureau of Statistics, there are now 120 million children between 5-14 years of age who are fully at work, while there are about 250 million children who are engaged in secondary activity. Of these, sixty-one percent are found in Asia, thirty-two per cent in Africa and seven per cent in Latin America. India has the highest number of child labour. As per 1991 census the number of working children is estimated to be 17.36 million in the country. In real terms, the figures must be much more than the estimated figures. For, the National Sample Survey Organisation estimated the numbers at 17.58 million way back in 1985.

The worst form of child labour is child slavery in the form of bonded labour which still exists in some parts of rural India. It is the end product of an extreme form of economic indebtedness which compels the parents to engage their children in household and agricultural work under inhuman conditions of a debt bondage. Although the incidents of child slavery have declined considerably in recent years due to governmental and non-governmental efforts, this socio-economic evil has not been eliminated altogether. This is why, on November 11, 1997 the Supreme Court had brought under the purview of National Human Rights Commission (NHRC) the task of supervising the implementation of all laws relating to abolition of bonded labour. In response, the NHRC constituted a group to study various aspects of bonded labour and submit periodic reports to the Supreme Court.

In the socio-economic context of a developing country as ours child labour is often considered as a necessary social evil resulting from economic necessity of a poor family. Although the conditions under which the children work vary widely across activities and between different sectors, the fact remains that child labour not only leads to denial of education and recreation for the working children but also they are often exposed to various types of occupational health hazards that reduce their average life span. Children engaged in mines, quarries, glass, bangle, fireworks, carpet, metal and match factories and other such hazardous occupations under unhygienic working and living conditions are the worst sufferers of child labour. Such inhuman exploitation of their tender age by their employers is unpardonable and the deplorable working environment and conditions in which they are forced to work must be condemned through legal measures at all levels.

It is often said that child labour will disappear if poverty is eradicated. This is putting the cart before the bullock, for poverty can be tackled only when children are educated promoting school enrolment is the only way out.

5.6 AN ALARMING HIGH RATE OF FEMALE FETICIDE

Feticides is the unlawful expulsion of fetus. It is also called "Criminal abortion" or "causing miscarriage". Undoubtedly, the worst form of child victimization is female feticide as it results in the killing of a female child before she is born. It is most unfortunate that even after entering the new millennium preference for the male child remains such a predominant socio-economic factor that in a large section of our society, including the middle and upper class, the female child, "is still considered an avoidable social burden".

In the olden times when sex of the child could not be discovered, the female child was get ridden by practicing infanticide. With the technological development in general and amniocentesis in particular has made this crime to commit even before the female child sees the world.

The increasing misuse of technical advancement in medical science such as sex determination tests with ultra-sound scan is evident from the fact that the ratio of women to men has gone down from 972:1000 in 1901 to 927:1000 in the 1991 census which is 63 less than the world average. In Punjab and Mariana the unethical practice of sex determination tests and abortion of female fetuses appears to be so widespread that a 1997 survey showed the sex ratio having dipped to 750.

The gravity of the situation may be assessed by the fact that the time when the practice of amniocentesis had started, the number of private medical clinic was restricted to metropolitan centres only. For example the Maharashtra had 258 private and 16 Government recognized clinics located in Bombay alone. The fact that no permit was required for performing test in such clinics, there was rapid growth of such clinic in distant towns of Maharashtra as well.

A recent newspaper report outlines the following facts/ data which are needed a matter of great concern:

- IMA activists estimate that 5 million female feticide operations are conducted every year.
- India has about 20,000 ultra-sound clinics, mostly unregistered and staffed by doctors unqualified to conduct these tests.
- In Punjab, Haryana and Uttar Pradesh mobile vans have taken such sex detection tests to the village.

The sex detection clinics have mushroomed all over the country with urban centres occupying a leading role in this direction, the future prospects looks gloomy. Sex detection and its large scale practice in metropolitan centres takes place under the guise of prenatal tests to detect genetic defects. Many centres use procedures like amniocentesis ultrasonography, cryogenic villa biopsy .

The availability of medical technology which could assist pre-selection of sex has emerged some feminist groups, voluntary organizations who demands for total ban on sex determination. On the other hand the lobby of doctors, who performs these test, opposed the demand on the ground that if this is enforced, abortion would performed by quacks, which is carried by some of the doctors. There is some force in the demand of the doctors also. The whole issue is dependant upon the attitude of the people towards the female child. The rate at which the pre-natal sex determination tests are gaining popularity and being used in aborting female fetus, the day is not far when the women may become an endangered species.

5.7 PROBLEM OF INFANTICIDE: A GRIM REALITY

Infanticide means killing of child after birth. This was oftenly. practiced to kill female child. The period before coming of Islam, was known as "Dark Age." During this time, the Arabs who entered Sindh, also use to kill their newly born female child as their birth in the family was considered as an insult and humiliation to them. Here the father would kill the child by any method, or even

burying her alive in the sand. This was stopped after the arrival of Prophet, who held women in great esteem, and due to him they got their status.

Infanticide was a normal practice in India even more than 5000 years back. May be for different reasons but it was normal, when the infants were found weak, starving and difficult to feed or to carry. This murderous tradition even in Independent India continue in certain parts of the country, especially in case of girls.

As traditionally demanded in some states of India, if a female child is born, the infant is killed before the child sees the light of the day. A bag full of sand is used to suffocate the child or a heavy dose of opium is administered, if the new born is tough enough to resist this, then she is simply strangled. All this is done by the mother, while the women stand round and provoke her to get rid of the unwanted. Traditions are changing but rather very slowly.

Now also in South Indian states like Tamil Nadu, Children are fed the milk of poisonous plants, or covered with wet towel that induce pneumonia. In Bihar, children are shaken violently until the spinal cord snaps; stuffed in clay pots; fed salt to increase their blood pressure (death follows in minutes); and fed grains paddy husk to slit their gullets. More ubiquitously, however, the newborn is smothered, drowned in bucket of water, or starved to death before being popped in to the garbage.

5.8 CUSTOMARY EVIL: CHILD SACRIFICE

Its unbelievable that people still believe and continue with 'Child Sacrifice' for getting certain desires fulfilled, at the instance of fake Sadhus or such magicians who earn money through it. Sometimes even by 'Holy men' who incites the death of children for fulfillment of the wishes of people who approached them for their ailments. Few such instances are discussed below which will give the idea that how much superstitious and prejudiced we are.

Sumitra Bushan, 43, who lived in Barha, thought that she was cursed by Goddess Kali. Her husband had long abandoned her, leaving her with debts and a life of servitude in the sugarcane fields. Her sons, Satbir, 27, and Sanjay, 23, were regarded as lay bout. Life was bad but then the nightmares and terrifying visions of Kali allegedly began, not just for Sumitra but her entire family.

She consulted a tantrik, a travelling 'holy man' who came to the village occasionally, His guidance to Sumitra was to slaughter a chicken at the entrance to her home and offer the blood and remains to the goddess. She did so but the nightmares continued and so she returned to the priest. 'For the sake of your family,' he told her, 'you must sacrifice another, a boy from your village.'

Accordingly Sumitra and her two sons crept to their neighbour's home and abducted three-year-old Aakash Singh as he slept. They dragged him into their home and the eldest son performed a puja ceremony, reciting a mantra and waving incense. Sumitra smeared sandalwood paste and globules of ghee over the terrified child's body. The two men then used a knife to slice off the child's nose, ears and hands before laying him, bleeding, in front of Kali's image.

Police in Khurja say dozens of sacrifices have been made over the past six months. Last month, in a village near Barha, a woman hacked her neighbour's three-year-old to death after a tantrik promised unlimited riches. In another case, a couple desperate for a son had a six-year-old kidnapped and then, as the tantrik chanted mantras, mutilated the child. The woman completed the ritual by washing in the child's blood³¹⁰.

'It's because of blind superstitions and rampant illiteracy that this woman sacrificed this boy. Those who tortured and killed Akash Singh did so in a depraved belief - that the boy's death would offer them a better life. It had

³¹⁰ This is an observation made by Dan McDougall in Khurja (U.P) India on Sunday March 5, 2006

happened before and will happen again but there is little we can do to stop it. In most situations it's an open and shut case. It isn't difficult to elicit confessions - normally the villagers or the families of the victims do that. This has been going on for centuries; these people are living in the dark ages.'

5.8.1 CRACKDOWN CAMPAIGN AGAINST CHILD SACRIFICE

S Raju is a journalist for the Hindustan Times and has been reporting on child sacrifice cases since 1997 in western Uttar Pradesh. He has reported on 38 similar cases. He has been campaigning for a crackdown on the practice of tantrics.

In one incident he says a tantric told a young man that if he hanged and killed a small boy and lit a fire at his feet the smoke from the ritual could be used to lure the pretty village girl he had his eye on.

Since child sacrifices takes place in the remote area many of the cases go unreported. Besides this the police are reluctant to tarnish the image of their state.

According to an unofficial tally by the local newspaper, there have been 28 human sacrifices in western Uttar Pradesh in the last four months and according to Sanal Edamaruku, president of the Indian Rationalist Association, human sacrifice affects most of northern India. In India's remote northern villages it feels as if little has changed. The communities remain forgotten and woefully undeveloped, with low literacy and abject poverty. They have lived in the conditions that, for decades have bred superstition and a deep-rooted belief in the occult.

It has been found that people commit child sacrifices on the superstitious belief that tantrik or, sadhus or shamans will cure their ailments. But the fact is that these people take the advantage of people's fear. They are profiting from people's fears. In extreme cases they instruct their followers to kill the humans, especially children.

The masses need to be educated and dissuaded from following these men, "They play on people's fears and superstitions - it is crazy."

5.9 FEMALE CHILD: VICTIM OF GENDER BIAS

In all patriarchal societies females whether kids, adolescents or adults are believed to be treated as being inferior to males. Even parents discriminate between their sons and daughters. Psychologists are of the opinion that the personality of an individual is governed by early childhood experiences. Behaviors like dependency, passiveness and submissiveness in female children comes out of discriminatory child rearing practices. These behaviours nurtured over the years makes the female children victims of various crimes in different situations.

Gender discrimination, the age old system of inequality and stereotyping of the role of women, have resulted in the low valuation of a female child. The parents always favor a son. This perhaps is the attitude all over the country with a few honourable exceptions. Girls are expected to be docile, modest, less talkative and submissive thus closing the doors of creativity and innovation for them. Gender bias does not stop at childhood but also continues during adolescence, at the time of marriage, in the household of in-laws, in the process of decision making, emotional rehabilitation as a member of group; employment opportunities and participation in the political affairs. Traditionally, most of the parents inadvertently instill orthodox, traditional and patriarchal ideas into the minds of children.

Female child has been the victim of various forms of abuse, discrimination and exploitation at all the stages. She is discriminated at every step, affecting adversely her physical, social and psychological development. She is treated as inferior to a male child. She is deprived of nutritious food, proper education and other needs required for her growth and development.

5.10 PROBLEMS RELATED TO STREET CHILDREN

Poverty, disintegration of family, threat of violence in the family, lack of care, support and love at home, and fear of school/ studies are the major factors that drive many children away from their families in the street. Abandonment of children is another factor. In several cases death of a parent or his/ her desertion, divorce or second marriage marks the beginning of family disintegration. The consequent rejection by step mother/ father, violence, neglect and/ or abandonment compels several children to leave their homes. The major etiological factors that undermine the family bonds and result in these phenomenon could be summarized as deprivation and domestic violence. Majority of the street children are boys, because they leave home easily, while girls usually hesitate to move out and tolerate injustice at home.

For companionship and support they have to look to other children, and they live in gangs, making a living in whatever way possible, begging, guiding tourists, or doing odd jobs. Many make a living by looking through the city's garbage, collecting paper, bottles, rags and bones. There are retailers who take what they find and pay them something, however small. Frequently they have arrangements delineating their territory. Many suffer accidents from sharp glass or tins, or bites from rabid dogs. And many over a period of time suffer from tuberculosis or digestive problems. Of course, they are subjected to exploitation and abuse from adults.

Most children on the streets are exposed to the risk of tobacco, alcohol, and substance abuse and subsequent addiction. Those who attempt to seek out an honest life by doing odd jobs or rag picking etc., are most of the times underpaid. People thus exploit their vulnerability. Their hard earned money is also stolen or forcefully taken away. Many children on the streets prefer not to save money for these reasons and therefore spend almost entirely of what they earn, mainly on food, gambling, and addictions and vices. Case of trafficking of

street children for child labour, sexual exploitation and organ trade have been reported.

In some developed countries like America, street children are organized in gangs by criminals, who send them out to pick pockets, burgle houses and generally organize them on heavily populated areas. Many of them from poverty-stricken families in Eastern Europe, particularly the gypsy population of the Balkans, are taken to other countries for that purpose.

In some areas of South America, street children are going into business on their own, for example distributing drugs. There may be a gang with its own territory, and sometimes there are territorial wars between rival gangs, as in Chicago in the 1930s. But the gangs are gangs of children, and there are cases of children being murdered by other children.

Street children are faced with various types of harassment and exploitation, ironically from the custodians of law. Police consider these children to be "incorrigible criminals", responsible for all types of anti-social activities, while the truth is entirely different. It is found that most street children have more than one instance of mindless police atrocity against them, so much so that they perceive police as the biggest exploiter and enemy. Usually, the police limit their reaction within acceptable bounds, but there is at least one example **in Brazil where the police reaction went on the top**. In July 1993, after being 'checked' by street kids, one policeman promised that he would get them. The next night, six gunmen went to the place where the children were sleeping and began shooting at point-blank range. Seven children died. Suspicion pointed to off-duty policemen. In fairness, the authorities reacted, and three policemen were prosecuted. Some of the stories of police atrocities against children are truly heart-rending, which should be avoided at all cost. The painful fact is that the law is ever eager to lash at the child, but seldom comes to his/her rescue.

This then, is the reality behind the vocabulary of human rights. There is nothing new in campaigners seeking to draw attention to the sufferings of children from poor backgrounds. There is a need to save the children.

Medical care of children on the street is yet another area of serious concern. Data shows that most government facilities disallow medical care to them as they are unclean and unaccompanied.

5.11 DELINQUENT CHILDREN: SEMBLANCE AS A CRIMINAL

As it is that the criminal is not born but is made. The Crimes, like theft, cannot be inherited but forced by circumstances like poverty, population, illiteracy, bad company, broken family, cultural conflicts, modernization, etc. That is the reason the children are treated as innocent, as they cannot understand the nature & consequences of the act they do. A single incident may turn the life of a child to destruction, violence, instability & danger to the society, if he has not been treated with care & caution. At the same time the person may become a good, obedient, loyal citizen, contributing to nation building. If proper care attention, training is given to him.

Sociologists believe that child delinquency is the result of lack of care, attention, love, child abuse, neglect, fight in home and other unfavorable situations prevailing in home and in society. According to them child delinquency means all those activities which hinder the healthy and proper development of child like smoking, skipping schools, running away from home, drug and alcoholism, petty theft, using threat, Extraction and forceful collection of donation, trespassing etc.

Juvenile Delinquency is a social problem. Economic insecurity, under nourishment, inadequate clothing and lack of necessary medical care may lead to delinquency. No society is without delinquents. It is the duty of the state to give protection to these Delinquents and make them the good citizens of

tomorrow. A welfare State like India has to be more cautious when 92 million of its children are below the poverty line³¹¹.

It is difficult to define the meaning of Delinquency. As it covers many behavioural connotation in comparison with offences or illegal act, only those Acts are considered as illegal which the statutory laws expressly prohibits. The concept of Delinquency is so widely & narrowly woven that it can be stretched as much or as little as the conscience of police and prosecution direct.

The view has been very common that the nature of the Childs delinquent behaviour is unimportant except as a symptom of his underlying emotional problems. "The child's need for help" a need which is inferred simply from his presence in court rather than from an act of delinquency.

A Brazilian activist has rightly said, 'A juvenile delinquent is nothing more than a poor child caught red-handed in the struggle for survival. When a child is caught in such a way he is termed a child delinquent under the law. During the pendency of hearing before Juvenile Justice Board, he is required to be kept in observation home or remand home, but not in Jail. Nearly 18 years year back, in *Sheela Barse V. Union of India*³¹² The then Chief Justice Mr. Bhagwati has observed : "it is a matter of great regret that despite statutory provisions... there is still a large number of children in different jails in our country. It is no answer on the part of the State to say that it has not got enough number of remand homes or observation homes or other places where children can be kept.

The Juvenile Act, 1986 prohibited the detention of juvenile in either police station or jails. But in spite of all these mandates, there have been instances, where children have been taken overnight for interrogation by the police and tortured and later released next morning.

³¹¹ As cited in (91979-80) 6 Law and Social problems 110

³¹² AIR1986 SC1733

The history of the implementation of Juvenile Justice laws is a history of hopes UN realized and promises unfulfilled. The Juvenile Justice (Care and Protection of Children) Act 2000 has been passed but still there are States, which have still to set up the machinery under the 1986 Act. In practice, there were the following areas of concern in the administration and implementation of the Act:³¹³

Another example of denial of right by the authority under the Juvenile Justice Act is the semblance of The Juvenile Court as an adult criminal court. The intention behind having separate Boards, observation home or remand homes for Juveniles is to keep them away from the trauma of Criminal justice System. But the Juvenile Courts use the word 'arrest', 'charge sheet', 'offence', 'offender', 'criminal', 'bail', 'bond' etc. The police, judge magistrate, advocate, lawyer public prosecutor, stamp fee etc. are very much present in the Juvenile Justice System. Juvenile Courts have turned into 'second class' criminal courts. The Investigating Officer was the police and he has practically no experience of dealing with children. Besides, dealing with children is not considered as Mainstream work. It is a low priority job.

The closed institutions are shrouded in their own mysterious going one. Children are at the mercy of caretakers who are normally educated till IV standards and untrained. Stories of beatings, sodomy, and rape, corruption filter through the homes. In this age of satellite communication, children at the institutions are learning to make brooms from sticks and chalks.³¹⁴

Training is on ad-hoc basis. The core staff that is actually in direct contact with the children is untrained. There are no ongoing intensive training programmes.

The condition of delinquent children will go on deteriorating if the family, the Society, the State and the Judiciary does not understand their responsibility

³¹³ Bajpai Asha, *Child Rights in India- Law, Policy and Practice*, OUP, New Delhi, 2003

³¹⁴ Bajpai Asha, *Juvenile, Justice in Maharashtra, Admn. and Implementation*, A Study sponsored by UNICEF, 1998.

towards delinquent children. Children showing delinquent behavioural require extra care, attention, love and proper counseling.

5.12 CHILD ABUSE AND NEGLECT: A SOCIO-LEGAL ASPECT

"Child abuse" can be defined as causing or permitting any harmful or offensive contact on a child's body; and, any communication or transaction of any kind which humiliates, shames, or frightens the child. Some child development experts go a bit further, and define child abuse as any act or omission, which fails to nurture or in the upbringing of the children.

A child of any age, sex, race, religion, and socioeconomic background can fall victim to child abuse and neglect.

Child abuse and neglect are universal phenomena. They have a two fold effect in the sense that these are not only offences against society's most vulnerable sections but may also sow the seeds of crime perpetrated later in life by the victims themselves. In fact, the violence committed by youths quite often is traced back to the abuse and neglect they suffered in their early years. Survey results in some countries have established the link between child maltreatment and later criminal behavior by its victims. Such linkage results in growing acceptance of the concept of a "cycle of violence" that starts with child abuse and neglect. One recent national study in USA revealed that being the victim of abuse and neglect as a child increases the chances of later juvenile delinquency and adult criminality by forty per cent. Even among children who are neglected but not abused, one in eight would later be arrested for a violent offence.

Child abuse and maltreatment are not confined to family life alone. They occur more frequently far from the victim's own house or in its vicinities. Schools, formal and informal custodial institutions, working places (in case of child labour) and streets (in case of homeless children) are common places of victimization.

The worst form of child abuse is rape, sodomy or sexual assault. One recent research study in USA showed that more female than male adolescents had been sexually assaulted (13 per cent of females in contrast to 3.4 per cent of males). It also revealed that youths from lower income groups experienced higher rates of sexual assaults than those from middle and higher income groups. Similar data relating to India are not readily available since "victimization surveys have still not gained complete recognition by researchers of victimology in India". Nevertheless, scarcity or absence of statistics on the toll of abuse in developing countries, does not mean that child abuse does not occur there.

- Major forms of child abuse of neglect could be identified as:
- Physical Abuse
- Emotional Abuse
- Sexual child Abuse
- Neglect.(Physical neglect, educational neglect, emotional neglect)

Another worst form of child abuse is genital mutilation which is widely prevalent in African countries. According to a recent report of Amnesty International on CRC, "two, million young girls are subjected each year in Africa to genital mutilation and without anesthetic: it is painful, terrifying and traumatic".

Our real life experiences may also lead us to contend that victimization scenario is more or less same in India as elsewhere. For instance, the crime trend in urban areas in recent years reveals that children living in slums or on the streets are more vulnerable to rape or sexual assaults and other forms of child abuse as compared to children from middle and higher income groups. It is also found that in many cases, the sexual assaults on children are committed by those who are close or known to the victim's family. Victims of child abuse develops those characteristics which are not accepted the in the ordinary civilizes society. These abnormal behaviour and evil characteristics could be listed as below.

1. It will encourage the child to lie, resent, fear and retaliate, instead of loving, trusting, and listening.
2. It will alienate the child from rest of the family & make him a recluse.
3. It will lower the child's self esteem, and affect the child's psychological development and ability to behave normally outside his home.
4. When the child grows up, the child could probably carry on the family tradition, and abuse the grandchildren.
5. The child may exclude the family members from his adult life. For example, one might not be invited to their children's' wedding, or not be allowed any contact or relationship with the grandchildren.

5.13 EXPLOITATION OF CHILD IN SLAVERY AND BEGGARY

Slavery and Beggary is closely related to child labour. But it may be consequences of many other problems. If a family cannot afford to feed its children, that is not a problem relating to child labour, but it may lead to child being sent out, or even sold, to supplement the family income. Or it may be a cause of a child not being provided with education. That may not necessarily be rectified even if the child is not at work, but it is less likely to be rectified if the child is working every waking hour. If a child is abused or ill-treated, it does not follow that the offender is the employer, but much of the abuse and ill-treatment of which we know is by employers. The reasons which lead to child employment vary substantially with local conditions and local cultures, but they may be divided into three broad categories.

First, is where a family simply cannot afford to keep a child at home, so he or she is put to earn. It may be at a wage, or the father may be employed, and simply take along his family to help, in order to maximize his earnings. The earnings are then paid to the father. The employer may then have no record of an individual child, a situation which has advantages in the unlikely event of an inspector asking questions. But even if no records exist, a child who tries to escape may

discover that that is the employer's business. The child may live at home, or in accommodation provided by the employer. There may be a crowd of children sleeping in the shed where they work. Or a child may be left to find whatever shelter it can. No-one is likely to enquire about the length of hours of work, or the safety conditions, or the child's health, or whether the child has enough to eat.

Secondly, there are children whose families cannot afford to keep them at home, so realize whatever financial value they may have on the market. It may be a blatant straightforward sale. Or it may be wrapped up. The parents may be told that the child can be adopted, where it can have a better life. Daughters may be married off as children. A bride price is paid, and the child then enters the household of the new family to do whatever work, in whatever conditions, they decide. It is a matter for the husband whether he treats the girl as a wife. At best, she is likely to have problems of early pregnancy; at worst, the husband's family has simply bought a slave.

In August 1989, the Bonded Labour Liberation Front of India, the oldest and probably the most effective organization in Asia convened the South-East Asia Seminar on Child Servitude. In this seminar, figures were quoted for Nepal to the effect that seven percent of girls were married by the age of ten, and forty percent by 14. Of course, it does not follow that they are badly treated, but for those who want to employ slave labour, this is an available form of slavery.

The third category, which is very widespread, falls within the system of bonded labour. In many regions of Asia, poor people earn just enough to keep themselves and their families. There is nothing over to put by for emergencies. But occasions arise when a substantial sum is needed. Social conventions may require that when a child is married, the family provides a wedding feast. They may need to provide a dowry for a daughter. Although now unlawful in most of Asia, it remains a social expectation. Even if the family is part of a community

which has no status in the eyes of more privileged majority, they need to hold up their heads with in their own community.

But the need to borrow money does not always arise from maintaining status. Often, there is simply not enough money or produce to keep the family through the monsoon season. Either way, a father may have to go to the local landowner, or to someone with resources, and ask for a loan. And the condition may be that he must work for the creditor until the loan is repaid.

Then the problems begin. The debtor has to accept whatever wage is on offer. He cannot now work his own piece of land so effectively, and a substantial part of his remuneration is deducted to repay the debt. But the interest rate may be very high so that frequently he is working simply to pay off the interest, leaving the debt undiminished. Often indeed, the debt continues to increase. The debtor is probably illiterate, and in any event is not given an account book, so he has to rely on what the creditor tells him.

He may have to borrow further, and one of the children will be given in bond for the debt. The child, after all, is the parent's property, and the transaction is like pawning a chattel. The child works without any wages, and must continue to work for the creditor until the debt is paid. But frequently, it is never paid. An unscrupulous creditor will make deductions for food or shelter, whatever food or shelter may have been provided, or for damage or breakages, and the debt continues to grow. The debt does not cease with the death of the father, so the child may be in bondage for the remainder of its life. And if debtor dies, leaving a debt, the debt devolves on the children, so that many children are born into bondage, a bondage which they never escape from birth to death. There are families who have been in slavery for generations because of a debt incurred by a remote ancestor.

In most, if not all, Asian countries debt bondage is no longer lawful. In India, in particular, a series of statute forbids it, but the victims do not know about them.

In many areas, official are not sympathetic with the debtors. Their are those who devote themselves to enforcing the law or improving the conditions, and a number organizations now follow in the footsteps of the Bonded Labour Liberation Front, but for all we know to the contrary, their are families falling into debt-bondage as quickly as others are being released. The Bonded Labour Liberation Front of Pakistan estimates that some eight million children in Pakistan are in bonded employment.

Outside South East Asia, evidence is constantly emerging of children employed in horrifying conditions. In the United Arab Emirates and in Dubai, camel racing is a popular sport. There are further reports of bonded labour in fish-cleaning and packaging, shoe making, auto repairing and agriculture, all attended by long hours, malnutrition, dangerous working conditions, pollution and ill-treatment.

5.14 PARENTS INFLUENCE ON CHILDREN: VICTIMS OF ALCOHOLIC AND DRUG TRAFFICKING PARENTS

The Webster's New Dictionary, defines alcoholism as "the habitual excessive drinking of alcoholic liquor, or a resulting diseased condition".

Since World War II social scientists have been conceptualizing child development based on the nature of the parent-child relationship. This relationship often called 'bonding' is a vital aspect in child development, one that develops subsequent relationships with family members and ultimately the world at large. Since the child, after birth, is dependent on the parents for a long period of time there evolves a biological repertoire of behaviours, to 'connect' physically, emotionally and psychologically with parents. The connection is not only oral, it is tactile, olfactory, visual and auditory as well (Bowlby, 1958). A child is stimulated by, shaped by, and focused on the parent from the first moments of life. Most of the parents care for their children adequately enough so that children survive. When either one or both the parents become children an alcoholic stupor, for various reasons, the occurs a failure or

aberration in the normal parent-child bond and the consequent development of psychological, emotional and behavioral problems in the child. Alcoholism is a 'family disease', which affects not only the user but also very member of his or her family. Alcoholics do not drink or recover in isolation. When one person in a family develops alcoholism, the others react to it often with confusion, fear, despair and blame. Alcohol disrupts the consistency and predictability, which should be present in every family. The children, especially, are 'trapped' and left emotionally and situationally helpless. This study attempts to understand and evaluate the intensity and effect of these problems in a growing child.

Children of alcoholics face special problems as a result of living in a home disrupted by alcohol problems. No statistical estimations are available on children of alcoholic parents in India. In the U. S. it is estimated that seven million children out of the total 28 million under the age of 18 years, live in households with at least one alcoholic parent³¹⁵

A child loses his childhood when he lives with an alcoholic parent. To others, he looks like any other child, dresses like any other child does, walks like any other child, until they get close enough to notice the edge of sadness in his eyes, or the worried look on his brow. He lives life from the standpoint of a victim.

Some of the children takes up the household chores and duties that the alcoholic parents performed. Some young children from alcoholic families become exceedingly responsible, taking on parental roles towards their siblings and others. Responsible children usually take over the responsibilities of their parents. These children provide stability in the family and makes life easier for the parents by looking after their siblings. They are independent, self-reliant and capable of achievements. They gain an 'early maturity' out of a need for survival.

³¹⁵ Prevention Resource Guide: Children of Alcoholics, 1991foot note.

Studies reveal that the family members of alcoholics – including children – are high-risk candidates for chronic depression, psychosomatic illness, social aggression, emotional detachment, isolation and suicide. Children of alcoholic parents are known to experience greater physical and mental health problems like headaches, tiredness and stomach ulcers than children of non-alcoholic parents. They learn at an early age never to talk about what goes on in their home. They are likely to develop emotional and psychological problems.

The disease called 'Alcoholism' can rob a child of his childhood and destroy the opportunities he might have to a bright future. Children can be protected from many problems associated with the growing up in an alcoholic family. If healthy family rituals or traditions such as vacations, meal times, holidays, are highly valued and maintained and the active alcoholic is confronted with his or her problems, the child can be protected from many consequences of parental alcoholism.

India is placed between world's largest drug growing areas – the Golden Crescent on the border regions of Pakistan and Afghanistan and the Golden Triangle on the borders of Myanmar, Thailand and Laos. India has become a conduit country for drugs moving from the Crescent and the Triangle to the western world, especially during the past one decade. Drug trafficking is now closely linked to terrorism and supply of deadly weapons and arms for terrorist activities.

Children in India and countries on the Crescent and the Triangle are increasingly engaged in drug trafficking, especially as carriers. Children in large number, particularly from the lower strata of the society, have also become the victims of the menace of drug abuse in India and other developing countries. The menace, according to an empirical study conducted in Delhi a few years back, afflicts the children and the young persons, especially in the age group of 15 to 25 years, under the peer group pressure, the sense of curiosity and spirit of experimentation. "The contribution of the modern technological age," observes

this study very forthrightly," is that the more potent derivation of narcotic drugs and other synthetic drugs and psychotropic substances are a trap from which even the casual experimenter can seldom escape without professional help. The menace of drug abuse was initially confined to urban areas. But of late, it has spread its tentacles over semi-urban and rural areas too.

Children of developed countries are no less prone to substance abuse, i.e. a combination of drug and alcohol abuse. A recent study reveals that about 3.4 million adolescents aged 12-17 in USA have been drug or alcohol abusers.

5.15 CHILD TRAFFICKING: A GRAVE CONCERN

The expression "traffic in human beings" commonly known as slavery implies the buying and selling of human beings as if they are chattels. Children are generally trafficked for slavery or worker or for sexual satisfaction. The worst of worst type of child trafficking is the involvement of the child in the flesh trade.

The United Nations General Assembly, in 1994, defined trafficking as "the illicit and clandestine movement of persons across national and international borders, largely from developing countries, with the end goal of foreseeing women and girl children into economically oppressive and exploitative situations for the profit of recruiters, traffickers and crime syndicates.

Child trafficking and prostitution are the commercial sexual abuse of children resulting in denial of human rights of the victims. According to Amnesty International's report on CRC, "On just two established routes, from Nepal to India and from Bangladesh to Pakistan an estimated 9,000 girls a year are trafficked." Girls in other developing countries are also not free from this menace.

Children and women are being sold everywhere. Chinese children in Bangkok, Nepalese in India, Bangladeshis and Burmees in Pakistan and Pakistanis are trafficked to middle east for fulfilling sexual desires and in camel jockeying.

In Pakistan, Bangladeshi children are trafficked through organized agents. These agents illusion poor families about bright future in Pakistan and sometimes demand a money to bring them to Pakistan which family fulfills. On their way husband and wives are separated infant children are left by these agents in the way to die. When these children arrive in Pakistan then they are sold from 145 US \$ to 500 US \$ depending on girl's virginity and male child's cuteness.

A recent study conducted by a Delhi-based NGO, joint Women's Programme, reveals that most of the children engaged in prostitution are not paid for the first 5-10 years. Mental and emotional trauma apart, they are tortured, burnt and beaten. Many of them are to live with unwanted pregnancies, riddled with diseases or die of maternal mortality. The stigma of illegitimacy stubbornly persists, often propagated by the parents who live off them.

Many families because of economic hardship have been selling their children, they come mainly from backward areas with low literacy rates. This selling racket is found in Rajasthan, Hyderabad, Mumbai and Delhi and other places. It mainly deals with minor boys under 10 years of age for camel racing and using them for this barbaric sport. The children of their parents are unaware of the purpose they actually are taken for. The parents are told they will be trained to take care of the camels.

There is wide variation in regard to numerical data on child prostitute. One study estimated a total of 100 million sexually abused children in the world, but did not distinguish between the categories of child prostitutes and sexually abused children. According to International Labour Organization in India child prostitution is four lakhs out of which 20 percent of them are under 16 years of age.

5.16 SEXUAL ABUSE: COMMERCIAL SEXUAL ABUSE

There is no uniformly accepted definition of child sexual abuse. There have been a number of definitions of the phrase 'child sexual abuse'. CSA is also defined as any sexual behaviour or **sexual assault** directed at a person under 16, without informed consent. It also includes activities which do not involve direct touching. CSA involves mental, physical and emotional abuse of a child through overt and covert sexual acts, gestures and disposition when informed consent or resistance by the child victim to such acts is not possible.

According to the **American Psychological Association**, sexual activity between a minor and an older person in which the dominant position of the older person is used to coerce or exploit the younger. Child sexual abuse is illegal in all countries about which information is available. Although these laws differ in detail, all set an age - typically near puberty - under which all sexual contact with adults is deemed abusive. Above this age, sexual contact may be judged abuse depending on the use of violence or coercion or the type of relationship involved.

The term includes also the commercial sexual exploitation of children, defined by the International Labour Organization in the text of the Worst Forms of Child Labour Convention, 1999. Child molestation is an informal synonym for child sexual abuse, most often used for sex between adults and young children. A perpetrator of child sexual abuse is known as a child sex offender if convicted, or informally as a child molester.

Child sexual abuse becomes exploitation when a third party benefits through a profit. Commercial sexual exploitation of children commonly refers to using a child for sexual purposes in exchange for cash or in-kind favours between the client/ customer and intermediary or agent who profits from such trade in children. Those who profit include a wide range of persons, including parents, family members, agents, community members, largely men, but also women. It

includes child prostitution, through trafficking child sex tourism and child pornography.

Female child is innocent victims of discrimination, torture and harassment in their own families. Crimes like incest and child rape are located within the home, out of the purview of public, invisible and inaudible. Incest, never spoken about openly, exists in all strata of society and is often the cause of lasting trauma that can mar the family life for the victim.

A great proportion of **incest and child rape** cases that have come to light involve father-daughter relationships. Damodar Kunalienkar, a psychiatrist attached to the Institute of Psychiatry and Human Behavior, Goa related the case of 17 year old Tara. She was forced into an intimate relationship with her father since the age of 15. The girl's mother was mentally deranged and her two brothers were too young to know what was happening. Fearful of telling to anybody Tara found a way out of her private hell by attempting suicide. After three unsuccessful attempts of suicide the girl was brought for psychiatric treatment.

The cases of incest is increasing very rapidly the recent incident as reported by Aseem Bassi, reporter of Hindustan Times.³¹⁶ For eight years, a girl from Anjala in Punjab was raped by her father. The 21-year-old broke her silence after watching the TV coverage of one of the Mumbai rape-incest case.

"The girl told the police her father had warned her against telling anyone of the rape. "One day, she saw on TV that a man (in Mumbai) had been arrested for raping his daughter. So she told her mother everything. She lodged a complaint and said that her husband regularly threatened her daughter. Mother pleaded, that he should languish in jail all his life.

³¹⁶ Hindustan Times of 28th march 2009

Taneja (Father) said the charges were cooked up." I am being victimised. My wife wanted our daughter to get married somewhere, but I was against it. She is using my daughter only to defame me".

Responses to incest are so radically varied, ranging from trauma to outrage to acceptance, denial to open admittance, depression, guilt, shame.... And most startling of all.... Indifference.

In the recent past the subject of sexual abuse and exploitation against the girl child has received considerable attention due to increase in the number of incidents. The law relating to sexual offences did not contain adequate provisions for protection of victims. The victim of sexual abuse who has undergone the trauma will have to live with the tragedy. Her nightmarish experience shakes her foundation of living a life worth of any kind. Further, suffer from it's effect for a long term and impair her capacity to build relationship or remould their behavior for a virtuous living and in the process generate endless fear for anything around her. In addition to the trauma of being a victim of sexual abuse, the victims have to suffer further agony during the legal proceedings.

Thus child sexual abuse is innately harmful to minors. A wide range of psychological, emotional, physical, and social effects has been attributed to child sexual abuse, including **anxiety, depression, obsession, compulsion, grief, post-traumatic stress disorder** symptoms such as **flashbacks**, emotional numbing, pseudo-maturity symptoms, and other more general dysfunctions such as sexual dysfunction, social dysfunction, dysfunction of relationships, poor education and employment records, eating disorders, self-mutilation, and a range of physical symptoms, such as sensual numbness, and loss of appetite. Additionally, young females who are victims of abuse may encounter additional trauma by pregnancy and birth complications.

India and other South Asian countries are slowly replacing South East Asia as the venue of choice for foreigners as there are fewer laws against child sexual abuse and South Asian children can be bought more cheaply³¹⁷. Sex offenders commit crimes in other countries and return to their own, confident that the law enforcement agencies of the third world countries will not be able to catch up with them.³¹⁸

There is, at present, neither a comprehensive law nor a policy to deal with child sexual abuse. Legal intervention is presently in the form of investigations which start with registration of offences under the earlier Juvenile Justice Act, 1986 or the present Juvenile Justice (Care and Protection of children) Act, 2000 or the Indian Penal Code or the Prevention of Immoral Traffic Act 1959 (amended in 1986).

The Indian penal Code generally deals with the sexual abuse of children in the form of rape. The other IPC provisions that are invoked relating to unnatural practices is Section 377. This is generally invoked when boy children are sexually abused. Sections 366 (A) and 366(B) relate to export and import of girls for prostitution. Under sections 366-A and 366-B, the girl should be below 21 years and she should be intentionally induced by the accused to go from any place or to any act "that is likely to force her into prostitution.

The Immoral Traffic Prevention Act, 1956 (PITA), does not make prostitution per se as a criminal offence or punish a person because she prostitutes himself or herself. The purpose of the, enactment is to inhibit or abolish commercialized sexual abuse and attempted to be achieved by two major strategies, namely, by punishing those who are guilty of such conduct and by rescuing and rehabilitating the victims of such exploitation.³¹⁹

³¹⁷ Child Prostitution - The Ultimate Abuse Report on the Nat. Con. on Child Prostitution

³¹⁸ Bajpai Asha, Child Rights in India - Law, Policy and Practice, O UP, New Delhi, 2003 Bajpai Asha, Child Rights in India - Law, Policy and Practice, O UP, New Delhi, 2003

³¹⁹ Menon, NRM Prevention of Immoral Traffic and Restoration of Human Dignity, Select Materials on al Public Legal Education, Legal Services Clinics, NLSIU, Bangalore, 1991

5.17 CHILD PROSTITUTION : AN UNBEARABLE BUSSINESS

Children are precious to every country. They are the citizens and the pillars of the nation. Ironically, they are dependent on the adults, a fact that makes them vulnerable and defenseless against these very adults is exposing them to all forms of exploitation and blatant violations of their rights. While all children have an equal right to survive, develop, participate and be protected, some are specially at disadvantages and are highly exploited.

One of the most horrendous violations of child rights is the sexual exploitation for economic gains. Particularly, the children of the commercial sex workers fall easy prey to those who surround them and abuse them while perpetrating the flesh trade guarded by an impregnable crime ring. Child prostitution is a barrier to the physical, mental, spiritual, moral and social development of the child, which adversely affects their tender age and health.

Child prostitution is the worst form of child abuse and exploitation. Its nature and type vary from one country to another, one society to another and from one age to other age. They may even vary in a society due to different religious and cultural practices of different social groups.

A recent study conducted by a Delhi-based NGO, joint Women's Programme, reveals that most of the children engaged in prostitution are not paid for the first 5-10 years. Mental and emotional trauma apart, they are tortured, burnt and beaten. Many of them are to live with unwanted pregnancies, riddled with diseases or die of maternal mortality. The stigma of illegitimacy stubbornly persists, often propagated by the parents who live off them.

There are some castes and communities in various pockets of the country in which family based prostitution is traditionally practiced. There are no reliable statistics available about the number of prostitutes-least of all about Child Prostitutes. A large number of India's disadvantaged children, especially girls, are vulnerable to violence, abuse and exploitation. While many families live in

remote areas with very few livelihood options, others are caught up in unrelenting cycles of migration in search of work. Still other families consist of single-parent households where survival itself is at times a formidable struggle. Violence and abuse in some of these settings fails to provide children with an environment where their rights are protected. Such children are often pushed either into commercial sex work or low-paid labour.

Child prostitution is on the rise in many Asian countries like Thailand, Hong Kong, Philippines, Shrilanka and India. Today about 15% of India's nearly two million prostitutes are believed to be children. 30% of all prostitutes in the six major cities of India, namely, Calcutta, Delhi, Bombay, Madras, Bangalore and Hyderabad, as revealed in a report (1994) on child prostitution prepared by the ministry of Human Resources Development, Government of India, were under 20 years of age. 39% of these women entered prostitution before they were 18 years of old. The report bases its findings on a survey of prostitution which the Government of India in 1991 initiated through the Central Social Welfare Board in six metropolitan cities of India.

The survey also analyzed the sources of origin of the prostitutes. It was estimated that that 86% of all prostitutes in these cities come from Andhra Pradesh, Karnataka, Tamil Nadu, West Bengal and Uttar Pradesh. Nepal is the largest identifiable source of child prostitutes to Indian brothels. A Unicef review indicates that from 5,000 to 7,000 girls are trafficked into India from Nepal every year. Nepalese girls are favored for their fair skin. The UNICEF survey mentions that Nepalese girls and young virgin sell for at least Rs,6,000 in Indian brothels for their first night. Virgins are prized because of the myths that sleeping with virgins will cure sexually transmitted diseases.

Traffickers, who make astronomical profits on young Nepalese girls manipulate Nepal's underdeveloped economy to their advantage. Families and daughters from communities across Nepal in dire economic straits are easy victims of these traffickers who offer the victims either jobs or proposals of

marriage. Sometimes retired prostitutes who want to become madams bring girls to the cities by offering them vague offers of employment. Desperate economic straits compel some parents to sell their children.

Majority of the prostitutes, as revealed in the survey done by the Government Department earn less than Rs,3000 per month. Prostitutes in Delhi and Bangalore are comparatively better paid. It has also been found that poor prostitutes have to share almost 50% of their income with the brothel- keepers who in his/ her turn have to share it with the pimps, procurers, local dons and police. Thus the vested interest has grown up for the continuance of this trade and the entrenched interests often act brutally and do not hesitate to use force to ensure that the reluctant prostitutes do not get out of their clutches and leave the profession voluntarily.

Girl children of the prostitutes pose another serious problem. Most of the prostitutes want education or some vocational training for their girl children and their settlement in life through marriage. If problem of the girl children is not tackled urgently through marriage or alternative vocations, many prostitutes feel that their would be no option before their daughters than to join the profession. It is a fact that daughters of prostitutes often suffers sexual abuse at the hands of the brothel-owners or pimps. The economic needs of the prostitutes – mothers also account for the entry of their daughters into prostitution. As a last resort, a daughter is an insurance policy for the older prostitutes.

The Supreme Court in Public interest petition called Gaurav Jain petition observed that “children of prostitutes should not be permitted to live in inferno and the undesirable surroundings of prostitutes’ homes”. The court ruled in favour of shifting these children to existing juvenile institutions. There was implicit assumption that these juvenile institutions would be better run and organized and help the rehabilitation of these children. Unfortunately, many of these juvenile institutions are in a bad shape and fail to fulfill the purpose.

Children sometimes run away from these homes to return to their old surroundings.

However, the business in the Child Prostitution is growing in India. Prostitution in India has manifested itself in various forms with varying degrees of social sanction. There is now increasing concern about children being inducted for commercial purposes into the trade and becoming subjects of shocking sexual abuse and sexual diseases. All nations in the UN are committed to suppress and prevent trafficking in persons for exploitation and for immoral purposes.

The grave issue of child prostitution has been a major concern of the Human Rights Commission over a number of years. The Commission has, accordingly, been interacting with the Department of Women and child Development (WCD), Government of India, the National Commission for women and UNICEF to evolve measures to deal with this problem.

In order to better coordinate efforts, the Commission constituted a Core-Group on Child Prostitution under the Co-Chairmanship of Justice Shri V.S. Malimath and Shri Virendra Dayal, Members of the Commission. The other members of the Core Group include the Chairperson, National Commission for Women (NCW), the Secretary, Department of Women and Child Development, representatives from UNICEF and the Director General (Investigation) of the Commission. To start with, the Commission selected Delhi and Karnataka State (Belgaum and Dharwar Districts) to launch a major media campaign on the subject.

The campaign in Delhi commenced on 10 September 1998, with the release of poster prepared by UNICEF. These were displayed in a number of prominent sites and locations around the city. Numerous NGOs cooperated enthusiastically with the effort. In a meeting held on 22 February 1999, a number of additional decisions were taken with a view to spreading awareness among the public.

5.18 PAEDOPHILIA: A CHILD MANIA

Paedophilia evokes an archaic history in which an unacceptable sexual impulse gone astray leads to transgression of a humanizing role. The resulting malaise leaves us dumbfounded.

Several studies have attempted to understand the extent and severity of phenomenon, emphasizing different aspect thereof, be it travel trade, psychological deviance or socio economic facts. There is sufficient evidence as gathered from organizations working with children and government to demonstrate that there is extensive exploitation of children worldwide.

5.18.1 PAEDOPHILIA AND SEX TOURISM

The recognition of child sex tourism is recent phenomena in India. Until Freddy Peats, a 76 year old man of unknown origin was arrested on 3 April 1991. There was little or no awareness of the organized sexual abuse of children, particularly trafficking involving young boys in India, even though the involvement of female minors in prostitution was well known. It came as shock to the nation. In march 1996, Peats was convicted of sex crimes against young boys in Goa. This was the first conviction for running an organized Paedophilia racket in India. But still the Goa Government and the tourism industry continue to consider the phenomenon as an aberration. Contrary to this belief, soon after the Peats case, the case of HB, a 57 years German paedophile was brought into the notice of Calingute Police station in 1999. He was awarded punishment of six years imprisonment by the assistant session judge of Panaji under section 373 and 377, hiring of a minor for illicit or immoral purposes and for committing unnatural sex offences. However he was acquitted by the additional session judge, in spite of evidence such as the presence of sperm in the anus of accused and of the young boy and the child's testimony also states that he had a sexual relations with the child.

Paedophilia related tourism is not a unique phenomenon of Goa. It has been noticed that the migration from Karnataka to Goa is major contributory factor in this trade. Most of the children who are victims of commercial sexual exploitation come from Bijapur, Sitapur, Karwar and Belgam. With the promotion of new beach tourism destinations, communities and especially children have become vulnerable to sexual exploitation. There are reports of tourism moving from Goa to areas of North Karnataka such as Gokarna and Karwar, which are presently being developed for tourism. Foreign tourist generally settle permanently at the beach areas because being the tourist place it has become good hide points and these are also areas where the tourists are sexually exploiting the children.

In Karwar, which is hardly about 6kms from the Goa border, the local communities have reported that children from the neighbouring villages have been exposed to commercial sexual exploitation. Two popular destinations that are emerging for paedophile activity are Kovalam in Kerala and Mamallapuram in Tamilnadu.

Paedophiles generally carries out such crimes behind the name of certain institution or children's home or shelter home or in farm houses e.t.c. They always tries to hide their activities in the name of pious work. One such case is Anchorage Case. The Anchorage was a shelter home, which was run by two ex-British Royal Navy members, Duncan Grant and Allen Waters in Mumbai. On 18 March 2006, Additional Sessions Judge P.S Paranjpe convicted these two persons to a maximum sentence of 6 years of rigorous imprisonment and fine of 20,000 pounds each for offenses related to unnatural sex and abuse of children in the shelter home.

The court also held William Micheal D'souza (manager of the Shelter Home) guilty for aiding and abetting the crime and assaulting the children. He has been sentenced to 3 years of imprisonment.

Duncan Grant set up the Anchorage Shelter Home in Colaba in 1995 which Waters visited frequently. Grant lived with a group of 25-30 children (mainly those working on the streets) and over time he set up two shelters in the Murud and Badwar Park areas. Foreign tourists visited the homes regularly and boys would be sent off with them as city guides. Grant, Waters and their international network of friends gave expensive gifts not only to the boys but to police department also. Even though there were rumors among NGOs, volunteers visiting the shelters and street children of the area of sexual abuse of boys in the shelter, no investigation was taken by the police department.

It was the effort of various voluntary organizations like childline, justice to the children of Anchorage was delivered. It comes at a time of increasing sex tourism and pedophilia in India, as the country consolidates its links into the global organized business of child sex tourism.

In a thumping, landmark order Judge, Paranjpe said that he intended the verdict to send a clear message to pedophiles all over the world that India is not a destination for them. He hoped that the sentence would go a long way in wiping India off the map of international sex tourism.

The Anchorage case has been a springboard for us to think critically and act substantively towards enforcing child protection norms and standards in all shelter homes for children across India.

It also gives an affirmative nod to our constant endeavour against pedophilia in tourism hot spots like Goa and Puri. Above all it reaffirms our belief that sustained campaigns will have positive impact on society.

15.18.2 PAEDOPHILIA WITH SPECIAL REFERENCE TO NITHARI KAND

In December 2006 the skeletal remains of a number of missing children were discovered in the village of Nithari, India on the outskirts of Noida, a planned industrial township in Uttar Pradesh near New Delhi. On December 26, 2006, a

rich and politically connected Punjabi businessman, Moninder Singh Pandher, and his servant, Surender Koli, were arrested by the Delhi Police on the suspicion of murdering a call girl named "Payal". Charges under various sections of the Indian Penal Code included rape, murder, kidnapping and criminal conspiracy.

During the investigation investigating teams seized erotic literature along with a laptop computer connected to a webcam, which immediately raised the apprehensions of the presence of an international child pornography racket. The police also recovered some photographs of Pandher with nude children and foreigners, during his four international visits. It was apprehended that Pandher supplied such pictures abroad and could link him to paedophilia.

The worst part is that one of the accused had even confessed to the consumption of the victims' livers and other body parts. Such a possibility was, however, not completely ruled out by the investigating team, considering the amount of brutality the duo had allegedly committed on the victims.

The call girl "Payal" was the only adult victim in the string of serial murders. Young girls constituted the majority of victims. Post mortem reports of the 17 sets of skulls and bones recovered showed that 11 of the killed were girls. The top doctors of the Noida Government Hospital revealed that there was a "butcher-like precision" in the chopping of the bodies. The post mortem reports revealed that there had been a pattern in the killings. It was also concluded that there were 19 skulls in all, 16 complete and 3 damaged. The bodies had been cut into three pieces before being disposed off by the servant Surender Koli. The CBI sources said that the manservant, after strangulating the victims, used to sever their head and throw it in the drain behind the house of his employer. Sources also revealed that he used to keep the viscera in a polythene bag before disposing it off in a drain, so as to prevent detection.

On 12 Feb 2009, both the accused Moninder Singh Pandher and his domestic help Surinder Koli were found guilty of their crimes, by a special sessions court in Gaziabad. Both the accused Moninder Singh Pandher and his domestic help Surinder Koli were given death sentence on 13 Feb 2009, as the case was classified as "rarest of rare".

One will be amazed to know that Pandher is an industrialist who studied from 1963-73 at the prestigious Bishop Cotton School in Shimla and graduated from St. Stephen's College, Delhi. He was having contacts with various high profile people and was bearing the high status in the society. Then also he was indulged in such activities with "children." So one has to be vigilant in their own society keeping the eyes and ears fully attentive. Anything heard about such things should be reported to police or Human Rights Commission.

5.19 CHILD PORNOGRAPHY: A MENACE

The definition of "child pornography" differs from country to country. Most prohibit visual depictions of sexual activities involving actual children under a specified age. Some countries go further and prohibit all depictions of nudity of minors, whether or not the minor is depicted in an erotic pose or as engaging in a sexual act.

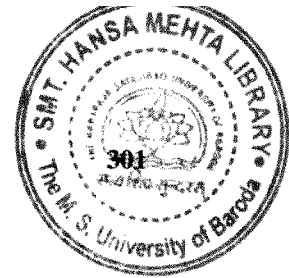
Some countries prohibit visual depictions even when no actual children were involved in the making of the image. Such depictions may include paintings, drawings, or computer-generated images. In some countries, not only visual depictions but, also, written works may fall within the definition of child pornography. Whatever may be the definition one thing is clear that it is a violation of Right to live in a Healthy Environment without being exploited.

Computer-generated child pornography comes in many different forms. For purposes of clarity, It can be divided it into two categories. The first is "virtual"child pornography and the second is "computer-altered" child pornography. The key to virtual child pornography is that it does not depict an

actual or "identifiable minor." Through a technique called "morphing," a picture of a real person is transformed into a picture of a child engaging in sexually explicit activity. Although the computer-generated image looks real, the children depicted in the image do not actually exist. The picture is therefore 100% "virtual." Computer-altered child pornography, by contrast, contains the image of an actual or "identifiable minor." This type of child pornography can be created by scanning a photograph of a child into the computer and then manipulating the picture so that the child's face appears on the body of another person who is engaged in sexually explicit activity. Despite the alteration to the picture, the child is still "recognizable."

The trafficking, distribution, posting, and dissemination of obscene material including pornography and indecent exposure, constitutes one of the most important Cybercrimes known today. The majority of internationally available hardcore child pornography is produced in developing countries in South-East Asia and Central America, and in the former Soviet Union and Eastern Europe. Germany was one of the main sources of naturist child erotica in the past. Japan was and still is one of the leading producers of soft-core child pornography, which was outlawed there only in 1999, after much international pressure; enforcement remains somewhat sporadic. A lot of modern legitimate soft-core pornography (so-called Lolita art or Prêt art) is also made in Russia and other ex-Soviet-Union countries.

In the Indian context, section 1(2) of section 75 of the Information Technology Act, 2000 (ITA) empowers the courts with a "long arm jurisdiction" which is absolutely necessary for meeting the challenges posed by the information technology. It must be noted that by virtue of sections 1(2), 75 and 81 the Act applies to offences or contraventions committed outside India as well. The Act applies to an offence or contravention committed outside India by any person if the act or conduct constituting the offence or contravention involves a computer, computer system or computer network located in India. The power becomes more aggressive with the support of the overriding provisions of section 81 of



the Act. Thus, jurisdictions available under other laws will give way to the provisions of the Act in case of conflict and inconsistency. **In case where there is no conflict or inconsistency between various jurisdictional powers there is nothing that restricts the courts from combining them together to meet the ends of justice. Thus, the provisions of section 1(2), 75 and 81 of the Act read with sections 292/294 of I.P.C can provide a viable solution to the jurisdiction problems arising in cases of obscenity and pornography within the meaning of section 67 of the Act.**

But Section 67 of the existing act deals with "publishing obscene information in electronic form". It is a generally worded section which neither defines "pornography" nor make it an offence. Rather it does not mention "child pornography" at all. In its first comprehensive amendment nine years after it was first enacted, the Act proposes to bring "cyber terrorism", "identity theft" and "violation of privacy" into the domain of cyber crime. The bill has broken new ground by identifying several new offences and making them punishable. Now Section 67B proposes specifically to punish involvement in sexually explicit online or electronic content that depicts children. It will also be an offence to "cultivate, entice or induce children to online relationship with other children for a sexual act."

The amendments will certainly have a huge impact on the way cyber crimes are handled and investigated in India. Offence of "cyber terrorism" is punishable with life imprisonment or five years in jail and a fine of Rs 10lakh, is a vital new addition, and that its definition is exhaustive. India does not have a special legislation to tackle child pornography. To that extent, the new IT law is path-breaking".

Cyber Crimes pose a special problem to law enforcement agencies for two reasons: 1) these crimes are not easily detected since the offenders can quietly commit them from any computer terminal, usually in the comfort of their own

homes. 2) Most law enforcement agencies are not equipped to deal with the phenomenon.

Most countries' laws provide an exception for materials that have artistic merit. Some works considered to have artistic merit have been prosecuted as child pornography, however. The 1978 movie *The Tin Drum*, which contains scenes of a child actor simulating sex, won the Palme d'Or at the Cannes film festival and the Academy Award for Best Foreign Language Film but was banned in Oklahoma City and Ontario, Canada. Different countries have different penal provisions for making or distributing child pornography.

In some countries, e.g. Australia and Canada, textual material describing sexual activities involving children is legally classified as child pornography while in other countries, for example the United Kingdom, it is not prohibited in itself, but is caught under general laws controlling indecency and obscenity. In yet other countries, most significantly the United States, it is legal; written child pornography is legally protected by the US Constitution as long as it is not judged obscene. As it is very difficult to prove obscenity, it is effectively legal. As a result of its general legality in the United States, written child pornography is easily available on the Internet. Sometimes, the prohibition against written child pornography can extend even to materials produced by pedophiles for their own personal consumption and not revealed to anyone, such as diaries or journals in which they record their fantasies.

Due to its widespread availability, countries in which it is prohibited have not always actively sought to enforce the legal prohibition against it. In general, people possessing or distributing this material are only charged if they come to the attention of law enforcement, most commonly while being investigated for other crimes such as possession of visual child pornography, or child sexual abuse.

The international nature of the Internet has made it difficult to stop dissemination of some images that, while legal in some jurisdictions, constitute child pornography in others. A good example comes from Britain. Until recently, it was legal for females as young as 16 to pose topless for mainstream tabloid newspapers (often as a "Page 3 girl") and for adult magazines. For example, British model Linsey Dawn McKenzie became a popular topless and nude model for European newspapers and magazines when she was 16, but wasn't allowed to pose for American magazines until she reached her 18th birthday. Images of her taken before her 18th birthday are commonplace on the Internet and often cannot be distinguished from those taken afterwards thus have subsequently become available via the Internet in areas where this material is still illegal..

As sexually explicit content is increasingly finding its way onto the Internet, governments and law enforcement bodies are being faced with new and difficult challenges. How can there be effective legislation to regulate obscene and offensive websites when the content produced is perfectly legal in the country of origin and such legislation may be an infringement of human rights? How are the police to deal effectively with so-called cyber-crimes, including the distribution of child pornography, when perpetrators may be located anywhere in the world? While it is agreed globally that efforts must be taken to prevent the production and circulation of child pornography, the debate surrounding explicit content is a complex one which differs from country to country.

Today high schools teach use of Computers, Internet and basic programming. Coupled with the sense of freedom for "Self Expression in a seemingly Anonymous Environment", the students can be tempted to use their Internet skills to create the kind of site that brought the student to the jail. One such case is the *Air Force Balbharti case*³²⁰ where a student of Balbharati School, Delhi, was teased by all his classmates for having a pockmarked face. Tired of the cruel jokes, he decided to get back at his tormentors. He scanned photographs of his

³²⁰ <http://www.hindustantimes.com/300401/datfram/detfro05.asp>

classmates and teachers, morphed them with nude photographs and put them up on a website that he uploaded on to a free web hosting service. It was only after the father of one of the class girls featured on the website objected and lodged a complaint with the police that any action was taken.

Most of the curriculum in the schools also include sex education and this can only create an explosive mixture of "Half Knowledge" and a natural desire to "Outsmart" the peers.

If we teach the young kid how to make a Gun and Gun Powder, we also have to be prepared to face the consequences of a few of the students misusing this knowledge. The raise of Gun shooting crimes in US is an indication of this possibility. The Cyber Pornography amongst the students is a similar social problem which the society has to deal with.

5.20 EXCESSIVE FREEDOM OF SPEECH & EXPRESSION: A MEANS OF CHILD EXPLOITATION

Article 19(1)(a) gives freedom of speech and expression of thought, subject to limitations provided in Article 19(2). But if the thought expressed is such that it depraves and corrupt the minds of young and adolescent it is said to be against the public policy and should be restricted. Children by reasons of their physical and mental immaturity need special safeguards and care, though the statements may not be obscene within the four corners of law. Such publications encourage the paedophiles and other perpetrators and children to indulge into illegal sexual activity and pornography.

Impact of the media on child is in multi-levels. It may be Positive and Negative impact and as General and Specific impact. The media also leads to positive reforms and adjudications which protects the rights of child. Like in *Praful Kumar Sinha V.State of Orissa*³²¹, a Bengali Newspaper Amrita Bazar Patrika, published a detailed article about the sexual exploitations of blind girl students

³²¹ AIR 1989 SC 1783

in the Red Cross Blind School, in Berhampur in the District Ganjam of Orissa. An advocate sent this article along with a letter to the Supreme Court, which was taken as a writ petition. The court directed the Chief Judicial Magistrate of Berhampur to inquire into the allegations and record the statements of the inmates of the school.

Negative impact of the media is the influence of the media in such a way that it corrupts the child viewers, and does evil than good. The excitement which "fighting scenes" generate in many of them appears, as if they are the. Movies dominated by sex and violence and that the glamour of the life of villain has a deep impact on the young mind, which inspires them to adopt short cuts to richness and influence. The children therefore become delinquents. The media portrayal of crimes is exaggerated many a time. The imitation theory of Criminology, which suggests that the juvenile delinquency is sometimes the result of what youngsters saw in movies. And pornography is readily accessible to youngsters through internet and movies also introduce young to porn.

General impact of the media is the common influence it casts on the people, generally. The media portraying violence and sex has an influence on the young minds. The cable television has produced a harmful influence on young persons. The present day television serials also teach the young boys and girls modern techniques of deviance and ways to achieve high goals in life and earn money.

Specific impact of the media on children differs from case to case; yet share a common pattern. It is the impact of the media which gives rise to issues which are sui generis. For example, Kids Imitate Saddam's Televised Hanging Death. Three Children in different Countries Commit Suicide After Viewing Saddam Hussein's Execution. **The incidents shed light on the potential impact of violent scenes on young minds.** Child and adolescent psychologists say watching events like this can have a significant and direct influence on children's behavior. Specific impact imply the effect of media on certain people, who are victims of crimes. Mentioning the names of victims of child sexual abuse gives a

negative impact upon the society. The child finds very difficult to adjust in his society. Children become victims in another sense too by imitating a TV stunt or popular TV serial hero like Shaktimaan. One boy jumped out of a window last year in U.P. and died while another was grievously injured trying to "fly" out in the.

Now it is high time where Government has to see how much a fundamental right freedom of speech and expression should be exercised by the newspaper industries and media. The government has to find some way between the protection of child as a child and freedom of expression of press. In *Ajay Goswami V. Union of India and ors*³²², The petitioner's pleaded that the freedom of speech and expression enjoyed by the newspaper industry is not keeping balance with the protection of children from harmful and disturbing materials. Article 19(1)(a) guarantees freedom of speech and expression of individual as well as press. Though the press is free to express its ideas but on the same hand, individual also has right to their own space and right not to be exposed against their will to other's expressions of ideas and actions. By way of this petition, the petitioner requested the Court to direct the authorities to strike a reasonable balance between the fundamental right of freedom of speech and expression enjoyed by the press and the duty of the Government, being signatory of United Nations Convention on the Rights of the Child, 1989 and Universal Declaration of Human Rights, to protect the vulnerable minors from abuse, exploitation and harmful effects of such expression.

It is the requirement of the civilized society that minors should not be exposed to sexually exploitative materials, whether or not the same is obscene or is within the law. The real objective is that the nature and extent of the material having sexual contents should not be exposed to the minors indiscriminately and without regard to the age of minor. The discretion in this regard should vest with parents, guardians, teachers or experts on sex education.

³²² Decided on 12/12/2006

5.21 DEVDASIS AND JOGINS: SEX WORKERS

From the ancient temples of Delphi to the modern Hindu temples of India, the regular sexual abuse of young girls as temple prostitutes has been a way of obtaining religious merit. The term commonly used for these prostitutes is Jogini or Devdasi. Historically, the Devidasis served a God which they were ritually 'married' by dancing and signing in the God's temple.

The type of Devdasi mentioned in the Artha Vastra were not enslaved to the temples or objects of worship. She was not a temple dancer or a courtesan, but was more like a nun. Post Vedic period was the period of Puranas. During this period the priest came to occupy the top position. They preached gifting of girls to the service of God or temple. Thus the Padma Purana in its Srishtikanda recommends the purchase of pretty girls (virgins) by the people for gifting them to temples. The Bhavishya Purana laid down that the only way to seek entry to Suryalok or Heaven was to offer a band of beautiful girls. these Puranas are ascribed to the 3rd century A.D., when due to poverty and want of money the families sold their girls to the temple. By the 7th century A.D. temple activity was very exclusive in South due to Royal interests. Beyond 10th century the total number of Devadasis in any temple was in direct proportion to wealth and prestige of the temple.

Around 5,000 girls are dedicated every year into this system in Andhra Pradesh, Maharashtra and Karnataka. **These dedication ceremonies given religious sanction to a family's decision to prostitute a daughter - who is initiated into flesh trade at puberty.**

It cannot be denied that more than religious devotion, it is the economic considerations that are paramount in most families decision to push a daughter into prostitution via the Devdasi dedication ceremony. The initiation ceremony is celebrated with a feast which is paid for by an upper caste man who has

purchased the right to her virginity. The economic benefits for the family are immediate.

There are some castes that have traditionally accepted prostitution as their profession. The *Rajna tribe in Rajasthan* is economically organized around a system of child prostitution. This tribe is only of many such in Rajasthan. The system of prostitution practices by this tribe is inherently child prostitution, as the girls enter prostitution by puberty. The elder daughter is raised, being fully aware that the tribe's survival depends on her labour as a prostitute. The tribe's economic and social organization ensure that these girls do not question their fate. Other communities - Dehrehar, Gandharva, Bedias and Kanjuars, the Dormara Tribe of Telangana - have traditionally accepted prostitution as a source of livelihood.

The tribes who, in the past lived on the earnings of their prostitute women are now part of a systematic lucrative urban traffic in child prostitution. The best organized are Bedias of Central India who send their daughters traditionally famous for their erotic, singing and dancing to large Indian cities.

Surveys have claimed that fifty per cent of all the prostitutes in Maharashtra began as Devdasis. Girls from this system have been estimated to account for twenty per cent of the total girls in this illegal profession. About eighty-five per cent of the prostitutes in Delhi and Calcutta were compelled into the flesh trade when very young, entertaining about seven to eight clients in a day. Often during heavy menstrual periods, ice is used and they are forced to receive clients. Physical and psychological torture may be specifically employed to ensure compliance in many cases. The girl in prostitution is a victim of sexual slavery in the name of deep rooted tradition, social custom, religion and culture - which is highly discriminative, exploitative, oppressive and suppressive for females from their childhood.

It is a sad commentary on the social values of modern society that we can permit more than one million children in prostitution in Asia alone to remain in a form of sexual slavery which is akin to a living death.

The Indian Penal Code was amended and Sections 372-373 declared the practice to be illegal. But in the south this system continued and by the 20th century it turned into an Institution of Prostitution and completely commercialized. Since independence some change has taken place. But even today this system is still flourishing and is unchecked. In Karnataka – **thousands of minor girls are initiated into the cult of Goddess Yallamma every year during Magh Purnima.** During the period 1989, in one Belgaon District 390 minor girls were inducted into Devadasi system. Though Law prohibits the action, the government takes no action and on the contrary traffic and crowds are managed by the police.

5.22 DIFFICULTIES FACED BY REFUGEE CHILD

A refugee is a person who is outside his or her country of nationality and is unable or unwilling to return because of well founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion. Thus a refugee is a person who has been forced to flee his or her country out of fear for life.

The previous century has produced the largest number of refugees ever in world history. There are in the world today around 15 million people, two-thirds of whom are children, who have fled their homes and are now living in exile. Behind this abstract figure lies an immeasurable history of indiscriminate sufferings. The past decade has witnessed a series of civil wars and communal conflicts in which masses of people have been forced to flee for their lives – examples are Burundi, Chechnya, Columbia, Liberia, Rwanda and Sri Lanka.

The use of children as tools of war, where they are manipulated and coerced into being unwitting and unwilling perpetrators of the war's inevitable atrocities and inhumanities, is therefore as pernicious as it is cynical. Mass exodus is too often

synonymous with a high number of unaccompanied children. Most are not orphans, but have been separated from their parents during conflict of migration. The disintegration of girls particularly, leaves them vulnerable to violence, intimidation and sexual abuse. The children are vulnerable at every stage of their migration – while fleeing a war-zone they risk being raped, physically abused by the soldiers and starved. On arrival at the camps, they risk being sexually exploited by the local security or other refugees. Further, refugees are packed together in refugee camps without hope for their future. Many refugees are worse than the port of the Third World; aside from lacking proper housing and sufficient food, the refugees, having left their homes, are even more dependent on the outside world.

Refugee children are outside their own country. They are on a land, which is almost unknown to them. They are among the people not familiar with them. They have left their culture, belongings and many times parents and family members behind. Obviously they face various problems **Language, Safety, Food, Water and non-food items, Health problems, Education and Skill Training, Employment, Shelter, Registration of birth and nationality problem, Settlement, Social security and of course all kind of exploitations.**

While preparing the research work I came across one case where a Tibetan child refugee, named Nortso, has narrated his escape story from the Chinese refuge, in his own words. The children were among a group of 75 people making the 22-day trek over the Himalayas when Chinese troops fired on them sending them running for cover.

"I was worried that the Chinese might arrest me, I kept thinking of this in the back of my mind," said nine-year-old Nortso through a translator at a press conference held by the Tibetan Centre for Human Rights and Democracy.

China has said that soldiers acted in self-defence, but a Romanian TV station released video footage October 14 showing troops shooting from a distance at a line of Tibetans walking in single file over the snow.³²³

UNHRC and Young Men's Christian Association (YMCA) is an international organization to give educational and other service assistance to refugees. The minority of refugees who are aware of, and **who access services are largely unsatisfied with them.** UNHCR does not have an effective procedure for attaining self-reliance through its financial assistance and training interventions. Programs and policies lack clarity, follow-up, monitoring, and evaluation. Sometimes refugees themselves are reluctant to obtain medical, training, or legal services because of other negative experiences or overall frustration with UNHCR.

The duty to protect all the rights of the child as proclaimed in The Declaration of the Rights of child, 1959 and Convention on the rights of child, 1989 have been imposed on the state. The Indian constitution have taken care of children and guaranteed certain rights³²⁴. Various steps are taken to implement the rights of children through various acts of parliament, Acts of state legislature which have contributed to some extent in achieving the objective of providing social and economic justice to children of the society. But no legislative steps are taken by our country to protect the rights of refugee children.

Basic difficulty in observing the implementation of international refugee law lies in non-availability of legal frame work to discharge international obligations in effective and meaningful manner. Any civil society would respond positively only when they are put under legal obligations through which it can provide appropriate institution, appeal procedure, guidelines, define the group or categories of persons to be assisted the rights and duties of both the state and refugee and a host of other things.

³²³ By Tripti Lahiri in New Delhi ,October 23, 2006

³²⁴ refer Art 15, 23, 24 of part III and Art 39(f) and Art 45 of part IV

Because of above stated situations, refugee child has to face difficulties and these difficulties are carried out throughout his lifetime. It is a kind of vicious circle wherein refugee child is forced to live in poverty, resulting in no education, malnutrition, upbringing in unhealthy atmosphere and being brought up as non-productive adult. Therefore, for better livelihood of refugee child (i) role of non governmental organization for funding and grants should be activated and (ii) rehabilitative Schemes which should include vocational training and income generating activities should be adopted.

5.23 PLIGHT OF MIGRANT CHILDREN

With rapid urbanization in developing countries as India, there has been large-scale migration of rural families to urban towns and cities. The children of migrated families have not only become the victims of instability and insecurity but also exposed to various forms of abuses and exploitation. They are subjected to "abusive employment practices and, worse still, are forced to work under conditions which are dangerous to their health and physical and mental development." They are to live either under inhuman conditions in slums or near their workplaces outside the orbit of the family. As a result, they become vulnerable to the vices of urban life – sexual and other abuses and also social and economic exploitation. Many of them are also lured by criminal gangs and ultimately become adolescent offenders.

5.24 DISABLED CHILDREN: DELAYED RECOGNITION BY GOVERNMENT

Nations General Assembly declared the year 1981 as the *International Year for the Disabled* and every year **3rd December** is celebrated as the World Disabled Day.

Invariably all parents wish that their lovely children get best possible education and affectionate care. But unfortunately some time the joy and happiness of

parents gets converted into torrent of sorrows, once they discover that the child is suffering from some disability. Mental retardation also known as cerebral palsy is worst kind of it. The number of mentally retarded, cerebral palsy children is escalating all over the world, because it could be discovered only when the child is 2-3 years of age.

The children, undoubtedly constitute one of the weaker and most vulnerable sections of the community. And if the child is disabled child, they become burden on parents. Majority of these children live in the developing countries. At least one child in ten is born with a disabilities. India has approximately 100 Million Disabled persons. The current estimate is that one child in every 10 is Born or acquires physical, Sensory or Mental Impairment by the first year of life.

According to child Relief and You (CRY), the figures on disabled are as follows.

3% Mentally challenged below age 10 years.

20% Urban, 80% Rural Areas.

60 % Males & 40 % Females.

The disabled children are the poorest of the poor in every country of the world. 97% of the disabled in developing countries are without any form of rehabilitation, 98% without any education. Its sad that the politicians who focus on promotional respects and agitational noise and independent judiciary find little time for justice to disabled child. The plight of the physical and mentally disabled is unimaginable especially in a society like ours where economically and socially disadvantaged people are exploited. The life of the disabled is so obviously one which is burden to themselves their families and the state, that it is considered better if further investment on their future lives is not made.

It is not really very surprising that **there is no mention of disabilities in our constitution**, but what more surprising is the fact that this country did not feel it necessary to include them in any of the planning processes and programmes until mid-90's. The government did not have any specific realistic figures about various disabilities and until 2001 it was not even thought to be necessary. It was

only after lot of persuasion by the NGOs, Advocacy Groups and Parents' Associations that a separate column was added, though reluctantly, and that too, at the eleventh hour. The exact figures of the census and categorisation are yet to be available. There is no inclusion of disabilities in the National health Policy of Govt. of India, which was published for the first time in the year 2002, fifty five years after the Independence. The governments probably thought it more convenient to believe that they must be happily settled in the mainstream of the society, since they are not making any noise, failing to realise that this section is too weak to take out morchas and shout slogans against the atrocities to which they have been constantly subjected.

Unfortunately, it was only after the world bodies like UN and ESCAP (Economic and Social Commission for Asia and Pacific), pressurised India that the Govt. woke up to the reality. While various incidences of Physical and intellectual disabilities were not unknown, the authorities found it convenient to be silent. It was in the '80s that the rights of the disabled started gaining momentum towards considering them as members of the society. In 1992, the Rehabilitation Council of India (RCI) Act was passed, mainly to develop the manpower in the rehabilitation services. As per the WHO statistics, 8 to 10 percent of the population is disabled. Out of this almost 3 percent of the total population suffers from developmental disabilities i.e. Mental Retardation, Autism, Cerebral Palsy and Multiple Disabilities. This makes about 3 crore persons in India, who necessarily need lifelong support not only for their existence but also to take decisions for them.

India's Comprehensive Law namely: The Person with disabilities (Equal Opportunities Protection of Rights and Full Participation) Act 1995 (PWD Act) has been enforced from Feb2, 1996 Persons with disabilities means a person suffering for not less than 40% of any disability. The Act has 14 chapters covering seven **disabilities namely; Blindness, Low Vision, Hearing Impaired, Locomotor disability, Mental Retardation, Mental Illness.**

Though the Act provides full protection and rehabilitation, the provisions of the Act are not properly availed by the parents and the family members of such severely disabled children. Disabled persons on the whole suffer from low visibility and cultural apathy. One has to understand that though some work is being done, lot more needs to be done towards ensuring participation of these persons in the mainstream and protecting of their rights by empowering them.

Other important legislations passed in India are People with Disabilities (Protection of rights, full participation and Equal Opportunities Act), or the PWD Act, 1995. This act is a very good, all comprehensive Act, but it is unfortunate that in absence of any proactive efforts on the part the Govt., NHRC was required to be approached after which in the year 1999, the Chief Commissioner Disabilities was appointed. This Act is a welfare Act and does not have any provisions about non-implementation and non-compliance and is also non-punitive, leaving the administrators and politicians with a free will to implement or not to implement.

In 1997, the National Handicapped Finance Development Corporation Act was passed to address the employment issues of the disabled. Despite this, till date, less than 2 lakh out of total 8 crore for the disabled could be employed.

In the year 1999, the National Trust Act was passed for the welfare of the persons with intellectual disabilities, which include Mental Retardation, Cerebral Palsy, Autism and Multiple Disabilities. This mainly addresses the issues related to Legal Guardianship and creating congenial atmosphere in the society for inclusion of the children with very special needs.

In the month of January 2004, the Govt. has announced formation of a separate commission for the persons with disabilities. But unless all these bodies are empowered with appropriate provisions in C.P.C. and Cr. P.C., about the non-compliance of the provisions of various acts passed for the disabled, protection of the basic rights of this marginalized section of the society lit remain a distant

dream. It is very unfortunate that everyone who has an important role to play in ensuring protection of the rights, viz. Judges, 'Advocates, Police, Bureaucrats are not even aware of the existence of Acts, leave aside the provisions as also the specific needs and conditions of various type of disabilities.

For protecting the right of disabled children judiciary has played a pivotal role. Like in the case of Maneka Gandhi's The Hon'ble Apex Court pronounced a landmark judgement by giving a new dimension to Article 21 of the Constitution by including right to live with human dignity as an internal facet or right to life. **The mentally retarded cerebral palsy children with permanent disability has the fundamental right to live, which is not merely confined to physical existence but it includes within its purview the right to live with human dignity.** The hon'ble Supreme Court in *S. R. Kapoor v. Union Of India*³²⁵ reiterated its early judgement to set up a committee to improve the plight of the mental hospital.

The action taken in the above cases reveals that the judiciary has played an active role by ameliorating the plight of the mental hospitals thereby protecting the rights of the mentally ill children. But still lot is to be done for these children.

Therefore, it can be expressly asserted that the Courts by implementing the provisions of the Acts tend to impart justice to the disabled persons including the children. But unfortunately due to superstitions prevailing in the society regarding the mentally retarded and cerebral palsy children suffering with severe disability, the society and sometimes the family members of such children infringe their fundamental human rights.

It is only when the society in general and Human Rights Activists in particular realise that the disabled are the most vulnerable group where the violation does go on, on day to day basis, that the issue will get its due priority and will become a movement. It has been seen in the past that any legislation remains a

³²⁵ AIR 1990 SC 752

piece of paper unless it is properly implemented in the true spirit. And this will be possible only when there is proper awareness and understanding of the exact condition of the persons.

5.25 CHILDREN OF PRISONERS: LOSS OF PARENTAL ATTACHMENT

These are children of the under trials/unconvicted or sentenced. A woman prisoner (either unconvicted or sentenced) is legally permitted to keep her very young children with her. These would usually be below the age of five years or so, any variation depending on the rules of the local administration. This facility does not exist for male prisoners. There are rare instances where the prison authorities have permitted a widower to bring in a young son into prison with him. The negative impact of living in prison, the forced adaptation of children to the prison environment are very clearly observable especially amongst those whose stay is prolonged. Such children are therefore the subjects of some concern. Prison administrations are supposed to provide for nurseries. But these are located in a prison sections housing convicted women prisoners the assumption is that under trials are released on the bail quickly and so the mothers do not need this facility. But unfortunately this is not the case.³²⁶

With respect to children of prisoners, specifically, certain provisions have been laid down in criminal law. When a woman is arrested the police is obliged to inform her immediate family or relatives and also to the legal aid Committee of respective act. As per the directions given in the oral judgment of M Justice C.S. Dharmadhikari of the Bombay High Court in Criminal Writ Petition No. 38 of 1984 Rule 114A has inserted in the Bombay Police Manual. Sub Rule (3) & (4) are as follows.

- 3) If any woman is arrested and taken into custody by the police for remand along with her child which needs breast feeding, then the fact that the accused has a suckling child should be invariably mentioned in the arrest

³²⁶ Maneka Gandhi V Union of India, AIR 1978 SC 597

Panchnama remand and other relevant police records.

- 4) While such child is in Police custody along with its mother, all reasonable care should be taken for welfare of the suckling child by providing milk, food, required clothes, clothing, bedding etc. and the necessary medical aid."

Article 9 of CRC refers to children separated from parents as follows Subsection 2 refers to children of persons in custody." Where a separation results from any action initiated by a State party, such as detention, imprisonment, exile, deportation or death, (including death arising from any cause while the person is in custody of the state) all interested parties shall be given an opportunity to participate in the proceedings and make their views known."

In the section titled 'children of Prisoners in the Report of National Committee on Women Prisoners 1987 in Para 121 quotes Article 25.2 of the Universal Declaration of Human Rights which states:-

"Motherhood and childhood are entitled to special care and assistance. It also refers to the Supreme Court directive in *Hussainara Khatoon* namely; it is the duty of the Government in a social Welfare state to protect women and children who are homeless and destitute.³²⁷

5.26 CHILDREN OF ARMED CONFLICT: A BLAMELESS VICTIM

War and peace are the two inherent and alternating instincts of man. First, man goes to war and then he seeks peace. Again, during peacetime, he prepares for war and thus this vicious cycle goes on. Humanity is threatened by wars, armed conflicts, confrontations and power struggles, which lead to problems of varied dimension social, legal, economic, political and humanitarian. The impact of armed conflict on the human race is of such a magnitude that it demands timely

³²⁷ Sheela Barse Vs. State of Mah. (Crim. Writ Petition Nos. 1053-1054 of 1982.)

action by governments, organizations and individuals. When violence erupts through armed conflict, more than any other force, it has transformed the lives of millions of children and women. It is one of the most deplorable developments in recent years that children form the most vulnerable group during armed conflict and they suffer most. In the past decade alone, an estimated 2 million children have been killed in armed conflict. Three times as many have been seriously injured or permanently disabled. Countries have been forced to witness or even to take part in horrifying acts of violence.

These children are compelled to become instruments of war. They are lured or kidnapped to serve as soldiers as is evident from armed conflicts in Angola, Chechnya, Eritrea, Ethiopia, East Timor, Guinea Bissau, Kosovo and Kashmir, to name a few. In Colombia, observes the recent Amnesty International Report on CRC, "child soldiers are sometimes called "little bees", because their size and agility enable them to move quickly and 'sting' their enemy."

Children are even exposed to vicious hate campaign as in Rwanda, Burundi and Bosnia. For, almost all the major wars today are civil conflicts, and as observed by a commentator very poignantly, "they are fought among people who know each other well. Compatriots and neighbors are engaged in combat with each other." Children's exposure to hate campaigns in these wars have left them with severe psychological trauma. As this commentator observes further, "in the innocent mind, categorization of separation on religious, ethnic and racial lines are introduced. Even when fighting stops, children live with the psychological trauma of war. They need sustained assistance for rehabilitation, though today their needs are largely ignored. Children are also being used as instruments of war by militant organizations like the **LTTE in Sri Lanka** and the **Talibans in Afghanistan**.

Impact of war on children is multiple and severe. It leads to deprivation of children of their basic security, food, education and access to health. During war, Children are affected not only physically but also psychologically. In war-

torn nations childhood has become nightmare, Armed conflicts destroys homes, separates families, splinter communities, break down trust among people and disrupts health and education services undermining the very foundation of children's lives. Many children have witnessed their parent's torture, murder, rape and have been threatened with death themselves. When they experience traumatic or other events at the time of war, they may suffer from increased anxiety about being separated from their families. **They loose confidence in others, become anxious or depressed and may develop aggressive behaviour.**

The girl children are especially vulnerable to sexual abuse, rape and forced prostitution. War also compels the children to live a miserable life as refugees. The majority of todays 11.5 million refugees are women and children. Armed conflicts in countries like Angola and Sierra Leone have even produced a large number of limbless children, the victims of land mines. As Olara A Otunnu, Special Representative of the UN Secretary – General for Children and Armed Conflicts observes:

Children are truly blameless victims of conflict. Yet, today we are witnessing unspeakable abominations directed against children in situations of conflicts. Over the last decade, two million children were killed, over one million made orphans, over six million have been seriously injured or permanently disabled and over 10 million have been left with grave psychological trauma.”

One of the most basic reasons that children join armed groups is economic Hunger and poverty drive parents to offer their children for service. In Afghanistan, where approximately 90 percent of children now have no access to schooling, the proportion of soldiers who are children has risen in recent years from roughly 30% to 45%. Some children feel obliged to become soldiers for their own protection. Faced with violence and chaos all around, they decide they are safer with guns in their hands. Often such children join armed opposition groups after experiencing harassment from Government forces. In El Salvador, children whose parents had been killed by Government soldiers joined

opposition groups for protection. sometimes, war activities are glorified and young people often take up arms to gain power and power can act as a very strong motivator in situations where people feel powerless and are otherwise unable to acquire basic resources. It is sorry to note that in Lebanon and Sri Lanka, some adults have used young people's immaturity to their own advantage, recruiting and training adolescents for suicide bombings.

We want a society where people are more important than things, where children are precious; a world where people can be more human, caring and gentle.³²⁸

One of the most urgent tasks when conflict threaten is to find ways to protect children. Protection in this sense means not only defending them against aggression but also ensuring that their full range of rights and needs are respected and fulfilled.

UN General Assembly adopted the Optional Protocol to the Convention on the Rights of Child on the Involvement of Children in Armed Conflict on 25th May 2000³²⁹. It requires government should take all appropriate measures to ensure that

- Children under the age of 18 do not take part in hostilities.
- Bans all compulsory recruitment under the age of 18.
- To raise minimum age for voluntary recruitment to a minimum of 16 and
- Bans all military recruitment and use of children under the age of 18 by armed groups.

Though the minimum recruitment age is raised from 15 to 18³³⁰ states may accept volunteers from the age of 16³³¹. However, on becoming parties to the protocol, States have to deposit a "Binding Declaration" setting out their

³²⁸ Archbishop desmond Tutu at the meeting of the Eminent Persons Group in he Imnpact of Armed conflict on children, New York.

³²⁹ www.childsoldiers.Org/sc/nsf/appendix4.htm

³³⁰ Article 1

³³¹ Article 3(1)

minimum voluntary recruitment age and the safeguard they have adopted to ensure that such recruitment is not forced or coerced.

The Fourth Geneva Convention Relative to the Protection of Civilian Persons at the Time of War, applied during international armed conflicts, accords to children as protected persons, humane treatment, which includes respect of life and physical and moral integrity. Torture, coercion, corporal punishment, collective penalties and reprisals are prohibited. In non-international armed conflict situations, the right to be treated humanely is accorded to children as person taking no part in hostilities by Article 3 common to the IV Geneva Conventions. Hague Convention of 1899 and 1907 also had provision, which gave certain protection to children as member of civilian population. Protocol I of 1977 developed the concept that in international armed conflicts a distinction was to be made between combatants and civilians. Protocol II of 1977 extended this principle to non-international armed conflicts, stipulating that, 'civilians shall not be the objects of attack.

However, it can not be denied that in response to so much destruction and pain, there have also been unprecedented efforts at peacemaking and caring for the child victims of armed conflicts. The urgency now is to enhance the means both to prevent future conflicts and to better support victim. Governments and the international community can do this. The most serious violations of children's rights occur in situations of conflict where there is no functioning national government. National and international strategies to protect the rights of children must enfranchise, empower and build the capacities of women, families and communities to address the root causes of conflict and strengthen local development.

Governments must train and educate the judiciary, police, security personnel and armed forces, especially those participating in peace keeping operations, in humanitarian and human rights law: This should incorporate specific attention to the needs of children. In the process, the advice and experience of the

International Committee of Red Cross and humanitarian organizations should be sought.

5.27 TRAUMA OF GROWING EUNUCH

The word Eunuch is derived from the Greek word 'Eunoukhos' which literally means bed chamber attendant. In Mughal periods, eunuchs for obvious reasons were put in charge of the harems. The eunuchs were generally strong men who were subjected to castration, then they were put in charge of the harem as outside guards. This was the practice with kings of that time because they wanted someone who could defend the harem and in no way harm the women. This custom was prevalent during the Greek and Roman empires also.

In the total population of eunuchs in India, 75 per cent are castrated males. The world of Eunuchs is highly organized. They have their community with clans, with one Guru heading it. Each Guru has his own Sthan (area) within which he operates. In Delhi alone there are over 10,000 eunuchs with 40 Gurus. He hangs over his group of eunuchs like the sword of Damocles.

The eunuchs get hold of the parents who have abnormal children born and they take them into their fold. In India there are Doctors and quack who in collusion with the organized gangs indulge in castrating male children into eunuchs, male children are lured or kidnapped for the purpose. There is lot of money in this business for both Doctors trained in this craft and the eunuchs.

5.28 CHILD PRODIGY : A BOON OR CURSE

The word prodigy is derived from Latin word *prodigium*, which means an unnatural happening. Thus prodigy means an unusually gifted or intelligent person; someone whose talents excite wonder and admiration. A person, here means, especially a child, with marvelous talent originality. Prodigy's talents are recognized at an early age.

Prodigy may be academical, intellectual, physical, spiritual etc. eg. A math prodigy , a surgeon prodigy or a scientific prodigy, a prodigy related to memory, athletics, music, painting etc. Let us study the problems faced by these children by having a close look at the life of these children.

5.28.1 AKRIT JASWAL: A CHILD SURGEON³³²

Akrit Jaiswal Born April 23, 1993, Jaiswal never attended medical school, and yet in his native country of India, he is widely known as a physician. When he was very young, instead of starting with crawling, he skipped right to learning how to walk. At the age of 10 months, he said his first words. By age 4 he was reading Shakespeare. When he was 7, he met an 8-year-old girl whose fingers had been burnt as a baby and fused together. He performed an operation to separate her fingers -- that same year. Today he pursues degrees in botany, chemistry and zoology at Punjab University, Chandigarh, India, making him India's youngest university student. He hopes to one day attend Harvard.

Jaswal's main field of emphasis is medicine, and he has mastered many disciplines through his practice of studying for one hour each day. He says concentration is successful to success in any endeavor, no matter what type. An IQ test he took yielded a score of 146. The top bar is usually set (nowadays) at 200. One of Jaswal's goals is a cure for cancer. His current path toward that end deals with oral gene therapy.

Not everything is golden for Jaswal. However he has said being so intellectually gifted and so young in India, that he bears an incredible weight of responsibility on his shoulder for future India. He has been told that he must do something great with his life, and has made it known that **he doesn't always feel positive about having his life predetermined in such a way.**

³³² Wikipedia free encyclopedia

5.28.2 BUDHIA: A MARATHON BOY³³³.

Budhia Singh, the impish boy wonder from Bhubaneswar, who belongs to a family of beggars, claims to average marathons of 48 kilometers-per-day. Budhia was born in a slum; his father was a beggar and a drinker and his mother worked as a maid, washing dishes in other people's homes. Budhia was sold by his poor widowed mother for a paltry 18 dollars, after failing to afford two square meals for her three other children. The child was Rescued by Mr Das, who scouts for athletic talent from poor backgrounds, found a surrogate parent in the member-secretary of a local judo association.

Biranchi Das brought Budhia to his office to raise him as his own child. But the little brat often created a ruckus around the office premises for which he was duly reprimanded. It was during one such "punishment" where Das told Budhia to continue running, that his talent was accidentally discovered. Budhia ran for four hours that day, and has since, virtually, not stopped running. The child is reported to be on a special diet that consists of a mixture of a variety of pulses, milk and bananas. Das has also commissioned special additions of jaggery and "desi ghee" (or, clarified butter) for his little champion. Buddhia's day starts early with a five-hour practice session, which is followed by a massage by Das. It is followed by training. And this has worried the Government authorities who say it could take its toll on the toddle.

Coach of India's Record-breaking Marathon Boy was Charged with child abuse. Newspapers on 3/ 05/ 2006(Wednesday) splashed pictures of the youngster on their front pages but headlines like "65 km at 5- isn't this child abuse?" indicated not everyone was excited by the feat. But the guardian of Budhia denied media accusations on Wednesday that he was flogging him for personal gain.

In August 2007 the marathon boy's coach Birunchi Das was charged with torture. Budhia's mother, Sukanti Singh, says she found scars on her son's body

³³³ BBC News Channel, 13/aug/2007

when he returned home 10 days ago after living with the coach for more than two years.

Despite having spent a year defending Mr Das from government attempts to stop the boy racer, Budhia's mother went on the radio saying that her son had been "beaten" and "mistreated". "Biranchi was beating him up regularly," Mrs Singh said. "He even once tied Budhia up from a ceiling fan and threw hot water on his body."

Mr Das denied the allegations, calling the charges "a conspiracy against me hatched by the state government's child welfare department". The coach's was arrested, and since then government order declared the child's record-breaking 40-mile run last year to be "torture". Budhia was promptly banned from competitive running. Officials stopped Budhia from attempting a 300-mile "walkathon" from Bhubaneswar to Calcutta in West Bengal,

Children's rights activists say the tragedy of Budhia is that no one seems concerned about his childhood. "It is a circus. Budhia should have been taken into care by the government long ago. He has been robbed of a normal childhood," said Kailash Satyarthi of **Bachpan Bachao Andolan**, which translates as Save Childhood Movement.

Another aspect is that as soon as one becomes celebrity, various manufacturers, producers, technological institutes, Hospitals etc. try to take advantage from them by encouraging them to participate in rallies and thus highlighting them in front of the media. With this child get exposed to large no of people and to the glamour's World. This diverts the mind of the child from his ultimate goal. As a result there is a danger of losing an important and Valuable Asset of Nation in particular and of World in general.

On 8th April 2007 the five-year-old wonder kid led the protest march organised by a group of civil society organisations and MPs over the shifting of a greenfield IIT from Orissa to Andhra Pradesh. Holding a placard and using his

lung powers to the maximum, Budhia emerged as the latest icon to hold several disparate groups together. Earlier, on certain public campaigns against AIDS, Dowry Tortures and on issues of Child Labour, Budhia had taken to the streets of Bhubaneswar participating in rallies and demonstrations. But he got a chance to rub shoulders with some important MPs and Oriya cine stars for the first time.

Das's aim was to train Budhia for the 2016 Olympics. Despite having a population of more than a billion, India managed just one silver medal at the last Olympics.

Biranchi Das, the coach who trained child prodigy and marathon runner Budhia Singh, was shot dead in Bhubaneswar, Orissa, on Sunday evening. Das, a judo coach, was shot twice and died in a government hospital.

5.28.3 LAVINASHREE- ELEPHANTINE MEMORY ³³⁴

She is a **Limca Book of World Record Holder** equivalent to Guinness Book of Records, continuously from 2004 to 2008 in the field of recitation of 1330 Thirukural at the age of 3. Her record remains unbroken to this day¹.

She is also the winner of National Child Award For Exceptional Achievement, 2006, Govt. of India in the field of Recitation of 1330 couplets of Thirukural from memory. The Honourable Minister of Women and Child Development, **Smt.Renuka Chowdhury** presented this prestigious award to Lavinashree, on 14th November 2007, at New Delhi.

Her talent found place in the school talent magazine with the caption "prodigy", and "Elephantine Memory".

³³⁴ Wikipedia free Encyclopedia

5.28.4 AINAN CELESTE CAWLEY: A CHEMISTRY PRODIGY³³⁵

Ainan Celeste Cawley is a seven-year-old boy with academic ability of a 17 to 18-year-old chemistry student. He is better termed as chemistry prodigy. Professor Tim White, of the School of Materials Science and Engineering at Nanyang Technological University, Singapore, said he had no doubt that the child was a chemistry prodigy. "He has an excellent grasp of the subject – he is well able to write and balance equations, draw molecular formulas, understands the chemical properties, knows about radioactivity and so on. Clearly, a normal school would be incredibly frustrating for Ainan," he said. He added that his own university had decided not to offer a place to Ainan because the laboratory benches were too high, with shelves out of reach and chemical dispensers too big for the child to hold.

"There were considerable logistical barriers – chemistry is an experimental science, and unlike gifted child musicians and mathematicians, quite special requirements would be needed," he said. Professor White had mixed feelings about sending a seven-year-old to university. "He is a boy, but it would certainly be a great shame if he become frustrated and lost his enthusiasm for science by being constrained in an environment that did not stretch his abilities and imagination," he said.

The parents of a seven-year-old science prodigy have begun a world-wide search for a university place for their child, with the warning that "a great mind could be lost" if he is not offered the chance to pursue his studies at degree level. Ainan Celeste Cawley, the son of a British father and a Singaporean mother, passed his O-level chemistry in Singapore at the age of 6 and is studying for an A level in the same subject.

When the children's have talent towards any subject like maths, chemistry, physics etc. Which requires experiments with technical instruments it becomes

³³⁵ The Times, nov 10,2007; Alexandra Frean, Education. Editor

difficult for parents to manage it because of unawareness or lack of resources. In such situation in the absence of any assistance from the state there is the fear of losing such genius talent.

5.28.5 MANAN VYAS: A MIND WHICH WORKS FASTER THEN A COMPUTER³³⁶

Manan has the capacity to calculate that which day will fall on which date with in a seconds. For example whether decemder 20, 2020 is Sunday or Monday. According to his father Hitendra Vyas he has an exceptional memory power, there is no calculation behind this extraordinary power. He is just twelve years old Manan. In may 2006 he was nine years old and was studying in Std II.

Manans first love is number but he has a strong liking for music so much so that he remembers the order in which the songs are listed in all of the 50-odd CDs that adorns his dad's CD rack. Without any labels on the music collection, Manan can tell you the ninth song on the 14th CD without any effort. Not only this he can narrate an entire chapter from his book. Sundarkand Path Verbatim!

However, Manan's intelligence and rare genius is also creating a problem for his family and school teachers. According to headmistress of his school "Priyadarshini Kelker" Manan is an autistic child. He refuses to listen to any instructions and is restless. He is having a very odd behaviour so it is very difficult for the teachers to handle them as they are not trained to handle special children.

Such situation is generally faced by the children of "hyperlexia" like Manan and Ainan Celesty Cawley, where a children knows more than his age. A special care is required to be taken for such children. Schools perhaps need to open up to encourage such exceptional children. If we understand, we can easily adjust the child in the main stream. All that is required is to make minor changes in the

³³⁶ May 2006, TOI; jhumari.nigam@timesgroup.com

system. Probably a special educator at every school is a solution for the time being.

5.28.6 SHOOTING STAR ABHINAV: FROM A CHILD PRODIGY TO AN OLYMPIC GOLD MEDALLIST³³⁷

Abhinav Bindra is the country's first world champion in shooting. He emerged as a maiden individual Olympic gold medalist for India in Beijing Olympics 2008. The 24-year-old Abhinav has displayed nerves of steel and a dogged determination over the years to attain the highest sporting glory.

But all are not lucky enough to get the opportunity like Abhinav and Lavinashree. There are many instances where during the infancy or childhood talent is recognized as child prodigy but when they grow up they are lost in the mid of world. This is because either they feel overburdened or does not get the opportunity to make the maximum utilization of their gifts. There are child prodigies like Budhia who belong to lowest cater of society. It is in these cases where maximum exploitation of children takes place. Every body (Politicians and other related persons) wants to build their own castle on it.

At the end of this topic I would like submit, all child prodigies, unlike Abhinav Bindra and Josef Hofman, are not fortunate enough to flourish their talent in the given environment. All prodigies do not belong to affluent class if yes, might not have proper awareness for giving proper guidance to their gifted child. These are the cases of Akrit, Ainan Celeste, and Manan Vyas as discussed above. The problem their parents are facing is that where to send their child for required education. The researcher believes that when such talents are recognized, State should come forward to assist them in the same environment.

Child prodigies are asset to the nation. It's a pity that some of them are surrounded by controversy. India has no marathon runners and, when a kid starts running, instead of supporting him various agencies are finishing his

³³⁷ Wikipedia free Encyclopedia

career. The mission should be to assure that students who are academically or intellectually gifted develop mentally, physically, emotionally, and vocationally through the provision of an appropriate individualized education in the least restrictive environment.

Why does is always a child has to faces abuse? Whether he is an orphan, a school child or a wonder kid like 'Budhia' the marathon child king of India, there are culprits in the so-called cultured society, who under the mask of a civilized people are monsters.

5.29. CONCLUSION

Victimization is a serious threat for Indian children and youth. Many State laws now exist to protect children from physical abuse. Reforms on issues based on children have taken place at every step of the criminal justice process. But today, like all other victims, not even a fraction of the nation's child victims receive much needed services such as emergency financial assistance, crisis and mental health counseling, shelter, information and advocacy within the criminal justice system. There are many victims and their families who do not actively participate in the criminal or juvenile justice processes. They are denied meaningful participation in the judicial system and services to get justice done to them. Policies, therefore, have to be formulated to protect the rights of the child victims and improve their treatment. The Indian Society of Victimology has already ignited the kind of legislative response necessary. **It is therefore, a challenge to the nation to renew and refocus the treatment of child victims of crime.** There should be a comprehensive plan regarding how the nation should respond to child victims. Today, we have, besides academicians and scholars, a broad cross-section of the criminal and juvenile justice and allied professionals and workers in the victim service field. The voices of these people should be the guiding force for the hundreds and thousands of crime victims who go unheard every year. The skilful strategy should be developed for providing justice and comprehensive services to child victims of the 21st century. The need of the hour

is that authoritative and non authoritative people from every strata of society,, from police officered to prosecutors, from judges to correction officers, from politicians to bureaucrats and every Indian who interacts with victims should effectively try to implement programmes and reforms that makes sense for their own communities. Over these years the doors of justice have gradually opened to some victims of crime. Lets hope that our nation will move closer to the day when the door of justice open for all victims of crime.

The Indian Society of Victimology is dynamic in evolving innovative approaches to help child victims, find justice and assistance for child victims and their rights through this conference. It is this dynamism that ensures response to the evolving understanding of the needs of the child victims. This is not the final word; it is a sound compass that will help hold the course true in the years to come. Let us have faith that legislation will improve in favor of child victims of crime in near future.

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