Chapter Three

Magnitude, Factors and Dimensions of Crimes Against Juveniles: An Analysis
Children, I think, all over India have the first claim on us, because they represent the Indian of tomorrow.

-Jawaharlal Nehru
CHAPTER-THREE

3.0 GENERAL INTRODUCTION

The children of today are the future of tomorrow; this powerful statement assumes special significance in our context as children (0-14 years) comprise one third of the total population in the country. Every child, on provision of a conducive and an enabling environment, may blossom into an ever fragrant flower, to shine in all spheres of life. This reminds us of the onerous responsibility that we have to mould and shape their present conditions in the best possible way.

The journey in the life cycle of a child involves the critical components of child survival, child development and child protection. Child participation which envisages their active involvement and say in the entire process adds a new dimension. Child survival entails their basic right of being born in a safe and non-discriminatory environment and grows through the formative years of life in a healthy and dignified way. Adverse sex ratio at birth, high child mortality rates and the rapid decline of child sex ratio reflects the ensuing challenges. Reducing the level of malnutrition and micronutrient deficiency and increasing enrolment, retention, achievement and completion rates in education are the focus areas in child development. Safeguarding the children from violence, exploitation and abuse fall under child protection.¹

Realizing the deprived and vulnerable conditions of children, the law makers of the country have always accorded a privileged status to children. The number of rights and privileges given to the children in the Constitution of India, duly supported by other legal protections, bears a testimony to this. During the last decade, various path breaking legislations like the Prohibition of Child Marriage Act, 2006; Hindu Succession (Amendment) Act, 2005 etc have been made to suitably strengthen the legal provisions. On policy side, the Government of India is committed to promote the survival, protection, development and participation of children in a holistic manner and a series of measures cutting across the boundary of gender, caste, ethnicity or region have been initiated in the past several years to realize the all inclusive growth

¹ Children in India, www.socialjustice.nic.in (Accessed on 15/07/12).
devoid of exclusion and discrimination. The 11th Five Year Plan paved the way and the commitments have been reiterated with a renewed vigor in the 12th Five Year Plan.

However, even today, after six decades of independence and despite various initiatives both on the legal as well as policy and programme levels, the condition of children remains a serious cause of concern in the country. The statistics emanating from various censuses, surveys and administrative records underlines this.

The ministry of statistics and programme Implementation had brought out a publication on child statistics in 2008, titled ‘Children in India-2008’ as an adhoc publication. The present report, ‘Children in India 2012 – A Statistical Appraisal’ is second such publication and it presents a consolidated and updated statistics on status of children in India and will serve as a useful reference tool to appraise the progress on various fronts including the UN Millennium Development Goals.

As the statistics speaks out loudly, we have miles to go to ensure a bright future for the children in all spheres of their life. The nation calls for a more focused, better implemented initiatives which will transform significantly the present status of the country’s children.

The Children are the greatest gift of God to man, our most precious and very important asset. They are the apostles of peace and are very much human beings with enormous potentials to grow and develop into adult in future. They are not a commodity and hence cannot and must not be subjected to family monopoly. The children are very important for any nation as the welfare and development of any society largely depends upon the health and well-being of its children. It has been said that ‘who holds souls of the children, holds the nation’. A generation which fails to recognize that baby is its first charge is lost in barbarity and the hall-mark of culture and advance of civilization consists in the fulfilment of our obligation to the young generation by opening up all opportunities for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual, says Justice Krishna Iyer and adds that is the birth right of every child that cries for justice from the world as a whole. Likewise Winston Churchill during world war-II said there is no finer investment for any community than putting milk into babies.²

² Shrinivas, Gupta, Rights of the child is International Perspective : A critical study. New Delhi, Central India Law Quarterly, 1996. p.27.
Undoubtedly the children are very important for any nation and hence their needs and rights should not be attended merely as a byproduct of progress. Unless this change is achieved all investments in food production, community service and human resource development would remain less effective because the children constitute a significant proportion of the people and they would not be able to contribute fully for. It is to be always remembered that the children are the ultimate goal for development and also the most effective tool for development. We must also realize that the efforts for advance in the human condition must start as early as possible beginning with the child and with the mother well before the child is born. Protecting and preserving the health and education of today’s children is the first and foremost right of those children but it is also the most basic and wisest of all investments and therefore in social and economic development of society.¹

Because of innocence and helplessness, the child is peculiarly susceptible to certain harms. He cannot raise his voice and enforce his rights against those who injure him or deprive him of his precious rights. It is this peculiar position of the child arising from his physical and mental disability and position of dependence that recognizes the need for special provisions in many matters and the law must take care of all this in the interest and welfare of the child. The protective arms of law has, therefore, to be long and strong enough if distributive justice to the adults of tomorrow is to be secured. It is an obligation of every generation to bring up children in a proper way. Every society must therefore, devote full attention to ensure that children are properly cared for and brought ‘up in a proper atmosphere where they would receive adequate training, education and guidance in order that they may be able to have their rightful place in society when, they grow up.

The childhood is the period when minds and bodies and personalities are being formed and when even temporary deprivation is capable of inflicting lifelong damage and distortion on human development; these vital and vulnerable years of childhood should as far as is humanly possible, be protected from the worst mistakes and malignancies of the adult world. A child has only one chance to develop normally and the protection of that one chance should be given a first call on

societies concerns and capabilities. There will always be something more immediate, there will never be anything more important.\textsuperscript{4}

All cultures share the view that the younger the children, the more vulnerable they are physically and psychologically and the less they are able to fend for themselves. Age limits are a formal reflection of society's judgment about the evolution of children's capacities and responsibilities. Almost everywhere age limits formally regulate children's activities; when they can leave school; when they can marry; when can they vote; when they can be treated as adults by the criminal justice system; when they can join the armed forces; and when they can work. But age limits differ from activity to activity and from country to country. In India, the Census of India defines persons below the age of fourteen as children. While making use of standard demographic data, social scientists include females in the age group of fifteen to nineteen years under the category of the girl child. Most of the government programmes on children are targeted for the age group of below fourteen years.

3.0.1 Kinds of exploitation or Crime committed against children are as under:

1. Physical or economic exploitation
2. Sexual exploitation

Over the years, the understanding of children in difficult circumstances has come to include the following categories of children:\textsuperscript{5}

While exact and precise data on all these categories of children is not known, a situational analysis based on the information is available is imperative for planning for the children in difficult circumstances.

Child Abuse:

According to a survey commissioned by government, more than 53\% of Indian children face sexual crime, if that is not shocking or disturbing, what else could be? India has one of the youngest populations in the world. In fact, more than 54\% of Indian population is below 25 years of age and that gives us our best shot at being one of the superpowers in coming decades. But this dream and aspiration will not hold any value if the future of our nation i.e., these children are subject to physical, sexual and emotional abuse. What is even more disturbing is the fact that most of these cases are not reported properly.

\textsuperscript{5} Report, Ministry of women and child development Govt. of India. New Delhi, Shastri Bhawan 2012. p.121.
The survey further says that two out of every three children have been physically abused. In a number of cases, the perpetrators of child abuse are ironically the parents, relatives and the persons known to the child or in a position of trust and responsibility. The problem is that the India has yet to formulate appropriate laws to counter cases of child abuse. The current laws don’t really do any justice to the grave magnitude of the crimes committed against innocent kids.  

3.0.2 Kinds of Child Abuse:

Child abuse can be defined as harming a child in a physical, sexual or emotional way. There are different forms of child abuse which are following:

1. Physical abuse- includes beating, burning and starving the child by parents, relatives or with whom he is under custody  
2. Sexual abuse- includes abnormal sexual activity, incest and sodomy etc. 
3. Verbal abuse- when a child is ridiculed, insulted and scolded by teacher, his friend or family member.  
4. Emotional abuse- neglecting the basic needs of the child and not providing him proper care, concern and love by parents and family members.  
5. Economical abuse-includes child labour, bonded labour

Child sexual abuse in the broadest sense encompasses not only the inappropriate touching of children but also using children in sexual trafficking, pornography, and prostitution. Perpetrators may meet their victims in person or through the computer. Often perpetrators ‘abduct’ their victims. This chapter covers the wide range of extra familial sexual abuse-from molestation by acquaintances and strangers to the sexual exploitation of children through a variety of misuses of adult power. For the purpose of this chapter, abuse refers to the touching or molestation of a child by a perpetrator, whereas misuse and ‘exploitation’ refer to the perpetrator’s encouraging sexual contact with or photographing of the child for the perpetrator’s own financial gain.

It should be noted that there are cultural implications that also affect the degree of trauma felt by children who are sexually abused both within and outside the family. For example, children of a culture that has experienced a great deal of oppression or prejudice might be either hyper vigilant to abuse from the outside or emotionally numb due to having dealt with non-familial emotional assaults

throughout childhood. This is important to consider when making an assessment of the degree of trauma experienced by an individual child. Children are vulnerable to abuse from many different individuals. Of the women who were abused prior to the age of 18 by males outside the family, found that 15 percent were molested by strangers, 40 percent by acquaintances, and 14 percent by friends of the family, 2 percent by unclassified authority figures, and 18 percent by a friend or date of the victim. Of those women who reported being abused by females, 2 percent named acquaintances and 2 percent cited friends of the family or of the respondent. The availability of the Internet may alter these statistics. The perpetrator’s ability to molest in an extra familial situation often depends on lack of parental judgment or inadequate parental supervision. This statement seems to imply blame, but parents allow access to their children for different reasons, some unrelated to intent or irresponsibility. Why might a parent not perceive potential harm from a perpetrator.?

3.0.3 Emotional Abuse:

Emotional abuse is the persistent emotional maltreatment of a child such as to cause severe and persistent adverse effects on the child’s emotional development. It may involve conveying to children that they are worthless or unloved, inadequate, or valued only in so far as they meet the needs of another person. It may include not providing the child ample opportunities to express their views, deliberately silencing them or ‘making fun’ of what they say or how they communicate. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond the child’s developmental capability, as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill-treatment of another. It may involve serious bullying (including cyber bullying), causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of maltreatment of a child, though it may occur alone.

Indian penal code has very few section dedicated to child abuse. There is no specific law against repeated offences against the child. Unfortunately, punishment for sexual offense against child attracts very less punishment. What is more saddening is the fact that most of the child abuse cases is handled under the laws that are meant

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for adults. Crime is often an indicator of social malaise caused by the hopelessness, frustration, and desperation of poverty. Lack of employment opportunities, inadequate food and water supplies, land degradation, sub-standard housing, poor sanitation, ill health, discrimination, and limited education all create conditions whereby individuals are at greater risk of becoming both victims and perpetrators of crime. That such great numbers of children in India and around the world continue to be victimized by crime is a grim reminder that we have not fulfilled our duties as protectors and caregivers.

Without community, a family or individual is disempowered—they don’t have access to the support and information that could be helpful in a situation requiring advice or help. Nor do they have effective opportunities to voice serious needs, concerns, or opinions. For such a family living in poverty, the consequences of such isolation can be critical. For instance, there are many situations in India when a family’s financial debt-load puts their children at great risk for abandonment, prostitution or trafficking.

Promoting active participation in community life, and then nurturing that involvement through training and education, is an important starting point for restoring social health and stability. Like a healthy family, a strong community will act in the best interest of its members, especially the children.

There have been constant demands by the child rights activists for better law drafts against the child abuse perpetrators. It is high time now effective laws against child abuse are enacted. Policy makers need to be strict against the crimes taking place against the children. Crimes committed against children in school and in the community have a negative impact on a child’s life, thinking, personality and school performance. There are a number of crimes committed against children by adults and peers including sexual exploitation, physical exploitation and economic exploitation. The sexual victimization of children is overwhelming in magnitude yet largely unrecognized and under-reported.

Children suffer rates of conventional crime which is substantially higher than crime committed against the general adult population. They also suffer a considerable burden of victimizations that are specific to being children i.e., child maltreatment, neglect and emotional abuse. Unfortunately, crimes against children are considerably less likely to come to police attention than crimes against adults. Even so, the police
see more children in the role of crime victim than in the role of crime offender. It is thus ironic that crimes committed by children -- juvenile delinquency receives considerably more official attention than crimes committed against children.

3.0.4 Child Labour:

India has the highest child labour force in the world. To eliminate child labour, Indian legislatures have passed many Central and State legislations. But the vast potentialities of these laws mostly remained dormant. The problem of child labour is basically a pointer to the complex social and economic ground realities. It stems from illiteracy. Almost half of the Indians are illiterate. The children belonging to weaker section of society are treated as a source of economic support to parents. Total prohibition of child labour is neither practical nor desirable. Nowhere in the world has it succeeded. In most advanced countries, children are proud of earning their pocket money through various means. Not only to the parents, but it help children too, in acquiring a practical approach to life. By developing such earning qualities they enrich their personality and character culminating towards family building. But today the main problem is that a very high percentage of children are working in hazardous industries which are highly injurious to their health. Total ban should strictly be imposed to protect them against exploitation. In India child labour are working in agriculture, auto-repair, workshops, carpet industry, leather factories, matches and fireworks making, bangle factories, Bidi making, Cement industries, Mica-cutting, soap manufacturing, cloth industries, Building and construction industry etc.⁸

Following are the reasons behind the persistent problem of child labour.

(a) Poverty is the root cause of the child labour but it is only partially true. Children are made to work to fill their stomach and to feed their family. But in the process, they miss out their precious education.

(b) The lack of the education is another root cause of child labour. The government too is aware of the situation and is taking many steps to rectify the same. The State shall endeavour to provide within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.⁹

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⁸ www.labour.nic.in (Accessed on 12/12/2012).
⁹ Constitution of India.
3.0.5 Abolition of Child Labour:

The expression "Child" has been defined to mean "a person who has not completed the age of fourteen years." This seems to be now the uniform meaning of the term 'Child' under other labour statutes.\textsuperscript{10} The problem of child labour in India is very grave and the judicial pronouncements, newspaper reports as well as the published work of eminent scholars have exposed the magnitude of the problem of child labour. There is no doubt the child labour should be abolished. But this step cannot be contemplated unless back-up plans are kept ready. Lack of appropriate rehabilitation plans has made a mess of the much publicized bounded labour issue. Mere schemes are not enough. The government should implement their socio-economic programmes and provide the financial security to the poor class.

Being financially secured would mean being able to send the children to school instead of addressing to work. And education in turn could mean the end of exploitation and torture of hundreds of children. It is clear the government alone cannot eliminate the child labour problem totally. Today the parents are not motivated enough to send their children for their education. They should be made to realize that only education can give better livelihood at least for their younger generation. Our submission is that child labour should be linked with education. The government has launched the schemes like "Education for all" for education upon primary level.

3.0.6 Child Labour (Regulation and Prohibition) Act, 1986:

The child labour (Prohibition and Regulation Act was passed in December, 1986 to prohibit the employment of children in hazardous jobs and to regulate the conditions of work for children in other jobs of non-hazardous nature. It bans the entry of children in the following processes like Beedi making, carpet weaving, cement manufacturing, cloth industry, matches, explosive and fireworks making, mica cutting, tanning, building and construction industry. The Act consists of four parts and a schedule. First part deals with preliminary definitions. Second part entails prohibition of employment of children in certain occupations and process. Part third regulates child labour in these establishments where none of the occasions or process listed in the schedule are carried on. Fourth part of the Act deals with miscellaneous items viz; Penalties, procedure relating to offences and appointment of inspectors.

\textsuperscript{10} Child Labour (Prevention Regulation) Act, 1986.
The schedule enumerates occupations and processes where employments of children are prohibited.

The Act prohibits the employment of children below 14 years in any of the occupations and process specified in schedule.\textsuperscript{11} and whoever employ and child or permits any children to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not less than 3 months but which may extend to one year or with fine which shall not be less than 10 thousand rupees but which may extend to twenty thousand rupees or with both.

In-spite of numerous salubrious provisions the Act suffers by some major shortcomings. First of all the Act does not abolish child labour per se. Second the legislation is not compatible with the true spirit of Constitution.

The implementation and enforcement of the Act according to the Labour Ministry Report is near dismal, though the states of Gujarat, Maharashtra, Rajasthan, Tamil Nadu and Uttar Pradesh have taken effective steps and launched prosecutions.

\textbf{3.0.7 Sex Selection and Female Foeticide:}

The phenomenon of missing daughters over the past several decades is the biggest challenge to India's growth and development today. Failure to protect the girl child is no longer just a health issue but an important child protection issue, deserving immediate and utmost attention.\textsuperscript{12}

The 2001 Census data and other studies illustrate the terrible impact of sex selection in India over the last decade-and-a-half. The child sex ratio (CSR) (0-6 years) declined from 945 girls to 1,000 boys in 1991 to 927 in the 2001 census. Around 80% of the total 577 districts in the country registered a decline in CSR between 1991-2001. 204 or about 35% of the districts registered child sex ratios below the national average of 927 females per 1000 males. In the 1991 census, there was only one district with a sex ratio below 850, but in the 2001 Census, there were 49 such districts.

The decline in child sex ratio was steeper in urban areas (32 points in 2001) than in the rural (14 points). Economically progressive states like Delhi, Gujarat, Haryana, Himachal Pradesh, Punjab and Maharashtra have recorded the sharpest decline in child sex ratios as sex selection technology in these States is widely

\textsuperscript{11} Child Labour (Prevention & Regulation) Act, 1986.

\textsuperscript{12} Report, ministry of Women and Child Development Govt., of India. New Delhi, Shastri Bhawan 2012. p.123.
available. The 10 districts with the worst sex ratios in the country - all below 800 - are all in Haryana and Punjab.\textsuperscript{13}

A study of births in three public and five private hospitals in Delhi between 1993 and 2002 found that sex ratios get worse according to birth order. Thus if the sex ratio for the first born is 925 girls for every 1,000 boys among first-born children, it is 731:1,000 among second children and 407:1,000 among third children, as the desperation for a son increases with increasing birth order.

Female foeticide and reducing number of girls has severe consequences which may be summarized as follows:

Loss of women is likely to have negative consequences on the economy, since women are a vital part of India's labour force.

Devaluation of girls will also give impetus to the practice of girls being married at younger age. Increased numbers of child brides further contribute to the poor status of women, as they are less likely to finish school or develop job skills before marriage. Young brides and their children are more likely to suffer from increased morbidity and mortality associated with early childbirth. Moreover, there will be an increase in acts of violence against girls and women, e.g., rape, abduction, trafficking.

Ironically, in some villages, the elimination of the girl child has created such a shortage of girls that families purchase brides from other villages for paltry sums. Women are also being forced into polyandry, or being "shared" by the brothers, and have suffered violence for refusing to do so. Thus unbalanced sex ratio not only spells economic and social disaster but also means an uncertain future and a poor quality of life for surviving girls and their families.

The whole issue of selective elimination of females has to be understood in the wider perspective of gender issues and in the context of increasing violence against women and girls and child protection. Undeniably, sex selection/female foeticide is an extreme form of discrimination and violence against girls. The adverse child sex ratio reflects the real status of the girl child in the country, challenging the constitutional and policy commitments of equality and non-discrimination. It is a gross violation of the human rights of the girl child.

\textsuperscript{13} Ibid.
The lack of medical ethics by practitioners for the selective determination and elimination of the girl child is a crime against society and must be prosecuted.

3.0.8 Factors responsible:

➢ Traditional patriarchal ideologies and cultural practices place daughters at a secondary position;
➢ Deep-rooted son preference has penetrated all the sections of the society, rich or poor, upper caste or lower caste, literate or illiterate;
➢ There is a strong desire to have one or two children at the most, out of which one must be a son;
➢ Low value of daughters or daughter discrimination has resulted in averting the birth of female children;
➢ While preference for male child has always been a part of the society, non-invasive and instant sex determination through modern medical technology has made the elimination of girls in the pre-conception and early stages of conception easier;
➢ The combination of the system of patriarchy, feudalism and easily accessible medical technology tends to perpetuate discrimination on the basis of sex;
➢ Commercialisation of the institution of marriage, marriage customs and cultural practices add to the large-scale devaluation of girls, making girl child an unwanted burden;
➢ Practice of infanticide has been present in a few communities in some districts and regions in India but this practice did not reach the alarming proportions in elimination of girls as the present day availability of sex determination followed by sex selective abortion is reaching;
➢ This is because in foeticide, there is no inhibition from actually killing a child that an act of infanticide would involve;
➢ The increase in rate of female foeticide is a result of the greed and unethical practices of the medical community.
➢ The enforcement of the laws against female foeticide is poor, with a very low rate of prosecution of offenders, including the medical practitioners, and extremely poor conviction rate.
3.0.9 Areas of Concern:

➤ Unless seen and addressed in the context of child protection, it may not be possible to deter people from killing the unborn girl child and prosecute the offenders.

➤ It is 19 years since the enactment of the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994. It is also over ten years since the more comprehensive, amended Preconception and Prenatal Diagnostic Techniques (PNDT) Act, 2003 came into existence. Yet enforcing the law has proved to be a major challenge given the resistance from the unethical medical practitioners.

➤ Effective implementation of PCPNDT needs to be assured through, ensuring registration, curbing the spread of mobile ultrasound, regulating sale of new machines; ensuring compliance of the Act like keeping records and submitting them to the authorities in time, preferably online like the birth records are being done now; monitoring the functioning of these ultrasound clinics, complete audit of all pregnancy ultrasounds across the country.

➤ The Appropriate Authorities are ineffective and are not held accountable by the government and civil society and the powerful doctors’ lobby renders their actions null and void. Clinics that have been sealed for breaking the law have been re-opened for practice within a few days. Lawbreakers have got away after paying fines of just Rs 1,000. So far only one doctor and paramedical have been prosecuted for foetal sex determination.

➤ Another problem is that the appropriate authorities don’t know their functions and responsibilities. Appropriate Authorities do not have the necessary expertise and experience in legal matters. Deputing of medical professionals, on regulatory bodies under the PNDT Act, has not been an effective way to check the practice of sex determination, as doctors tend to be reluctant to book their fellow doctors.

➤ Even law agencies like the police or the courts tend not to view the breaking of law by doctors and medical professionals as serious offences against women and children and against the law of the land.

➤ Central supervisory board of PCPNDT needs to be reconstituted with effective partnership of the civil society and decrease the influence of the organised
medical profession and medical politicians like presidents of medical association, nominees of medical associations.\textsuperscript{14}

➢ Lack of adequate medical facilities is leading to increasing reach of private health service providers, whose practices are difficult to monitor.

➢ “There are two important issues of policy associated with this decline in the child sex ratio. One is the obsession with population control, which assumes that all the failures in development can be mono-causally linked to population explosion. The other more recent issue is the intrusion of the two-child norm into the Panchayati Raj Acts of many states, despite its absence from the Population Policy of 2000, leading to disqualification of many elected representatives. Most of the excluded belong to the SCs and STs. Some experts have suggested a link between the imposition of the two-child norm and sex selective abortions. Imposition of the two-child norm, then, cannot be the route to population stabilization, for it may lead to a disturbingly unbalanced population. The reworded sentence in NCMP stating that population stabilization would be achieved by strengthening primary health care focuses on reducing infant, child and maternal mortality. This philosophy needs to underpin all schemes and all programmes. The Centre, should, therefore urge the chief ministers of the state governments that are implementing coercive population control programmes to immediately withdraw the programme”.

➢ Survival of the girl child is not the part of the reproductive health agenda and finds no mention in the RCH PIP.

➢ There is need to stress the accountability of development policies and programmes in the family welfare sector (with their attendant commitment of human, material and financial resources) towards the healthy and safe survival of the girl child, which documents acknowledge in a policy framework.

➢ “National Indicators of Health Equity” under which various markers of health equity are listed, which includes neo natal mortality, IMR, child mortality, MMR, women’s health, etc. But a gender-balanced sex ratio at birth is not a national indicator of health equity. This marker is missing.

\textsuperscript{14} www.planningcommission.gov.in (Accessed on 06/02/2013).
Effective and strong implementation of the law should go side by side with reviews of policy and development strategies. We should advocate a public acceptance of the reality - that the continuing decimation of the numbers of the girl child is not just due to "deep rooted socio cultural features" but is exacerbated by short sighted and unsound public policies in population and their accompanying development packages.\(^{15}\)

3.0.10 Child Marriage:

Child marriage is a persisting harmful traditional social practice, rampant in many parts of the country and the incidence of it is highest in the States of Rajasthan, Bihar, Uttar Pradesh, Chattisgarh and Madhya Pradesh. According to the 1991 Census, the percentage of married females in the total number of females in the age group 10 to 14 was 13.2 in Rajasthan, the highest in the country. In second place was Madhya Pradesh at 8.5 percent, followed by Uttar Pradesh at 7.1. For the country, the percentage of married women under the age of 18 stood at 53.3 per cent. The situation did not change substantially in the following decade. The 2001 Census reports that there are nearly 300,000 girls under 15 who have given birth to at least one child. According to the Rapid Household Survey conducted across the country, 58.9 per cent of women in Bihar were married before the age of 18, with 55.5 per cent in Rajasthan, 54.9 per cent in West Bengal, 53.8 per cent in UP and 53.2 per cent in Madhya Pradesh and 39.3 per cent in Karnataka. Jammu and Kashmir has the lowest percentage of under-age marriage, which is 3.4, followed by Himachal Pradesh (3.5) and Goa (4.1). Despite high female literacy in Kerala, close to one-tenth of women are married before attaining the legal age of 18.\(^3\) National Family Health Survey (H) data suggests that the median age for the marriage of girls in India is 16.4 years. The survey also found that 65% of the girls are married by the time they are eighteen.

The fixing of the legal age of marriage at 18 years for girls and 21 years for boys has not prevented the continuation of early marriages. Nor has the Child Marriages Restraint Act, legally in force since 1929, been effective in restraining the practice.\(^{16}\)

The Government's new National Plan of Action for Children 2005 flags complete abolition of child marriages as one of the 12 key national priorities.

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3.0.11 Major Adverse Affects of Child Marriage:

**Education:** Education is recognised by the Constitution of India as a fundamental right for all children in the age group of 6-14 years. Early child marriage denies this basic right to the girl child. Factors like poverty and puberty combine to make the girl a school dropout and pushed into early marriage. The dropout rate among girls is highest at the elementary level often because of early marriage. The lack of proper and complete education renders girls incapable of acquiring any skill that can empower them. Needless to say, lack of education also affects reproductive behaviour, use of contraceptives, health of the new born child and proper care and hygienic practices. Every year of education added strengthens a mother’s ability to nurture and care for her children.

**Health:** Child marriage affects girl children’s reproductive and sexual health. They suffer from high rates of obstetric complications, anaemia, malnutrition, obstructed labour because of small pelvis, postpartum haemorrhage, toxaemia, vesico-vaginal fistula, intra-uterine growth retardation, pregnancy induced hypertension, premature delivery, higher maternal mortality rates, high incidence of reproductive tract and sexually transmitted infections (RTIs and STIs) and foetal wastage (miscarriages or still-birth), the neonatal and infant mortality rates are also high along with incidences of premature delivery and low birth weight of the new born. Adolescent mothers are twice as likely to die of complications arising out of pregnancy compared to women 20 years or older. The MR is 40 per cent higher for adolescent mothers than for adult mothers (107.3 and 78.5 per thousand live births respectively). Adolescent girls also face riskier and unprotected sexual exposure within their marriage, leading to a higher risk of contracting HIV/AIDS and other RTIs and STIs.

**Well-Being:** Child marriage is a gross violation of the UN Convention on the Rights of the Child and the Constitutional provisions of right to life, liberty, and security, right to health, right to freedom from slavery, right to education, right to non-discrimination on the grounds of sex, and right to equality. In addition to the health effects, the emotional effects of child marriage are immeasurable. Early marriage and forced sexual activity throw the girl’s identity into a state of utter crisis. There is an early burden of responsibilities, a higher risk of violence and abuse within the family, threat of being rejected by the family because of the propensity of child grooms going in for more than one marriage. Child marriage is a complete violation of a child’s
human rights, self-worth and dignity. It denies children participation in decision-making, recreation, and space of their own. The emotional impact of child marriage on a girl is far worse than in the case of a boy child. However, from the perspective, getting married at an early age violates the human rights of both boys and girls.

**Changing face of Child Marriage:** In India, child marriage is a centuries old tradition, where children as young as two to three years were often married or given away in marriage. However, in traditional societies in spite of early commitments of children into wedlock, marriages were not consummated till children were much older and were perceived to be able to understand the responsibilities intrinsic to marriage. Over time, giving children in marriage has turned into major social evil entailing issues of child rights, dowry, and sexual abuse, among others detailed above. Some of the emerging trends in child marriage have far-reaching adverse consequences in the life of a child. For example, child marriages have come to be used as a means to traffic young girls and women into the sex trade and labour both within the country and outside. Children are married, trafficked and sent to work in places like Delhi, Haryana, Uttar Pradesh, and Kolkata. Imbalance in the sex ratio in some states is emerging as a reason for trafficking of young girls for the purposes of marriage. In states with very low sex ratio, there is a tremendous shortage of marriageable girls, resulting in the need to buy young brides from other states. In some cases, these girls may be forced to serve as a wife to two or three brothers in the same family.

In some situations, economic circumstances have forced parents to give away their young daughters in marriage to much older or physically or mentally challenged men. Incidents of girls being given away to rich/old Arab 'sheikhs' in the city of Hyderabad in Andhra Pradesh have received much attention nationally and internationally.  

The representation of marriages attracts the adolescent mind to courthips and marriages of choice. Such relationships have only further increased the vulnerability of girls to sexual abuse, exploitation, desertion, mental and physical torture. Of late, some runaway marriages have led to negative consequences for the young boys as well, as they have been booked for kidnapping, abduction and rape, thereby getting marked as young child offenders.

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17. [www.wednic.in](http://www.wednic.in) (Accessed on 10/10/2012).
3.0.12 Factors Responsible:

- Literacy and lack of education;
- Patriarchy
- Gender discrimination and unequal status of women;
- Traditions and customs, e.g. the season of Akha Teej is considered auspicious for marriages;
- Economic reasons e.g. Higher dowry needs to be given to daughters when they are married at later age;
- Lacunae and shortcomings in the existing Child Marriage Restraint Act: for example the law does not declare the child marriage null and void;
- Lack of protective environment for a young girl. Marriage is defended as a security strategy in a situation where there are very few options open for the development of women and children;
- Lack of administrative will and action;
- Gender imbalance in some states has led to trafficking of girls in the name of marriage;

Child marriage is in fact a grave injustice towards children, and like any other social injustice, it cannot be seen in isolation. Measures to curb it have to stem from situating it in the total structure of society, interrelating to existing patriarchal, social and cultural structures, class, religion, and customary practices etc. It thus calls for comprehensive government measures, including measures to provide genuine development opportunities to girl children. Child marriage is a violation of children's human rights and must be treated as such. It is a serious protection issue. The early marriage of boy children is equally a denial of childhood rights, and a part of this violation.

Lack of sufficient data and inadequate implementation of the provisions concerning registration of marriages affect all planning and interventions. Most incentive measures undertaken by the Government related to enhancing opportunities for girls to go to school and get educated. The prevailing social milieu in the country, however, creates a mind-set in which the major concern of parents is the early marriage of their daughters and this is also the girls' major concern based on her socialization. This mind-set needs to be addressed if girls are to benefit from development opportunities.
There is need for dialogue and joint planning by the Ministry of Women and Child Development and the Ministry of Youth Affairs and Sports officials to exploit the under-utilised potential of the country-wide network of 300,000 youth clubs and development centres under the Nehru Yuva Kendra Sangathan as a force for monitoring and for prevention of child marriages.

Parents’ concerns regarding violence against girls, rape and other forms of abuse are not completely invalid. Unless the girls are provided an overall protective environment, harmful practices like child marriage cannot be uprooted.

Accountability for the well-being of girl children must be reflected in the conduct of all those who have the responsibility to plan and implement the programmes and monitor implementation of the law.

Inadequate protection for those women who have stood up to fight the practice of child marriage only strengthens the perpetrators of such blatant violation of human rights of children. Bhanwari Devi, a worker in Rajasthan faced the wrath for fighting child marriage when the influential village leaders violently raped her to teach her a lesson. The chopping of the arms of an Anganwadi worker in Madhya Pradesh who tried to stop a child marriage will also never be forgotten. The absence of any protection for such people only points to the inadequacy of the administrative and judicial involvement and commitment.

3.0.13 Sexual Exploitation:

Children are the architects of the future of our country. There are however, not different from tender plants. But unfortunately, the sexual abuse of children is gaining momentum in our society. This stands in the way of the development of our children into promising citizens of tomorrow. Children are either hunted like animals for satisfying individual / gang sexual appetite or abducted and sold to brothels for commercial gains. In fact, the sexual abuse of children is developing new dimensions, as a result of the technological expansion. Internet has converted child sex into a global business.18

The use of children in pornographic literature is also increasing; Newspapers expose only the tip of the iceberg, because the victims and their guardians refrain

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from reporting cases of sexual abuse, because of the shame and guilt associated with it.

3.0.14 Meaning and Definition of Child Sexual Abuse:

Child sexual abuse is any use of children for the sexual gratification of adults. The Standing Committee on Sexually Abused Children, 1984 has defined child sexual abuse as follows:

"Any child below the age of consent may be deemed to have been sexually abused, when a sexually mature person has, by design or by neglect of their usual societal or specific responsibilities in relation to the child, engaged or permitted the engagement of that child in activity of a sexual nature, which is intended to lead to the sexual gratification of the sexually mature person. This definition pertains whether or not it involves genital or physical contact, whether or not initiated by the child and whether or not there is discernible harmful outcome in the short term".

The Children’s Act, 1989 of Great Britain defines ‘Sexual abuse’ as the involvement of dependent, developmentally immature children and adolescents in sexual activity; they do not truly comprehend, to which they are unable to give informed consent or which violate social taboos concerning family roles.

According to an Australian Report, submitted by the Law Reform Commission of Victoria, “Sexual abuse refers to a variety of behaviour, ranging from exhibitionism to intercourse, from intimate kissing and cuddling to penetration with an object”. The penetration may be oral, vaginal or anal.19

In Zimbabwe, child sexual abuse has been defined to include the touching or fondling of private parts, penetration against one’s will or penetration of a child below the age of consent, looking in a suggestive way, teasing in a sexually suggestive manner and use of inappropriate language.

SAKSHI, an Indian organization, working on women and child rights, has defined child sexual abuse as ‘the physical or mental violation of a child with sexual intent, usually by an older person, who is in some position of trust and / or power vis-a-vis the child”.20

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19 The WHO estimates that 40 million children of 0-14 year age suffer from abuse or neglect and require health of social care.
20 SAKSHI, working on child & women rights.
According to David Finkelhor, "child sexual abuse" implies-sexual encounters of children under age of 13 with persons at least five years older than themselves and encounters of children between 13 and 16 with persons at least 10 years older. The term "sexual encounter" includes intercourse, anal-genital contact, fondling or an encounter with an exhibitionist and also any activity that brings sexual gratification to the perpetrator.

The analysis of the above definitions makes it clear that the term 'child sexual abuse' has a wide coverage. It covers incest, paedophilia, exhibitionism, molestation, rape, sexual intercourse, sexual sadism, child pornography and child prostitution.

Children are often sexually abused by adults, who are related to them or known to them or their families. Thus, a child may be sexually abused by a parent, brother/sister, any other relative, family friend, teacher or the "nine" neighbour, with whose children the child plays every evening. In these cases, the abuser is often a person, whom the child trusts. So the latter is shocked and is not in a position to voice his/her protests.

3.0.15 Causes of Child Sexual Abuse:

The major cause is man's materialistic attitude and the consequent erosion of values in our society. In India, when the institution of joint family was prevalent and the society was a rural one, incidents or rape were rare. However with the industrialization and growth of the metropolitan cities the menace or rape has escalated tremendously. This can be traced to man's thirst for enjoyment. The craze for the material wealth and enjoyment of life are the primary concerns of the modern man. Spiritual values are thrown to winds.

Man has become unimaginably corrupt; corrupt at home, in society, in administrative and judicial matters. He wants to have maximum enjoyment at the cost of others. This tendency breeds promiscuity and vulgarity. Consequently man has become sick, unhealthy and immature in his relations with the opposite sex.²¹

Secondly, our society is full of hypocrites, who preach high morals and act in just the opposite way. Gangs are active in school campuses, enticing children to their

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Teachers, who have the support of local influential people, are the kingpins of such gangs.

Unrest in the family caused by the cruelty of the father to the mother and vice versa, causes emotional disturbances in the children. So they leave their homes for streets where they are trapped by sex rackets.

The emergence of nuclear family and the denial of parental love are also responsible for the growing child sexual abuse. In a nuclear family, parents are generally employed. So they do not get sufficient time to love and care for their children. There are also innumerable cases, in which the parents are away from their children in foreign countries for purposes of employment and the children are put in hostels or looked after by relatives/servants. As such children do not get the warmth of parental love and affection, necessary for the development of their personality, they look for love outside. Such children are drawn by the agents of sex rackets into their net with a little pretension of love.

3.0.16 Child, Sexual Abuse: Legal control:

The UN Convention\textsuperscript{22} casts important responsibilities on State parties to protect the child from all forms of sexual abuse. Accordingly, each State should take all appropriate national, bi-lateral and multi-lateral measures to prevent the inducement or coercion of child to engage in any unlawful sexual activity; the exploitative use of children in prostitution or other unlawful sexual practices and the exploitative use of children in pornographic performances and materials. Further, the State is also required to take appropriate national, bi-lateral and multi-lateral measures to prevent the abduction or the sale of or traffic in children for any purpose or in any forms. India ratified the Convention on the Rights of the Child on December 11, 1992. It is, therefore, obliged to ensure that the rights of the child against sexual exploitation, enshrined in the convention, are protected in our country.

Article 23 of the Constitution of India prohibits traffic in human beings. The expression “traffic in human beings” is evidently a very wide expression including the prohibition of traffic in women and children for immoral and other purposes. Clauses (e) and (f) of Article 39 of the Constitution requires the State to direct its policies towards securing that the tender age of children not abused and childhood and youth

\textsuperscript{22} UN convention on the Right of the child, 1989.
are protected against exploitation, moral and material abandonment. The Suppression of Immoral Traffic in Women and Girls Act, 1956 was enacted to implement the principle, contained in Article 93 (1) of the Constitution. The Act was amended in 1986 and re-titled as the Immoral Traffic (Prevention) Act, 1956. The amended Act widened the scope of the law to cover both the sexes, exploited sexually for commercial purposes. The Act prescribes stringent punishment for inducing, procuring or taking children below 16 years for the sake of prostitution.

3.0.17 Child Trafficking:

Child trafficking flourishes in the dark gloom of poverty, distraction, inequity, corruption, scuttle hopes and broken dreams, deceit, trickery, violence, political conflict and criminality. The victim may be female or male, child or adult, any race or ethnicity and from any country in any region of the world. Poverty and the lack of monetary prospects endow with a fruitful ground for traffickers. Over and over again the families of victims are misleading, but sometimes a family member is complicit in the victim’s fate. In other places where the financial system has shrunken, education creates false impression of opportunities abroad. The temptation for better life, crises in the home, and the low value placed on women and children can push many towards waiting traffickers.  

The nation’s children are an extremely significant asset. Their look-after and concerns are our accountability. Children’s programme should find outstanding element in our countrywide strategy for the growth of human resources, so that our children are nurtured up to turn into full-bodied resident, bodily fit, psychologically alert and morally healthy, gifted with the talent and inspirations endowed with society. Equal prospects for progress to all children throughout the phase of development should be our aim for this would serve our larger purpose of reducing dissimilarity and bring social justice.

Child trafficking is one of the worst forms of human rights violations. It affects millions of children worldwide. The United Nations estimates suggest that globally trafficking in women and children is an operation worth $ 10 billion annually. Trafficking of child for coerced prostitution is an abuse of human rights, not least the right to bodily and psychological integrity. It violates the rights of children to

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liberty and safety of human being and may even abuse their right to life. It renders children to a sequence of human rights abuses at the hands of traffickers and of those who buy their services. It also causes them to be helpless to be abused by governments which fail to protect the human rights of trafficked children.\textsuperscript{24}

The trafficking of children for the reason of coerced prostitution is an extensive and organized violation of the human rights of children. In the process of trafficking, children may be kidnapped, illegally disadvantaged of their freedom. Article 32 of the CRC stipulates the “right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health, physical, mental, spiritual, moral or social development”. Articles 9, 10 and 11 also have provisions for illicit movement of the child while Article 34 calls on States Parties ‘to protect the child from all forms of sexual exploitation and sexual abuse, the inducement or coercion of a child to engage in prostitution or other unlawful sexual practices’ and Article 35 further aims to protect children from being treated as chattels.

3.0.18 Sex Tourism:

Sex Tourism is one of the most vicious flesh-trade to which millions of children from all over the world are dragged into. Children being an indispensable bit of every civilized society enjoy various basic rights’ which are universally acknowledged and also assured in various international human rights instruments. Therefore, these vulnerable assets cannot be deprived of their basic rights for no faults of their own. Sadly children both male/female is trafficked to cater the variety of needs including trafficking for sex tourism. No doubt trafficking of children for sex tourism has now become a global phenomenon but the third world countries are the prime destinations of child sex tourism. These destinations are often those countries that have inadequate child protection programmes and poorly resourced ‘law enforcement agencies. Children in these developing countries are the victims of this heinous crime. Majority of children are trafficked from places in and around the identified tourism areas.\textsuperscript{25}

\textsuperscript{24} Ibid, p.66.
\textsuperscript{25} Article 35 CRC.
In the present study the researcher has attempted to answer some pertinent questions related to the problem of child sex tourism. The questions are—what is Sex Tourism? Is tourism related with sexual activities? What is the typology of child sex offenders? What are the various causative factors facilitating the growth of child sex tourism? What is the nature and extent of the problem and response to combat it in developing countries? And last but not the least what can be done to eliminate the nuisance of child sex tourism.

Trafficking a women and children is a complex and multifaceted phenomenon blended with sex tourism. However tourism is a permitted government activity and is not the cause of child sexual exploitation. But it cannot be denied that unmonitored and unregulated tourism industry paves the way for numerous illegal activities and the consequences of which are devastating in nature. Reports and Studies on tourism & trafficking are indicative that sex tourism and trafficking are intermingled activities and sex tourism industry is most prevalent in developing countries such as in Sri Lanka, India, Bangladesh, Pakistan, Burma, Bhutan, Thailand, Philippines, Nepal and Indonesia, etc.

There is no clear-cut definition of the term sex tourism. The term however is used to mean travelling to a foreign country in search of sex. Sex offenders particularly from developed nations are visiting to developing or under developed nations due to increase in vigilance and action against the paedophiles in their own nations. In the developing countries children are the victims of sex tourism and sex tourists from the developed countries have been exploiting the children of the poorer nations. Thus, international tourism has appeared as a powerful factor giving rise to victimization of vulnerable children in commercial sexual exploitation.

Tourism brings wealth, promotes universal kindliness and also maintains good friendly relations between host and tourists countries. Therefore one should with folded hands welcome a guest. There are enough instances in ancient Hindu literatures where guests were honoured and respected by the host. Manu, the great Hindu law giver said that “by honouring guests one secures Heaven and freedom from misfortune. Even today tourism is gaining high priority in the development policies of the developing countries. Governments are promoting tourism and doing their best to please outsiders in their own countries. But these governments have
turned blind eye towards unconditional tourism promotion which also promotes sexual exploitation of children. Those who are the perpetrators of sexual acts cannot be considered as a guest. A real guest is one who is good, worthy and deserving. Qualitative work on tourism and trafficking clearly indicates that tourism and sexual activities are interconnected with each other. It is true that every guest or tourist is not sex tourist but some of them definitely are who move from one country to another to buy child sex and are perpetrators of such a heinous crime of commercial sexual exploitation. Surprisingly these wrong doers go scot free after committing sexual offences against children on foreign land. Unfortunately, FIR, Investigation and Conviction do not take place probably against them because of the improper implementation of Child protection related laws. This is indeed the mockery of existing penal laws of the developing countries which incorporate several provisions to punish sexual offenders.

3.1. Profile or Identity of Sex Tourists

The next vital question associated with the menace of child sex tourism is that from where do child sex tourists come or what is their background? It is difficult to give an accurate profile of child sex tourists because of the scarcity of information and absence of reliable data about the problem. Moreover, issue of commercial sexual exploitation and its connection with tourism is an issue that is little about understood and shrouded in the culture of silence. But some qualitative researches' in this direction suggest that child sex tourist's from all walks of life. They may be married or single, male or female, wealthy tourists or budget travellers. They may be paedophiles travelling specifically to exploit children. Child sex tourists may be preferential, an offender who has a definite sexual preference for children. A major study conducted by National Human Rights Commission of India in 13 states and UT's of India about trafficking reported" that 852 clients were asked about their sexual taste during an interview, 53.3%, i.e. maximum number of clients stated that they prefer young girls and virgins because they are more submissive to exploitation, 33.8% clients stated that they prefer virgins because sex with them will cure HIV/AIDS. The facts exhibited above show that sex offenders are specific about their sexual taste and prefer young male/female and virgins. Another typology of child sex tourists is situational which means an offender who does not have a true sexual preference for children. They may take unfair advantages of the circumstances"
because of which maximum children become the legitimate targets of exploiters and traffickers. In fact these are the tourists for whom sex with child may often be a question of availability rather than preference.

The business of flesh trade is invisible in nature, but the preceding discussion makes it substantially clear that sex offenders who molest and exploit children come from different backgrounds; they are people with families, jobs and neighbours. Some are wealthy, some are poor, but it is true that all are involved in criminal behaviour.

### 3.1.1 Causative Factors for the Growth of Child Sex Tourism:

The major factors responsible for making children vulnerable to exploitation and particularly sexual exploitation by outsiders, which have come to light over the years are as follows:

First, extreme poverty, unemployment and increasing crimes against children in developing countries leave an impression in the mind of foreigners that children in these countries are vulnerable and can be exploited very easily for commercial sex.

Second, misrepresented belief in the mind of tourists that sex with children is safe and having sex with virgin children will cure HIV/AIDS and other sexually transmitted diseases.

Third, children affected by Natural calamities such as drought, cyclone, flood, earthquake and cloud burst may become the legitimate targets of commercial sexual exploitation at the hands of foreigners. These calamities make them vulnerable and homeless. The past decade has seen an alarming rise in the number of children who live or spend much of their time on the streets. Children living on street are the easy prey of foreigners and domestic tourists.

Fourth, the easy access to pornographic materials through internet and dirty websites. Tourists extract pornographic materials such as nude pictures of children from pornographic websites which pollute the mind of these outsiders and stimulate their sexual feelings ultimately forcing tourists to seek out children to satisfy their sexual urges.

Last but not the least the biased cultural and religious practices prevalent in some countries to dedicate girls in the name of god. Beside these gigantic factors for the growth of sex tourism some other miscellaneous factors such as absence of stringent child related laws and increasing child labour problem in third world
countries. Lack of educational opportunities for children, unplanned tourism development, loss of male earning members in family and unwanted secondary status of the girls within the family due to financial reasons deserve special attention here. Whatever may be the reasons for the growth of child sex tourism but, it is a hard fact that children are coerced, forced and tricked into the sex-trade which is a gross violation of their basic human rights.

3.1.2 Extent and Magnitude of Child Sex Tourism:

Gauging the extent and magnitude of child sex tourism with precision is extremely difficult as the sex trade is a complex problem and invisible racket. Nevertheless, researches and individual studies in this direction may serve as a strong indicator for the scope of the problem. In Philippines, child prostitution flourished during 1970s and 1980s with mass scale tourism development and increased sex tourism combined with increasing levels of poverty and dislocation. Indonesia seems to be attracting ever increasing number of sex tourists. Boys are mainly involved in selling sex to the tourists. PEACE, an NGO of Sri Lanka estimates that in Sri Lanka around 10,000 children aged 6-14 are virtually enslaved in brothels and a further 5000 aged between 10-18 years are working independently in tourist resorts.

Beside this, there is increasing evidence of children being commercially sexually exploited by outsiders in other developing countries. Reports are coming from Thailand, Bangladesh, Pakistan, Nepal and Africa, etc. of children entering in this socially and morally unacceptable activity. In India the abuse by tourists of both male/female children has assumed serious and glaring dimensions. Unlike Sri Lanka and Thailand this problem has also raised its ugly heads in India. Many sex tourists are paedophiles who seek children to satisfy their sexual urges. Goa, a small state of India has become a major sex destination for many visiting tourists. Sex tourism has also become a problem in Kerala which has witnessed a tourist boom since the early 80s. The children are primarily working in small hotels, fish processing units, self-employed as beach boys, trinket sellers or guides to the tourists. The foregoing study has clearly established that tourists are roaming freely within the boundaries of developing countries to exploit children sexually.26

3.1.3 Response to Combat Child Sex Tourism:

Many of the developing countries have drafted laws to deal with the threat of sex tourism. In India, *Goa Children's Act. 2003*, a landmark legislation addresses several issues of child sexual exploitation. As per the Act, unaltered adults cannot take children to hotel rooms and strict measures have been provided to regulate children's access to pornographic materials in the electronic media and the internet. Similarly, it is mandatory in Sri Lanka for developers of photographs and films to report any indecent or obscene films or photographs to the police station. In Thailand, the initiatives or the tourism authority and law enforcement agencies include child sex tourism deterrence, identification and prosecution of child sex tourists, tour operators, black listing of child sex tourist, tour operator's revocation of business license on conviction, etc. Similarly in Philippines and Taiwan it is reported that there is ban on hotel visitors less than 18 years of age. In Pakistan the Foreigners Act. 1949 and Foreigners' order of 1951 does not permit foreigners to enter Pakistan except from designated areas and in a specified manner. Similar kinds of laws have also been drafted in Maldives and Nepal.

3.1.4 Remedial Measures:

The response of the destination countries to the epidemic of child sex tourism has been ineffective. But one should not lead to believe the situation to be hopeless. There are ways that can contribute to the elimination of the evil of child sex tourism, these are:

- Child sex tourism has now become an international crime. In order to tackle the problem effectively, extra territorial laws to try sexual offenders who travel outside the country with the intention to have sex with children can be drafted specially in those countries which do not have such type of laws. Then and then only foreigners who are on the host land and engages themselves into sex with children can be duly prosecuted and punished.

- Anti-sex tourism messages can be displayed at places affected by natural calamities.

- Laws can make extensive provisions against sex tourism.

- Strict liabilities can be imposed on law enforcement agencies for non-
enforcement, lapses, indifference and omission in the use of the provisions of child protection related laws.

➢ Special police flying squads can be deputed to keep vigilance on those hotels which are involved in the business of supplying children to tourists for OSE.

➢ Anti-child sex tourism campaigns can be launched with the help of media travel agents and tour operators to raise public awareness.

➢ Strict and proper implementations of already existing laws to combat sex tourism.

Last but not the least there is an urgent need to review tourism promotion related policies in third world countries as well as in developed countries. Governments cannot turn blind eye towards unplanned tourism promotion. Anti-trafficking and anti-prostitution laws can be drafted in all nations of the world which can addresses the growing trend of sex tourism. It is high time now to join hands at global level to uproot the problem of child sex tourism. Let us hope that the future years would bring a ray of hope to the victims of sex tourism and Governments of all nations would promote tourism without commercial sexual exploitation linked to trade as of today. Only concerted efforts would definitely bring positive results which would go a long way to curb and control the menace of child sex tourism.  

3.1.5 Children Affected by Riots and Disasters:

Children are deeply aware of the social conflicts, and this awareness makes them anxious about the future, but they seldom find opportunities to express their anxiety. Even more seldom do they get an opportunity to discuss and probe social conflicts. An incident to illustrate this point may be narrated. It occurred on the day schools reopened in Delhi after the riots that followed the assassination of Indira Gandhi at the end of October 1984. During the days of these ghastly riots, it would have been hard to find a child who had not seen columns of smoke on Delhi’s horizons, it would be difficult to count the number of children that had witnessed scenes of brutal killings with their own eyes, but it can guess and that their number must be in the tens of thousands. The tension and insecurity that people-leaving aside the killing hordes and their leaders, of course-felt, irrespective of their religious back

grounds were so obvious in every locality that it was hardly necessary for children to
guess why political leader a were as king people over television to stay calm. On the
contrary, children who were nut part of families attacked by mobs.

3.2 Conclusion

Realizing the deprived and vulnerable conditions of children, the law makers
of the country have always accorded a privileged status to children. The number of
rights and privileges given to the children in the Constitution of India, duly supported
by other legal protections, bears a testimony to this. During the last decade, various
path breaking legislations have been made to suitably strengthen the legal provisions.
On policy side, the Government of India is committed to promote the survival,
protection, development and participation of children in a holistic manner and a series
of measures cutting across the boundary of gender, caste, ethnicity or region have
been initiated in the past several years to realize the all inclusive growth devoid of
exclusion and discrimination. The 11th Five Year Plan paved the way and the
commitments have been reiterated with a renewed vigor in the 12th Five Year Plan.

Major kinds of exploitation or Crime committed against children are- Physical
or economic exploitation; Sexual exploitation. Over the years, the understanding of
children in difficult circumstances has come to include the following categories of
children. While exact and precise data on all these categories of children is not
known, a situational analysis based on the information is available is imperative for
planning for the children in difficult circumstances. Child abuse includes physical
abuse, sexual abuse, verbal abuse, emotional abuse, economical abuse- includes child
labour, bonded labour.

SAKSHI, an Indian organization, working on women and child rights, has
defined child sexual abuse as ‘the physical or mental violation of a child with sexual
intent, usually by an older person, who is in some position of trust and / or power vis-
a-vis the child”. According to David Finkelhor, “child sexual abuse” implies-sexual
encounters of children under age of 13 with persons at least five years older than
themselves and encounters of children between 13 and 16 with persons at least 10
years older. The term “sexual encounter” includes intercourse, anal - genital contact,
fondling or an encounter with an exhibitionist and also any activity that brings sexual
gratification to the perpetrator.
Child trafficking flourishes in the dark gloom of poverty, distraction, inequity, corruption, scuttle hopes and broken dreams, deceit, trickery, violence, political conflict and criminality. The victim may be female or male, child or adult, any race or ethnicity and from any country in any region of the world. Poverty and the lack of monetary prospects endow with a fruitful ground for traffickers. Over and over again the families of victims are misleading, but sometimes a family member is complicit in the victim's fate. In other places where the financial system has shrunken, education creates false impression of opportunities abroad. The temptation for better life, crises in the home, and the low value placed on women and children can push many towards waiting traffickers.

The nation's children are an extremely significant asset. Their look-after and concerns are our accountability. Children's programme should find outstanding element in our countrywide strategy for the growth of human resources, so that our children are nurtured up to turn into full-bodied resident, bodily fit, psychologically alert and morally healthy, gifted with the talent and inspirations endowed with society. Equal prospects for progress to all children throughout the phase of development should be our aim for this would serve our larger purpose of reducing dissimilarity and bring social justice.

The major factors responsible for making children vulnerable to exploitation and crime against children are by outsiders, which have come to light over the years are Extreme poverty, unemployment and increasing crimes against children in developing countries leave an impression in the mind of foreigners that children in these countries are vulnerable and can be exploited very easily for commercial sex. Misrepresented belief in the mind of tourists that sex with children is safe and having sex with virgins will cure HIV/AIDS and other sexually transmitted diseases is quite rampant. Children affected by Natural calamities such as drought, cyclone, flood, earthquake and cloud burst may become the legitimate targets of commercial sexual exploitation at the hands of foreigners. These calamities make them vulnerable and homeless. The past decade has seen an alarming rise in the number of children who live or spend much of their time on the streets. Children living on streets are the easy prey of foreigners and domestic tourists. The easy access to pornographic materials through internet and dirty websites, further deteriorate the tender minds of the children. Tourists extract pornographic materials such as nude pictures of children.
from pornographic websites which pollute the mind of these outsiders and stimulate their sexual feelings ultimately forcing tourists to find out the children to satisfy their sexual urges. Beside these gigantic factors for the growth of sex tourism some other miscellaneous factors include absence of stringent child related laws and increasing child labour problems in the third world countries. Lack of educational opportunities for children, unplanned tourism development, loss of male earning members in family and unwanted secondary status of the girls within the family due to social and financial reasons deserve special attention. Whatever may be the reasons for the growth of child sex tourism but, it is a hard fact that children are coerced, forced and tricked into the sex-trade which is a gross violation of their basic human rights.