

# Disjuncture in Law, Policy and Practice: The Situation of Child Welfare in India's Conflict Affected Regions

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*The impact of armed conflict on children must be everyone's concern and is everyone's responsibility; governments, international organizations and every element of civil society.*<sup>1</sup>

*A child rights approach, meaning that all interventions are developed within a human rights framework, should underpin all interventions aimed at preventing recruitment or use, securing the release of, protecting, and reintegrating children who have been associated with an armed force or armed group.*<sup>2</sup>

## I. INTRODUCTION

Although one would like to envisage of a world where children have no place in violent conflicts, the reality is quite the opposite. It has been estimated that around 90 percent of global conflict-related deaths since 1990 have been civilians, and 80 percent of these have been women and children.<sup>3</sup> It is important to note here that the Convention on the Rights of the Child ("CRC") defines a "child" as a person below the age of 18, "unless under the law applicable to the child, majority is attained earlier".<sup>4</sup> The CRC further states that "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language,

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<sup>1</sup> U.N. General Assembly, *Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children: Note by the Secretary-General*, U.N. Doc. A/51/306, 90 (Aug. 26, 1996), available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/51/306](http://www.un.org/ga/search/view_doc.asp?symbol=A/51/306).

<sup>2</sup> U.N. Children's Fund (UNICEF), *The Paris Principles. Principles and Guidelines on Children Associated With Armed Forces or Armed Groups*, 8 (Feb. 2007), available at <http://www.unicef.org/emerg/files/ParisPrinciples310107English.pdf>.

<sup>3</sup> UNICEF, *Facts on Children: Child Protection from Violence, Exploitation and Abuse*, (Apr. 2007), available at [http://www.unicef.org/media/media\\_35903.html](http://www.unicef.org/media/media_35903.html) (last visited May 22, 2015).

<sup>4</sup> U.N., *Convention on the Rights of the Child (CRC)*, Nov. 20, 1989, 1557 U.N.T.S. 3, available at <http://www.un.org/documents/ga/res/44/a44r025.htm>.

religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”.<sup>5</sup>

The shift in the nature of warfare from conflicts between states to conflict within has created new sets of vulnerabilities, especially for children. It has been estimated that more than one billion children under 18 globally are living in conflict-torn regions, which is one-sixth of the total population of the world.<sup>6</sup> A large number of children are living as refugees or internally displaced children. It is documented that 18.1 million children were displaced as a result of armed conflicts in the year 2006, which included an estimated 5.8 million refugee children and 8.8 million internally displaced children.<sup>7</sup> Children are increasingly becoming targets of armed violence, often recruited as combatants, subjected to direct physical and sexual violence, and extreme forms of brutality.<sup>8</sup> This has serious long-term physical and psychosocial consequences. In addition, children affected by armed conflict lose access to basic amenities of life such as health care, education, clean water and sanitation. This makes them easily susceptible to various infectious diseases and exposes them to acute malnutrition.<sup>9</sup>

A multiplicity of existing international frameworks is expressly committed to the protection of children in situations of conflict. The CRC,<sup>10</sup> and the Optional Protocol to the Convention on the Rights of the Child<sup>11</sup> provide a comprehensive legal framework of international norms

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<sup>5</sup>*Id.*

<sup>6</sup> UNICEF, *Machel Study 10-Year Strategic Review: Children and Conflict in a Changing World*, at 19, E.09.XX.2 (2009), available at [http://www.unicef.org/publications/index\\_49985.html](http://www.unicef.org/publications/index_49985.html).

<sup>7</sup>*Id.*

<sup>8</sup>See U.N. General Assembly, *supra* note 1, at 1.

<sup>9</sup>See TAMI TAMASHIRO, IMPACT OF CONFLICT ON CHILDREN'S HEALTH AND DISABILITY, Background Paper Prepared for the Education for all Global Monitoring Report 2011, (June 7, 2010), available at <http://unesdoc.unesco.org/images/0019/001907/190712e.pdf>.

<sup>10</sup>Article 38 of the CRC has provisions that direct State parties to establish protective frameworks for children affected by war and armed conflict. Furthermore Article 38 specifically directs States to refrain from recruiting children below fifteen years as combatants. Article 39, on the other hand, focuses on the rehabilitation of child victims and the development of rehabilitation and recovery programs with an emphasis on “the health, self-respect and dignity of the child.” U.N., *supra* note 4, at 11.

<sup>11</sup>Optional Protocol to the Convention on the Rights of the Child extends the protection provided by CRC under article 38. It raises the minimum age for direct participation in hostilities to 18 years for state forces and prohibits the compulsory recruitment of children under the age of 18 into national armed forces. United Nations, *Optional Protocol to the Convention on the Rights of the Child*, May 25, 2000, 2173 U.N.T.S. 238, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>.

and standards for the protection and assistance to children during situations of conflict. In addition, there are several other international instruments such as Geneva Conventions and the two Additional Protocols;<sup>12</sup> Rome Statute of the International Criminal Court (“RS-ICC”);<sup>13</sup> the International Labour Organization (“ILO”) Convention No.182;<sup>14</sup> the African Charter on the Rights and Welfare of the Child;<sup>15</sup> and the Paris Principles,<sup>16</sup> which form a substantial body of child protection standards. While there is an international consensus on the need to protect children in zones of armed conflict, there is a serious lack of convergence between the existing international frameworks on one hand and domestic practices on the other.<sup>17</sup> Despite signing and ratifying many

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<sup>12</sup> The Third and Fourth Geneva Conventions and the Additional Protocol I apply to international armed conflicts only, while Additional Protocol II applies to non-international armed conflicts. Additional Protocol I, Article 77 provides that “children shall be the object of special respect and shall be protected against any form of indecent assault”. Additional Protocol II, Article 4 states that in times of armed conflict “Children must be provided with care and aid they require”. UNICEF, *Children and Armed Conflict: International Standards for Action*, (April 2003), available at <http://www.unicef.org/emerg/files/HSNBook.pdf>.

<sup>13</sup> U.N., Rome Statute of the International Criminal Court (RS-ICC, 1998) establishes four core international crimes: genocide, crimes against humanity, war crimes, and crime of aggression. It defines the conscription, enlistment, or use in hostilities of children under 15 by national armed forces or armed groups, and intentional attacks on civilian populations, humanitarian assistance personnel, vehicles, hospitals, and educational buildings as war crimes. Rome Statute of the International Criminal Court, U.N. Doc. A/CONF. 183/9 37 ILM 1002 July 17, 1998, 2187 U.N.T.S. 90, available at <http://www.icc-cpi.int/iccdocs/PIDS/publications/RomeStatutEng.pdf>.

<sup>14</sup> International Labour Organization (ILO) Convention No.182 prohibits the forced or compulsory recruitment of children under 18 for use in armed conflict. International Labour Organization, C182, Worst Forms of Child Labour Convention, 87th Sess., June 17, 1999, available at [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/--declaration/documents/publication/wcms\\_decl\\_fs\\_46\\_en.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/--declaration/documents/publication/wcms_decl_fs_46_en.pdf).

<sup>15</sup> Defining child as every human being below the age of 18, the African Charter on the Rights and Welfare of the Child (1993) urges state parties to the Charter to “respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child (Article 22). It also calls for appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee, whether unaccompanied or accompanied by parents, receive appropriate protection and humanitarian assistance. See African Charter on the Rights and Welfare of the Child, 1990, OAU Doc. CAB/LEG/24.9/49, available at <https://www1.umn.edu/humanrts/africa/afchild.html>.

<sup>16</sup> Adopted at the international conference ‘Free Children from War’ held in Paris, February 2007, the Paris Principles commit to protect children from unlawful recruitment or use by armed forces or armed groups. The Principles provide guidelines on the disarmament, demobilization and reintegration of all categories of children associated with armed groups. See *The Paris Principles*, *supra* note 2.

<sup>17</sup> International Bureau for Children’s Rights (IBCR), *Children and Armed Conflict: A Guide to International Humanitarian and Human Rights Law* 44(2010), available at

of these international instruments, many states fall short of implementing international norms and standards within their domestic legal order. Whereas the onus of protecting children in areas affected by conflict lies with domestic governance mechanisms, these often operate under conditions of fragility and state failure.<sup>18</sup> These states are also hampered by resource constraints (both financial and human). The overall consequence of these limitations is a breakdown of institutional and administrative mechanisms that impede the appropriate implementation of child welfare and protection policies.<sup>19</sup> Alternatively, in many cases institutions and personnel responsible for promoting child protection and welfare become targets of violence.<sup>20</sup>

Given the significance of the problem, there is a need to recognize the complex and empirical realities of armed conflict and investigate contexts where there is a conspicuous failure in implementing international norms. Whereas ongoing conflicts in countries such as Syria, Iraq, Afghanistan and the Democratic Republic of Congo (“DRC”) have garnered international attention, this paper focuses on situations of conflict in the South Asian region and most specifically on the situation of children in conflict-affected areas in India. The case of India poses one critical problem and provides one major insight in terms of the core concerns of the paper:

First, despite being a signatory, India does not recognize the existence of armed conflict situations as defined under international humanitarian law.<sup>21</sup> Hence, from the perspective of child-welfare only

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[http://www.ibcr.org/editor/assets/Conflict\\_Eng.pdf](http://www.ibcr.org/editor/assets/Conflict_Eng.pdf)(last visited Nov. 7 2015).

<sup>18</sup>JOACHIM THEIS, NOTES ON CHILD PROTECTION SYSTEMS IN FRAGILE STATES, UNICEF WEST AND CENT. AFRICA REG’L OFFICE, (May, 2012), *available at* [http://www.unicef.org/wcaro/english/Notes\\_on\\_child\\_protection\\_systems\\_in\\_fragile\\_states\\_-\\_May\\_2012.pdf](http://www.unicef.org/wcaro/english/Notes_on_child_protection_systems_in_fragile_states_-_May_2012.pdf) (last visited Nov. 5, 2011).

<sup>19</sup> UNICEF, *The State of the World’s Children 2006:Excluded and Invisible*, 15(2005), *available at* [http://www.unicef.org/sowc06/pdfs/sowc06\\_fullreport.pdf](http://www.unicef.org/sowc06/pdfs/sowc06_fullreport.pdf) (last visited Nov. 6, 2015).

<sup>20</sup> Human Rights Watch, *Attacks on Health: Global Report*, 6 (May 2015), *available at* [https://www.hrw.org/sites/default/files/related\\_material/HHR%20Attacks%20on%20Hospitals%20brochure%200515%20LOWRES.pdf](https://www.hrw.org/sites/default/files/related_material/HHR%20Attacks%20on%20Hospitals%20brochure%200515%20LOWRES.pdf) (last visited Nov. 5, 2015).

<sup>21</sup> India’s position can be seen in a response to a list of issues and questions raised by the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), India (the State Party) clearly lays down that “There are no situations of ‘armed conflict’ within the territory of India, and hence the Security Council Resolution 1325 relating to Women in Armed Conflict is not applicable to India”. CEDAW, *Responses to the list of issues and questions for consideration of the combined second and third periodic report of India*, CEDAW/C/IND/Q/3/Add.1, 4 (Dec. 13, 2006), *available at* <http://www.un.org/womenwatch/daw/cedaw/cedaw37/responses/cedaw.c.ind.q.3.add.1%20single.pdf>.

endogenously developed legislative and institutional frameworks are applicable to these situations. At the same time, the policy context in India is distinct because there are dense networks of overlapping rules, norms, and procedures with serious issues of interagency coordination. As will be shown, the Government of India has slowly recognized the problem of children in conflict and the issue is mentioned in certain official policies; however, the response to conflict situations has been conducted without international assistance or guidance.<sup>22</sup>

Second, because of the non-application of international frameworks pertaining to child protection in conflict zones, the endogenously developed response has also led to the evolution of unique institutional mechanisms and processes, which have generally been overlooked and could provide lessons for other conflict-affected countries. In addition, civil society initiatives for assistance to children are also continuously developing and have sought to fill the gap between state-capacity and actual welfare requirements.

One of the major aspects of armed conflicts in India is that the root causes of violence can be located in political, economic, and ideological factors, which are possible to partially decipher through existing methods of social science research and historical inquiry. However, the empirical consequences of these sub-national conflicts are not well known. This partly has to do with a lack of methodological development, i.e. the development of research methodologies that are appropriate to the unstable and insecure socio-economic and political environment that characterizes these situations.<sup>23</sup>

Current research on impacts of armed conflicts indicates that the manner in which it leads to the destruction of assets, destruction of social capital, disinvestment, and diversion of resources from the provision of public goods (such as education, health, infrastructure) to security related expenditures.<sup>24</sup> While these impacts are avenues of investigation and have led to child-centric evidence based research studies internationally, there have been very few studies in the context of India that recognize such vulnerabilities.<sup>25</sup> This has grave implications in terms of formulation and

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<sup>22</sup> Furthermore, it is to be noted that the term “armed conflict” itself does not appear in policy documents but rather terms such as “civil unrest” or “civil strife” are preferred. This policy shift at the domestic level can be seen in a major document of the National Commission for Protection of Child Rights (NCPCR) which outlines the various impacts of conflict on children in the Indian context. *See* NAT’L COMM’N FOR THE PROT. OF CHILD RIGHTS, PROTECTION OF CHILDREN’S RIGHTS IN AREAS OF CIVIL UNREST 14 (2010), available at [http://www.ncpcr.gov.in/view\\_file.php?fid=407](http://www.ncpcr.gov.in/view_file.php?fid=407)

<sup>23</sup> See Sultan Barakat et.al., *The Composite Approach: Research Design in the Context of War and Armed Conflict*, 23 THIRD WORLD QUARTERLY, 991 (2002).

<sup>24</sup> See Klaus Deininger, *Causes and Consequences of Civil Strife: Micro-Level Evidence From Uganda*, 55 OXFORD ECON. PAPERS, 579 (2003).

<sup>25</sup> See K.S. Subramanian, *Political Violence and Human Security in North East*

implementation of norms, programs, and policies that directly impact the welfare of children in conflict-affected areas.

The paper seeks to reexamine the situation of children and seeks to highlight the complexity of the problem of child welfare and protection in insecure environments in this context. The paper argues that despite the existence of a rich body of legislation, welfare programming and normative commitments, implementation has remained extremely weak with very little scope for improvement. In order to provide a cohesive narrative with a comparative perspective of the problem (given that three distinct conflict-affected regions are being discussed) the paper is thus organized in the following manner.

Part II of the paper provides a brief background on the spread and intensity of armed conflict experienced in India with a focus on three regions that are witnessing ongoing conflict: Jammu and Kashmir, the northeastern region of India (primarily the provinces of Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura), and lastly, the Maoist Insurgency (or Naxal/Left-Wing Extremist-LWE insurgency) affected regions of Central and East India. Part III provides a review of the situation of children in the conflict-affected regions. The section utilizes a range of social scientific sources from a variety of disciplines (such as public health and education) and highlights the types of burdens being borne by children in these affected regions. Part IV addresses the multiplicity of existing frameworks, laws, and welfare programs that constitutes policy making for child-welfare in India. The section further draws out recent national level policies that provide normative guidance to the stakeholders (including the security forces) in these conflict-affected regions. Part V examines the nature of state responses and highlights five welfare measures that provide direct assistance to children in the conflict-affected areas that have discussed in the paper. Part VI provides an overview of civil society welfare interventions ranging from direct humanitarian assistance to developmental programming. The section argues that civil society welfare models constitute a distinct realm of policy making and there is a need to reexamine these approaches to child welfare that goes beyond the formal state. Part VII provides certain conclusions and recommendations for improving the provision of child welfare in the regions discussed.

## II. BACKGROUND TO THE ARMED CONFLICT SITUATION IN INDIA

The occurrence of armed conflicts has been a significant part of India's historical experience. The nature of armed conflicts has manifested itself in several forms: ranging from full-fledged armed movements for

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*India*, in SOUTH ASIA DEFENSE AND STRATEGIC YEAR BOOK 83 (Colonel Harjeet Singh ed., 2008).

secession (for instance in Nagaland, Manipur, Mizoram, Punjab, Assam, Jammu and Kashmir); for limited political aims such as a separate state for a particular ethnic groups (Tripura, Karbi-Anaglong, N.C.Hills, Bodoland, Garo-Hills); ideologically driven and resource based conflict (such as the Naxal revolt in Central India); communal (and ethnic) violence; and lastly “terrorist”<sup>26</sup> violence.<sup>27</sup>

The drivers of armed conflicts in the Indian context are multifaceted, yet share a similar set of outcomes: the occurrence of fatalities and injuries, pervasive insecurity, and large scale forced internal displacement. While a detailed historical narrative of each situation is beyond the scope of this paper, the existing statistical data is only an estimate of the levels of violence that have been experienced (or are being experienced) in the various provinces. The data mentioned below exclude casualties that are a consequence of inter-state war and communal riots, with a focus on situations that can be broadly understood as “protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.”<sup>28</sup>

As recorded by the South Asia Terrorism Portal (SATP), between the years 1994 to 2015, there have been 64,611 conflict related fatalities in India of which 24,639 are civilians.<sup>29</sup> The state of Jammu and Kashmir recorded an estimated 47,234 fatalities between the years 1988 and 2015.<sup>30</sup> The province of Punjab has recorded an estimated 21,631 armed violence related deaths between the years 1981 and 2015 although there has been a decrease in the violence level since 2000.<sup>31</sup> The northeastern region of

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<sup>26</sup>Under the Central Scheme for Assistance to Civilian Victims/Family of Victims of Terrorist, Communal and Naxal Violence, 2010 ‘terrorism’ refers to militancy and insurgency related violence and specifically to acts defined in Section 15 of the Unlawful Activities (Prevention) Act (UAPA), 1967 (as amended in 2004). Unlawful Activities Prevention Act (UAPA), No. 37 of 1967, INDIA CODE (1993), available at [http://mha.nic.in/hindi/sites/upload\\_files/mhahindi/files/pdf/UAPA-1967.pdf](http://mha.nic.in/hindi/sites/upload_files/mhahindi/files/pdf/UAPA-1967.pdf).

<sup>27</sup>See SANJIB BARUAH, *BEYOND COUNTER-INSURGENCY: BREAKING THE IMPASSE IN NORTHEAST INDIA* (Sanjib Baruah eds., Oxford University Press 2011).

<sup>28</sup>See *The Prosecutor v. Tadic*, Case No. IT-94-1-I, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, ¶ 70 (Int’l Crim. Trib. for the Former Yugoslavia Oct. 2, 1995), available at <http://www.icty.org/x/cases/tadic/acdec/en/51002.htm> (last visited Nov. 7, 2015).

<sup>29</sup>See SATP, *India-Fatalities 1994-2015*, available at <http://www.satp.org/satporgtp/countries/india/database/indiafatalities.htm> (last visited Nov. 8, 2015).

<sup>30</sup>See SATP, *India Data Sheets: Fatalities in Terrorist Violence in Jammu and Kashmir 1988-2015*, SATP, [http://www.satp.org/satporgtp/countries/india/states/jandk/data\\_sheets/index.html](http://www.satp.org/satporgtp/countries/india/states/jandk/data_sheets/index.html) (last visited Nov. 8, 2015).

<sup>31</sup>See SATP, *Punjab Data Sheets: Fatalities in Terrorist Related Violence in Punjab 1981-2015*,

India, which includes the frontier states of Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura, witnessed an estimated 20,818 insurgency related killings between the years 1992 to 2015.<sup>32</sup>

Lastly, the emerging Maoist (or Naxal) insurgency in parts of central and east India witnessed 6,844 fatalities between 2005 and 2015.<sup>33</sup> Whereas the data is indicative of the spread and intensity of the violence being experienced, it is limited due to its focus on fatalities. Data on injuries (which constitute a significant burden of the violence being experienced) is not available and neither are the demographic distributions for the victims of conflict. Consequently, it is extremely difficult to estimate the number of children directly affected by violence as well as the impact on gender groups. In addition, it must also be mentioned that there are three characteristics that can be seen across these situations.

First, there is the presence of a multitude of organized Non-State Armed Groups (NSAGs) engaging in violence through the use of firearms and explosives, in addition to the occurrence of an excessive number of non-combatant casualties.<sup>34</sup> The second characteristic is the ability of the NSAGs to create sanctuaries in areas where the federal government has very limited influence. In the case of Jammu and Kashmir rebel groups have sought sanctuary in Pakistan; whereas, in the case of northeastern India countries such as Myanmar, Bangladesh and Bhutan have been important staging areas.<sup>35</sup> In these two cases the insurgencies are exacerbated by the porosity of the international borders, the presence of co-ethnic groups, and the remoteness of these regions. In the case of the Maoist insurgency which is emerging in Central and Eastern India, armed groups are able to strategically utilize adjoining remote and backward districts in order to covertly maneuver through the region and also to establish hideouts and garner supplies.<sup>36</sup> Third, there is increasing reliance of these organizations on extortion and illegal taxation for their sustenance

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[http://www.satp.org/satporgtp/countries/india/states/punjab/data\\_sheets/index.html](http://www.satp.org/satporgtp/countries/india/states/punjab/data_sheets/index.html) (last visited June 20, 2015).

<sup>32</sup>See SATP, *supra* note 30.

<sup>33</sup>See SATP, *Fatalities in Left-wing Extremism: 2005-2015*, [http://www.satp.org/satporgtp/countries/india/maoist/data\\_sheets/fatalitiesnaxal05-11.htm](http://www.satp.org/satporgtp/countries/india/maoist/data_sheets/fatalitiesnaxal05-11.htm) (last visited Nov. 8, 2015).

<sup>34</sup>NAMRATA GOSWAMI, *INDIAN NATIONAL SECURITY AND COUNTER INSURGENCY: THE USE OF FORCE VS NON-VIOLENT RESPONSE* 168 (1<sup>st</sup> ed., Routledge 2014).

<sup>35</sup>See, Sanjoy Majumder, *Indian Raid in Myanmar Raises Regional Tensions*, BBC (Jun. 19, 2015), <http://www.bbc.com/news/world-asia-india-33193275> (last visited Dec. 7, 2015).

<sup>36</sup>Dhruv C. Katoch, *Naxal Violence: An Overview*, in *NAXAL VIOLENCE THE THREAT WITHIN*, 2. (G.Kanwal and D. Katoch eds., 2013).

as well as their reliance on targeted killings.<sup>37</sup> Another notably hidden consequence of the conflicts being described has been the onset of several humanitarian crises, which can be attributed to insurgency and ethnic violence. For example, India has witnessed several episodes of forced internal displacement in recent years, with nearly 1 million people being internally displaced due to various episodes of violent conflict since 1990.<sup>38</sup>

The nature of state response in areas experiencing conflict also needs to be addressed. In the states of Jammu and Kashmir as well as provinces within the northeastern region, a separate legal regime operates, which provides the security forces with wide powers of arrest as well as a great deal of flexibility in defining the rules of engagement during the conduct of military operations.<sup>39</sup> A number of state-enforced practices have been contested by social organizations in these regions. Some of these contested practices include enforced disappearances, extrajudicial executions, conversion of schools into military outposts, and the detention of children.<sup>40</sup>

In light of the facts presented, the next section provides a review of research studies that provide an outline on the consequences of children living in an environment of protracted instability. These studies are able to

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<sup>37</sup>*Id.* at 121 and 206.

<sup>38</sup> Samrat Sinha, *Protecting Health Care in Areas of Civil Strife: A Review of Evidence*, ICRC Blog (June 20, 2015), <http://blogs.icrc.org/new-delhi/2014/11/11/health-care-in-danger-knowledge-mapping-and-advocacy-need-of-the-hour-in-india/>.

<sup>39</sup> The Armed Forces Special Powers Act (AFSPA) 1958, which is operational in Jammu and Kashmir and in some parts of the Northeast India allows an officer of the armed forces (commissioned and non-commissioned) to:

. . . [F]ire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area. . .” [Section 4(a)]; “arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest” [Section 4(c)]; and “enter and search without warrant any premises to make any such arrest as aforesaid. . .” [Section 4(d)].

The Armed Forces (Special Powers) Acts (AFSPA), No. 28 of 1958, PEN. CODE 3 (1958), *available at* <http://nagapol.gov.in/PDF/The%20Armed%20Forces%20Special%20Powers%20Act%201958.pdf>.

<sup>40</sup>*See* INDEP. PEOPLE’S TRIBUNAL, REPORT OF THE INDEPENDENT PEOPLE’S TRIBUNAL ON HUMAN RIGHTS VIOLATIONS IN KASHMIR, (Human Rights Law Network (HRLN) and Act Now for Harmony and Democracy (ANHAD) 2010); HRLN, *Manipur in the Shadow of AFSPA: Independent People’s Tribunal Report on Human Rights Violations in Manipur* Harsh Dobhal ed. HRLN (2009), *available at* [http://www.iptindia.org/wp-content/pdf/report/ipt\\_report%20on%20kashmir.pdf](http://www.iptindia.org/wp-content/pdf/report/ipt_report%20on%20kashmir.pdf).

provide insights on the prevalence of psychiatric morbidity, adverse nutritional outcomes and negative impacts on educational attainment in situations of armed conflict among children. The most critical finding that emerges from this review is the multi-dimensional impact armed conflict afflicts upon children which then leads to a number of long-term consequences that go well into adulthood. This must be viewed in consonance with the developmental deficits in these regions such as the high unemployment, the non-functioning of rural healthcare systems, the lack of infrastructure, and the non-functioning of schools.

### III. A REVIEW OF EVIDENCE

#### A. *Impacts of Conflict on Children in Jammu and Kashmir (J&K)*

A majority of these studies are from the state of Jammu and Kashmir, while a significantly lesser number have been generated from the conflict-affected areas of northeastern India and the “Left-Wing Extremism” (“LWE”) districts.<sup>41</sup> While three studies conducted in Kashmir point to the prevalence of high mental distress among the general population,<sup>42</sup> the studies examined below focus especially on the experiences of children.

One of the earliest studies<sup>43</sup> to emerge stated that 66.67% of children suffering from Post-Traumatic Stress Disorder (“PTSD”) were from the age range 12 to 16 years; a finding also echoed a decade later in a study conducted in the sole psychiatric disease hospital in the Kashmir Valley.<sup>44</sup> While the patients displayed a number of clinical symptoms

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<sup>41</sup> The most recent estimate is that there are 76 districts spread through 10 states that have been identified by the Ministry of Home Affairs (MHA) as being Naxal or Left-Wing Extremist (LWE) Affected. These are districts that have witnessed LWE-related violence and now receive funding through the Additional Central Assistance (ACA) to build additional infrastructure in these backward regions. See Press Information Bureau, Government of India, Ministry of Home Affairs (MHA), *Development Schemes in the Naxal Affected Districts*, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116427> (last visited Dec.7, 2015).

<sup>42</sup> See Kaz de Jong et.al., *Conflict in the Indian Kashmir Valley I: Exposure to Violence*, 2, *Conflict and Health* (2008), available at <http://www.conflictandhealth.com/content/pdf/1752-1505-2-10.pdf>; Kaz de Jong et.al., *Conflict in the Indian Kashmir Valley II: psychosocial impact*, 2, *Conflict and Health* (2008), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2577626/pdf/1752-1505-2-11.pdf>; Mushtaq A. Margoob et.al., *Community Prevalence of Adult Post Traumatic Stress Disorder in South Asia: Experience from Kashmir*, 13 *JK-PRACTITIONER* (Supplementary 1), 18 (2006), available at <http://medind.nic.in/jab/t06/s1/jabt06s1p18.pdf>.

<sup>43</sup> Mushtaq A. Margoob, *The Pattern of Child Psychiatric Disorders in Kashmir*, 3 *JK-PRACTITIONER*, 233 (1996).

<sup>44</sup> Akash Yousuf Khan and Mushtaq A. Margoob, *Paediatric PTSD: Clinical Presentation, Traumatic Events And Socio-Demographic Variables – Experience From a*

associated with the syndrome in the study, the causes of PTSD among children in their sample were a result of the children bearing witness to a number of incidents ranging from the killing to the arrest and torture of close relatives. In addition, PTSD in Indian children also stem from experiencing night raids, being caught up in cross fire, experiencing direct assault and torture, and hearing about the killing of a close relative.<sup>45</sup> Other studies reaffirm that mental distress is prevalent. Amin and Khan, found depression to be significantly affecting individuals in the age range of 15 to 25 years with 568 individuals in a sample size of 852 showing symptoms.<sup>46</sup> Rashid sought to particularly understand the mechanisms of trauma suffered by detained children and found that the experience of detention results in such adversity that “chronically endangers their social, economic, psychological and physical well-being.”<sup>47</sup>

Another recent manifestation of mass distress and the breaking down of coping mechanisms is the recourse to drug and substance abuse among youth in the Kashmir Valley.<sup>48</sup> Two recent clinical studies address this specific trend and investigate the driving factors behind this phenomenon. The first study found that substance abuse was linked to the complex political environment and the prevalence of unemployment.<sup>49</sup> The second study revealed a significant finding: in the sample of 198 drug users enrolled at the Drug De-addiction Centre of the Police Hospital Srinagar, 76.8% had started engaging in substance abuse in the age range of 11 to 20 years with psychiatric disorders being present in 49.5% of their sample.<sup>50</sup>

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*Chronic Conflict Situation*, 13 JK-PRACTITIONER (Supplementary 1), 40 (2006), available at <http://medind.nic.in/jab/t06/s1/jabt06s1p40.pdf>.

<sup>45</sup>*Id.* at 41.

<sup>46</sup> Syed Amin and Khan A.W, *Life in Conflict: Characteristics of Depression in Kashmir*, 3 INT’L JOURNAL OF HEALTH SCI., 213 (2009), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3068807/>.

<sup>47</sup> Javid Rashid, *An Analysis of Self-Accounts of Children-In-Conflict-With- Law in Kashmir Concerning the Impact of Torture and Detention on Their Lives*, 55 INT’L SOC. WORK 629, 629 (2012).

<sup>48</sup> Rifat Mohidin, “Drug abuse on the rise among youth in Kashmir”, *The Tribune*, June 13, 2015, available at: <http://www.tribuneindia.com/news/jammu-kashmir/community/drug-abuse-on-the-rise-among-youth-in-kashmir/92979.html> [last accessed on 24th March 2016]

<sup>49</sup> See M. Mudasir Naqshbandi, *Drug addiction and Youth of Kashmir*, 7 INT’L NGO JOURNAL, 84 (2012), available at <http://www.academicjournals.org/journal/INGOJ/article-full-text-pdf/2E0CB3441179>.

<sup>50</sup> Yasir Hassan Rather et.al., *Socio-Demographic and Clinical Profile of Substance Abusers Attending a Regional Drug De-addiction Centre in Chronic Conflict Area: Kashmir, India*, MALAYSIAN JOURNAL OF MED. SCI., 31 May 2013, at 32, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3743979/>.

Primary research that seeks to establish linkages between the complex political environment of Jammu and Kashmir and its impact on nutritional outcomes of children is still in its early stages. Parlow<sup>51</sup> hypothesized a causal relationship between children's health at birth, mother's health during pregnancy with children's height when exposed to negative exogenous shocks.<sup>52</sup> Parlow found a correlation variation connecting growth stunting among children in Jammu and Kashmir with exposure to violence, but did not explicitly identify causal linkages. Additionally, Khan and Khan successfully found evidence of chronic malnutrition in Jammu and Kashmir among children in the age range between newborn to 24 years of age, but did not delve into examining possible causal linkages between malnutrition and armed violence.<sup>53</sup>

The evidence on the linkage between educational outcomes (especially school enrollment) and armed violence in Jammu and Kashmir is ambiguous. Another paper by Parlow which addressed the effects of armed conflict on enrollment of girl children in primary schools found that there was no significant impact and that enrollment rates actually increased when violence peaked in the 1990s.<sup>54</sup>

Another issue to be discussed pertains to the emergence of a significant population of orphaned children in the region as a consequence of the violence. Estimates on the number of orphans vary substantively without any definite number. The number of casualties in the Jammu and Kashmir region outlined in the previous section can provide an indirect estimate of this specific demographic. A study conducted by Save the Children estimated that there were 214,000 orphans in the state of whom 37% were orphaned due to the death of family members due to armed violence.<sup>55</sup> This particular demographic is extremely vulnerable and the

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<sup>51</sup>See ANTON PARLOW, ARMED CONFLICT AND CHILDREN'S HEALTH – EXPLORING NEW DIRECTIONS: THE CASE OF KASHMIR-44, Households in Conflict Network (HICN) Working Paper 119 (2012), available at <http://www.hicn.org/wordpress/wp-content/uploads/2012/06/WP-1192.pdf>.

<sup>52</sup> An exogenous shock can be defined “as an event beyond the control of the authorities” which has a “significant negative impact on the economy.” See International Monetary Fund, *Establishment of an Exogenous Shocks Facility Under the Poverty Reduction and Growth Facility Trust*, 4 (2005), available at <https://www.imf.org/external/np/pp/eng/2005/100405.pdf> (last visited Nov. 8, 2015).

<sup>53</sup>See Yasmeen Khan and Nelofar Khan, *Nutritional Status of Children (0-24 Months) in Jammu Kashmir and Ladakh Regions*, 2 INT'L JOURNAL OF SCI. AND RESEARCH PUBL'N, June 2012, at 1, available at [http://www.ijsrp.org/research\\_paper\\_jun2012/ijsrp-June-2012-05.pdf](http://www.ijsrp.org/research_paper_jun2012/ijsrp-June-2012-05.pdf).

<sup>54</sup>ANTON PARLOW, EDUCATION AND ARMED CONFLICT: THE KASHMIR INSURGENCY IN THE NINETIES, Munich Personal RePec Archive (MPRA) Paper No. 38010 (2013), available at [https://pantherfile.uwm.edu/aparlow/www/education\\_may2013.pdf](https://pantherfile.uwm.edu/aparlow/www/education_may2013.pdf).

<sup>55</sup>Mudasir Firdosi, *Orphans of Conflict: Forgotten by Society and the State*, available at <http://kashmirinfocus.com/2015/08/12/orphans-of-conflict-forgotten-by-society-and-the->

survey found that they are prone to suffer abuse, psychiatric stresses and more likely to drop out of secondary school.<sup>56</sup> These vulnerabilities were especially observed in two clinical studies conducted in orphanages in Srinagar and its surrounding areas.

The first study was conducted on four major orphanages located in Srinagar to assess the linkage between the quality of institutional care being provided and its impact on the psychological adjustment of children who have been orphaned and are residing in these institutions.<sup>57</sup> According to the authors, the UCLA Loneliness Scale<sup>58</sup> was used to assess levels of loneliness, an indicator of psychological distress, among the resident children. High scores evident in the select sample of children from the four orphanages were associated with “adverse living conditions, like poor residential setup, rigid timetables, poor recreation facilities, poor nutrition, and lack of modern educational facilities.”<sup>59</sup>

Another study examined an orphanage for girls in Srinagar. A total of 76 girls residing in the orphanage were surveyed and among them 40 were found to be suffering from psychiatric distress. According to the authors, “Post-traumatic Stress Disorder (PTSD) was the commonest diagnosis present in 40.62% (n=13) of the sample, followed by Major Depressive Disorder (MDD) 25% (n=8), Conversion Disorder 12.5% (n=4), panic disorder 9.38% (n=3), Attention Deficit Hyperkinetic Disorder (ADHD) 6.25% (n=2) and seizure disorder 6.2% (n=2).”<sup>60</sup>

Whereas the earlier studies were conducted at the state-capital Srinagar, the situation in adjacent conflict affected districts are also a cause for concern and requires further systematic research. Thus, a recent study in Budgam District by Vaida found that dietary intake for children

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state/ (last visited Nov. 8, 2015).

<sup>56</sup> Salman Nizami, *Children of Conflict: Survey finds 2, 14,000 orphans in JK*, available at <http://kashmirwatch.com/news/print.php/2012/01/25/children-of-conflict-survey-finds-2-14-000-orphans-in-jk.phtml> (last visited Sept. 21, 2013).

<sup>57</sup> Yasir Hassan Rather and Mushtaq A. Margoob, *The Children Living In Orphanages In Kashmir: An Exploration Of Their Nurture, Nature And Needs*, 13 JK-PRACTITIONER (Supplementary 1), 49, 49 (2006).

<sup>58</sup> A 20-item scale designed to measure one’s subjective feelings of loneliness as well as feelings of social isolation. Participants rate each item as O (“I often feel this way”), S (“I sometimes feel this way”), R (“I rarely feel this way”), N (“I never feel this way”). The measure has been revised two times since its first publication; once to create reverse scored items, and once to simplify the wording. See Dan Russell et. al., *Developing a Measure of Loneliness*, JOURNAL OF PERSONALITY ASSESSMENT, 1978, at 290.

<sup>59</sup> *Id.* at 51.

<sup>60</sup> Mushtaq A. Margoob et. al., *Psychiatric Disorders Among Children Living In Orphanages – Experience From Kashmir*, 13 JK-PRACTITIONER (Supplementary 1), 53, 54 (2006), available at <http://medind.nic.in/jab/t06/s1/jabt06s1p53.pdf>.

residing in orphanages was deficient for all nutrients, and inmates were also residing in unhygienic conditions.<sup>61</sup>

A final set of vulnerabilities pertain to children displaced as a result of the ongoing armed conflict in Jammu and Kashmir. Two major studies regarding conditions of displaced children should be mentioned. The first was conducted by Sudan and provided a detailed case study of the Purkhoo Camp in Jammu City.<sup>62</sup> The study provides an in-depth case study of the Internally Displaced Persons (IDP) camp and consisted of a sample of 230 children, of whom 160 were boys and 70 girls.<sup>63</sup> The significant findings of the study highlight the conditions of children living in a protracted state of forced displacement and are reproduced below:

Displaced children perceived that camp is not a good place to live and their future is at stake, if something concrete has not been done to ameliorate their living conditions. Some of them have shown strong desire to return home by any means necessary and as soon as possible. Displaced migrant children say their well-being is dependent upon many things, which includes: (i) peace and return to homeland, (ii) freedom from violence and sufferings, (iii) opportunities to learn and access appropriate education, (iv) freedom of movement, (v) safe spaces for discussion and interaction with others, (vi) gender equality within the home and society, (vii) supportive parental care or adult assistance, acceptance and love, (viii) adequate, clean, nutritious and easily accessible food and water, (ix) clean, safe and adequate housing, (x) a safe and healthy working environment, (xi) access to health care, including reproductive health care, (xii) freedom from sexual violence and exploitation, (xiii) life skills - communication, social, negotiation, and decision-making, (xiv) opportunities to develop leadership skills and ability to make choices, (xv) opportunities for recreation and creative expression, (xvi) freedom to choose one's relationships with others and friends and peer support, and (xvii) self-reliance and opportunities to participate in decision-

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<sup>61</sup>See Naheed Vaida, *Nutritional Status of Children Living in Orphanages in District Budgam, J&K*, 2, INT'L JOURNAL OF HUMANITIES AND SOC. SCI. INVENTION, Feb. 2013 at 36, available at [http://www.ijhssi.org/papers/v2\(2\)/version-1/G0223641.pdf](http://www.ijhssi.org/papers/v2(2)/version-1/G0223641.pdf).

<sup>62</sup>FALENDRA K. SUDAN, SOCIAL AND ECONOMIC IMPLICATIONS OF ARMED CONFLICTS ON DISPLACED MIGRANT CHILDREN: A CASE STUDY OF PURKHOO CAMP IN JAMMU CITY, INDIA, 38 (2007), available at [http://www.cry.org/resources/pdf/NCRRF/F.K.Sudan\\_2007\\_Report.pdf](http://www.cry.org/resources/pdf/NCRRF/F.K.Sudan_2007_Report.pdf)

<sup>63</sup>*Id.* at 9.

making.<sup>64</sup>

Another study by Sudan surveyed 905 households in three IDP camps (Belicharna, Teliwara and Khanpur) in Jammu and identified the occurrence of child trafficking within these camps (with 96% of interviewees being Below the Poverty Line).<sup>65</sup> As stated by the author:

The study found that lack of life skills and early exposure to modernization allows adolescents to fall victim to the skilled traffickers. The demonstration effects of urban life style and modern living encourage those with low opportunities to take risks. Impressionable youth are lured to high-risk labor including prostitution. The local situation is not conducive for young children to stay due to limited job and educational opportunities. The institution of the family is eroding due to socio-cultural changes. Poverty remains a catchall term in relation to trafficking. The desire to improve the standard of living and social status often leads to trafficking. In relocated places, they are exposed to drug addiction, prostitution, depression, ill health, and increasing economic disparity.<sup>66</sup>

Thus, the existing research pertaining to the impact of civil strife on children in Jammu and Kashmir sheds light on a number of consequences, especially concerning the seriousness of long-term psychiatric impairment upon children, the conditions of orphans, and displaced children. However, in comparison to Jammu and Kashmir, the extent of evidence pertaining to impacts on children has been relatively less in the context of strife-affected regions of northeastern region India as well as the LWE affected states.

#### B. *Impacts of Conflict on Children in the Northeastern Region*

In the case of the northeastern region of India, armed conflict is extremely variegated, complex, and highly localized. In other words, it is critical to understand the sub-regional distribution of violence at the district level, the prior history of armed conflict in the region, and the claims (and counter claims) of the various ethnic groups.<sup>67</sup> Despite a long

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<sup>64</sup>*Id.* at 38.

<sup>65</sup>FALENDRA K. SUDAN, CHILD TRAFFICKING IN POST-CONFLICT SITUATIONS: EVIDENCE AND LESSONS LEARNT FROM DISPLACED CAMPS IN JAMMU AND KASHMIR, INDIA 7 (2013), available at [http://www.iussp.org/sites/default/files/event\\_call\\_for\\_papers/IUSSP\\_TRAFFICKING%20PAPER\\_FKSUDAN\\_2013.pdf](http://www.iussp.org/sites/default/files/event_call_for_papers/IUSSP_TRAFFICKING%20PAPER_FKSUDAN_2013.pdf).

<sup>66</sup>*Id.* at 14.

<sup>67</sup> The Northeastern region of India comprises the frontier provinces (states) of

history of armed conflict (including several humanitarian crises and episodes of forced internal displacement), the evidence base is extremely weak and very few primary studies examining the conditions of children in these conflict-torn areas are conducted.

Furthermore, there are no studies seeking to measure conflict-induced mortality or injury patterns, nor are there clinical studies that explicitly seek to measure psychiatric morbidity among children throughout the region that can be attributed to armed conflict.<sup>68</sup> In addition, there is very little work on the vulnerabilities of orphans and no evidence based work on the conditions of orphanages or institutional care. However, three studies have emerged which have examined the impact of conflict on educational institutions in particular in the state of Manipur.

The first study by Ningthoujam is normative in nature and points out that “schools are vital in protecting children and supporting their emotional and social development by giving them comfort, security, and opportunity.”<sup>69</sup> The study is important as it draws attention to the manner in which armed conflict impedes holistic development and the processes by which students are impeded by blockades, *bandhs*,<sup>70</sup> and protest movements.<sup>71</sup> The most recent study by Singha found that overall literacy rates were found to have increased in the state despite the occurrence of violence, blockades, pressure from extortionists, and forced closures of schools due to extended protests; however, the trend was possibly

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Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura. The extensive international borders (the region shares frontiers with Bangladesh, Bhutan, China and Myanmar) also make this vast region extremely crucial to India’s geopolitical strategies vis-à-vis these countries. The Northeastern region of India has witnessed numerous insurgent movements that have engaged in armed action for a variety of political goals ranging from full independence (such as the Naga, Mizo, Manipur, Assam insurgencies) to limited autonomy for specific ethnic groups within existing state boundaries (such as the movement for Bodoland, Dimas Hasao and Karbi Anglong). See Lucy Zehol, *Ethnic Tensions and Conflicts: North Eastern Experience*, in SEARCH FOR PEACE WITH JUSTICE: ISSUES AROUND CONFLICTS IN NORTHEAST INDIA44 (Walter Fernandes ed., 2008).

<sup>68</sup> The exception is a study by the Planning Commission. A research study titled *Psycho Socio Impact of Terrorists Violence Activities on Women and Children* stated that in some of the conflict-affected areas of Assam, children have been badly traumatized by the recurring violent activities. Children are found to be suffering from depression, somatic symptoms, anxiety, phobia, psychosis and psychological anguish. PLANNING COMM’N GOV’T INDIA available at [www.planningcommission.nic.in/reports/sereport/ser/stdy\\_psi.doc](http://www.planningcommission.nic.in/reports/sereport/ser/stdy_psi.doc) (Last visited Oct. 12, 2013).

<sup>69</sup> Rebecca Ningthoujam, *Conflict Situations and Children’s Education in Manipur*, JOURNAL OF INDIAN EDUC., Jan. 2008, at 25, 30.

<sup>70</sup> Originated in the Hindi language, the term ‘Bandh’ literally means “Closed”. It is a popular form of protest in South Asia that implies general strike.

<sup>71</sup> Rebecca Ningthoujam, *supra* note 69, at 26.

attributed to a number of students migrating from the state and enrolling in educational institutions outside Manipur.<sup>72</sup>

An important facet addressed by Zingran is the lack of employment opportunities for educated children in conflict-affected regions. Utilizing data from the Employment Exchange, the study found that of the 315,016 persons who were under the category of “educated and unemployed” in 2005, approximately 183,825 persons had completed their education until matriculation and did not attain a college education.<sup>73</sup>

The lack of employment opportunities after high school and high unemployment rates further compound the pressure upon youth in the region. Clinical studies also point to the pervasiveness of substance abuse among youth in Manipur and Nagaland (a trend which resonates with studies being done in Jammu and Kashmir).<sup>74</sup> Also, these particular segments of young drug users are vulnerable to various infectious diseases.<sup>75</sup> Nuken and Singh’s report assesses the prevalence and pattern of risk-taking (i.e., engaging in alcohol and substance abuse) behavior among youth aged 15-24 years in Dimapur, Nagaland. According to the report, because “these [risk-taking] activities entail substantial economic and social costs to the health and well-being of individuals and also to society, it is important to understand the extent of young people’s involvement in them.”<sup>76</sup>

However, another lacunae pertaining to research studies on the northeastern region is the absence of studies on the consequences large-scale internal displacements have upon children using methods similar to those conducted by Sudan in state of Jammu and Kashmir. However, the findings from the few existing studies focusing on measuring the empirical impacts and outcomes of internal displacement on children in the region

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<sup>72</sup>KomolSingha, *Nexus between Conflict and Development in India: A Case of Manipur*, 1, INT’L JOURNAL OF HUMANITIES AND APPLIED SCI., 142, 190 (2012), available at <http://journalsweb.org/siteadmin/upload/24482%20IJHAS015031.pdf>.

<sup>73</sup>KashungZingranKengoo, *Educated Unemployed Youth in Manipur*, INT’L JOURNAL OF RESEARCH STUDIES IN EDUC. TECH., Oct. 2012, at 62, 67, available at <http://www.consortiacademia.org/index.php/ijrset/article/view/147/122>.

<sup>74</sup>See Gregory Armstrong et. al., *Opioid Substitution Therapy in Manipur and Nagaland, North-east India: Operational Research in Action*, HARM REDUCTION JOURNAL, Dec. 1, 2010, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3003202/pdf/1477-7517-7-29.pdf>

<sup>75</sup>See Sibnarayan Datta et.al., *Drug Trafficking Routes and Hepatitis B in Injection Drug Users, Manipur, India*, 12, EMERGING INFECTIOUS DISEASES, Dec. 2006, at 1954; Samiran Panda et. al, *Clinical Features of HIV Infection In Drug Users Of Manipur*, 7, NAT’L MED. JOURNAL OF INDIA, 267 (1994), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3291348/>.

<sup>76</sup>Amenla Nuken and Laishram Ladu Singh, *Risk-taking Behaviors among Youth in Dimapur, Nagaland*, 3 INT’L JOURNAL OF SCI. AND RESEARCH PUBL’N (March 2013), at 1, 2, available at <http://www.ijsrc.org/research-paper-0313/ijsrc-p15128.pdf>

reveal a dismal situation. For example, according to the Asian Centre for Human Rights (ACHR) Report of 2005, the conditions of the IDP camps during Karbi-Dimasa ethnic violence (in Karbi Anglong) were highly unhygienic and sub-human.<sup>77</sup> Moreover, the education system completely collapsed after the conflict and more than 20,000 students were affected since most of the schools were being used for hosting the IDPs.<sup>78</sup> The closure of the schools affected both the displaced individuals and students in Karbi Anglong district.

A study on the Garo-Rabha ethnic riots of 2011 in the State of Assam found that children were adversely affected in the aftermath of the riots (which displaced approximately 50,000 individuals). The education system was heavily affected due to the destruction of schools and conversion of school facilities into IDP camps, health clinics, warehouses, and camps for security forces.<sup>79</sup> The riots and subsequent displacement also resulted in a suspension of the school year and resulted in high dropout rates.

Another study conducted between September and October 2012 on food and nutritional security in the 2012 humanitarian crisis in the Bodoland Territorial Autonomous Districts (BTAD) region revealed a high prevalence of malnutrition amongst children in the districts of Chirang, Kokrajhar and Dhuburi.<sup>80</sup> A total of 2,574 children between 6 and 59 months were surveyed in 19 IDP camps (of a total of 220 camps) spread throughout the three districts. Of the children in the sample, 1,452 children belonging to this demographic were living in camps in Chirang, 485 in Kokrajhar, and 535 in Dhuburi.<sup>81</sup> A total of 286 cases of Medium Acute Malnutrition (MAM) and 49 cases of Severe Acute Malnutrition (SAM) were identified in the survey in these 19 camps.<sup>82</sup>

The Institute of Development Action (IDeA) carried out a study between January and May 2013 which sought to understand chronic malnutrition. The weight and height of 1,376 children of different communities between the ages of 2 to 5 years from the districts of Chirang, Darrang, Dibrugarh, Sonitpur in Assam were studied. According

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<sup>77</sup> ASIAN CTR. FOR HUMAN RIGHTS, *ETHNIC CLEANSING AND INTERNAL DISPLACEMENT IN KARBI ANGLONG AND NC HILLS* (2005), available at <http://www.achrweb.org/Review/2005/98-05.htm>.

<sup>78</sup>*Id.* at Section ii(f).

<sup>79</sup> SUNNY BORGHAIN AND SAMRAT SINHA, *ETHNIC CONFLICT IN ASSAM: GARO-RABHA ETHNIC VIOLENCE* (1st ed., 2014).

<sup>80</sup> Samrat Sinha, *Food, Nutrition and Livelihood Security in Conflict and Post-Conflict Situations: Some Lessons from 2012 "BTAD Humanitarian Crisis" in Northeastern India*, INDIA PUBLIC POLICY REPORT (forthcoming 2015).

<sup>81</sup>*Id.*

<sup>82</sup>*Id.*

to the authors, the study “was done to look at malnourishment at an age after which permanent malnourishment sets in and one cannot do much to rectify it.”<sup>83</sup> The study found the existence of a correlation between an individual’s ethnic origins and chronic malnutrition. Almost “70% of Adivasi and Bengali Muslim children were found to be stunted—the average stunting for all children was a high 53% and underweight levels were of 36%—World Health Organization terms these levels ‘Very High Severity of Malnutrition.’”<sup>84</sup>

C. *The Impact of Conflict on Children in “Left Wing Extremist” (Naxal) Affected Regions*

Despite the spread of armed violence throughout the Left Wing Extremist (LWE) affected regions, the level of evidence is extremely weak along all the parameters being discussed. The major studies conducted on the forced internal displacement of individuals hailing from the Gutte-Koya community from Chhattisgarh and their resettlement in the Andhra Pradesh borderland areas did not seek to describe the condition of children using methodologies similar to the studies mentioned previously.<sup>85</sup>

Yagnamurthy based his study on the secondary analysis of District Information System for Education (DISE) data, which provides comprehensive information regarding school-based indicators, facility indicators, enrollment-based indicators, and teacher-related indicators in LWE affected districts. The DISE data relating to number of instructional days for the academic years 2005-2006 to 2009-2010 was studied among the districts identified as LWE districts.<sup>86</sup> The results were mixed and although the study found significant improvements in school functionality (measured in terms of instructional days), Yagnamurthy called for further analysis of sub-district and village-level data in order to create a much more realistic picture of the education system in these LWE districts.<sup>87</sup> A recent report by Save the Children provides insightful district-level findings across the three states of Chattisgarh, Jharkhand, and Odisha.<sup>88</sup>

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<sup>83</sup>*The ANT Newsletter, Fresh News from an Assam Ant Hill*, ACTION NORTHEAST TRUST, April-June 2013, at 3, available at <http://ssism.org/theant/wp-content/themes/wpbootstrap/resource/Periodic%20Newsletters/News%20from%20an%20Assam%20ant%20Hill%20-%20April%20-%20Jun%202013.pdf>.

<sup>84</sup>*Id.* at 3.

<sup>85</sup> Bert Suykens, *The Gotte Koya IDP Mystery: Tribal Identity and the IDP–Migrant Continuum in the Chhattisgarh–Andhra Pradesh Borderland (India)*, JOURNAL OF REFUGEE STUDIES, Jan. 2011, at 110.

<sup>86</sup> Sreekanth Yagnamurthy, *How Schools Function in The Districts Affected By Left-Wing Extremism in India*, ASIAN EDUC. AND DEV. STUDIES, Oct. 2013 at 263.

<sup>87</sup>*Id.* at 263.

<sup>88</sup> MOHUYA CHAUDHARY et. al., CAUGHT IN THE CROSS FIRE: CHILDREN AND EDUCATION IN REGIONS AFFECTED BY CIVIL STRIFE (Save the Children 2013), available

Some of the key findings of the report cluster around seven problem areas: Schools as Zones of Conflict, Poor Quality and Low Accessibility, Decontextualized Learning and Absence of Flexible Curriculum, Lack of Safety and Security, Residential Schools and Porta Cabins (substitute for school buildings), Lack of Psycho-Social Support, and Social Problems.<sup>89</sup>

Connected with the provision of education, the phenomenon of Out of School (OOS) children is one the most critical issues to have emerged from the LWE affected regions. According to data recorded by the district authorities of one of the most severely affected districts, Dantewada, the state of Chhattisgarh claimed 21,816 students in the age group 6-14 were rendered OOS due to the destruction of schools in 2011.<sup>90</sup> According to the overall state government data, 593 schools were destroyed in Chhattisgarh in the conflict until 2013.<sup>91</sup> This also led to the creation of an emergency measure as reflected in the *Porta Cabin Programme*<sup>92</sup> of temporary schools to accommodate these children, with 60 such shelters being opened across four districts accommodating 30,000 children.<sup>93</sup>

Similarly, in the state of Jharkhand, years of neglect have taken a toll on elementary education with an overall number of 280,167 children OOS.<sup>94</sup> Without comparable sources of data, indirect estimates can only be made. The current situation pertaining to OOS can also be seen in the minutes of the 19<sup>th</sup> Planning and Budget Meeting of the Sarva Shiksha Abhyan (“SSA”) held on March 4, 2013. The meeting recorded that:

The overall enrollment at primary level has been declining

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[http://resourcecentre.savethechildren.se/sites/default/files/documents/caught\\_in\\_crossfire.pdf](http://resourcecentre.savethechildren.se/sites/default/files/documents/caught_in_crossfire.pdf)

<sup>89</sup>*Id.* at 12-13.

<sup>90</sup>MANISHA PRIYAMet.al., AGAINST THE ODDS: A CASE STUDY OF EDUCATIONAL INITIATIVES IN DANTEWADA 11 (2014), available at [darp.gov.in/darpgwebsite/cms/document/.../DANTEWADA\\_case.pdf](http://darp.gov.in/darpgwebsite/cms/document/.../DANTEWADA_case.pdf).

<sup>91</sup> GOVERNMENT OF CHHATTISGARH, STATUS OF COMPLIANCE OF THE RIGHT TO EDUCATION ACT IN LEFT WING EXTREMISTS AFFECTED DISTRICTS OF BASTAR REGION, 3 (2013).

<sup>92</sup> The provincial government in Chhattisgarh has established pre-fabricated porta cabins in all districts of Bastar region which can be moved easily. This is to accommodate children who have lost their access to school due to Naxal attacks. See Press Information Bureau, Government of India, *Educating Children in Naxal Affected Areas* <http://www.pib.nic.in/newsite/efeatures.aspx?relid=91410> (last visited Dec. 7, 2015).

<sup>93</sup>GOVERNMENT OF CHHATTISGARH, *supra* note 90, at 5.

<sup>94</sup> Government of India, Ministry of Human Resource Development, Department of School Education and Literacy, 2013, *Minutes of the 194th PAB meeting held on 4th March, 2013 for approval of the Annual Work Plan & Budget of Jharkhand*, 2013, at 7, available at [http://ssa.nic.in/pabminutes-documents/Pab%20Minutes%202013-14/Jharkhand/Final\\_PAB\\_Minutes\\_Jharkhand.pdf](http://ssa.nic.in/pabminutes-documents/Pab%20Minutes%202013-14/Jharkhand/Final_PAB_Minutes_Jharkhand.pdf).

consistently for the past several years and at primary level the decline is 13% (5.2 lakh) from the level of 2008-09. The retention rate at the primary level is 59.51, which is quite low and alarming especially in districts such as Simdega (36), Gumla (38), Khunti (44) and Giridih (45). The State needs to analyze and work on this further.<sup>95</sup>

While the districts mentioned above are LWE-affected, the seriousness of the problem can be gauged by a recent incident. As recently as July 2014, the People's Liberation Front of India ("PLFI"), a newly emerging faction in the state of Jharkhand, passed a *diktat*<sup>96</sup> ordering schools to remain closed in order to compel the security forces from vacating schools they had occupied. According to the report:

Over 40,000 students of some 400 primary and middle schools in Khunti's rural heartland, tribal icon Birsa Munda's birthplace 40km from the capital, are being deprived of lunch and learning for the past six days, thanks to arm-twisting by splinter rebel group PLFI, a threat the district administration largely wants to dilute. Since the past week, the banned rebel outfit has ordered rural teachers to keep at least 400 schools closed, a figure claimed by villagers and contested by the administration. But there is no confusion on why the PLFI has ordered the closure — it wants all CRPF personnel to move out of schools. So, as rural schools stay closed, poor children don't get midday meals. But, the irony is that CRPF camps are lodged in only two school buildings in rural Khunti, that too in unused ones. So, 400 schools are paying the price for a false perception.<sup>97</sup>

Apart from the impact to education, two significant problems pertaining to child protection are garnering attention: firstly, the recruitment of children into pro-government militias, and secondly, the recruitment of children into armed opposition groups. Whereas both these issues have not been subject to academic research, a number of policy reports by civil society organizations have sought to highlight the implications of children becoming direct participants in violent activities. Two reports published by Human Rights Watch<sup>98</sup> and the Asian Center for

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<sup>95</sup>*Id.* at 1.

<sup>96</sup> *Diktat* refers to a unilateral command or an order.

<sup>97</sup>Raj Kumar, *PLFI Locks up Khunti Schools- Blackmail to Oust Paramilitary Forces*, THE TELEGRAPH (Calcutta, India), July 3, 2014, at 1, available at [http://www.telegraphindia.com/1140703/jsp/frontpage/story\\_18576479.jsp#.VM1e15SSzOI](http://www.telegraphindia.com/1140703/jsp/frontpage/story_18576479.jsp#.VM1e15SSzOI) (last visited Dec. 3, 2014).

<sup>98</sup>HUMAN RIGHTS WATCH, DANGEROUS DUTY: CHILDREN AND THE

Human Rights (“ACHR”)<sup>99</sup> are critical to the discussion of these ramifications.

These reports are significant as they provide first hand narratives of children who were recruited as Special Police Officers (“SPOs”)<sup>100</sup> and direct participants in the *Salwa Judum* movement (a pro-government tribal militia). The reports also provide narratives of those recruited into non-state armed groups. Common themes that united the narratives are the descriptions of extreme forms of violence (that the interviewees either witnessed or perpetrated during their involvement in these organizations).<sup>101</sup>

Moreover, these categories of children are more vulnerable, not only due to the trauma experienced by them, but also because membership in an organized group that perpetrates violence has serious implications for their development, especially in terms of educational attainments and overall psychological well-being.<sup>102</sup> At the same time, the vulnerabilities of children recruited into militias or as SPOs and those becoming members of armed opposition groups are also distinct. By virtue of membership in irregular paramilitary structures, children in militia groups do not get the same benefits as regular state security forces, nor do they receive similar medical or financial support when they experience injury and disability.<sup>103</sup>

For those children being recruited by non-state armed groups the vulnerabilities are also significant. Apart from the fact that many of children are either forcibly recruited or kidnapped (and experience loss of family, schooling and other entitlements) they also face a high risk of death and injury.<sup>104</sup> Moreover, an additional risk factor is the possibility of detention and arrest; alternatively, they are recruited as informers after forfeiting membership to a non-state armed group.<sup>105</sup>

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CHHATTISGARH CONFLICT (2008).

<sup>99</sup> Asian Centre for Human Rights, *India’s Child Soldiers* (2013), available at <http://www.achrweb.org/reports/india/JJ-IndiasChildSoldiers2013.pdf> (last visited Nov. 8, 2015).

<sup>100</sup> SPOs are ordinary villagers, recruited by the state on a temporary basis, trained to use weapons, and deployed to carryout combat operations in a limited territory, often within a district in a state.

<sup>101</sup> HUMAN RIGHTS WATCH, *supra* note 98, at 44 (2008).

<sup>102</sup> *Id.* at 52.

<sup>103</sup> *Id.* at 44.

<sup>104</sup> See U.N. Secretary-General, *Children and Armed Conflict: Rep. of the Secretary-General*, U.N. Doc. A/69/926-S/2015/409, at 38 (June 5, 2015), available at [http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2015\\_409.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_409.pdf) (last visited Nov. 8, 2015).

<sup>105</sup> HUMAN RIGHTS WATCH, *supra* note 98, at 8.

Two key issues pertaining to the problem of children, especially those who are associated with armed groups, are: the non-implementation of the Juvenile Justice (Care and Protection of Children) Act of 2000 and Juvenile Justice (Care and Protection of Children) Rules of 2007 especially with respect to those children who are detained and arrested by the state security forces<sup>106</sup> and the absence of measures that go beyond the current structures of child protection as described in Juvenile Justice Acts and Rules. In other words, there are no existing processes that aim to provide children with full reintegration into society, to ensure access to schooling and vocational training, or restore links with families or provide psychosocial support.<sup>107</sup>

Having provided an overview of the impact of armed conflict on children in three significant conflict-torn regions in India, it would be useful to present a consolidation of the existing information. The above overview of evidence indicates that the current understanding of the vulnerabilities of children in armed conflict and complex emergency situations requires detailed and disaggregated data based on age and gender. Children bear the brunt of any breakdown in civil administration as a result of armed conflict. These impacts can be physical (injuries or disability), psychosocial (the experience of trauma), and loss of family members. Armed conflict also impacts their overall well-being (loss of schooling, forced displacement, malnutrition, and vulnerability to infectious diseases). Situations of armed conflict further lead to the involvement of children as participants in organized violence as members of non-state armed groups or as part of militias.<sup>108</sup>

#### IV. OVERVIEW OF GOVERNMENT POLICIES AND PROGRAMS

India possesses a number of well-developed schemes, policies, and guidelines that aim at welfare of children.<sup>109</sup> However, the challenge in the

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<sup>106</sup>See ASIAN CTR. FOR HUMAN RIGHTS, *NOBODY'S CHILDREN: JUVENILES OF CONFLICT AFFECTED DISTRICTS OF INDIA* 24 (2013), available at [http://www.achrweb.org/reports/india/JJ-Nobodys\\_Children2013.pdf](http://www.achrweb.org/reports/india/JJ-Nobodys_Children2013.pdf) (last visited Nov. 8, 2015).

<sup>107</sup>See ASIAN CTR. FOR HUMAN RIGHTS, *supra* note 99, at 23.

<sup>108</sup>A major policy document of the National Commission for Protection of Child Rights (NCPCR) outlines the framework for child protection and development in civil strife states: “[...] civil unrest exposes children to multiple deprivations. Children are killed, hurt, and maimed as a direct result of violence. Access to food, water, sanitation, health care and schooling deteriorates during unrest. Political insecurity pushes children into situations that can circumscribe the remainder of their lives. It disrupts families and social networks that support children’s physical, emotional and social development. The NCPCR has encountered children who are displaced and forced to drop out of school as a result. Civil unrest renders children vulnerable to trafficking and sexual abuse. Some children are also pulled into violence against the State.” See NAT’L COMM’N FOR THE PROT. OF CHILD RIGHTS, *supra* note 22.

<sup>109</sup>MINISTRY OF WOMEN AND CHILD DEV., GOV’T OF INDIA, NATIONAL REPORT

Indian context is twofold: increasing the coverage of children into state-supported initiatives and improving the delivery (and protection) mechanisms themselves. Improving coverage and strengthening service delivery of these policies must be situated in a broader paradigm shift in implementations which have fortunately been recognized by the Government of India.<sup>110</sup> In its approach to promoting the overall welfare of children, the Government of India commits to a life-cycle approach<sup>111</sup> with a strong equity lens<sup>112</sup> and inter-sectoral-convergence.<sup>113</sup>

Given this broader paradigm shift, it is the aim of this section to briefly outline and map out the various government legislative frameworks, policies, and programs in place. The purpose of this review is to classify these policies, schemes, and legislative frameworks in order to differentiate them from the child-centric policies designed as a specific response to armed conflicts. At the same time, the policies included in this brief survey are marked by the fact that they do not include conflict specific protocols. Bringing about inter-sectoral convergence and equity in such situations require a distinct approach to program implementation. In terms of methodology, the section utilizes official publications of the Government of India in order to identify and label the various policies, schemes and legislative frameworks. Based on a recent report by the Ministry of Statistics and Programme Implementation, three broad classifications are utilized to do so:<sup>114</sup>

- *National Policies and Guidelines*: These are normative frameworks which provide guidance for policy formulation and implementation

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ON 'A WORLD FIT FOR CHILDREN', 2 (2007), available at [http://www.unicef.org/worldfitforchildren/files/India\\_WFFC5\\_Report.pdf](http://www.unicef.org/worldfitforchildren/files/India_WFFC5_Report.pdf).

<sup>110</sup>Nilima Mehta, Child Protection and Juvenile Justice System for Children in Need of Care and Protection, 6 (2008), available at <https://www.childlineindia.org.in/pdf/CP-JJ-CNCP.pdf> (last visited Nov. 6, 2015).

<sup>111</sup>The Life Cycle Approach can be understood as an "acknowledgement that children and women face multiple deprivations at different stages of their life and that multi-dimensional problems need multi-pronged, inter-sectoral solutions." See Government of India and UNICEF, Country Programme Action Plan 2013-2017, 7 (2013), available at [http://unicef.in/Uploads/Resources/CPAP\\_2013-17\(1\).pdf](http://unicef.in/Uploads/Resources/CPAP_2013-17(1).pdf) (last visited November 7, 2015).

<sup>112</sup>'Equity' can be understood as one which recognizes that: "the most vulnerable and marginalized children and mothers – the youngest, the poorest and the excluded – benefit first and most from investments in child survival, growth and development." *Id.* at 15.

<sup>113</sup>Inter-Sectoral Convergence can be understood as one where: "all programs work together to achieve outcomes for children and women throughout their life cycle." See *Id.* at 1.

<sup>114</sup>MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION, CHILDREN IN INDIA 2012: A STATISTICAL APPRAISAL 19-22 (2012).

- Union laws guaranteeing *rights* and *entitlement* to children: Laws that lead to the creation of rights and enshrine legislative protection and create entitlements.
- *Schemes* for the well-being of children: Welfare programs that seek to promote child development in both urban and rural settings.

A. *Mapping of National Policies, Legislative Frameworks and Schemes*

The Ministry of Women and Child Development (MWCD) is the nodal ministry that administers the major schemes for the welfare and protection of children since its creation in 2006. The MWCD defines its mission towards children as “ensuring development, care and protection of children through cross-cutting policies and programs, spreading awareness about their rights and facilitating access to learning, nutrition, institutional, and legislative support for enabling them to grow and develop to their full potential.”<sup>115</sup>

Apart from its regular organizational structure, the MWCD has four autonomous organizations, the National Institute of Public Cooperation and Child Development (“NIPCCD”), Central Social Welfare Board (“CSWB”), Rashtriya Mahila Kosh (“RMK”), and the Central Adoption Resource Authority (“CARA”), as well as two statutory commissions namely the National Commission for Women (“NCW”) and the National Commission for Protection of Child Rights (“NCPCR”).<sup>116</sup> Nevertheless, as indicated in an MWCD document, the issue of child development and protection is essentially one that cuts across the responsibilities of various Ministries.

One of the key recommendations of the MWCD is that in order for child protection to be dealt with more effectively. There is a need for “lateral linkages between the Ministry of Women and Child Development and other relevant sectors such as Railways, Industry, Trade and Commerce, Rural Development, Urban Affairs, Tourism, Banking, Legal Affairs, Home Affairs, Health & Family Welfare, and Information & Broadcasting.”<sup>117</sup>

This need for lateral alliances can be seen especially in the diversity of authorities responsible for administering policies, statutory protections, and schemes. Appendix I provides a detailed listing of child-

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<sup>115</sup>MINISTRY OF WOMEN AND CHILD DEV., GOV'T OF INDIA, ANNUAL REPORT 2012-20133 (2013), *available at* [http://wcd.nic.in/publication/AR201213\\_english.pdf](http://wcd.nic.in/publication/AR201213_english.pdf).

<sup>116</sup>*Id.* at 4.

<sup>117</sup>MINISTRY OF WOMEN AND CHILD DEV., GOV'T OF INDIA, THE INTEGRATED CHILD PROTECTION SCHEME (ICPS): A CENTRALLY SPONSORED SCHEME OF GOVERNMENT – CIVIL SOCIETY PARTNERSHIP 12 (2013), *available at* <http://wcd.nic.in/schemes/icps.pdf>.

centric national policies.<sup>118</sup> It also provides a breakdown of policy framework, content, and responsible authorities. It is to be noted here that these policies serve as only guidelines and are non-binding.<sup>119</sup> Appendix II provides a detailed overview of the national level legislative frameworks. It encompasses a brief description of the relevant legislations and the lead implementing agencies.<sup>120</sup> Appendix III provides a detailed listing of the existing child-specific social welfare programs.<sup>121</sup> It also contains a brief description of the programs and the lead implementing agencies.

As it is evident from Appendices I, II, and III, the promotion of rights and entitlements for children involve the actions of multiple stakeholders at all the levels of administration. Given the increasing complexity of public policy formulation, it is increasingly recognized that promoting coordination among various policy actors is essential for creating improvements in the key indicators of child protection and development. At the same time, promoting convergence goes beyond identifying the various stakeholders and encouraging coordination. It also implies promoting shared systems of accountability in terms of creating uniform approaches towards monitoring and evaluation and data sharing. As stated in a recent policy paper:

While articulation of the importance of convergence is a feature of policy documents in most sectors, it is less clearly backed by goals and strategies for convergence. Most reviews focus on design issues and governance as being key barriers to convergence; convergence itself, in turn, is perceived as a barrier to implementing policy change and scaling up. Convergence assumes particular importance in scaled-up programs where varying sociocultural contexts, differential financing and planning approaches, and varying competencies need to be considered. Planning, implementation, and monitoring of convergence is an area that cuts across technical and programmatic boundaries and needs specific attention, particularly to address challenges with multiple determinants spanning several sectors, such as child undernutrition. The key challenges to convergence at scale appear to be shared vision, intensive capacity building,

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<sup>118</sup>See *infra* Appendix I and note 265.

<sup>119</sup>LAW COMM'N OF INDIA, REPORT NO. 259: EARLY CHILDHOOD DEVELOPMENT AND LEGAL ENTITLEMENTS, 27 (2015), available at <http://lawcommissionofindia.nic.in/reports/Report259.pdf> (last visited Nov. 10, 2015).

<sup>120</sup>See *infra* Appendix II and note 290.

<sup>121</sup>See *infra* Appendix III and note 314.

supportive supervision, and joint accountability.<sup>122</sup>

Despite the dense network of overlapping rules, laws, norms, and administrative authorities, the issue of child welfare in India remains extremely problematic with children being prone to destitution,<sup>123</sup> malnutrition,<sup>124</sup> forced labor,<sup>125</sup> child-trafficking<sup>126</sup> and dropping out of educational institutions.<sup>127</sup> The underlying assumption is that these policies and laws are implemented in a stable institutional environment.<sup>128</sup> The recognition of vulnerabilities that emerge in unstable environments is only a recent development, despite the long history of internal conflict in the post-independence era.

## B. *Overview of Government Policies and Programs Specific to Child Protection and Child Development in Conflict Affected Regions*

### 1. The Emergence of Guidelines for Child Protection in Conflict Situations

It is only recently that policies and guidelines specific to child protection and child development in armed conflict-affected regions have been developed in India.<sup>129</sup> One of the most important characteristics of these policies is that they have not been subject to detailed research, nor have they been evaluated. Whereas a number of child protection and child development schemes exist, it must be indicated that the policies currently

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<sup>122</sup>Rajani Ved and Purnima Menon, *Analyzing Intersectoral Convergence to Improve Child Undernutrition in India Development and Application of a Framework to Examine Policies in Agriculture, Health, and Nutrition*, IFPRI Discussion Paper 01208 (2012) at 16, available at <http://www.ifpri.org/publication/analyzing-intersectoral-convergence-improve-child-undernutrition-india> 1 (last visited Oct. 17, 2013).

<sup>123</sup>STEPHEN DEVEREUX, *IDS WORKING PAPER 216: CONCEPTUALIZING DESTITUTION*, 6 (2003), available at <https://www.ids.ac.uk/files/Wp216.pdf> (last visited Nov. 10, 2015).

<sup>124</sup>NAANDI FOUNDATION, *HUNGAMA: FIGHTING HUNGER AND MALNUTRITION, THE HUNGAMA SURVEY REPORT – 2011*, 9 (2011), available at <http://motherchildnutrition.org/resources/pdf/HungamaBKDec11LR.pdf> (last visited Nov. 11, 2015).

<sup>125</sup> Human Rights Watch, *Small Change: Bonded Child Labour in India's Silk Industry*, 7 (2003), available at <https://www.hrw.org/sites/default/files/reports/india0103.pdf> (last visited Nov. 11, 2015).

<sup>126</sup>NATIONAL CRIME RECORDS BUREAU, MINISTRY OF HOME AFFAIRS, GOV'T OF INDIA, *CRIME IN INDIA 2013: COMPENDIUM 100* (2014), available at <http://ncrb.nic.in/CD-CII2013/compendium%202013.pdf> (last visited Nov. 10, 2015).

<sup>127</sup>SOCIAL AND RURAL RESEARCH INSTITUTE, *NATIONAL SAMPLE SURVEY OF ESTIMATION OF OUT-OF-SCHOOL CHILDREN IN THE AGE 6-13 IN INDIA*, 7 (2014), available at <http://ssa.nic.in/pabminutes-documents/NS.pdf> (last visited Nov. 10, 2015).

<sup>128</sup>ASIAN CTR. FOR HUMAN RIGHTS, *supra* note 103, at 7.

<sup>129</sup>*Id.* at 8.

under discussion provide a critical pathway for advocacy and future programming.

The National Policy for Children (“NPC”) which was adopted on April 26, 2013, declared that the “survival, health, nutrition, development, education, protection and participation are the undeniable rights of every child”<sup>130</sup> and outlines principles to guide policy along these key indicators. Moreover, the Policy states that:

The State commits to taking special protection measures to secure the rights and entitlements of children in need of special protection, characterized by their specific social, economic and geo-political situations, including their need for rehabilitation and reintegration, in particular but not limited to, children affected by migration, displacement, communal or sectarian violence, civil unrest, disasters and calamities.<sup>131</sup>

The recognition of children’s rights in the NPC is significant, as it can possibly reinforce two major protocols developed by the National Commission for Protection of Child Rights (“NCPCR”). First, a number of guidelines have been collated in a policy document called Protection of Children’s Rights in Areas of Civil Unrest.<sup>132</sup> The second set of guidelines developed by NCPCR were the Protocols for Police and Armed Forces with Children in Areas of Civil Unrest.<sup>133</sup>

One of the major recommendations in NCPCR’s Protection of Children’s Rights in Areas of Civil Unrest proposed encompasses the need at the national level for the development of protocols regulating the service delivery in vulnerable areas for the various programs pertaining to children.<sup>134</sup> Moreover, at the state level, “all relevant relief codes, protocols, and administrative instructions need to incorporate national and international lessons in protecting children during civil unrest.”<sup>135</sup>

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<sup>130</sup>MINISTRY OF WOMEN AND CHILD DEV., GOV’T OF INDIA, THE NATIONAL POLICY FOR CHILDREN 4 (2013), *available at* <http://wcd.nic.in/childreport/npc2013dtd29042013.pdf>

<sup>131</sup>MINISTRY OF WOMEN AND CHILD DEV., GOV’T OF INDIA, THE NATIONAL POLICY FOR CHILDREN 4 (2013), *available at* <http://wcd.nic.in/childreport/npc2013dtd29042013.pdf>.

<sup>132</sup>NAT’L COMM’N FOR THE PROT.OF CHILD RIGHTS, PROTECTION OF CHILDREN’S RIGHTS IN AREAS OF CIVIL UNREST 16 (2010), *available at* [http://ncpcr.gov.in/view\\_file.php?fid=61](http://ncpcr.gov.in/view_file.php?fid=61).

<sup>133</sup>NATIONAL COUNCIL FOR PROTECTION OF CHILDREN’S RIGHTS, PROTOCOLS FOR POLICE AND ARMED FORCES IN CONTACT WITH CHILDREN IN AREAS OF CIVIL UNREST 5, *available at* [http://ncpcr.gov.in/view\\_file.php?fid=464](http://ncpcr.gov.in/view_file.php?fid=464).

<sup>134</sup> See *supra* note 133 at 16

<sup>135</sup> *Id.* at 5.

The recommendations are oriented towards recognizing a specific vulnerable category of children for whom policy-planning and response mechanisms have not been created. In other words, these categories of conflict affected children represent are those for whom welfare measures are non-existent. Furthermore the seriousness of the problem is enhanced by the fact that there are no precise estimates or any reliable data on the number of children who belong to these categories in the conflict affected areas. These policy recommendations represent the first step in recognizing these vulnerable categories and need to be subsequently reinforced with executive and legislative action. The specific categories of victimized children identified by the NCPCR and policy measures recommended for addressing specific problem areas pertaining to each category have been summarized below:

*Forced Migrants-Children in Camps*<sup>136</sup>

- Ensuring emergency service provisions of Health, Food, Nutrition, Schooling services.<sup>137</sup>
- Ensure protection and safety.<sup>138</sup>
- Ensuring Privacy.<sup>139</sup>
- Preventing forced separation from families.<sup>140</sup>
- Protection from sexual violence.<sup>141</sup>
- Establishment of Child Welfare Committees.<sup>142</sup>
- District Authorities should initiate birth registration drives and ensure legal identity for displaced children.<sup>143</sup>

*Forced Migrants-Children in Flight*<sup>144</sup>

- Prioritize prevention of children being separated from their families.<sup>145</sup>
- Awareness of measures that can be taken in emergencies to minimize the risk of children becoming separated.<sup>146</sup>

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<sup>136</sup>*Id.*

<sup>137</sup>*Id.*

<sup>138</sup>*Id.* at 6.

<sup>139</sup>*Id.*

<sup>140</sup>NAT'L COMM'N FOR THE PROT. OF CHILD RIGHTS, *supra* note 132, at 16.

<sup>141</sup>*Id.*

<sup>142</sup>*Id.*

<sup>143</sup>*Id.*

<sup>144</sup>*Id.*

<sup>145</sup>*Id.* at 23.

<sup>146</sup>NAT'L COMM'N FOR THE PROT. OF CHILD RIGHTS, *supra* note 132, at 23.

- Mapping of children who have been separated.<sup>147</sup>
- Verification of validity of relationships, in case families are traced.<sup>148</sup>
- Separated children or unaccompanied children to have the same degree of emergency care and services as other children.<sup>149</sup>
- Provision of community care.<sup>150</sup>

*Children associated with non-state armed groups*<sup>151</sup>

- Children associated with these groups should not be prosecuted, punished, or threatened with prosecution or punishment solely because of membership to these groups.<sup>152</sup>
- Return of children to their families and communities.<sup>153</sup>
- Creation of Reintegration programs that re-establish links with the family and community.<sup>154</sup>
- Provision of Collective Care during the Transitional Period.<sup>155</sup>
- Development of national scheme for identification, release and reintegration of children associated with these groups in accordance with international best practices.<sup>156</sup>
- Advocacy for voluntary release of participants who are below 18.<sup>157</sup>
- Prosecution of recruiters of children.<sup>158</sup>

*Children of Forced Migrants in Neighboring Districts or States*<sup>159</sup>

- District Authorities to survey families.<sup>160</sup>
- Issuing of new identity documents.<sup>161</sup>

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<sup>147</sup>*Id.* at 24.

<sup>148</sup>*Id.* at 25.

<sup>149</sup>*Id.*

<sup>150</sup>*Id.*

<sup>151</sup>*Id.* at 13.

<sup>152</sup>NAT'L COMM'N FOR THE PROT. OF CHILD RIGHTS, *supra* note 132, at 13.

<sup>153</sup>*Id.* at 14.

<sup>154</sup>*Id.*

<sup>155</sup>*Id.*

<sup>156</sup> *Id.*

<sup>157</sup>*Id.*

<sup>158</sup>NAT'L COMM'N FOR THE PROT. OF CHILD RIGHTS, *supra* note 132, at 14.

<sup>159</sup>*Id.* at 5.

<sup>160</sup>*Id.*

<sup>161</sup>*Id.*

- Families to have access to Mahatma Gandhi Rural Guarantee Scheme.<sup>162</sup>
- Eligibility for Below Poverty Line Cards.<sup>163</sup>
- Children must have safe access to: Essential Food, Potable Water, Basic Shelter and Housing, Appropriate clothing, Essential Medical Services and Sanitation.<sup>164</sup>

*Children who are not displaced*<sup>165</sup>

- Implementation of non-discriminatory relief, rehabilitation and welfare measures for children.<sup>166</sup>
- Sensitization of teachers and health personnel to the special requirements of children targeted by violence or who have witnessed violence at close quarters.<sup>167</sup>

*Children as Special Police Officers (SPOs)*<sup>168</sup>

- All children under the age of 18 serving as SPOs to be identified and removed.<sup>169</sup>
- Risk mapping for identifying children who are vulnerable.<sup>170</sup>
- Amending of Police Act of 1861, to make the minimum age for recruiting SPOs as 18 years.<sup>171</sup>

2. Establishment of Norms for the Conduct of Security Forces

Another set of recommendations developed by the NCPCR have been grouped under Protocols for Police and Armed Forces in Contact with Children in Areas of Civil Unrest. The stated aim of the policy is to provide a series of Standard Operating Procedures (“SOPs”) for the law enforcement agencies to “deal with children, with whom they may come in contact, in areas of civil strife and unrest.”<sup>172</sup> According to the NCPCR, the protocols are applicable in three scenarios:<sup>173</sup> first, in disturbed areas,

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<sup>162</sup>*Id.*

<sup>163</sup>*Id.*

<sup>164</sup>NAT’L COMM’N FOR THE PROT. OF CHILD RIGHTS, *supra* note 132, at 5.

<sup>165</sup>*Id.* at 8.

<sup>166</sup>*Id.*

<sup>167</sup>*Id.*

<sup>168</sup>*Id.* at 13.

<sup>169</sup>*Id.*

<sup>170</sup>NAT’L COMM’N FOR THE PROT. OF CHILD RIGHTS, *supra* note 132, at 13.

<sup>171</sup>*Id.* at 13.

<sup>172</sup>NATIONAL COMM’N FOR THE PROT. OF CHILD RIGHTS, *supra* note 133, at 5.

<sup>173</sup>*Id.*

where the Armed Forces (Special Powers) Act is enforced and the armed forces of the Union of India have been deployed with special powers;<sup>174</sup> second, in the districts/regions affected by LWE, where no special legislation is in place;<sup>175</sup> third, in the rest of the country, where no special legislation is in place, however, vulnerabilities exist in the treatment of children by the law enforcement agencies as part of the normal law and order enforcement regime.<sup>176</sup>

The importance of these protocols arise because they seek to provide solutions for one of the most serious problems pertaining to child protection in areas affected by armed conflict such as, the detention and arrest of children by security forces during counterinsurgency operations. As stated by the NCPCR, “when children are apprehended/arrested by the armed forces and other law enforcement agencies in the above-mentioned circumstances, the rhetoric of defending national security is so compelling that children are often treated as adults, allegedly waging war against the State, and the protection of their inherent rights by virtue of them being children, is, more often than not, compromised.”<sup>177</sup> According to the NCPCR, under existing “security legislations, the children detained by the security forces are currently not tried through the juvenile justice system and are often reportedly detained in adult correctional facilities, without access to due process of law.”<sup>178</sup>

While children who are detained by security forces are treated as adults, the issue is more complex, due to the lack of functioning of the Juvenile Justice system in the conflict affected areas. This is highlighted by the NCPCR:

Additionally, institutional and statutory mechanisms such as Juvenile Justice Boards, Child Welfare Committees, Juvenile Observation Homes, Children’s Homes, Special Juvenile Police Units, etc. either do not exist in the “disturbed areas” and in LWE affected areas, or are not fully operational and/or are inhibited in their functioning due to lack of financial resources and/or non-compliance with Central and State legislations, rules, regulations, policies, etc., and directions of the Honorable Supreme Court/High Courts. Even in cases where such mechanisms exist, their services are not invoked in cases of children

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<sup>174</sup>*Id.*

<sup>175</sup>*Id.*

<sup>176</sup>*Id.*

<sup>177</sup>*Id.* at 6.

<sup>178</sup>NAT’L COMM’N FOR THE PROT. OF CHILD RIGHTS, *supra* note 132, at 16.

who are apprehended or arrested under the Act.<sup>179</sup>

The extent of the problem can be estimated by a report published by the Asian Commission on Human Rights (ACHR) in 2013 titled “Nobody’s Children: Juveniles of Conflict Affected Districts of India”.<sup>180</sup> The importance of the report lies in the fact that it provides district wide statistics as opposed to aggregate state-wise statistics.

According to the report, there are 197 districts affected by conflict. 71 districts are labeled “disturbed” under the Armed Forces Special Powers Act (“AFSPA”) in the northeastern region comprised of Assam, Arunachal, Manipur, Meghalaya, Nagaland and Tripura. 20 out of 22 districts in Jammu and Kashmir operate under the Jammu and Kashmir Disturbed Areas Act,<sup>181</sup> and 106 districts have been declared as LWE affected spread over nine states: Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, Uttar Pradesh and West Bengal.<sup>182</sup> Of the total 197 districts, 151 districts do not have Special Homes and Observation Homes<sup>183 184</sup>. Of these states, Jammu and Kashmir only possesses two Observation Homes and Manipur only has one Observation/Special Home.<sup>185</sup>

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<sup>179</sup>*Id.*

<sup>180</sup> ASIAN CTR. FOR HUMAN RIGHTS, NOBODY’S CHILDREN: JUVENILES OF CONFLICT AFFECTED DISTRICTS OF INDIA (2013), *available at* [http://www.achrweb.org/reports/india/JJ-Nobodys\\_Children2013.pdf](http://www.achrweb.org/reports/india/JJ-Nobodys_Children2013.pdf)

<sup>181</sup> For further details on the Jammu and Kashmir Disturbed Areas Act, please see: <https://www.jk.gov.in/jammukashmir/sites/default/files/2154.pdf>.

<sup>182</sup>*Id.*

<sup>183</sup> Observation Homes are meant for temporary housing of any juvenile who has been in some kind of conflict with the law pending inquiry. Special Homes, on the other hand, are meant for long term rehabilitation and are meant for juveniles who have been sentenced by the Juvenile Justice Boards. For further details, please see: <http://wcdsc.ap.nic.in/jwacts/chapter5.html>

<sup>184</sup>*Id.*

<sup>185</sup>*Id.* at 2. As stated further in the report: “The Government of Manipur had submitted false information to the Ministry of Women and Child Development that nine JJBs [Juvenile Justice Board] had been operating in the State while in reality only one JJB was functioning. As the State government failed to establish the JJBs, the Project Approval Board (PAB) in its 35th Meeting under Integrated Child Protection Scheme (ICPS) held on 17 January 2012 had no other option but to decide not to grant further funds for the nine JJBs for the current Financial Year 2012- 2013 until a report on the functioning of JJBs with complete details of members, pendency, etc are submitted by the State Government. In Jharkhand, there were over 3,500 cases pending before various JJBs in the state as on 11 July 2012 while the Observation Home for Boys established in the LWE affected Palamau district was converted into a girl’s residential school - Kasturba Gandhi Balika Vidyalaya, and the juveniles were shifted to the Observation Home, Ranchi, which is about 165 km away. This requires travel arrangements to be made for the juveniles to come to Palamau district and be produced before the Juvenile

The overview of vulnerability experienced by children in situations of armed conflict thus requires careful consideration. The existence of the NPC as well as the NCPCR guidelines provides useful avenues for advocacy and program planning, despite their non-binding nature. An additional challenge is to also ensure the inculcation of child rights as envisaged by these guidelines into the training curriculum of security forces deployed in civil strife regions.

While the recommendations envisaged by the NCPCR are important, a lesser-known set of policies involve the actual provision of direct assistance to children affected by armed conflict. These policies have been overlooked in most analyses of armed conflict and only one recent academic work pertaining to these direct assistance policies exists.<sup>186</sup> As will be seen, the evidence on the implementation of these policies is mixed, with immense avenues for improvement.

#### V. DIRECT STATE ASSISTANCE TO CHILDREN IN CONFLICT AFFECTED REGIONS

Direct assistance implies the provision of welfare mechanisms to conflict-affected populations.<sup>187</sup> Whereas the rules that govern these mechanisms clearly state eligibility conditions and methods by which beneficiaries can access assistance, three major challenges are common to all the welfare programs discussed below.

There are however several factors that hamper the inclusion of intended beneficiaries. First, the coverage of the program is limited by conflict factors especially the prevalence of insecurity. This is further compounded with the lack of access due to the remoteness of these areas. Second, the lack of awareness in conflict-affected regions on the functioning of these welfare schemes, as there is very little outreach by the Government, especially at the district and provincial level. Third, the absence of precise data on the total number of conflict victims results in major roadblocks when attempting to identify welfare program beneficiaries.<sup>188</sup>

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Justice Board, which invariably delays justice.”

<sup>186</sup>SONAL MARWAH et al., GUN VIOLENCE, DISABILITY AND RECOVERY 250 (Cate Buchanan ed., 2013), available at <http://survivinggunviolence.org/wp-content/uploads/2013/10/Gun-Violence-Disability-and-Recovery-2014-Introduction-Mental-Illness-Spotlight-Recommendations.pdf>.

<sup>187</sup>See Nicole Summers, *Colombia's Victims' Law: Transitional Justice in a Time of Violent Conflict?*, 25 HARV. HUM. RTS. J. 225,

<sup>188</sup>See ROMESH SILVA, JASMINE MARWAHA AND JEFF KLINGNER, VIOLENT DEATHS AND ENFORCED DISAPPEARANCES DURING THE COUNTERINSURGENCY IN PUNJAB, INDIA: A PRELIMINARY QUANTITATIVE ANALYSIS, 22 (Jan. 2009), available at [https://hrdag.org/content/india/Punjab\\_cvr\\_2009-01.pdf](https://hrdag.org/content/india/Punjab_cvr_2009-01.pdf) (last visited Dec. 7, 2015).

The reporting mechanisms are based on the principle that the beneficiaries will approach the implementing authorities as opposed to the state approaching the beneficiary. Despite these obstacles the functioning of these direct assistance programs require critical examination.

A. *Project Assist (National Foundation for Communal Harmony)*

The National Foundation for Communal Harmony (“NFCH”) is an autonomous organization within the Ministry of Home Affairs (“MHA”). Under the auspices of Project Assist, “the Foundation has been rendering financial assistance for care, education and training of children rendered orphan or destitute in various communal, caste, ethnic or terrorist violence since the inception of this scheme in 1992.”<sup>189</sup>

In terms of the children supported, as of March 31, 2013, 11,198 children were covered under this project belonging to 19 states and one Union Territory.<sup>190</sup> It is one of the most significant programs providing direct assistance to children affected by armed conflict in India.

A disaggregated analysis of the state-wise distribution of beneficiaries under Project Assist, however, reveals certain challenges in its implementation. Three major findings of this analysis are: first, that a number of afflicted states/districts are currently not included in the implementation of the policy (the most prominent being Chhattisgarh and Meghalaya, and LWE-affected districts in Andhra Pradesh, Maharashtra, Jharkhand, West Bengal and Odisha); second, the number of beneficiaries being supported in LWE affected states is minimal compared to the levels of violence being experienced (the significant examples being Jharkhand and Odisha); and third, coverage in states that have experienced extensive civil strife in the recent past (or are currently experiencing low levels of violence) is also very limited (the most prominent examples being Nagaland and Tripura).<sup>191</sup>

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<sup>189</sup>NATIONAL FOUNDATION FOR COMMUNAL HARMONY, SADBHAVANA SANDESH: PEACE, HARMONY, SHARED SECURITY AND PROSPERITY 5 (2013), *available at* [http://issuu.com/nfch/docs/newsletter\\_nov\\_2013](http://issuu.com/nfch/docs/newsletter_nov_2013).

<sup>190</sup> Under the program, a child becomes an orphan or destitute if either both the parents or the surviving parent or the main bread winner is killed or permanently incapacitated because of communal, caste, ethnic or terrorist violence. The child/children are eligible only if the annual income of the victim’s family does not exceed rupees one lakh (Rs. 100,000 or approximately \$1500). Assisted children receive a sum of Rs. 1000 (approximately \$15) till the 12<sup>th</sup> grade. Students enrolled in college receive a sum of Rs. 1250 (approximately \$18) and those studying professional courses receive Rs. 1500 (approximately \$22). Assistance is provided up to the age of 25 years. However, if a child remains for more than 3 consecutive years in a class he / she will not be eligible to get the assistance. NATIONAL FOUNDATION FOR COMMUNAL HARMONY, ANNUAL REPORT: 2013-2014, 2 (2014) *available at* [http://nfch.nic.in/sites/default/files/WORD\\_FILE/Annual%20Report%202013-14.pdf](http://nfch.nic.in/sites/default/files/WORD_FILE/Annual%20Report%202013-14.pdf) (last visited Nov. 10, 2015).

<sup>191</sup>*Id.* at 20.

### B. Project AASHWAS

Project AASHWAS was developed by the Assam Police in conjunction with support from UNICEF in order to mitigate the impacts of strife on children and sensitize government officials to the hardships experienced by children affected by armed conflict.<sup>192</sup> Project AASHWAS (which means “Assurance”) is the now the primary channel through which the NFCH-Project Assist is implemented in Assam.<sup>193</sup> Through the initiative of AASHWAS, the officials at the different police stations identify and collect the details of eligible children from their records and help and guide the parents and guardians of these children to carry out the required procedures, such as filing and submission of the application forms which are subsequently sent to NFCH through the Office of the District Commissioner.<sup>194</sup>

A unique mechanism established by AASHWAS to follow-up on the beneficiaries of Project Assist is embodied in the organization *Sishu Shanti Samaroh* (Children’s Peace Conclave). *Sishu Shanti Samaroh* can be found in different places of Assam with the assistance of prominent cultural, political, and media personalities.<sup>195</sup> A recent evaluation by the National Institute of Public Cooperation and Child Development (“NIPCCD”) found three major challenges in the implementation of the scheme: first, a large number of children have dropped out of institutions of higher education after attaining the age of 18 (the cut-off age when support was withdrawn)<sup>196</sup>; second, a majority of the parents and guardians interviewed (97%) as well as beneficiaries (87%)/former beneficiaries (84%) found the financial assistance being given as insufficient;<sup>197</sup> and finally, parents/guardians faced procedural challenges in one or more steps of the application process such as filling in the prescribed form or the lack of adequate cooperation from some of the district officials and the police officials.<sup>198</sup>

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<sup>192</sup> THE NORTHEAST NETWORK VIOLENCE AGAINST WOMEN IN NORTHEAST INDIA, 29 (2004) available at <http://ncw.nic.in/pdfReports/Violence%20against%20women%20in%20North%20East%20India%20-%20An%20Inquiry.pdf> (last visited Nov. 10, 2015).

<sup>193</sup> NATIONAL FOUNDATION FOR COMMUNAL HARMONY, *supra* note 187, at 2.

<sup>194</sup> NAT’L INST. OF PUB. COOPERATION AND CHILD DEV’T, ANNUAL REPORT 2011-2012 88 (2013), <http://nipccd.nic.in/annual/ar2012e.pdf>.

<sup>195</sup> *Id.*

<sup>196</sup> *Id.* at 87.

<sup>197</sup> NAT’L INST. OF PUB. COOPERATION AND CHILD DEV’T, ANNUAL REPORT 2011-2012 87 (2013).

<sup>198</sup> *Id.* at 88.

C. *Council for Rehabilitation of Widows, Orphans, Handicapped and Old Persons, Social Welfare Department (or State Rehabilitation Council), State Government of Jammu and Kashmir*

The Jammu and Kashmir State Rehabilitation Council was created through Administrative Decision No. 21.<sup>199</sup> The objectives of the Council are to provide assistance for the physical, psychological, and economic rehabilitation of the victims of civil strife in Jammu and Kashmir with special focus on widows, orphans, handicapped and elderly persons. The target groups are families whose breadwinner was killed or incapacitated as a result of armed violence. The Council also closely coordinates with Project Assist to disburse assistance to affected families. In addition, the State Rehabilitation Council provides a non-discriminatory scholarship scheme for orphans who have lost family members that have been killed or incapacitated. The non-discriminatory nature of this scholarship thus makes children of suspected non-state actors killed by security forces eligible for the benefits. A total of 5,607 orphans are supported in terms of the scholarship programs under this scheme.<sup>200</sup> Of these individuals, 2,094 are orphans supported on basis of non-discrimination.<sup>201</sup>

D. *Central Scheme for Assistance to Civilian Victims/Family of Victims of Terrorist, Communal and Naxal Violence, 2010.*<sup>202</sup>

While the “Central Scheme for Assistance to Civilian Victims/Family of Victims of Terrorist, Communal and Naxal Violence, 2010” does not directly address provision of support to children, it does not exclude children from its purview. In essence, the program seeks to provide social security assistance to the families of people killed and to survivors of three types of violence: terrorism, communal violence, and Naxalism.<sup>203</sup> Under the program, financial assistance is given to family members in the event of death or permanent incapacitation<sup>204</sup> of an individual.<sup>205</sup>

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<sup>199</sup> Council for Rehabilitation of Widows, Orphans, Handicapped & Old Persons, *Citizen's Charter*, SOCIAL WELFARE DEPT., GOVT. OF JAMMU & KASHMIR, available at <http://www.jksrc.nic.in/citizenc.html> (last visited Oct 6, 2013).

<sup>200</sup> *Id.*

<sup>201</sup> See Council for Rehabilitation of Widows, Orphans, Handicapped & Old Persons, *Physical and Financial Achievements*, available at <http://www.jksrc.nic.in/pfa.html> (last visited Oct .6, 2013); NAT'L INST. OF PUB. COOPERATION AND CHILD DEV'T, *supra* note 191, at 89.

<sup>202</sup> See MINISTRY OF HOME AFFAIRS, REVISED GUIDELINES OF 'CENTRAL SCHEME FOR ASSISTANCE TO CIVILIANS VICTIMS / FAMILY OF VICTIMS OF TERRORIST, COMMUNAL AND NAXAL VIOLENCE, (2010), available at <http://mha1.nic.in/pdfs/T-Guide141008.pdf> (last visited Nov. 10, 2015).

<sup>203</sup> *Id.*

<sup>204</sup> Permanent incapacitation is defined in the policy as “a disability of 50% and

Also, beneficiary families are entitled to a sum of 300,000 Indian Rupees (approximately \$4,500 USD) for each death and permanent incapacitation suffered.<sup>206</sup> Apart from financial assistance, beneficiaries would be allotted a health card by the district health society.<sup>207</sup> This card entitles beneficiaries to free medical treatment for life in respect to injuries and all other major illnesses caused due to violence.<sup>208</sup> Medical care can also be provided to beneficiaries as a special case under the ongoing projects established by the Ministry of Health and Family Welfare (for example, the National Trauma Care project).<sup>209</sup>

There are major challenges regarding the Scheme's coverage. The Scheme excludes those who experienced a loss of an immediate family member prior to 2008. This results in a majority of the families of civilian casualties becoming ineligible for coverage, as most conflict situations predated 2008. As estimated from the South Asian Terrorism Portal ("SATP"), there were approximately 23,601 civilian fatalities between 1994 and 2010, whereas between 2011 and 2015 there were approximately 1,400 casualties.<sup>210</sup> Unfortunately, even in the case of emerging conflicts, implementation of the Scheme is weak. For instance, in the LWE-affected states of Chhattisgarh and Jharkhand there were, respectively, an estimated 185 and 320 eligible beneficiaries between the years 2009 to 2013. The Scheme, however, covers only 64 persons of the 185 in Chhattisgarh and 19 of the 320 in Jharkhand spanning the aforementioned timeframe.<sup>211</sup>

E. *The Bal Bandhu Programme (administered by the NCPCR and its various partners)*

The "Bal Bandhu Scheme for Protection of Children's Rights in Areas of Civil Unrest" provided a distinct model in providing assistance to

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above suffered by the victim which is of permanent nature and there are no chances of variation in the degree of disability and the injury/disability renders the victim unfit for normal life for the rest of his life. *Id.* at 2.

<sup>205</sup>*Id.* at 3.

<sup>206</sup>*Id.* at 4.

<sup>207</sup>*Id.* at 3.

<sup>208</sup>*Id.* at 3.

<sup>209</sup>*Id.*

<sup>210</sup>SATP, *supra* note 30.

<sup>211</sup> State-wise details of number of persons who received compensation under the "Central Scheme for Assistance to Civilian Victims of Terrorist/ Communal/ Naxal Violence" during each of the last four years (from 2009-10 to 2012-13). MINISTRY OF HOME AFFAIRS, LOK SABHA UNSTARRED QUESTION NO. 4824: ANNEXURE 1, 3 (2003), available at <http://mha1.nic.in/par2013/par2013-pdfs/ls-230413/4824.pdf> (last visited Nov. 10, 2015).

children in areas of armed conflict. Unlike AASHWAS and the State Council of Jammu and Kashmir, the Bal Bandhu Scheme focused on strengthening the implementation of the Right to Education (“RTE”) Act of 2009<sup>212</sup> in areas of conflict as well as bringing OOS children back into schools.<sup>213</sup> The scheme was piloted in the Khammam district of Andhra Pradesh, the Sukma district of Chhattisgarh, the Kokrajhar and Chirang districts of Assam, the Gadchiroli district in Maharashtra and four districts of Bihar – East Champaran, Rohtas, Jamui and Sheohar. As described by the NCPCR, the objectives of the Bal Bandhu Scheme are outlined below:

The focus of the pilot is to mobilize the community on child rights, and give it confidence to access institutions for children such as primary health care centres, anganwadi centres, schools, ashramshalas, hostels, Kasturba Gandhi Balika Vidyalaya’s (“KGBVs”) and all other entitlements. It also seeks interaction with the government at the block and district level to bring to the fore their problems in getting these services and facilities. The final objective — to ensure that children enjoy all their rights including the right to education, health, nutrition and protection.<sup>214</sup>

While the program did achieve some notable successes in increasing enrolment of school children and other advocacy initiatives, the program was eventually closed down.<sup>215</sup> With the consequences of this closure on supported children remaining unknown and an area of further research.

#### VI. WELFARE PROVISION BEYOND THE STATE: CIVIL SOCIETY’S ASSISTANCE IN INDIA’S AFFECTED CONFLICT REGIONS

The paper has focused on child-centric programming activities undertaken by the government of India. However, intrinsic to delivery of welfare services in these contexts has been the role of voluntary

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<sup>212</sup>The Right of Children to Free and Compulsory Education Act’ or Right to Education Act (RTE) 2009 makes education a fundamental right for every child in India between the age of six to fourteen years. For further details on the RTE Act see, <https://www.childlineindia.org.in/CP-CR-Downloads/RTE,2009.pdf>.

<sup>213</sup>NAT’L COMM’N FOR PROT. OF CHILD RIGHTS, EDUCATION AS EMERGENCY RELIEF: BAL BANDHU: SCHEME PROTECTION OF CHILDREN’S RIGHTS IN AREAS OF CIVIL UNREST 5 (2013). [http://ncpcr.gov.in/view\\_file.php?fid=271](http://ncpcr.gov.in/view_file.php?fid=271) (last visited Nov. 11, 2015).

<sup>214</sup>NAT’L COMM’N FOR PROT. OF CHILD RIGHTS, BAL BANDHU: IN DEFENCE OF CHILD RIGHTS 2 (2013).

<sup>215</sup> Although the launch of the program was much acclaimed, the shutting down of the scheme hardly garnered any attention. The program ceased to operate as of March 31, 2013. See Former Prime Minister of India, Dr. Manmohan Singh, *PM’s National Relief Fund*, <http://archivepmo.nic.in/drmanmohansingh/relief.php?nodeid=175> (last visited Aug. 28, 2015).

organizations (“VOs”) or NGOs.<sup>216</sup> According to the Planning Commission’s National Policy on the Voluntary Sector 2007, VOs can be defined as:

...organizations engaged in public service, based on ethical, cultural, social, economic, political, religious, spiritual, philanthropic or scientific technological considerations. VOs include formal as well as informal groups, such as: community-based organizations (CBOs); non-governmental development organizations (NGDOs); charitable organizations; support organizations; networks or federations of such organizations; as well as professional membership associations.<sup>217</sup>

In these contexts, VOs negotiate violence and insecurity on a daily basis and have evolved frameworks that warrant a degree of examination.<sup>218</sup> The organizations are unique as they fill critical spaces and provide welfare services in situations where the ability of the Government to provide these services has broken down.<sup>219</sup> Alternatively, they complement existing government services and provide tools for monitoring effectiveness of state-led welfare programs.<sup>220</sup> Although a variety of VOs function in these contexts, the strategic frameworks and lessons learned have not been fully researched.<sup>221</sup> At the same time a brief overview of voluntary sector programming in India’s conflict context is indicative of four major findings addressed below.

First, voluntary sector programming has led to the emergence of models of assistance which require scaling up as they are contextually appropriate and have evolved from a demand driven (or needs based)

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<sup>216</sup> The terms Voluntary Organizations (“VOs”) and Non-Governmental Organizations (“NGOs”) are used in an interchangeable manner in this particular section.

<sup>217</sup> To be covered under the Policy, VOs should broadly have the following characteristics: “a) They are private, i.e., separate from Government; b) They do not return profits generated to their owners or directors; c) They are self-governing, i.e., not controlled by Government; d) They are registered organizations or informal groups, with defined aims and objectives.” See VOLUNTARY ACTION CELL, PLANNING COMMISSION, GOVERNMENT OF INDIA, NATIONAL POLICY ON THE VOLUNTARY SECTOR 1-2 (2007), available at <http://planningcommission.nic.in/data/ngo/npvol07.pdf>.

<sup>218</sup> See Larissa Fast, *Characteristics, Context and Risk: NGO Insecurity in Conflict Zones*, 31 DISASTERS 130-154, (2007).

<sup>219</sup> THANIA PAFFENHOLZ & CHRISTOPH SPURK, WORLD BANK DEV. PAPERS: CONFLICT AND RECONSTRUCTION, CIVIC SOCIETY, CIVIC ENGAGEMENT, AND PEACEBUILDING, 19 (2006), available at [http://siteresources.worldbank.org/INTCPR/Resources/WP36\\_web.pdf](http://siteresources.worldbank.org/INTCPR/Resources/WP36_web.pdf) (last visited Nov. 11, 2015).

<sup>220</sup> *Id.*

<sup>221</sup> LARISSA FAST, *supra* note 213, at 132.

approach. These community driven models<sup>222</sup> are distinct from the state-based mechanisms, which are top-down and agency driven (as evidenced in the state assistance programs discussed in the previous section). Second, there is a need for expanding coordination mechanisms between state and civil society organizations.<sup>223</sup> Third, despite the usefulness of the models being implemented, VO-led programming is vulnerable to fluctuations in funding streams<sup>224</sup> and restrictions placed by security forces or Non-State Armed Groups (NSAGs).<sup>225</sup> In extreme cases, organizations have been directed to withdraw from conflict areas and close down their projects.<sup>226</sup> Fourth, there is a distinction (and degree of contestation) between the strategies of program implementation between NGOs are from within the conflict-affected regions (and who do not have the option to exit) versus national or international organizations who engage in humanitarian response and who introduce program models that have been developed from outside of these regions.<sup>227</sup>

The next section thus provides examples of projects that reflect this duality between crisis-oriented responses and locally developed solutions. The key argument being put forward is that there are no identifiable

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<sup>222</sup> The World Bank defines Community Driven Development (CDD) as, “an approach that empowers local community groups, including local government, by giving direct control to the community over planning decisions and investment resources through a process that emphasizes participatory planning and accountability”. DRIVEN DEVELOPMENT IN THE CONTEXT OF CONFLICT-AFFECTED COUNTRIES: CHALLENGES AND OPPORTUNITIES, 6 (2006), available at [http://siteresources.worldbank.org/INTCDD/Resources/CDD\\_and\\_Conflict.pdf](http://siteresources.worldbank.org/INTCDD/Resources/CDD_and_Conflict.pdf) (last visited Nov. 11, 2015).

<sup>223</sup> ANURIMA CHATTERJEE, ET AL., COORDINATION OF DISASTER RESPONSE: POTENTIAL AND CHALLENGES FROM INDIAN EXPERIENCES, 10 (2010), available at [http://www.redr.org.in/uploads/Coordination\\_of\\_Disaster\\_Response.pdf](http://www.redr.org.in/uploads/Coordination_of_Disaster_Response.pdf) (last visited Nov. 11, 2015).

<sup>224</sup> Aditya Kalra, *India Cancels Licenses of Nearly 9,000 NGOs Over Foreign Funds*, (Apr. 28, 2015) available at <http://in.reuters.com/article/2015/04/28/india-charities-funding-idINKBN0NJ15J20150428>, (last visited Nov. 11, 2015).

<sup>225</sup> *Hostages yet to be Traced*, THE TELEGRAPH (Calcutta, India), Nov. 9, 2014, available at [http://www.telegraphindia.com/1141110/jsp/northeast/story\\_19018301.jsp#.VkLalpSSz-Z](http://www.telegraphindia.com/1141110/jsp/northeast/story_19018301.jsp#.VkLalpSSz-Z) (last visited Nov. 11, 2015).

<sup>226</sup> See Joseph John, Chhattisgarh govt. asks International Red Cross to stop activities in tribal Bastar, June 13, 2013, available at <http://timesofindia.indiatimes.com/india/Chhattisgarh-govt-asks-International-Red-Cross-to-stop-activities-in-tribal-Bastar/articleshow/20569485.cms> (last visited Nov. 11, 2015).

<sup>227</sup> Lara Olson, *Fighting for Humanitarian Space: NGOs in Afghanistan*, 5 THE HUMAN SECURITY BULLETIN, Jan./Feb. 2007, at 5, available at [http://www.cmi.no/pdf/?file=/afghanistan/doc/CCHS\\_Bulletin-Afghanistan\\_Jan\\_2007.pdf](http://www.cmi.no/pdf/?file=/afghanistan/doc/CCHS_Bulletin-Afghanistan_Jan_2007.pdf) (last visited, Nov. 11, 2015).

unified response mechanisms that provide coordination platforms for the implementation of child welfare programs in conflict-affected areas. Rather existing coordination mechanisms in India are purely crisis-oriented and do not engage with post-conflict recovery or long-term peacebuilding.<sup>228</sup>

#### A. Humanitarian Sector Programming in Conflict Situations

There is very little research on the strategic choices made by international or national-level NGOs in implementing program activities. Notable crisis oriented programs have been implemented by humanitarian organizations such as Medicines Sans Frontiers (“MSF”), Oxfam India, Save the Children, and Doctors for You-India in recent years which are discussed below.

MSF is currently supporting district hospitals in Chhattisgarh, Nagaland, and Manipur. In Chhattisgarh, MSF is implementing a program on ante-natal and post-natal care. In Nagaland, MSF provided support to a district hospital, while in Manipur, MSF is implementing HIV/AIDS and tuberculosis treatment programs. In Jammu and Kashmir, MSF is implementing a mental health services program.<sup>229</sup>

Oxfam India, on the other hand, provided critical relief measures during the ethnic conflict of 2012 in addition to Emergency Water Sanitation Hygiene (“WASH”) services. Currently, Oxfam is involved in livelihood reconstruction and unconditional cash transfers with support from the European Commission Humanitarian Aid and Civil Protection (“ECHO”).<sup>230</sup>

Doctors for You (“DFY”) implemented emergency reproductive and child health services through the Minimum Initial Support Package (MISP) in addition to nutrition and WASH sector programming.<sup>231</sup>

Apart from direct assistance to destitute children, an important contribution of civil society organizations has been the development of

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<sup>228</sup>See INTER AGENCY GROUP ASSAM & SPHERE INDIA, RIGHTS IN CRISIS ANALYSIS REPORT: ASSAM VIOLENCE 2014, 2 (2015), available at [http://reliefweb.int/sites/reliefweb.int/files/resources/rights-in-crisis-analysis-report\\_final-copy.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/rights-in-crisis-analysis-report_final-copy.pdf) (last visited Nov. 11, 2015).

<sup>229</sup>See *History of MSF India*, MEDICINES SANS FRONTIERS, <http://www.msfindia.in/history-msf-india> (last visited Feb. 11, 2015).

<sup>230</sup>See *Oxfam Humanitarian Response in Kokrajhar and Chirang Districts of Assam*, Oxfam India, <https://www.oxfamindia.org/subpage/232> (last visited Feb. 12, 2015).

<sup>231</sup>See DOCTORS FOR YOU & INDIA AND TATA INSTITUTE OF SOCIAL SCIENCES, IMPLEMENTING MINIMUM INITIAL SERVICE PACKAGE ‘MISP’ HUMANITARIAN CRISIS LEARNING FROM EXPERIENCES: A PROCESS REPORT FROM ASSAM, INDIA, 2 (2013), available at <http://doctorsforyou.org/files/MISP%20-%20Learning%20from%20Experiences%20-%20DFY.pdf> (last visited Nov. 11, 2015).

*norms and standards.* As discussed earlier, research on government-supported orphanages in Jammu and Kashmir pointed to several issues in terms of the quality of care being provided as well as extent of coverage.<sup>232</sup> Recognition of these gaps has led to the development of the Quality Standards of Care for Orphanages in Jammu and Kashmir in 2010 through a joint effort by the Department of Social Welfare (Jammu and Kashmir State Government) and Save the Children (with support from the European Commission Humanitarian Office).<sup>233</sup>

However, despite these crises responses, the evidence on the effectiveness and impact of children-centric conflict specific programs is still limited. Data that would facilitate such an evaluation is generally available with response organizations; however, as the information is linked to the implementation strategies of the organizations themselves, it is not available in public domains.<sup>234</sup> At the same time, a majority of the programs mentioned earlier are essentially crisis response oriented and are subject to withdrawal based on project and managerial decisions.<sup>235</sup> Moreover, there is very little information on the shift from crisis response in India to interventions focusing on direct peace building or support for violence-reduction programs which is a key determinant of child-welfare in the long-term.<sup>236</sup>

Some of the critical barriers to the transition from crisis response to long-term peace building in India are: the commitment of humanitarian response organizations to the core humanitarian principle of political neutrality and independence;<sup>237</sup> and, their dependence on

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<sup>232</sup>YASIR HASSAN RATHER AND MUSHTAQ A. MARGOUB, *supra* note 57, at 49.

<sup>233</sup> Save the Children, *Jammu & Kashmir; A Model State, Upholds the Rights of Care and Protection for Orphans and Vulnerable Children*, SAVE THE CHILDREN PRESS RELEASE, <https://www.savethechildren.in/medianews/press-coverage.html?start=1> (last visited May 24, 2015).

<sup>234</sup>See Oxfam Int'l, Summary of the Independent Evaluation of Accountability to Beneficiaries of Oxfam and its Partners in the Tsunami Response Program in South India 2, 2007, *available at* [https://www.oxfam.org/sites/www.oxfam.org/files/india\\_accben\\_eval\\_sum\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/india_accben_eval_sum_0.pdf) (last visited Nov. 11, 2015).

<sup>235</sup>ALLISON GARDNER ET AL., WHAT WE KNOW ABOUT EXIT STRATEGIES PRACTICAL GUIDANCE FOR DEVELOPING EXIT STRATEGIES IN THE FIELD 6 (2005), *available at* <http://reliefweb.int/sites/reliefweb.int/files/resources/A02C7B78FB2B408B852570AB006EC7BA-What%20We%20Know%20About%20Exit%20Strategies%20-%20Sept%202005.pdf> (last visited Nov. 11, 2015).

<sup>236</sup>See MARIA LANGE & MICK QUINN, CONFLICT, HUMANITARIAN ASSISTANCE AND PEACEBUILDING: MEETING THE CHALLENGES 6 (2003), *available at* <http://www.international-alert.org/sites/default/files/p/> (last accessed Nov. 11, 2015).

<sup>237</sup>OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (OCHA), OCHA

permission<sup>238</sup> from the district, state and federal authorities to operate and deliver aid in zones of conflict. Gaining the government's permission can become a bargaining instrument in certain contexts, as evidenced when the International Committee of the Red Cross ("ICRC"), which operated in the Naxal-affected state of Chhattisgarh, was ordered to close down their efforts to provide critical healthcare services.<sup>239</sup> Prior to this, both ICRC and MSF were accused of treating Maoists and directed to sign a Memorandum of Understandings ("MoUs") with the provincial government in order to retain permission to function.<sup>240</sup>

### B. *Locally Driven Program Models*

The activities of local civil society organizations are indicative of the fact that complex political environments can give rise to a variety of domestic voluntary organizations that fill critical humanitarian spaces. However, there is very little evidence on projects being implemented in the LWE affected regions and the focus of this section is on Jammu and Kashmir and select examples from Northeastern India. Projects of note that emerge in Jammu and Kashmir concern the welfare of orphans (or *Yateem*) and include the *YateemKhanah*, *Yateem* Trust and *Yateem* Foundation.<sup>241</sup> The three organizations are mentioned due to the uniqueness of their approach towards direct assistance to vulnerable children as well as the level of transparency and accountability institutionalized within their practices.<sup>242</sup> The Jammu and Kashmir *Yateem Khanah* (also known as *Rahat Manzil*) is particularly significant as it is indicative of a model that considers the centrality of providing education support as a tool of social progress for children.<sup>243</sup> The organization has witnessed a steady evolution

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ON MESSAGE: HUMANITARIAN PRINCIPLES 1 (2012), available at [https://docs.unocha.org/sites/dms/Documents/OOM-humanitarianprinciples\\_eng\\_June12.pdf](https://docs.unocha.org/sites/dms/Documents/OOM-humanitarianprinciples_eng_June12.pdf) (last visited Nov. 11, 2015).

<sup>238</sup> *Jammu and Kashmir: The Government of India Grants the ICRC Access to Detainees*, INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC), Jun. 2006, available at <https://www.icrc.org/eng/resources/documents/misc/57jm96.htm> (last visited Nov. 11, 2015).

<sup>239</sup> Suvojit Bagchi, *Red Cross asked to stop work in Naxal-affected Bijapur*, June 14, 2013, available at <http://www.thehindu.com/news/national/other-states/red-cross-asked-to-stop-work-in-naxalaffected-bijapur/article4811742.ece> (last visited Nov. 11, 2015).

<sup>240</sup> *Id.*

<sup>241</sup> Anirduh Suri, *NGOs in Kashmir Agents of Peace and Development*, 4 (2003), <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=29038> (last visited Dec. 7, 2015)

<sup>242</sup> *Id.* at 5.

<sup>243</sup> The organization lays down that the motive behind setting up of the school is to "improve the living and educational standard of the orphans and destitute children belonging to the broken, suffered as well as victimized poor, backward, and downtrodden

and had originally established a charitable primary school under the name of Welfare Educational Institute (“WEI”) in 2004, which was later upgraded to senior Secondary level (10+2).<sup>244</sup> WEI now accommodates 550 students and more than 40 staff, with all students being full supported.<sup>245</sup>

Another such initiative is the Borderless World Foundation (“BWF”) in Jammu and Kashmir, which was initiated as a result of a UNICEF supported survey in Kupwara titled “Children Affected by Armed Conflict in J& K” conducted by the founders of BWF.<sup>246</sup> The projects of BWF are important because they seek to provide direct assistance to conflict-affected children (especially orphaned girls).<sup>247</sup> The Project *Basera-e-Tabassum* (Abode of Smiles) was launched in 2002 for the comprehensive rehabilitation of girl children, especially, “children without both parents, with a single parent, children of victims of militancy, children orphaned due to natural calamities, children of militants, and children of security forces.”<sup>248</sup> The homes provide a safe space for education and rehabilitation activities.

The first home was in the village of Sulokot in Kupwara, district of Kashmir, in 2002 and currently has 55 residents. *Basera-e-Tabassum* at Beerwah (Budgam District), the second home, was started in 2006 and currently has 27 residents. The third home was started in late 2006 in Anantnag District houses 22 children. The home in Jammu, which was started in August 2009, has nine children.<sup>249</sup> Another important aspect of BWF’s activities is that the founders were non-Kashmiris from outside of Jammu and Kashmir (unlike the organizations mentioned previously) and had to build support and acceptance among the local population.<sup>250</sup> Moreover, the work of BWF is not funded by the Government and they rely on support from social organizations.<sup>251</sup>

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sections of the society”. JK Yateem Khanah, <http://www.jkyateemkhanah.org/> (last visited 11 July 2015).

<sup>244</sup>See JK Yateem Khanah, *Welfare Education Institute*, available at <http://www.jkyateemkhanah.org/index.php/education.html#educational-institutes> (last visited Nov. 11, 2015).

<sup>245</sup>*Id.*

<sup>246</sup>See Borderless World Foundation, *BWF HOMES: Project Basera-e-Tabassum (BeT) (meaning Abode of Smiles)*, <http://borderlessworldfoundation.org/bwf-homes/> (last visited Nov. 11, 2015).

<sup>247</sup>*Id.*

<sup>248</sup>Borderless World Foundation, <http://bwfindia.org.in/faq.php> (last visited Nov 9, 2014)

<sup>249</sup>*Id.*

<sup>250</sup>*Id.*

<sup>251</sup>See Borderless World Foundation, *How We Work*,

Direct assistance is only one aspect of the spectrum of activities pertaining to children in armed conflict. Advocacy is another framework of promoting child welfare and relies on protracted engagement with various stakeholders to bring about critical policy outcomes.<sup>252</sup> The Jammu and Kashmir Child Rights Trust (“JKCRT”) is an important organization to note in the child-advocacy arena. JKCRT’s objective is to: “promote child rights through research, training, advocacy, consultancy, publication, alliance and networking, community mobilization, development and participation and direct interventions by collaborating with relevant stakeholders.”<sup>253</sup>

Mention must also be made of the Hum Kadam: Education for Peace Project which was developed by the Foundation for Academic Excellence and Access (New Delhi) and Women in Security Conflict Management and Peace (“WISCOMP”). The Hum Kadam: Education for Peace Project seeks to develop “institutional linkages are being established between schools and colleges in Srinagar and Delhi to create a mutual learning community.”<sup>254</sup> Another interesting route towards indirectly promoting child rights in the region has been through projects on environmental education, disaster risk reduction and post-disaster recovery. The Centre for Environment Education (“CEE”) Himalaya, through its flagship projects in the region is of critical importance in highlighting this approach. These include: providing support to the *Paryavaran Mitra* Programme in Jammu,<sup>255</sup> Rebuilding Trust- Kashmir Earthquake Response Programme,<sup>256</sup> Dal Lake Conservation,<sup>257</sup> and Greening of School Education.<sup>258</sup>

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<http://borderlessworldfoundation.org/how-we-work/> (last visited, November 11, 2015).

<sup>252</sup> See Save the Children, *Welcome Relief for Children of Jammu & Kashmir available at* <https://www.savethechildren.in/85-latest-news/249-welcome-relief-for-children-of-jammu-a-kashmir.html> (last accessed (last visited Nov. 12, 2015).

<sup>253</sup> Jammu and Kashmir Child Rights Trust, <http://www.crin.org/organisations/viewOrg.asp?ID=3973> (last visited Dec. 11, 2014).

<sup>254</sup> The project engages with adolescents/youths and educators at school level as well as college level. Women in Security Conflict Management and Peace, Jammu & Kashmir, <http://wiscomp.org/jandk.php> (last visited Sep. 12, 2014).

<sup>255</sup> This is a program sponsored by the Ministry of Environment and Forests (Government of India) and originally developed by the CEE. The *Paryavaran Mitra* program primarily seeks to reach students from class 6 – 8 (age group 11-15) and to mobilize students (and teachers) to improve the condition within the school premises, at home, or in the community in five thematic areas: Water and Sanitation, Energy, Waste Management, Biodiversity and Greening and Culture and Heritage. *Paryavaran Mitra* Programme, <http://paryavaranmitra.in/Default.aspx?sID=11#Handprint> (last visited Feb 16 2015).

<sup>256</sup> The current project addresses mid- and long-term rehabilitation and recovery needs after the Kashmir earthquake of 2005. CEE is now working on school safety and disaster preparedness in five disaster prone districts. CEE has also taken up community

In the case of northeastern India, measures taken to provide welfare to children affected by conflict have not been subject to systematic research. However, the existing information on initiatives in northeastern India provides a useful starting point and some of these projects are discussed below.

The NIPCCD evaluation report discussed earlier mentions support extended by voluntary organizations to Project AASHWAS in Kokrajhar.<sup>259</sup> The NGO, Society to Save Victims of Violence and Terrorism, provided liaison services between beneficiaries and assisted in tracking disbursements to orphaned children, but was hampered in its activities due to the lack of financial resources, as Project Assist (“NFCH”) did not have budgetary allocations for meeting expenses related to essential expenditures.<sup>260</sup> Another important model emerging out of Assam is the work of the NEDAN Foundation (which is based in the Bodo Territorial Autonomous Districts region). The NEDAN Foundation seeks to work on combating cross border human trafficking between northeast India with south Asia; education for peace with children, adolescents and youth; creating alternative livelihood amongst the girls and women victims of ethnic conflict through social enterprises; and, child protection including Right to Education (“RTE”).<sup>261</sup> The Kokrajhar crisis of 2012 led NEDAN Foundation to develop a child-centric response plan a hallmark of the program was the provision of psycho-social support,<sup>262</sup> the creation

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based disaster preparedness and village level contingency planning in Baramulla, Kupwara, Bandipora, Ganderbal and Srinagar districts. Center for Environment Education, <http://www.ceeindia.org/cee/jammu.html> (last visited Feb. 26, 2015).

<sup>257</sup>The Ministry of Human Resource Development (“MHRoD”) supports the CEE program. “Students, teachers, Principals and Headmasters from 20 selected schools falling within the Lake and the periphery were chosen, eco-clubs formed in schools, teachers trained on monitoring water quality and understanding the relationship between waste management, water quality and people’s health and livelihoods.” See Center For Environment Education, <http://www.ceeindia.org/cee/jammu.html> (last visited Feb. 26, 2015).

<sup>258</sup>*Id.* This comes under the ambit of the Strengthening Environment Education in the School System (StrEESS) program supported by the Ministry of Environment and Forests. The program involves “revision of textbooks, training of teachers, resource persons and concerned personnel of the education departments.” CEE is also developing an NGO directory in order to facilitate coordination in environment related programming.

<sup>259</sup>NAT’L INST. OF PUB. COOPERATION AND CHILD DEV’T, *supra* note 187.

<sup>260</sup>NAT’L INST. OF PUB. COOPERATION AND CHILD DEV’T, ANNUAL REPORT 2011-2012 88 (2013), <http://nipccd.nic.in/annual/ar2012e.pdf>.

<sup>261</sup>NEDAN FOUNDATION, MAY PEACE PREVAIL ON EARTH, 1, 2013, *available at* <http://nedan.in/peace%20building%20initiative.pdf>.

<sup>262</sup> The Psychosocial Working Group (PWG) states: “The term ‘psychosocial’ is used to emphasize the close connection between psychological aspects of our experience (our thoughts, emotions and behavior) and our wider social experience (our relationships,

of child friendly spaces<sup>263</sup> and direct relief.<sup>264</sup> Apart from these initiatives, two projects from Manipur must be mentioned that have sought to engage in direct assistance to women who have been widowed as a consequence of civil strife and in supporting their families through livelihood generation and psychosocial support: Manipur Women Gun Survivors Network (“MWGSN”)<sup>265</sup> and Gun Widows’ Survivor Association (which is part of Integrated Rural Development Social Organization, or “IRDSO”).<sup>266</sup>

Given the paucity of conflict specific child centric programming, there are a number of indirect assistance, awareness generation, and advocacy initiatives that emerge out of the context of the Northeastern region. Three significant examples include the Manipur Alliance for Child

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traditions and culture). These two aspects are so closely inter-twined in the context of complex emergencies that the concept of ‘psychosocial well-being’ is probably more useful for humanitarian agencies than narrower concepts such as ‘mental health’. Interventions focusing narrowly on mental health concepts such as psychological trauma run the risk of ignoring aspects of the social context that are vital to well-being. The psychosocial emphasis on social as well as psychological aspects of well-being also ensures that the family and community are fully brought into the picture in assessing needs.” See PSYCHOSOCIAL WORKING GROUP, PSYCHOSOCIAL INTERVENTION IN COMPLEX EMERGENCIES: A FRAMEWORK FOR PRACTICE, 1 (Oct. 2003), <http://www.forcedmigration.org/psychosocial/papers/PWGpapers.htm/A%20Framework%20for%20Practice.pdf> (last visited Dec. 7, 2015).

<sup>263</sup> The concept of Child Friendly Spaces is given by Save the Children: “The purpose of a Child Friendly Space is to provide children with a protected environment in which they can participate in organized activities to play, socialize, learn, and express themselves as they rebuild their lives.” Furthermore, these are “supervised environments in which parents and caregivers can leave their children while they collect food and water, rebuild homes or seek new income generating activities.” See Save the Children, *Child Friendly Spaces in Emergencies: A Handbook for Save the Children Staff*, 2, [http://www.unicef.org/french/videoaudio/PDFs/Guidelines\\_on\\_Child\\_Friendly\\_Spaces\\_-\\_SAVE.pdf](http://www.unicef.org/french/videoaudio/PDFs/Guidelines_on_Child_Friendly_Spaces_-_SAVE.pdf) (last visited Dec. 7, 2015).

<sup>264</sup> NEDAN FOUNDATION, *supra* note 251, at 14.

<sup>265</sup> In terms of their work, the MWGSN helps gun survivors to open bank accounts and provides small loans ranging from India Rupees. 3000-9000 (Approximately \$45 to \$135). In many cases, women are supported to engage in entrepreneurial work related to silk reeling, weaving, and other occupations such as the setting up of fisheries, piggeries and mushroom farming. See MANIPUR WOMEN GUN SURVIVORS NETWORK, 8, (2011), *available at* [http://nobelwomensinitiative.org/wpcontent/uploads/2011/11/Manipur\\_Women\\_Gun\\_Survivors-6.pdf](http://nobelwomensinitiative.org/wpcontent/uploads/2011/11/Manipur_Women_Gun_Survivors-6.pdf), (last visited Nov. 12, 2015).

<sup>266</sup> The Integrated Rural Development Service Organization (IRDSO) initiated this project with the goal of strengthening the single women (gun-widow-survivors) as an important stakeholder in Peace Building rather than remaining as a victim, and bringing economic liberation through creation of SHGs. IRDSO, <http://www.fstindia.org/our-grantees/integrated-rural-development-service-organization-irdso> (last visited Mar. 14, 2015).

Rights (“MACR”),<sup>267</sup> Social Awareness Social Organization (“SASO”) Care and Support Programme among the Children Affected and Infected by HIV/AIDS (in Manipur) and the various initiatives of the Action Northeast Trust (“ANT”) in Chirang (“BTAD”). Whereas the former is an advocacy organization, the latter two also engage in service delivery.

SASO implemented an expanded child-centered home and community-based care and support project called CHAHA in Manipur between 2007 and 2011.<sup>268</sup> The program worked towards extending care and support services to 4,242 children under 18 years of who were age affected by or living with HIV and their families.<sup>269</sup> The program aimed to improve the care and support services for the children affected and infected by HIV/AIDS to reduce HIV-related fatalities among them.<sup>270</sup> The program has its presence in six districts in Manipur with three implementing NGOs: Sneha Bhavan in Imphal East, Thoubal and Chandel, Dedicated People’s Union (“DPU”) in Bishnupur, Manipur Network of Positive People (MNP+) in Ukhrul, and, SASO is implementing directly in Imphal West.<sup>271</sup> However, it must be noted that the work of the organization has been hampered in one instance when NSAGs served extortion notices to the organization, a crisis which would have led to the closure of various projects.<sup>272</sup>

Whereas the SASO example highlights the manner by which medical and psychosocial support is directed to a targeted population in a civil strife situation, the ANT model is also important as it navigates a complex political environment.<sup>273</sup> Moreover, ANT also works with Internally Displaced Persons from previous humanitarian crises. The

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<sup>267</sup>Manipur Alliance for Children’s Rights, <http://manipurallianceforchildrights.blogspot.in/> (last visited Mar. 10, 2015).

<sup>268</sup>SurjakantaNgangom, “CHAHA comes to an end and with it hopes of HIV+ children”, E-Pao Manipur, available at: [http://e-pao.net/epSubPageExtractor.asp?src=education.Health\\_Issue.Drug\\_Awareness\\_Education.CHAHA\\_comes\\_to\\_an\\_end\\_and\\_with\\_it\\_hopes\\_of\\_HIV\\_children](http://e-pao.net/epSubPageExtractor.asp?src=education.Health_Issue.Drug_Awareness_Education.CHAHA_comes_to_an_end_and_with_it_hopes_of_HIV_children) [last accessed on 20th Jan 2016]

<sup>269</sup>Id.

<sup>270</sup>SOCIAL AWARENESS SERV. ORG. (SASO), ANNUAL PROJECT REPORT ON: ‘HIV/AIDS INTERVENTION PREVENTION, CARE & SUPPORT PROGRAM IN MANIPUR’ INDIA PAGE 21 (2011). See Michelle Kermode et. al., *Killing Time With Enjoyment: A Qualitative Study of Initiation into Injecting Drug Use in North-East India*, 44 Substance Use & Misuse, 1070 (2009).

<sup>271</sup>Id.

<sup>272</sup> Imphal Free Press, *SASO Appeals against Monetary Demand With Demands For Moral Support*, available at <http://kanglaonline.com/2013/03/saso-appeals-against-monetary-demand-with-demands-for-moral-support/> (last visited Aug. 2, 2015).

<sup>273</sup>The ANT Newsletter, *Promoting Peace and Justice*, available at [http://ssism.org/theant/Building\\_Peace\\_Justice.php](http://ssism.org/theant/Building_Peace_Justice.php) (last visited, Nov. 12, 2015).

organization also responded to the Kokrajhar crisis and conducted a livelihood reconstruction program in 20 villages since 2013 with support from Mercy Corps and ECHO.<sup>274</sup>

#### VII. CONCLUSION: TOWARDS A NEW POLICY FRAMEWORK?

An overview of the situation of child welfare in India's conflict-affected regions presents an uncertain and dismal picture. The states of Jammu and Kashmir, the various provinces of the broader northeastern region and the Naxal-affected parts of Central and East India, witness political unrest and violence on a daily basis. Increasingly, the civilian population in these regions is trapped between the security forces and the various Non-State Armed Groups ("NSAGs"), who make their presence felt through various violent and non-violent means. For children who are witness to everyday violence, the situation is especially severe. As the paper has shown, the nature of public policy formulation and implementation of the existing policy frameworks is highly fragmented, with actual implementation being subject to several barriers. In many cases, the provision of child welfare is hampered by local political dynamics and widespread corruption. In other instances, especially in terms of civil society welfare provision, both security forces and NSAGs have restricted the freedom of action, and in certain cases NGOs were forced to either exit or were attacked and forcefully closed down.<sup>275</sup> Another major lacuna is the absence of guidance for specific rules of engagement for the security forces when they either confront or detain child soldiers

The absence of international scrutiny in these conflict areas must also be contended with. Advocacy organizations based in India do not have recourse to international institutions to ultimately influence domestic policy making in the context of armed conflict situations and have to engage (and negotiate around) constraints placed by various conflict actors and stakeholders. The critical aspect of these conflicts is that these are slow-moving crises, which get reflected in declining school enrollment ratios, increasing infant (and maternal) mortality rates, and increasing out-migration (as well as child trafficking) from the conflict areas. The presence of enhanced developmental deficits and absence of livelihood (and educational) opportunities implies that NSAGs are provide a steady source of recruits; with the demographic patterns of the recruits reflecting much lower age-profile (with recruits joining voluntarily or through compulsion).<sup>276</sup> The absence of uniform strategies and standards to

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<sup>274</sup>THE ANT NEWSLETTER, *supra* note 82, at 1.

<sup>275</sup>See Suvojit Bagchi, *supra* note 229.

<sup>276</sup>RAJU KUMAR NARZARY, THE NORTHEAST RESEARCH & SOCIAL WORK NETWORKING, IMPACT OF CONFLICT ON CHILDREN IN ASSAM AND MANIPUR STATES OF INDIA 17 (2014).

enhance the welfare of internally displaced children is another area of serious concern. Lastly, it must also be remembered that the burden on children is further accentuated by contact with and presence of security forces as well as NSAGs on daily basis. Children have been targets of violence (including detention) and there is a significant population of this demographic living with untreated PTSD whose impacts follows them well into adulthood.

Despite all the shortcomings identified in the course of the research, it must also be pointed out that there have been attempts at ameliorating the conditions of conflict-affected children. The state-led policies which were discussed earlier, while limited in the degree to which they provide assistance, have been implemented in conflict-affected areas where there is no negotiated peace settlement. Alternatively, these policies have been implemented in areas where peace accords exist, but where post-conflict violence is extremely high. The state agency which supports the largest number of orphans in conflict areas has not closed down (and has developed a steady funding stream) and functioned through years of severe unrest in its project areas. In certain cases, local district and state authorities have also been able to implement child centric public health programming in remote and cut off regions, which have been dominated by NSAGs, mainly due to their ability to provide moral arguments on the neutrality of such initiatives. However, due to lack of focused primary research on the sustenance of service delivery in these conflict areas, these lessons in policy resilience will remain undocumented.

In conclusion, the paper was a preliminary attempt at consolidating the existing evidence on the situation of children in India's major conflict-affected zones. There is a serious need to systematize public-policy formulation pertaining to child welfare in these areas and enhance their ability to not only maximize coverage, but also reflect the actual needs of the beneficiaries. However, as the protracted situations of conflict continue, we do not foresee any improvement in the situation and caution that the critical indicators discussed earlier will worsen with the continuation of the present political instability. It is also important that those involved in policy formulation and implementation (including civil society actors) draw on the lessons that are available from both within and outside the broader South Asian region to build innovative strategies that are sustainable over a much longer time span.

**Appendix I**  
**Child-Centric National Policies<sup>277</sup>**

Policy Framework	Content and Responsible Authority
<ul style="list-style-type: none"> <li>• <b>National Policy for Children (2013)</b></li> <li>• <b>National Policy for Children (1974)<sup>278</sup></b></li> </ul>	<ul style="list-style-type: none"> <li>• The policies outline “services the state should provide for the complete development of a child, before and after birth and throughout a child’s period of growth for their full physical, mental and social development”.<sup>279</sup></li> <li>• “The recent policy of 2013 recognizes strife related vulnerabilities and is discussed subsequently.”<sup>280</sup></li> <li>• Lead Authority: Ministry of Women and Child Development (MWCD).<sup>281</sup></li> </ul>
<ul style="list-style-type: none"> <li>• <b>National Early Childhood Care and Education (ECCE) Policy 2013 (select provisions passed)</b></li> </ul>	<ul style="list-style-type: none"> <li>• The vision of the National ECCE Policy is “to promote inclusive, equitable and contextualized opportunities for promoting optimal development and active learning capacity of all children below 6 years of age. The Policy focus is on early preschool learning for every child below six years.”<sup>282</sup></li> <li>• “The key provisions accepted are to implement the policy through National and State ECCE Councils to develop National Early Childhood Care and</li> </ul>

<sup>277</sup>SOCIAL STATISTICS DIVISION, CENTRAL STATISTICS OFFICE, MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION, GOVERNMENT OF INDIA, CHILDREN IN INDIA 2012 - A STATISTICAL APPRAISAL (2012), available at [http://mospi.nic.in/Mospi\\_New/upload/Children\\_in\\_India\\_2012.pdf](http://mospi.nic.in/Mospi_New/upload/Children_in_India_2012.pdf); and CHILDLINE INDIA FOUNDATION, CHILD RELATED POLICIES, available at <http://www.childlineindia.org.in/Child-Related-Policies.htm> (last visited Mar. 16, 2015).

<sup>278</sup>MINISTRY OF WOMEN AND CHILD DEVELOPMENT, *supra* note 127, at 1.

<sup>279</sup>*Id.* at 3.

<sup>280</sup>*Id.* at 7.

<sup>281</sup>*Id.* at 12.

<sup>282</sup>DINESH PAUL, IMPLEMENTATION OF EARLY CHILDHOOD CARE AND EDUCATION POLICY IN INDIA, 4, available at [http://www.arnec.net/wp-content/uploads/2015/01/plenary-2\\_INDIA.pdf](http://www.arnec.net/wp-content/uploads/2015/01/plenary-2_INDIA.pdf) (last visited Nov. 12, 2015).

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- Education Curriculum Framework and Quality Standards”<sup>283</sup>
- Lead Authority: MWCD<sup>284</sup>
- **National Plan of Action for Children (2005)**

Key areas of thrust out of which the one’s relating to child protection are:

    - “Complete abolition of female foeticide, female infanticide and child marriage and ensuring the survival, development and protection of the girl child.”<sup>285</sup>
    - “Addressing and upholding the rights of children in difficult circumstances.”<sup>286</sup>
    - “Securing for all children legal and social protection from all kinds of abuse, exploitation and neglect.”<sup>287</sup>
    - Lead Authority: MWCD<sup>288</sup>
  - **National Charter for Children (2003)**
    - The National Charter for Children commits the state and society to “secure for every child its inherent right to be a child and enjoy a healthy and happy childhood, to address the root causes that negate the healthy growth and development of children, and to awaken the conscience of the community in the wider societal context to protect children from all forms of abuse, while strengthening the family, society and the Nation.”<sup>289</sup>
    - The Charter discusses “the need for
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<sup>283</sup>*Id.* at 19.

<sup>284</sup>*See* UNICEF, India, *Early Childhood Education*, available at <http://unicef.in/Whatwedo/40/Early-Childhood-Education> (last visited Nov. 12, 2015).

<sup>285</sup>DEP’T OF WOMEN AND CHILD DEV., MINISTRY OF HUMAN RESOURCE DEV., NATIONAL PLAN OF ACTION FOR CHILDREN 3 (2005), available at <http://www.childlineindia.org.in/CP-CR-Downloads/National%20Plan%20of%20Action.pdf> (last visited Nov. 12, 2015).

<sup>286</sup>*Id.*

<sup>287</sup>*Id.*

<sup>288</sup>*Id.* at 49.

<sup>289</sup>DEP’T OF WOMEN AND CHILD DEV., MINISTRY OF HUMAN RESOURCE DEV., NATIONAL CHARTER FOR CHILDREN 2003, 2 (2004), available at [http://www.childlineindia.org.in/CP-CR-Downloads/national\\_charter.pdf](http://www.childlineindia.org.in/CP-CR-Downloads/national_charter.pdf) (last visited Nov. 12, 2015)

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proper health and nutrition facilities for children including mental health. This includes the need for nutritious food, safe drinking water and environmental sanitation and hygiene to be provided to poor families. The charter recognizes the need of every child to protection from abandonment and neglect, and the duty to assure minimum needs and security of children. The charter commits to the need for all children to get free primary education and early childhood care.”<sup>290</sup>

- **National Nutrition policy (1993)**
  - The policy was introduced “to combat the problem of under-nutrition. It aims to address this problem by utilizing direct (short term) and indirect (long term) interventions in the area of food production and distribution, health and family welfare, education, rural and urban development, woman and child-development.”<sup>291</sup>
  - Lead Authority: MWCD<sup>292</sup>
  - The policy conceived of a National System of Education which aimed at providing “up to a given level, all students irrespective of caste, creed, location or sex, have access to education of a comparable quality.”<sup>293</sup>
  - The policy called for “special emphasis on the removal of disparities and to equalize educational opportunity, by attending to the specific needs of those who have been denied equality so far.”<sup>294</sup>
  - **National Policy on Education (1986)**
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<sup>290</sup>See Childline India, *National Charter for Children 2003*, available at <http://www.childlineindia.org.in/National-Charter-for-Children-2003.htm> (last visited Nov. 12, 2015).

<sup>291</sup>DEP’T OF WOMEN AND CHILD DEV., MINISTRY OF HUMAN RESOURCE DEV., NATIONAL NUTRITIONAL POLICY, 2-3 (1993), available at <http://www.childlineindia.org.in/CP-CR-Downloads/national%20nutrition%20policy.pdf> (last visited Nov. 12, 2015)

<sup>292</sup>*Id.* at 1.

<sup>293</sup>DEP’T OF EDUCATION, MINISTRY OF HUMAN RESOURCE DEV., NATIONAL POLICY ON EDUCATION 1986, 5 (1998) available at <http://www.childlineindia.org.in/pdf/National-Policy-on-Education.pdf> (last visited Nov. 12, 2015).

<sup>294</sup>*Id.* at 7.

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- Lead Authority: Ministry of Human Resource Development (MHRD).<sup>295</sup>
  - **National Policy on Child Labour (1987)**
    - The policy contains “the action plan for tackling the problem of child labor. It envisaged a legislative action plan focusing and convergence of general development programs for benefiting children wherever possible, and Project-based plan of action for launching of projects for the welfare of working children in areas of high concentration of child labor.”<sup>296</sup>
    - Lead Authority: Ministry of Labour and Employment (ML&E).<sup>297</sup>
  - **National Population Policy (2000)**
    - The policy aims at improvement in the status of Indian children. It emphasized “free and compulsory school education up to age 14, universal immunization of children against all vaccine preventable diseases, 100% registration of birth, death, marriage and pregnancy, substantial reduction in the infant mortality rate and maternal mortality ratio.”<sup>298</sup>
    - Lead Authority: National Commission on Population (NCP).<sup>299</sup>
  - **National Health Policy (2002)**
    - The main objective of this policy was “to achieve an acceptable standard of good health amongst the general population of the country. The approach undertaken was “to increase access to the decentralized public health system by establishing new infrastructure in deficient areas, and by upgrading the infrastructure in the existing institutions.”<sup>300</sup>
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<sup>295</sup>*Id.* at 5.

<sup>296</sup>MINISTRY OF LABOUR AND EMP'T, THE POLICY OF THE GOVERNMENT ON THE ISSUE OF CHILD LABOUR, 1 (1987), available at <http://labour.nic.in/upload/uploadfiles/files/Divisions/childlabour/PolicyofGovernmentontheissueofChildLabour.pdf> (last visited Nov. 12, 2015).

<sup>297</sup>*Id.* at 2.

<sup>298</sup>SOCIAL STATISTICS DIVISION, *supra* note 265, at 21.

<sup>299</sup>See National Commission on Population, *New Structures*, available at [http://populationcommission.nic.in/PublicationDetails/11\\_988\\_1.aspx](http://populationcommission.nic.in/PublicationDetails/11_988_1.aspx) (last visited Nov. 12, 2015).

<sup>300</sup>*Id.*

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- Lead Authority: Ministry of Health and Family Welfare (MoH&FW).<sup>301</sup>
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## Appendix II

### National Level Legislative Frameworks<sup>302</sup>

Name of Legislation	Brief Description of Act	Leading Authority for Implementation/Monitoring
<b>The Protection of Children from Sexual Offences Act (2012)</b>	<ul style="list-style-type: none"> <li>• The Protection of Children from Sexual Offences Act, 2012 defines a child as any person “below the age of 18 years and provides protection to all children under the age of 18 years from the offences of sexual assault, sexual harassment and pornography. These offences have been clearly defined for the first time in law.”<sup>303</sup></li> <li>• “An offence is treated as ‘aggravated’ when committed by a person in a position of trust or authority of child such as a member of security forces, police officer, and public servant.”<sup>304</sup></li> </ul>	<p>“Complaints to be registered by Special Juvenile Police Unit (SJPU) or local police. The National Commission for the Protection of Child Rights (NCPCR) and State Commissions for the Protection of Child Rights (SCPCRs) have been made the designated authority to monitor the implementation of</p>

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<sup>301</sup>See Amit Sengupta, *Draft National Health Policy 2015: Getting Behind the Rhetoric*, INDIAN JOURNAL OF MEDICAL ETHICS, April-June 2015 at 62, available at <http://www.issuesinmedicalethics.org/index.php/ijme/article/view/2208/4711> (last visited Nov. 12, 2015).

<sup>302</sup>SOCIAL STATISTICS DIVISION, *supra* note 265, at 18; and CHILDLINE INDIA FOUNDATION, CHILD RELATED POLICIES, available at <http://www.childlineindia.org.in/Child-Related-Policies.htm> (last visited Mar. 16, 2015).

<sup>303</sup>See Childline India Foundation, *The Protection of Children from Sexual Offences Act 2012*, available at <http://www.childlineindia.org.in/The-Protection-of-Children-from-Sexual-Offences-Act-2012.htm> (last visited Nov. 12, 2015).

<sup>304</sup>*Id.*

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		the Act.”
<p><b>The Right of Children to Free and Compulsory Education Act (2009)[not applicable in Jammu and Kashmir]</b></p>	<ul style="list-style-type: none"> <li>• “The main purpose of the act is to outline the provision of quality education for all children between the ages of 6-14 as per the constitutional fundamental right awarded to children in the 86th amendment.”<sup>305</sup></li> </ul>	<p>National and State Commissions for the Protection of Child Rights responsible for upholding the right to education specified in the act. Linked to Bal Bandhu Scheme for Civil Strife affected areas.<sup>306</sup></p>
<p><b>Juvenile Justice (Care and Protection of Children) Act 2000, as amended in 2006 and 2010 [not applicable in Jammu and Kashmir]</b></p>	<ul style="list-style-type: none"> <li>• In this act a child or juvenile is defined as a person who has not completed his/her 18th year of age. It outlines two target groups: <b>Children in need of care and protection</b> and <b>Juveniles in conflict with law.</b><sup>307</sup></li> </ul>	<p>Juvenile Justice Boards, SJPU and Child Welfare Committees.</p>
<p><b>Prohibition of Child Marriage Act (2006)</b></p>	<ul style="list-style-type: none"> <li>• The act is designed to prevent and prosecute the practice of child marriage.<sup>308</sup> According to the act “a child is a male who has not</li> </ul>	<p>Multiple Stakeholders (MWCD, State Governments)</p>

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<sup>305</sup>Childline Foundation India, *The Right of Children to Free and Compulsory Education Act, 2009*, available at <http://www.childlineindia.org.in/The-Right-of-Children-to-Free-and-Compulsory-Education-Act-2009.htm> (last visited Nov. 12, 2015).

<sup>306</sup>FORMER PRIME MINISTER OF INDIA, DR. MANMOHAN SINGH, *supra* note 205.

<sup>307</sup>See Childline India Foundation, *Juvenile Justice (Care and Protection of Children) Act 2000, as amended in 2006*, available at <http://www.childlineindia.org.in/Juvenile-Justice-Care-and-Protection-of-Children-Act-2000.htm> (last visited Nov. 12, 2015).

<sup>308</sup>MINISTRY OF WOMEN AND CHILD DEV., GOV'T OF INDIA, CENTRE FOR CHILD RIGHTS, *HANDBOOK ON THE PROHIBITION OF CHILD MARRIAGE ACT 2006, 10*, available at <https://childlineindia.org.in/pdf/Child-Marriage-handbook.pdf> (last visited Nov. 12, 2015).

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<b>The Commissions For Protection of Child Rights Act (2005)</b>	<ul style="list-style-type: none"> <li>• An Act to “provide for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights.”<sup>309</sup></li> </ul>	MWCD, NCPCR, SCPCR
<b>The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act (1995).</b>	<ul style="list-style-type: none"> <li>• “Children with disabilities should be provided free education by the appropriate government.”<sup>311</sup></li> <li>• “The government must take steps to integrate children with disabilities into regular schools, but also make space for special schools that cater expressly to the needs of these children.”<sup>312</sup></li> </ul> <p>(i)</p>	Multiples Stakeholders. The act called for creation of central coordination committee and the central executive committee; the state coordination committee and the state executive committee.
<b>The Pre-conception &amp; Pre-natal Diagnostic Technique (Regulation, Prevention and Misuse) Act, 1994</b>	<ul style="list-style-type: none"> <li>• “In 1994 the Government of India in an attempt to stop female feticide passed the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act. In 2002 the act was amended.”<sup>313</sup></li> </ul>	Central Supervisory Board and various authorities at the state level.  Ministry of Health and Family Welfare.

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<sup>309</sup>*Id.*

<sup>310</sup>SOCIAL STATISTICS DIVISION, *supra* note 265, at 20.

<sup>311</sup>Childline India Foundation, *Persons with Disabilities Act, 1995*, available at <http://www.childlineindia.org.in/Persons-with-Disabilities-Act-1995.htm> (last visited Nov. 12, 2015).

<sup>312</sup>*Id.*

<sup>313</sup>Childline India Foundation, *Pre-natal Diagnostic Techniques Act, 1994*, available at <http://www.childlineindia.org.in/Pre-natal-Diagnostic-Techniques-Act-1994.htm> (last visited Nov. 12, 2015).

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amendme  
nt of 2002**

**The  
Infant  
Milk  
Substitute  
s, Feeding  
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and Infant  
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(Regulatio  
n of  
Productio  
n,  
Supply  
Distributi  
on) Act,  
1992 and  
its  
amendme  
nt of 2003**

- “The purpose of the Infant Milk Substitutes, Feeding Bottles and Infant Foods Act 1992 and its 2003 amendment is to promote breast feeding of new born children and infants. It also looks to ensure that infant foods are regulated and used appropriately.”<sup>314</sup>
- MWCD

**VIII.**

**Scheduled  
Castes  
and  
Scheduled  
Tribes Act  
(1989)**

- “In 1989, the Government of India passed the Prevention of Atrocities Act (POA), which defines specific crimes against Scheduled Castes (SCs) and Scheduled Tribes (STs) as ‘atrocities,’ and discuss strategies and sets down punishments to counter these acts. Though the acts are not specific to children or do not have specific provisions for crimes against children, it does apply to all crimes committed against SC or ST children.”<sup>315</sup>
- Ministry of Tribal Affairs
- Ministry of Social Justice and Empowerment

**The Child  
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- The act outlines where and how children can work and where they cannot. The enactment of this act changes the definition of child to one who has not completed his fourteenth year of age.<sup>316</sup>
  - Multiple Stakeholders
  - Ministry
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<sup>314</sup>Childline India Foundation, *Infant Milk Substitutes, Feeding Bottles and Infant Foods*, available at, <http://www.childlineindia.org.in/Infant-Milk-Substitutes-Feeding-Bottles-and-Infant-Foods.htm> (last visited Nov. 12, 2015).

<sup>315</sup>Childline India Foundation, *Scheduled Castes and Scheduled Tribes Act, 1989*, available at <http://www.childlineindia.org.in/Scheduled-Castes-and-Scheduled-Tribes-Act-1989.htm> (last visited Nov. 12, 2015).

<sup>316</sup>Childline India Foundation, *Child Labour (Prohibition and Regulation) Act 1986*, available at <http://www.childlineindia.org.in/Child-Labour-Prohibition-and-Regulation-Act-1986.htm> (last visited Nov. 12, 2015).

<b>n) Act (1986) amended 2006</b>	of Labour and Employment
<b>Immoral Traffic Prevention Act (1986) and Suppression of Immoral Traffic in Women and Girls Act (1956)</b>	<ul style="list-style-type: none"> <li>• “The act defines child as any person who has not completed eighteen years of age. The first section of the act has provisions that outline the illegality of prostitution and the punishment for owning a brothel or a similar establishment, or for living of earnings of prostitution.”<sup>317</sup></li> <li>• “To ensure that the people in the chain of trafficking are also held responsible the act has a provision that states that any person involved in the recruiting, transporting, transferring, harboring, or receiving of persons for the purpose of prostitution if guilty of trafficking.”<sup>318</sup></li> </ul>
<b>Bonded Labour System (Abolition) Act (1976)</b>	<ul style="list-style-type: none"> <li>• “The Bonded Labour System was abolished throughout the country with effect from 25th October, 1975 with the enactment of Bonded Labour System (Abolition) Act, 1976. It freed unilaterally all the bonded laborers from bondage with simultaneous liquidation of their debts. It made the practice of bondage a cognizable offence punishable by law. The Act is being implemented by the State Governments.”<sup>319</sup></li> </ul>
<b>The Apprentices Act (1961)</b>	<ul style="list-style-type: none"> <li>• “The act pertains to employment of apprentices is designated trades and sets a minimum age limit of employment being fourteen years.”<sup>320</sup></li> </ul>

<sup>317</sup>Childline India Foundation, *Immoral Traffic Prevention Act, 1986*, available at <http://www.childlineindia.org.in/Immoral-Traffic-Prevention-Act-1986.htm> (last visited Nov. 13, 2015).

<sup>318</sup>*Id.*

<sup>319</sup>Childline India Foundation, *Bonded Labour System (Abolition) Act, 1976*, available at <http://www.childlineindia.org.in/Bonded-Labour-System-Abolition-Act-1976.htm> (last visited Nov. 13, 2015).

<sup>320</sup>See MINISTRY OF HUMAN RESOURCE DEVELOPMENT, APPRENTICES ACT, 1961, 8 (1961) available at [http://mhrd.gov.in/sites/upload\\_files/mhrd/files/upload\\_document/ApprenticeAct1961.pdf](http://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/ApprenticeAct1961.pdf) (last visited Nov. 13, 2015).

Council

**Orphanages and Other Charitable Homes (Supervision and Control) Act (1960) (not applicable in Jammu and Kashmir)**

- “An act for the supervision of orphanages, homes for neglected women, or children, and other like institutions.”<sup>321</sup>

- Boards of Control constituted by various state governments.
- Critical to civil strife affected regions due to strife induced orphaning.<sup>322</sup>

## IX.

**The Factories Act 1948**

“The act defines a child as a person who has not completed his/her 15th year of age. It defines an adolescent as one who is has completed his/her 15th year of age but not completed his/her 18th year of age. A young person is defined as either a child or an adolescent. According to this act it is the duty of a certified medical practitioner or surgeon to examine

## X.

- State Governments

## XI.

<sup>321</sup>See ARLENE MANOHARAN, THE ORPHANAGES AND OTHER CHARITABLE HOMES (SUPERVISION AND CONTROL) ACT, 1960, MAIN FEATURES, CRITIQUE AND RECOMMENDATIONS, 2 (2005), available at <https://www.nls.ac.in/ccl/second%20set%20of%20files%20for%20website%20in%20pdf%20format/Orphanages%20and%20Charitable%20%20Homes%20Act%20Main%20Features%20Critique%20and%20Recommendations%20Arlene%20Manoharan%20for%20OCRY%20Feb%202005.pdf> (last visited Nov. 13, 2015).

<sup>322</sup>SALMAN NIZAMI, *supra* note 56.

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and medical condition and certifies all young people working in the factory.<sup>323</sup> The Act is concerned with the employment of young persons on dangerous machinery. The act calls for a crèche service to be available to children below the age of six with the factory has a minimum of 30 women working there.”<sup>324</sup>

**The Children (Pledging of Labour) Act (1933)**

“The Act lays down that an agreement, oral or written, expressed or implied, made by parent or guardian of child in consideration of some payment or benefit for causing or allowing the services of a child to be utilized in any employment, shall be void.”<sup>325</sup>

- State Governm  
ents
  - Ministry  
of Labor  
and  
Employment
- 

### Appendix III

#### National Level Children Specific Social Welfare Programmes<sup>326</sup>

Name of Scheme	Brief Description	Leading Authority for Implementation/Monitoring
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<sup>323</sup>Childline India Foundation, *Factories Act, 1948, as amended in 1987*, available at <http://www.childlineindia.org.in/Factories-Act-1948.htm>(last visited Nov. 14, 2015).

<sup>324</sup>*Id.*

<sup>325</sup>See Usha Ramanathan, *Evolution of The Law on Child Labor in India*, in (Hugh D. Hindman ed. 2009), available at <http://www.ielrc.org/content/a0905.pdf> (last visited November 14, 2015).

<sup>326</sup>SOCIAL STATISTICS DIVISION, *supra* note 265, at 18; and CHIDLIN INDIA FOUNDATION, CHILD RELATED POLICIES, available at <http://www.childlineindia.org.in/Child-Related-Policies.htm> (last visited Mar. 16, 2015).

<b>National Programme of Nutritional Support to Primary Education or Mid-Day Meal Scheme</b>	<p>“Started in 1995 in an attempt to enhance enrolment, retention and attendance while simultaneously improving nutritional levels among children in school. In October 2007 the scheme was revised to cover children in the upper primary section as well i.e. classes VI to VII.”The Scheme estimates a cooked mid-day meal with a minimum of 300 calories and 8-12 grams of protein to all children studying in classes I - V. Upper Primary meals consist of 700 calories and 20 grams of protein by providing 150 grams of food grains (rice/wheat) per child/school day. The central government supplies state and union territory government with free food grains (wheat/rice) at 100 grams per child per school day from the nearest Food Corporation of India (FCI) godown and compensation of the cost of transporting the food grains from the nearest FCI to the Primary school.”<sup>327</sup></p>	<ul style="list-style-type: none"> <li>• Local authorities with assistance from village panchayats, village education committees, school management committees, parent teacher associations and NGOs.</li> <li>• Ministry of Human Resource Development, SSA, EGS, NCLP</li> </ul>
<b>Integrated Child Development Scheme (ICDS)</b>	<p>The scheme aims at “providing an integrated package of services. These services include supplementary nutrition, immunization, medical check-ups, recommendation services, pre-school non-formal education and nutrition and health awareness.”<sup>328</sup></p>	<ul style="list-style-type: none"> <li>• MWCD</li> <li>• State Governments</li> <li>• Anganwadi Centers</li> </ul>
<b>Integrated Child Protection Scheme (ICPS)</b>	<p>“The purpose of the scheme since 2009 is to provide for children in difficult circumstances, as well as to</p>	<ul style="list-style-type: none"> <li>• MWCD</li> <li>• Multiple Stakeholders</li> </ul>

<sup>327</sup>See Childline India Foundation, *Mid-day Meal Scheme*, available at <http://www.childlineindia.org.in/Mid-day-Meal-Scheme.htm> (last visited Nov. 14, 2015).

<sup>328</sup>Childline India Foundation, *Integrated Child Development Scheme*, available at <http://www.childlineindia.org.in/Integrated-Child-Development-Scheme-ICDS.htm> (last visited Nov. 14, 2015).

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<b>Sarva Shiksha Abhiyan (SSA)</b>	<p>reduce the risks and vulnerabilities children have in various situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children.”<sup>329</sup></p> <p>“Sarva Shiksha Abhiyan (SSA) is Government of India's flagship program for achievement of Universalization of Elementary Education (UEE) in a time bound manner, as mandated by 86th amendment to the Constitution of India making free and compulsory Education to the Children of 6-14 years age group, a Fundamental Right.<sup>330</sup>The program seeks to open new schools in those habitations which do not have schooling facilities and strengthen existing school infrastructure through provision of additional class rooms, toilets, drinking water, maintenance grant and school improvement grants. Also for enhancement of capacity/quality of teachers.”<sup>331</sup></p>	<ul style="list-style-type: none"> <li>• New Service Delivery Structure Discussed later.</li> <li>• Ministry of Human Resource Development, Department of School Education and Literacy</li> <li>• State Governments</li> <li>• Relevant to study due to development of <i>Bal Bandhu</i> Model in civil strife regions.</li> </ul>
<b>Operation Blackboard</b>	<p>“The objective of the scheme is providing students studying in primary settings with the necessary institutional equipment and instructional material to facilitate their education.”<sup>332</sup></p>	<ul style="list-style-type: none"> <li>• Planning Commission</li> <li>• State Governments</li> </ul>

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<sup>329</sup>Childline India Foundation, *Integrated Child Protection Scheme*, available at <http://www.childlineindia.org.in/Integrated-Child-Protection-Scheme-ICPS.htm> (last visited Nov. 15, 2015).

<sup>330</sup>See Sarva Shiksha Abhiyan (SSA), available at <http://ssa.nic.in/> (last visited Nov. 14, 2015).

<sup>331</sup>*Id.*

<sup>332</sup>Childline India Foundation, *Operation Blackboard*, available at <http://www.childlineindia.org.in/Operation-Blackboard.htm> (last visited Nov. 15, 2015).

<b>Integrated Programme for Street Children</b>	“The Integrated Programme for Street Children was started as an initiative to help children living on the street fulfil their rights. The program provides for shelter, nutrition, health care, education, recreation facilities to street children, and seeks to protect them against abuse and exploitation.” <sup>333</sup>	<ul style="list-style-type: none"> <li>• Under umbrella of ICPS.</li> </ul>
<b>Kishori Shakti Yojana (KSY)</b>	“The broad objectives of the Scheme are to improve the nutritional, health and development status of adolescent girls (11-15 years), 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.” <sup>334</sup>	<ul style="list-style-type: none"> <li>• Under umbrella of ICDS.</li> </ul>
<b>Wheat Based Nutrition Programme (WBNP)</b>	“The Wheat Based Nutrition Programme is a project linked to ICDS. Food grains delivered from this scheme are used for the preparation of supplementary nutrition to be distributed among the beneficiaries of the ICDS Scheme.” <sup>335</sup>	<ul style="list-style-type: none"> <li>• Under umbrella of ICDS</li> <li>• Department of Food and Public Distribution, Ministry of Consumer Affairs, Food and Public Distribution</li> </ul>
<b>Nutrition Programme for Adolescent Girls (NPAG)</b>	“The Nutrition Programme for Adolescent Girls was launched in 2002-03 to address nutritional needs of adolescent girls, pregnant	<ul style="list-style-type: none"> <li>• MWCD</li> </ul>

<sup>333</sup> Childline India Foundation, Integrated Programme for Street Children, available at <http://www.childlineindia.org.in/Integrated-Programme-for-Street-Children-IPSC.htm> (last visited Nov. 15, 2015).

<sup>334</sup> Childline India Foundation, *Kishori Shakti Yojana*, available at <http://www.childlineindia.org.in/Kishori-Shakti-Yojana.htm> (last visited Nov. 16, 2015).

<sup>335</sup> Childline India Foundation, *Wheat Based Nutrition Programme*, available at <http://www.childlineindia.org.in/Wheat-Based-Nutrition-Programme-WBNP.htm> (last visited Nov. 16, 2015).

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<b>BalikaSamriddhi Yojana (BSY)</b>	women and lactating mothers. Under this scheme, 6kilogrammes. of food-grains were given to under nourished adolescent girls, pregnant women and lactating mothers according to their weight.” <sup>336</sup>	<ul style="list-style-type: none"> <li>• State Governments</li> </ul>
<b>Rajiv Gandhi Scheme for empowerment of Adolescent Girls – SABLA.</b>	The scheme aims at “changing the negative attitude of families and communities towards the girl child.” <sup>337</sup> Further objectives include increasing enrolment and retention of girls in schools, to raise the marriage age of girls and to create income opportunities and activities.” <sup>338</sup> “A series of incentives are incorporated into the Yojana, such as a gift of Indian Rupees500 to the mother on delivery of a baby girl and the condition of an annual scholarship for the education of the child.” <sup>339</sup> “The objective of the program is to improve the nutritional and health status of adolescent girls in the age group of 11-18 years and empower them by providing education in life-skills, health and nutrition.” <sup>340</sup> The Scheme also aims at equipping girls with information on family welfare, health and hygiene, existing public services; and, to draw out-of-school girls	<ul style="list-style-type: none"> <li>• Under MWCD and ICDS infrastructure.</li> <li>• State Governments.</li> </ul>

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<sup>336</sup>Childline India Foundation, *Nutrition Programme for Adolescent Girls (NPAG)*, available at <http://www.childlineindia.org.in/Nutrition-Programme-%20for-Adolescent-Girls-NPAG.htm> (last visited November 16, 2015).

<sup>337</sup>Childline India Foundation, *BalikaSamriddhi Yojana (BSY)*, available at <http://www.childlineindia.org.in/Balika-Samriddhi-Yojana-BSY.htm> (last visited Nov. 16, 2015).

<sup>338</sup>*Id.*

<sup>339</sup>*Id.*

<sup>340</sup> Department of Social Welfare, *Government of Bihar, Schemes And Programmes: SABLA*, available at [http://socialwelfare.icdsbih.gov.in/Schemes\\_Programmes/Schemes\\_Programmes\\_details.php?SPID=34&SubGroupID=2](http://socialwelfare.icdsbih.gov.in/Schemes_Programmes/Schemes_Programmes_details.php?SPID=34&SubGroupID=2) (last visited Nov. 16, 2015).

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into the formal or non-formal education systems.”<sup>341</sup>

**Rajiv Gandhi National Scheme For the Children of Working Mothers**

**XII.**

**Scheme of Assistance to Homes (Shishu Greha)**

The program provides support to working mothers in terms of “quality, substitute care for their young children while they are at work.”<sup>342</sup> Crèche and Day Care Services are only provided to working mothers but also “women belonging to poor families, who require support and relief for childcare as they struggle to cope with burden of activities, within and outside the home.”<sup>343</sup> The scheme provides guidelines for setting up crèches as well as minimum standards in terms of nutrition provision, training and overall infrastructure of these crèches.<sup>344</sup>

The purpose of the scheme is to “regulate adoption in the country, to provide institutional care for orphaned, destitute and surrendered children prior to adoption and to promote in-country adoption.”<sup>345</sup> Under this scheme NGOs can register to run a Shishu Greha with 90% of funding coming from the Government of India and 10% being covered by the voluntary organisation which is establishing the home.<sup>346</sup>

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- MWCD
- Central Social Welfare Board, the Indian Council for Child Welfare and the Bhartiya Adim Jati Sevak Sangh.

- Under umbrella of ICPS/MWCD.

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<sup>341</sup>*Id.*

<sup>342</sup>Central Social Welfare Board, *Rajiv Gandhi National Creche Scheme for the Children of Working Mothers*, available at <http://www.cswb.gov.in/index2.asp?slid=782&sublinkid=544&langid=1> (last visited Nov. 16, 2015).

<sup>343</sup>*Id.*

<sup>344</sup>*Id.*

<sup>345</sup>Childline India Foundation, *Shishu Greha Scheme*, available at <http://www.childlineindia.org.in/Shishu-Greha-Scheme.htm> (last visited Nov. 17, 2016).

<sup>346</sup>*Id.*

<b>UJJAWALA : A Comprehensive Scheme for Prevention of trafficking and Rescue, Rehabilitation and Re-integration of Victims of Trafficking and Commercial Sexual Exploitation</b>	The scheme seeks to “facilitate the rescue of victims from the place of their exploitation and place them in safe custody and provide rehabilitation services both immediate and long-term to the victims by providing basic amenities.” <sup>347</sup>	<ul style="list-style-type: none"> <li>• MWCD, Ministry of External Affairs (MEA), NGO partnership system.</li> <li>• Social Welfare/Women and Child Welfare Department of State Government, Women’s Development Corporations, Women’s Development Centers, Urban Local Bodies, reputed Public/Private Trust or Voluntary Organizations.</li> </ul>
<b>DhanaLakshmi – Conditional Cash Transfer for Girl Child with insurance cover</b>	The scheme “provides for staggered cash transfer to the family of a girl child on fulfilling certain conditionalities relating to registration of the birth of the child, immunization, enrolment in school and retention in school till the 8 <sup>th</sup> grade.” <sup>348</sup>	<ul style="list-style-type: none"> <li>• MWCD</li> </ul>
<b>Reproductive and Child Health Programme (RCH)</b>	RCH is a program for the mother and child. The first phase RCH-I was launched in the year 1998 and the 2nd	<ul style="list-style-type: none"> <li>• Ministry of Health and Family Welfare/NRHM</li> </ul>

<sup>347</sup>MINISTRY OF WOMEN AND CHILD DEV., GOV’T OF INDIA, UJJAWALA, A COMPREHENSIVE SCHEME FOR PREVENTION OF TRAFFICKING AND RESCUE, REHABILITATION AND RE-INTEGRATION OF VICTIMS OF TRAFFICKING FOR COMMERCIAL SEXUAL EXPLOITATION, 2 (2007), available at <http://wcd.nic.in/sites/default/files/ujjawala.pdf> (last visited Nov. 16, 2015).

<sup>348</sup>POPULATION FUND-INDIA, UNITED NATIONS, SPECIAL INCENTIVE SCHEMES FOR THE GIRL CHILD IN INDIA: A REVIEW OF SELECT SCHEMES, 11, available at <http://countryoffice.unfpa.org/india/drive/SPECIALFINANCIALINCENTIVESHEME S.pdf> (last visited November 16, 2015).

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<p>phase of RCH-II commenced from 2005.<sup>349</sup> The main objective of the program is “to bring about reduction in mainly in the three critical health indicators:”<sup>350</sup></p>	<ul style="list-style-type: none"> <li>• State Governments</li> </ul>	
<ul style="list-style-type: none"> <li>• Total fertility rate.</li> <li>• Infant mortality rate.</li> <li>• Maternal mortality ratio.</li> </ul>		
<p><b>XIII.</b></p>		
<p><b>National Child Labor Project (NCLP)</b></p>	<p>Under this scheme, “the target group is all children below 14 years of age who are working in occupations and processes listed in the Schedule to the Child Labour (Prohibition &amp; Regulation) Act, 1986 or occupations and processes that are harmful to the health of the child.”<sup>351</sup> “At risk children are to be withdrawn from these occupations and processes and then put into special schools in order to enable them to be mainstreamed into formal schooling system.”<sup>352</sup></p>	<ul style="list-style-type: none"> <li>• Ministry of Labour and Employment/Project Societies at the District Level</li> </ul>
<p><b>CHILDLINE Services</b></p>	<p>“CHILDLINE 1098 is India's first 24 - hour, free, emergency phone outreach service for children in need of care and protection. Any concerned adult, or a child in need of help can dial 1098, the toll free number to access the services of Childline.”<sup>353</sup></p>	<ul style="list-style-type: none"> <li>• Under umbrella of ICPS.</li> </ul>

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<sup>349</sup>Navpreet Minhas, *Reproductive and Child Health (RCH) Programme*, 1, available at <http://gmch.gov.in/e-study/e%20lectures/Community%20Medicine/Reproductive%20&%20Child%20Health.pdf> (last visited Nov. 16, 2015).

<sup>350</sup>*Id.* at 3.

<sup>351</sup>Childline India Foundation, *National Child Labour Project*, available at <http://www.childlineindia.org.in/National-Child-Labour-Project.htm> (last visited Nov. 16, 2015).

<sup>352</sup>*Id.*

<sup>353</sup>Childline India Foundation, *Mission*, available at <http://www.childlineindia.org.in/cif.htm> (last visited Nov. 16, 2015)

