Plenary Session 1

Child Rights in India: Current Status & Challenges

High-Level Meeting on Co-operation for Child Rights in the Asia-Pacific Region
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INTRODUCTION

India has the largest child population in the world. The number of children under age 18, which was 428 million in 2001 and rose to 430 million in 2006, is projected to remain above 400 million in the coming decade.

India’s approach to protection and promotion of human rights and child rights derives from the Constitution of India, which provides for affirmative action in favour of children. It also directs the State to ensure that children are not abused and are given opportunities and facilities to develop in a healthy manner in conditions of freedom and dignity. In 2002, Article 21 A was added through a Constitutional amendment to make elementary education a Fundamental Right for every child in the age group of 6 to 14 years.

India is signatory to a number of international instruments and declarations pertaining to rights of children to protection, security and dignity. It acceded to the United Nations Convention on the Rights of the Child (UN CRC) in 1992, reaffirming its earlier acceptance of the 1959 UN Declaration on the Rights of the Child, and is fully committed to implementation of all provisions of the UN CRC.

INSTITUTIONAL MECHANISMS FOR PROTECTION OF CHILD RIGHTS

To provide focus on issues related to women & children, the erstwhile Department of Women & Child Development under the Human Resources Development Ministry was upgraded as an independent Ministry in 2006. The Ministry’s mandate is to address gaps in State action and to enable effective coordination and convergence between different sectoral Ministries and Departments.

The National Commission for Protection of Child Rights was constituted in 2007 under the Commissions for Protection of Child Rights Act, 2005, which also provides for setting up sub-national level Commissions and Children’s Courts to be set up in each state of the country. Nine state Commissions have already been constituted.

[List attached]
set-up and are at different stages of being operational. This statutory mechanism has been established to protect, promote and defend child rights in the country. It emphasizes the principles of universality, inviolability, indivisibility, interdependence and mutually reinforcing character of child rights. Further, it believes that child participation is integral to addressing child rights and ensures that its work is directly informed by the views of children in order to reflect their priorities and perspectives.

In order to rationalise and standardise the approach towards juvenile justice in keeping with relevant provisions of the Constitution of India and international obligations in this regard, the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act) was enacted. This Act contributes to the building of a uniform juvenile justice system throughout the country and reaffirms the child’s right to survival, protection, family development and participation.

Besides the institutional, legislative and administrative framework set up by the Government to extend and protect human rights, India has a strong tradition of non-governmental and voluntary action. India also has a strong tradition of community-based people’s organizations. In addition, there is a strong and fiercely independent media which, inter-alia, continuously acts as a watch dog for the protection of human rights and child rights.

PROMOTING CHILD RIGHTS THROUGH THE ELEVENTH FIVE YEAR PLAN

India’s commitment to child rights, the Millennium Declaration and the Millennium Development Goals (MDGs) is fully reflected in the XIth National Development Plan (2007-2012). The child development approach in the Eleventh Plan is to ensure that children do not lose their childhood because of work, disease, and despair. It is based on the understanding that the rights of all children must be protected everywhere and at all times and that they do not fall out of the social security net. Successful integration of survival, development, protection, and participation policies are important for the overall well being of the child.
Inclusive growth in the Eleventh Five-Year Plan envisions respect for the differential needs of all women and children and providing them with equal access to opportunities. Recognizing that women and children are not homogenous categories, the Eleventh Plan aims to have not just general programmes, but also special targeted interventions, catering to the differential needs of different groups.

The Government is increasing focus on and earmarking larger resources to programmes like the National Rural Health Mission, the Sarva Shiksha Abhiyan (primary education), Total Sanitation Campaign, National AIDS Control Programme, Mahatma Gandhi National Rural Employment Guarantee Scheme, the Rajiv Gandhi Drinking Water Mission, the Integrated Child Development Services (ICDS) and the Jawaharlal Nehru National Urban Renewal Mission by expanding their reach across the country. These flagship programmes aim at systems strengthening and increased inter-sectoral convergence and collaboration for improved outcomes for children.

Provision of accessible, affordable, accountable, effective and reliable primary health care facilities is the focus of the National Rural Health Mission (NRHM). To ensure survival of the child, maternal health services are targeted for improvement and emergency and compulsory obstetrics care is being made available within a short distance. Targets for halving prevalence of anaemia and under-nutrition among women and children have been set and a new component of conditional maternity benefits is proposed to target foetal under-nutrition, ensure better care for pregnant women and encourage breastfeeding. As a result of ongoing efforts, the Maternal Mortality rate (MMR) in India has come down from 301 in 2001-03 to 254 in 2004-06. The infant mortality rate has declined from 58 to 53 between 2005 and 2008.

Developing on the experience of livelihood support and employment generation programmes from earlier Plan periods, the Mahatma Gandhi National Rural Employment Guarantee Act recognises the right to work as a fundamental legal right. With an annual budget of US $ 8 billion, it is one of the largest “cash
for work” poverty alleviation programmes in the world. It has benefited 50 million rural households in India so far. By assuring a secure livelihood of 100 days to a rural household in a year, it provides a safety net to vulnerable households. At the same time, this results in creating of productive assets as a part of the overall development strategy of growth with equality. This programme is vital for ensuring the viability of the family as the first line of care and protection of the child, and to keep children from being pushed into work by assuring work to adult members of the family.

The Sarva Siksha Abhiyan (Education for all Campaign), a universal elementary education programme with an annual budget of US$3 billion has dramatically increased primary school enrolment. Notable progress has been made in universalising primary education. The Net Enrolment Ratio in primary education increased from 84 per cent to 94 per cent between 2001 and 2008. The enrolment of girls in primary education has increased at a much faster rate, with the gender parity in primary completion reaching 0.94. However, inequities persist for many of India’s children, with an estimated eight million 6-14 year olds not attending school, about 6.7 million in rural and 1.3 million in urban areas. There has been tremendous progress in improving access with 99 per cent of habitations having a primary school within one kilometre, and 92 per cent with an upper primary school within 3 kilometers. The Right of Children to Free and Compulsory Education Act, 2009 guarantees that all Indian children in the age group 6-14 years must now receive free education. To ensure that children remain in school and benefit nutritionally, the Government also supports and funds the largest feeding programme in the world called mid-day meal programme for children in this age group.

The Right of Children to Free and Compulsory Education Act, 2009 (RTE) came into force on April 1, 2010, extending India’s commitment to a rights-based system of development and translating the Constitutional provision to a justiciable right for 6-14 year old children. Not only do the provisions in the Act seek to improve the access to education by ensuring enrolment, attendance and completion of the elementary cycle of education, they also envisage improvement
in the quality of education through improved qualification and training standards for teachers; curriculum frameworks that are more child friendly and inclusive; allowing for preservation of local knowledge bases; evaluation systems that are continuous and comprehensive; and classroom transactions based on positive engagement. They are all recognized as the legal rights of the child under this Act. Further, the Act mandates systems of accountability to the beneficiaries which foster greater community participation. The main features of the Act are:

1. Free Elementary Education by ensuring that no financial constraint “prevents” a child from enrolling, attending and completing elementary education.
2. Elementary Education Compulsory for the State to provide.
3. Quality norms for all schools.
4. Qualification and working norms for teachers in all schools.
5. System of evaluation that is free of the oppression of annual exams.
6. Enhanced role of local government in implementation as well as grievance redressal.
7. Participation of civil society in the management of schools; makes teachers accountable to parents and the community.
8. Inclusive education delivery in the country by mandating 25% reservation for children from weaker sections in private schools.
9. Separation of the agency for implementation of the Act (Education Department) from the agency charged with monitoring the implementation of the Act (National Commission for Protection of Child Rights).

The RTE road map is derived from the timeframe mandated in the Act, and provides for establishment of neighborhood schools, provisions of school infrastructure and teachers by 31st March, 2013. Quality interventions and other provisions are to be given effect immediately. An outlay of US$ 50 billion has been committed over five years for this purpose.

The Integrated Child Development Services (ICDS) is the world’s largest programme for early childhood development and care. Initiated in 1975, the ICDS provides an integrated platform for converging basic services through community-
based workers and helpers. The services are provided at a child care centre called the ‘Anganwadi’, literally a ‘courtyard’, located within the village itself. A package of the following six services is provided under the ICDS Scheme: supplementary nutrition, non-formal pre-school education, immunization, health check-up, referral services, and nutrition and health education. The WHO Child Growth Standards have been adopted for monitoring the growth of children through ICDS.

The outlay for the programme has increased from US $ 2.42 billion in the Tenth Plan (2002 - 2007) to US $ 8.88 billion in the Eleventh Plan, an increase of 266%, to provide for nearly 1.4 million Anganwadi Centres. 68.8 million children below the age of six years and over 15 million pregnant and lactating women are getting supplementary nutrition under the scheme. The beneficiaries under Pre-school Education have increased from 21.4 million in 2004-05 to 33 million in 2007-08.

Adolescent girls are one of the vulnerable groups requiring concerted attention for nutrition, education, skill development and awareness of rights to address multiple deprivations including gender discrimination, poverty and exclusion. An integrated package of services would be provided to adolescent girls under a new scheme which merges two earlier programmes, to cover about 10 million adolescent girls of 11-18 years every year, to begin with using the ICDS platform.

PROTECTION MEASURES FOR CHILDREN

The JJ Act (Juvenile Justice Act) lays special emphasis on rehabilitation and social integration of children and provides for institutional and non-institutional measures for care and protection of children. The non-institutional alternatives include adoption, foster care, sponsorship, and after care. The Act also envisages a system of partnerships with local communities and local governments and seeks to promote a child-friendly juvenile justice system in India.
The JJ Act provides for setting up of Juvenile Justice Boards (JJB), observation homes, and special homes for all juveniles in conflict with law. For children in need of care and protection, Child Welfare Committees are being set up in every district besides children’s homes to be established as per the need. Social auditing as a tool for evaluation of functioning of the Juvenile Justice System in association with independent organizations, is to be conducted regularly. A specially trained police unit called Special Juvenile Police Unit (SJPU) is being formed to deal with children under both the categories, that is, children in need of care and protection as well as children in conflict with law. In order to strengthen the country-wide implementation of the Act, the Government of India made some key amendments to the Act in 2006 and also framed the Juvenile Justice (Care and Protection of Children) Rules, 2007.

A new programme, the Integrated Child Protection Scheme (ICPS) has been introduced in the Eleventh Plan (2007-12) by converging existing programmes for street children, juvenile justice and care of orphans. The objectives of the scheme are to contribute to the improvement in the well being of children in difficult circumstances and to reduce vulnerabilities to situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children. These will be achieved by improved access to the quality of child protection services; raised public awareness; clearly articulated responsibilities and enforced accountability for child protection; established and functioning structures such as State and District Child Protection Societies for delivery of statutory and support services to children in difficult circumstances; introduction of operational evidence based monitoring and evaluation.

The ICPS will focus its activities on children in need of care and protection and children in conflict and contact with the law as defined under the JJ Act. The services being provided include emergency outreach service through child-line, transitional shelters for children in need in urban and semi-urban areas, family based non institutional care, institutional services through shelter homes, child tracking system including a website for missing children, advocacy and training.
A Bill to protect children from sexual offences by strengthening the legal provisions relating to child sexual abuse and incorporating child friendly investigation and trial procedures has been initiated as a measure for strengthening the protective environment for children.

RESOURCES

Child Budget refers to the total outlays for child-specific schemes in the Union Budget. The magnitude of Child Budget in the Union Budget, that is the aggregate outlay for child-specific schemes as a proportion of total budget outlay by the Union Government, has increased from 2.24% in 2003-04 to 5.08% in 2007-08. Keeping in mind the different needs of children in the country, all programmes/schemes included in the Child Budget are categorised into four sectors: child development; child health; child education; and child protection.

While the proportion of Child Budget seems inadequate, the overall increase in the budget for children between the periods 2003-04 and 2007-08 reflects the focus being given to programmes related to children. This is just the beginning of Government’s efforts to bring children into the mainstream of developmental programmes, and the integration of children’s programme with the overall rights based strategy clearly reflect Government’s intent in this direction.

CHALLENGES

The most recent assessment of progress indicates a complex scenario of successes as well as challenges and need for accelerated actions against a backdrop of great expectations. The slowing decline in poverty, and an unsettling of traditional, ‘pre-modern’ livelihoods and local economics has constrained the earning capacity of millions of families and impacted children. This necessitates measures that target not only children but also their milieu.

At the same time, it is important to understand that while children have equal rights, their situations are not uniform. Their needs and entitlements are
area-specific, group-specific, culture-specific, setting-specific, and age-specific and demand different sets of interventions. Displaced and migrant children living on streets, children in areas of civil unrest, child labour, children belonging to marginalized groups, children who have suffered violence, abuse and exploitation, the girl-child, all have their special needs. It is critical that interventions destined for children do not exclude anyone.

Improving the nutritional status of children has been a continuing concern and challenge for India. 46 percent of Indian children under age three are undernourished. An estimated 25 per cent or 7.4 million low birth weight babies are born every year. NFHS-3 data shows that despite various interventions, incidence of under nutrition, stunting and wasting among children continues to be high. Progress in reducing underweight prevalence has been unequal between the richest and poorest households. Prioritizing poorest or marginalized communities is pivotal for bringing about change. Meeting the challenge requires a comprehensive, inter-sectoral approach - one that addresses factors such as poverty, inequality and discrimination against women and girls within a life-cycle continuum of care with special emphasis on windows of opportunity for survival, development and protection, infant and young children, adolescent girls and breastfeeding mothers. Recently, political will to address child under-nutrition has been expressed at the highest level and is reflected in the new initiative for food security.

As per Census 2001, the country has approximately 60 million children in the age group of 3-6 years. The 86th amendment to the constitution, making education for children in the 6-14 age groups a fundamental right, leaves out children under six years of age. It is for this age group that early childhood care in the form of childcare programme, crèche programmes, and pre-school interventions are critical. Current figures suggest that pre-schooling under ICDS and other private initiatives covers about 34 million children; approximately 26 million children are left out of pre-school activities. Thus, the gap between the number of pre-school children and available pre-school services is large. Moreover, there are disparities in provision of Early Childhood Care and Education (ECCE) in rural and urban areas.
An estimated 27 million births take place in India every year. The current level of birth registration in the country is about 70 per cent and would be 86% but for the two states of U.P. and Bihar, which require concerted efforts to bring them at par with the rest of the country. The data from National Family Health Survey 3 (2005-2006) reveals that only about 27 per cent of the children possess birth certificates. However, basic services can be accessed even by children who do not possess birth certificates as these are not mandatory to avail the services.

The prevalence of child marriage is still high. Despite legislation prohibiting child marriage, the latest household survey indicates that the percentage of women aged 20-24 years who married before attaining the minimum legal age at marriage of eighteen is 43 per cent. In addition, the National Family Health survey, 2005-06 revealed that 16 per cent of men in the age group 20-49 were married or in union before the age of 18 years. Child Marriage deprives the child of his/her childhood and increases vulnerability to abuse and exploitation, and the State continues to strive for its total elimination.

In India an estimated 28 million children in the age-group 5-14 are engaged in work. Poorer the household, it is more likely that the children in these households get engaged in work. The Government of India is committed to the elimination of child labour. However, this is a progressive goal, and requires inter-sectoral interventions to keep children out of work and in school.

The sex ratio in the age group 0-6 years declined from 962 in 1981 to 945 in 1991 and then to 927 in 2001. This has largely been attributed to sex-selective abortions in some parts of the country. In India, 682 thousand female foetuses were destroyed between 2001 and 2005, which is 18 to 19 hundred every day. The Preconception and Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, (PCPNDT Act) 2003, provides for prohibition of sex selection and regulation of prenatal diagnostic techniques and prevention of their misuse for sex determination leading to sex-selective abortion. The need is for strict enforcement
of the Act as a deterrent for stopping the flagrant violations taking place in misuse of medical technology for the elimination of girls on such a large scale.

Crimes against children continue to spiral with rising figures for kidnapping, abduction, rape and buying and selling of girls for prostitution. Trafficking of children for all kinds of exploitation and violence remains a significant challenge. Enforcement of special laws for children, prosecutions under these and the implementation of special mandated services for children require greater investments and capacity development. Widespread exploitation, gender discrimination, caste bias and other social norms and practices that violate child rights still prevent the full realization of rights for a large number of children. These will not be overcome overnight and require priority and sustained attention. The proposed Bill to protect children from sexual offences is one such step in this direction.

Strengthening of evidence base in the area of child protection is one of the key challenges. The weakest statistics on children have always been in the area of child protection. The very nature of the different aspects of child protection such as violence, abuse, exploitation, trafficking which thrive on illegality, secrecy etc. makes it difficult for the government to collect reliable data. Implementation of ICPCS will, perhaps, mark a change in this scenario.

Addressing all these challenges has engaged the attention of the Government. A lot more needs to be done, and requires the combined efforts and commitment of all stakeholders, including the non-government sectors. Creating awareness, building capacities, strengthening the implementation machinery and its accountability are some of the critical areas being addressed. Learning from successful strategies adopted in other countries in the region is an opportunity that India welcomes, and looks forward to the sharing of experiences and best practices around the Asia - Pacific Region.
# SELECTED DEVELOPMENT INDICATORS

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<td>Population (in million 1991 &amp; 2001)</td>
<td>407.1</td>
<td>439.3</td>
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<td>496.5</td>
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<td>Sex Ratio (1991 &amp; 2001)</td>
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<td>Juvenile Sex Ratio (1991 &amp; 2001)</td>
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<td>Life Expectancy at Birth (in years in 1991 &amp; 2001)</td>
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<td>Mean Age at marriage 1992 &amp; 2007</td>
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<td>Birth Rate (per 1000 in 1981 &amp; 1999)</td>
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<td>Death rate (per 1000 in 1981 &amp; 1999)</td>
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<td>Infant Mortality Rate (per 1000 live births in 1990 &amp; 2008)</td>
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<td>Under 5 Mortality Rate (per 1000 live births) 1990 &amp; 2008 (SRS)</td>
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<td>Maternal Mortality Ratio (per 100000 live births in 1998 &amp; 2004-06)</td>
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<td>Literacy Rate (1991 &amp; 2001) in percentage</td>
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<td>Dropout rate (1990-91 &amp; 2004-05) (P) in %</td>
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International Conventions and Declarations ratified by India

- Convention for the Suppression of Traffic in Persons and the Exploitation of Prostitutes and others, 1949
- Minimum Age Convention, 1973
- Convention on the Elimination of All Forms of Discriminations Against Women (CEDAW), 1979
- World Conference on Education for All, 1990
- The Global Conference on Water and Sanitation, 1990
- World Fit for Children Declaration, 1990
- World Summit for Children, 1990
- Optional Protocols on involvement of children in armed conflict
- Optional Protocol on the sale of children, child prostitution and child pornography, 2005
- UN Rules for the Protection of the Juveniles Deprived of their Liberty, 1990
- UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), 1985
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1951
- SAARC Decade on the Rights of the Child 2001-2010
- SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution 2002
- SAARC Convention on Regional Arrangements for the Protection and Welfare of Children, 2002
- Millennium Development Goals (MDGs)
- India ratified the two Optional Protocols of CRC, namely the Optional Protocol on Sale of Children, Child Prostitution, Child Pornography, and the Optional
Protocol on Involvement of Children in Armed Conflict on September 16, 2005 and December 30, 2005, respectively.

- On October 2, 2007, India ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD), and thus became the sixth country to do so. By ratifying the Convention, India has committed itself to the rights of Persons with Disabilities (PWDs). However, the Optional Protocol on the Convention on the Rights of Persons with Disabilities is yet to be ratified by India.