

SECTION III

General Principles

- A. Best interests of the child (Article 3)
- B. Non-discrimination (Article 2)
- C. The right to life, survival and development (Article 6)
- D. Respect for the views of the child (Article 12)



Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's, parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians or family members.

Article 6

1. States Parties recognise that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

3A

Best Interests of the Child

Article 3

1. Article 3(1) of the CRC requires the legislature, the executive, the major agencies of government, courts of law and private social welfare institutions within a country to make the 'best interests of the child' a primary consideration in their action and decisions. Almost 40 years before the CRC, the Constitution of India adopted a similar view towards children and incorporated many provisions to ensure their best interests:

- Article 14 provides that the State shall not deny to any person equality before law or equal protection of the law within the territory of India.
- Article 23 prohibits trafficking of human beings and forced labour.
- Article 24 prohibits employment of children in factories, etc.
- Articles 25–28 provide freedom of conscience, and free profession, practice and propagation of religion.
- Article 39(e) directs the States to ensure that the health and strength of workers, men and women and the tender age of children are not abused.
- Article 39(f) directs the States to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that children and youth are protected against exploitation and against moral and material abandonment.
- Article 45 directs the States to endeavour to provide for free and compulsory education for all children until they complete 14 years.¹

2. The principle of upholding the best interests of the child is not only reflected in the Constitution of India but also in the National Policy for Children, the National Plan of Action for Children (1992), the proposed National Charter for Children and the terms of reference of the proposed National Commission for Children, as well as in other schemes and programmes related to children.²

Legislative measures

3. The best interests principle is reflected in national legislation in relation to decision making about individual children, for example, in proceedings of divorce or separation, in adoption and in State intervention to protect children from abuse. This principle is also echoed in legislation and programmes covering large groups of children and their families, such as various poverty-alleviation programmes, distribution of low-cost essential commodities through the public distribution system, employment-generation programmes for the poor,

low-cost housing schemes for the poor and free education for children belonging to the disadvantaged sections of society. The concept of the child's 'best interests' has been used in guardianship litigation in India to take into account the child's wishes and preferences in a context where the child is mature enough to express a considered opinion on a matter concerning his or her life. The Guardianship and Wards Act provides guidelines for deciding what is best for the child, giving consideration to age. The focus on the child's 'best interests' contributed to the introduction of the paramountcy of the 'best interests of the child' concept into the codified Hindu Law in 1956. The concept provides for decision making by Juvenile Welfare Boards in a child-centred environment. This Act has many innovative features such as limiting access to lawyers and limiting the time for enquiries, all of which ensure that the child's interests are safeguarded.

Judicial interpretation

4. The Supreme Court of India has developed the concept of social interest litigation to enforce the Fundamental Rights and give strength to the Directive Principles of State Policy. It is of interest that several leading cases of social interest litigation concern the rights of children either because they impact on children or have been brought specifically before the courts to address infringements of the rights of children guaranteed by the Constitution. Social interest litigation thus represents a vital opportunity to realise 'best interests' of the child in an environment of cooperation between the Government, the courts, and non-governmental and private agencies concerned with children. Judicial activism is also a strategy for promoting State accountability and compelling action. Since the superior court has the power of judicial review, it can challenge legislation as well as administrative action or inaction for infringement of Constitutional guarantees. This creates an environment in which international standards on developing a consensus on safeguarding the child's interests can be linked with the Constitutional law developments.

5. For instance, in two recent cases of social interest litigation initiated in the Supreme Court, on the basis of concern for the situation of children of prostitutes, the court took judicial notice of their situation and appointed committees to study and report on this problem. In one of these cases, the court refused to give an order requiring the GOI to make provisions for separate schools with vocational training facilities and separate hostel for children of prostitutes. The court declared that such policies of 'segregation' would not be in the 'best interests' of these children, and that they must be brought up to 'mingle with others and become part of society'. Other notable examples of judicial activism have been dealt with in the report in different sections.

Box 3.1: High court upholds 'best interests of the child'

The Rajasthan High Court has allowed nine-year-old Ankit to live with his mother, Seema, in Rajasthan, holding the decree of a foreign court granting custody to his father, Allan Davinder Walia, as illegal.

The High Court relied on the theory that the welfare of the child would be best served by his mother. The High Court said that "We think that it will be in the best interest of the minor to allow him to continue with his mother."

Policies and programmes

6. Wherever policies and schemes are being framed, the Government collects inputs from an array of sources. In addition to inputs generated by the Government's own machinery at all levels, interaction with NGOs on specific issues also leads to the best interests of the children being seriously considered before a final decision is taken. In the democratic set-up that exists in India, a number of suggestions are received through people's representatives such as members of Parliament and members of Legislative Assemblies. Many child-related issues like children's education and working conditions have been brought to the notice of the Government through this route. These processes, the Government feels, contribute to ensuring that the best interests of the child are kept in view while formulating policies and schemes. Side by side, NGOs have drawn specific attention to the absence of child rights in the agenda of political parties. They also feel that much remains to be done by way of introducing appropriate legal measures, as well as taking steps to ensure that these are effectively implemented. According to NGOs, the administration may need to be equipped better for promoting children's rights. In addition, concerned officials should be sensitised to issues related to children.³

7. The best interests of the child in family life are reflected in the National Policy for Children, which, inter alia, stresses the need to strengthen family ties so that the child's full potential could be realised within the normal family, neighbourhood, and community environment.⁴

8. The best interests of the child have also been ensured through the Central Adoption Resource Agency (CARA), which has been set up under the Ministry of Social Justice and Empowerment for looking after the best interests of the child as well as to function as a clearing house of information regarding adoption of children. Apart from this, voluntary coordinating agencies in almost all States have been set up in association with NGOs to promote the best interests of the child through adoption. The issue has been dealt with in detail under the section on adoption. The Juvenile Justice (Care and Protection of Children) Act, 2000, provides for the treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters related to and disposition of delinquents.⁵ The administration of this Act has been dealt with in detail under the section on Administration of Juvenile Justice. The Ministry of Social Justice and Empowerment has undertaken programmes for the care and rehabilitation of abandoned, neglected, orphaned and homeless children. The welfare services being provided under the scheme include food, shelter, education, health, and vocational training. The programme has been dealt with in detail under the section on Separation from Parents. Social security for children in India, however, is not a separate entity, although the GOI has launched various programmes and activities which provide child care services and facilities so as to prevent child abuse and neglect. (For further details please refer to the section on Social Security).

9. The principle of 'best interests of the child' is given due consideration while adopting budgets, policies and programmes at the State and local levels. Budgets for specific sectors are decided at the State level through an elaborate procedure which involves the departments concerned submitting their proposals for provisions in specific sectors that directly affect child welfare. The Finance Department, in consultation with the department concerned, processes these proposals. Understandably, the finalisation of the budget is mainly based on the available resources and the priorities of the Government. It is hoped that as more awareness

about this principle is generated, the preparation of proposals will generate greater resources and accord primacy to the best interests of the child.

10. According to NGOs, awareness about what should constitute the best interests of the child is lacking among most adults who regularly interact with children or influence their lives in some way. Secondly, there is general lack of will to implement and protect the best interests of children. Some examples quoted with reference to school life were:

- Lack of adequate sanitation facilities in schools, especially for girls, leading to inconveniences and risks to health.
- Closure of municipal schools and replacement by private schools, leading to displacement of many children.
- Poor implementation of the mid-day meal scheme, leading to children being deprived of food supplementation.
- The educational system being teacher-centred rather than child-centred.

11. At the family level too, it is felt that children's needs are rarely considered in family-level decisions, including those decisions that are likely to affect their lives. Older children, especially girls, are entrusted with the care of their younger siblings, and as a result are deprived of the opportunity and right to education.⁶

Standards for public and private institutions

12. In order to establish appropriate standards for all public and private institutions concerned with services and facilities responsible for the care and protection of children, minimum standards in child care were first evolved by the Indian Council for Social Welfare in 1954. Thereafter, in 1959, the Central Social Welfare Board set up a committee on the grants-in-aid code, which examined the advisability of defining minimum standards for various social services for children and women. Accordingly, in various legislations such as the Suppression of Immoral Traffic in Women and Girls Act, 1956, and Probation of Offenders Act, 1958, provisions relating to the maintenance of minimum standards in institutions set up for women and children have been spelt out.

13. The Model Rules under the Juvenile Justice Act, 1986, provided that each child care institution should have the necessary staff and ensure that (i) regular treatment is available for the medical treatment of the children, (ii) arrangements are made for immunisation coverage, and (iii) a system is evolved for the removal of serious cases to the nearest civil hospitals or treatment centres. These rules further provided that immediate action should be taken in respect of an inmate who is suffering from leprosy or is of unsound mind or is addicted to a drug. The Model Rules also elaborate that each State Government should prepare a diet for children in consultation with nutrition experts so that their diet is balanced, nutritious, wholesome and varied. As regards clothing, bedding and other articles, these should be provided to each child in accordance with the norms prescribed by State Governments.

14. To ensure compliance with rules and procedures, the State Governments provide for necessary staff for inspection. For example, the Chief Inspector, Inspector and Assistant Inspector during the course of an inspection is expected to give every child an opportunity to make any complaint. The Model Rules also exemplify that the State Government shall provide for the training personnel for each category of staff in keeping with their statutory

responsibilities and specific job requirements.⁷ [Model Rules under the Juvenile Justice (Care and Protection of Children) Act, 2000, are currently under preparation].

15. There are mechanisms for establishing and maintaining standards in private and public institutions that deal with the care and protection of children, in matters of the institutions themselves, their services and their facilities. Institutions receiving grant-in-aid from the Government have to conform to the grant-in-aid code of the Government. All assisted institutions are subject to inspections by Government departments. In addition to regular inspections, surprise inspections are also carried out in case of specific complaints or on a random basis. In case such inspections lead to the detection of serious irregularities, the recognition of the institution by the Government is cancelled. If the irregularity is not very serious, the institution concerned is asked to comply with the specified requirements and may have its grant cut. These steps ensure that institutions supported financially by the Government for the purpose of child care and protection conform to the objectives and priorities of the Government.⁸

16. While promoting the principle of the best interests of the child, the GOI is currently focusing on issues related to the promotion of a child rights based approach and participation in training of professionals dealing with child rights.⁹

Endnotes

¹ *Child and Law in India*, Indian Council of Child Welfare, Chennai, Tamil Nadu, 1998, pp. 6, 11-15.

² NI/PC/SAP/132/2000/908 dated July 31, 2000, National Institute for Public Cooperation and Child Development, GOI, page 5.

³ Gujarat State Report on CRC, Government of Gujarat, GOI, 2000, page 18.

⁴ NI/PC/SAP/132/2000/908 dated July 31, 2000, National Institute for Public Cooperation and Child Development, GOI, page 6.

⁵ NI/PC/SAP/132/2000/1908 dated July 31, 2000, National Institute for Public Cooperation and Child Development, GOI, page 13.

⁶ Gujarat State Report on CRC, Government of Gujarat, GOI, 2000, page 19.

⁷ NI/PC/SAP/132/2000/908 dated July 31, 2000, National Institute for Public Cooperation and Child Development, GOI, page 7.

⁸ Gujarat State Report on CRC, Government of Gujarat, GOI, 2000, page 19.

⁹ NI/PC/SAP/132/2000/908 dated July 31, 2000, National Institute for Public Cooperation and Child Development, GOI, page 8.

3B

Non-Discrimination

Article 2

Constitutional provisions, policies and legislation

17. The guiding principles underpinning the Constitution of India are equality before law, equal protection to all and non-discrimination. The standards set by the Constitution link to the standards set by Article 2 of the CRC. Equality is a dynamic concept with many aspects and dimensions and it cannot be 'cribbed, cabbined and confined' within traditional limits (E.P. Royappa vs. State of Tamil Nadu).¹ Articles of the Constitution of India reflect this concept, in the interpretation of equality and non-discrimination. Article 14 of the Constitution, holds that "The State shall not deny to any person equality before law or the equal protection of law within the territory of India." Article 15 enjoins upon the State not to discriminate against any citizen on the grounds of religion, race, caste, sex or place of birth. Clauses 3 and 4 of Article 15 are exceptions to the general principles of non-discrimination. They empower the State to make special provisions for women and children, respectively, and for the advancement of any socially and educationally backward classes of citizens or for SCs/STs. Article 17 has abolished untouchability and forbidden its practice in any form. To enforce this solemn commitment, the Government passed the Untouchability (Offences) Act in 1955. It was amended in 1976 and is now known as the "Protection of Civil Rights Act, 1955". Articles 25–28 provide to all persons guarantees of the Right to Freedom of Religion in all aspects. Article 29 of the Constitution of India guarantees to "every section of the citizens", residing anywhere in India and "having a distinct language, script or culture", the right to conserve the same. No citizen can be denied admission to any educational institution maintained and aided by the State on the grounds of religion, race, caste or language. Article 30 states that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

18. In keeping with its objective of securing social and economic justice to all, the Constitution makes certain provisions to help the weaker sections of society and to remove all biases. However, while Constitutional provisions in India refer to an individual's right of equal admission to educational institutions, this is qualified by stating that this shall not prevent affirmative action on behalf of disadvantaged groups. Constitutional norms, therefore, justify intervention on behalf of many disadvantaged groups of children, such as girls, children belonging to SCs and STs, children born out of wedlock and disabled children, as correctional policy measures to eliminate inequality.² The Constitution of India underlines the importance of achieving substantive rather than purely formal equality in specific areas which justify affirmative action policies on behalf of women and children. Thus, a provision on the guarantee of equality before the law and non-discrimination on specified grounds states that the article on equality shall not be construed so as to prevent 'special provisions for women and children'. These constitutional provisions, thus, reflect a commitment to realising gender equity and preventing discrimination against girl children. The standards set by the Convention, on non-discrimination against girls is already clearly articulated in the Constitution.³

Box 3.2: Measures taken to preserve tribal culture and prevent discrimination

A number of schemes are being implemented to help tribal children such as the 'Grain Schemes' in tribal areas through which food grains are given to tribal families to motivate them to stay in their villages or hamlets. Industries are also being set up in the tribal belts to prevent the tribal population from moving out. The Department of Education formulated a very ambitious scheme of teaching tribal children in primary classes in their own dialects. Textbooks

in 'Bhili' and 'Dangi' dialects were also brought out for children studying in the primary classes. Discrimination does not exist in most rural areas since most of the time all the children studying in a particular class or school belong to the same caste or tribe. Teachers are also specially instructed to ensure that they do not discriminate between students belonging to different ethnic groups.

Source: Gujarat State Report, Government of Gujarat

19. The caste system has been a dominant feature of Indian social life for centuries. Nevertheless, several trends such as urbanisation, positive discrimination, growing literacy and economic growth have been whittling down caste barriers, particularly in urban areas. Parliament has also enacted the SCs and STs (Prevention of Atrocities) Act, 1989, as a welfare legislation, with the object of preventing atrocities against the members of Scheduled Castes and Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto. The framers of the Indian Constitution did not overlook the need to provide a separate Commission for SCs and STs. The National Commission for SCs and STs, which was reshaped in 1978, advises on broad issues on policy and levels of development of SCs and STs.⁴

20. There is an affirmative action policy for children of backward castes and Scheduled Tribes in Tamil Nadu and many other States for admission to higher education institutions and Government service. Programmes oriented towards their welfare are monitored through the Commission for Scheduled Castes and Tribes and Commission for the Welfare of Backward Classes, Minorities and Women.⁵

21. In order to prevent discrimination against the most disadvantaged groups of children, the GOI has enacted a wide range of laws and policies, all of which protect their rights. Some prominent laws are the Child Labour (Prohibition and Regulation) Act, 1986; the Immoral Traffic (Prevention) Act, 1986; the Juvenile Justice Act, 1986; and Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Similarly, some prominent policies enacted by the GOI are the National Policy for Children (1974), the National Policy on Education (1986) and National Policy on Child Labour (1987).⁶ Apart from guaranteeing equal opportunity for all under the Constitution, India also has specific laws for women. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has been ratified by India in 1993. The National Policy on Education, 1986, directly addresses the question of setting right the traditional gender imbalances in education and makes a strong commitment in favour of education for women's equality.

22. To meet the challenge against discrimination against the girl child, members of the South Asian Association for Regional Cooperation (SAARC) collectively observed 1990 as the Year of the Girl Child and 1991–2000 as the SAARC Decade of the Girl Child. The GOI also developed and disseminated a National Plan of Action for the Girl Child (1991–2000) in 1992 for the "survival, protection and development of girl children". The Plan recognised

the rights of the girl child to equal opportunity to be free from hunger, illiteracy, ignorance and exploitation.⁷ For monitoring the implementation of the Plan of Action, an inter-ministerial Coordination Committee of Secretaries has been constituted to meet regularly and review progress. In the National Policy for the Empowerment of Women, a policy framework has been laid down for the elimination of discrimination and violation of the rights of the girl child. The Indian Penal Code and the Immoral Traffic (Prevention) Act (ITPA) make the offences of child trafficking, prostitution of children and sexually abusing them, liable for a higher punishment than the perpetration of such offences against adults. The ITPA contains a provision for presumption of guilt on the part of a person under certain circumstances when the victim is a child who has been sexually abused. The Supreme Court, in a social interest litigation, ordered the Central and State Governments to set up advisory committees for recommending measures to eradicate child prostitution. The Committee drew up a Plan of Action to Combat Trafficking and the Commercial Sexual Exploitation of Women and Children, containing action points grouped under prevention of trafficking, health services, education, awareness generation and social mobilisation, economic empowerment programmes, legal reforms and law enforcement and monitoring.

23. One of the major steps taken to prevent discrimination against disabled persons was the enactment of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The International Year of Disabled Persons (IYDP) in 1981 helped create awareness in societies that disabled persons are also a “human resource”. Several other measures have been taken up to ensure the rights of children with disabilities.⁸ (For details refer to Section 23). However, in most situations, disabled children are judged as a group according to their disabilities and not as individuals or as children. They often do not enjoy personal or economic security, and many are victims of deprivation, pain and poverty. These children are most in need of means of survival and access to a social safety net, equal opportunities for education and development of their potential to the maximum.

24. Street children who also face discrimination in their daily lives, are categorised into three groups: (i) children on the streets who live with their families (ii) children for whom the street is their home, and (iii) children on streets who have no contact at all with their families. The last category includes orphans, refugees, and runaways. Government institutions run under the Juvenile Justice (Care and Protection of Children) Act, 2000, provide services for the development and rehabilitation of neglected and juvenile delinquents. Street children are covered by a mechanism called the Juvenile Justice System.⁹ (The issue has been dealt with in detail under the section on Administration of Juvenile Justice).

Girl child

25. Gender is gradually becoming an integral part of all child development policy, planning, programming, monitoring, evaluation and information gathering activities.¹⁰ However, in India, the girl child still occupies a position far inferior to that of a male child. Prioritising the needs of the girl child, as deserving of special attention within the larger group of women, has been a principle guiding state action in India. In preparation for the Beijing Platform for Action 1995, India led a struggle for the inclusion of a separate chapter highlighting the importance of investing in the girl child—into the Platform for Action. This addition was significant. It implies that investments made in the first and second decades of a woman's life

Box 3.3: Convention on abolition of female foeticide

The Indian Medical Association in collaboration with the National Commission for Women and UNICEF organised a Convention of national religious and political leaders on the abolition of female foeticide and infanticide on June 24, 2001 in New Delhi.

The Convention was held against the backdrop of alarming revelations by 2001 Census that the female-male sex ratio (933 to 1000) in India is the lowest in the world. The situation was even more dismal in some of the prosperous States with the sex ratio at 733 in Chandigarh, 821 in Delhi, 861 in Haryana and 864 in the Punjab.

The Convention was also historic because religious leaders representing a wide spectrum ranging from the Parsis, Bahais, Jains, Christians, Hindus and Muslims, shared a common platform to condemn the practice of female foeticide.

Led by Jagadguru Shankaracharya of Kanchi, the leaders said that they would use all their resources to propagate among the Indian masses the need to stop this heinous practice.

Speaking at the Convention, NCW Chairperson said that there was an unholy alliance between patriarchal attitude and modern technology resulting in brutal murders of girl-children in the womb. She appealed to the religious leaders, who influenced the thinking and the behaviour

of their followers, to condemn this social evil.

Another speaker said that the root cause of this retrograde practice was dowry which undermined the status of a girl child and a woman in the society. He appealed for reform in religions which should be alive to the rights of women.

The Chief Minister of Delhi spoke of the urgent need to change mindsets by breaking blind beliefs in rituals. The Minister for Human Resource Development, admitted the Government's failure to stop female foeticide despite 17 different laws against it. The Minister appealed to the religious leaders to reinterpret the scriptures according to the changing times. He felt that the opinions of the seers would have more impact on the masses than the laws. The Minister of State, Department of Women and Child Development, wished that women were treated neither as goddesses nor as slaves; let them be accepted as human beings, she pleaded.

The IMA secretary, reiterated the Association's decision to ostracise doctors doing diagnostic tests to determine the sex of a child or conducting abortion of a female foetus.

The National Commission for Women appeals to all members of the society to respond to the need of the hour and rise to the occasion to give an unborn girl child a future to look forward to.

Source: *Rashtra Mahila*, June 2001

will provide incremental returns and help to break the cycle of inequality and deprivation for the adult woman. The need for priority action to improve the situation of the girl child is underlined throughout the Platform for Action, which proposed a dual strategy: first, measures for mainstreaming sectoral programmes so that they reach and serve girls who are systematically discriminated against. Second, targeted programmes and advocacy initiatives designed and implemented to address specific concerns for girls. At Beijing, while accepting the Platform for Action without reservation, India made five additional commitments to improve the situation of women and girls. While all will benefit girls, the women of tomorrow, two were specifically targeted to improve the situation of girls immediately. These were an increase in the education budget to six per cent of GDP and an improvement in the development support and health care schemes for women and children.¹¹

26. However, while all rights apply to all children without exception, many girl children are systematically denied their rights from the day they are born. A girl child's experience of discrimination begins at home. Girls are often malnourished because mothers tend to breastfeed their daughters for a shorter period of time than their sons; girls are generally the last ones to eat a meal in the family and when nutritious protein is available it is usually given to the sons. Families do not often seek medical care for their daughters until the illness has progressed, and even then girls are rarely taken to the hospital— as a last resort, families often only consult the traditional healer to help cure a girl's illnesses. More than half of

India's girl children do not go to school—and if a girl does go to school, she is likely to drop out before she is 12 years old. The negative bias against the girl child is also reflected in the widespread use of sex determination tests and prevalence of female foeticide/infanticide. This issue has been dealt with in detail in the next section.

27. An area of concern is India's unfavourable sex ratio, which is primarily due to a higher female mortality rate as compared to the male mortality rate right up to the age of 35 years. Every year, about 12 million girls are born in India; three million, or 25 per cent, do not survive to see their fifteenth birthday; a third of these deaths take place in the first year of life. Thirteen per cent of female deaths before the age of 24 years are due to complications in pregnancy and childbirth. Though the expectancy of life at birth has improved over the years and the mortality for all ages has declined sharply, major gains in female life expectancy have accrued mainly to the older age group.

28. The attitudes towards girls are reflected in the following social trends.

- **Population growth indicates gender discrimination**—during 1981–91, the female population (21.77 per cent) grew at a slower pace than the male population (22.40 per cent).
- **Sex ratio is unfavourable to women**— from 972:1000 in 1901 it has come down to 933:1000 in 2001. Without discrimination the ratio should be approximately 1050/1000. As per the 1991 census there were approximately 13.34 million girls (0–19 years) missing in India.
- **Girl child marriage**—despite steady increase in average marriage age in India, child marriage is still common in rural society. Thirty-nine per cent of girls between 15–19 years were married during 1992–93. Early marriage and early pregnancy results in physical wastage, birth complication and low-birth weight babies with poor survival rates.
- **Early pregnancy and unsafe motherhood**—17 per cent of total births are from mothers in the age group 15–19 years. Early pregnancy damages the health of both the mother and the child and puts both lives at risk. The maternal mortality rate in India is high at 437/1,00,000 births. It is estimated that 13 per cent of these deaths occur before the age of 24 years.
- **Female mortality**—although, overall mortality rates have declined, high female mortality persists at every age level up to the age of 35 years. Differential health care, education, nutritional status, and existing cultural beliefs and practices are to blame for higher female mortality.
- **Every year 12 million girls are born**—three million of whom do not survive to see their fifteenth birthday. About one-third of these deaths occur in the first year of life and it is estimated that every sixth female death is directly due to gender discrimination. Son preference results in female foeticide, infanticide and neglect. Foeticide, although largely invisible, is commonly practised in Maharashtra, Rajasthan, Tamil Nadu, Haryana and Punjab.
- **Nutritional status**—the root cause of malnutrition amongst girls is as much poverty and lack of nutritious food, as lack of value attached to girls. Discriminatory feeding practices reveal:
 - Girl's nutritional intake is inferior in quality and quantity

- Boys have access to more nutritious food
- Boys are given first priority with the available food within the family
- Female infants are breastfed less frequently, for shorter duration and over a shorter period than boys.

29. Gender discrimination results in malnutrition of girls on a large scale, with 45 per cent of India's girls suffering from stunted growth as opposed to 20 per cent of boys. Due to dietary deficiencies, adolescent girls do not achieve their potential weight and height. Also, 35 per cent of rural adolescent girls have a weight below 38 kgs and a height below 145 cms. Additionally, adolescent girls are highly susceptible to anaemia, which is often responsible for miscarriages, still births, premature births, low birth-weight babies and maternal mortality during childbirth. Undernourished girls who grow into undernourished mothers continue a vicious intergenerational cycle of under-nutrition and wastage of women.

30. Girls work at home. Their work is invisible because it is located in the domestic sphere—this invisibility apportioned a secondary status that perpetuates gender discrimination. Working at home is not considered labour because this work is largely unseen and no money exchanges hands, but in real terms, by the time a girl leaves home she will have contributed more than Rs 40,000 to the household income. On an average, girls work 10 hours a day in the home and are more likely to drop out of school because of household demands. If girls try to balance school and household chores, they will not perform as well as boys. Girls are kept at home to look after their siblings, allowing their mothers time to earn money outside of the home.

31. India has the lowest female marriage age in the world: three million of the 4.5 million marriages that take place each year, are of girls below the age of 18 years old. In India, although a girl must be 18 years of age before she can be legally married, many child marriages take place nonetheless. Young brides are more likely to be uneducated, dependent and unaware of their rights.

Box 3.4: CARE-India initiative: Girls' Primary Education (GPE)

In support of Universal Primary Education (UPE), the national goal of the country, CARE-India initiated a GPE pilot project in 1995 for developing innovative and effective strategies for promoting primary education amongst girls. It is aimed at increasing access to education by promoting and supporting formally equivalent education programmes in collaboration with NGOs and community groups. It strives to impact those demand and supply factors which impose impediments in girls accessing education. Project inputs are focused on those issues that are immediate causes of low female literacy.

Some of the major activities of the project include community mobilisation through awareness and training of parents, key persons at the household and village level, school teachers and other stakeholders. Other strategies include generation of demand for girl's education, increasing the accessibility and linkages with the formal education system and improving both quality and relevance of

education. GPE is being implemented in the of Uttar Pradesh and Rajasthan.

The project strategies are based on sound principles of designing inputs at the grassroots as also best practices demonstrated by successful programmes in India and abroad. For the realisation of universalisation the difference between the participation of boys and girls in elementary education is the biggest single gap that needs to be filled. The problem of UPE is in essence the problem of the girl child's education. Gender disparity, particularly in the rural areas, reflects the social attitude towards the girl child.

The CARE-GPE project has taken due cognisance of this aspect and in a strategic way has addressed the immediate constraints related to low demand.

In the GPE project, it is envisaged that community-based organisations will be the direct implementors of the project. The strategy is likely to ensure and facilitate sustainability.

32. Early marriage invariably means an early pregnancy because most marriages are consummated when a girl reaches puberty. Early pregnancies endanger the life of both the mother and child, and can cause interruption in the physiological growth or prolonged and obstructed labour. Studies reveal that 540 mothers die for every 10,000 live births in India. Early pregnancy also increases the chances of premature delivery and low-birth weight babies (23 per cent of babies in India are born weighing under 2.5 kg according to an NFHS-2 survey) who are at risk of infant mortality. Moreover, 50 per cent of all women are anaemic.

Promoting education for girls

33. In India, girls are often not sent to school or their education is discontinued at an early age. Gender disparities persist in all educational indicators, especially with regard to enrolment and retention in primary, upper primary and higher levels of school education. The situation is much worse in rural and tribal areas. Eighty-three per cent of the total population of girls in India are enrolled in primary school, but half of the enrolled girls drop out before they are 12 years old. Many parents do not value a girl's education and prefer to keep girls at home to look after their siblings rather than incur the extra cost of school supplies.

34. The girl child in especially difficult circumstances is thrice disadvantaged on account of poverty, hardship and gender. As per the 1991 census, out of 11.28 million child labourers, 3.42 million girls under 14 years of age were main workers and 1.68 million were marginal workers. In India, much of a young girl's work is invisible and remains unrecognised and undervalued. A larger number of girls are engaged in the unorganised sector. In rural areas, the majority are unskilled, low paid workers. Nearly 50 per cent of female child labour in urban areas is engaged in household responsibilities and sibling care, or is engaged as domestic child labour. As per *Crime in India-1996*, the incidence of child rape increased and the share of child rape victims to total rape victims was 27.5 per cent. There has also been an increase in the buying of girls for prostitution (22 per cent), female foeticide (39 per cent) and child marriages (89 per cent). While, juvenile crime in India has declined and during 1995-96 the share of juvenile crime was only 0.6 per cent, there has been an increase in the number of girls apprehended. The proportion of girls apprehended reached 26.3 per cent in 1996. Out of nearly nine lakh prostitutes in India, four lakh are children below the age 14 years. Commercial child prostitution is estimated to be increasing at the rate of 8-10 per cent per annum. Traditional forms of prostitution also exist in India, for example, 50 per cent of all prostitutes in Maharashtra began as 'devadasis' (dedication to a local deity in accordance with superstition). Causes of trafficking of girls are poverty, limited economic opportunities, kidnapping, rape, disintegration of rural and tribal communities and forced prostitution. Additionally, destitute and abandoned girls among the street children and young girls in urban slums are commonly victims of exploitation and sexual abuse.

Central government interventions

35. In recognition of the need to address the requirements of girls and women, the Sixth Plan (1980-85) introduced a separate chapter for women. There was an attempt at a holistic planning approach to women, stressing economic independence and advocating a public policy package that included ownership rights and enforcement of wage laws. The Department

of Rural Development announced a 30 per cent quota for women in all anti-poverty programmes for the rural areas. A special programme 'Development of Women and Children in Rural Areas' was introduced.¹² Most significantly, a separate Department for Women and Child Development was created in 1985.

36. The Governmental approach under the National Plan of Action for the Girl Child includes raising consciousness levels of the parents, who are the decision-makers within the family unit. It also aims at eliminating all forms of violence, overt and covert, perpetuated against the girl child and provides inputs for personality development of the girl child, so as to enhance her self-image and enable her to take her own decisions. In 1998, the GOI dedicated the fourth week of September as Girl Child Week. The DWCD led a policy dialogue on 'Bridging the Gender Gap' with all interested groups: NGOs, media and Government. Through the week, events were organised in villages, urban slums, schools and colleges. The laws against female foeticide and the Immoral Traffic (Prevention) Act, 1956, are only part of a series of legislation aimed at protecting the rights of the girl child. The Hindu Succession Act was amended in 1993 to ensure equal rights to the girl child in the property of parents. The enforcing of anti-child marriage legislation and raising of the minimum age of marriage in some States, such as Maharashtra, are other measures that protect the rights of girls.

37. Global trafficking of children and women is considered more profitable than the illegal cross-border sale of arms or drugs. A 1991 study by the Central Social Welfare Board found that 30 per cent of prostitutes were below the age of 18 years. Fifteen per cent had become prostitutes before their fifteenth birthday. To tackle this sensitive issue, India hosted an Expert Group Meeting to negotiate the SAARC Regional Convention on Prevention and Combating Trafficking in Women and Children for Prostitution in 1998. The Convention seeks to take measures to prevent cross-border trafficking through proper international Governmental coordination as well as harmonising of various laws and legal provisions relating to trafficking and rehabilitation of rescued victims. Amendments to the Immoral Traffic (Prevention) Act, have been recommended by the Central Advisory Committee on Child Prostitution in 1998. The DWCD is in the process of amending the ITPA so as to place the burden of proof on the trafficker and to enhance punishment. In 1997, in the case of *Gaurav Jain vs Union of India*, the Supreme Court directed the GOI to constitute a committee to make an in-depth study of the problems of prostitution and children of prostitutes and to evolve suitable schemes for their rescue and rehabilitation. The Committee has drawn up a Plan of Action to combat trafficking and sexual exploitation of children. The progress of implementation of the Plan of Action is monitored by the Central Advisory Committee. In Tamil Nadu, where the fall in the sex ratio has been significant, a cradle scheme has been started. By offering to adopt girls who would otherwise aborted or killed at birth, the State is giving those girls the right to survive and develop. Cradles have been placed at strategic points both within hospitals and outside.

38. The Government of Tamil Nadu has also instituted the *Sivagami Ammaiyyar Ninavu Girl Child Protection Scheme* as a means of bringing changes in the attitude of the population by providing incentives for adopting a positive preference with regard to the girl child. Financial support is given to parents so that they can provide for the education and marriage of the girl child. Only parents who have undergone sterilisation after having one or two girl children will be covered under the programme. Almost 83,000 girls have benefited under this scheme so far.¹³

Box 3.5: Towards empowerment of women

The 73rd and 74th Amendments to the Constitution are landmark steps as they ensure not less than one-third reservation of seats for women among elected membership and functionaries of the local self-government system (*Panchayats* and *Nagar Palikas*).

Women have enthusiastically responded to this unique opportunity and today women comprise more than 34 per cent of among the elected local self-government members. They have made an impression not only by their inherent competence, but also their positive responsiveness to basic social issues. There has also been a reduction in corruption wherever women are exercising power. A comprehensive survey undertaken by the Centre of Women's Development Studies, New Delhi, covering three backward States of Madhya Pradesh, Rajasthan and Uttar Pradesh found: "These new women in *panchayats* have reported increase

in self-confidence, positive change in lifestyle, awareness about critical need of education and increased concern for village development. There are positive changes in their own attitudes and consequent impact on the family. The Amendments have begun a process of legitimacy to women's new non-traditional role in *panchayats* which helps the supporting husbands to share responsibilities without the fear of ridicule and makes others, reconsider and think about the women's new public role." There are about one million elected women representatives in *panchayats*. If we take 2.5 candidates per seat about 2.5 million women participated in the election in the first round. Direct participation in the political system by 2.5 million women is itself a major empowering process. Women's participation as voters has been increasing at a faster rate than men's.

Source: *Gender and Governance in India*, S. D. Bandyopadhyay, *Economic and Political Weekly*, July 29, 2000

Programmes

39. The Department of Women and Child Development is the nodal agency leading the State's efforts to improve the situation of the girl child. Of these, the Integrated Child Development Scheme, (ICDS), the world's largest nutrition outreach initiative, is a key intervention. ICDS will cover 90 per cent of the country by the end of the Ninth Plan period and it is supported by a series of targeted interventions. Of these, the Integrated Nutrition and Health Programme is a demand-driven approach operating in seven States, where resources, both material and human are being directed to achieve those changes in health behaviour that can lead to a reduction in mortality and malnutrition. Nutritional needs of adolescent girls are a special area of focus for the Reproductive and Child Health Programme and the proposed National Nutrition Mission. As noted earlier, gender discrimination within the home is often manifest in the unequal access to and the quality of food provided to girls and boys throughout childhood. The effects of years of neglect become visible during adolescence. While one in five adolescent boys is malnourished, 45 per cent of girls are undernourished. The nationwide Adolescent Girls Scheme has been started in 507 ICDS blocks to provide family life education to girls who have dropped out of school. This scheme includes efforts to raise their health and nutritional status and break the intergenerational malnutrition cycle. Girls also learn skills such as tailoring that would help them become economically independent.

40. Since the early 1990s, the Government has recast many of its child-focused projects. The effort has been to ensure streamlining of the delivery mechanism to ensure that girls, particularly from economically and socially disadvantaged families benefit from this process. These efforts have accelerated after the Beijing Conference. Most importantly, the years since Beijing have shown that investments made in the earliest years of a girl's life ensure greater returns for the child, the family, society and the country.¹⁴

41. The Government of India has paid special attention to ensuring that all children, especially girls, SCs and STs have access to primary education. While tuition fees are not charged in State-run schools, most State Governments now provide free uniforms, textbooks and notebooks to girl children. This reduces the financial burden of educating girls. A proposal to provide free education for girls up to university level has also been mooted. Additionally, the problem of girls often having to care for their younger siblings and thus missing school is being addressed. The functioning hours of the ICDS centres are being synchronised with the school hours of the District Primary Education Programme (DPEP) in all blocks where the latter programme is operational. In addition, new ICDS centres are being run either within the school premises or in a room nearby. The availability of child care services has also freed girls to attend school.

42. To supplement the efforts of the Department of Education, DWCD is leading the Girls' Primary Education project (GPE) in two states with the lowest female literacy—Rajasthan and Uttar Pradesh. Here the effort is to increase girl's access to education in partnership with local and community groups. This is in line with initiatives launched by States to support the on-going effort to meet the unmet need for education of girls. Studies have shown that it is the perceived economic burden of bringing up a girl, particularly the cost of getting her married, which is at the root of a family's reluctance to bring a girl into the world. In 1997, as part of the golden jubilee celebrations of India's Independence, the Prime Minister announced the *Balika Samridhi Yojana*, giving cash support to over 2.5 million poor families in which girls were born.

43. There is also a range of initiatives taken by individual States and by some districts and villages. In Rajasthan, under the *Shiksha Karmi Scheme* for creating para-teachers, young girls who only had secondary schooling, were given special training. Posted to remote rural settlements where often not even a single individual could read or write, these girls have launched quite a revolution. In Madhya Pradesh, the Government operates the Education Guarantee Scheme in collaboration with the local elected leadership. In villages with no school, one school will be provided along with one teacher, if the *Panchayat* takes on the responsibility of overall school management. In Kerala, educational concessions have been provided to children of socially and educationally backward communities. For instance, girls belonging to the Muslim and Nadar Communities are eligible for special assistance for education.¹⁵

44. Supporting the work of gender mainstreaming in all programming is the nationwide effort to develop engendered databases. Sectors for which gender disaggregated data is not available were identified and the Central Statistical Organisation and the DWCD initiated efforts to fill this gap. The Census of 2001 in fact will be the first engendered nationwide, comprehensive information collection exercise. Data gatherers have been specially trained for the purpose and the questionnaires have been analysed from a gender perspective. DWCD has assisted by commissioning pilot surveys to help the process. The Census 2001 will particularly focus on countering the invisibility of women's work.

45. The Census, the National Sample Survey, the National Health and Family Survey and the Sample Registration System are some of the institutionalised forms used to collect disaggregated data for various groups of children in India.¹⁶

Endnotes

- ¹ Subhash C. Kashyap, *Our Constitution*, National Book Trust, New Delhi, 1994, pp. 91, 93, 96, 117-118.
- ² Savitri Goonesekere, *Children, Law and Justice: A South Asian Perspective*, SAGE, 1998, , page 141
- ³ *ibid*, page 146.
- ⁴ The National Commission for Scheduled Castes and Scheduled Tribes—Booklet, Indian Social Institute, New Delhi, page 3.
- ⁵ State Report on CRC, Government of Tamil Nadu, 2000, page 9.
- ⁶ NI/PC/SAP/132/2000/908 dated July 31, 2000, National Institute for Public Co-operation and Child Development, GOI, page 5.
- ⁷ 'Responses of the Government to the Problems of the Girl Child', Sarala Gopalan and Vijay Bhaskar.
- ⁸ *Rights of Children with Disabilities, 1999*, National Institute for Public Cooperation and Child Development, GOI, pp. 42, 44, 45, 47, 51.
- ⁹ *Street Children: Problems and Intervention Strategies*, Asha Rane, Tata Institute of Social Sciences, Mumbai, India, pp. 11, 12, 14, 15.
- ¹⁰ *Challenging Gender Disparities in Childhood: Glimpses of Girlhood in India*, 1998, UNICEF, India, page 3
- ¹¹ *Platform for Action Five Years After—An Assessment, 2000*, Department of Women and Child Development, Ministry of Human Resource Development, GOI.
- ¹² *Gender and Governance in India*, D Bandyopadhyay, Economic and Political Weekly, July 29, 2000, page 2697.
- ¹³ State Report on CRC, Government of Tamil Nadu, 2000, page 18.
- ¹⁴ *Platform for Action Five Years After—An Assessment, 2000*, Department of Women and Child Development, Ministry of Human Resource Development, GOI.
- ¹⁵ Kerala State Report on CRC, Government of Kerala, 2000, page 6.
- ¹⁶ NI/PC/SAP/132/2000/908 dated July 31, 2000, National Institute for Public Co-operation and Child Development, GOI, page 5.

3C

The Right to Life, Survival and Development

Article 6

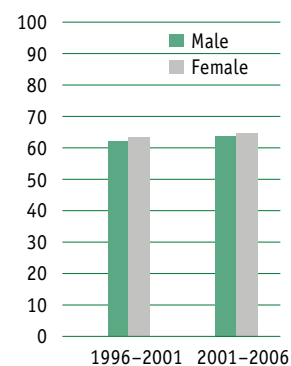
46. The GOI's National Policy for Children, 1974, lays down the framework for actualising the Constitutional provisions in that "it shall be the policy of the State to provide adequate services to children both before and after birth and through the period of growth to ensure their full physical, mental and social development. The State shall progressively increase the scope of such services so that, within reasonable time, all children in the country enjoy optimum condition for their balanced growth."

47. The National Health Policy, 1993, gives the highest priority to special programmes for the improvement of maternal and child health. Simultaneously, the National Plan of Action for Children, 1992, also emphasises the importance of maternal and child health and the targets set in consonance with those of 'Health for All'. Besides this, the nation's ongoing maternal and child health programme has been strengthened with the launch of the Reproductive and Child Health Programme in 1997.¹ Various measures undertaken by the Government have resulted in a general increase in the life expectancy of people in all regions. (For more details please see section on Basic Health and Health Services).

48. In India, family-related issues have a direct bearing on the child's right to life and survival. Emanating from the structure of the family, where the male maintains the continuity of the lineage, there is a preference for sons in most parts of the country and numerous studies of Indian couples have only reiterated this. The NFHS-2 survey shows that 36 per cent of women want sons more than daughters, but only two per cent want daughters more than sons. Son preference is relatively weak in urban areas, among literate women, among women with more education and whose husbands have more education, and among women living in households with a high standard of living. Son preference is observed to be particularly strong in northern and central India and somewhat weaker in the southern and western regions. In tribal populations, the discrimination against women is not severe. The practice of female foeticide, has been recorded in some parts of India. A study on gender differentials in neonatal mortality, using Primary Health Centre (PHC) records shows social causes as the reason for higher female deaths. According to the Indian Penal Code, infanticide is treated as murder and various sections under the Act can be invoked for prevention of the practice. Unfortunately, in most cases, the culpability for the act rests with the mother alone. In a recent ruling of the Madurai Additional Sessions Court, a mother was sentenced to life imprisonment in a case of infanticide, while the father was released.

49. The negative bias against women has taken an alarming dimension recently with the utilisation of the amniocentesis test for detecting the sex of the foetus, followed by selective abortion of the foetus if detected to be female. Apart from the considerable risks to the foetus and the woman, the utilisation of pre-natal diagnostic techniques for selective abortion of female foetuses perpetuates the negative social worth of women. Among the several pre-natal diagnostic techniques like

Figure 3.1:
Expectation of life at birth by sex



Box 3.6: Supreme Court orders strict implementation of the PNDT Act

The Supreme Court of India, while hearing the social interest litigation [Writ Petition (Civil) No. 301 of 2000] filed by the Centre for Enquiry into Health and Allied Themes (CEHAT), an NGO based in Mumbai and others vs Union of India, took cognisance of the fact that female infanticide and foeticide still persists, in India in spite of enactment of the Pre-Natal Techniques (Regulation and Prevention of Misuse) Act, 1984 (PNDT Act).

The gist of the order passed by the Court is as follows:

- The GOI has been directed to create public awareness against the practice of pre-natal determination of sex and female foeticide through appropriate releases/programmes in the electronic media.
- The GOI has been directed to implement with all vigour and zeal the PNDT Act and the rules framed in 1996.
- Meeting of the Central Supervisory Board (CSB) to be held at least once in six months.
- The CSB shall review and monitor the implementation of the Act.
- The CSB shall issue directions to appropriate authorities in all States/Union Territories to furnish quarterly returns to CSB, giving report on the implementation and working of the Act.

- The CSB will examine the necessity to amend the Act keeping in mind emerging technologies and difficulties encountered in the implementation of the Act and to make recommendations to the GOI.
- The CSB shall lay down a code of conduct to be observed by persons working in bodies specified therein and to ensure its publication so that the public at large can know about it.
- All Governments/Union Territory administrations are directed to appoint by notification, fully empowered appropriate authorities at district and sub-district levels and also advisory committees to aid and advise the appropriate authority in discharge of its functions.
- All Governments/Union Territory administrations are directed to create public awareness against the practice of pre-natal determination of sex and female foeticide through advertisement in the print and electronic media.
- Appropriate authorities are directed to take prompt action against any person or body who issues or causes to be issued any advertisement in violation of the Act.

The CSB and the State Governments/Union Territories have been directed to report to the Court on or before 30th July 2001.

Source: Order dated May 4, 2001 of Writ Petition (Civil) No. 301 of 2000

50. The sharp decline in female sex ratios over the years suggests that female infanticide and foeticide might be largely responsible for this phenomenon rather than general neglect of the girl child.² The sex ratio is a sensitive indicator of the status of women in any society and the decline in the sex ratio in some States is a great cause for concern.³ According to NFHS-2 survey, the lowest sex ratio is in the State of Haryana with 872 females per 1000 males. Female infanticide has been reported from parts of Rajasthan, Bihar, Uttar Pradesh, West Bengal and Tamil Nadu.⁴ The Tamil Nadu Government was the first to acknowledge the existence of infanticide in Madurai district of the State in 1992.

51. It has been seen that institutional deliveries increase the chances of survival for a baby born of a typical rural mother. The NFHS-2 shows that one-third of births (34 %) in India took place in health facilities, more than half took place in the women's own homes, and one in eight took place in their parents' homes. Births taking place in health facilities were about equally divided between those that took place in a private health facility and those that took place in public institutions (such as government-operated district, block, town, or municipal hospitals and PHCs). Only one per cent of births took place in facilities operated by NGOs and trusts. About two-thirds of deliveries in urban areas and one-quarter of deliveries in rural areas took place in health facilities. The Sample Registration Survey (SRS) estimated that a slightly lower percentage of births took place in institutions in 1997 (25 % of total births in urban areas, and 18 % of births in rural areas). Deliveries in health facilities in India rose from

26 per cent at the time of NFHS-1 (1992–93) to 34 per cent at the time of NFHS-2 (1998–99). However, there are large inter-state variations.

52. The IMR is a critical measure of a country's level of human development. Of the 24 million children born in India every year, not all survive to celebrate their first birthday. Conditions for child survival could be assumed to affect girls and boys equally but in fact this is not the case. Girls suffer from special disadvantages, reflected in the fact that female infant mortality rates are higher than male infant mortality rates. The differential is more pronounced in rural areas. Once again, whether a new born baby girl survives or not depends very much on the State in which she is born. In Orissa, nearly 97 out of 1,000 babies born alive die within the first year. In Kerala on the other hand, only 13 out of 1,000 babies do not survive their first year of life.

53. Diarrhoea, which is one of the leading causes of child deaths is sought to be combated by the Oral Rehydration Therapy Programme, which was started in 1986–87, and is being implemented for preventing deaths due to dehydration caused by diarrhoeal diseases among children under five years of age. Oral Rehydration Salt (ORS) is being used for the proper management of cases with diarrhoea. The GOI is organising the supply of ORS packets to the States.

54. The large number of deaths in early childhood accounts for the skewed overall sex ratio. Malnutrition is also a significant underlying factor in many of these deaths. The ICDS, based on the rationale that care, psychosocial development and the child's health and nutritional well-being mutually reinforce each other, provides a package of services that includes supplementary nutrition, nutrition and health education and prophylaxis against nutritional anaemia and vitamin A deficiency.

55. The ICDS, with its opportunity for early childhood development, seeks to reduce both socio-economic and gender inequities. The ICDS programme was launched on October 2, 1975, in 33 blocks more than 25 years ago. Today, ICDS represents one of the world's largest and most unique programmes for early childhood development. ICDS is the foremost symbol of India's commitment to her children and it is India's response to the challenge of breaking the vicious cycle of malnutrition, morbidity, reduced learning capacity and mortality.

56. Recognising that early childhood development constitutes the foundation of human development, ICDS is designed to promote the holistic development of children under the age of six years, through the strengthened capacity of caregivers and communities and improved access to basic services, at the community level. Within this group, priority is accorded to addressing the critical under-three years age group, the period of most rapid growth and development. The programme specifically reaches disadvantaged and low-income segments, for effective disparity reduction. The ICDS provides an integrated approach for converging basic services for improved child care, early stimulation and learning, health and nutrition, water and environmental sanitation. It targets young children, expectant and nursing mothers and women's/adolescent girls' groups through nearly 5,00,000 trained community-based *anganwadi* workers and a large number of helpers, supportive community structures/women's groups at the *anganwadi* centre, the health system and in the community.

57. The ICDS offers a powerful community-based outreach system of functions as the convergent interface between disadvantaged communities and Government programmes such as primary health care and education. It contributes to the achievement of major nutrition and health goals embodied in the National Plan of Action for Children, 1992, and the National

Plan of Action on Nutrition, 1995. The programme is also the foundation of the national effort for universalisation of primary education. It provides increased opportunities for promoting early development, associated with improved cognitive and social skills, enrolment and retention in the early primary stage. By releasing girls from disadvantaged groups from the burden of sibling care, it also enables them to participate in primary education. The ICDS is a major programme channel for addressing the rights of young children, as defined in the UN Convention on the Rights of the Child, to which India acceded in 1992 and it also uniquely addresses the interrelated needs of young children, girls and women (especially during pregnancy and lactation) across the life-cycle. Young girls are provided with equal opportunities for early care for survival, growth and development, while adolescent girls, as well as pregnant and nursing mothers receive vital health, nutrition and self-development interventions and crucial child care support. The community education component, targeting women in the reproductive age group also supports community action to improve care for girls and women.

58. Poised for near universal coverage at the turn of the century, ICDS today reaches out to 4.8 million expectant and nursing mothers and 22.9 million children (under six years of age), of disadvantaged groups. Of these, 12.5 million children (three to six years of age) participate in centre-based pre-school education activities. The ICDS network consists of 4,200 projects, covering nearly 75 per cent of the country's community development blocks and 273 urban slum pockets. While selecting the location for a project, preference is given to those areas which are predominantly inhabited by vulnerable and weaker sections of the society, i.e., SCs, STs and low-income families found in economically backward areas, drought-prone areas and areas in which development of social services requires strengthening.⁵ The challenge now is to build on the rich experience of the past two-and-half decades and effectively tap the potential of this unique integrated programme, as it moves towards universalisation. Today, ICDS has many meanings for the community—a home-like child care centre, a play/learning centre, a peripheral health centre, a meeting place for women/mothers, a source of support during calamity and a means to fulfil aspirations for millions of young children. It is proposed to cover the entire country with this scheme by 2002.

59. Adolescence, that is, the age of 12–18 years, has been recognised as a special period in the life-cycle of girls requiring specific attention. There has been concern expressed at the attitude towards menarche and the myths and misconceptions associated with menstruation. The need for sensitively addressing the question of menstrual hygiene, and the physiology and

Box 3.7: Objectives of ICDS

- Lay the foundation for the proper psychological, physical and social development of the child.
- Improve the nutritional and health status of children below the age of six years.
- Reduce the incidence of mortality, morbidity, malnutrition and school dropouts.
- Achieve effective coordination of policy and implementation among various departments to promote child development.
- Enhance the capability of the mother to look after the normal health, nutritional and developmental needs of the child through proper community education.

anatomy for developing a healthy understanding of the body and its functions is very important. Recent efforts on sex education with a focus on prevention of infections and pregnancy do not unfortunately address the issue of menstruation. As adolescence is among the most vulnerable periods during the growth and development of a girl, this area is receiving greater research focus in India. The onset of puberty brings with it several social restrictions on the physical mobility of girls and data on education clearly indicates a decline in enrolment rates at this crucial age, especially if the school is not located in the same village or neighbourhood.

60. During 1991–92, a special intervention was introduced for adolescent girls, using the ICDS infrastructure. This intervention focuses on school dropouts and girls in the age group of 11–18 years, and seeks to meet their needs of self-development, nutrition, health, education, literacy, recreation and skill formation.

61. This scheme was introduced in 507 selected blocks with the following objectives:

- To improve the nutrition and health status of girls in the age-group of 11–18 years.
- To provide them with the required literacy and numeracy skills through the non-formal stream of education.
- To stimulate a desire for more social exposure and knowledge and to help them improve their decision making capabilities.
- To train and equip to improve and upgrade skills.
- To promote awareness of health, hygiene, nutrition, family welfare, and child care.
- To take all measures to facilitate their marrying only after attaining the age of 18 years and if possible, even later.⁶

62. The *Balika Samriddhi Yojana* was launched in 1997 with the specific objective of changing female and community attitude towards the girl child. The scheme also envisages enrolment and retention of girl children in schools.

63. The *Apni Beti Apna Dhan* (Daughter is My Wealth) scheme introduced by the Government of Haryana on October 2, 1994, aims at improving the social acceptability of girls by making them financially independent. The scheme provides for the following:

- i) The family will receive monetary assistance of Rs 3000 at the birth of each of the first three daughters.
- ii) The mother will be given Rs 500 within 15 days of each girl's birth. This is meant for the post-delivery needs of the mother.
- iii) An investment of Rs 2,500 will be made in the name of each girl child in Government securities within three months of her birth. This investment will be made available to the girl on her eighteenth birthday and she will be free to use the matured amount for either her education, or for setting up an economic venture.

64. In December 1995, the Haryana Government expanded the scope of the scheme, and announced a maturity amount of Rs 35,000 and Rs 30,000 as against the earlier Rs 25,000, for girls who agree to defer the encashment of their securities by four years and two years, respectively.⁷

Registration of deaths

65. The Registration of Births and Deaths Act, 1956, provides for the compulsory registration of all deaths throughout the country. Under the Act, the responsibility for reporting an event occurring in the house lies with the head of the household, and in her/his absence, on persons in the family as specified. For events that occur in hospitals/institutions it is the responsibility of the hospital in-charge (or a person authorised by him/her) to report the events to the local registrar. However, there is a clear lack of incentive in reporting the death of a child and therefore, child deaths do not get reported. The deaths that are registered at the younger ages are reported from medical institutions. In some cities and towns, arrangements have been made for reporting of deaths in the cremation or burial grounds and deaths of even young children do not escape registration. However, the situation is not the same in the rural areas where a large number of dead bodies are not cremated or buried in authorised cremation/burial grounds. In some States, certain officers have been notified to collect death reports from the informants, that is, the household, and report them to the local registrar for registration. This has brought about some improvement in the reporting of child deaths in some parts of the country. However, the registration of deaths of children is still far from satisfactory.⁸

Endnotes

- ¹ NI/PC/SAP/132/2000/908 dated July 31, 2000, National Institute for Public Cooperation and Child Development, GOI, page 8.
- ² *Female Infanticide and Foeticide—A Legal Perspective*, Centre for Child and the Law, National Law School of India, Bangalore, India, 1999, page 5.
- ³ *National Profile on Women, Health and Development, Country Scenario—India*, Voluntary Health Association of India, India, April 2000, page 17.
- ⁴ *Ibid*, page 99.
- ⁵ *Integrated Child Development Services (ICDS)—Booklet*, Department of Women and Child Development, Ministry of Human Resource Development, GOI.
- ⁶ Annual Report, 1999–2000, Department of Women and Child Development, Ministry of Human Resource Development, GOI, pp. 5, 37–38.
- ⁷ *Female Infanticide and Foeticide—A Legal Perspective*, Centre for Child and the Law, National Law School of India, Bangalore, India, 1999, pp. 48–49.
- ⁸ D.O. No 6/5/96-VS(Cord.) dated May 3, 2000, Registrar General of India, GOI.

3D

Respect for the Views of the Child

Article 12

66. Freedom of expression is a fundamental right, available to every person in India, including children. The right to freedom of speech and expression has been construed by judicial interpretation in India to include freedom of the press and other media. Although, there is no legislation that specifically mentions the right of the child to express his/her views freely, this aspect will be covered in the proposed National Charter for Children.

67. Out of all the rights of the child under the CRC, this particular right is the least understood and appreciated by adults. The importance of this right lies in seeing the world from the perspective of the child, and in displaying the sensitivity that is so essential when dealing with innocent children. The significance of this right can be best appreciated when one reads what children had to say during the regional consultations—phrases like “violence frightens us”, “we get scared when our fathers are drunk”, are poignant reminders that children have a right to a safe life, and that adults will not be able to give this if they are not willing to listen to children and to understand how their actions are hurting them.

68. The rights of the child under the CRC to have his/her views respected is intrinsically linked to the opportunities available to the child to participate in a wide spectrum of activities, ranging from the home to school life. It is indeed welcome that there is a gradual increase in initiatives to promote child participation in many parts of the country. The initiatives vary in content and comprehensiveness, from participation in activities to expression of views on matters that affect their lives or those of other children or their communities. In some cases, efforts have been made to link hearing children’s views to decision making and implementation processes of programmes for children and local community initiatives. As child participation seemingly gains acceptance in more parts of the country, as demonstrated by a surge in pilot community-based initiatives during the reporting period, there is a need to fully understand the spirit and principles of child participation within the framework of the Convention and the evolving capabilities of children, and to develop a framework for action which will contribute to creating the institutional spaces for promoting meaningful participation and raising the profile of children as actors in their own development and the development of their communities. At the same time, adults will need to change the way they currently perceive children and their potential, so that children can interact in an environment where adults with the authority to make decisions provide them relevant information, actively seek their opinions and value and respect their comments and proposals. This will also lead to the development of their potential and evolving capabilities, thus enhancing their role as citizens and making them actors in the realisation of their own rights.

69. As one examines the implementation of this aspect of the Convention, it is evident that while progress has been made in this area, mainly through the intervention of NGOs, little documented, qualitative information is available about ‘listening to children views’ in judicial proceedings

or placement in 'alternative care' or in families and school situations. Little is also known of what happens to children's views and recommendations and there is no feedback to children on what happens within the decision making fora based on their recommendations.

70. There emerges a need, therefore, to document the progress so far and to review all aspects of children's participation, in order to evolve a direction for accelerating the implementation of this aspect of the Convention.

71. In recent years, a few voluntary organisations have experimented with innovative approaches where children have been given ample opportunity to express their right to participation in the decision making process. For instance, *Bhima Sangha*, which is an association of working children, is a forum to discuss and resolve children's issues and concerns. Inspired by the model of official unions and prompted by the desire that their grievances should be heard, 10–15 children in Bangalore, with the help of an NGO called Concerned for Working Children, came together in 1989 to form *Bhima Sangha*. Since its inception, *Bhima Sangha* has repeatedly raised child labour issues in the public forum, addressed press conferences and held discussions with Government officials regarding steps that could be taken to solve the concerns of working children. In 1997, *Bhima Sangha* was instrumental in setting up Children's Council (*Makkala Panchayat*), which run parallel to

Box 3.8: Creating "children's government"

Four years ago, UNICEF initiated Children's *Panchayats* in association with the Government of Rajasthan to see if children could become agents of change in their own development. Local NGOs conducted a two-day workshop for the adult *Sarpanches* (elected heads of the *Panchayat*) and *Panchayat* members, who then returned to their villages to set up the Children's *Panchayats*. Children were asked to attend meetings where the *sarpanches* explained child rights and the responsibilities that came with the rights, asking the children if they would like to form the children's government.

The Children's *Panchayat* follows the Government provision of one-third reservations of seats for women, with special representation for SCs and the disabled. The children come from different villages and meet once a month. "Right now there is one-third representation for girls in our *Panchayat*, just like the Government. In our village, boys are considered to be future breadwinners and girls are homemakers. When I think about it, I know this is not fair. I know the seats should be equally distributed between boys and girls, perhaps that is something we can begin to change" explains Mahindra Singh, (15) the elected head of the Children's *Panchayat* in Telora Village.

The Children's *Panchayats* in Ajmer district have been changing the children's lives and the life of their community. In one village, children decided that tobacco addiction was a problem. They asked the shopkeepers not to sell

tobacco to children who came to buy it for their fathers, because after a while children became curious and tried it themselves. The adult *Panchayat* supported this decision by levying a fine of Rs 500 to every shopkeeper who sold tobacco to children. The money went to the Children's *Panchayat*. Children's *Panchayats* have been inspiring villages to plant trees, open libraries and ban the use of plastic bags. *Udaan* (Flight), a newspaper about children's *Panchayats*, is also written, edited, designed and produced by children.

To date, 200 Children's *Panchayats* have been created in Rajasthan. UNICEF hoped to create a model that could be implemented by the Government on a Statewise scale. After seeing the success of the Children's *Panchayat*, the Director of Adult and Continuing Education, assigned 35,000 adult education centres, which are present in every village, to help create Children's *Panchayat*.

What were the constraints? "In the beginning I wondered how this would work, we are very small, how will we work with the adult *Panchayat*. But then I thought, this might be something I would like to do in future, so I joined in," explains Chand, a member of children's *Panchayat*. There were also initial reservations by the community that children might be creating a parallel system that would then make its own decision, but the *Sarpanch* of Telora explains "The children are my eyes and ears, they tell me what is happening in the village and what needs to change."

the Adult Councils (*Gram Panchayats*). Children between 6–17 years of age could vote but the candidates were between 12–17 years. Sixty-five per cent of the seats are reserved for girls. Similarly, an NGO named Butterflies has also evolved children's participation in the decision making process, wherein every fortnight, children at contact points hold a meeting to discuss important issues, critique ongoing activities, plan future activities, etc., under the overall rubric of the *Bal Sabha* (Children's Council). Most schools also have students' councils and parent teacher associations to ensure that the views of children are heard.¹

72. In Rajasthan, over 100 Children's *Panchayats* have been formed by the *Bharat Gyan Vigyan Samiti* in villages in the districts of Alwar, Baran, Dholpur, Kota, Pali, Jaipur, Karauli and Sikar. These *Panchayats* draw attention to the problems related to children and prepare children for active participation in the process of development. The *Bal Manch* (Platform for Children) has been extremely active in voicing the rights of children. Children started the "Go to School" drive which pushed up enrolment. *Bal Manch* girls have also become treasurers of small savings groups of adult illiterate women. In some villages, children even try to tackle issues, like preventing child marriage. Though not always successful, this has demonstrated the stand children can take against violations even in the face of adult opposition.

73. In Madhya Pradesh, the *Abhivyaakti Bal Vikas Sansthan* in Dhar district has established 25 *Bal Panchayats* which have been very active in organising child rights and hygiene campaigns, *Meena* film shows, training of *Bal Panches* and *sarpanches* and conducting school enrolment drives. In Shahjapur district, 80 *Bal Panchayats* had poster competitions on issues like child marriage, gender discrimination, education, safe drinking water and health. These not only provided creative expression opportunities on sensitive child rights issues but also sensitised the entire village community on child rights issues and the potential contribution of children to the community. In Andhra Pradesh, child participation is taking place throughout the State with the help of NGOs through the *Divya Disha* school campaign in Hyderabad. The Child Campaigners Club, under the auspices of COVA, a federation of voluntary organisations has also initiated *Bal Adalats* (Children's Courts) whose activities centre around issues that concern children.

Box 3.9: Children freely express their views

When Jhangri, a 10-year-old girl from Andhra Pradesh, stood up with courage and said before an assembly of elders that every child must have access to school as all of them want to read and write, she was articulating what Nobel laureate, Prof. Amartya Sen, also says.

She expressed her feelings quite eloquently in words: "Children must get free education and free uniform, books, pencils and other study material. All schools must have teachers who teach and teachers must love children equally. They must not beat them."

Jhangri was among 14 children who were on the "dais" (podium), representing 14 States of

India and sharing their ideas on what every child should and should not have in their childhood. Interestingly, this was not something even adults articulated on behalf of the children except for the group that turns them into causes and gains mileage out of it. Jhangri, Hari and Sangeeta were earlier child labourers. Now they are in school thanks to the intervention of child rights activists. More than 100 such children and an equal number of women community leaders participated in a three-day national workshop on "Children's Rights In India—Concerns, Responses and Aspirations" which began on October 12, 2000 at Jamia Hamdard, Delhi.

74. In Uttar Pradesh, child participation in the State has largely remained an area-specific activity through intensive projects. Children's participation in their own development is being promoted through *Project Masoom* in Bahraich district. The project trains adolescent girls as motivators to mobilise other young girls to get involved in their communities and development. Early childhood care, literacy and age of marriage are the focus. *Masoom's* interventions are carried out through children's groups or *Bal Sabhas*.

75. In Gujarat, School *Panchayats* exist in many *Zilla Panchayat*-run primary schools. These structures replicate the structure of the Parliament or a ministry in schools. These are used to encourage children to take decisions about their school and participate in implementing these. In Kargil, Jammu and Kashmir, in 18 Children's Committees for Village Development have been organised. These focus on capacity development for children and promote their participation in village development. Children organise themselves, identify local problems and initiate necessary actions. Some of the issues they have tackled include teacher absenteeism, school attendance by children and sanitation practices.

76. Children have wholeheartedly and enthusiastically accepted the opportunity to participate in the media. The International Children's Day of Broadcasting (ICDB), which falls on the second Sunday in December provides children with the opportunity to devote some of the time to the media and voice their views and concerns, becoming broadcasters and producers for a day— producing, reporting, filming and recording stories they want the world to see and hear. During 1996–1997, 10 children were trained for a week at the Indian Institute of Mass Communication and they produced a programme, which was telecast over the national network, Doordarshan, which is the official television wing of the GOI. In December 2000, 31 TV stations and 60 radio stations involved over 2000 children in their programmes for ICDB. The children interviewed leaders, heroes, opinion makers and other adults who have made a difference to society. TV channels such as Doordarshan, STAR and Channel V all featured programmes developed and presented by children, demonstrating a major recognition of children's right to expression. Mobilising the media began six months ahead of the ICDB, and UNICEF supported four regional workshops during May–October 2000, to work out the strategy for children's participation the media.

Box 3.10: Fingerprint postcards

One hundred children in a remote village of Uttar Pradesh wanted to know if the water they were drinking was safe, so they wrote postcards to the District Magistrate (DM) asking for water-testing kits.

One postcard after another arrived at the DM's office, on different days and from different post offices, but all asking for the same thing: water-testing kits. The children signed their names, added a fingerprint for good measure and reminded the DM of the name of their village: Nautala.

The DM bound the postcards together with an elastic band and sent them to the Department

of Water. The Junior Engineer visited the village and met the children, who wanted bottle kits to test for bacterial impurities. The Junior Engineer suggested that he would take a water sample to be tested in the district lab but the children were adamant that they had 50 wells and all the water sources needed to be tested. One child added, "We have to see for ourselves if our water is safe to drink."

The children of Nautala had decided at a meeting of all of the *Bal Sabhas* or children's groups, in the village that there was a need to test the quality of their water.

The media gave significant coverage to the ICDB, and several senior journalists wrote about it, pointing the high visibility that ICDB commanded and which established the arrival of children in the field of broadcasting in the country. Sustaining and expanding the initiative and ensuring child participation in broadcasting all year round are the immediate challenges.

Endnotes

- ¹ NI/PC/SAP/132/2000/908 dated July 31, 2000, National Institute for Public Cooperation and Child Development, GOI, pp. 10-11.