Politics of Childhood

Perspectives from the South

While there is growing concern with issues of children's rights, a Eurocentric perspective has dominated discourses on the subject. This article argues that for a truer perspective to emerge, it is vital to relate the debate to the contemporary Indian reality – the immediate environment, the inherited socio-cultural aspects and issues of gender and caste.

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There has been in the eighties and nineties a growing concern among international policy-makers with issues of children's rights. The Convention on the Rights of the Child (CRC) is a concentrated expression of this. One aspect about the entire discourse on children's rights which seems to have gone unnoticed and has certainly been not commented on is that the entire discourse is an adults' discourse. It is almost as though that having failed to deal with the immense problems arising out of the gigantic macro structures and processes of the modern and post-modern globalised capitalist world, there is an almost desperate urge to deal with those very problems using children as an alibi to address the human condition. There is a certain poignancy in western literature on children and childhood in a society where analysts speak of the 'death of childhood' [Jenks 1996] or the 'disappearance of childhood' [Postman 1994]. "If...the concept of 'childhood' serves to articulate not just the experience and status of the young within modern society but also the projections, aspirations, longings and altruism contained within the adult experience then to abandon such a conception is to erase our final point of stability and attachment to the social bond. In a historical era during which issues of identity and integration are, perhaps, both more unstable and more fragile than at any previous time such a loss would impact upon the everyday experience of societal members with disorienting consequences" [Jenks 1996:136].

The focus on childhood in academe and politics in the west over the last couple of decades is the result of the coming together of a whole complex set of factors both at the ideological level and accompanied by certain developments in social life: the demographic changes leading to an ageing population has occasioned an increased concern with the idea of the child and childhood; the fragmentation of the family as a unit and its increasing existence as just a coalescence of individuals and the exponential rate of change that affects all aspects of social life [James, Jenks and Prout 1998].

Sociology of childhood as a field of study is new and almost non-existent in India. Most studies have focused on child socialisation and child psychology. The recent spurt of interest in issues concerning children is a direct outcome of efforts to popularise the CRC by many NGOs and government and international agencies. The phenomenon of child labour has been the subject of research and activism. However, there has been little attempt to go into the meta-narratives of the kind referred to above.

Our purpose here is to discuss some of the problems of the discourse of child's rights, particularly the CRC in the light of the situation of Indian children.

II
Cultural and Political Context of Child's Rights and CRC

While there has been a general consensus in international fora and among policy-makers and social analysts in the third world countries on the need to focus on issues regarding children, many grey areas and unexamined assumptions of the discourse on child's rights in general and the CRC in particular remain. These need to be subjected to critical scrutiny if the problems of children are to be effectively addressed.

The discourse on child's rights is taking place in the context of globalisation. In fact, it is not fortuitous that the whole discourse on child's rights in general and the passing of the CRC in particular, have taken place at the same time when the problems and consequences of the adoption of structural adjustment programmes (SAPs) in many third world countries have reached a head. We have specifically the Brazilian street children in mind. The point has been forcefully made by Judith Ennew. The number of street children went up drastically in Brazil after Brazilian government went in for SAP in the early eighties, "It is no coincidence..., that the convention on the Rights of the Child was drafted during the same decade as an unprecedented increase in interest in groups of children called 'street children'. Both the convention and a number of initiatives for these children sprang from the same source, in activities connected with the United Nations International Year of the Child in 1979. In the juxtaposition of the convention and the image of the street children the entire discourse on child's rights stands revealed. The convention in the drafting process, the resulting text and in its implementation, takes as its starting point western, modern, childhood, which has been 'globalised' first through colonialism and then through the imperialism of international aid" [Ennew 1995:202].

The immediate international context, i e, globalisation and the adoption of SAPs has meant that most countries of Asia, Africa, Latin America and eastern Europe under pressure from the World Bank and the IMF, have had to adopt SAPs in the face of deepening economic and political crises and rising debt burdens. The adoption of SAPs has resulted in a drastic restructuring of the economic relationship in these societies with attendant serious political and social consequences.

A crucial consequence of globalisation in general and SAPs in particular has been a virtual paradigm shift in the very perception of development, from models which were more or less autocentric, with an emphasis on state intervention, import

substitution and a commitment on the part of the state to social welfare towards a model which upholds greater integration in the world economy, a deification of the market as the only arbiter of efficiency and growth and an abdication of the responsibility of the state to ensure the welfare of its citizens. Ironically, an important element of the neo-liberal paradigm of development is that while a greater integration of structures and processes is taking place, an ideology or a worldview is being propounded which parcels out reality into water-tight compartments. Globalisation of the economy is being accompanied by a fragmentation of social vision. This fracturing of the social vision serves to conceal the structural links that bind the different fragments together along with obscuring the basic chasm between the north and the south that persists and is in fact widening.

That the wider macro processes and structures have a direct bearing on issues of child welfare is evident from two studies sponsored by the UNICEF. The earlier study – *The Impact of World Recession on Children* (1984), and the later one – *Structural Adjustment with a Human Face* – (1988), in two volumes deal with the subject. The two studies also in a sense, reflect the paradigm shift that has taken place during the intervening period. The authors of the earlier study refer to the central concerns of development literature between the late sixties to the early eighties. Poverty, malnutrition, high infant and overall mortality were seen as primarily resulting from structural causes and progress in human welfare depended more on the pattern rather than the rate of economic growth. While domestic factors such as unequal land distribution, inequitous tenancy arrangements, skewed income distribution, etc, have been identified, the authors do not shy away from referring to exogenous factors. "Colonial inheritance, technical and financial dependence structures and chronically deteriorating terms of trade, and more recently heavy indebtedness, have contributed and still do contribute very distinctly and very directly to the impoverishment of large sections of third world populations" [Jolly and Cornia 1984:211].

Western Discources on Childhood

While this is the immediate context, the discourse on child's rights in the west has taken place within a specific historical and socio-cultural frame – that of the development of capitalism in the west and is informed by certain developments – the breakdown of the extended family and the nucleation of the family, and of late, even the breakdown of the family.

The modern western conception of childhood is barely three or four centuries old, wherein childhood is seen as a distinct and separate phase of life, characterised by innocence and frailty and where children were torn out of the real world of work, sexuality and politics and confined to the class-room [Aries 1986]. Childhood was constructed as a period when the child was to be protected, and his/her growth processes were to be enhanced through schooling. This effectively insulated children from economic and community life. It is this childhood, which has originated in the specific historical context of western capitalism that is now being offered as a model for the rest of the world. However, in the last quarter of the 20th century this has changed even in the west, with the breakdown of the family; widespread and extreme atomisation and consecutively increased vulnerability of individuals and especially children.

The experiences of non-western societies have been different, where the transition from childhood to adulthood was more fluid and less traumatic, where the child's world and the adult's world were not so separate and was characterised by greater inter-generational reciprocity. Play and work were also not such sharply delineated activities and mingled together in a manner that often it was difficult to distinguish the two. More importantly, the child is not viewed as separate from the larger unit, be it family, tribe, clan, etc.

Referring to the divergent perception of the child and childhood in the west and in India, Sudhir Kakar (1979) points out that the dominant theme of western scholarship is its depiction of an enduring ideological conflict between the rejecting and accepting attitudes towards the child. There is no doubt a movement in western ideology towards a more humane and nurturant attitude. From an earlier tolerance of even the worst forms of physical abuse, to a later emphasis on 'disciplining' the child, to the more recent stress on fostering and nurturing, there has been a steady movement and one may see the whole discourse on child's rights, the International Year of the Child and even the CRC, as a manifestation of this evolution. The whole debate on child's rights in the west even today reflects the conflict between the disciplining and the fostering one [Franklin 1995].

In the whole discourse regarding child's rights as well as in the CRC, there is an underlying eurocentrism where the specific historical development of Europe is assumed as a universal given and this forms the basis of prescriptions for the rest of the world. Developments in western jurisprudence based on western perceptions of childhood played a key role in the drafting of the convention. While African and Asian countries were involved in the process, the dominance of the west played a key role in ensuring that concepts familiar to their legal systems were the basis for different articles of the convention [Goonesekere 1997]. The Eurocentric thrust of the CRC stimulated efforts to draft regional charters, and the African charter on the Rights and Welfare of the Child (1990) was drafted in order to address the specific needs of African children. While those who criticise the CRC for its eurocentric thrust have generally been labelled as supporters of 'cultural autonomy' and 'state sovereignty', it is readily conceded that it is precisely these that have been undermined by developments in the fields of international law and human rights [Goonesekere 1997].

The very definition of who constitutes a child is problematic. There is no universal experience of childhood. Definitions of children along with the diverse childhoods that children across the world experience are social constructs which are the result of a complex interplay of historical, social and cultural factors.

While the CRC considers all those below the age of 18 to be children, in most non-western societies they would be young adults having assumed adult responsibilities at a much earlier age. The very concept of adolescence is either absent or relevant only for a thin privileged stratum in these societies. The preamble to the CRC states: "Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child", but what has really provided the cultural-political scaffolding to the CRC is the experience, values and political-ideological preferences of the west.

An examination of two of the articles of the convention which have aroused a great deal of attention of policy-makers at the international and national level, i e, Article 32 which deals with child labour and Article 28 on education would illustrate

the general point we are making. Article 32 recognises the child's right "to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education" or "is harmful to the child's health or physical, mental, spiritual, moral or social development". While the article is quite clear that children have to be protected from certain kinds of work which are considered 'harmful' to the child like hazardous work and work that is 'exploitative', the whole question of what is considered exploitative and harmful remains an open question. Definitions of what constitutes 'exploitation' and what is 'harmful' to the child's "physical, mental, emotional, spiritual or social development" vary across cultures and societies. For example, most situations in which children work in the third world would be considered 'harmful' by standards prevalent in contemporary western societies; whereas, in many third world settings children's work is considered valuable not merely for the economic contribution they make towards their own and the family's survival and viability, but also because such work has its own place in integrating children into the family and wider kin and community networks. In fact, studies conducted of children working in many situations show that working does enhance the self-esteem and self-worth of the children. A study of 36 groups of child workers in Bangladesh, Ethiopia, Guatemala and the Philippines shows that the vast majority identified 'earning money' and 'helping the family' as good things about work; a significant proportion also identified 'gaining pride and self-respect' and 'strengthening and training' (Woodhead, Martin, Coordinator, Radda Barnen, Children and Work Project).

While Article 32 of the convention assumes that certain kinds of work were inimical to a dignified and satisfying childhood, Article 28, referring to children's right to education, assumes that the school (primary education to be made free and compulsory) is the only place apart from the home where healthy psycho-social development of the child can be ensured. Once again, this is based on a certain culturally-specific experience of childhood socialisation and transition to adulthood. For a significant majority of children across the world the school is not such a crucial element in socialisation. The family, the extended kin and community still continue to be quite crucial, with the focus being on children learning adult roles in a varied range of work situations, which integrate children into the family and the community [Saldanha 1993; Ananthalaksmy and Bajaj 1981].

But more importantly, education is also about power. The 'rights discourse' glosses over the fact that the right to education is embedded in power relations. And these have to be addressed in a meaningful manner if education is to be made accessible to all. Where the quality of education is poor (as is the case in most third world countries) and where the school system is oppressive and discriminatory particularly, for the children of the poor or from minority groups, the prospects of healthy psycho-social development are indeed dim. In such a situation the school can actually be counter -productive (Woodhead, Martin). Studies done on the impact of education on the subaltern communities and marginalised groups in India show that formal education need not necessarily be uniformly beneficial. Saldanha looks at the impact of programmes meant to spread literacy and education among the adivasis of Thane district, Maharashtra and concludes that: "In culturally hegemonic and socio-economically polarised contexts, the process of transmission of knowledge in effect becomes an implantation and, thus alienating" [Saldanha 1993:102]. He argues that education must be seen as part and parcel of the process where inequitous relations at the economic level are reinforced by a process of cultural hegemony, which results in a gradual destruction of adivasi identity and commercialisation of adivasi culture [Saldanha 1993:102]. Krishna Kumar analyses the impact of curriculum on the scheduled caste and scheduled tribe children and points to the 'symbolic violence' that the prescribed curriculum does to the children of these communities. He points to the need to acknowledge that the prescribed curriculum is itself a means of subtle control and therefore, the importance of examining it from the point of view of those communities that are either overlooked or "manipulated by the curriculum through distorted representation" [Krishna Kumar 1985:345]. Karlekar makes the same point about the manner in which girls/women are portrayed or not portrayed in school text books which tend to reinforce stereotypes about women and their roles. Not only the curriculum but the manner in which the school and educational system operates is one wherein " girls are expected to study and even to perform well; however, they are not to be excessively competitive or demand freedom of thought and expression that is essential for the development of personhood and not merely womanhood along prescribed lines" [Karleker 1993:148].

In fact both these articles 32 and 28 have been linked in the strategies of both international policy-makers and national level NGOs. The right to education has been viewed as a major policy instrument to tackle the question of child labour and is perhaps the key issue cited in reducing to abolish it. It would be interesting to dwell on this linkage a little to examine the fallacies inherent in it, particularly with reference to the official policies in India. Policy-makers at the international level have generally oscillated between a position of total abolition and one which emphasises amelioration of the conditions of child labour. But ground realities have led to the need for a feasible strategy which calls for a phased abolition of child labour. The ILO exemplifies this latter approach by calling for targeting "the most intolerable forms of child labour", while retaining the long-term objective of abolishing child labour. However, there has been a rise in the tide of abolitionism with certain organisations like the UNICEF taking a position that abolition of child labour is not negotiable and that child labour must be ended even before poverty is ended. One of the major elements of the strategy for the total abolition of child labour is the emphasis on education which is seen as the cutting edge of the strategies to prevent and eliminate child labour. But the UNICEF is also constrained to state that strategies complementary to education also need to be 'concurrently implemented'. These include income generation, payment of minimum wages, empowerment of women, law enforcement and convergence of social services on identified families of child labourers.

Child Labour – Distinctions and Strategies

One of the major problems that needs to be addressed is the distinction between child work and child labour. It has been suggested that the concept of work be used as a generic term and should refer to any kind of work in any type of employment relationship and that it could be an activity that may be beneficial to a child while the concept of labour should be restricted to production and services which interfere

with the normative development of children as defined in the CRC and that the nature of the labour relation is immaterial to the definition [Leiten 2000:2037]. However, not only is there a need to make a distinction between child work and child labour but the necessity of identifying the nature of the labour relation is also crucial if one has to work out feasible strategies of eliminating exploitative child labour.

It is our contention that a feasible strategy would have to be based on a recognition of the socially variegated manifestation of the phenomenon of children working. This would involve an acknowledgement of the child work/child labour distinction, the former being characterised by children working in the family/household while the latter category is constituted by children working for wages either in industry or in agriculture. A further distinction would have to be made even amongst the children working for wages and those who are in the most exploitative kinds of situations. Children working in hazardous industries and occupations, bonded child labourers, street children and child prostitutes need urgent attention. Needless to say, policy initiatives will have to focus on the families of child labourers as well. Thus a multi-pronged approach, the core of which would be to address the poverty of the families, along with a package of health and education is called for.

Many NGOs in India have articulated a viewpoint which undercuts the approach that shocking poverty arising out of unequal access to productive resources and assets; structurally in-built inequities and a pattern of development that intensifies and exacerbates these factors is the root cause for the prevalence of child labour amongst the poor. The formulation that has emerged from this school of thinking is: poverty is not the cause of child labour, child labour is the cause of poverty – compulsory education is therefore the only weapon to tackle the problem of child labour. The fallacy in this formulation is that it focuses only on one dimension of the phenomenon of child labour, i e, the fact that children in families where adults have worked as child labourers also tend to work; but it glosses over the inextricable link (particularly in the Indian context) between poverty and unequal and discriminatory access to the basic resources and assets. From this it would seem that it is possible to tackle the problem of child labour without addressing the basic structural questions. Such a viewpoint is gaining currency despite the fact that most studies on child labour in different industries (matches and fireworks, locks, the carpet, etc) have emphasised the need for a strategy which addresses the survival questions of the family along with a package of education and health measures. Besides, it is generally overlooked that the overwhelming majority of child labourers come from communities and groups which belong to the lower rungs of the traditional, caste-based social hierarchy, i e, scheduled castes, scheduled tribes, other backward classes and minorities, particularly Muslims. These groups also constitute the bulk of the small and marginal peasantry, landless and agricultural labourers and artisan groups. In these groups, questions of livelihood, access to productive assets and resources and services like health and education are part of an integral whole with the family providing the axis around which these questions revolve. The Supreme Court's landmark decision of June 1997, at least acknowledged the structural roots of the phenomenon of child labour and suggested solutions which involved the family of the child labourer.

The strategy of compulsory education as the core of policy initiatives to end child labour obfuscates this complex social matrix within which child labour is embedded, reproduced and sustained. This matrix is characterised by stagnation in agriculture and handicrafts, fast-eroding control over the means of livelihood of the mass of peasantry, artisans, fisherfolk, etc, and a predatory commercialisation of the entire economy which wipes out the basic producers.

The most important lacuna in this position is that it ignores the present-day international context, the acute worldwide crisis and structural causal links bind the countries of the south to those of the north. One reason for the internationally orchestrated campaign against child labour in the countries of the south is really because the small-scale informal sector (which is the focus of the campaign and not agriculture where most of child labour is concentrated) is competitive, since the cost of reproduction of labour power is borne by poor families, poor regions and specifically by women and children. The focus on child labour in these sectors tends to ignore the structural linkages both backwards (i e, stagnating agriculture, etc, which ensures a steady supply of child labourers) and forwards (i e, linkages with the international system).

The position of the government of India is one which acknowledges the variegated structural roots of child labour and the need for a phased abolition of exploitative child labour has on the whole been characterised by a deplorable lack of political will. But of late even the government's position has been undergoing a metamorphosis. Compulsory primary education is being seen as the core of strategies to deal with the question of child labour. One example of the government of India's ambivalent response to the situation is the seemingly radical but ill-conceived Eighty-Third Amendment Bill which attempts to make the right to education a fundamental right. Apart from the fact that the bill leaves out of its ambit the 0-6 age group, (thus going back on the commitments made in Article 45 of the Constitution), the bill leaves out of its purview the so-called 'unaided' private schools, thereby declaring its unwillingness to halt the juggernaut of privatisation of education.

One is witnessing a strange phenomenon. On the one hand, there is a lot of public concern regarding child labour and the need for compulsory education, on the other hand, subsidies for education for the poor are being cut. Elite private education not only remains untouched but actually flourishes.

Articles 12 and 13 of the convention have been considered unique since these deal with what have been called 'participation rights'. Article 12 assures "to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child". Article 13 states that the child shall have the right to freedom of expression which includes "the freedom to seek, receive and impart information and ideas of all kinds regardless of frontiers...and that the exercise of this right may be subject to certain restrictions, *but these shall only be such as are provided by law and are necessary* (emphasis ours) for the respect of the rights of others and for the protection of national security or public order". The existence of legal pluralism in the south Asian subcontinent where the prevalence of a plethora of customary and personal laws raises complex issues regarding the nature of the relationship of the individual and the collectivity, parti-

cularly when this has been defined and worked out differently in different groups. Besides, the rise of majoritarian chauvinism in south Asia and its implications for the rights of minority groups poses even more serious problems. However, even if one were to disregard these untidy complexities, it is quite clear that the role of the parents and family in shaping the views of the child and thereby in the child's socialisation is seriously undermined. The individuation of child's rights that is implicit in the CRC is clearly obvious in these 'participation rights'. One scholar has succinctly summed up the problematic as follows:

> The concept of participation rights involves a value system on the child's personal autonomy that has to be worked out within *the convention's perception of the important relationship between the child, the parent and the state* (emphasis ours) [Goonesekere 1997:92].

Specifically, the individuation of the child that is implicit in the CRC assumes that: (i) such individuation is the norm for all societies, and (ii) such individuation is desirable. Again, this is despite what has been stated in the Preamble: "Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community".

A M Shah makes a similar point when he states that a good many of those who are espousing the rights of the child are guided by the ideology of individualism. He asks some fundamental questions about the entire discourse on child's rights : "It cannot be said with confidence that the pattern of socialisation which integrates the individual into the family is necessarily undesirable. Is individualism the accepted ideal in all societies? Is it a universally valid ideal?...If the socialisation process in the family is not in harmony with the ideology of individualism, is it necessarily reprehensible? Do we envisage a family system in which the child's rights can be protected only against the rights of the family as a whole? How far should we go in visualising the distinction between the two?" [Shah 1991:32].

Flowing out of the individuation of child's rights is another serious problem and by emphasising the child as the focus of all policies, the CRC is effectively denuding the child of whatever support structures that are available, i e, family, clan, kongroup, etc.

CRC – Redefinition of Relationships

One of the significant features of the CRC is that it attempts to redefine the relationship of the family to the child and of the family to the public sphere, specifically the state and government. In fact, what the CRC attempts to do is to unsettle at a very fundamental level the complex historically evolved and socio-culturally specific relationships between (a) the individual and the group, (b) the child and the family, and of both to wider social structures of clan, tribe, caste, or the state. An approach which bypasses intermediary institutions and structures and their complex linkages (i e, that between the child, family, wider kin-structures, community, wider national society) can have serious consequences and will lead to further traumatisation of children and families.

There is thus a decontextualising which is involved in the notion of child's rights as it now obtains. The liberal notion of individual rights is now being extended to the child, and this too at a time when the whole question of individual rights is now being faced with a new discourse, the question of group rights, or rights of collectivities in the west. Such a deracination particularly of child's rights can have disastrous consequences, precisely because one is dealing with children who are particularly vulnerable.

While pointing out the individuation of child's rights that is commonplace in the child's rights discourse, one is not suggesting that there is no place for the rights of the individual nor even that because it has emerged in the west/Europe it has ipso-facto to be rejected. It needs to be underscored that the rights of the individual vis-a-vis society or the collective emerged in the particular historical context of rising capitalism in Europe, in the background of the struggle between the church and the state, and it redefined the relationship between the individual and society. Apart from the fact that this was accompanied by the rise of new social forces and the growth of mercantile capitalism, the rise of a new individual identity was inextricably linked to a new understanding of time and society and new modes of social imaginary [Taylor Charles]. But the present-day attempt to uphold individual rights is taking place in a drastically changed capitalism, a globalised, fin-de-sie'cle capitalism. Its origins lie in an all-pervasive social crisis, a breakdown of the family and the extreme atomisation of the individual in the west. The ideational currents that have accompanied the focus on children and childhood in recent years are: "...a structural readjustment to time and mortality in the face of quickening social change; a re-evaluation and repositioning of personhood given the disasssembly of traditional categories of identity and difference; a search for a moral centre or at least an anchor for trust in response to popular routine cynicism; and an age-old desire to invest in futures now rendered increasingly urgent" [James, Jenks and Prout 1998:5].

The intellectual and philosophical traditions that have had a far-reaching influence in the subcontinent – Hinduism, Islam and Buddhism – all have recognised the importance of the individual in different ways. Both Hindu and Buddhist philosophy and social practice have upheld the right of an individual to seek his/her own salvation through renunciation; and this is true of both the great and the little traditions. Similarly Islam has also valued personal autonomy and individual endeavour. The puberty option in Islam is a recognition of the right of a person who has come of age to reject the decision made by adult guardians. There are texts in Islamic law which indicate that parental authority with regard to the marriage of a daughter did not permit complete disregard of the child's welfare. This is reflected in the concept of bride price in Arabian custom modified by Islamic law in the concept of 'mahr'. Islam accepted both the requirement of obtaining a child's consent to marriage and the concept of an 'option of puberty' based on the right to repudiate a marriage contracted by guardians [Goonesekere 1997]. The 'option of puberty' was available to girls only. In fact it has been pointed out by some scholars that the very concept that children possess rights has a longer tradition in Islamic law than in present-day international law where the notion did not emerge until the 20th century [Judge Pearl, David 1998].

According to Islamic law the child has no legal capacity till the child acquires capacity or 'akl' (reason) and till such time there can be no act which carries with it legal consequences. The age at which the child is deemed to have acquired capacity varies in different schools of Islamic law and a kind of empirical test is adopted to

verify such capacity. Islamic law in general visualises the child's development in a series of steps. According to Hanafi law which is commonly followed in the subcontinent, the child is considered totally incapable till the age of seven. Above that age, he can participate in legal acts with the interdiction of the guardian or 'wali' to ensure the interests of the minor child. After a certain age even interdiction is no longer possible. The child in Islamic law had rights of maintenance, to custody to shelter, religious education and a fixed share of inheritance and it was the duty of parents to ensure that the child's needs were satisfied.

The point here is not to romanticise these traditions nor even to suggest a 'return' to these but to emphasise that non-western societies in general and the subcontinental society in particular have had a different history where the relation between the individual and the group has been, and is radically different, and of both to the state is also different. A long history of colonial rule has had a disequilibrating effect on these societies, and they are still only recovering from this.

Today, civil society in India and in many third world countries is deeply fragmented and divided with regard to the manner in which general rights of individuals, communities and people are to be realised. Contestations are there at many levels and with regard to many issues – access to resources, power and the right to decide the future. These societies are engaged in a serious interrogation (and redefinition) of tradition, colonial inheritance and the impact of the latter on the state and civil society generally. Alternative routes to modernity are being debated and explored and intense struggles are taking place between classes, groups, and more importantly, worldviews.

In such a situation the discourse on child's rights and the CRC is hegemonising insofar as it erodes these efforts, denying autonomy and agency to national societies and groups within these societies. In fact the CRC is part of a larger thrust to develop a 'global ethic', and the similarity between this and earlier colonial interventions in both law and society is indeed disquieting. The whole area of child's rights cannot be isolated from the developments in the field of international law. International law has become crucial to the present phase of globalised capitalism, its rationale being to set in place a legal and institutional framework which would be favourable to the accumulation of capital in the era of globalisation. While a series of international agreements have already come into being to ensure the economic interests of powerful transnational companies, the IMF and the World Bank, there is a parallel move to prescribe 'global standards' whether in the field of human rights or child's rights. There is a seemingly radical rhetoric to this insistence on 'global' standards which conceals the persistence and even intensification of uneven development between the metropolitan countries and those in the periphery.

The fact that many stages of history have to be traversed and many layers of structures have to be negotiated and many histories and worldviews have to be accommodated in an effort to arrive at a new, democratic consensus by third world people is blandly bypassed in the attempt to hastily arrive at a 'universal' rights of the child.

III
Indian Perceptions of Childhood

At the outset it needs to be stated that what has been called the 'Indian tradition' is really the tradition of the Hindu twice-borns. Classical Hindu texts like Manu have a vision of the child that is very much an integral part of the Hindu caste social order that Manu upholds. The child belongs to the bottom of the social order along with low castes, slaves and servants, the old and the sick, newly-married and pregnant women. But all those at the bottom of the social order were not to be dealt with alike. While lower castes and all those who violated caste rules and norms were to be meted out harsh punishments, children, pregnant women and the sick and the aged were to be protected [Kakar 1979:8].

The traditional brahmanical-sanskritic texts had no place for either girls or children of the lower castes. Thus most of the classical Hindu literature referring to children or childhood had only the boychild as its reference point. The patriarchal basis of the sanskritic tradition is evident from the decisive importance attributed to the male 'seed' in the formation of the child (son's) personality. The metaphor of the earth (womb) and the seed (semen) is only too well known.

In sharp contrast to this and almost diametrically opposed to this patriarchal-brahminical worldview is that of the Garos, a matrilineal tribe of Meghalaya belonging to the Bodo-speaking group, who not only value the birth of the girlchild but privilege it over that of the boy child. Even the metaphor of seed and earth has acquired totally different connotations in the Garo worldview. But most significant for us is the fact that this society does not know any notions of illegitimacy with regard to the birth of children, and paternity is entirely social and not a biological one. The birth of a girl child is crucial to ensure the continuity of the household (the 'nok'), and in the event of no girl child in the family there is provision for the adoption of one for the continuity and perpetuating of the 'nok' [Raman 1989]. It has been pointed out by scholars of Islamic law that the concept of illegitimacy is rare even in Islamic law and that it arises only when a child is born of parents who cannot be married to each other and this would be so when either the father is non-Muslim or within the prohibited degrees of relationship with the mother. Once paternity is established by the doctrine of 'ikrar' or acknowledgement, there is a presumption in law that the mother and father are married to each other. [Judge Pearl, David 1998]. However, Goonesekere dealing with south Asian situation points out that the concept of illegitimacy of a non-marital child is a colonial construct except in Islam, though the Hanafi school of Islamic law acknowledges that a child born out of wedlock has some legal relationship to the mother [Goonesekere 1997].

There are other tribal and semi-tribal groups all in different stages of the transition from matrifocality to patrifocality whose conceptions of childhood, and child socialisation are at variance with the dominant brahminical tradition, to a lesser or greater degree depending upon the degree of sanskritisation of the group. Needless to say that sanskritisation, coupled with capitalist modernisation has affected groups differentially depending on their social locations and specific histories.

While there have been diverse and even divergent perspectives on childhood and socialisation flowing out of varied socio-cultural niches and locations in Indian social structure, the existential reality of children's lives, adult-child relations and socialisation has been focused on by different contemporary studies.

One of the early studies was conducted by Lois Barclay Murphy as part of a UNESCO project on social tensions. She examined the experiential reality of children's lives [Murphy 1953]. Her study has been considered a benchmark against

which the changes that have occurred in the lives of Indian children can be examined.

One major observation stemming from the study emphasises adult-child relations and the continuity that is characteristic of it. The weak adult-child differentiation, expressed in the sharing of the same spaces was common to both the rural sections and the urban educated middle classes. She observes that "...children in India are given a comfortable, satisfying start in life which would contribute to a feeling of being able to count on people" [Murphy 1953:49].

On the whole the predominant experience is of constantly being with the family. Corresponding to this continuity and lack of sharp difference between the worlds of adults and children, Murphy notes a relative lack of emphasis on the peer group and activities undertaken with the peer group. She also observes a certain sense of gloom that characterises adolescence. However, her observations regarding the lack of the importance of the peer group does not hold for the tribal youth dormitories where peer group interaction and activities formed the core of social life.

Referring to Murphy's observations regarding adult-child continuity, Krishna Kumar elaborates on this by referring to the welcoming attitude to the child which is characteristic of Indian (Hindu) traditional religious literature and the nature of agrarian society in which differentiation of social spaces is almost non-existent. (This welcoming attitude is characteristic of all socio-religious traditions in the subcontinent.) But differentiation of the child's world from that of the adult has however occurred, though this is not so much related to the break-up of the joint family as it is due to wider macro processes that have directly impinged on the lives and life-patterns of the rural population, leading to large-scale migration away from the rural homes to towns and cities [Krishna Kumar 1989:71]. This has meant that large numbers of children grow up without their fathers who are away in the cities earning a livelihood.

While Murphy's observations directly relate the weak adult-child differentiation to the absence of peer bonding, the youth dormitories of some of the tribal communities exemplify an institutionalisation of peer bonding in the form of the dormitories which coexists simultaneously with strong inter-generational reciprocity.

One of the most unique institutions of many of the tribes in India is the youth dormitories. Prevalent among some of the Naga tribes, Arunachal Pradesh tribes, the Bhotiyas of the Himalayan region and the Chhotanagpur tribes, the youth dormitories are crucial to the socialisation of the young and are central to the social organisation of these groups. While most of the youth dormitories are segregated on the basis of sex, the Muria Gonds are the only people who have a mixed dormitory, the 'ghotul'.

The youth dormitory has been a powerful institution of enculturation and socialisation. While it is under threat due to the impact of exogenous forces, both of the processes of modernisation and the impact of the lifestyles and worldviews of the dominant Hindu groups, it still survives in many of the tribes and is in fact even being revived as part of the movements for autonomy and self-rule among these groups. Certain common features characterise all the dormitories:

(a) The membership of a youth dormitory is compulsory after reaching a certain age;
(b) The dormitories are housed in specially-built structures separate from the main village;
(c) Membership ceases after marriage;
(d) It is considered as a good example of self-government, with senior members holding office and regulating the activities of the dormitory;
(e) Educated tribal youth are not welcome as members [Pant and Sundaram 1998:78-79].

A study of child and childhood among the Kashmiri Pandits [Urvashi Misri 1986] is a refreshing example of a context-sensitive approach. She attempts to construct the pandits' conception of the child along three axes each of which represent two opposite poles: the human-divine axis, the collective-individual axis and the fixed inalterable nature of the child versus the transformative potential of the child's nature [Misri 1986].

While going through the various stages of a child's life starting from conception through the rites of passage to adulthood, Misri emphasises the ambiguous status of the child. "...It stands outside society, yet transcends it, it is ritually impure yet innately sacred and pure; it is likened to a 'sudra', yet considered worthy of worship, it is initially both male and female; and it is both human and divine" [Misri 1986:131].

As the child grows up and moves towards adulthood it loses its ability to negotiate different kinds of identities and the society in a sense imposes clear-cut social roles and definite mores. The movement is away from divinity towards the more profane and social. While the child's individuality may be recognised, the collectivity impinges on the child more and more and confers socio-cultural identity. Lastly, the transformation of the body and nature of the child emphasises integration and a degree of homogeneity, while the uniqueness of the individual imparts heterogeneity [Misri 1986].

Childhood and the transition to adulthood has been studied in the context of socialisation for specific occupational roles by Ananthalakshmy and Bajaj (1981). Two artisan communities were studied – the Chippa Namdev Vamshis of the city of Sanganer, Rajasthan and the Momin Ansaris of the city of Varanasi, Uttar Pradesh.

The study of childhood among the weavers in Varanasi showed that the typical stages in a child's life that western scholars considered problematic were not imbued with such significance by the mothers. Thus feeding, or weaning or even toilet training were not so important as the concern for the child's future and his means of livelihood. Socialisation emphasised those qualities and values that the culture, community and family considered necessary for transition to adulthood. Both the groups/communities had been weavers for many centuries and derived a certain pride (the Chippas later on turning to block-printing) in the historicity of the craft and the aesthetic fulfilment that it afforded. Needless to say the fact that the craft had prospered and contributed to the economic stability of the family was an additional factor.

There were certain important aspects of childhood and child socialisation among these artisan communities which not only underscores the diversity of childhoods prevalent but also the organicity of these communities and the embeddedness of children in them. One major factor in socialisation of children for adult roles was gender. Sex-differentiation began quite early among the Momin Ansaris. Restriction on the mobility and behaviour of girls started very early. Girls were started on household chores at a very young age and by the time they were about 10, they could perform all the household chores ranging from sweeping, fetching water, looking after the younger siblings and cooking. While they were not formally inducted into the craft, they learnt many of the subsidiary

tasks connected with weaving like filling spools by observing their mothers. They would do all tasks that did not require them to step out of the household domain. But what needs to be noted is that a lot of these tasks were combined with play.

Boys were initiated into the craft at a young age, three or four years. They grew up playing with looms and spindles and become familiar with the intricacies of weaving. The same was true of the Chippa children who played with the printing blocks. And by the age of 14 or 15 both the Ansari boys and the Chippa boys are adept at the craft. Since gender was the basis of role differentiation from birth onwards, the choices of the girls were much more restricted as compared to the boys. Whatever little choices they had were governed by marriage initially and then by age.

The most important mode of learning was by imitation. While individualism as understood by western social norms was not prevalent yet the fact that each child was born to his/her own destiny and special abilities were recognised. Maturation was a more relaxed and leisurely process. "Childhood it was agreed, was a time for play, fun and laughter, but when the family's survival needs had to be met, even children had to work" [Ananthalakshmy 1996:15].

The traits that were encouraged and developed in a large extended family where resources were commonly shared and where people were closely bound by kinship ties and where, the survival of the individual too was totally dependent on the large kin-group; in short a kind of familism, would be quite different from those developed in the nucleated family. Individualism in such a group could actually be dysfunctional. Qualities that emphasised inter-dependence, consensus within the group and general compliance were considered essential for the maintenance of group solidarity. It was the group, in this case caste group and family that provided the identity to the individual, adult or child.

The studies that we have referred to highlight certain significant dimensions of the experiential reality of childhood in India, which could be summed up as follows:

The experience of childhood is deeply embedded in the larger social matrix of community, caste-tribe, kin-group and family. Therefore, understanding the phenomenon of childhood cannot be separated from an understanding of the context. While this may sound too banal and trite, this needs to be emphasised because every aspect of the child's life and life chances are inextricably interwoven with the larger social context. The right to be born; perceptions of childhood, socialisation and the transition to adulthood are all context-determined. The Muria Gond boy or girl's childhood and transition to adolescence and adulthood is so different from that of the Momin Ansari or Chippa boy or girl. Each of these group's perception of the relationship between the individual and the collective is differently structured, though the crucial role of the collective is common to all. Even the relationship between the realm of the religious or divine and that of the human and social, or to put it differently, the sacred and the profane is perceived in varied ways which determine human action. The very definition of selfhood, subjecthood and personhood is deeply scripted by the larger context. The impact of macro-structures and processes operating at the wider societal level affect groups differentially determining the life-choices of groups and individuals. Thus large-scale migration leading to drastic changes in the socio-cultural environment for example, would alter life-patterns of whole communities, affecting the resource-base and access to these; the nature of relationships between family, wider kin and caste/tribe groups and the wider society as well as relationships within families in ways that are irrevocable.

By outlining the plurality of Indian childhoods and their relation to a wider variety of broader structures, we do not intend to suggest that there is no scope for child's rights, but that such an endeavour would have to address the diversity of structures and relationships.

IV
Contemporary Indian Reality

While it would sound too commonplace to refer to the diversity and plurality of Indian society, nevertheless, it needs to be mentioned. But referring to diversity without simultaneously referring to the hierarchy that is just as characteristic of Indian society, would tantamount to romanticising diversity. Thus the experiences of Indian children vary horizontally and vertically.

The diversity and plurality of Indian society could not have been better captured than by the massive ethnographic mapping conducted by the People of India (POI) project. According to POI, there are about 4,735 peoples/communities that constitute the mosaic of India. The project enumerates the immense cultural, social and linguistic diversity of India, along with the great mingling of peoples, cultures, religions and ways of life that have historically occurred and that continue till today.

This diversity however is ranged along a hierarchy, a traditional social hierarchy that has been determined by the caste system. While we do not wish to get into a discussion on the caste system, it is important to note that it is a social system and ideology par excellence, of social inequality that charted the life trajectories of individuals and groups. It determined access to basic productive assets and resources of society as well as access to knowledge. Gerald Berreman's description of the meaning of caste conveys its essence: "The human meaning of caste for those who live it is power and vulnerability, privilege and oppression, honour and denigration, plenty and want, reward and deprivation, security and anxiety" [Berreman 1992]. The caste-based social organisation and hierarchy of south Asian society was so over-determining that even universalistic religions like Islam and Christianity could not remain unaffected by caste.

The dimension of gender is integral to the structure and logic of the caste system. The suppression of women was essential to the maintenance of the caste hierarchy. The higher the location in the hierarchy, the greater were the controls on the women. While patriarchal ideology is strongest in the dominant groups, it holds sway over the entire society with even originally matrilineal groups succumbing to its hegemony. The consequence of this has been the extremely vulnerable status of Indian women, though gender oppression and discrimination are mediated through caste, class, ethnicity and religion.

Development policies since Independence have persistently marginalised those who have historically occupied the lower rungs of the social hierarchy. In fact the marginalisation of these groups is not an epiphenomenon but integral to the development model pursued so far.

The fact that the overwhelming majority of those below the poverty line are those who, by and large come from the scheduled castes, scheduled tribes, the other backward classes and religious minority groups

illustrates pointedly both the intractability of the traditional caste-based structure and ideology in contemporary India and more importantly, the dominance of a thin upper caste stratum both in administration and modern industry.

The Indian child is therefore at the intersection of anthropology, history and current politics. Thus in discussing the Indian child the question of location is very important. The starkest example of the importance of location is provided by looking at the life chances in a literal sense of children belonging to the bottom most rungs of Indian society, the scheduled castes and scheduled tribes who constitute one-quarter of the Indian population.

The significant difference between the IMR (infant mortality rate) and under five MR, between children belonging to these groups and that of the rest of the Indian population reflects the hierarchy of Indian society. The overall IMR for the country as a whole is 74 per 1,000. IMR varies by religious or ethnic composition of the groups. The IMR for Muslims is lower in the rural areas than the undifferentiated Hindu category, but in the urban areas, the IMR for Muslims rises by nearly 20 over that for the undifferentiated Hindus. The Christians have very low IMR. As is to be expected, the scheduled castes had the highest IMR in both rural (131.7) and urban (92.9) areas which combine to a staggering 126.5. The scheduled tribes do better than the non-scheduled castes in the rural areas with an IMR of 103.2 as opposed to 110, but fare worse in the urban areas with an IMR of 67.7 against 62.5 [Working Group on the CRC, India, 1998:29; Alternate India Report on the CRC, 1998]. The gendered nature of this hierarchy is evidenced by the disturbing trend towards the masculinisation of sex-ratios. A study conducted by the Centre for Women's Development Studies for the ministry of social welfare, government of India, identifying the 50 most backward districts across 15 major Indian states in terms of gender related indicators points to the inextricable connections between general backwardness, women's status and locations in the caste hierarchy. The female-male ratios, juvenile sex ratios and the sex ratio among the scheduled castes in these districts are alarming, with the sex-ratios ranging from a high of 856 (Kinnaur district of Himachal Pradesh) to a low of 786 (Dholpur, Rajasthan); juvenile sex ratios ranging from 897 (Kheda to a low of 821 (Salem, Tamil Nadu) and sex ratios among the scheduled castes starting from a high of 854 (Tikamgarh, Madhya Pradesh) to a low of 779 (Dholpur, Rajasthan). These declining sex-ratios have a direct bearing on the life chances of children in general and the girl child in particular [Rustagi 1998].

Out of the 30 million children born each year in India upto one-third of them are low birth weight babies, i e, below 2.5 kilos with another one-third with a birth weight barely above the minimum standard. (The mean birth weight of the 30 million babies born every year is estimated at 2.6 to 2.7 kilos.) It needs to be noted that low birth weight in full term infants is a direct reflection of retarded growth during pregnancy due to impaired maternal health and nutrition. Moreover, these two indices – the high proportion of children with low birth weight – have not changed much through the 50 years of freedom.

Over 50 per cent of India's children under five are substantially stunted or wasted and suffer malnutrition ranging from severe to moderate degrees. This accounts for 60 million malnourished children under five. These are the children of mothers who have to work for their survival.

The nutritional status of the children cannot be seen in isolation from the nutritional status of the family. Data from countrywide diet surveys carried out by the National Nutrition Monitoring Bureau (NNMB) show that diets in nearly half the households surveyed in different states of the country were deficient even on the basis of the lowered yardsticks of adequacy adopted by the NNMB since 1976. Even on the basis of these lowered yardsticks for assessing malnutrition only 'less than 15 per cent of children below five years of age could be considered as being in a normal state of nutrition, the rest suffering from various degrees of under-nutrition' [Gopalan 1983].

The pervasive experience of widespread infant and child mortality casts a shadow on the experience of childhood, both for children and families and is directly related to the number of children women have. Referring to the experience of child mortality in determining western attitudes towards childhood, Brooks (1969) points out that before the renaissance a child was not considered viable, "hence had no personality, until he had survived the dangerous early years".

The health and nutritional status of children have an obvious impact on their general performance levels in education as well, or for that matter in their very going to school. As one expert on education has pointed out: "Hunger and malnutrition are not easy to ascertain with the help of surveys. They tend to form a chronic cycle in which disease and routine illness emerge as a cover. Children who get trapped in this cycle stop coming to school, and it looks so 'natural' when they do that no one feels bothered. Once they stop attending school they just hang around and slip into some little responsibility or the other the parents given them. This is hardly a decision on the part of parents..." [Krishna Kumar 1997:29].

It is difficult to discuss or analyse the educational status of Indian children without considering the general and pervasive bias of the educational system against the majority of Indian children who are located at the lower rungs of the social hierarchy.

Government statistics have over recent years shown a hundred per cent enrolment at the primary school level whereas the reality is that approximately 50 per cent of those enrolled drop out. The percentage of drop-outs between Class I-V is 46.87 per cent for boys and 51.17 per cent for girls. This shoots up to 61.44 per cent for boys and 70.16 per cent for girls between Class VI-VIII. Needless to say enrolment and drop-out rates vary according to gender, rural and urban areas, region, caste and community. Children from the lower castes, particularly the SCs and STs, religious minorities (particularly Muslims) have consistently lower enrolment rates and high drop-out rates. What is worse is that primary stage enrolment rate has been declining over the past five decades with the decline being sharp during the last two decades from 5 per cent per annum during the seventies to 2.6 per cent per annum during the 1980s and further to 0.67 per cent per annum between 1993-94 and 1996-97 [Working Group on the CRC, India, 1998:37].

Apart from this, the existing school system with its routine and general ethos has a built in bias against the life style, values and world view of those who live in the rural areas and the poor in general and lower castes, tribals, minorities and women in particular. However the entire issue of children's education cannot be analysed without referring to the inverted pyramidal structure that Indian education has assumed for the last five decades which in turn is implicit in the developmental paradigm that has been pursued so far.

Developments since the nineties, with the adoption of the Structural Adjustment Programme (SAP) have only made the situation of the vast majority of Indian children even more vulnerable, given that there has been reduced budgetary allocations to the social sector, particularly health and education. The overall thrust towards privatisation in health and education only drastically reduces the access to affordable health care and education by the poor. Coupled with the broad range of economic policies that have been part of the package there has been a general increase in social and economic insecurity for the vast majority of families.

Conclusion

While our analysis emphasises the socially constructed and contextualised nature of childhood in opposition to the growing tendency to portray a universal notion of 'childhood' and 'children', we do not subscribe to a mindless and a historical cultural relativism or indigenism.

The point is rather to emphasise that the larger social and historical context constitute the limits within which both a specific society constructs, 'its' childhood, the relationship between adults and children and the manner in which children reproduce the world of adults in some ways and transform it in others, which are unique.

The CRC has been an important international document that focuses attention on the question of child's rights. The significance of the discourse on the child and childhood in the west has been poignantly described by Jenks. The child has become a way of speaking about sociality itself.

> Any assault on what the child is or rather, what the child has evolved into, threatens to rock the social base. The child through the passage of modernity came to symbolise tomorrow and was thus guarded and invested. In the late modern context, where belief in progress and futures has diminished, has the child come now to symbolise the solidity and adhesion of the past? And is it therefore defended as a hedge against an anxiety wrought through the disappearance of the social bond rather than the disappearance of the child? [Jenks 96, 130].

The dilemmas and agonies of non-western societies and peoples is more complex due to the painful interface between the quickening of the pace of social change in the face of globalisation, the intensifying of social divides and the interrogation of a multitude of long histories and cohesive cultures.

Besides, here people are living in the past, present and future simultaneously, not only their own pasts but also of other peoples surrounding them. This lends an additional poignancy to their situation and the question of choice more onerous.

While the CRC by itself does not preclude an attempt to sensitively understand the situation of non-western children, the emphasis of international agencies and NGOs in the third world has been on a particular vision of childhood as the 'correct' childhood. This has grave implications for any serious, context – specific initiatives for improving the lives of third world children. Erica Burman has summed up the situation aptly when she states:

> The consequences are that northern privilege is inscribed in international policies for children, and children and families who fail to conform to those models are either stigmatised or rendered invisible [Burman 1996:45-47].

However, one cannot stop at referring to the role of international agencies and their role in promoting a certain vision of childhood and child's rights. That there is, now more than ever before, an influential and powerful section of the Indian middle class that also subscribes to similar views is a disturbing thought, making the task of creating alternatives both difficult and challenging.

The issue is not one of a choice between an all-pervasive and abstract universalism (defined by the west) and a mindless and ahistorical cultural relativism; the issue is one of a whole range of interlinked intermediary structures, institutions and processes that have been historically constituted and which operate now more than ever before on a global scale that impinge on the lives of children. These structures and institutions need to be negotiated in order to arrive at a more authentic and democratically evolved universalism. EPW

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