CHAPTER-7
ROLE OF GOVERNMENT IN PROTECTION OF CHILD

World leaders made a commitment to meet children’s right to survival, health, education, protection and participation – among others – during Millennium Summit in September 2000, from which the Millennium Declaration and, subsequently, the Millennium Development Goals (MDGs) emerged. Both the declaration and the MDGs were later reaffirmed in the 2005 World Summit. Based on fundamental human rights, they provided a framework for the entire UN system to work coherently towards a series of concrete objectives for human development.¹

THE MILLENNIUM DECLARATION²

Through adoption of the Millennium Declaration, the world’s countries resolved to:

- Strive for the full protection and promotion of civil, political, economic, social and cultural rights for all.
- Combat all forms of violence against women and implement the convention on the Elimination of All forms of Discrimination against women.
- Encourage the ratification and full implementation of the convention on the Rights of the Child and its optional protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography.

The Millennium Declaration addresses child protection explicitly. A close look at the MDG’s shows that not a single goal can be achieved unless the protection of children is an integral part of programming strategies and plans.

¹ http://www.unicef.org/protection/files/MDG.pdf.accessed
² Ibid.
Failing to protect children from such issues as, child labour, harmful traditional practices, the absence of parental care or commercial sexual exploitation squanders the world's most precious resource. Reaching the most vulnerable and isolated populations helps ensure the health and well-being of all and is indispensable to achieve the MDG's.

At the United Nations Summit the heads of states and governments agreed to work on the following goals:

Goal 1 – Eradicate extreme poverty and hunger
Goal 2 – Achieve universal primary education
Goal 3 – Promote gender equality and empower women
Goal 4 – Reduce child mortality
Goal 5 – Improve maternal health
Goal 6 – Combat HIV/AIDS, malaria and other diseases
Goal 7 – Ensure environmental sustainability
Goal 8 – Develop a global partnership for development

MILLENNIUM DEVELOPMENT GOALS AND OTHER COMMITMENTS IN INDIA

The efforts to meet and exceed the MDGs in India is a stated objective in many of the key policy documents of the country including the National Five Year Plan.

I) Child Protection in Five Year Plans

(A) Child Protection through First to Ninth Five Year Plans (1951-2002)

The child development has been a priority subject in the country's developmental planning right from the First Five Year Plan (1951-56). The First Five Year Plan recognised the importance of promoting social services for maintaining and consolidating the gains of economic development, attaining adequate living standard, and social justice. Accordingly, a comprehensive social
welfare programme that was developed during the First Five Year Plan included welfare of women and children, family welfare, welfare of Physically and Mentally Disabled Children.

Primarily, the child care services were handled by voluntary organisation under the charge of a National Apex body called the Central Social Welfare Board that was set up in 1953. The Ministry of Education in September 1955, constituted a National Advisory Council and the main functions of this council were to advise central Government on problems concerning the education, training and employment etc. of physically or mentally disabled.

Subsequent review and assessments concluded that holistic development of the child requires integration with other developmental sectors and their services. Accordingly, during the Second to the Fourth Plan (1956-78), child welfare services were linked to different sectors of the plan such as Health, Family Welfare, Nutrition, Education, etc.

In the Second and Third plans (1956-61 and 1961-66) the basic services like education and rehabilitation of disabled were extended in the rural areas. The Central Bureau of Correctional Services (CBCS) was also set up in 1961 for collection and compilation of national statistics etc. Social Defence Programmes under the Suppression of Immoral Traffic in women and Girls Act, Probation of Offenders’ Act and Children Acts were organised.

In the Fourth Plan (1966-71) the activities of Central Social Welfare Board that was set up in First Five Year Plan were further strengthen. Further, three National Institutes for the Blind, the Deaf and the Mentally Retarded and a National Institute of Orthopaedically Handicapped was also set up under the said plan.

The Fifth Plan (1974-78) proved to be the landmark in the field of child development through the adoption of a National Policy for Children (1974), and
launching of the Integrated Child Development Services (ICDS). The Central Bureau of Correctional Services (CBCS) now raised to the status of an Apex Agency and given the title of “National Institute of Social Defence (NISD)” to be a model organisation at the National Level with specialized services of training, research and developing alternative model for innovative experiments, field testing etc.

The Sixth Five Year Plan (1980-85), witnessed the adoption of National Policy of Health in 1983 that has set certain specific targets like bringing down the high rates of infant and child mortality and takes up universalisation of immunization etc. by the year 2002 A.D. The social welfare programmes received further momentum in the state sector. The children’s Act (the present J J Act of 2000) were enacted in all the states (except Nagaland). Further the voluntary Action Bureau was set up in 1982 to meet the challenges of crimes and atrocities against women and children and to create awakening among the masses towards their social responsibility.

During Seventh Five Year Plan (1985-90) the ICDS continued to be the single nation-wide programme for early childhood survival and development. In this plan the programmes like universal immunization, maternal and child care services, nutrition & pre school education were strengthened. The J J Act was enacted in 1986 to deal with problem of neglected or delinquent juveniles. The Government of India enacted the child Labour Prohibition and Regulation Act, 1986 and in 1987, the National Policy on Child Labour was formulated.

During the Annual Plan (1990-92) a significant expansion of programmes and services for the welfare of the Disabled took place. For education of the Disabled almost all the states implemented programmes to provide stipends and other incentives to the Disabled at the elementary school stage.
Human Resources Development being the major focus of the **Eight Five Year Plan (1992-97)**, policies and programmes relating to 'child survival, protection and development' were accorded high priority with emphasis on family and community based preventive services to combat high infant and under-5 child mortality and morbidity. Following the ratification of the ‘Convention on the Rights of the Child’, in 1992 the Government of India formulated two National Plan of Action (NPA) – one for children and the other exclusively for the Girl-Child.

In view of the main thrust of the Eighth Plan Policies and programmes relating to survival, protection and development of all sections of the population especially those of the disabled and Disadvantaged were implemented. The major thrust was towards enabling the disabled to become active, self-dependent and productive member of the nation by extending opportunities of education, vocational training and economic rehabilitation etc. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, was a landmark achievement in the history of the welfare of the disabled.

Further, in the field of Social Defence, greater thrust was laid on non-institutional care and rehabilitation of beggars. Efforts were also made to tackle the evil of prostitution. The special feature in the field of Social Defence was launching in 1993 of a new programme of Welfare and Rehabilitation Services for the street children – an emerging problem. The revised guidelines and procedures laid down by the Supreme Court for regulating inter-country adoption was implemented by CARA.

The **Ninth Five Year Plan (1997-2002)** reaffirmed its priority for the development of early childhood as an investment in the country’s human resource development through inter-ministerial strategies.
The strategy aimed at placing the young child at the top of the country’s Developmental Agenda with a Special Focus on the Girl Child; instituting a national charter for children ensuring that no child remains illiterate, hungry or lacks medical care; ensuring ‘Survival, Protection and Development’ through the effective implementation of the two National Plans of Action – one for the children and the other for the Girl Child; acknowledging that the first six years as critical for the development of children, therefore, greater stress will be laid on reaching the younger children below 2 years; continuing to lay a special stress on the 3 major areas of child development viz. health, nutrition and education; universalizing ICDS as the main-say of the Ninth Plan for promoting the over-all development of the young children, especially the girl child and the mothers all over the country; arresting the declining sex ratio and curb its related problems of female foeticide and infanticide.

In order to achieve these commitments efforts were being made during the Ninth Plan through various policy interventions, in all child-related sectors through effective coordination and convergence of services and personnel. Details of some of the sectoral efforts and achievements are as follows:

(B) Women and Child Development :- Efforts were made to strengthen the on­going approach of converging the basic services of health, nutrition and preschool education towards promoting the holistic development of the young child through Integrated Child Development Scheme (ICDS) which continued to be the major intervention during the Ninth Plan for the overall development of children.

(1) The Integrated Child Development Services (ICDS) Scheme was launched in 1975 with the following objectives:

(i) To improve the nutritional and health status of children below the age of six years and pregnant and lactating mothers.
(ii) To lay the foundation for the proper psychological, physical and social development of the child;
(iii) To reduce the incidence of mortality, morbidity, mal-nutrition and school drop-outs.
(iv) To achieve effective coordination of policy and implementation among various departments to promote child development.
(v) To enhance the capability of the mother to look after the normal health and nutritional needs of the child through proper health and nutrition education.

The scheme provides a package of following services to children below six years and pregnant and lactating mothers from disadvantaged sections: (i) supplementary nutrition, (ii) immunisation, (iii) health check-up, (iv) referral services, (v) pre-school non-formal education, and (vi) nutrition and health education.

The Scheme envisages, on an average, one rural/urban project for one lakh population and one tribal project for 35,000 population, with one anganwadi centre for one thousand population in rural/urban projects and 700 population in tribal project, with suitable adjustments, wherever necessary, in the light of local conditions. In hilly or desert areas which may be scarcely populated, villages may be very small or divided into small hamlets. In such cases, an anganwadi may be set up in a village or a hamlet having a population of 300 or more.3

The ICDS was introduced in 33 blocks (projects) in 1975. It has gradually been expanded to 5652 projects, of which 5413 projects became operational as in December 31, 2004. According to the annual report (2004-05) of the Department of Women and Child Development, as on September 30, 2004, services under the

scheme were being provided to about 452.36 lakh beneficiaries, comprising about 377.12 lakh children (0-6 years) and about 75.25 lakh pregnant and lactating mothers through a network of 6.92 lakh anganwadi centres.\(^4\)

(2) The Balika Samriddhi Yojna is a 100% centrally sponsored scheme to extend 100% central assistance to States/ Union Territories to provide benefits under the scheme in accordance with the norms, guidelines and conditions laid down by the Central Government.

The main objectives of the Scheme are:\(^5\)

(i) To change negative family and community attitudes
(ii) towards the girl child at birth and towards her mother.
(iii) To improve enrolment and retention of girl children in schools.
(iv) To raise the age of marriage of girls.
(v) To assist the girl to undertake income generating activities.

The Balika Samriddhi Yojana will cover both rural and urban areas in all districts in India. This Yojana was launched to extend a special package to girl children belonging to families living below the poverty line to ensure that all girl children enter into schools. Special incentives, viz Rs. 500 to the mother and annual scholarships ranging from Rs. 300 to Rs. 1000 for girl children in classes 1 to X.

(3) The Kishori Shakti Yojana: An intervention for adolescent girls (11-18 years), Kishori Shakti Yojana, was launched in 2000-2001. Kishori Shakti Yojana (KSY) seeks to empower adolescent girls, so as to enable them to take charge of their lives. It is viewed as a holistic initiative for the development of adolescent girls. The programme through its interventions aims at bringing about a difference in the lives of the adolescent girls. It seeks to provide them with an opportunity to realize their full potential.

\(^4\) Id; p. 209.
\(^5\) Children related scheme by Department of women and child Development downloaded through website http://wcd.nic.in/schemes.htm, accessed on 3rd April 2009.
This scheme is a redesign of the already existing Adolescent Girls (AG) scheme being implemented as a component under the centrally sponsored Integrated Child Development Services (ICDS) scheme. The new scheme dramatically extends the coverage of the earlier scheme with significant content enrichment, strengthens the training component, particularly in skill development, aspects aimed at empowerment and enhanced self-perception. It also fosters convergence with other sectoral programmes, addressing the interrelated needs of adolescent girls and women.

**Objectives**: The broad objectives of the scheme are to improve the nutritional, health and development status of adolescent girls, promote awareness of health, hygiene, nutrition and family care, link them to opportunities for learning life skills, going back to school, help them gain a better understanding of their social environment and take initiatives to become productive members of the society.

The total number of blocks covered under KSY is 6118 and financial norms for KSY is Rs. 1.10 lakh per ICDS project per annum.6

(4) National Crèche Fund – Most of the children who accompanied their mothers to the worksite were either left in the shade nearby or kept near the sport where the mother was working. One mother worried that the child “kept following her around the worksite” while keeping a child at the worksite is difficult enough an “normal” days, it becomes even more problematic in harsh weather or when the child is sick, if there is no childcare facility.7

Under these difficult circumstances, an overwhelming proportion (almost 85 percent) of mothers who left their children at home said that if a crèche was provided at the worksite, they would certainly bring their children.8

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6 Ibid.
8 Id; p. 62.
Therefore, the National Creche Fund (NCF) was set up in 1994 to meet the growing requirement of working mothers for opening more crèche centres. A corpus fund of Rs. 19.90 crore was made available out of the social safety net Adjustment Credit from the world Bank.

The scheme envisaged that 75 percent of the centres to be assisted by the NCF would be general crèches and 25 percent of the centres would be anganwadi-cum-crèche centres. The general creches assisted by the NCF would be on the pattern of the creche scheme of the DWCD and would provide service to children below 5 years which include day care facilities, supplementary nutrition, immunisation, medical and health care and recreation. Children of parent whose family monthly income does not exceed Rs. 1800 are eligible for enrolment.

(C) Health and Family Welfare :- The Reproductive and Child Health (RCH) programme, being operated by the Ministry of Health and Family Welfare since October 1997. It incorporates the components covered under the child survival and safe motherhood programme and includes an additional component relating to reproductive tract infection and sexually transmitted infections.

(D) Nutrition :- As a country dependent, significantly on rain-fed agriculture, India has faced periodic droughts. There have been occasions when starvation has been reported despite availability of food-grains in the country. However, the prevalence of malnutrition, particularly among the women and children is a serious reality facing the country. Even today, India has 5 crore 70 lakh children are suffering by malnutrition which is 47 percent of whole world.

In the recent year, a range of strategies has been devised to address the above stated issue. By and large, these strategies have been based primarily on the

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provision of cheap, and even free, food to this particular vulnerable class i.e. children.

The Integrated Child Development Services (ICDS) covers young children and mothers; the Mid-day Meal Scheme (MDM) supports the school-going children.

The National Nutrition Policy (1993) advocates a comprehensive inter-sectoral strategy for alleviating all the multi-faceted problems of under/malnutrition and its related 'deficiencies and diseases so as to achieve an optimal state of nutrition for all sections of society but with a special priority for women, mothers and children.

Further, the nutrition component of Prime Minister’s Gramodaya Yojana (PMGY) was specially outlined with the objective of eradicating mal-nutrition amongst children under 3 years by increased nutritional coverage of supplementary feeding of these children through ICDS schemes.

(E) Education :- Government of India has, in accordance with its constitutional mandate, taken several initiatives in the form of enabling policies, legislations and interventions to spread literacy, promote educational development and bridge gender disparities. An enabling policy framework has been provided in the form of the National Policy on Education, 1986, as revised in 1992, and the Programme of Action, 1992, that have given an impetus to universalizing elementary education. The Government of India is committed to realising the goal of elementary education for all by 2010. Sarve Shiksha Abhiyan (SSA) campaign on education for all, launched in 2000, is the national umbrella programme that is spearheading the universalisation of elementary education for all children.

Early childhood care and education constituted an integral part of Sarva Shiksha Abhiyan.
One of the most significant developments in recent years has been the passage of the Right of Children to Free and Compulsory Education Act, 2010 that makes free and compulsory education a fundamental right for all children in the age group of 6-14 years.

(F) Welfare and Social Justice :- The Ministry of Social Justice and Empowerment implemented many welfare programmes for children in difficult circumstances. A Child Line Foundation was set up to extend child line services in major cities to protect children facing abuse, exploitation and neglect etc. under the Schemes of Assistance to Homes for Infants and young children for promoting in-country adoption, institutional care to children who have lost parental support at a very early age (0-6 years) is provided till the time they are placed in adoption. Under this scheme, grant-in-aid was given to voluntary agencies for setting up homes (Shishu Griha) for infants for promoting in-country adoption. A Programme for Juvenile Justice aimed at strengthening the implementation of Juvenile Justice Act 1986 and to bring about a qualitative improvement in the services provided for both neglected as well as delinquent children. Under this scheme, children Homes, observation homes, juvenile homes, special homes and after-care institutions are established. Besides, juvenile courts and Juvenile Welfare Boards are also operating in different parts of the country for implementation of the Juvenile Justice Act.\textsuperscript{11}

The Scheme of Rehabilitation of Children of Sex Workers implemented by voluntary organisations, aims to rehabilitate the children of sex workers who are one of the most disadvantaged segment among the neglected children through imparting vocational training, non-formal education, health care and nutrition. Under this scheme, grants are also given for setting up of Day-care centre for

\textsuperscript{11} A sub group report on child protection in Eleventh Year Plan (2007-2012) by ministry of women and child development, government of India, New Delhi, pp. 76-77.
children of fishermen, maintenance of orphan children etc. The integrated 
programme for street children aims to prevent destitution of children and facilitate 
their withdrawal from life on the street. The programme provides for shelter, 
nutrition, health care, education, recreation facilities to street children and seeks to 
protect them against abuse and exploitation. The target group of this programme 
is children without homes and families such as street children, children of sex 
workers and children of pavement dwellers. Under this scheme, grants are given 
to voluntary organisations, State Government, UT administrations, local bodies 
and educational institutions.  

In pursuance of the directions of the Hon'ble Supreme Court of India, a 
Central Adoption Resource Agency (CARA) was set up as one of the sections 
of the ministry in 1990 and was registered as an autonomous body in 1999 with 
the objective of providing a detailed framework for regulating and expediting 
adoptions in India. Various efforts have been initiated to ensure promotion of 
adoptions as well as to streamline adoption services. CARA has been closely 
networking and coordinating with State Governments in monitoring and 
evaluating adoption agencies, Voluntary Coordinating Agencies (VCA’s) and 
NGO’s that are receiving grants under the Shishu Griha Scheme. CARA has also 
initiated various steps in promotion of in-country adoptions. These include 
strengthening the VCAs by enhancing their grant-in-aid. In order to enhance the 
capacity building of various agencies involved in adoption, a series of 17 training 
programmes were organised all over the country under the National Initiative for 
Child Adoption in Collaboration with the National Institute of Social Defence.  

The Tenth Five Year Plan (2002-2007) emphasized convergence and 
inter-sectoral coordination while pursuing a holistic approach to child 

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12 Id; p. 77.
13 Ibid.
development. The Tenth Plan advocated right based approach to the Development of the children. The Plan indicated certain monitorable targets which concerned children, these were:

(i) All children to be in school by 2003 and all children to complete five years of schooling by 2007.

(ii) Reducing of gender gaps in literacy and wage rates by at least 50 percent by 2007.

(iii) Reducing of infant mortality rate (IMR) to 45 per 1000 live births by 2007 and to 28 by 2012.

(iv) Reduction of maternal mortality ratio (MMR) to 2 per 1000 live births by 2007 and to one by 2012.14

II) Emerging Issues of First to Tenth Five Years Plan :- Ten Successive Five Year Plans have neither allocated nor utilized an adequate share of available National Resource to meet the needs of the children or to realize their rights. As a result, the status and condition of children even today remains insecure. The plans reviewed and assessed offers an opportunity to re-examine the challenges facing this sector.

- Children are still not a priority on the Development Agenda. Therefore, there is a need to recognize the situation of children as Human Development Indicator
- Considering that childhood has now been extended to 18 years, a clear 42 percent of India’s young citizens are to be served by both developmental and protective measures.
- Investing children and mothers is one of the surest ways for a country to set its course towards a better future.

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• Whether the concern for the children is likely to last in the context of major National and International Commitments.

• It is clear that meeting the above goals will require political will, resources and sound strategies on an unprecedented scale.

• Children who are living without family support and are beyond Government’s reach, have special protection needs. Programmes must evolve to offer them dignity and choices, not just charity.

• Initiatives for children are dispersed between departments and ministries. There is a lack of inter-sectoral, inter-departmental convergence which hampers the successful delivery and monitoring of services for children.15

III) Priority Areas/concerns for Eleventh Plan :- The Eleventh Plan emphasizes that children and their Development are central to the Eleventh Plan. The plan will strive to create a protective Environment, which will ensure every Child’s Right to Survival participation and Development.

Based on Unfinished Agenda from Tenth Plan, the analysis of the states of children and the existing policies and programme gaps, the Eleventh Plan categorically says that “Development of Children is at the centre of the Eleventh Plan”. The Eleventh Plan aims at recognizing the situation of the children as the best Human Development Indicator and make it the key indicator for the Five Year Plans, across all sectors. The strategy being suggested for this plan;

• The present hostile environment increases the vulnerability of the child and therefore reduction of such threats by establishing child impact as a core indictor of Eleventh Plan interventions, with special emphasis on the status of the girl child.

15 Ibid.
• Creation of protective environment for children through implementation of child-friendly protection services and schemes that address the survival, development and protection needs of the children.

• Identification of the most vulnerable and marginalized children with special focus on the girl child.

• Ensure effective implementation of laws and policies by personnel trained to work with children.

• Develop specific interventions to address mal-nutrition, neonatal and infant morality.

• Recognizing the early childhood education for implementation through ICDS and SSA.

• Ensure better outcome, adequate and appropriate budget allocation and proper utilization. Implement “Child Budgeting” as an important policy and to take stock of development investments for children and identify gaps in resource investment and utilization.\(^\text{16}\)

(A) Critical Areas/Groups for the Eleventh Plan addressed are;

(1) Early Childhood Development

As per Census, 2001, the country has sixty million children in the age group of 3 to 6 years. The 86th Amendment to the Constitution, making education for children in the 6-14 age group a fundamental right, the below sixes were left out. It is this group which is faced with under nutrition and malnutrition

(2) The girl child

The Eleventh Plan’s emphasis on gender equality and “Arresting the decline in the child sex ratio, Nutrition Programme for Adolescent Girl, Kishore Shakati Yojana, Balika Samriddhi Yojana” are the current Schemes catering to

\(^{16}\) Id; p. 27.
the girl child. Though, the schemes are definitely not Health and Family Welfare oriented issues, they require to be treated and viewed as protection issues.

(3) Child Labour

Child Trafficking, Sexual Exploitation are problems that the society is increasingly being confronted with. The Eleventh Plan proposes to ensure that this vulnerable group is protected from further abuse. Children affected by HIV/AIDS, Children in Conflict with Law, Children in Distressed Circumstances, Children with Disabilities are going to be addressed and treated as Critical Target Groups.

Through an Act of Parliament, the Government of NCT Delhi has set up Delhi Commission for Protection of Child Rights (DCPCR). The Commission is meant to protect and fulfil the various rights for children enumerated under UN’s Convention on Rights of Child (UNCRC) for their survival, protection, development and participation. The creation of Delhi Commission for Protection of Child Rights by the Delhi Govt. is a historic and pioneering initiative. The children who are reported to be extremely deprived, marginalized and poor-who suffer multiple forms of abuse and exploitation. A large number of whom are legally defined as “Children in Need of Care and Protection” under Juvenile Justice Act 2000. The Commission is committed to convert these children into “Supreme Assets”, which they are actually meant to be.

The Eleventh Plan marks a big step forward in the area of Child Rights. It is entrenched in a Rights Framework that view children as agents and not as recipients. It recognizes and acknowledges multiple discriminations wherein the children are trapped in. This acceptance of the situation of the children can alone safeguard their rights and ensure better outcomes for children.17

17 Ibid.
OTHER COMMITMENTS OF CHILD PROTECTION IN INDIA

I) National Policy for Children 1974:– The National policy for children was adopted on 22nd August 1974. This policy reaffirms the constitutional provisions and lays down that the state shall provide “adequate services towards children, both before and after birth and during the growing stages for their full physical, mental and social development”. “The state shall progressively increase the scope of such services so that within a reasonable time all children in the country enjoy optimum conditions for their balanced growth.”

The measures suggested include amongst others, a comprehensive health programme, supplementary nutrition services with the object of removing deficiencies in the diet of children, free and compulsory education for all children upto the age of 14 years, promotion of physical education and recreational activities, special assistance to the weaker sections of the society, such as children belonging to the scheduled caste and Scheduled tribes and those belonging to the economically weaker sections, both in urban and rural area; Educational and rehabilitation facilities to delinquent & street children, protection to neglected and exploited child, special treatment to physically handicapped children, interest of children will be paramount consideration and last strengthening of family ties so that full potentialities of growth of children can be realised.18

The National Policy for children sets out priorities for:

(i) Improving child health,
(ii) Improving nutrition for infant and child,
(iii) Providing special care to orphan and destitute children,
(iv) Providing special care to handicapped children,
(v) Building of creches and other facilities for children of working or ailing mothers.

(A) Law Relating to Education

(1) Evolution of Laws\(^19\): The Indian Education Commission appointed in 1882, contained the proposal for adopting a law for universal compulsory education or at least for children employed in factories was mooted. This was also rejected due to financial and administrative difficulties. The first experiment of making primary education compulsory took place in 1893 when the ruler of the state of Baroda, Maharaj Sayajirao Gaekwad, introduced compulsory education in the Amreli division of his state; since the results were promising, he extended it to the entire state in 1906.\(^20\)

Gopal Krishna Gokhale made the first definite demand for the official introduction of primary education in March 1910 when he moved a resolution in the Imperial Legislative Council, which was later withdrawn. Even as late as 1913, the British government was not prepared to accept the principle of compulsion, but wished to expand primary education on ‘a voluntary basis’. However, in 1918, with the efforts of Vithalbhai Patel, Bombay passed a Primary Education Act permitting municipalities to introduce compulsory education in their areas. Within a few years, other provinces also passed laws aimed at compulsory education. By the early 1930s, the principle of compulsory education was written into state law. But these laws, however, were not implemented satisfactorily due to many reasons like technical flaws, lack of experience, unwillingness to make use of the power of prosecution under the Acts, etc.\(^21\)

(2) Constitution of India

In 1950, after independence, the Constitution of India in Article 246 dealt with the subject matter laws made by the Parliament and by the legislatures of

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21 Ibid.
States. Education, including technical and medical education, is placed in List III, i.e. the Concurrent List of the Seventh Schedule of the Constitution of India. Thus, the Parliament as well as the individual State legislatures can make laws on the subject of education. Such a scheme of distribution of legislatures can make laws on the subject of education. Such a scheme of distribution of legislative powers under the Constitution is a necessary component of a federal political structure.

The Constitution in Article 45, made compulsory education a matter of national policy. The Constitution, in Article 45, lays down as a directive principle that ‘every child up to the age of fourteen shall receive free and compulsory education’. Articles 39f, 46, and 47 lend further support to this constitutional directive. The founding fathers of the Constitution clearly intended to ensure that every child, irrespective of social or economic status of his/her parents, received care and education from birth up to the age of fourteen years. This goal was to have been achieved ‘within a period of ten years from the commencement of this Constitution’.

Article 28 of the Constitution is also relevant to education of children. It provides freedom as to attendance at religious instruction or religious workshop in certain educational institutes. The provision in this Article protects the child from any information of religious instruction through educational institutions. Article 29 of the Constitution provides the right to admission to educational institutions (receiving state aid) without discrimination on the basis of religion, race, caste, and language. A related directive has been given in Article 41 of the Constitution, which states that the state shall, within the limits of its economic growth and development, make effective provisions for securing the right to work.

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22 Education was a state subject whereby the state legislature had the exclusive jurisdiction of legislating in matters pertaining to education. In 1976, with the Constitution (Forty-second Amendment) Act, education became a concurrent subject. As a result of this amendment, no part of the subject of education now belongs to the exclusive state list.
The Constitution of India lays down that the State legislature may by law endow the Panchayats (Article 243G) and municipalities (Article 243W) with such powers and authority as may be necessary to enable them to function as institutions of self-government. Such a law may contain provisions for the devolution of powers and responsibilities with respect to:

- The preparation of plans for economic development and social justice.
- The implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the matters listed in the schedules.

The Eleventh Schedule\(^23\) of the Constitution recognizes the powers, authorities, and responsibilities of the Panchayats in matters pertaining to education, including primary and secondary schools, technical training and vocational education, and adult and non-formal education.\(^24\) The Twelfth Schedule\(^25\) of the Constitution covers the powers, authorities, and responsibilities of the municipalities, which includes promotion of cultural, educational, and aesthetic aspects.\(^26\) Thus, among the local bodies the Panchayats have been given clear-cut powers for undertaking activities for the promotion of elementary education, whereas for the municipalities, this has not been spelt out clearly.\(^27\) The seventy-third and seventy-fourth constitutional amendments have given a statutory basis to district planning by providing for a District Planning Committee to consolidate the plans prepared by Panchayats and municipalities and to prepare a draft development plan for the district as a whole.

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\(^{23}\) Added by the Constitution (Seventy-third Amendment) Act 1993.

\(^{24}\) Entries 17, 18 and 19 respectively.

\(^{25}\) Twelfth schedule has been inserted by the Constitution (Seventy-fourth Amendment) Act 1993.

\(^{26}\) Entry 13.

\(^{27}\) ‘Frequently asked questions on the Fundamental Right to Education’, compiled by Centre for Child and the National Law School of India University, Bangalore, August 1998.
The Constitution (Eighty-third Amendment) Bill provided to make free and compulsory education to all citizens of the age group of 6-14 years, a fundamental right by inserting Article 21A in the Constitution. Under this bill, Article 45 of the Constitution had to be omitted and in Article 51A of the Constitution, after clause (j) the following clause will be added, namely: clause(k) to provide opportunities for education to a child between the age of six and fourteen years of whom such citizen is a parent or guardian. This Bill was replaced by the Constitution (Ninety-third Amendment Bill) 2001 which was passed by the Lok Sabha in November 2001. It has also received the presidential assent.

The significant provision of the ninety-third amendment are:

- The amendment makes education a fundamental right for children in the age group 6-14 years.\(^{28}\)
- The state shall endeavour to provide early childhood care and education for all children until they complete the age of six years.\(^ {29}\)
- It shall be the fundamental duty of the parents and guardians to provide opportunities for education to their children or, as the case may be, wards between the age of six and fourteen years.\(^ {30}\)

This amendment has made the right to free and compulsory education for the children a fundamental right. The fundamental right to free education will have paramount importance as it means that the State is now under the legal obligation

\(^{28}\) Ninety-third Constitutional Amendment: After Article 21 of the Constitution the following article shall be inserted, namely: ‘Article 21A. The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine’.

\(^{29}\) For Article 45 of the Constitution, the following shall be substituted : ‘Article 45. The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years’.

\(^{30}\) In Article 51A of the Constitution, after clause (j) the following clause shall be added, namely: ‘(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years’.
to provide free and compulsory education to all children between 6-14 years of age. If the State fails to fulfill its obligations, any person can seek constitutional remedies against the State for the violation of fundamental rights.\textsuperscript{31} Universal free and compulsory education should have become a reality in India by 1960. Article 45 of the Indian Constitution says: ‘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 unit they complete the age of 14 years,’ But that constitutional obligation was time and again deferred—first to 1970 and then to 1980, 1990, and 2000. Realizing the sluggish attitude and delaying tactics in implementing the Constitutional commitment, the Supreme Court of India, in the \textbf{Unnikrishnan judgement} in 1993, said: ‘\textit{It is noteworthy that among the several articles in Part IV only Article 45 speaks of time limit, no other article does. Has it not significance? Is it a mere pious wish, even after 44 years of the Constitution?}’ The Tenth Five-year Plan visualizes that India would achieve universal elementary education by 2007. However, the Union Human Resource Development Minister recently announced that India would achieve this target by 2010.

\textbf{II) National Policy on Education in India}

The National Policy on Education (NPE) is a policy formulated by the Govt. of India to promote education amongst India’s people. The policy covers elementary education to colleges in both rural and urban India. The first NEP was promulgated in 1968 by the govt. of prime minister India Gandhi, and the second by prime minister Rajiv Gandhi in 1986.

\textbf{(A) National policy of 1968 :-} The National Policy of 1968 marked a significant step in the history of education in post-independence India., which called for a “radical restructuring” and equalize educational opportunities in order to achieve

\textsuperscript{31} Constitution of India, Articles 226 and 32.
national integration and greater cultural and economic development. The policy called for fulfilling compulsory education for all children up to the age of 14, as stipulated by the constitution of India, and the better training and qualification of teachers. Since the adoption of the 1968 policy, there has been considerable expansion in educational facilities all over the country at all levels. More than 90% of the country’s rural habitants now have schooling facilities within a radius of one kilometer. Perhaps the most notable development has been the acceptance of a common structure of education throughout the country and the introduction of the 10+2+3 system by most states. In the school curricula, in addition to laying down a common scheme of studies for boys and girls, science and mathematics were incorporated as compulsory subjects and work experience assigned a place of importance.32

(B) National Policy in Education (NPE) 198633:- The National Policy on Education 1986 was the second policy on education since independence. It was regarded as a landmark. It redefined educational priorities and made a fresh attempt to cope with the three strands that have influenced educational policy in India, viz., issues relating to quantity, quality, and equity. The policy gave the highest importance to Universal Primary Education (UPE).

The activities which foster and promote the all-round balanced development of the child in the age group of 0-6 years in all dimensions – physical, mental, social, emotional, and moral-have been collectively described in NPE 1986 as Early Childhood Care and Education (ECCE). Both these components, care and education, are essential, since either by itself is inadequate. ECCE is the birthright of every child.

32 Supra n. 19, p. 343.
33 Ibid.
The National Policy on Education 1986 has explicitly recognized the importance of Early Childhood Care and Education (ECCE) as a crucial input not only for human development but also for universalization of elementary education and women’s development. It has, therefore, emphasized the need for large-scale investment in the development of the young child, both through the government and through voluntary organizations. It has recommended a holistic approach of providing ECCE programmes which should aim at fostering nutrition, health, and social, physical, mental, moral, and emotional development of the child. In this context the policy has clearly recommended that ECCE programmes should be ‘child-oriented, focused around play and the individuality of the child. Formal methods and introduction of the three Rs will be discouraged at this stage.’

Consistent with the thrust of the national policy, early childhood education programmes are being qualitatively and quantitatively strengthened both in the voluntary and in the government sectors. While early childhood education per se is being provided to children in the 3-6 age group under these schemes, there exist wide diversities in terms of curriculum, infrastructure, financial allocations, staff quality, etc. These diversities are evident not only in different schemes but often within the same scheme from one region to another.

Often, what is practiced in the name of pre-school education is not necessarily what has been envisaged in the national policy. Most ECCE programmes, based on curriculum, have become a downward extension of primary schools, wherein the basic philosophy and methodology of early childhood education are being generally ignored. The staff, in many cases, are not adequately qualified or trained in early childhood education and does not have the basic knowledge of child development. Particularly in urban settings, pre-schools are generally located in cramped, poorly ventilated areas, sometimes even in

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34 Department of pre-school and elementary education, ministry of human resources development, Government of India.
Barsatis\textsuperscript{35} on roof tops, with no safe, open space for children to play in. In rural areas, in addition to other constraints, the availability of suitable manpower is the major issue. Facilities in terms of equipment and material form another significant area of diversity. In view of the present scenario, provision of early childhood education of a good quality cannot be ensured. In this context a persistent recommendation emerging from major seminars/conferences over the years has been that there should be some system of licensing or accreditation of preschools/ECCE programmes. There is, therefore, a need to formulate certain prerequisites and standards which aspects/components of an early childhood education programme.

With the specific objective of laying down these minimum prerequisites, the department of pre-school and elementary education developed a document – Minimum Specifications for Pre-schools. An effort was made to specify these, keeping in mind the contextual realities of our country. While the minimum was specified as 'essentials', the 'desirables' were also included, provision of which would certainly enhance the quality of any ECCE programme. These specifications were categorized into several groups. The physical structure and facilities included details about the location, play areas, facility for drinking water, sanitary facilities, sleeping facilities, and storage space. Under equipment and material, details about the outdoor equipment, material for large muscle development, indoor equipment/ material, and first-aid kit were provided. Also the safety precautions, age of admission, and admission procedure were given. Under the pre-school staff, the staff structure and adult-child ratio, qualifications of the teacher, qualifications of the helper, and salary structure were detailed out. The timings and content and methodology of the pre-school programme were also listed. It finally included the kind of records and registers to be maintained, viz.,

\textsuperscript{35} Barsati means a one-room set of accommodation constructed adjacent to the entrance to the roof of any building.
the admission records, the progress records, teachers' diary, and other registers. All this was specified in detail with a view to bringing uniformity all across.

Following the policy statement in 1986 on improving learning conditions, a number of national-level programmes were launched which have continued to contribute to improvement of school conditions in the 1990s. For instance, Operation Blackboard (OB), launched in 1987 and continued and expanded in the 1990s, is one major programme under which learning conditions have been created and expanded to improve the quality of schooling at the primary stage. OB has a wide coverage throughout the country. Some of the responses to policy changes in the years since the national policy chartered a new course of community-based education for development are being highlighted later in this chapter. These include initiatives of the Central and State governments, as well as independent initiatives from educational institutions and voluntary organizations.36

(C) Role of judiciary:- Before the Constitution (Ninety-third Amendment) Act 2001, the right to education was prescribed by Articles 41, 45, and 46 of the Constitution, all of which were directive principles of State policy, but the courts have interpreted the right to education as a fundamental right by incorporating it within the fundamental rights in Article 21. The trend has been to hold that the right to life under Article 21 and the dignity of the individual cannot be assured unless it is accompanied by the right to education and that the provisions in Parts III and IV of the Constitution are supplementary and complementary to each other.

36 M.S. Yadav and Meenakshi Bhardwaj, Learning Conditions for Primary Education, National Institute of Educational Planning and Administration, ministry of human resource development, Government of India, April 2000.
A.V. Chandel’s case\(^{37}\) it was held that the first case where the courts demonstrated the new trend of interpreting the right to education as a fundamental right. The Delhi High Court observed that ‘Fundamental Rights (also called human rights or basic rights) are of two kinds: (1) the classical rights and (2) the economic (and social) rights. Article 41 of the Constitution of India, therefore, provides that “the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education, etc.” even in the narrower sense, right to education would appear to be a fundamental right which can be spelt out if sub-clause (a), (b), and (c) of Article 19(1) is read with Article 21 independent of Article 41 and the Delhi University Act.’

In **Bandhura Mukti Morcha’s case**,\(^{38}\) it was held that right to education is implicit in and flows from the right to life guaranteed under Article 21 (related to the dignity of the individual).

**Mohini Jain vs. State of Karnataka**,\(^{39}\) in this petition under Article 32 of the Constitution of India, Mohini Jain has challenged the notification of the Karnataka government permitting the private medical colleges in the State of Karnataka to charge exorbitant tuition fees from the students other than those admitted to the ‘Government seats’. It was held and declared that charging of capitation fee by the private educational institutions as a consideration for admission is wholly illegal and cannot be permitted.

**Unnikrishnan J.P. and others case**,\(^{40}\) the main question under consideration in this landmark case was whether the right to primary education as mentioned in Article 45 of the Constitution of India is a fundamental right under

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\(^{37}\) A.v.Chandal vs. Delhi University, AIR 1978 Del 308.
\(^{38}\) Bandhua Mukti Morecha vs. UOI, AIR 1984 SC 802.
\(^{39}\) Mohini Jain vs. State of Karnataka, AIR 1992 SC 1858.
\(^{40}\) UnniKrishnan J.P. and Others vs. State of A.P., AIR 1993 SC 2178.
Article 21 of the Constitution of India. It was held that right to education is not stated expressly as a fundamental right in Part III. This court has, however, not followed the rule that unless a right is expressly stated as a fundamental right, it cannot be treated as one. Freedom of press is not expressly mentioned in Part III, yet it has been read into the inferred from the freedom of speech and expression. The right to education, which is implicit in the right to life and personal liberty guaranteed by Article 21 must be construed in the light of the directive principles in Part IV of the Constitution.

A true democracy is one where education is universal, where people understand what is good for them and the nation, and know how to govern themselves. The three Articles 45, 46, and 41 are designed to achieve the said goal among others. It is in the light of these articles that the content and parameters of the right to education have to be determined. Right to education, understood in the context of Articles 45 and 41, means:

- Every child/citizen of this country has a right to free education until he completes the age of fourteen years, and
- After a child/citizen completes fourteen years, his right to education is circumscribed by the limits of the economic capacity of the State and its development.41

In University of Delhi's case, it was held that education seeks to build up the personality of the pupil by assisting his physical, intellectual, moral, and emotional development. Article 21 of the Constitution has been used by the

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42 University of Delhi vs. Ram Nath, (1964)2 SCR 703, p. 710.
Courts to make right to education a fundamental right much before the (Ninety-third Constitution Amendment) Act 2001. The word ‘life’ in Article 21 has been interpreted in the widest possible manner. It does not simply mean physical life, but also covers other expressions of life. It is something more than a mere biological existence of a human body. Life also includes education, personality, and whatever is reasonably required to give expression to life, its fulfillment, and its achievements.

(D) Modification of National policy on education:- It was first done by P.V. Narsimha Rao govt. in 1992 then in 2005, prime minister, Manmohan Singh, adopted a new policy based on the “common Minimum Programme” of his United Progressive Alliance (UPA) government. Following are the extracts from the NCMP which have a bearing on education.

- The UPA Government will ensure that all institutions of higher learning and profession education retain their autonomy;
- The UPA Government will amend the Constitution to establish a Commission for Minority Educational Institutions that will provide direct affiliation for Minority Professional Institutions to Central Universities;
- The UPA Government will promote modern and technical education among all minority communities. Social and economic empowerment of minorities to more systemic attention to education and employment will a priority concern for the UPA;
- The UPA Government will ensure that all northeastern States will be given special assistance to upgrade and expand infrastructure;
- The UPA Government will ensure that the State of Jammu and Kashmir is given every assistance to rebuild its infrastructure quickly;
- The UPA Government will ensure legislation on domestic violence and against gender discrimination will be enacted;
• The UPA Government will ensure that complete legal equality for women in all spheres will be made a practical reality especially by removing discriminatory legislation and by enacting new legislation that gives women, for instance, equal rights of ownership of assets like houses and land;

• The UPA Government pledges to raise public spending in education to at least 6% of the GDP with at least half this amount being spend on primary and secondary sectors. This will be done in a phased manner. The UPA Government will introduce a cess on all central taxes to finance the commitment to universalize access to quality basic education;

• The UPA Government will take immediate steps to reverse the trend of communalization of education that had set in the past five years. Steps will be taken to remove the communalization of the school syllabus that has taken place in the past five years. A review committee of experts will be set up for this purpose;

• The UPA Government will ensure that no body is denied professional education because he or she is poor;

• The UPA Government will ensure that a national cooked nutritious mid-day-meal scheme, funded mainly by the Central Government, will be introduced in primary and secondary school. An appropriate mechanism for quality checks will also be set up;

• The UPA Government will also universalize the Integrated Child Development Services (ICDS) scheme to provide a functional Anganwadi in every settlement and ensure full coverage for all children.

III) Government Schemes and Programmes in field of Education:-

(A) Sarva Shiksha Abhiyan

The Scheme of Sarva Shiksha Abhiyan (SSA) evolved from the recommendations of the State Education Ministers’ Conference in 1998 to pursue
universal elementary education in a mission mode. The scheme was launched by the Government of India in 2001. The assistance under the programme of the SSA was on a 85:15 sharing arrangement between the Central government and the state government during the Ninth Plan. It would be at 75:25 during the Tenth Plan, and at 50:50 thereafter.

Main goals of the SSA are as follows:

- All 6-14 age children in school/EGS centre/bridge course by 2003
- All 6-14 age children complete five year primary education by 2007
- All 6-14 age children complete eight years of schooling by 2010
- Focus on elementary education of satisfactory quality with emphasis on education for life
- Bridge all gender and social category gaps at primary stage by 2007 and at elementary education level by 2010
- Universal retention by 2010

The implementation of SSA in the first two years of the Tenth Plan was a significant development in the field of education. There was a particular emphasis in these two years to ensure inclusion of all out-of-school children in the field of education. The focus under the SSA has been on improving the existing infrastructure of regular schools as well as on alternate strategies for mainstreaming children who have been left out of the schooling process due to various reasons.

According to the annual report (2004-05) of the Ministry of HRD, as a result of all these interventions, the estimated number of out-of-school children came down from 2.3 crore in the beginning of 2003-04 to 81 lakh on September 30, 2004. More than three lakh additional teachers have been recruited across the country under SSA to ensure appropriate pupil-teacher ratios.43

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(B) Operation Black Board⁴⁴ :- The centrally sponsored scheme of operation Blackboard was launched in 1987 to address the task of providing basic educational facilities to all primary schools. The scheme, with active collaboration of the governments in states and Union territories, aimed at providing the following essential facilities in each primary school of the country:

- For the construction of buildings, the state governments were expected to utilize resources available under the ongoing rural employment programmes, provided by the finance commission or any other source. In 1990, it was decided that the central assistance under the rural employment scheme, Jawahar Rozgar yojana (JRY), would supplement the state resources on buildings. In 1993, construction of school buildings was made a high priority item under the newly introduced Employment Assurance Scheme (EAS) in selected blocks and in 120 backward districts identified under the JRY. These funds were made available by the ministry of rural areas and employment. Separate district specific projects had to be formulated for the purpose.

- Provision of at least two teachers, one of them a woman so far as possible, in every primary school.

- Provision of essential teaching learning material including black-boards, maps, charts, a small laboratory, and some equipment for work experience

- The scheme was planned to be implemented in a phased manner 20% of the blocks and municipal areas were to be covered in 1987-88, 30% in 1988-89, and 50% in 1989-90. On review, the scope of OB was modified and enlarged in 1992 to include the following schemes:

- Continuation of ongoing OB to cover all the remaining primary schools especially those in SC/ST areas;

⁴⁴ Supra n. 42.
• Expanding the scope of OB to provide three teachers and three rooms to primary schools wherever enrolment warranted them; and

• Expanding OB to upper primary schools.45

(C) National Programme for Education of Girls at Elementary Level (NPEGEL)

The NPEGEL was launched in 2003-04. The objective of the scheme is to provide additional support to education of girls at the elementary level through the following additional initiatives: (i) to develop a school, as a model girl-child friendly school, at the cluster level; (ii) to provide additional incentives such as stationery, slates, work books, and uniforms and to meet any other locally-felt need within the existing ceiling of Rs 150 per child per annum; (iii) additional interventions like awards to schools/teachers, student evaluation, remedial teaching, bridge courses alternative schools, teacher training and child care centers at the cluster level within a ceiling of Rs 60,000 per annum; (iv) mobilisation and community monitoring within a ceiling of Rs 95,000 per cluster over a five-year period; (v) development of materials; and (vi) planning, training and management support.

(D) District Primary Education Programme (DPEP)

The DPEP was launched in 1994 as a major initiative to achieve the objective of universalisation of primary education (UPE). The programme takes a holistic view of primary education development and seeks to operationalise the strategy of UPE through district specific planning with emphasis on decentralised management, participatory processes, empowerment and capacity building at all levels. The programme is implemented through the state-level registered societies.

The programme aims at providing access to primary education for all children, reducing primary drop-out rates to less than 10 per cent, increasing

45 Supra n. 19, pp. 348-349.
learning achievement of primary school students by 25 per cent, and reducing the
gender and social gap to less than five per cent.

The district is the unit of programme implementation and is selected on
the basis of twin criteria, viz., (a) educationally backward districts with female
literacy below the national average and (b) districts where total literacy
campaigns (TLCs) have been successful, leading to enhanced demand for
elementary education. The DPEP is a Centrally-sponsored scheme. Eighty-five
per cent of the project cost is shared by Government of India and 15 per cent by
the concerned state government. Both the Central share and state share are passed
on to state implementation societies directly as grant. Several bilateral and
multilateral agencies are providing financial assistance for the DPEP.

(E) Mid-Day Meal Scheme

The National Programme of Nutritional Support to Primary Education
(NPSPE), popularly known as the *Mid-day Meal (MDM)* scheme, was launched
on August 15, 1995, with the following objectives:

- To boost universalisation of primary education by increasing enrolment,
  retention and attendance, and

- To improve nutritional status of students of primary classes.

The programme, which initially covered children of primary stage (classes
I to V) in government, local body and government-aided schools, was expanded
in October 2002 to cover children studying in Education Guarantee Scheme
(EGS) and Alternative and Innovative Education (AIE) centres, also.

Central assistance under the above scheme was provided for the following
two items:

- Free foodgrains at the rate of 100 grams per child per school day where
cooked meal was served, and 3 kg foodgrains were being distributed.
• Subsidy for transport of foodgrains from nearest Food Corporation of India (FCI) depot to the primary school – subject to a maximum of Rs 50 per quintal.

The MDM scheme was revised in 2004. Main elements of the revised scheme are as follows:

• to boost universalisation of primary education (classes I-V) by improving enrolment, attendance, retention, and learning levels of children, especially those belonging to disadvantaged sections,

• to improve nutritional status of students of primary stage, and

• to provide nutritional support to students of primary stage in drought-affected areas during summer vacation also.46

(F) Mahila Samakhya

The *Mahila Samakhya (MS)* programme was started in 1989 with Dutch assistance to translate the goals mentioned in the National Policy on Education (NPE) into action. The programme recognises the centrality of education in empowering women to achieve equality. The MS has adopted an innovative approach which emphasises the process rather than mere fulfilment of targets. It seeks to bring about a change in women’s perception about themselves and the perception of society with regard to women’s traditional roles. Under this programme, education is understood as a process of learning to question, critically analysing issues and problems and seeking solutions. The Mahila Samakhya endeavour to create an environment for women to learn at their own pace, set their own priorities and seek knowledge and information to make informed choices. This involves enabling women (especially from socially and economically disadvantaged and marginalised groups) to address and deal with problems of isolation and lack of self-confidence, oppressive social customs and

46 Supra n. 3, p. 218.
struggle for survival, all of which inhibit their learning. It is in this process that women become empowered. The Mahila Samakhya in all the states have taken initiatives to address issues/problems ranging from

- meeting daily minimum needs;
- improving civic amenities;
- gaining control over their health;
- actively accessing and controlling resources;
- ensuring educational opportunities for their children, especially girls;
- entering the political sphere through participation in panchayats, etc.;
- articulating their concerns and tackling social issues like violence against women, child marriage; and
- seeking and obtaining literacy and numeracy skills.

The Mahila Samakhya is the nodal point where all activities are planned.\textsuperscript{47}

(G) Shiksha Karmi Project

The \textit{Shiksha Karmi Project (SKP)} aims at universalisation and qualitative improvement of primary education in remote, arid and socio-economically backward villages of Rajasthan to all the children in the age-group of 6-14 years. The project identifies teacher absenteeism as a major obstacle in achieving the goal of Universalisation of Elementary Education (UEE). A Shiksha Karmi (SK) is a local person with a minimum educational qualification of class VIII for men, and class V for women. To overcome the basic lack of qualifications, Shiksha Karmis are given intensive training through induction programme as well as periodic refresher courses. The project is being implemented by the Government of Rajasthan through the Rajasthan Shiksha Karmi Board (RSKB) with community participation and assistance from voluntary agencies.

\textsuperscript{47} Id; p. 219
In 2004-05, the Department of Elementary Education approved the launching of residential schools, called *Kasturba Gandhi Balika Vidyalaya (KGBV)*, for girls belonging predominantly to the Scheduled Tribes (STs), Scheduled Castes (SC), Other Backward Castes (OBC) and minorities in difficult areas. According to Economic Survey 2004-05, the Department approved 525 KGBVs for the year 2004-05, involving an amount of Rs 123.03 crore for 2004-05.

**Education for All**

In April 2000, representatives of 164 countries, including India, met at Dakar, Senegal, to discuss and consider the issue of global illiteracy. At the conclusion of the conference, the following six goals were adopted by the international community which have came to be known as the Education for All (EFA) goals:

- Expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children.
- Ensuring that by 2015, all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities, have access to and complete free and compulsory primary education of good quality.
- Ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life-skills programmes.
- Achieving a 50 per cent improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults.
- Eliminating gender disparities in primary and secondary education by 2005, and achieving gender equality in education by 2015, with a focus on ensuring girls' full and equal access to, and achievement in, basic education of good quality.
• Improving every aspect of the quality of education, and ensuring excellence so that recognised and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills.

(J) Right of Children to Free and Compulsory Education Act, 2010

Way Back in 1937, seventy three years ago and at the ripe age of 67, Gandhiji raised his voice in favour of universal education. His demand was met only with the coming of Right to Education Bill 2008 which meant precisely to fulfil such a purpose.

Now, this bill has taken the form of an Act named The Right of Children to Free and Compulsory Education Act, 2010 which was passed by the Indian parliament on 4th August 2009, describes the modalities of the provision of free and compulsory education for children between 6 and 14 in India under Article 21A of the Indian Constitution. India became one of the 135 countries to make education a fundamental right of every child when the Act came into force on 1st April 2010.

History :- The present Act has its history in the drafting of the Indian constitution at the time of independence but are more specifically to the constitutional Amendment that included the Article 21A in the Indian Constitution making Education a Fundamental Right. This amendment, however, specified the need for a legislation to describe the mode of implementation of the same which necessitated the drafting of a separate Education Bill. The rough draft of the bill was composed in year 2005. It received much opposition due to its mandatory provision to provide 25% reservation for disadvantaged children in private schools. The sub-committee of the Central Advisory Board of Education which prepared the draft Bill held this provision as a significant pre-requisite for creating a democratic and egalitarian society.

Passage :- The bill was approved by the cabinet on 2nd July 2009. Rajya Sabha passed the bill on 20th July 2009 and the Lok Sabha on 4th August 2009. It

48 Id; pp. 219-220.
received president assent and was notified as law on 3rd September 2009 as the Right of Children to Free and Compulsory Education Act. The law came into effect in the whole of India except the state of Jammu and Kashmir from 1st April 2010, the first time in the history of India a law was brought into force by a speech by the Prime Minister. In his speech, Manmohan Singh, PM of India stated that:

"We are committed to ensuring that all children, irrespective of gender and social category, have access to education. An education that enables them to acquire the skills, knowledge, values and attitudes necessary to become responsible and active citizens of India".

**Highlights** :- The Act makes education a fundamental right of every child between the ages of 6 to 14 years and specifies minimum norms in government schools. It requires the reservation of 25% of places in private schools for children from poor families, prohibits unrecognized schools from practice, and makes provisions for no donation or capitation fees and no interview of the child or parent for admission. The Act also provides that no child shall be held back, expelled, or required to pass a board examination until the completion of elementary education. There is also a provision for special training of school drop-outs to bring them up to par with students of the same age. The Right to Education of persons with disabilities until 18 years of age has also been made a fundamental right. The Act provides for the establishment of the National Commission for protection of Child Rights and State Commissions for supervising proper implementation of the Act, looking after complaints and protection of child Rights. Other provisions regarding improvement of school infrastructure, teacher, student ratio and faculty are made in the Act.

A committee set up to study the funds requirement and funding estimated that Rs. 1.71 trillion would be required in the next five years to implement the Act, and the government agreed to sharing the funding for implementing the law
in the ratio of 65 to 35 between the Central Government and the States, and a ratio of 90 to 10 for the north-eastern states.

Although we have been bestowed with two national policies of 1968 and 1986 as modified in 1992 and 2005 by then Govt. of India. Still we are surrounded by some issues relating to the education.

(K) Issue of concern :- One study found that 25% of public sector teachers and 40% of public sector medical workers were absent during the survey. Among teachers who were paid to teach, absence rates ranged from 15% in Maharastra to 71% in Bihar, only 1 in 3000 public school head teachers had ever dismissed a teacher for repeated absence.\(^{49}\) A study on teachers by Kremer etc. found that ‘only about half were teaching during unannounced visit to a nationally representative sample of government primary schools in India.\(^{50}\)

Modern education in India is often criticized for being based on rote learning rather than problem solving business week denigrates the Indian curriculum saying it resolves around rote learning\(^{51}\) and express India suggests that students are focused on cramming.\(^{52}\)

A study of 188 Govt. run primary schools found that 59% of the schools had no drinking water and 89% had no toilets.\(^{53}\) 2003-2004 data by National Institute of Educational Planning and Administration revealed that only 3.5% of primary schools in Bihar and Chhatisgarh had toilets for girls. In Madhya Pradesh, Maharashtra, Andhra Pradesh, Gujarat, Rajasthan and Himachal Pradesh, rates were 12-16%.\(^{54}\)

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\(^{50}\) Ibid. p. 9.

\(^{51}\) Business week, “India : A shocking election upset means India must spend heavily on social needs. Is this the end of boom”, 31\(^{st}\) May 2004.

\(^{52}\) Express India, “Rote system of learning still rules the root”, 21\(^{st}\) Oct. 2008.


\(^{54}\) The Times of India, “Education cess: Are govt. schools any better now?”, 7\(^{th}\) April 2005.
Fake degrees are a problem. One raid in Bihar Board 0.1 million fake certificate. In February 2009, the UGC found 19 fake institutions operating in India. Only 16% of manufacturers in India offer-in-service training to their employees, compared with over 90% in China.

Moreover, the society for un-aided private schools, Rajasthan petitioned the Supreme Court of India claiming the Act of 2010 violates the constitutional right of private managements to run their institutions without governmental interference. The Act has also been criticized for excluding children under six years of age.

Besides, a variety of new challenges and social needs make it imperative for the Government to formulate and implement a new Education Policy for the country. Nothing short of this will meet the situation.

IV) National Policy on Child Labour 1987 :- The Ministry of Labour and Employment has been implementing the NCLP through the establishment of National Child Labour Projects (NCLPs) for the rehabilitation of child workers since 1988. Initially, these projects were industry specific and aimed at rehabilitating children working in traditional child labour endemic industries. A renewed commitment to fulfil the constitutional mandate resulted in enlarging the ambit of the NCLPs in 1994 to rehabilitate children working in hazardous occupations in child labour endemic districts.

The strategy for the NCLPs includes the establishment of special schools to provide non-formal education and pre-vocational skills training; promoting additional income and employment generation opportunities; raising public awareness, and conducting surveys and evaluations of child labour.

(A) Contribution by National Institutions :- A number of national Institutions such as the V.V. Giri National Labour Institute (VVGNLI) and the National Institute of Rural Development (NIRD) and some state level institute have played an important role in the areas of training and capacity building of government

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55 Hindustan Times, “100,000 fake certificates found in Bihar”, 9th Jan 2009.
functionaries, factors inspectors, officials of Panchayati Raj Institutions, NCLP project directors, and heads of NGO’s These institutions have also made a significant contribution in the areas of research and surveys, awareness raising and sensitization, thus bringing the discussions on this issue to the forefront.

(B) Action Plans: The National Policy on Child Labour, August 1987 contains the action plan for tackling the problem of child labour. It envisages:

(i) A legislative action plan
(ii) Focusing and convergence of general development programmes
(iii) Project-based action plan.

(C) Strategy for Elimination of Child Labour in Xth Plan: Keeping in view the policy of the Government as laid down in the National Agenda and Prime Minister’s directions in the National Conference on Child Labour, the evaluation studies carried out by the VVGNLI and the approach defined in the working paper for the Tenth Plan, the strategy adopted during this Plan period aims at bringing qualitative changes in the scheme for elimination of child labour. The details are as follows:

• Policy and programmes for elimination of child labour would be continued in a more focused, integrated and convergent manner.
• Focused and reinforced action to eliminate child labour in the hazardous occupations by the end of the Plan period.
• Expansion of the NCLPs to additional 150 districts during the Plan.
• Ensuring that the NCLPs have a focused time frame of 5 years with clearly defined targets.
• Linking the child labour elimination efforts with the scheme of Sarva Shiksha Abhiyan of the MHRD an attempt to ensure that small children in the age group of 5-8 years get directly linked to school and the older children are mainstreamed to the formal education system through the
rehabilitation centres. Increased efforts to provide vocational training to the older children.

- Strengthening of the formal school mechanism in the endemic child labour areas in the country both in terms of quality and numbers in such a manner as to provide an attractive schooling system to the child labour force and its parents so that motivational levels of both the parents and such children are high and sending these children to school becomes an attractive proposition.

- Convergence with the ongoing schemes of the Department of Education, Rural Development, Health and Women & Child Development would be critical for the ultimate attainment of the objective of elimination of child labour in a time bound manner.

- Large-scale involvement of the voluntary organizations at the district level to assist in the running of the NCLP schools. The attempt during this Plan would be to encourage the running of the rehabilitation schools only through accepted and committed NGOs so that the Government machinery is not burdened with running of such schools.

(D) Certain important and enhanced parameters that have been introduced in the scheme now are as under:

(1) Stipend :- In the existing arrangement, the stipend of Rs. 100/- per child per month was being disbursed every month. As per the revised scheme, the monthly stipend of Rs. 100/- per month per child will be disbursed only after the child is successfully mainstreamed into formal system of schooling. Till that period, the amount of stipend will be regularly deposited in the Bank Account of the child. The accumulated stipend amount could be handed over to the child at the time of her/his getting mainstreamed.
(2) Nutrition :- The amount for provision of nutrition to the children in the special schools has been doubled from Rs. 2.50/- per child per day to Rs. 5/- per child per day.

(3) Health Component :- In the existing scheme, there was no separate budgetary provision for any health component to take care of the health-related aspects of the children. In the revised scheme an amount of honorarium (Rs. 5,000/- per month for one doctor for every 20 schools) has been provided to put in place an institutionalized mechanism for regular and periodical effective health care of the children by a doctor. A health card in respect of every child also needs to be maintained with all the necessary entries.

(4) Vocational Training :- In the existing scheme, there was a separate budgetary provision for the services of any Master Trainer for imparting training to the children/teachers. In the revised scheme, budgetary provision (Rs. 5,000/- for one Master Trainer for each NCLP) has been provided to hire the services of a Master for each NCLP.

(5) Training for Educational Teachers :- In the existing scheme, there was no separate budgetary provision for providing training to the educational teachers. In the revised scheme, budgetary provision has been provided to impart training to the teachers twice during the 10th Plan period.

(6) Survey :- In the revised Scheme, provision has been made to conduct surveys of working children two times during the 10th Plan period.

By following the strategy enunciated above and combining this with the existing established mechanisms of enforcement, it is expected that a drastic reduction in child labour would result by the end of Plan period.

The problem of child labour requires to be dealt through sustained efforts over a period of time. Government is committed to the goal of eradication of child labour in all its forms. Considering the nature and magnitude of the problem a
gradual and sequential approach has been adopted to withdraw and rehabilitate child labour beginning with the children working in hazardous occupations.

V) National Nutrition Policy, 1993 :- The National Nutrition Policy (1993) advocates a comprehensive inter-sectoral strategy for alleviating all the multifaceted problems of under/malnutrition and its related ‘deficiencies and diseases so as to achieve an optimal state of nutrition for all sections of society but with a special priority for women, mothers and children who are vulnerable as well as ‘at-risk’. Of the two major problems of macro and micro-nutritional deficiencies that the women, mothers and children suffer from, while the former are manifested through Chronic Energy Deficiency (CED), the latter are reflected in Vitamin A, Iron and Iodine deficiencies. The strategies adopted in the Ninth Plan include – screening of all pregnant women and lactating mothers for CED; identifying women with weight below 40 kg and providing adequate ante-natal, intra-partum and neo-natal care under the RCH programme and ensuring they receive food supplementation through the Integrated Child Development Services (ICDS) Scheme. The ICDS, launched in 1975, provides supplementary feeding to bridge the nutritional gaps that exist in respect of children below 6 years and expectant and nurturing mothers.

Besides this, since 2000-01, the Government of India has been providing Additional Central Assistance to the states under the nutrition component of Pradhan Mantri Gramodaya Yojana (PMGY) in an effort to prevent the onset of under-nutrition in the age-group 6-24 months. Supplementary nutrition is also provided to 105 million school-going children under the National Programme of Nutritional Support to Primary Education (also popularly known as Mid-Day Meals Programme).

Although we have been blessed by the above said policy in 1993 and the nutrition programme must go according to the policy but the reality is otherwise.
The day to day news like “60 kids suffering from malnutrition in Mandla hospital” etc. published in the newspaper.

The child stars of Slumdog Millionaire are truly the lucky ones. Government spend on child specific schemes has doubled in the last five years of the UPA’s rule, but key indicators captured by a group of NGOs under the Forum for Creche and Child Care Services (FORCES) shows that it has made little qualitative difference to children under six years of age:

- Malnurished children under 3 years has increased from 15.5% to 19.1%
- Children aged 6-35 months who are anemic has increased from 74.2% to 79.2%
- India has 47% underweight children as compared to 29% in Sub-Saharan Africa
- Exclusive breastfeeding has dropped from 46.9% to 46.3% for children under 6 months
- Average enrolment for early child education in India between 20-30%
- 70% of the child population remains unreached by public and private preschool services.58

These reality bites put a question mark on policies and the efforts for enforcement of policies by the government.

VI) National Health Policies (NHP 1983; 2002) :- The NHP, 1983, was a half-hearted attempt to synthesis recommendations of three important earlier committees, the Bhore Committee of 1946 (Government of India, 1946), the Mudaliar Committee of 1962 (Government of India, 1962), and the Shrivastav Committee of 1975 (Government of India, 1975, 1976). The Bhore Committee, 1946, set up before India’s independence, concentrated on preventive medicine

57 The Times of India, 2nd October, 2008.
58 Himanshi Dhawan, “Not so lucky : India’s Jamals can’t even afford dal-roti”, Times of India, 25th Jan. 2009.
and tried to link health with social justice. It gave some surprisingly pragmatic directions. The Mudaliar Committee (1962) concentrated on medical education and development of training infrastructure for static medical units. The Shrivastav Committee (1975) urged the training of a cadre of health assistants to serve as links between qualified medical practitioners and multipurpose workers (e.g. school teachers, post masters, gram-sevaks, etc.). While the NHP 1983 reiterated the pious resolution of taking health services to the doorstep of the people and ensuring fuller cooperation of the community, it failed to even declare health care as a fundamental right of the people. The WHO in its Preamble (1948) states, 'The enjoyment of the highest attainable standard of health is one of the fundamental Rights of every human being without distinction of race, religion, political belief, economic or social condition'. The General Assembly of the UN in its Universal Declaration of Human Rights the same year listed the Right to better living conditions and the Right to Health and Medical Service as vital Articles. But the NHP 1983 of India failed to say so categorically. This, when the Directive Principles of State Policy of the Constitution of India (Part IV) states, 'The State shall regard the raising of the level of nutrition and standard of living of its people and the improvement of public health as among its primary duties'.

Russia was the first country to give its citizens a constitutional right to all health services. The French Constitution of 1946 ‘guarantees to all... protection of health’. In 1965-66, the Social Legislation in the Untied States declared health a human right. The 89th US Congress changed the concept of health maintenance from an individual to a social responsibility by enacting Medicare and Medic-aid, and Comprehensive Health Planning from ‘the womb to the tomb’. Most nations are continuously planning newer strategies to put the Right to Health and Medical Service into practical use. But both the NHP of India 1983 and 2002, failed to even confer the status of a ‘Right’ to Health. Both have some worthwhile
proposals, no doubt, but the major social thrust and vision to convert their commitment into a Right is still lacking. This is due to poor awareness amongst the planners and bureaucratic circles, lesser demand from a community unaware of its fundamental rights and a medical establishment which seeks to allow in its short-sighted establishment propagation strategies. While goals of medicine worldwide have changed from curative to preventive, preventive to social, and social to community medicine, India has still to reap the benefits of this philosophy to any significant degree. Community participation in health is an aphorism that still awaits genuine realization in many countries of the world, notably of the third world.

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<tr>
<th>National Health Policy-2002</th>
<th>Goals to be achieved by 2015</th>
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<tr>
<td>Eradicate Polio and Yaws</td>
<td>2005</td>
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<td>Eliminate Leprosy</td>
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<td>Eliminate Kalla Azar</td>
<td>2010</td>
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<td>Eliminate Lymphatic Filariasis</td>
<td>2015</td>
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<tr>
<td>Achieve Zero level growth of HIV/AIDS</td>
<td>2007</td>
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<tr>
<td>Reduce morality by 50% on account of TB, Malaria and other vector and water borne diseases</td>
<td>2010</td>
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<tr>
<td>Establish an integrated system of surveillance National Health Accounts and Health Statistics</td>
<td>2005</td>
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<tr>
<td>Increase health expenditure by Government as a percentage of GDP from the existing 0.9% to 2.0%</td>
<td>2010</td>
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<tr>
<td>Increasing share of central grants to constitute at least 25% of total health spending</td>
<td>2010</td>
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<tr>
<td>Increase state sector health spending from 5.5% to 7% of the Budget</td>
<td>2005</td>
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<tr>
<td>Further increase to 8% of the Budget</td>
<td>2010</td>
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Although we have a National Health Policy with the object of achieving MDG’s but still at ground level the reality is something different:

- 201 million children under 5 years of age died in 2006 in India (9.7 million worldwide)
- 8.3 million have low birth weight, almost half the number in the developing world
- 1/3rd of underweight children under 5 live in India; MP, Bihar Jharkhand, Gujrat, Orissa, Chhattisgarh, Meghalaya, UP are the worst offenders.

Where India is going wrong

- Diseases like diarrhoea pneumonia and measles continue to kill children. Pneumonia killed 4,10,000 children in 2004 while measles immunization coverage is still below 60%.
- Only 1 in 4 children are breastfed against 38% of children in the developing world.
- Sanitation facilities are still pathetic in most places; in 2004, 700 million people in India did not have access to good sanitation.\(^{59}\)

Moreover, according to a recent report of UNICEF; India loses 5,753 children below five years everyday. That contributes to 21% of total deaths in the world with these poor records on child health, even after hearing a Health policy, India is now a crucial impediment in achieving a Health policy, India is now a crucial impediment in achieving the global Millinium Development Goals (MDG’s) by 2015. If the world wants to meet its MDGs, India will have to make dramatic improvements in Children’s health.\(^{60}\)

And every recently Haryana Government has started two new policies (i) Indira Bal Swasthaya Yojana (ii) Nehru Bal Dristi Yojana on the auspicious day of 26th


Jan. 2010. Under first policy the children who go to school, drop-out children and children in Anganwari will get health card. And on the basis of this card doctors will treat the child below 18 years. The BPL family will get the treatment free of cost. For this Health, Education and woman & Child development department will act jointly. And under second policy an eye bank will be opened at district level. Any person can denote the eye of his/her disease family member to a child.61

VII) National Charter for Children, 2003 :- The Government of India adopted the National Charter for children 2003 which has been formulated after obtaining the comments and suggestions of the State Governments/ Union Territory Administrators, concerned Ministries and Departments and experts in the field.

The National Charter for children is a policy document adopted by the Government highlighting the roles and responsibilities of both the state and the community towards children and the duties of children towards their families, society and the country.

The document emphasizes Government of India’s commitment to children’s right to survival, health and nutrition, minimum basic needs and security, play and leisure. Early childhood care for survival, Growth and development, free and compulsory primary education, protection from economic exploitation and all forms of abuse and protection of girl child etc.

The document also provides for protection of children in difficult circumstances, children with disabilities, children from marginalized and disadvantaged communities, and child victims.

VIII) National Plan of Action for Children 2005 :- India is a signatory to the May 2002 decisions and commitments made by the UN General Assembly Session on Children, set out in the “World fit for children” outcome document.

The National Plan of Action for Children 2005 has been formulated and adopted as India’s response to those commitments. The plan sets out core goals, key objectives and strategies for achieving them in 4 fields that are:

- Child Survival
- Child Development
- Child Protection and
- Child Participation

**Critical Strategies & Priorities in the NPA on child protection include**

- Development of a system of identification, investigation, reporting, follow-up & referral of children at risk within and outside homes/institutional care
- Maintaining disaggregated data-base for all categories of children in difficult circumstances, including child labour, child marriage, disabled children etc. through Census and programme specific Management Information System (MIS).
- Special attention to certain categories of children requiring greater focus such as, child beggars, child labour, street children, children in need of care and protection and children in conflict with law as covered by the Juvenile Justice Act, trafficked children, child victims of sexual abuse and exploitation, children affected by natural and man made disasters, children of sex workers and prisoners, children affected by armed conflict and civil disorders.
- Convergence with related Ministries/Department at Central & State levels
- Enlisting support from the private sector
• Preventing destitution and exploitation of children through care, protection & developmental programmes
• Achieving 100% registration of births, deaths and marriages by 2010
• Promoting community based care and rehabilitation for all children in difficult circumstances
• Large-scale investment in capacity building of all care givers and service providers
• Requisite counseling, awareness generation and support services for adolescents to prevent them from becoming vulnerable and protect them from harm
• Public awareness, sensitization and mobilization of parents, caregivers, community and other actors in civil society
• Supporting services of creche/day care both in rural and urban areas
• Sensitize allied systems to the problems of children
• Childline & other necessary support service, infrastructure, referral for children in emergency situations
• Professional counselling services for children in psychological trauma and establishment of accredited training courses/institutions for creating a cadre of trained counsellors
• Promotion of quality institutional and alternative care
• Upgradation of standards of existing services
• Contingency planning and emergency preparedness
• Infrastructural support to NGOs for destitute, orphan children through in-country adoption
• Combating trafficking of narcotic drugs, psychotropic substance to prevent the use by children and creating mechanisms for rehabilitation of child substance abusers
• *Raen Basera*, drop-in-shelters, temporary shelter and the night shelters for safety of children
• Implementation of juvenile justice law
• Creation of child-friendly judicial and administrative procedures for dealing with administrative procedures for dealing with children
• Free legal aid and advice for children in conflict with law
• Eradication of harmful, traditional and customary practices that put children at risk, particularly of trafficking and sexual exploitation
• Assistance to child victims of abuse and exploitation for their full physical and psychological recovery, development and social reintegration
• Prevention of cross-border trafficking and creation of nodal authorities and other infrastructure to deal with all kinds of child trafficking
• Adoption of a national law to deal with child trafficking, including ratification of the international instruments such as the UN Protocol on Trafficking in Persons
• Institution of a rights based uniform definition of child labour and bonded labour
• Elimination of all forms of child labour by linking it with ensuring right to education for all children
• Ensuring access to mainstream education for all child labourers by 2012 and access to nutrition, clothing and protection from all forms of abuse and neglect
• Elimination of child marriages

• Ensuring survival, development and protection of the girls child and restoring her dignity by eliminating harmful, discriminatory and unethical traditional practices, and providing legal, medical, social and psychological support services and opportunities from development of their full potential

• Ensuring enforcement of all laws relating to children, particularly the Child Marriage Restraint Act, PNDT Act, ITPA, Juvenile Justice (care and Protection of Children) Act, Child Labour (Prohibition and Regulation) Act, amongst others

• Creation of effective links and quick referrals between ICDS, Primary Health Centres, mother and child programmes and hospitals (paediatric units) for early detection of high risk babies and children with disabilities

• Access to neighbourhood schools and inclusive education, accessible and disable friendly infrastructure, early childhood care for the disabled child, inclusion of children with mental illness in all existing schemes from children with disability, vocational training, capacity building of care givers, access to services, support and protection, implementation of the disability law

• Ensuring a supportive and enabling environment for care and protection of children affected by HIV/AIDS

• Quality health care and services, including free Anti-Retroviral therapy for children infected with HIV virus

• Prevention of mother-to-child transmission of HIV/AIDS

• Development of special packages for children abandoned on account of HIV/AIDS
India’s implementation of the National Plan of Action for Children 2005 is also being geared to address the specific commitments set out in the Millennium Development Goals, which India has accepted. However, this can only be achieved if adequate attention is given to strengthening child protection as protection failures will negatively influence almost all MDGs.

The Government of India has requested all the State Governments to formulate their State Plan of Action for Children. Implementation action at State level must be initiated in the 11th Plan Period with clear targets.

Action to implement National Plan of Action for Children 2005 must be incorporated in to the 11th Five Year Plan with the required allocation of financial resources, development of required infrastructure and commitment of human resources with clear targets and monitoring of outcomes.62

**BESIDES POLICIES THERE ARE NATIONAL PROGRAMMES ALSO-WHICH RELATES TO THE WELFARE OF CHILD. SOME OF THEM ARE AS Follows:**

1) **UPA's National Common Minimum Programme 2004** :- The National Common Minimum Programme specially states that the UPA Government will protect the rights of children, strive for elimination of child labour, ensure facilities for schooling and extend special care to the girl child. Some of the key features of the NCMP includes – commitment the well being of the common man; preservation, protection and promotion of social harmony; Enhancement of welfare and well being of farmers, farm labour and workers; A pledge to provide a corruption free, transparent and accountable government at all times; Administration that is responsive and responsible at all times.

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62 *Supra* n. 11, pp. 101-104.
While NCMP does not detail all the commitments of the UPA Government made for children, it provides a basic affirmation of the UPA Government’s resolve to ‘protect the right of children’. The test of NCMP is in how it gets translated into practical programming and investment in children; the National Plan of Action for children 2005 spells out goal, objective and strategies to achieve this.

II) Child Health Care Programme :- In 1951, India was the first country in the world to launch a family planning programme. Till 1977 the major health activity was family planning which was changed into family welfare programme with maternal and child health becoming an integral part of family planning programme with the vision that education in birth rate has a direct relationship with reduction in infant and child mortality.

The diarrhea disease control programme was started in the country in 1978. The main objective of the programme was to prevent death due to dehydration caused by diarrheal disease among children under 5 years of age due to dehydration.

National Health Policy, 1983 envisioned significant reduction in IMR (Infant Mortality Rate) NMR (Neo-natal Mortality Rate) and CMR (Child Mortality Rate) by 2000. All the Child Health Programmes are directed towards achieving these goals.

III) Universal Immunisation Programme :- Universal Immunization Programme (UIP) against six preventable diseases, namely, diphtheria, peruses, childhood tuberculosis, poliomyelitis, measles and neonatal tetanus was introduced in the country in a phased manner in 1985, which covered the whole India by 1990. Significant progress was made under the programme in the initial period when more than 90% coverage for all the six antigens was achieved.
The UIP was taken up in 1986 as National Technology Mission and became operational in all districts in the country during 1989-90. UIP became a part of the Child Survival and Safe Motherhood (CSSM) Programme in 1992 and Reproductive and Child Health (RCH) Programme in 1997. Under the Immunization Programme, infants are immunized against tuberculosis, diphtheria, pertussis, poliomyelitis, measles and tetanus. Universal immunization against 6 Vaccine Preventable Diseases (VPD) by 2000 was one of the goals set in the National Health Policy (1983).

The Acute Respiratory System (ARI) Control Programme was started in India in 1990. It sought to introduce scientific protocols for case management of pneumonia with co-trimoxazole. Initially 14 pilot districts were selected and later on new districts were included. A review of the health facility done in 1992 revealed that although 87% of personnel were trained and the drug supply was regular yet there were problems in correct case classification and treatment. Since 1992 the Programme was implemented as part of CSSM and later with RCH. Contrimoxazole tablets are supplied as part of drug kit for use by different category of workers for managing cases of Pneumonia. Under RCH-II activities are proposed to be implemented in an integrated way with other child health interventions.

The Child Survival and Safe Motherhood Programme (CSSM) jointly funded by World Bank and UNICEF was started in 1992-93 for implementation up to 1997-98. The Child Survival and Safe Motherhood Programme was implemented in a phased manner covering all the districts of the country by the year 1996-97. The objectives of the programmes were to improve the health status of infants, child and maternal morbidity and mortality. The programmes seek to sustain high coverage levels achieved under the Universal Immunisation Programme (UIP) in good performance areas and strengthen the immunization
services of poor performing areas. The programme also provides for augmenting various activities under the Oral Rehydration Therapy (ORT) Programme, universalising prophylaxis schemes for control of anemia in pregnant women & control of blindness in children and initiating a programme for control of acute respiratory infection (ARI) in children. Under the safe motherhood component, training of traditional birth attendants (TBA), provision of aseptic delivery kits and strengthening of first referral units to deal with high risk and obstetric emergencies were taken up. The approved outlay for the CSSM Programme was Rs. 1125.58 crores for the entire IDA credit facility of SDR period. The Programme yielded notable success in improving the health status of pregnant women, infants and children & also making a dent in IMR, MMR and incidence of vaccine preventable diseases.

IV) Maternal and Child Health (MCH) :- The major programme in the country for pregnant women is the network of maternal and child health (MCH) centres which aim to provide comprehensive health care to mothers and children. The numerous services include antenatal health care and checks, nutritional supplements like vitamin tablets, prevention of anaemia through folic acid tablets, immunization against tetanus, screening of at-risk pregnancies, midwifery through birth attendants, nurses, and health personnel for both home and hospital deliveries, post-natal care, education of mothers, and other elements.63

V) Integrated Child Development Services Scheme (ICDS) :- Another major scheme being implemented for pregnant women from the poorer sections of the society is the ICDS, one of whose objectives is to provide supplementary nutrition to pregnant and lactating women as well as antenatal care and referral services.

The objectives of ICDS Scheme (introduced in 1974) are six-fold which include supplementary nutrition, health check-up, referral, immunization,
nutrition education, and pre-school education. The scheme is funded by the Government of India and has a complicated administrative set-up with the focal point at the village level being the Anganwadi. The positive features of the scheme are:

- Children in the 0-6 year age group are covered and a holistic approach to growth and development is attempted by means of health, nutrition, and pre-school education. An effort is made to distinguish between the needs of children of 0-2 years and the older group, and to reach pregnant and lactating women directly.

- There are high chances of sustainability since the scheme is indigenously funded and forms only a negligible (0.13 per cent) of the gross domestic product.

- The major successes have been in immunization, growth monitoring, and supplementary feeding.64

VI) Day Care Programmes and Schemes :- The major scheme for day care in the unorganized sector is the Scheme of Assistance for Creches for Working/Ailing Mothers, launched in 1974, which is intended to provide day care for the children (0-6 years) of women laboures below poverty line. In practice, however, the scheme has not developed or rendered services along the lines originally envisaged. The quantitative coverage after almost four decades is abysmally inadequate. In terms of nature of coverage, available evidence points to a strange situation. In most parts of the country (Kerala and Tamil Nadu being exceptions) the crèches do not even work for the whole day and are often unrelated to the work timings of the mothers. The reasons for this are partly financial, since the scheme only allows for crèche workers to be paid a pittance, far below the minimum wages for unskilled labour. The crèches also often fail to

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64 Ibid.
take into consideration the work status of the mothers, sometimes admitting the children of housewives as well as working mothers. Most of them seem to function like private nursery schools for the children of the poor and lower middle class. In terms of quality, again, the programme is mostly either custodial or heavily oriented to formal education, with little emphasis on play, stimulation, or development of children.65

VII) Reproductive Child Health (RCH) Programme 1996 :- In order to effectively improve the health status of women and children and fulfill the unmet need for Family Welfare services in the country, especially the poor and underserved by reducing infant child and maternal mortality and morbidity, Government of India during 1997-98 launched the RCH Programme for implementation during the 9th plan period by integrating Child Survival and Safe Motherhood (CSSM) Programme with other Reproductive and Child Health (RCH) services. In addition, a new component for management of Reproductive Tract Infection (RTI) and Sexually Transmitted Infection (STI) has also been incorporated. The RCH Programme is partly funded by World Bank, UNICEF, and European Commission etc. Reproductive and Child Health Program is in 5th year of its operation and is currently operational in entire country. The program follows a differential strategy with inputs under the programme linked to the needs of the area coupled with the capacity for implementation. The program was reviewed extensively not only in context of achievements during mid-term stage, but also in context of National Population Policy. Efforts were made to strengthen the routine immunization as well as PPI by launching a activities were accelerated and new schemes on Financial Envelop, Dais’ Training, RCH Camps and RCH out reach services were started to address left gaps. The implementation of EC

65 Id; pp.413-414
assisted Sector Investment Programme has geared up, especially State/District level activities and urban RCH component.

Currently the initiatives that are being implemented by the Department of Family Welfare to achieve these goals are:

1. Control of deaths due to acute respiratory infection.
2. Control of deaths due to diarrheal diseases.
3. Provision of essential new born care
4. Vitamin-A supplementation to children between the ages of 6 months to 3 years.
5. Iron Folic Acid supplementation to children under five years of age.
6. Implementation of Exclusive breast feeding up to the age of 6 months and appropriate practices related to complementary feeding.
7. Integrated Management of Neonatal and Childhood Illnesses (IMNCI): It offers a comprehensive package for the management of the most common causes of childhood illnesses i.e. sepsis, measles, malaria, diarrhea, pneumonia and malnutrition. It is supported by appropriate strengthening of the health care system and promotion of positive health care practices of the community

VIII) New Norms for Child Feeding

The Government of India, in August 2004, released fresh national guidelines on infant and young child feeding replacing the earlier policy on infant feeding brought out by the Food and Nutrition Board in 1994 and other instructional manuals on the subject. The objective is to achieve the national goals for infant and young child feeding practices set by the Planning Commission for the Tenth Five Year Plan which is to achieve a reduction in malnutrition levels in children.
Scientific studies have shown that malnutrition is responsible, directly or indirectly, for 60 per cent of all deaths among children less than five years annually. Over two-thirds of these deaths are often associated with inappropriate feeding practices and occur during the first five years of life. Only 35 percent of infants worldwide are exclusively breastfed during the first four months and complementary feeding begins either too early or too late with foods which are often nutritionally inadequate and unsafe.

The new set of guidelines stresses upon the need for initiation of breastfeeding immediately after birth, preferably within 30 minutes; exclusive breastfeeding for the first six months; and appropriate and adequate complementary feeding after that. It also advocates the cause of infant and young child nutrition and its improvement through optimal feeding practices nationwide, to disseminate widely the correct norms of breastfeeding and complementary feeding from the policy-making level to the public at large and to help plan efforts for raising awareness and increase the commitment of the sectors of the government in achieving optimal feeding practices for infants and young children.

The government adopted a national code for Protection and Promotion of Breastfeeding in 1983 and the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act 1992, is being implemented by the Department of Women and Child Development since 1993.66

(A) Iron and Folic Acid Supplementation

(1) Objectives
- Screening of children for anaemia wherever required and appropriate treatment of those found anaemic
- Reducing prevalence of anaemia by 25% and moderate and severe anemia by 50% in children (Tenth Plan)

(2) Strategy
- Improve dietary intake to meet RDA for all macro and micronutrients;

66 Supra n.3, pp. 147-148.
• Dietary diversification-inclusion of iron foliate rich foods as well as food items that promote iron absorption;
• Food fortification, including introduction of iron and iodine-fortified salt and other iron-fortified items (e.g. atta in specific areas);
• Health and nutrition education to improve over all dietary intakes and promote consumption of iron and folate-rich foodstuffs

(i) Infants
• Exclusive breast feeding for six months, and introduction of green leafy vegetables along with cereal/pulse/oilseed mix in the seventh month for the prevention of anaemia;
• Screening for anaemia in pre-term, low birth weight infants and those with growth faltering and repeated episodes of infection; and
• Appropriate treatment for anaemic infants.

(ii) Preschool Children
• Advocacy with regard to dietary diversification for the prevention of anaemia;
• all growth retarded children and those with repeated infections have to have HB estimation carried out and
• those found to be anaemic are provided with appropriate treatment. In hookworm endemic areas, it is necessary to improve:
• sanitation and educate people not to walk barefoot;
• treat children with a history of passing worms with broad spectrum antihelminthics;
• screen all anemic children for hookworm infestation and treat them

The co-operation of the PRIs and womens’ self help groups, where ever existent, may be sought to promote and monitor intake of IFA tablets in their community.
(3) Coverage

- As per a survey carried out in 2002 by the National Nutrition Monitoring Bureau, under the Indian Council of Medical Research (ICMR) is an Advanced Centre for Nutrition Research, 67% of the preschool children were anaemic.

- 2,84,729 kits are distributed throughout the country each year under the RCH programme, each kit containing 13,000 tablets of paediatric Iron and Folic Acid (IFA) tablets.

(4) Implementation

Through the health institutions under the government sector

(B) Vitamin A Supplementation Strategy

(1) Objectives

- Decrease prevalence of Vitamin A deficiency form the current 0.7% to 0.3%

(i) Infancy

- Health and nutrition education is being taken up to encourage colostrums feeding, exclusive breastfeeding for the first six months and the introduction of complementary feeding thereafter.

- 1,00,000 International Unit (IU) dose of Vitamin A is being given at nine months

(ii) Childhood

- Health education efforts to ensure adequate intake of Vitamin A rich food throughout childhood

- Early detection and prompt treatment of infections

- Vitamin A dose of 2,00,000I. U at 18, 24, 30 and 36 months of age

(iii) Sick Children

- All children with xerophthalmia to be treated at health facilities
• All children suffering from measles to be given one dose of Vitamin A if they have not received it in the previous one month
• All cases of severe malnutrition to be given one additional dose of Vitamin A.

(2) Coverage
• Vitamin A supplementation coverage rate (6-59 months) 2001 44% 1st dose
• 2,84,729 kits are distributed throughout the country each year under the RCH programme, each kit containing 6 bottles of 100 ml each.

(3) Implementation
Through the health institutions and anganwadis under the government sector. A serious attempt must be made to critically evaluate whether the current Universal Immunization Programme, Diarrheal Diseases Control Programme, Acute respiratory infection programme, vitamin A supplementation, extended programme of immunization etc. can be integrated into our composite programme or the benefits of several vertical programmes outweigh integrated services.67

(C) Integrated Management of Neonatal and Childhood Illness (IMNCI)

Integrated Management of Childhood Illness (IMCI) strategy, which has already been implemented in more than 100 countries all over the globe, encompasses a rage of interventions to prevent and manage five major childhood illnesses i.e. Acute Respiratory Infections, Diarrhoea, Measles, Malaria and Malnutrition. It focuses on preventive, promotive and curative aspects, i.e. it gives a holistic outlook to the programme.

Government of India recognizes the need to strengthen child health activities in the country. In order to do so and introduce IMCI in the country, a

Core Group was constituted which included representatives from Indian Academy of Pediatrics (IAP), National Neonatology Forum of India (NNF), National Anti Malaria Program (NAMP), Department of Women and Child Development (DWCD), Child-in-Need Institute (CINI), WHO, UNICEF, eminent Pediatricians and Neonatologists, and the representatives from Ministry of Health and Family Welfare Government of India. The Adaptation Group developed Indian version of IMCI guidelines and renamed it as

(1) Integrated Management of Neonatal and Childhood Illness (IMNCI).

The major components of this strategy are:

- Strengthening the skills of the health care workers
- Strengthening the health care infrastructure
- Involvement of the community

The first two components are the facility based IMNCI and the third is the community based IMNCI.

The major highlights of Indian adaptation are:

- Incorporation of Neonatal care as it now constitutes two third of infant mortality
- Inclusion of 0-7 days
- Incorporating National guidelines on Malaria, Anemia, Vitamin A supplementation and Immunization schedule
- Training schedule reduced from 11 to 8 days
- Training begins with sick young infant upto 2 months
- Proportion of training time devoted to sick young infant and sick child is almost equal

The Government has initiated implementation of the IMNCI strategy in four districts each in nine selected states of Orissa, Rajasthan, Madhya Pradesh, Haryana, Delhi, Gujarat, Uttarakhand, Tamil Nadu and Rajasthan.
(2) The road ahead

India is a signatory to the Millennium Development Goals (MDGs). The fourth Millenium Development Goal is reduction of child mortality and the target for this is to reduce by two thirds, between 1990-2015 the mortality rate of children under five. This is reflected in the Tenth Five Year Plan (2002-07), which states that Infant Mortality Rate is to be reduced to 45/1000 by 2007 and 28/1000 live births by 2012.

XI) Pulse Polio Immunisation Programme :- In India, vaccination against polio was initiated in 1978 under Expanded Programme on Immunization (EPI) and the coverage achieved by 1984 was around 40% of all infants with 3 dose of Oral Polio Vaccine (OPV). In 1985 the Universal Immunization Programme (UIP) was launched and implemented in phased manner to cover all district in the country by 1984-90. During 1986 the UIP was accorded the status of a Technology Mission under the banner of the Technology Mission on Immunisation. This resulted in significant increase in coverage. The number of reported cases of polio declined unimagingly from 28757 during 1987 to 3265 in 1995.68

At this stage, in pursuance to the World Health Assembly Resolution of 1988, in addition to administration of routine OPV through the Universal Immunisation Program, the Pulse Polio Immunization (PPI) programme was launched in 1995-96 to cover all children below the age of 3 years. In order to accelerate the pace of polio eradication, the target age group was increased from 1996-97 to all children under the age of 5 years. This resulted in further decline in number of polio cases to 1005 reported during 1996.69

In order to reach the global goal of reaching zero incidence of polio by 2000 AD, a strategy to intensity PPI was adopted in 1999-2000.

68 http://www.mohfw.nic.in/dofw% 20 website/family% 20 welfare % 20 programme/polio. htm # top. accessed on 13th Jan 2010.
69 Ibid.
The pulse polio 2010 programme was launched on Saturday by president Pratibha Patil, who administered the new vaccine to ten children in the Rashtrapati Bhawan. The present campaign aims to vaccinate around 170 million children with an estimated 2.5 million bodies likely to receive the new polio drops.

X) National Programme for Adolescent Girls (NPAG)

To address the problem of under-nutrition among adolescent girls and pregnant women and lactating mothers, the Planning Commission, in the year 2002-03, launched the Nutrition Programme for Adolescent Girls (NPAG), on a Pilot Project basis in 51 districts in the country. Under this scheme, 6 kg of food-grains were given to under nourished adolescent girls, pregnant women and lactating mothers. Eligibility was determined on the basis of their weight. The adolescent girls of age group 11-19 years whose weight is less than 35 kg fall under this programme. The Pilot Project was continued in the year 2003-04 also. It, however, could not be continued in the year 2004-05. The Government approved the implementation of NPAG, through the Department of Women and Child Development, in 51 backward districts identified by the Planning Commission in the year 2005-2006 to provide 6 kg of free food-grains to undernourished adolescent girls only (pregnant women & lactating mothers are not covered as these are targeted under ICDS). The scheme is being continued for the Annual Plan 2006-07 on pilot project basis.

The funds are given as 100% grant to States/UTs so that they can provide food grains through the Public Distribution System free of cost to the families of identified undernourished persons.
No doubt such programmes aimed at improving the nutritional and health status of adolescent girls would definitely promote their self-development and empower them with decision making capabilities.\(^70\)

**XI) An Integrated Programme for Street Children**

The objective of this programme is to prevent destitution of children and facilitate their withdrawal from life on the streets. The programme provides for shelter, nutrition, health care, education, recreation facilities to street children, and seeks to protect them against abuse and exploitation. The strategy is to develop awareness and provide support to build capacity of the Government, NGOs and the community at large to realize the rights of the child enshrined in the UN Convention on the Rights of the Child (CRC) and in the Juvenile Justice (Care and Protection of Children) Act, 2000. The target group of this programme is children without homes and family ties i.e., street children and children especially vulnerable to abuse and exploitation such as children of sex workers and children of pavement dwellers. Children living in slums and with their parents are excluded from the coverage of this scheme.

State Governments, Union Territory Administrations, Local Bodies, Educational Institutions and Voluntary Organisations are eligible for financial assistance under this programme. Upto 90% of the cost of the project is provided by the Government of India and remaining has to be borne by the Organisation/nutrition concerned. Under the programme, no predefined cost heads are stipulated. Depending upon the type of activity and the nature of service, an appropriate amount not exceeding Rs. 1.5 million per annum can be sanctioned as recurring cost for each project. The grant under the programme is released to selected organizations in two equal half yearly installments.

The programme component of a project under this scheme can be:-

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• City level surveys;
• Documentation of existing facilities and preparation of city level plan of action;
• Contact programmes offering counseling, guidance and referral services;
• Establishment of 24 hours drop-in shelters;
• Non-formal education programmes; Programmes for reintegration of children with their families and placement of destitute children in foster care homes/hostels and residential schools;
• Programmes for enrollment in schools;
• Programme for vocational training;
• Programmes for occupational placement;
• Programmes for mobilizing preventive health services;
• Programmes aimed at reducing the incidence of drug and substance abuse, HIV/AIDS etc;
• Post ICDS/Aganwadi programmes for children beyond six years of age;
• Programmes for capacity building and for advocacy and awareness building on child rights;

**(A) Childline Services**

This government of India launched **Childline Service** during the year 1998-99. The child line is a 24 hours free phone service, which can be accessed by a child in distress or an adult on his behalf by dialing the number 1098 on telephone. Child line provides emergency assistance to a child and subsequently based upon the child’s need, the child is referred to an appropriate organization for long-term follow up and care.

The service focuses on the needs of children living alone on the streets, child labourers working in unorganized sector, domestic workers and sexually
abused children. The service is presently operational in 73 cities with details of organization zone wise.

Childline is a platform signing together by the ministry of Women and Child Development, Govt. of India, UNICEF, Deptt. of Telecom street and community youth, non-profit organization, academic institution, the corporate sector and concerned indicative.

(1) It helps vulnerable like :- Street child and youth living alone on street

- Child labour working in the unorganized and originated work
- Domestic help, especially girl domestic
- Children affected by physical/sexual/emotional abuse in family, schools or institution
- Children who need emotional support and guidance of commercial six workers
- Child victims of flesh trade
- Victims of a trafficking
- Children abandoned by parents or guardians
- Missing children
- Differently disabled
- Children in conflict with law
- Children who are mentally challenged
- Children affected by disaster
- Children whose families are in crises.

(2) The basic objectives of the Childline Service are as follows:

(1) To reach out to every child in need of care and protection by responding to emergencies on 1098

(2) Awareness about childline 1098 amongst every Indian Child
(3) To provide a platform of networking amongst organizations and to provide linkage to support systems that facilitates the rehabilitation of children.

(4) To work together with the applied supreme (Police, Health care, Juvenile Justice, Transport, Legal Education, Media, Political & the Community) to create child friendly systems

(5) To advocate services for children that are inaccessible or non-existence

(6) To create a body of NGO's and Govt. organisations working with the national framework and policy for children

(7) To be a nodal child protection agency in the country, providing child protection service the children in need of care and protection.

(8) To contribute and work towards strengthen and participating in a global movement that addresses issues related to child protection and ensures that children’s voices are heard.

(3) Long term rehabilitation :- After the emergency, needs of the child have been addressed, CHILDLINE explores options with the child to study, learn a trade, go back home etc. Based on the decision of the child, CHILDLINE link the child to an appropriate organization in the units.

Childline is envisaged by the Ministry as a National Service in each city. The service is being standardized to meet common norms and objects.

Childline India Foundation (CIF) has been established as an umbrella organization to identify, provide support services and to monitor efficient service delivery of the centers at various locations. CIF serves as a link between the Ministry and the NGOs in the field. Secretary of the Ministry is the Chairperson of the Governing Board of the Foundation.

CHILDLINE has responded to over 10 million calls from children/concerned adults till 31st August, 2006. These calls have been for
medical assistance, shelter, repatriation, missing children, protection from abuse, emotional support and guidance, information and referral to services, death related calls.

**BESIDES THESE POLICIES AND PROGRAMMES, CHILD PROTECTION SCHEMES ARE ALSO FORMULATED BY THE GOVERNMENT OF INDIA. SOME IMPORTANT SCHEMES ARE AS FOLLOW:**

1) **Ujjawala:** A comprehensive scheme for prevention of Trafficking and rescue, Rehabilitation and Re-Integration of Victims of Trafficking of commercial sexual exploitation, 2007.

**(A) Background**

Trafficking of women and children for commercial sexual exploitation is an organized crime that violates basic human rights. India has emerged as a source, destination and transit for both in-country and cross border trafficking. The problem of trafficking of women and children for commercial sexual exploitation is especially challenging due to its myriad complexities and variation. Poverty, low status of women, lack of a protective environment etc are some of the causes for trafficking. A multi sectoral approach is needed which will undertake preventive measures to arrest trafficking especially in vulnerable areas and sections of population; and to enable rescue, rehabilitation and reintegration of the trafficked victims.

Keeping the above issues and gaps in mind the Ministry has formulated a Central Scheme “Comprehensive Scheme for Prevention of Trafficking for Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation—Ujjawala”. The new scheme has been conceived primarily for the purpose of preventing trafficking on the one hand and rescue and rehabilitation of victims on the other.

71 [http://wcd.nic.in](http://wcd.nic.in)
(B) Objective of the Scheme

- To prevent trafficking of women and children for commercial sexual exploitation through social mobilization and involvement of local communities, awareness generation programmes, generate public discourse through workshop/seminars and such events and any other innovative activity.
- To facilitate rescue of victims from the place of their exploitation and place them in safe custody.
- To provide rehabilitation services both immediate and long-term to the victims by providing basic amenities/needs such as shelter, food, clothing, medical treatment including counseling, legal aid and guidance and vocational training.
- To facilitate reintegration of the victims into the family and society at large
- To facilitate repatriation of cross-border victims to their country of origin.

The target group of this scheme are women and children who are vulnerable to trafficking for commercial sexual exploitation and women and children who are victims of trafficking for commercial sexual exploitation. The implementing agencies can be the Social Welfare/Women and Child Welfare Department of State Government, Women’s Development Corporations, Women’s Development centres, Urban Local Bodies, reputed Public/Private Trust or Voluntary Organizations. The organization must have adequate experience in the field of trafficking, social defence, dealing with women and children in need of care and protection, children in conflict with law, etc.

(C) The Components of Scheme and Pattern of Assistance

The Scheme shall have the following main components:

1. Prevention
2. Rescue
3. Rehabilitation
4. Re-Integration
5. Repatriation

The implementing agencies may seek assistance for one or more of the components as mentioned under the scheme. While applying for a particular component, the implementing agencies should provide justification for selecting the specific components and the location of projects.

II) Scheme for Welfare of Working Children in Need of Care and Protection

The main objective for the introduction of this scheme is to provide opportunities including non-formal education, vocational training, etc, to working children to facilitate their entry/re-entry into mainstream education in cases where they have either not attended any learning system or where for some reasons their education has been discontinued with a view to preventing their continued or future exploitation.

The programme will lend support to projects in urban areas, not already being covered by the existing schemes of the ministry of labour, which provide support for the wholesome development of child workers and potential child workers especially those who have none or ineffective family support such as children slum, pavement dwellers, drug addicts, children living on railway platforms/railway lines, children working in shops, dhabas and mechanic shops etc., children engaged as domestic workers, children whose parents are in jail, children of migrant labourers/sex workers and leprosy patient etc.

The main components of the scheme are:

(i) facilitating introduction to return to the mainstream education system as children at study are not children at work.

http://wcd.nic.in/worldchild.htm.
(ii) Counselling to parents, heads of families, relatives of the targeted children so as to prevent their exploitation, and

(iii) To give vocational training whenever necessary.

The eligible NGO’s can assist the programme. The programme will be evaluated after a year and finding will be shared with the Ministry of Labour and Ministry of Human Resources Development and modifications will be made in the scheme, if necessary.

III) Integrated child Protection Scheme (ICPS)

A new scheme has been currently developing by the Ministry for Women and Child Development to promote child protection. It is said to be based on the cardinal principles of “protection of child Rights” and “best interest of child”. It aims to create a protective environment for children by improving regulatory frameworks, strengthening structure and professional capacities at national, state and district level so as to cover all child protection issue and provide child friendly services at all levels. The scheme will target especially in difficult circumstances:

(i) children in need of care and protection

(ii) child in conflict with law

(iii) Any other vulnerable child, but not limited, to “elimination of child labour, protecting children from being trafficked for commercial and sexual exploitation, protecting children affected by HIV/AIDS, orphans, abandoned and destituted children, missing or run away children, street or working children, children of sex workers, abused, tortured or exploited children, children affected by natural calamities, emergencies and man made disaster, children with disabilities, child beggars and children suffering from incurable disease.

The ICPS aims at:
• Creating a safety net for children in need of care and protection and children in conflict with law.
• Promoting preventive measures to enable families to stay together and prevent avoidable institutionalization of children.
• Providing services to the more vulnerable categories of children through specialized programmes.
• Establishing linkage for restoration of children to their biological families/placement with adoptive families or foster families.
• Ensuring effective implementation through the creation of state level child protection unit.
• Supplementing and strengthening the infrastructure established under the Juvenile Justice Act, 2000.
• Creating emergency access through CHILDLINE and followed by counselling, restoration and rehabilitative services along with linkage to other available services under various schemes of the Government of India/ State Governments
• Building capacities of families, community, NGO's local bodies, police, judiciary and other concerned departments of State Government.
• Undertaking research, advocacy and spreading awareness about child related issues.
• Networking amongst the Allied Systems to ensure proper treatment of children, care and rehabilitation.
• Initiating any other need based specialized innovative services including child guidance and counselling especially to combat drug abuse, HIV/AIDS and sexual abuse.

In order to reach out all vulnerable children and to achieve the above stated objectives, the ministry of women and child development has proposed to
combine its existing child protection schemes under our centrally sponsored scheme titled “Integrated Child Protection Scheme (ICPS)”

Previously there were multiple vertical schemes for child protection scattered under different ministries for example the Labour Ministry was responsible for child labour elimination programmes, Ministry of Women and Child Development took care of Juvenile Justice, child trafficking and adoption related matters, Ministry of Health and Family welfare looked into the implementation of the Pre-natal Diagnostic Techniques Act to check female foeticide.

The proposed ICPS seeks to rationalize existing schemes and programmes. It will bring together these multiple vertical schemes under one comprehensive child protection programme and will integrate interventions for interventions for protecting children and preventing harm.

(A) Components of the Scheme :- The components of the scheme would be broadly divided in two categories:

(1) Juvenile in conflict with law :- Under this component, the scheme would support setting of:

- State Child Protection Unit
- Observation Homes
- Special Homes
- Aftercare Homes
- Juvenile Justice Boards (JJBs)
- State Juvenile Police Unit (SJPU)

(2) Children in Need of care & Protection :- Under this component, the scheme would support setting up:

- State Child Protection Unit
- Children’s Homes
• Shelter Homes
• After-care Organisations
• Child Welfare Committees (CWC's)
• 24-hour Drop-in-Shelters for street children
• CHILDLINE Service

VI) National Commission for Protection of Child Rights

The National Commission for Protection of Child Rights (NCPCR) emphasises the principle of universality and inviolability of child rights and recognises the tone of urgency in all the child related policies of the country. For the Commission, protection of all children in the 0 to 18 years age group is of equal importance. Thus, policies define priority actions for the most vulnerable children. This includes focus on regions that are backward or on communities or children under certain circumstances, and so on. The NCPCR believes that while in addressing only some children, there could be a fallacy of exclusion of many vulnerable children who may not fall under the defined or targeted categories. In its translation into practice, the task of reaching out to all children gets compromised and a societal tolerance of violation of child rights continues. This would in fact have an impact on the program for the targeted population as well. Therefore, it considers that it is only in building a larger atmosphere in favour of protection of children’s rights, that children who are targeted become visible and gain confidence to access their entitlements.

Likewise, for the Commission, every right the child enjoys is seen as mutually-reinforcing and interdependent. Therefore the issue of gradation of rights does not arise. A child enjoying all her rights at her 18th year is dependent on the access to all her entitlements from the time he/she is born. Thus policies interventions assume significance at all stages. For the Commission, all the rights of children are of equal importance.
(A) Mandate of Commission

The National Commission for Protection of Child Rights (NCPCR) was set up in March 2007 as a statutory body under the Commissions for Protection of Child Rights Act, 2005, an Act of Parliament (December 2005). It was set up to protect, promote and defend child rights in the country.

The functions of the Commission as laid out in the Act are as follows:

1. **The Commission shall perform all or any of the following functions, namely:**
   
   a. Examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation.
   
   b. Present to the Central Government, annually and such other intervals, as the Commission may deem fit, Reports upon the working of those safeguards.
   
   c. Inquire into violation of child rights and recommend initiation of proceedings in such cases.
   
   d. Examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography, and prostitution and recommend appropriate remedial measures.
   
   e. Look into matters relating to children in need of special care and protection, including children in distress, marginalised and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures.
   
   f. Study treaties and other international instruments and undertake periodic review of existing policies, programmes, and other activities on child rights and make recommendations for their effective implementation in the best interest of children.
(g) Undertake and promote research in the field of child rights
(h) Spread child rights literacy among various sections of society and promote awareness of the safeguards available for protection of these rights through publications, media, seminars and other available means
(i) Inspect or cause to be inspected any juvenile custodial home or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority including any institution run by a social organisation, where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary
(j) Inquire into complaints and take up suo moto notice of matters related to:
   (i) Deprivation and violation of child rights
   (ii) Non implementation of laws providing for protection and development of children
   (iii) Non compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children or take up the issues arising out of such matters with appropriate authorities
(k) Such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions

(2) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force. In addition, the Commission is to perform the following functions as well:
(a) Analyse existing law, policy and practice to assess compliance with Convention on the Rights of the Child, undertake inquiries and produce
reports on any aspect of policy or practice affecting children and comment on proposed new legislations from a child rights perspective

(b) Present to the Central Government annually and at such intervals as the Commission may deem fit, Reports upon the workings of these safeguards

(c) Undertake formal investigations where concern has been expressed either by children themselves or by concerned persons on their behalf

(d) Ensure that the work of the Commission is directly informed by the view of children in order to reflect their priorities and perspectives

(e) Promote, respect and seriously consider the views of children in its work and that of all Government Departments and Organizations dealing with children

(f) Produce and disseminate information about child rights

(g) Compile and analyse data on children

(h) Promote the incorporation of child rights into the school curriculum, teachers training and training of personnel dealing with children

(B) Powers

The Commission, while enquiring into any matter, has all powers of the Civil Court trying a suit under the Code of Civil Procedures, 1908

(C) Child Participation

The NCPCR believes that child participation is integral to addressing child rights. Therefore the Commission facilitates children’s participation to enable children to access their rights and entitlements. The Rules of the Commission for Protection of Child Rights Act, 2005 under Rule 17(e) and (d) mandates that the Commission:

1. Ensures that the work of the Commission is directly informed by the views of children in order to reflect their priorities and perspectives
2. Promotes, respects and seriously considers the views of children in its work and in that of all government departments and organisations dealing with children.

The Commission’s functioning is also informed by Article 12 of the United Nations Child Rights Charter indicating that, “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”. Children are active stakeholders in defining and deconstructing their problems and addressing their vulnerabilities.

The Commission encourages child participation in each one of its interventions. For example, during it’s state visits, the Commission emphasises the need to listen to children in public hearings. When children feel shy and need greater privacy, the Commission has maintained a space for children to speak with confidence and comfort. There is a response in contacting such children and after conducting an enquiry, the matter is settled in the best interest of the child, while, at the same time, the institutions are dealt with firmly.

In its interaction with children who have taken the courage to bring to the notice of the Commission matters regarding violation of their rights, it has been found that they have been patient, tolerant and even magnanimous. They have shown a sense of justice and amicability, despite the adversities they have faced. While the Commission honours complaints from children with utmost seriousness, children have also shown remarkable maturity in utilising the Commission’s space as their own.

INDIA’S PERFORMANCE ON MDG’S ACCORDING TO WADA NA TODO ABHIYAN

Wada Na Todo Abhiyan (key your promise campaign) is a national initiative to hold the government accountable to its promise to end poverty, social exclusion and discrimination.

This campaign emerged from the consensus among human rights activists and social action groups, who were part of the world social forum 2004(Mumbai),
on the need for a focused and concerted efforts to help people who continue to experience intense deprivation from opportunities to learn, live and work in dignity.

Wada Na Todo Abhiyan aims to do this by monitoring the promises made by the Government to met the objectives set in the UN Millennium Declaration (2000), the National Development Goals and the National Common Minimum Programme (2004-09).

UNREVEALING THE UNION BUDGET

In 1997, India submitted its first report to the UN Committee on Rights of Child. The Committee’s Concluding Observations had stressed on the need for the State Party to take all necessary measures, including allocation of human and financial resources and ensure appropriate distribution of resources at the central, state and local levels. It suggested that the State Party should develop tools to establish a systematic assessment of impact of budgetary allocations on child rights.

The child budget work in India began in 2000 with HAQ: Centre for Child Rights taking on a decadal analysis of the Union Budget from a child rights perspective. HAQ’s report, “India’s Children and union budget”, was released in September 2001. Since this date, HAQ has been undertaking child budget analysis every year.

Two further attempts were made by 1CCW- Tamil Nadu in 2003 and 2004 and the Ministry of Women and Child Development has worked also in this direction from 2003 in partnership with UNICEF. In October 2005, the Government of India announced that it would be undertaking child budget work in the Centre as well as the State, just as it would undertake gender budgeting.

1) Share of children in Union Budget\textsuperscript{73}:- The Finance Minister’s Pranab Mukherjee’s “inclusive” Budget 2010-2011 does not include children, who are

\textsuperscript{73} Budget for Children in the Union Budget 2010-2011 by HAQ: Centre for Child Rights.
over 42% of the population. Out of every rupee spent in the budget, he has allotted only 4.63 paisa to children.

The children share in the next fiscal year (Rs. 51453.84 crore) is only slightly higher than 4.21 percent in 2009-2010, even as the total budget size has risen 8.61 percent to a record Rs. 11 lakh crore. This is still lower than the share children had received in 2008-2009 or even the years previous to this.

Even this small increase in the budget for children will reduce once the revised and actual estimates come in, as has been the trend in the past five years. (see Graph below).
The gap between the funds allocated and the funds actually released on the ground is never sharper in any other area than in the case of child-focused schemes in education, health, protection and development (see box below).

### Sectoral allocation within BfC as Percentage of Union Budget

<table>
<thead>
<tr>
<th>Sectors within BfC</th>
<th>In per cent</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share of Development Sector, BfC in Union Budget</td>
<td></td>
<td>0.69</td>
<td>0.90</td>
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<tr>
<td>Share of Health Sector, BfC in Union Budget</td>
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<td>0.46</td>
<td>0.49</td>
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<td>Share of Protection Sector, BfC in Union Budget</td>
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<td>Share of Education Sector, BfC in Union Budget</td>
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<tr>
<td>Share of Children in Union Budget</td>
<td></td>
<td>4.21</td>
<td>4.63</td>
</tr>
</tbody>
</table>

**Source**: Expenditure Budget Volume II, 2008-09 and 2009-10

**II) Protection sector in BfC**

In every budget for the last ten years, protection has received the least attention. This year too it received 0.04 per cent of the budget.

All initiatives till the Eleventh Five Year plan had been towards had been ameliorative in nature, that is, they addressed children after they fell through the

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74 Ibid.
protective net. With the designing of the Integrated Child Protection Scheme (ICPS), the effort was to create a protective environment for children, thereby addressing their needs and stop them from becoming vulnerable to exploitation and abuse.

In that backdrop, it is heartening to see a 300 per cent jump in the allocation for the ICPS this year, from Rs 54 crore to Rs 270 crore. However, this is still not enough to even implement the 2001 Juvenile Justice law and the 2006 amendments all over the country. Yet, the old programmes, such as the Prevention and Control of Juvenile Social Maladjustment, are no longer running.

HAQ has calculated that one day’s expenditure on just the members alone, if all the CWCs and JJBs were to be in place, amounts to Rs. 2,13,800 per day (based on the norm of Rs.500 per member per sitting, with a minimum number of three sittings a week). This is apart from other administration costs as well as the salaries of all the Principal Magistrates.

Protection should ideally be taken up on a war footing by policymakers. India has the highest number of working children in the world, 12.66 million as per the 2001 census and anywhere between 14 million and 50 million unofficially. More alarmingly, crimes against children went up by 7.6 per cent in just one year to 2007, according to Crime in India 2007, published by the National Crime Records Bureau.

India also has the highest number of sexually abused children in the world, with one in every 10 children sexually abused at any point in time, and a child below 16 years raped every 155th minute. The National Human Rights Commission (NHRC) says that on an average, 44,000 children are reported missing every year, while one fourth remain untraced.

Children are also getting more vulnerable in an increasingly politicised environment. Children in 19 out of 28 states are growing up in internal armed conflicts. This shows up in juvenile crimes, which are rising three times faster than all crimes. Since 2001, juvenile crimes have gone up by 38.5 per cent, as compared to a 12.5 per cent rise in all crimes.
## Schemewise Allocation in Protection Sector of BfC Programmes & Schemes

<table>
<thead>
<tr>
<th></th>
<th>2007-08</th>
<th>2008-09</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2009-10</th>
<th>2010-11</th>
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<tbody>
<tr>
<td></td>
<td>RE</td>
<td>BE</td>
<td>RE</td>
<td>BE</td>
<td>RE</td>
<td>BE</td>
</tr>
<tr>
<td>1. Other Schemes of Child Protection (break up is shown in table)</td>
<td>26</td>
<td>60.7</td>
<td>34.6</td>
<td>79.6</td>
<td>21.75</td>
<td>59.75</td>
</tr>
<tr>
<td>2. Prevention &amp; Control of Juvenile Social Maladjustment</td>
<td>21.78</td>
<td>18</td>
<td>19.8</td>
<td>20</td>
<td>9</td>
<td></td>
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<tr>
<td>3. Improvement in Working Conditions of Child/Women Labour</td>
<td>153.06</td>
<td>156.06</td>
<td>146.63</td>
<td>90</td>
<td>90</td>
<td>121.5</td>
</tr>
<tr>
<td>4. Swadhar</td>
<td>13.5</td>
<td>18</td>
<td>13.5</td>
<td>13.5</td>
<td>13.5</td>
<td>30</td>
</tr>
<tr>
<td>5. Short Stay Home</td>
<td>15.9</td>
<td>15.9</td>
<td>15.9</td>
<td>15.9</td>
<td>15.75</td>
<td>23.25</td>
</tr>
<tr>
<td>6. Integrated Child Protection Scheme (ICPS)</td>
<td>38.5</td>
<td>180</td>
<td>54</td>
<td>54</td>
<td>44</td>
<td>270</td>
</tr>
<tr>
<td>Protection Sector, BfC – Total</td>
<td>267.64</td>
<td>448.66</td>
<td>284.43</td>
<td>273</td>
<td>194</td>
<td>504.5</td>
</tr>
<tr>
<td>Union Budget-Total</td>
<td>709373.26</td>
<td>750883.53</td>
<td>900953.41</td>
<td>1020837.7</td>
<td>1021546.5</td>
<td>1108749.2</td>
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<tr>
<td>Budget for Protection Sector as %age of total Union Budget</td>
<td>0.038</td>
<td>0.059</td>
<td>0.031</td>
<td>0.02</td>
<td>0.02</td>
<td>0.04</td>
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</table>

### Other Schemes on Protection

<table>
<thead>
<tr>
<th></th>
<th>Rs. Crore</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>2007-08</td>
</tr>
<tr>
<td></td>
<td>RE</td>
</tr>
<tr>
<td>Integrated Scheme for Street children</td>
<td>9</td>
</tr>
<tr>
<td>Scheme for welfare of working children and children in need of care and protection</td>
<td>6.3</td>
</tr>
<tr>
<td>Shishu Griha Scheme (erstwhile Homes for infant and young children for promotion of in country adoption)</td>
<td>2.7</td>
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<tr>
<td>Central Adoption Resources Agency</td>
<td>2.4</td>
</tr>
<tr>
<td>Scheme for Rescue of Victims of Trafficking</td>
<td>4.5</td>
</tr>
<tr>
<td>Relief to &amp; Rehabilitation of Rape Victims</td>
<td>1.1</td>
</tr>
<tr>
<td>Total – Other Schemes on Child Protection</td>
<td>26</td>
</tr>
</tbody>
</table>
To echo the finance minister, “The Union Budget cannot be a mere statement of Government accounts. It has to reflect the Government’s vision and signal the policies to come in future.” More importantly, the “government concentrates on supporting and delivering services to the disadvantaged sections of the society”. Yet, this budget falls short of applying this principle to children. How else do we explain the fact that the share of funds for children does not even match up to the level three years ago?

The Budget for Children must be looked at within the framework of the overall economic scenario. The budget measures will lead to an all-round price rise, adding to the inflation ruling at over 7 per cent now. Worse, it has no concrete measure to counter the seriously high food inflation, at 20 per cent, which has severe implications for the nutrition of small children and new and would-be mothers. Children growing up hungry and malnourished suffer from a deficit childhood that no amount of prosperity in later life can fill.

Even the future seems under a cloud. Out of every rupee spent in the budget, 29 paise is coming from borrowing even as 19 paise is being spent on interest payment. Thus, even as growth has shrunk, the fiscal deficit, or the total new borrowing of the government has dipped only a little, from 6.8 per cent of the Gross Domestic Product in 2009-10 to 5.5 per cent in 2010-11. This is very high debt, described by economists as “a generational burden”, and this hangs heavy on India’s children who will keep paying the cumulative interest burden and bear the price pressure.