CONVENTION ON THE RIGHTS OF THE CHILD

Celebrating 30 years in South Asia 1989-2019

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEFINITION OF A CHILD</td>
<td>NO DISCRIMINATION</td>
<td>BEST INTERESTS OF THE CHILD</td>
<td>MAKING RIGHTS REAL</td>
<td>FAMILY GUIDANCE AS CHILDREN DEVELOP</td>
<td>LIFE, SURVIVAL AND DEVELOPMENT</td>
<td>NAME AND NATIONALITY</td>
</tr>
<tr>
<td>8</td>
<td>9</td>
<td>10</td>
<td>11</td>
<td>12</td>
<td>13</td>
<td>14</td>
</tr>
<tr>
<td>IDENTITY</td>
<td>KEEPING FAMILIES TOGETHER</td>
<td>CONTACT WITH PARENTS ACROSS COUNTRIES</td>
<td>PROTECTION FROM KIDNAPPING</td>
<td>RESPECT FOR CHILDREN’S VIEWS</td>
<td>SHARING THOUGHTS FREELY</td>
<td>FREEDOM OF THOUGHT AND RELIGION</td>
</tr>
<tr>
<td>15</td>
<td>16</td>
<td>17</td>
<td>18</td>
<td>19</td>
<td>20</td>
<td>21</td>
</tr>
<tr>
<td>SETTING UP OR JOINING GROUPS</td>
<td>PROTECTION OF PRIVACY</td>
<td>ACCESS TO INFORMATION</td>
<td>RESPONSIBILITY OF PARENTS</td>
<td>PROTECTION FROM VIOLENCE</td>
<td>CHILDREN WITHOUT FAMILIES</td>
<td>CHILDREN WHO ARE ADOPTED</td>
</tr>
<tr>
<td>22</td>
<td>23</td>
<td>24</td>
<td>25</td>
<td>26</td>
<td>27</td>
<td>28</td>
</tr>
<tr>
<td>REFUGEE CHILDREN</td>
<td>CHILDREN WITH DISABILITIES</td>
<td>HEALTH, WATER, FOOD ENVIRONMENT</td>
<td>REVIEW OF A CHILD’S PLACEMENT</td>
<td>SOCIAL AND ECONOMIC HELP</td>
<td>FOOD, CLOTHING, A SAFE HOME</td>
<td>ACCESS TO EDUCATION</td>
</tr>
<tr>
<td>29</td>
<td>30</td>
<td>31</td>
<td>32</td>
<td>33</td>
<td>34</td>
<td>35</td>
</tr>
<tr>
<td>AIMS OF EDUCATION</td>
<td>MINORITY CULTURE, LANGUAGE AND RELIGION</td>
<td>REST, PLAY, CULTURE, ARTS</td>
<td>PROTECTION FROM HARMFUL WORK</td>
<td>PROTECTION FROM HARMFUL DRUGS</td>
<td>PROTECTION FROM SEXUAL ABUSE</td>
<td>PREVENTION OF SALE AND TRAFFICKING</td>
</tr>
<tr>
<td>36</td>
<td>37</td>
<td>38</td>
<td>39</td>
<td>40</td>
<td>41</td>
<td>42</td>
</tr>
<tr>
<td>PROTECTION FROM EXPLOITATION</td>
<td>CHILDREN IN DETENTION</td>
<td>PROTECTION IN WAR</td>
<td>RECOVERY AND REINTEGRATION</td>
<td>CHILDREN WHO BREAK THE LAW</td>
<td>BEST LAW FOR CHILDREN APPLIES</td>
<td>EVERYONE MUST KNOW CHILDREN’S RIGHTS</td>
</tr>
<tr>
<td>43-54</td>
<td>HOW THE CONVENTION WORKS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
CONVENTION ON THE RIGHTS OF THE CHILD

Celebrating 30 years in South Asia 1989-2019
Dear friends of children,

In the 30 years since the Convention on the Rights of the Child (CRC) was adopted in 1989, the nations of South Asia have made great progress in implementing its provisions. Applicable laws, public budgets, child rights supportive social beliefs, civil society commitment, and youth awareness and self-confidence have all increased. By every important measure from poverty to mortality to education to gender equality to protection of the most vulnerable children, the situation in South Asia has moved positively.

At the same time, there is much unfinished business. Not only does the data show shortfalls, but the CRC Committee in Geneva repeatedly comments on gaps in realizing rights in South Asia nations. The Committee’s concluding observation report in response to the submission by a State Party inevitably indicates serious challenges facing the nation. These can be rooted in law, social custom, emergencies, and new threats like climate change. To be a child in South Asia is, for many tens of millions, to be faced with many risks that impede the realization of the rights agreed to when the CRC was adopted.

On the occasion of the 30th anniversary of the CRC’s adoption, UNICEF wishes to acknowledge the great progress made in South Asia while also drawing attention to remaining challenges. This document focuses on 8 areas where there is still much work to be done. These issues range from broad social concerns like gender equality to traditional sectors like education and juvenile justice. For each, the short chapter covers three essential topics:

- The present situation, covering key data and contextual information in the region;
- The reaction of the CRC Committee in Geneva to the most recent submissions by the State parties; and
- The Way Forward, a set of practical approaches and aspirational goals for any society and every government.

We believe this document will inspire the reader to increase his or her commitment to child rights, to the CRC, and most importantly to the children of South Asia. UNICEF invites everyone to join in lifting the children of the region higher. May they reach their full potential. May they grow in lands of peace and tranquility. May they be loved by their families and their communities. May each right of the CRC be theirs to enjoy.

Jean Gough,
Regional Director UNICEF South Asia
1.

GENDER CONSIDERATIONS IN THE APPLICATION OF THE CRC

Gender overview in South Asia 03
CRC Committee Comments on Gender 11
The way forward 17
Population

In South Asia, an estimated 620 million children and adolescents (295 million girls and 325 million boys) reside in eight countries: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka. In all countries, there are more boys than girls. Likely contributors to this disparity include sex selection before birth and excess mortality among girls under 5 years of age especially in India and Pakistan. Gender differences in migration patterns, particularly immigration of boys and/or emigration of girls, may also contribute to this trend in some countries.

Gender gap in each country

There are a number of indices that measure the gap in human development as a result of gender inequality including the Gender Inequality Index (GII) by UNDP, Social Institutions Gender Index (SIGI) by OECD and Global Gender Gap Index (GGGI) by the World Economic Forum. The graph below shows the GII over time for individual counties in South Asia. GII is a rating among 160 countries that factors each country’s maternal mortality ratio, adolescent birth rate, shares in seats in parliament, population with at least secondary education, and labour force participation rates.

Graphic

For every 10 boys under the age of 18 years there are only 9 girls.

"In South Asia, an estimated 620 million children and adolescents (295 million girls and 325 million boys) reside in eight countries: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka.

While all the countries have made progress towards gender equality over the past years, the gender gap is still the widest in South Asia (16.3 per cent) among developing regions. On the other hand, the OECD SIGI measures discrimination against women in social institutions as assessed through formal and informal laws, social norms and practices relating to areas including family law, control over resources and assets, and civil liberties. In 2018, discrimination against women has been assessed as being high in Afghanistan, India, Nepal and Pakistan and very high in Bangladesh as below. These findings indicate entrenched gender discrimination in social institutions across these countries.
Health and nutrition

Available data demonstrated significant gender inequalities in health outcomes for girls and boys in South Asia. Sex preference favouring boys is reflected in the sex ratio at birth in India and Pakistan (1.11 and 1.09, respectively) with excess female infant mortality in India with 239,000 excess female deaths under five annually. The burden of anaemia is very high for both boys and girls across the region, but there is increasing gender disparity throughout adolescence, with increasing rates of anaemia observed among adolescent girls compared to boys. In addition, adolescent girls are disproportionately affected by Group 1 Conditions (communicable, maternal and nutritional diseases), likely mainly as a result of differential care practices and their unmet sexual and reproductive health needs.

On the other hand, boys experience an excess burden from injuries including homicide, suicide, purposeful and accidental injuries compared to girls. In contrast with global patterns, adolescent girls in Bangladesh, India, Nepal and Pakistan have an excess risk of suicide compared to boys. Across the region, boys also have higher rates of health risk behavior such as tobacco smoking, which is in line with current global patterns.

Infographic

Impact of gender inequality on health and nutrition in South Asia

Every year, there is 239,000 female deaths under 5 in India22

239,000 Deaths per year

37% 27%

Gender disparities in suicide24:

At least twice as many boys die from suicide than girls in Afghanistan, Bhutan and the Maldives

2x more boys die

More girls (15-19) suffer from anaemia23

Poor reproductive health outcomes for girls remains a substantial issue across the region with high rates of adolescent pregnancy, particularly in Afghanistan, Bangladesh, Nepal and Pakistan. In these same countries, demand for contraception amongst adolescents goes largely unmet. In Afghanistan, India, Nepal and Pakistan less than 30% of girls aged 15-19 years old report their demand for family planning or modern contraception to be satisfied. Maternal mortality rates are particularly high for adolescents in Afghanistan (22 deaths per 100,000 girls), and Pakistan (16 deaths).

For the most part, these differing health outcomes for girls and boys are likely attributable to social norms, roles and relations which place greater value on boy children; harmful masculine norms which support risk-taking and discourage help-seeking; and imbalances in power relations that negatively impact girls’ lack of autonomy and self-determination.

Infographic

Adolescent fertility rates remain unacceptably high particularly in Afghanistan, Bangladesh and Nepal25

[birth per 1,000 15-19 years in 2016]

Afghanistan 90%
Nepal 87%
Bangladesh 83%
Pakistan 48%
India 38%
Bhutan 26%
Sri Lanka 24%
Maldives 14%
Education

With the exception of Afghanistan, girls have school attendance rates that are comparable or in some instances slightly better than those of boys in the region.26 However, gender disparities become more evident in secondary school completion, with boys being more likely than girls to complete secondary school in all countries.27 The differences are most marked in lower secondary in Afghanistan and Pakistan and upper secondary in Bhutan, India and Nepal.28 These gender disparities in school completion are likely to contribute to differences in youth literacy, where young women’s literacy is lower than young men’s, in most countries across the region.29

Girls and women are more likely than boys and men to not be in employment, education or training (NEET) in adolescence and early adulthood.30 This gender gap is likely related to highly differentiated gender roles that allocate unpaid domestic and care work to women, and paid work to men.31

Data for children and adolescents out-of-school varies substantially across the region. In all countries, there are more girls out of upper-secondary school than boys, with the greatest disparities found in Afghanistan, Nepal and Pakistan.32 In Afghanistan and Pakistan, there are more girls out-of-school at all levels, with the disparities increasing over the course of education.33 Only in lower-secondary school in Bangladesh are there substantially more boys not in school than girls.34 Data indicate that school environments may be less supportive of girls’ education compared with boys’ education. Female teachers are under-represented in most countries particularly as schooling progresses.35 The under-representation of female teachers in higher stages of schooling indicates a lack of female role-models and can serve to reinforce norms that undermine girls’ academic achievement.36 One quarter of schools in Bhutan and India, and more than one-third of schools in Bangladesh, do not have improved sanitation facilities.37 Girls are likely to find it more difficult to attend school while navigating privacy and safety challenges around sanitation and hygiene, including management of menstruation.38

Infographic

Impact of gender inequality on education in South Asia

Girls are less likely to be in secondary school than boys.28

Women are under represented in teaching in most countries: Female upper secondary teachers %.41

Girls (15-24 years old) are much less likely to be in post-school employment, education or training (NEET) than boys44
While great progress has been made in addressing child marriage in South Asia, it remains common by global standards. While boys can be married off as children, particularly in countries like Nepal, child marriage overwhelmingly affects girls. The region is home to the largest number of child brides worldwide with the highest prevalence reported in Bangladesh, Nepal and Afghanistan where 59%, 40%, and 35% of girls aged 20-24 years, respectively, report being married before age of 18 years. In Bangladesh, one in five girls are married before 15. In countries for which data is available, freedom of movement for married girls is very low, reflecting the relatively powerless position of girls who are subjected to child marriage. In Pakistan and Nepal, only one in five married girls can make decisions to visit family and friends; in Afghanistan and Bangladesh only two out of five girls can make these decisions.

Data is only available for four countries regarding adolescent girls’ (aged 15-19 years) experiences of sexual and/or physical intimate partner violence (IPV) in the last 12 months prior to data collection. In comparison to global estimates, rates of IPV experienced by adolescent girls are high. Physical violence is particularly common and reported more often than sexual violence, with one in three girls affected in Afghanistan and one in five in Pakistan. Furthermore, there is broad acceptance of violence against women by young people in the region. In countries for which data are available, many young people believe a husband is justified to beat his wife under certain circumstance, with adolescent girls being more likely to justify this violence than boys.

On the other hand, adolescent boys are at substantially increased risk of intentional homicide compared to girls. This is particularly so in Afghanistan where rates of male adolescent homicide are highest and 18 boys per 100,000 die from homicide to every girl. While rates of child labour are similar for boys and girls in four of the five countries with data, boys are more likely to be in hazardous work in Bangladesh and Sri Lanka, and more girls are likely to be employed in hazardous work in Nepal.
CRC COMMITTEE COMMENTS ON GENDER

Introduction

Boys and girls experience different vulnerabilities, often requiring different approaches to the practical application of the Convention on the Rights of the Child (CRC) rights. Working with the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), the Committee on the Rights of the Child has been proactive in addressing gender in the context of children’s rights, including placing requirements of sex-disaggregated data in country reporting guidelines, raising issues, questions and concluding comments specific to the girl child (and women) when considering States’ reports, and holding special sessions on issues related to the girl child. This section explains the existing status, and root causes of, gender considerations in the application of the CRC in South Asia.

Main areas of concern in gender

In its most recent Concluding Observations of the eight nations in South Asia, the Committee on the Rights of the Child has made gender-specific comments across a large number of areas. While the CRC Committee addresses a variety of issues on a case-by-case basis, the issues most commonly addressed are in the following areas.

Legal infrastructure and policies

The CRC Committee showed a concern about three kinds of issues under legal infrastructure and policies: (1) lack of relevant laws/policies for gender considerations (Afghanistan, Bangladesh); (2) faulty and/or discrimination in laws/policies (Afghanistan, Maldives, Pakistan); and (3) ineffective implementation of gender consideration in laws/policies (almost all countries). The Committee also raise a concern on discriminatory justice system especially for girls and women due to harmful gender norms and lack of sensitization/training on gender equality among service providers (Afghanistan).

Comments from the Concluding Observations

“Continued discrimination against girls in law and practice, including subjecting them to the will of their paternal guardians under the Family Law and the denial of inheritance.”
(Maldives 2016, 26 (b))

“…women and girls who run away from their residence to a stranger’s residence …, regardless of whether they had experienced violence caused by a family member, will be condemned as having committed the crime of adultery or prostitution.”
(Afghanistan 2011, 47)
Discrimination against girls and women

The CRC Committee reiterated discriminatory and stereotypical attitudes, prejudices and practices towards girls and women mainly due to son preference. The Committee especially raised a concern in the areas of female pre-natal sex selection and female infanticide practiced widespread in some countries (India, Pakistan). The Committee also noted the high prevalence of serious gender discrimination against girls in all aspects from earliest stages of their life, including lower school enrolment rate of girls, the persistence of child marriage and exchange of girls for debt settlements, domestic violence as well as deep-rooted gender stereotypes in the society (Afghanistan, Bangladesh, India, Maldives, Nepal, Pakistan).

Violence against girls and women

Violence against girls includes traditional practices harmful to girls and women, sexual abuse, incest, trafficking, acid attacks, sexual exploitation and harassment, child pornography, girl servants, bride price, rape and impunity for rape. The CRC Committee noted that several countries do not have enough protective and response mechanisms in case of marital rape (India, Maldives, Nepal). The Committee is also concerned about the legal minimum age for sexual consent for being too low (Maldives) as well as underreporting of the child sexual abuse and impunity of perpetrators, especially of girls (Afghanistan, India, Maldives, Sri Lanka). Lack of protection and reparations for victims (for both girls and boys) of sexual exploitation and abuse including girls who become pregnant as a result of sexual abuse was also noted as a concern in several countries (Maldives, Nepal, Sri Lanka). The CRC Committee further noted that girl victims of sexual abuse and exploitation are at risk of honour killing, the practice of forced marriage with their rapist, and rejected by their families (Afghanistan). Abuse and torture of working children, including domestic workers, mainly girls, are highly reported by the Committee across the region, in some cases leading to the deaths or trafficking of such children (Bhutan, Pakistan, Sri Lanka).

Harmful practices

One of the issues most commonly addressed in all eight countries in the region by the CRC Committee is marriage, especially early marriage age of girls (Afghanistan, India, Maldives, Pakistan), and high prevalence of child/forced marriage, particularly in rural areas (Afghanistan, Bangladesh, Bhutan, India, Nepal, Pakistan). The CRC Committee raised concerns of barriers impeding the full implementation of the legal frameworks to prohibit child marriage, such as the prevalence of social norms and traditions, the existence of customary laws, lack of awareness of the legal frameworks by law enforcement officers, families and children (Afghanistan, India, Pakistan). The Committee also noted the other harmful practices prevailed in the countries that are detrimental for girls such as dowries, honour killings, giving away girls as dispute resolution, bonded labour, most of which are not criminalized by laws (Afghanistan, India, Nepal, Pakistan). Harmful practices during menstruation was also noted as a serious concern for girls (Nepal).

Girls and women's health

Concerns for girls’ health in the region included high teenage pregnancies, abortion rates and clandestine abortions; high mortality rates for girl child; and lack of access to health care and sexual reproductive health care services. The CRC Committee highly concerned about the lack of universal access to adolescent-friendly health services and sexual and reproductive health-care services and information, including modern contraception methods especially for adolescent girls in rural areas, and consequent high rate of teenage pregnancies and unsafe abortions, which is one of the leading causes of maternal mortality (Afghanistan, Bangladesh, India, Maldives, Nepal, Pakistan). High rate of maternal mortality with the low skilled birth attendant and widespread anaemia among girls and women was also noted by the Committee as a grave concern to lead to low birth weight in babies (Afghanistan, Bangladesh, India).

The CRC Committee also noted that limited mobility of girls and women as well as lack of female health staff in the region impede girls and women's access to essential health services.
Girls’ education including vocational training

The CRC Committee raised the concerns about education and literacy rates of girls, especially low school retention and high dropout rates of girls across the region. The Committee pointed out that a number of girls are reportedly being withdrawn from school especially between primary and secondary school to tertiary education (Afghanistan, Bhutan, India, Maldives, Nepal, Pakistan). The CRC Committee also noted as a concern the lack of proper WASH and menstruation facilities for girls in schools, which is a part of reasons for girls’ dropout (Nepal). The Committee also mentioned that girls’ schools have been targeted by a large number of attacks in some countries (Afghanistan, Pakistan) and countries should take precaution measures to protect girls from violence and harassment on the way to and from and at school (Afghanistan, Bangladesh, Pakistan).

Summary

The review of the Committee’s Concluding Observations on the last Countries Reports of eight nations in the region underlined various elements that can be summarised as follows.

1. Girls are systematically disadvantaged across the region as structural inequalities and the low status of women affect their rights and wellbeing of children.

2. Need legal reform and review of existing practices to eliminate any gender disparities in entitlements as well as deep-rooted stereotypes that discriminate girls and women.

3. Need to prioritize elimination of all forms of violence again children including harmful practices with a national comprehensive strategy and awareness raising activities, paying particular attention to gender.

4. Ensure the availability and accessibility of social services (education, health, etc.) especially for girls with adequate funding and female staff, including reparations for victims of gender-based violence.

5. Strengthen effective reporting and protection mechanisms to protect children, particularly girls with disabilities, girls living in rural areas, girls from ethnic minorities ensuring legal sanctions for perpetrators.

6. All countries need a comprehensive gender-disaggregated data and gender statistics.

Comments from the Concluding Observations

“The gender gap in secondary education, particularly affecting girls in rural areas, and the enduring disparities between girls and boys in gaining access to tertiary education…”

(Bhutan 2017, 38 (e))

“The Committee is however concerned... that extreme gender disparity with regards to school enrolment and high-school dropouts persist at all levels.”

(Afghanistan 2011, 59)
THE WAY FORWARD

The quest for gender equality among children must be the first step toward gender equality among adults. As women’s inferiority to men begins in childhood, efforts to combat discrimination must begin in childhood.

This section provides recommended actions in the six domains: gender discrimination; violence against girls and women; harmful practices; health; education; and special protection measures. The recommendations are based on the Concluding Observations of CRC and CEDAW, reports on the Sustainable Development Goals (SDGs) and other global and regional commitments.

### Gender discrimination

1. Use legislative, policy and educational measures, including sensitization and awareness-raising, to end social, cultural and economic discrimination against girls and women, and change patriarchal values and gender stereotypes, considering root causes, social norms and practices that are inconsistent with the CRC.

2. Amend legislation to eliminate any discrimination against girls and women and to ensure that girls and women enjoy the same rights and entitlements as boys and men in all aspects of life.

3. Take immediate legal and policy measures to prevent female infanticide and abandonment of girls, including raising awareness and addressing factors that reinforce cultural norms and practices that discriminate against girls.

4. Conduct national studies aimed at analysing existing discriminatory stereotypes in order to assess their impact on the achievement of gender equality.

5. Mobilize communities and the public at large including girls in collaboration with the mass media, social networks, community and religious leaders, judges and prosecutors to inform them about girls’ rights under the Convention and to promote positive and non-stereotypical images of girls and women.

6. Establish accessible and effective mechanisms and procedures to monitor, receive and address complaints of gender discrimination.

### Violence against girls and women

1. Adopt appropriate laws or amend existing laws and policies to clearly and explicitly define and prohibit sexual exploitation and abuse, rape (including marital rape), domestic violence and any other forms of violence.

2. Provide guidelines and regular training for judges, lawyers, prosecutors, the police, healthcare providers and other relevant professional groups on standardized, gender- and child-sensitive procedures for dealing with victims of gender-based violence.

3. Conduct awareness-raising activities with community and religious leaders and the mass and social media to combat the stigmatization of victims of violence and social acceptance of gender-based violence.

4. Ensure the availability and accessibility of legal aid, medical attention, safe shelters and services for recovery, counselling and other forms of reintegration for victims of sexual exploitation and abuse and any other types of violence.

5. Consolidate a national system of data collection on all forms of violence against children, paying attention to gender.

6. Initiate a child-friendly system for the mandatory reporting of cases of domestic and sexual violence and other violence in the home, in schools, in institutions or in other settings, to investigate all reports and allegations and to ensure that perpetrators are brought to justice and adequately punished.

7. Cooperate with the relevant United Nations institutions, as well as NGO partners to eradicate gender-based violence.

8. Ensure that complaints can be made and that all support is available in all languages to victims of gender-based violence.
**Girls and women’s health**

1. Adopt or implement a comprehensive sexual and reproductive health policy for adolescents and ensure that sexual and reproductive health education is part of the mandatory school curriculum and is aimed at adolescent girls and boys, paying special attention to preventing early pregnancy and sexually transmitted infections.

2. Review its legislation with a view to ensuring that children, including unmarried girls, have access to contraception, safe abortion and post-abortion care services, and that the views of girls should always be heard and respected in all related decisions.

3. Develop and implement a policy to protect the rights of pregnant teenagers, adolescent mothers and their children and to combat discrimination against them. Foster responsible parenthood and sexual behavior focusing on boys and men.

4. Improve access to confidential, adolescent-friendly and age-appropriate basic health services and information and increase female health workers. Ensure that girls and boys from the most marginalized groups are fully included in all health strategies and programmes.

5. Develop a comprehensive national policy on child mental health, ensuring that mental health promotion and child-friendly mental health services are available in primary health care, schools and communities to prevent child suicides.

6. Strengthen provision of dietary food supplements in the school feeding programme to address iron deficiency, especially among adolescent girls.

7. Raise awareness in schools and communities about improving hygiene practices, while ensuring access to menstrual hygiene management facilities and services.

8. Raise awareness among the general population, in particular mothers, about HIV/AIDS with improved access to services. Prevent mother-to-child transmission of HIV/AIDS and provide anti-retroviral drugs to affected pregnant women.

9. Develop programmes of education and awareness-raising on the harmful promotion of smoking, alcohol and substance abuse among adolescents especially boys, and provide counselling and rehabilitation services for adolescents.

**Girls’ education and training**

1. Strengthen efforts to fully implement the universal, free and compulsory education in urban, rural and remote areas.

2. Undertake a study on the reasons for the withdrawal of girls from schools such as domestic work or early marriage and to ensure that a view is taken to designing and implementing appropriate policies and measures. Address parental support.

3. Take measures (such as scholarships) to increase access by adolescents, especially girls, to secondary education, and develop and promote quality vocational training for children who have dropped school, especially in rural areas.

4. Protect children, in particular girls and teenagers, from harassment, abuse and violence in schools and in their way to and from school through information campaigns, enforcement of the law, and the provision of helplines and shelters, and combat discriminatory gender stereotypes in education curriculum, textbooks and programmes.

5. Ensure that victims of child marriage, pregnant girls and adolescent mothers are under no circumstances pressured into dropping out of school and are supported in continuing their education in mainstream schools.

6. Take active measures to eliminate patriarchal values, gender stereotypes and menstruation-related discrimination through early mobilization campaigns, and increase the number of adequately trained female teachers particularly in remote areas, and ensure their security.

7. Encourage women and girls to pursue non-traditional fields of study and career paths such as technological and science subjects, through awareness raising and career counselling.

8. Use all means to protect girls’ schools against possible attacks and violence, ensure that perpetrators of such acts of violence are promptly prosecuted and punished.

9. Ensure the allocation of adequate resources for the provision of sufficient gender-separate WASH facilities.

**Special protection measures**

1. Strengthen the enforcement of existing legislation and policies with a view to ensuring that all hazardous or abusive forms of labour are prohibited for children under 18 years of age, through public awareness campaigns and education for the public including children of its negative consequences.

2. Establish programmes to reintegrate into mainstream education for children who have been involved in labour.

3. Adopt a comprehensive list of exploitative and hazardous work including domestic work prohibited for children, provide labour inspectors with mandatory training on recognizing and addressing child labour, and ensure that anyone violating legislation be held accountable and brought to justice.

4. Address the root causes of economic exploitation by increasing poverty eradication efforts for families.

5. Establish a comprehensive and systematic data collection on the extent and forms of child labour, the sale, trafficking and abduction of children, and ensure that the data are disaggregated by sex, age, national and ethnic origin, geographical region, rural or urban residence and indigenous or socioeconomic status, with particular attention paid to children living in the most vulnerable situations.

6. Strengthen anti-trafficking legislation and impose adequate sanctions for trafficking in children, and increase resources allocated to the investigation of cases of trafficking in children.

7. Conduct awareness-raising activities in order to make parents and children aware of dangers of internal and external trafficking.

8. Further strengthen its cooperation with South Asian and neighboring countries and NGOs to combat trafficking in children across States, including through the conclusion of bilateral and multilateral agreements.

9. Increase the resources allocated to ensure child victims of trafficking are provided with adequate assistance and protection, including the provision of temporary safe housing and gender-sensitive and psychological recovery.
END NOTES

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INEQUALITIES IN ACCESS TO EDUCATION

Status of access to education in South Asia 25
CRC committee observations on inequalities in access to education in South Asia 31
The way forward 36
Access and Out-of-School Children

South Asia has seen remarkable progress in terms of access to education in the last twenty years or so: in 1999, there were more than 36 million out-of-school children of primary school age, and 38 million out-of-school children of lower secondary school age. Through concerted efforts by governments, development partners and civil society organizations, along with education strategies that address barriers to access and strategic plans that focus on bringing children to school, the numbers have been reduced to an estimated 11.6 million out-of-school children in Primary and 18.3 million in Lower Secondary school, in 2017, according to UNESCO Institute of Statistics data. However, as Graph 1 shows, progress has stalled since 2013 as governments struggle to reach the most deprived and hard-to-reach populations. Efforts to reduce the number of out-of-school children must be accelerated to reach the SDG 4 target of access to education.

Education Quality

Poor quality of education, and a lack of relevance of the curriculum (real or perceived), leads to increased dropout. An education system that does not impart the skills required by the labor market, and does not supports school to work transition, is inefficient. It increases the likelihood of early dropout for various reasons. In particular, families are more willing to invest in their children's education when they perceive it leads to better labor market opportunities. In South Asia, although there are of course pockets of excellence, the quality of education is generally very low compared to other regions. Cross-national comparisons are not possible due to the absence of cross-national assessments of learning outcomes. Nevertheless, we know that at primary level in Grade 4, an estimated 2/3 of those who are in school are not achieving basic numeracy and literacy levels.

To take stock of the order of magnitude of the learning crisis in South Asia, UNICEF and the Education Commission (2018) estimate that, based on current trends, only about 1/3 of children in South Asia will acquire minimum secondary-level skills by 2030.

"Efforts to reduce the number of out-of-school children must be accelerated to reach the SDG 4 target of access to education."
Inequities in Education in South Asia

Countries in South Asia have made remarkable progress for children, and in human development as a whole. Most are now classified middle-income countries, with rapid economic growth and improving social indicators. In the last five years alone over 150 million people have climbed out of income poverty. However, South Asia is the second-lowest scoring region in the 2017 Global Gender Gap Index, behind Sub-Saharan Africa. Below, we present some of the gender gaps in enrolment.

Interpretation:
Gender parity in primary education enrolment has been achieved for countries that hover around the value of 1. This is the case for Sri Lanka and the Maldives. For countries that stand out to the right of the dotted lines, boys are comparatively more disadvantaged, which is the case in Bangladesh, India and Nepal. For countries that stand out to left of the dotted lines, girls face a greater disadvantage. This disadvantage for girls is acute in Pakistan and extreme in Afghanistan.

Interpretation:
Gender parity in terms of enrolment at lower-secondary level has been achieved by India, though noting there are still significant within country gender gaps (e.g. by district). Boys face a greater disadvantage in Bangladesh, Bhutan, the Maldives, Nepal and Sri Lanka. Girls’ disadvantage is acute in Pakistan and extreme in Afghanistan. These gaps are generally exacerbated by poverty and rural-urban divisions.

Figure 3
Gender Parity Index for Gross Enrolment Ratio at Primary level (UIS data, 2015)

Figure 4
Gender Parity Index for Gross Enrolment Ratio at Lower-secondary level (UIS data, 2015)
Poverty inequalities in primary completion rate

<table>
<thead>
<tr>
<th>Country</th>
<th>Poorest</th>
<th>Richest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>62%</td>
<td>89%</td>
</tr>
<tr>
<td>Bhutan</td>
<td>42%</td>
<td>90%</td>
</tr>
<tr>
<td>Pakistan</td>
<td>24%</td>
<td>88%</td>
</tr>
</tbody>
</table>

Poverty inequalities in lower secondary completion rate

<table>
<thead>
<tr>
<th>Country</th>
<th>Poorest</th>
<th>Richest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>29%</td>
<td>72%</td>
</tr>
<tr>
<td>Bhutan</td>
<td>16%</td>
<td>75%</td>
</tr>
<tr>
<td>Pakistan</td>
<td>11%</td>
<td>78%</td>
</tr>
<tr>
<td>India</td>
<td>59%</td>
<td>96%</td>
</tr>
</tbody>
</table>

The most marginalized children who face the greatest barriers to education, as identified by UNICEF, are highlighted below:

**Poorest families**
- Children from the poorest families, often in combination with: living in rural areas or urban slums; from ethno-linguistic minorities

**Emergency settings**
- Children in emergency settings affected by conflict and/or natural disasters

**Castes, Tribes**
- Girls in Pakistan and Afghanistan;
  Girls from Scheduled Castes and Scheduled Tribes in India

**Migrants**
- Children of seasonal migrants

**Laborers**
- Child laborers, including girls engaged in domestic work

**Disabilities**
- Children with disabilities
CRC COMMITTEE OBSERVATIONS ON INEQUALITIES IN ACCESS TO EDUCATION IN SOUTH ASIA

“For all countries in South Asia, the Committee notes that despite the legal measures in place, there is often limited implementation of policy due to inadequate resources...”

Introduction

Under the Convention of the Rights of the Child (CRC), States Parties recognize “the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity”. As such, State Parties have the responsibility to take legislative and non-legislative means to protect the right to education such as:

- Make primary education compulsory and available free to all;
- Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- Make higher education accessible to all on the basis of capacity by every appropriate means;
- Make educational and vocational information and guidance available and accessible to all children;
- Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

The foundation of the right to education is in ensuring that all children have equal access to education. In its review of State Parties’ implementation of the CRC, the CRC Committee highlights key issues State Parties much address to realize the right to education, notes the existing barriers contributing to unequal access to education and provides recommendations on overcoming these challenges for children.

For countries in South Asia, the CRC Committee has recognized several key issues regarding inequalities in access to education that must be addressed by State Parties.

Legislation to Ensure the Right to Education

The CRC Committee commends progress made by State Parties in adopting legislative measures to ensure the children’s right to education. In its review of the most recent report submitted by each country, the Committee notes that all countries in South Asia have education laws or legal frameworks on education and welcomes their contribution to the expansion and improvement of education systems. The Committee highlights the importance of establishing the age for compulsory education through legal mechanisms and setting standards for access to education. It recognized the progress made by Sri Lanka in raising the age until which children must remain in education from 14 to 16 years (Sri Lanka 2018, p.10-11). It recognizes a similar provision in the draft Education Bill in Maldives, which will introduce compulsory education up to grade 10 (15 years of age) (Maldives 2016, p.15).

However, the Committee expresses its concern for countries where the adoption of key legislation is delayed or where there is an absence:

- Bangladesh, in the adoption of the Education Act;
- Bhutan, where there is an absence of appreciate legal education framework, including for making primary education compulsory;
- Maldives, where there is a delay in the passing of the draft Education Bill, which will introduce compulsory education up to Grade 10 (15 years of age);
- Nepal, where the established constitutional provision on free and compulsory basic education and free secondary education is not yet enshrined in legislation;

For all countries in South Asia, the Committee notes that despite the legal measures in place, there is often limited implementation of policy due to inadequate resources, such as in Afghanistan (Afghanistan 2011, p.14) and Bangladesh (Bangladesh 2015, p.13), or overall poor enforcement, as it recognized in certain provinces of Pakistan (Pakistan 2016, p.14).

Taking note of the progress and issues that need to be further addressed, the Committee emphasized the need for Member States to ensure children’s right to education through greater legislative and administrative action.

Enrolment and Drop-out

The Committee commends State Parties for progress made in school enrolment. It especially shows its appreciation for achievements in near-universal primary education enrolment in Bhutan (Bhutan 2017, p.2) and Sri Lanka (Sri Lanka 2018, p.10-11). It also welcomes the almost universal enrolment rate of children in Grade 1 in India (India 2014, p.15).

However, the Committee highlights that despite the achievements, there are high numbers of out-of-school children and persistent issues in enrolment which lead to significant gaps in access to education across all countries in South Asia. The Committee brings attention to the gender, regional and urban-rural disparities in enrolment, and to the high drop-out rates across all levels of education, particularly among the most marginalized and vulnerable populations (Afghanistan 2011, p.14; Bhutan 2017, p.10; India 2014, p.15-16; Pakistan 2016, p.15). The Committee also notes that school fees, as well as hidden costs of education, contribute to the number of children out-of-school and to drop-out rates (Bangladesh 2015, p.13; Nepal 2016, p.19).

Access to quality education

The CRC Committee recognizes the link between the quality of education and access to education: poor quality leads to drop-outs or non-transition, and therefore lower access rates as a child progresses through the education system. Quality education is influenced by factors both inside and outside the classroom, from having adequate facilities and supplies for learning to the nature of a child’s home environment.

South Asia faces significant challenges in providing quality education to all its children. In its review of each country’s most recent report, the Committee emphasizes that all State Parties must take measures to improve the quality of learning to ensure higher school attendance, completion and transition rates. Such efforts require State Parties to take a holistic approach to ensuring access to quality education.

Among the various factors contributing to better quality education, the Committee highlights the need for greater investment in curriculum, teacher training and school infrastructure, and notes the lack thereof as key factors in poor quality of education as well as its correlation to access to education. Some of the concerns expressed in the reports are:
• Discriminatory curricula and teaching methods: “…[The Committee is concerned about] curricula content and teaching methods that promote gender-based and religious discrimination” (Pakistan 2016, p.15)

• Shortage of teachers, especially qualified teachers, and teacher absenteeism: “…[The Committee is concerned about] the low quality of education, as well as the shortage of qualified teachers and classrooms” (India 2014, p.16)

• Lack of adequate sanitation facilities: “…[The Committee is concerned about] the lack of adequate sanitation facilities that are separate for girls and boys and accessible for children with disabilities. (Bangladesh 2016, p.13)

• Lack of other basic facilities such as classrooms, electricity, drinking water, walls (Pakistan 2016; p.15)

In its review, the Committee notes that these issues disproportionately affect key groups of children such as girls, children with disabilities, indigenous children, children from scheduled castes and scheduled tribes, and children in rural areas. As such, State Parties must also address social perceptions and practices that are a barrier to a child’s access to quality education. Educational syllabi and curricula taught in educational institutions, and the potential risks of emergence and increasing numbers of private madrasas, particularly on the lack of oversight. It emphasizes the need for State Parties’ better monitoring of madrasas in its management, curriculum and treatment of children (Bangladesh 2015, p.2; Pakistan 2016, p.16).

Key Factors of Inequalities in Access to Education

Many children in South Asia enter the education system at a disadvantage, or face barriers in even gaining access to education. Under the CRC, State Parties have the responsibility to ensure that all children, regardless of any circumstances, have equal access to education. Education policies and practices must reduce, rather than reinforce existing inequalities faced by disadvantaged children, and ensure that all children have equal opportunity to reach their full potential.

The CRC Committee shows its appreciation for the progress made by State Parties in reducing inequalities in access to education through improved policies and programmes. The Committee commends Afghanistan (Afghanistan 2011, p.14) for notable increases in girl’s enrolment and welcomes amendments to the Child Rights Protection Act in the Maldives (Maldives 2016, p.15), which entitles all children, including foreign children, to free education, thus taking significant measures to reduce different causes of educational inequality.

However, the Committee expresses its concern for the persisting inequalities in access to education between different groups of children. In South Asia, the Committee identifies gender, socio-economic inequalities, conflict and emergency situations, early marriage, migration, caste and disability as some of the key factors that drive education inequality among children in the region. Children from low-caste, children with disabilities, child laborers, migrant children, IDP children, refugee children and children who are married before the age of 18 are recognized as the most excluded in gaining access to education. Its most recent reviews, the Committee highlights the cases of girls, children with disabilities, refugee and IDP children, minorities and children from scheduled castes as some of its biggest concerns regarding access to education in South Asia.

• Gender disparities: The Committee notes that at the primary level, there is a higher number of out-of-school girls, and prevailing gender discrimination against girls for access and participation in some countries. For example, the Committee expresses its concern for the high dropout rate of girls in Pakistan (Pakistan 2016, p.15). The Committee stresses that State Parties must address the social factors that influence girls’ equal access to all levels of education, and states its concern for the gender gap in secondary education in Bhutan (Bhutan 2017 p.10).

• Children with disabilities: The Committee notes that children with disabilities in South Asia face serious discrimination and are often institutionalized. In the Maldives, the Committee notes that “…despite the provisions of the Disability Act 2010, children with disabilities have virtually no access to secondary education and face serious discrimination in the classroom” (Maldives 2016, p.15). Across all countries in the region, the Committee expresses its concern about the lack of access to inclusive education and sees this as a key barrier to ensure better quality education for these children.

• Refugee and IDP children: The Committee notes the situation of refugee children and IDPs in the region and addresses the need for State Parties to ensure that these children are not denied access to the right to education. In the case of Bangladesh, the Committee highlights the situation of Rohingya refugees, and expresses its concern about their lack of access to education (Bangladesh 2015, p.13).

• Minorities and children from scheduled castes: The Committee notes that children of minorities and children from scheduled castes in the region have limited access to education. This is mentioned in the case of education for children of minorities in Afghanistan, and in India, where it notes that there is a high drop-out rate for children from scheduled castes and tribes. Moreover, the Committee’s comments on the existence of persistent de facto discrimination against Dalits on the basis of caste, which hinder Dalit children’s access to education in Nepal.

Summary

A review of the Committee’s Concluding Observations on the last Country Reports from the South Asia Region can be summarized as follows:

1. The right to education, especially the right to universal, free and compulsory primary education for all children, must be ensured by legislation and must be enforced through proper implementation and monitoring.

2. Adequate budget must be allocated to education to ensure implementation of education policy, particularly to ensure effective and actual provision of free quality education to all children, without discrimination. Increased funding and improved policies are particularly needed for children in disadvantaged or vulnerable situations.

3. The causes of education exclusion must be identified, and distinct, appropriate measures taken to address the multiple and overlapping areas of disadvantage.

4. Poor quality education is associated with low access to education. Greater investment in curricula, teacher training, school infrastructure and development of policies and programmes to address gaps in access to quality education are needed to ensure that all children are given equal access to quality education in their transition from primary to lower and upper secondary education.

5. Gender, caste, disability, participation in labor, refugee or IDP status and child marriage are some of the key factors of inequalities in access to education among children in South Asia. Educational policy and programmes must be strengthened to provide adequate financial, technical and educational support to children facing discrimination, stigmatization and exclusion in gaining access to education.
THE WAY FORWARD

Ensuring equal access to education is the first step to realizing the right to education in the CRC, to achieving the UN Sustainable Development Goals and to ensuring a future where all children in South Asia can realize their full potential. Ensuring the protection of this right requires a comprehensive approach to education through legislation, policy, programmes, financing and special attention for the most vulnerable and marginalized. It also involved innovative approaches to education to deliver services adequately catered to the different needs of children. Below are key recommendations on actions that can be taken to ensure better and more equal access to quality education in South Asia. The recommendations are based on the Concluding Observations of CRC and UNICEF reports.

* The asterisk after an item indicates that the CRC Committee has made this recommendation in its Observations in response to one or several of the most recent South Asian national reports.

**Legislation to ensure the Right to Education**

1. Where they are lacking, adopt Education acts to guarantee the right to a free education*
2. In federal systems, ensure the right to free education applies equally to the national and all sub-national political jurisdictions*
3. Incorporate the pre-primary/ECD years into the mandatory number of years of free education
4. Bring private educational institutions, including monasteries and madrasas, under Education law on curriculum etc.*
5. Ensure that the independent monitoring methods verify compliance with national policies*

**Finance: More and better Investments**

1. Ensure that the overall education budget addresses key issues such as gender deprivations and access of the poorest and most marginalized**
2. Increase the Education budget to cover additional commitments such as adding the pre-primary/ECD years to the right of free education
3. Encouraging the use of evidence for monitoring results and reporting back to track progress from one budget vote to the next, in respect of existing multi-year education plans, in particular, aim for improving the monitoring of learning outcomes and equality of learning opportunities
4. Ensuring that the strategies proposed and presented during the budget vote, all have a clear equity focus, with clear objectives to reduce identified disparities between girls and boys, population groups, geographical areas, etc.
5. Provide budgets sufficient for high quality training of teachers, especially those to be assigned to low performing areas*
6. Invest in what is proven to work best and is cost effective.
7. Provide budgets to eliminate sub-national disparities in education infrastructure*
1. Ensure that all children have the right to education independent of their or their parent’s citizenship or immigration status.

2. Address the barrier of indirect costs of education, which leads to the exclusion of children from poor families.

3. Support particularly vulnerable groups to achieve their education, including out-of-school children, child laborers, refugee and asylum-seeking children, certain castes.

4. Make available adequate transportation systems where this is a contributing factor to dropout rates.

5. Provide instruction in the mother tongue of children, especially in the early years (found to have a strong positive impact on future learning outcomes).


---

1. Develop and promote quality vocational training to enhance the skills of children who drop out of school.

2. Harness technologies and innovations to improve education monitoring, evidence-informed decision making, and for teaching and learning.

3. Improve partnerships with non-state actors.

4. Ensure that curricula and teaching methods are monitored in order to prevent unlawful teaching content of behavior.

5. Train teachers and education staff in inclusive pedagogy to respond to the needs of children with disabilities and diverse learning needs.

---

1. Strengthen efforts to address known reasons for early dropout of adolescent girls such as early marriage, safety concerns, and lack of gender-sensitive school facilities, including through design and implementation of appropriate policies and strategies.

2. Take measures (such as scholarships) to increase access by adolescents, especially girls, to secondary education, and develop and promote quality vocational training for children who have dropped from school, especially in rural areas.

3. Protect children, in particular girls and intersex children, from harassment, abuse and violence in schools and on their way to and from school through information campaigns, enforcement of the law, and the provision of helplines and shelters, and combat discriminatory gender stereotypes in education curriculum, textbooks and programmes.

4. Ensure that victims of child marriage, pregnant girls and adolescent mothers are under no circumstances pressured into dropping out-of-school and are supported in continuing their education in mainstream schools.

5. Take active measures to eliminate negative values, gender stereotypes and menstruation-related discrimination through social mobilization campaigns, and increase the number of adequately trained female teachers particularly in remote areas, and ensure their security.

6. Encourage women and girls to pursue non-traditional fields of study and career paths such as technological and science subjects, through awareness raising and career counselling.

7. Use all means to protect girls’ schools against possible attacks and violence, ensure that perpetrators of such acts of violence are promptly prosecuted and punished.

8. Ensure the allocation of adequate resources for the provision of sufficient gender-separated WASH facilities.

9. Ensure that pregnant girls and adolescent mothers are not pressured to drop out of school. Support their continuing education in mainstream schools.
END NOTES

1. This includes those who have never been exposed to any formal education, and those who have dropped out.
2. Source: UNESCO Institute of Statistics, 2017
5. UNESCO Institute of Statistics https://www.education-inequalities.org/
6. Based on the South Asia Regional Study on Out-of-School Children (UNICEF, 2015), and national studies.
EARLY CHILDHOOD DEVELOPMENT

Present status of early childhood care and development 43
CRC committee observations on early childhood development in South Asia 49
The way forward 55
**PRESENT STATUS OF EARLY CHILDHOOD CARE AND DEVELOPMENT IN SOUTH ASIA**

What is Early Childhood Care and Development (ECCD)?

Early childhood care development (ECCD) refers to the physical, cognitive, linguistic, and socio-emotional development of a child from the prenatal stage up to eight years of age. Children's early development requires nurturing care—defined as health, nutrition, security and safety, responsive caregiving, and early learning—provided by parent and family interactions and supported by an environment that enables these interactions.

The field of ECCD has evolved over time. It used to be widely understood as an endeavor of the education sector, targeting preschool children for early learning. However, with the growing evidence from cognitive science and the understanding of the ways to improve outcomes for children, the importance of multisectoral engagement to ensure every child survives and thrives, and to ensure the beginning of ECCD from pre-conception to 8 years have been growingly emphasized (see Figure 1).

**Figure 1**

Components of the Nurturing Care Framework

- **Health**
- **Nutrition**
- **Responsive caregiver**
- **Early learning**
- **Security and safety**

Nurturing care refers to “conditions created by public policies, programmes and services which enable communities and caregivers to ensure children’s good health and nutrition and protect them from threats. Nurturing care also means giving young children opportunities for early learning through interactions that are responsive and emotionally supportive.”

- Nurturing Care for Early Childhood Development: Framework for Helping Children Survive and Thrive to Transform Health and Human Potential (WHO, 2018)

**Why is ECCD Important?**

ECCD has gained more attention in recent years with new cognitive science research on child development and growing programmatic evidence on its critical role in setting a foundation for life.

1. It is the period of most rapid brain development. About 80% of the human brain has already developed by age 5.
2. The early years constitute the period of highest sensitivity to the both enriching environments and adverse environments.
3. This period of development only comes once; if you miss it, there are some fairly long-term consequences for life course outcomes.
4. Improves equity: Research shows that ECCD interventions benefit the poorest and most disadvantaged children the most even though these children currently are the least likely to have access to them. In addition, it is more difficult and costlier to intervene later in children’s lives.
5. Return on investment for societies: Investments in early childhood programmes, starting with the youngest, yield more than a 13% return in reduced poverty and income gaps and increased prosperity and economic competitiveness.
6. Cost savings for society: Quality early childhood environment and education will translate into better health, fewer illnesses, good academic skills, and fewer school dropouts and repetition, preparing the child to become a productive citizen. This means less cost to communities.
7. Poverty reduction: Quality early childhood development experiences and education lead to better success in school, which in turn prepares the child to become an adult with higher employment and earnings, better health, and lower levels of dependency on families and society as well as lower crime rates compared to children who don’t have these opportunities.

Investment in our children is an investment in our future. It is a well-established fact that early childhood interventions are powerful tools for optimizing human potential and transforming societies. Decades of research dedicated to Early Childhood Care and Development (ECCD) suggest that quality ECCD programs have multiple benefits that contribute significantly to the development and well-being of children, families, and societies.

The estimated returns on investment are high at almost 13 per cent annually with substantial economic and social benefits. The returns on investment are estimated even higher for quality integrated ECCD programmes with the potential to boost individual adult earnings by almost 25 per cent. Research shows that cross-sectoral ECCD interventions bring highest returns by addressing inequities in health, ability, achievement, opportunities, and long-term success. Thus, implementation of quality integrated ECCD programmes through a cross-sectoral approach adds to the productivity, cost-effectiveness and success of the programmes due to convergence of efforts and investments.

**What brains need in the early years**

1. Stimulation sparks connections between brain cells.

Talking to, singing with, cuddling, and playing with children may seem like simple actions — but they serve an important function by building and strengthening neural connections in a baby’s developing brain. Without them, brain development can be hindered.
An increasing number of policies related to ECCD are being adopted in South Asia (see Figure 2). These efforts are taking place at both national and sub-national levels. Political commitment is one of the most crucial aspects to ensure quality ECCD services are delivered. These policies must be comprehensive, multi-sectoral and costed.

### South Asia Trends in ECCD

#### Policies on Early Childhood Care and Development

An increasing number of policies related to ECCD are being adopted in South Asia (see Figure 2). These efforts are taking place at both national and sub-national levels. Political commitment is one of the most crucial aspects to ensure quality ECCD services are delivered. These policies must be comprehensive, multi-sectoral and costed.

---

### List of ECCD-related policies in South Asian countries

<table>
<thead>
<tr>
<th>Holistic Early Childhood Development policy</th>
<th>Bangladesh</th>
<th>Comprehensive ECCD policy (2013)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bhutan</td>
<td>ECCD National Policy (drafted 2011)</td>
<td></td>
</tr>
<tr>
<td>India</td>
<td>National ECCE Policy (2013)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Early Childhood Education policy</th>
<th>Afghanistan</th>
<th>Afghanistan integrated preschool education policy is under discussion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maldives</td>
<td>Preschool Act (2012)</td>
<td></td>
</tr>
<tr>
<td>Nepal</td>
<td>Education Act (8th edition), ECCD strategy</td>
<td></td>
</tr>
<tr>
<td>Pakistan</td>
<td>National Education Policy (2009)</td>
<td></td>
</tr>
</tbody>
</table>

#### Child Health and Nutrition

In 2018, UNICEF ROSA released a regional report on “Child Stunting, Hidden Hunger and Human Capital.” The report raised serious concerns about poor nutrition and care in early life in South Asia. Malnutrition during the first couple of years has serious, irreversible consequences for a child’s ability to learn. And it is holding back children, their families and nations from prosperity.

2. Adequate nutrition also fuels connections between brain cells.
   - In early childhood, the brain consumes almost 50 to 75 per cent of the energy that a baby’s body absorbs from food.
   - A lack of nutrition in early childhood can lead to stunting — a condition that affects almost one quarter of children under five worldwide. Stunting is characterized by low height for age, and cognitive defects that hinder learning in school and earning in adulthood.

3. Early brain development depends on protection from violence.
   - When an infant or young child experiences violence, abuse or neglect, it can result in abnormally high levels of stress — “toxic” stress — that can disrupt brain connectivity.

4. Healthy brain development depends on protection from air pollution and other environmental hazards.

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#### Child Health and Nutrition

- Early nutrition has strong correlation to educational and developmental outcomes for young children.
- Early nutrition, care, and stimulation are key determinants of adult outcomes and contributors to educational disadvantage.
- Stunting is associated with reduced school participation and achievement, and can reduce income in adulthood.
Child Development

National level data on child development is not available in all countries in the region yet based on the countries where the data is available, approximately two third of children are developmentally on track (see Figure 6).

Figure 6

Early Childhood Development Index in some of the countries in South Asia

<table>
<thead>
<tr>
<th>Country</th>
<th>Literacy-Numeracy</th>
<th>Physical</th>
<th>Social-Emotional</th>
<th>Learning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bhutan</td>
<td>71.5%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pakistan</td>
<td>60.2%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nepal</td>
<td>57.7%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Pre-Primary Education

There are huge disparities in access to pre-primary education in South Asia. However, over the past 10 years, access has increased across most countries. Participation in pre-primary education is especially low in Afghanistan, while it is quite high in the Maldives, Nepal and Sri Lanka, and has been expanding rapidly from a low base in Bhutan (see Figure 7).

Figure 7

Pre-primary education attendance rates by wealth quintile

<table>
<thead>
<tr>
<th>Country</th>
<th>Poorest</th>
<th>Richest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>4%</td>
<td>6%</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>7%</td>
<td>27%</td>
</tr>
<tr>
<td>Bhutan</td>
<td>5%</td>
<td>30%</td>
</tr>
<tr>
<td>Nepal</td>
<td>67%</td>
<td>94%</td>
</tr>
</tbody>
</table>

Early Childhood Development and Gender Equality

Investment in early childhood development can have a huge, long-term impact on children’s rights and gender equality in the lifecycle of the child. It is during their first years that girls and boys learn gendered attitudes, norms, roles and expectations from parents, caregivers, other family members and teachers and through learning materials, toys, media etc., about how girls and boys/women and men should behave, their social worth and what their accepted role is in society.

In many communities across South Asia, gender inequality and discrimination, son preference, women’s low status etc., is one important root cause of children’s poor development in the early years. It impacts cognitive, social and emotional skills that will influence lifelong educational achievement, health and wellbeing. As such, it is very critical to address the early influence of negative norms and stereotypes in the region, which can negatively impact a child’s development. Understanding the impact of gender inequality and discrimination on the survival, healthy growth and early years’ development of girls and boys, and the need for investing in gender-transformative early childhood programming is essential to break the cycle of gender discrimination in South Asia.

Developing and advocating for policies that promote positive gender socialization can influence individual and social behavior through behavior change strategies and eventually promote the rights of girls and boys. ECD/ECCE programming and early childhood policy must recognize and integrate this into their programming for gender equal socialization process. As such, ECD approaches in South Asia must make more efforts to mainstream this approach and advance gender equality in the region.
CRC COMMITTEE OBSERVATIONS ON EARLY CHILDHOOD DEVELOPMENT IN SOUTH ASIA

Introduction
Every child’s right to early childhood development is at the core of the Convention of the Rights of the Child (CRC). Article 6 of the CRC highlights that each child has “a right to live... and develop healthy” and Article 27 states that every child has “the right to a standard of living that is good enough to meet their physical and mental needs.” The protection of these rights starts at the very early stages of a child’s life and requires a holistic approach that addresses the child’s physical, cognitive, linguistic and socio-emotional development.

In its reviews of State Parties’ reports, the Committee on the Rights of the Child (CRC Committee) highlights the importance of investing in early childhood development in the context of children’s rights. For South Asia, the Committee has called for better early childhood care and development in the region, drawing attention to health issues such as communicable and preventable diseases, malnutrition, and the lack of adequate early childhood care and development services. This section examines the Committee’s responses to the situation of early childhood care and development in the region.

Legislation on Early Childhood Care and Development
The CRC Committee shows appreciation for the increasing number of policies on early childhood care and development in the region. It commends Bangladesh’s Comprehensive Early Childhood Care and Development Policy and India’s National Early Childhood Care and Education Policy, which were both adopted in 2013. The Committee notes the importance of also developing and expanding early childhood education policies but emphasizes the need to base it on a comprehensive and holistic policy on early childhood care and development (Nepal, Pakistan). The Committee also emphasizes the goal of early childhood care and development in the UN Sustainable Development Goals (SDGs) and addresses the need to ensure sufficient financial resources are allocated to implement these policies (Bhutan, India, Nepal, Pakistan).

“The Committee recommends that the State party strengthen its efforts to provide early childhood care and education to all children and take measures to diminish progressively its reliance on funding partners and include progressively its funding in the national education budget.” (Bhutan 2017, p.10-11)

Health
While taking note of the progress State Parties have made in child health, the Committee shows concern about the under 5 mortality rates in most South Asian countries. The CRC Committee notes that preventable diseases (Afghanistan) and communicable diseases such as acute respiratory infections, diarrhea and fever, including fever linked to malaria, are some leading causes of child morbidity and mortality (India). It also shows concern for the lack of accessible and affordable health services as a factor in neonatal mortality rate (Nepal).

• “The Committee notes with concern that in spite of efforts made by the State party, maternal and infant mortality remains among the highest in the world, and the death of most of the children who die in their early years is due to preventable diseases” (Afghanistan 2011, p.11)
• “The high neonatal mortality rates and the fact that these deaths represent 50 per cent of the 1.4 million children under 5 years who die annually in the State party” (India 2014, p.14)
• “Despite the progress made in reducing overall mortality and morbidity among children under 5 years of age, the neonatal mortality rate remains high due to a lack of accessible and affordable health services, with these deaths representing 61 per cent of all deaths of children under 5 years of age in the State party” (Nepal 2016, p.18)

“The Committee calls for State Parties’ to strengthen efforts to reduce the under 5 mortality rates through measures such as developing and expanding national policies, with particular attention to specific maternal and child healthcare policies (India).

The Committee calls for State Parties’ to strengthen efforts to reduce the under 5 mortality rates through measures such as developing and expanding national policies, with particular attention to specific maternal and child healthcare policies (India). It also recommends States Parties to provide and improve accessible, affordable health services, especially in rural areas (Nepal, Pakistan). Noting that poor sanitation (India, Pakistan) and low vaccination rates (India) significant impact children’s health, the Committee also highlights the need to ensure full vaccination of all children (India) and to ensure access to safe water and sanitation (India, Pakistan). It also recognizes the importance of behavior change in improving children’s access to quality health services and health management and recommends State Parties to conduct awareness-raising campaigns addressing health issues, such as open defecation (India).

• “Ensure full vaccination of all children; Conduct awareness-raising campaigns targeting the public at large on the health risks of the practice of open defecation; take measures to ensure access to safe water and sanitation, in particular in rural and the poorest areas, and invest in improving safe water resources;” (India 2014, p.15)
• “Take measures to reduce neonatal mortality rates, including by preventing infectious diseases and ensuring care for newborns during the neonatal period” (Nepal 2016, p.16)
Nutrition

The Committee recognizes that nutrition plays a critical role in determining the health and development of a child. It notes that good nutrition is not only important in the very early stages of a child’s life but has long-term effects on a child’s health and development, where damage caused by poor nutrition in early childhood on growth and brain development is irreversible in later life. In its review of State Parties’ reports, the Committee pays special attention to this issue, and shows concern for the high number of children suffering from malnutrition in almost all South Asian countries.

- **Afghanistan:** “Two thirds of children are chronically malnourished, and among them, thousands suffer from acute malnutrition” (Afghanistan 2011, p.11)
- **Bangladesh:** “The Committee is also concerned about the prevalence of anaemia and malnutrition among children, in particular in slums and rural areas” (Bangladesh 2016, p.11)
- **Bhutan:** “The Committee recommends that the State party strengthen its efforts to end chronic malnutrition of children, in particular in rural areas and poor urban areas.” (Bhutan 2017, p.8)
- **India:** “The high levels of chronic malnutrition (stunting), wasting (acute malnutrition) and underweight among children, in particular children under 5 years, which are closely linked to maternal undernutrition and anaemia and inadequate feeding practices of infants and young children (India 2014, p.14)
- **Nepal:** “Chronic malnutrition (stunting) and wasting (acute malnutrition) are prevalent among children, and poor nutrition continues to cause 80 per cent of child mortality in the State party.” (Nepal 2016, p.16)
- **Pakistan:** “[The Committee is concerned with] the problem of malnutrition, which reportedly leads to 35 per cent of deaths in children under 5 years of age and is attributed to, among other things, to the mismanagement of food aid for children in need” (Pakistan 2016, p.12)
- **Sri Lanka:** “The Committee recommends that the State party effectively address malnutrition, particularly with regard to stunting, wasting, low weight and anaemia” (Sri Lanka 2018, p.10)

The Committee comments on the importance of breastfeeding in providing infants with nutrients for healthy development, particularly in the first 6 months. It notes that despite its benefits to infant health, the rate of exclusive breastfeeding remains low in many countries (Afghanistan, India). It draws attention to issues such as marketing of infant formula (Bangladesh, India), the lack of adequate policies to support women, such as sufficient maternity leave for all women” (Bhutan), and limited information or awareness on proper infant feeding practices (Sri Lanka) that can force women to stop exclusive breastfeeding too early. It recommends many countries to take further efforts to promote and establish policies to support exclusive breastfeeding practices (India) in both public and private sectors (Bhutan).

The prevalence of wasting, stunting and anaemia among children are raised as matter of urgent concern by the Committee in several countries, many of which are integrated in existing education policies or early childhood care and development policies (India).

Where policies exist, however, the Committee notes that the development and provision of early childhood education is often limited and inadequate (Nepal, Pakistan). Ensuring the quality of early childhood education and equality in access are addressed as key areas for further improvement across the region (Bhutan, India). Raising concerns about the legislative framework and financial resources necessary to support quality early childhood education for all children, the Committee addresses the need to adopt comprehensive policies to ensure high-quality early childhood education services to all children, and the need to allocate sufficient financial resources for continued development and expansion of early childhood education (Bhutan, India, Nepal, Maldives, Pakistan).

The Committee also notes the importance of investing in positive gender socialization through early childhood education. It highlights that early childhood education should not simply focus on equal access for girls and boys to education, but also the quality of education, and emphasizes the need to promote gender-sensitive education (Bhutan 2017, p.11).

- “It also recommends that the State party promote gender-sensitive education from an early stage to redress gender-related gaps in education.” (Bhutan 2017, p.11)
## Table

### CRC Comments on Early Childhood Care and Development in South Asia

The following is a table of comments on areas of concern regarding ECCD in South Asia by the CRC Committee in the last Concluding Observations.

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THE WAY FORWARD

In order to address the existing challenges to deliver comprehensive quality early childhood development services, including quality early learning, below are 5 sets of critical actions needed by governments, with support from partners such as UNICEF, the World Bank, WHO and others. These recommendations are guided by the CRC Committee Recommendations as well as evidence produced by UNICEF ROSA.

Budgeted policies on multi-sectoral interventions for ECCD

1. Adapt a comprehensive ECCD policy to maximize the positive impact of the ECCD intervention, following the guideline provided by the Nurturing Care Framework.
2. Promote Family-friendly Policies in the workplace such as paid parental leave, flexible working hours, breastfeeding spaces at work and affordable childcare services.
3. Establish national multi-sectoral coordination mechanisms involving relevant ministries, such as Ministry of Education and Ministry of Health, Ministry of Social welfare among others, for the implementation of ECCD policy.
4. Develop gender-responsive ECD policy to address the critical gender gaps and challenges in ECD learning materials, teacher child interactions to not promote gender stereotyping and norms, teacher training, recruitments and outreach.

Strengthen services and services for ECCD

1. Build the capacity of the national ECCD workforce (e.g., health workers, social workers, ECCD teachers/facilitators, child care workers) to deliver quality interventions for ECCD.
2. Update information systems with common indicators to monitor and better ensure the quality and coverage of interventions promoting nurturing care and early learning.
3. Establish standards for service provision along with supportive supervision and mentoring of frontline workers.
4. Improve healthcare in the first five years of life by ensuring that health care encounters for women and young children help strengthen families’ efforts to promote children’s early development.

Establish national data and evidence platforms

1. Improve monitoring of ECCD access, equity and whether quality standards are being met, particularly the measurement of child development outcomes as well as responsive caregiving and safety and security.
2. Analyze data to inform policy programme and innovation and ensure that monitoring and accountability is an integral component of ECCD policy and programme management to deliver improved quality ECCD programmes and services for children.

Advocacy and Communication

1. Develop a strong advocacy strategy to build alliances and partnerships, that include the private sector, to support and promote ECCD.
2. Scale up national-level investments and ECD programmes that support girls and boys to develop to their full potential, and to transform unequal gendered power relations, challenge “traditional” gender socialization processes, strengthen parental engagement in ECD especially that of the father’s role in caregiving, and address unequal gender norms and barriers to improve the social position of girls and women.

Ensure sustained financing for ECCD services

1. Allocating adequate budget to ensure expansion of early childhood education on the basis of a comprehensive and holistic policy covering early childhood care and development*
2. Increase the national education budget for ECCD to reduce the reliance on funding external funding partners.
ENDNOTES

1. ECCD is also referred to using other acronyms in particular ECD (Early Childhood Development) and varies by country; in Bhutan (see Part 4: National Perspective on ECCD – Bhutan) the acronym ECCD is used.

2. UNICEF Programme Guidance for Early Childhood Development 2017

3. Source: Early Childhood Development in South Asia, A landscape mapping designed by UNICEF Regional Office of South Asia (2018)


6. MICS4 Survey Results on EDCI (http://mics4.unicef.org/ survery)

7. UNESCO Institute of Statistics (https://www. education-inequalities.org)
4.

STATUS OF CHILDREN WITH DISABILITIES IN SOUTH ASIA

Status of children with Disabilities in South Asia 61
CRC Committee observations on the status of children with disabilities in South Asia 65
The way forward 70
STATUS OF CHILDREN WITH DISABILITIES IN SOUTH ASIA

Introduction

Children with disabilities are one of the most marginalized and excluded groups in society. Facing daily discrimination in the form of negative attitudes, lack of adequate policies and legislation, they are effectively barred from realizing their rights to healthcare, education, and even survival.

Estimates suggest that there are at least 33 million children with disabilities in the world, but numbers could be much higher. They are often likely to be among the poorest members of the population. They are less likely to attend school, access medical services, or have their voices heard in society. Their disabilities also place them at a higher risk of physical abuse, and often exclude them from receiving proper nutrition or humanitarian assistance in emergencies.

The 2030 agenda calls for no one left behind. This means that the Sustainable Development Goals (SDGs) apply to all regardless of ability. Over time, national governments and international actors have recognized the rights of disabled persons and the importance of inclusive education for persons with disabilities. In 1993, the member states of the UN agreed to the rules of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, which asks member states to raise awareness about the rights of disabled persons, provide medical care, provide accessibility in physical environments, and fully integrate disabled persons into the national education planning and curriculum development processes.

In 1994 the World Conference on Special Needs Education in Salamanca, Spain, produced a statement and framework for action. The Salamanca Declaration encouraged governments to design education systems that respond to diverse needs of students and provide child-centered pedagogy.

In 2008 a new convention, the Convention on the Rights of Disabled Persons came into force. The Convention reflects a social-model approach to disability. Rather than persons with disabilities being objects of charity and passive recipients of welfare, it reflects a human rights-based approach which rejects the idea that obstacles to the participation of persons with disabilities arise primarily from their impairment. Instead, it focuses on eliminating barriers created by society that prevent persons with disabilities from enjoying their human rights on an equal basis.

In 2018 countries gathered in the U.K. to reaffirm their commitment to people with disabilities. The resulting ‘Charter for Change’ emphasizes the need to strive for real change through the Convention’s implementation and the delivery of the Sustainable Development Goals for persons with disability.

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Despite these efforts however, children and adolescents with disabilities continue to face many obstacles to realizing their rights, not least due to discrimination and stigma attached to disabilities, lack of accessibility in physical and virtual environments, resource constraints, lack of assistive technologies, lack of rehabilitation services, untrained teachers, and lack of adequate support in classrooms, and models of intervention that are limited to ‘solving’ the impairment.

In 2018 countries gathered in the U.K. to reaffirm their commitment to people with disabilities. The resulting ‘Charter for Change’ emphasizes the need to strive for real change through the Convention’s implementation and the delivery of the Sustainable Development Goals for persons with disability.

Table 1

Countries that have formally agreed to support the rights of disabled persons

<table>
<thead>
<tr>
<th>Country</th>
<th>Convention on the Rights of Persons with Disabilities (Signed or Ratified)</th>
<th>Global Disability Summit Charter for Change1</th>
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<tr>
<td>Afghanistan</td>
<td>Yes (Signed and Ratified)</td>
<td>Yes (Signed)</td>
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<tr>
<td>Bangladesh</td>
<td>Yes (Signed and Ratified)</td>
<td>Yes (Signed)</td>
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<td>Bhutan</td>
<td>Yes (Signed)</td>
<td>No</td>
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<tr>
<td>India</td>
<td>Yes (Signed and Ratified)</td>
<td>Yes (Signed)</td>
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<tr>
<td>Maldives</td>
<td>Yes (Signed and Ratified)</td>
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<td>Nepal</td>
<td>Yes (Signed and Ratified)</td>
<td>Yes (Signed)</td>
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<tr>
<td>Sri Lanka</td>
<td>Yes (Signed and Ratified)</td>
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In 2018 countries gathered in the U.K. to reaffirm their commitment to people with disabilities. The resulting ‘Charter for Change’ emphasizes the need to strive for real change through the Convention’s implementation and the delivery of the Sustainable Development Goals for persons with disability.

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Data

There is a paucity of data on children with disabilities, and a consequence of this is their invisibility. One of the barriers to collecting the data is the understanding of disability. Many countries measure a persons’ ‘impairment’, but the ‘rules’ to make that judgement change between countries and over time. For example, at one time those who had poor vision would have been disabled but now with eye glasses they may have an impairment but are not disabled. With the agreement that it is the environment that creates the disability, not the impairment, the measurement focuses on the ability to carry out basic activities of daily living that indicates how the environment impacts a persons’ ability. Those activities can vary by culture and location. For example, putting on a dress takes a different amount of work than putting on a sarei.

The Washington Group on Disability Statistics tackled this issue by creating questions for assessment based on 6 functional domains to identify the population at greater risk than the general population of experiencing limited or restricted participation in society. The questions cover six functional domains or basic actions: seeing, hearing, walking, cognition, self-care and communication. This module can easily be included in ongoing household surveys such as MICS and DHS. To date, there is no completed implementation of this module in South Asia, however it is included in the current MICS surveys in Pakistan and Nepal.

According to the World Health Organization (WHO), the South and East Asia Region has the second highest prevalence rate of moderate disability (16 percent) and the third highest prevalence rate of severe disability (12.9 percent). In South and East

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1. Global Disability Summit Charter for Change

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Asian countries, except Bhutan, India and Timor-Leste, mobility impairments are ranked as the top form of all disabilities. This assessment was done using the International Classification of Functioning, Disability and Health which considers impairments, limitations in carrying out activities and restrictions in participating in any area of life.

Access to Rights

Children with disabilities have the same rights as any other child. Yet, even when able to access services, the quality of service is often different, which hinders the wellbeing of the person and further their access to the labour market and ability to interact with peers, and even further strengthens the patterns of discrimination.

Children who are born with an impairment or acquire one at a young age are often separated from their families and put into care homes. In some parts of the world a child with a disability is 17 times more likely to be put in an institution than a child that is not disabled. And if remaining at home sometimes family support to the child with the disability is not equitable or supportive. Children with disabilities often face barriers such as limitations in their agency or in participation in public processes.

Children with disabilities face significant barriers in even gaining access to education, and those who do, often face lack of accessible physical environments, non-inclusive instruction, and discrimination in schools. In most countries early efforts at providing education or training were generally through separate special schools, usually targeting specific impairments, such as schools for the blind. These schools are often isolated from the community, limiting the interaction with their peers. In Bangladesh, in 2013, 74.3 percent of persons aged 15-29 years with some disability attended school compared to 92.3 percent of persons with no disability. The gap in primary school attendance rates between disabled and non-disabled children in South and East Asian countries ranges from 10 percent in India to 60 percent in Indonesia. According to 2004 statistics in Bangladesh, only about 5 percent of children with disabilities are enrolled in existing educational institutions.

According to UNESCO Institute for Statistics, persons with disabilities spend seven years in school and persons with disabilities spend five years, or a 25-year-old person without any disabilities would have spent 40 percent more years in school than a person without any disabilities of the same age. The mean years of schooling, for the population 25 years and older who have some disability, is less than 5 years in Bangladesh and less than 10 years in Sri Lanka.

Children and adolescents with disabilities who enter school face many challenges within schools. Three broad approaches to the education of children with disabilities have been identified: (1) segregation entails categorizing according to children’s impairment and allocating to schools that are designed to respond to that particular impairment; (2) integration entails placing children with disabilities in the mainstream system, while providing special classes; and (3) inclusion entails going beyond integration to transform the culture and policies within schools to accommodate the diverse needs of individual students, as well as to remove barriers that stand in the way of holistically educating children with disabilities. A stricter sense of inclusion is that all children with disabilities should be educated in regular classrooms with age-appropriate peers. This approach stresses the need for the whole school system to change.

The special schools are often hidden within social care institutions. Children with disabilities are at a high risk of institutionalization. This is often because families do not have access to the right support services or because there is no inclusive education in the local area. Recognizing the importance of inclusive education, most countries have ratified conventions that specifically state to move away from institutionalization of children with disabilities, and from establishing special schools. However, further efforts must be made to ensure that these measures are implemented.

According to UNESCO Institute for Statistics, in 2012 in Nepal, about 3 percent of persons with disabilities who attended pre-school, primary, secondary or tertiary school, went to a special school. In Bhutan, 43 percent of primary school age children with disabilities attended a special school in 2015. Data capturing the educational outcomes of children with disabilities is lacking, but in countries where curricula and teaching methods are rigid and irrelevant—for example, where information is not delivered in the most appropriate mode such as sign language and teaching materials are not available in alternative formats such as Braille—children with disabilities are at increased risk of exclusion and drop-out.

Many countries in South Asia have yet to improve their services for disabled persons. For instance, in Nepal, 82 percent of persons with disabilities needed but did not receive welfare services from the government. In 2015, in Sri Lanka, 100 percent of persons with disabilities used but needed more assistive products to participate in education. In addition, in Sri Lanka, 64 percent of persons with disabilities needed but did not have general assistive products, including sign language interpreter, wheelchair, hearing/visual aids, or braille. Only 63 percent of primary and lower secondary schools in India and only 8 percent of lower secondary schools in Bangladesh have access to adapted infrastructure and materials for students with disabilities.

Moreover, 6 percent of persons with disabilities in Nepal have been refused entry into a school or a preschool because of their disability, and 10 percent of students with disabilities found that schools in Nepal were not accessible or hindering. Children with disabilities are more likely to experience violence, including sexual violence. Children with disabilities are three to four times more likely to be neglected, or physically, emotionally or sexually abused or neglected than non-disabled children. In one study in Orissa, India, for example, virtually all of the women and girls with disabilities were beaten at home, 25% of women with intellectual disabilities had been raped and 6% of women with disabilities had been forcibly sterilised.

It is not only children with disabilities that are of concern but also the children of adults with disabilities. Their children often have caregiver roles to play, or may even be removed from their family and in care because of their parent’s impairment.

However, some countries in South Asia have made notable efforts to include disabled persons. For example, in Bangladesh and India, the government has introduced general or disability-specific laws, policies or strategies that promote the inclusion of persons with disabilities in mainstream TVET systems and programs. Similarly, in India, public employment programs have been used as a policy instrument to tackle the challenge of unemployment and underemployment of persons with disabilities. The program in India, which guarantees 100 days of wage employment in a financial year to every household, state governments must provide work that considers the disability-related needs of persons with disabilities. Efforts were made to ensure that persons with disabilities are provided work opportunities close to their place of residence, and that persons with disabilities are paid wages equal to persons without disabilities. This public employment program also seeks to ensure a stigma-free environment at the workplace. In 2015-2016, about half of the 130,420 persons with disabilities in India registered under this program. Furthermore, according to UNESCO Institute for Statistics, 100 percent of primary schools in Maldives have access to adapted infrastructure and materials for students with disabilities.
CRC COMMITTEE
OBSERVATIONS ON THE
STATUS OF CHILDREN
WITH DISABILITIES IN
SOUTH ASIA

Introduction

Scope of the issue
Children with disabilities (CWDs) face a range of challenges and exclusions across South Asia, and their participation and wellbeing has been a consistent area of concern to the CRC Committee.

In the most recent CRC Committee reports for each of the eight South Asian nations, the Committee has provided direct commentary on the issues faced by these CWDs. These comments have focused on the degree of discrimination and prejudice towards CWDs, legal and policy provisions, as well as the lack of inclusive services and infrastructures developed. The Committee has urged State parties to adopt a human-rights based approach to disability.

Breadth of Committee concern
The CRC Committee has spoken about the rights of children with disabilities at a number of points throughout the reports. The Committee has commented on the specific needs and rights of children with disabilities under the section ‘Disability, basic health and welfare’ in each report. In addition, the Committee has identified CWDs as a particularly vulnerable group of children, whose dignity, self-reliance and active participation in the community should be ensured by State parties. As such, the Committee also mentions CWDs in the following sections:

As such, the Committee also mentions CWDs in the following sections:
- Education, leisure and cultural activities
- Main areas of concern and recommendations
- Special protection measures
- General Principles
- Violence against children

Discrimination and Stigmatization

The overwhelming concern arising from the Committee’s comments is the issue of discrimination and stigmatization of CWDs across the region at all levels – from the family home through to law and policy making (Bangladesh 2015, para 52-53; Bhutan 2017, para 32; India 2014, para 62; Maldives 2016, para 54-55; Nepal 2016, para 46-47; Pakistan 2016, para 45-46; Sri Lanka 2018, para 29). The Committee notes the ongoing prejudice, social stigma, and persistent negative attitudes towards CWDs in South Asia. In some countries, the stigmatisation, costs, and lack of appropriate support and services leads to high rates of abandonment by parents of children with disabilities (India 2014, para 61, Pakistan 2016, para 45). The broad social attitudes to CWDs inform every aspect of how societies provide for these children, from laws and policies through to appropriate and inclusive services.

The Committee notes that in some cases, “inclusive measures are limited to those children with physical or sensorial disabilities, rather than mental or intellectual, increasing their stigmatization” (Nepal 2016, para 46). While this note is made specifically in the case of Nepal, it is highly possible that children with mental or intellectual disabilities (as opposed to physical) face greater discrimination and stigmatisation in many other States also. The Committee notes with concern that discrimination and stigmatisation poses a barrier to children with disabilities from accessing mainstream services and prevents their full and equal participation in the public sphere, including spaces of recreation and play (Pakistan 2016, 45). Discrimination can be a key contributing factor to a governmental approach centred on “institutional care and medical treatment”, rather than on social inclusion and accessibility (India 2014, para 61).

Recognising the impact of social perceptions on the wellbeing of children with disabilities, the Committee consistently highlights the need for increased efforts to combat stigmatisation of and prejudice against children with disabilities. It recommends all State Parties to undertake awareness-raising campaigns aimed at government officials, the public and families to promote a positive image of children with disabilities. In particular, the Committee emphasizes taking a human rights-based approach to disability (all countries), and in portraying children with disabilities as right-holders, not objects of charity (Sri Lanka 2018, para 29).

Legal and Policy Provisions

The Committee notes with appreciation the steps that have been taken towards constitutional, legal and policy measures that ensure the protection of the rights of CWDs in the region. Recognizing that the rights of CVD are fully enshrined in the Convention of the Rights of the Child (CRC) and the Convention of the Rights of Persons with Disabilities (CRPD), the Committee commends the ratification of the CRPD in almost all countries in the region, and urges The Committee further welcomes policy measures undertaken by State Parties to ensure the protection of rights for CVD and the provision of adequate finances and services to support their non-discriminatory inclusion in society.

- The Maldives has adopted the ‘Protection and Financial Assistance to Persons with Disabilities Act’ in 2010 and an inclusive education policy in 2012 (Maldives 2016, 54);

However, where laws exist, the Committee expresses concern about the translation and implementation of these laws and policies: “The Committee is however concerned about the limited measures taken so far to implement the law and the strategy, and in particular to collect reliable data on children and their disabilities and support families raising children with disabilities.” (Afghanistan 2011, para 49). In many of the reports, the Committee notes the lack of policies, programs and initiatives which provide specifically for children with disabilities, in an inclusive manner.
The Committee further highlights the need for a coordinated, cross-sectoral approach by Government Ministries to properly develop and implement programs for CWDs. It emphasizes across all reports that such strategies must be comprehensive and take a human rights-based approach to disability. The Committee also notes in many of the reports the need to ensure the meaningful participation of children with disabilities in all issues that concern them, including in law and policy making (Afghanistan 2011, para 49; Bangladesh 2015, para 32; Bhutan, 2017 para 32).

Access to Inclusive Services and Infrastructures

Children with disabilities’ lack of access to inclusive education, health, and social services was mentioned across all States in the Committees’ reports on South Asia. The Committee pays close attention to the issue of inclusive education, seeing it as key in ensuring CWDs achieve the fullest possible social integration and individual development. However, it notes that many CWDs in South Asia face serious barriers to education (Afghanistan 2011, para 50; Bangladesh 2015, para 52; Bhutan 2017 para 31; India 2014, para 62; Maldives 2016, para 54-55; Nepal 2016, para 46; Pakistan 2016, para 45; Sri Lanka 2018, para 29). A key challenge in the region noted by the Committee is providing educational services which cater to the special needs of CWDs, within an inclusive environment. The Committee noted that many CWDs are deprived of education altogether and ‘most schools are not accessible and lack adapted education’ (Bangladesh 2015, para 52).

In some countries, there is no inclusive education strategy and segregated education for CWDs remains the norm. Some of the special education centres provided are only attended by a small percentage of children with mild disabilities, fail to meet the needs of those children, and are totally absent in rural areas (Bhutan, 2017 para 32; Pakistan 2016, para 45). For those children with disabilities who do attend regular schooling, they may face ‘serious discrimination inside the classroom’ (Maldives 2016, para 60). While there have been some positive efforts to create inclusive education schools, such as the 2017 ‘Standards for Inclusive Education’ adopted in Bhutan, the Committee notes that State Parties must take further efforts to ensure that policies are properly enforced (Bhutan 2017, para 31).

The Committee highlights that similar challenges concerning accessibility and discrimination occur in CWD’s access to healthcare and other services (Afghanistan 2011, para 49; Bangladesh 2015, para 53; Bhutan 2017, para 31; India 2014, para 62; Maldives 2016, para 54-55; Nepal 2016, para 46; Pakistan 2016, para 45; Sri Lanka 2018, para 29). The Committee notes that there are major obstacles CWDs face in gaining access to adequate healthcare and social services. It also expresses concern about approaches to caring for children with CWD in some countries, which center on institutionalization of children and medicalization of their disability. Physical infrastructure is also noted as a key barrier faced by CWDs (particularly those with mobility challenges) in accessing schools, hospitals, public spaces, and recreational facilities. A lack of physically accessible infrastructure also presents an issue for families seeking accessible and affordable housing options for their children. The Committee also expresses concern for the lack of support provided to families of children with disabilities and the rates of abandonment of CWDs by their parents within some countries of South Asia.

It is also noted by the Committee that there are inadequate early detection and intervention systems for CWDs (Bangladesh 2015, para 53; Bhutan 2017, para 32; Maldives 2016, para 55; Nepal 2016, para 47; Sri Lanka 2018, para 29). The Committee comments on how such systems can be improved through better disaggregated data collection on CVD (Sri Lanka 2019, para 29).

The Committee reiterates that any of the challenges faced in terms of accessing services for CWDs is only further exacerbated on the basis of gender, class, caste, ethnicity, legal status, refugee status, language, indigenerity, rurality for those facing multiple discriminations.

Maltreatment and Abuse

The Committee reports note the issue of maltreatment and abuse for children with disabilities in many countries in South Asia. This occurs within families and within institutional settings. This abuse and maltreatment includes the misuse of psychiatric medication (Afghanistan 2011, para 49). As there are notable rates of abandonment by parents in some countries (India 2014, para 61; Pakistan 2016, para 45), and a tendency towards institutionalization, CWDs may be over represented in institutionalized care settings, including state and NGO facilities. Children with disabilities may end up living on the street or otherwise outside of parental care. The Committee also notes that there is overall a lack of data on the rates of violence, abuse and neglect of children with disabilities.

Lack of Disaggregated Data

The Committee noted the overall lack of data, and particularly disaggregated data, pertaining to children with disabilities (Afghanistan 2011, para 50; Bangladesh 2015, para 52; Bhutan 2017, para 9; Maldives 2016, para 54; Nepal 2016, para 46; Pakistan 2016, para 46; Sri Lanka 2018, para 29). It highlights the importance of this data is important informing policymaking, program designing and monitoring, and in delivering services for children with disabilities. The lack of data also makes it difficult for governments to grasp the scale of the issue at the national and local levels. In some cases, the Committee noted there was also a lack of information around what programs and initiatives might exist for CWDs, especially those who experience multiple and intersecting forms of discrimination (Bangladesh, 2015, para 52).

Summary of CRC Committee Concerns on Children with Disabilities in South Asia

While the CRC Committee has not provided an overall summary on the issue of CWDs in South Asia, there are a number of common concerns expressed across the States that can be readily identified. These are as follows:

- Children with disabilities within the South Asia region face significant discrimination and stigmatization, particularly those children with mental or intellectual disabilities. The impact of this is intensified for those children facing multiple forms of discrimination.
- The degree to which the human rights of Children with Disabilities are protected in conventions, constitutions, laws and policies across the region is variable, and States need to improve both the legal protections and implementation of relevant laws and policies for CWDs.
- Children face multiple barriers to access and inclusion in mainstream and specialist services. Schools need to be equipped, offer adapted education, and work with an inclusive approach to CWDs. Healthcare services also need to be accessible, appropriate, and inclusive.
- Children with disabilities are at risk of maltreatment and abuse, within families and institutions. CWDs are over represented in institutions, and vulnerable to poverty and exploitation.
- Families and caregivers of CWDs lack support – financial, technical and social. Many CWDs in some countries are abandoned by their parents, in part due to a lack of support.
- There is a lack of disaggregated data on CWDs, which hinders evidence-based policy making and program design. This includes a lack of data on the levels of maltreatment and abuse of children with disabilities.
CRC Comments on Children with Disabilities in South Asia

The following is a table of comments on areas of concern regarding children with disabilities in South Asia by the CRC Committee in the last Concluding Observations.

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**THE WAY FORWARD**

Children with disabilities are children with rights, equal to all other children. The Agenda 2030 demands that no one is left behind. Changing the environment, not the person, is what will make an inclusive society for those with disabilities. When an environment for those with disabilities is created it also, often, contributes to an environment inclusive for all. With this in mind, below are a set of recommendations to improve the lives of children with disabilities in South Asia.

**Strengthen the data on children with disabilities**

1. Encourage the statistical offices to systematically include questions related to disability in quantitative surveys.
2. Require services to disaggregate administrative data to specifically include disability.
3. Ensure that all children, with a disability or without, are registered at birth.

**Develop resources to create an inclusive environment**

1. Train a workforce that can support those children with disabilities and also challenge discriminatory attitudes. This includes staff in schools, hospitals, recreation facilities, etc.
2. Work with service providers to ensure the infrastructure is accessible.
3. Ensure that the schools have a curriculum that is inclusive, accessible and relevant to all children.
4. Encourage medical professionals to support families to raise their child, regardless of the child's ability.
5. Provide the necessary income support that will allow for the participation of the person with a disability (e.g., aids, transport).
6. Provide the resources for families to adapt their homes to accommodate their child, and the knowledge of the services available to them.

**Catalyze political will to foster inclusive services to support CWDs**

1. Enact legislation, policies and guidelines that support the inclusion of children with disabilities within common services.
2. Ensure that national legal frameworks reflect the rights of persons with disabilities.
3. Monitor the budget expenditure to understand the expenditures made to ensure that those with disabilities have equal access to services.

**Advocacy and promoting leadership among persons with disabilities**

1. Work with service providers to ensure the infrastructure is accessible.
2. Combat discriminatory attitudes and stigma by raising awareness about persons with disabilities by modelling to the non-disabled, relationships with those with disabilities.
3. Directly address discriminatory perceptions about those with a disability.
4. Involve people with disabilities, their families, community members, and civil society organizations in the decision-making processes among governmental and development actors. Promote diverse representations all persons with disabilities by encouraging and involving them as leaders, partners and advocates of change.
ENDNOTES

5 http://www.healthminister.govt.nz/
7 Ibid.
8 UNICEF calculations based on the TransMONEE database.
11 Ibid.
13 Ibid.
15 Ibid, p.82.
18 Ibid, p.85.
19 Ibid, p.42.
21 Ibid, p.201.
22 UNESCO Institute for Statistics.
24 Ibid, p.86.
26 Elizabeth Lightfoot, Sharyn Dezelar The Experiences And Outcomes Of Children In Foster Care Who Were Removed Because Of A Parental Disability In Children And Youth Services Review, 31 Dec 2015.
27 Ibid.
28 Ibid.
29 Ibid.
30 Ibid.
AWARENESS RAISING ABOUT THE CONVENTION ON THE RIGHTS OF THE CHILD

Overview of Awareness Raising about the CRC in South Asia 75

CRC Committee Comments on Awareness Raising about the CRC in South Asia 81

The way forward 86
OVERVIEW OF AWARENESS RAISING ABOUT THE CRC IN SOUTH ASIA

Introduction

As a monumental treaty that emphasizes children as right-bearers with specific needs and agency, the Convention on the rights of the child (CRC) has inspired governments to change laws and policies and make investments to better the lives of children and has enabled more children to have their voices heard and participate in their societies.

In South Asia, almost all countries have ratified the treaty. However, the strength of the CRC isn’t in the number of countries that have signed and ratified it, but in the number of people who are aware of its existence and the rights it protects. Despite all the Convention has achieved, it is still not fully implemented or widely known and understood. A study undertaken by UNICEF in South Asia on the general knowledge of the Convention in the region showed that most target audiences, including children themselves, were not aware of child rights. This realization has been underlined by CRC Committee reports, which look at the status of awareness-raising among target audiences, especially related to the use of media. As it is addressed in detail in Part II of this report, the CRC Committee finds a systematic lack of awareness about the CRC and child rights in almost every country in South Asia.

Making the CRC a living part of national life begins first and foremost with raising awareness about it among all members of society. The protection of child rights is a collective endeavor. Awareness about the CRC encourages discussion about the state party and broader society accountability to realize the Convention. Governments have the duty to make sure their citizens are aware of the CRC. Individuals not only need to know of its existence and whether their government has ratified it, but also the rights that are entitled under the CRC, the mechanisms in place to ensure the protection of these rights, as well as the procedures that can be undertaken to claim these rights at the national-level. This requires institutionalization of the CRC at all levels, in legislation, information systems and accountability measures. It also requires strategies to educate all members of society, from government officials to schools, religious institutions and especially the most marginalized communities.

Summary of Introductory Points:

1. All South Asian nations have ratified the CRC
2. Many officials and citizens and others are not aware of the CRC or its provision on child rights
3. Awareness must be raised among all members of society
4. Awareness fosters discussion of accountability
5. There must be mechanisms to ensure rights are realized, and people must be aware of them

Adolescents as Change Agents

Adolescence is a time of critical development, where norms are either solidified, rejected or transformed. As adolescent boys and girls grow, they take on additional responsibilities, experiment with new ways of doing things and push for independence. It is a time in which values and skills are developed that have great impact on well-being. When adolescent girls and boys are supported and encouraged by caring adults, along with policies and services attentive to their needs and capabilities, they have the potential to break long-standing cycles of poverty, discrimination and violence.

Adolescents in South Asia comprise of approximately 1/5 of adolescents globally. At the country level, they make up from 16% to 26% of the population (See Figure 1). The implications of educating and empowering a generation of young people who have a strong understanding of child rights is therefore a great investment in the future of the region.

Figure 1

South Asia's Adolescent Demographics

<table>
<thead>
<tr>
<th>Nation</th>
<th>Adolescent population</th>
<th>Adolescents as a % of the national population</th>
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<tbody>
<tr>
<td>India</td>
<td>250 million</td>
<td>19%</td>
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<tr>
<td>Pakistan</td>
<td>38.8 million</td>
<td>21%</td>
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<tr>
<td>Bangladesh</td>
<td>32.5 million</td>
<td>20%</td>
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<tr>
<td>Afghanistan</td>
<td>8.3 million</td>
<td>26%</td>
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<tr>
<td>Nepal</td>
<td>6.6 million</td>
<td>23%</td>
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<tr>
<td>Sri Lanka</td>
<td>3.3 million</td>
<td>16%</td>
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<tr>
<td>Bhutan</td>
<td>144 thousand</td>
<td>19%</td>
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<tr>
<td>Maldives</td>
<td>64 thousand</td>
<td>17%</td>
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Source: UNICEF The State of the World’s Children 2016, P.160 & 161
Raising awareness about the CRC should be a continuous endeavor, but the right interventions can ensure faster internalization of the CRC by society. Strategies targeting adolescents (10-19 years) are investments that can equip different generations with knowledge about child rights. Adolescents that are aware of the rights of children can thus play an important role in raising awareness and creating change in society. If adolescents understand the values of the CRC, they can share the knowledge with younger children, their peers, as well as with older generations and help in better identifying issues regarding child rights and demanding greater accountability. Moreover, as these adolescents become adults and enter the workforce and create families of their own, they can apply their knowledge and understanding of child rights in the public and private lives and become catalysts of social change. Adolescents must be introduced to the CRC and familiarized with it as they develop their value systems and perceptions about society. They must also have the confidence, support and platforms to voice their concerns and advocate for better results. This requires investments in both the education and empowerment of adolescents.

**Media channels as a Channel for Child Rights**

**Mainstream and traditional media**

Media opportunities are one of the most impactful ways to discuss child rights and bring it to public attention. News stories on child rights can alert the public about critical issues and gather widespread support, creating momentum to put concerns about child rights on the national agenda. Television and radio also continue to be very influential in shaping knowledge and opinions.

South Asia is a region with a vibrant arts and culture sector that at the grassroots level has been used extensively to raise awareness on rights, norms, behaviours etc. Employing these popular and interactive modes is a good way of reaching communities that may be isolated from mainstream and social media by poverty or language or other reasons.

**Social media: A growing opportunity**

Recent technological advances have made possible new opportunities to raise awareness about child rights. Social media has become an especially important platform for sharing information, and sometimes is even the go-to channel for information for the general public.

In recent years South Asia has experienced growth in internet access, and this connectively has tremendous implications for raising awareness on child rights in the region. Growing internet penetration means that more and more people are accessing social media each day. India has by far seen the greatest growth from 2018-2019, but other countries such as Bhutan, the Maldives and Bangladesh are also seeing soaring use. In just a matter of a few short years, social media has become a mainstream communications channel in all South Asian countries (see Figures 2 and 3 below).
Social media provides advantages in reaching communities that were previously hard to reach through traditional media. This makes it possible for the some of the most marginalized and disadvantaged groups to have access to the information they need to claim their rights. It also allows the faster spread of information, which can pressure governments to act quickly. Social media creates an open space for the public to share their views and opens direct channels for communications with politicians and other key members of society. Moreover, social media can also be an effective way for governments to share information about child rights, gather information which can inform policies and programmes, and launch campaigns to promote child rights.

As such, the immediate feedback and engagements made possible by Social Media can be useful when discussing important issues on child rights. As seen from many places around the world, a single social media post can sometimes give a legislator immense reach and traction. The information, messages and conversations generated on social media can, in turn, also lead to media attention and possible interviews. Social media, therefore, also opens opportunities to link with other channels of communication to place child rights at the forefront.

Every Individual, an Advocate for Every Child

Ensuring that children’s rights are fully realized requires governmental and societal commitment, and that commitment must be embodied in law and systems and social beliefs. But there is also the critical role of the persons in the society, the individuals. A child’s right is also the responsibility of every member of society. The well-being and positive development of a child directly impacts the future of a country and is therefore in everyone’s interest.

A major step in creating change is to increase knowledge of child rights. After gaining awareness, individuals have the opportunity to share that knowledge, and to increase the understanding within society on how failures to protect child rights holds back children’s development and the development of that society.

UNICEF often engages with Goodwill Ambassadors—well-known individuals who speak up for children and their rights to help alert the world to major humanitarian crises that have a severe impact on children’s lives. Parliamentarians and government officials can regard themselves in the same way; as VIPs who have the ability to firmly place specific child rights issues on the national agenda. They also have the authority to speak on sensitive issues such as violence against children and harmful traditional practices that can hurt children.

The ability to be an advocate for child rights, however, is not limited to special titles or positions. Every member of society who is aware of the CRC can speak up for child rights. Child rights affect every aspect of society, in the public and private spheres, from schools to businesses. It is a commitment that requires the combined efforts of all individuals and has greater strength when more voices demand commitment and action to end violations of child rights. As such, each member of society is in a unique position to be a spokesperson for child rights. Increasing one’s own knowledge of child rights can spark actions to raise the awareness of others through methods like those shown in Figure 4.

Figure 4

Be a person of influence raising awareness of child rights and the CRC

**Build your own knowledge base:**

1. Know the rights of the child
2. Demand the protection of child rights in legislation at the sub-national level
3. Request that information regarding child rights is available, open to the public, easily accessible and easy to read
4. Be aware of reporting and compliance mechanisms and procedures
5. Engage with different members in the community (peers, co-workers, family members, neighbors, religious institutions) to encourage them to learn more about the importance of child rights.

**Become known and influential**

1. Meet and maintain contact with media journalists and editors
2. Contact the media when your reaction or opinion could influence others
3. Contact national language and regional & local language media—all outlets are important!
4. Seize on public debates and parliamentary sessions as windows of opportunity to express views
5. Establish and update a social media presence.
6. On social media, link to child rights issues and the CRC. Express opinions on the issues.
7. On social media, add video clips and other attractive graphics
8. Always have the courage to speak up and speak out for child rights
CRC COMMITTEE COMMENTS ON AWARENESS RAISING ABOUT THE CRC IN SOUTH ASIA

Introduction

Scope of the issue

1. Awareness raising about the CRC is a concern to the Committee. Persons and groups that are unaware of their rights are not in a position to claim them. Duty-bearers that might be willing to exert effort to realize rights may not know what they are called on to do. The Committee therefore assigns a powerful role to public education about the Convention.

2. Taken narrowly, awareness raising could be confined strictly to making known the existence of the CRC and how it is reflected in national law. But simple knowledge is insufficient. The Committee consistently applauds national and sub-national laws that protect children’s rights. Equally, it calls on the state party and society to publicize and adhere to laws that have been passed but are not widely known or respected. It has done this on multiple occasions including laws concerning violence against women [Afghanistan 57c], corporal punishment [Afghanistan 38], and child marriage [Pakistan 38; India 52].

3. The degree to which awareness raising about the CRC is of concern is seen through the breadth of comments made by the Committee. The Committee has spoken about awareness raising under these headings:

- General Measures of Implementation
- General Principles
- Civil Rights and Freedoms
- Disability, Basic Health and Welfare
- Special Protection measures/Violence Against Children
- Follow-Up

Knowledge about the CRC and how it is embedded in national law

4. The CRC itself. The Committee consistently highlights a lack of awareness of the CRC by rights holders as a shortcoming in South Asia. Awareness raising is considered a basic duty of the state party. Since it underlies all rights, it is labelled as a ‘General measure of implementation’. Seven (7) of the 8 most recent regional reports have some version of this Committee response [Afghanistan paragraph 7; Bangladesh 18-19; Bhutan 11; India 23-26; Nepal 17; Sri Lanka 11]; The Committee recommends that the State party continue to: (a) Increase awareness-raising activities in all languages to ensure that, among adults and children, there is widespread familiarity with and understanding of the importance of children’s rights and their implementation and all the principles and provisions of the Convention… [and] (c) Vigorously address the low rate of recognition of children’s rights and of actors working on children’s rights in society [Sri Lanka, 2018, paragraph 11].

5. Laws that apply CRC rights. One way that the CRC is rendered active is through laws that apply its provisions to specific practices and problems that require a legal approach. The Committee consistently applauds national and sub-national laws that protect children’s rights. Equally, it calls on the state party and society to publicize and adhere to laws that have been passed but are not widely known or respected. It has done this on multiple occasions including laws concerning violence against women [Afghanistan 57c], corporal punishment [Afghanistan 38], and child marriage [Pakistan 38; India 52].

6. Court decisions. CRC-relevant laws are interpreted or clarified through Court decisions. The Committee has been pleased to note supportive Court decisions and recommends broad awareness raising around them. Recent Committee comments were made about child marriage [Nepal 40b] and corporal punishment: The Committee notes with appreciation the information provided by the State party that the High Court Division of the Supreme Court has given a directive to ban corporal punishment of children and to enact a law to prohibit corporal punishment of children in all educational institutions and workplaces. However, the Committee remains concerned about the high number of cases of violence reported in families, schools and institutions, alternative care settings, day care and penal institutions and as a sentence for crime. … The Committee also recommends strengthening the training of officials responsible for law enforcement on children’s rights [Bangladesh 38-39].

The purpose of awareness raising

8. Building Knowledge. As the previous section shows, a fundamental need is ensuring rights holders and duty bearers know about the CRC and the national laws and codes that apply it in the country. Equally fundamental is publicizing the resources that exist to claim rights. These resources include many points of contact between government and the populace through services, ombudspersons/ministries, and even through help lines [Bhutan 27; India 53-54; Maldives 48-48].

7. Report to the Committee & Committee response. The Committee feels that citizens and other stakeholders have a right to the report by State parties and their own response. Active efforts must be made to publicize these documents, including through means to reach all the populations of the nation. Most recent reports have included a version of this recommendation: The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined third to fifth periodic reports, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country and in child-friendly versions [Bhutan 62].

9. This basic role takes on an exceptional importance when the absence of knowledge can be linked to a part of the population having its rights abused or incompletely realized. That lack of knowledge may be systemic, and the corresponding awareness raising must be broad. The Committee recommends that the State party take effective measures to review its legislation and practices in order to eliminate any gender disparities in entitlements through the implementation of comprehensive public education and awareness-raising programmes to combat and prevent discrimination against girls, aimed at local authorities, religious leaders, judges and prosecutors, and to inform children, especially girls, about their rights under the Convention [Pakistan 19].
10. Explaining general principles and complex concepts. The Committee recognizes that the language of the CRC can itself be a barrier to basic understanding. When it sees that there is doubt or resistance to applying a general principle, it links that to a long-term failure to raise awareness sufficiently. Recent examples include:

- Clarifying that the best interest of the child does not mean ignoring rights abuses and the effect on the child. This was noted with respect to the social belief that a child’s honor is best preserved by not reporting that the child has been abused [Maldives 28-29]. The best interest of the child includes an obligation to act, as when the Committee recommended that the State party to take measures to investigate, prosecute and punish perpetrators of infanticide… and raise public awareness of the need to report such crimes to the police [Pakistan 23e].

- Explaining that the respect for the views of the child is a legal concept that must be applied throughout a wide range of settings [Afghanistan 31-2; Bangladesh 32; Sri Lanka 18]. The Committee is concerned that traditional societal attitudes towards children limit, and often totally prevent, children from expressing their views on issues that affect them and from having their views duly taken into account within the family, schools, other children’s institutions, the judicial and administrative system, and society at large. The Committee also notes with concern that although the 2005 Juvenile Code provides therefor, the right of children to be heard in any judicial or administrative proceedings affecting them is rarely respected, especially when girls are concerned, and children are not present or often requested not to speak during proceedings that concern them [Afghanistan 31].

11. Counteracting ingrained social practices: The authority of the CRC is deeply undermined when a society has convictions about children as persons that are not equal to adults. The Committee urges the State party to take awareness-raising measures targeted at adults and children to overcome the prevalent perception that children are inferior to adults and to treat children as rights holders [Sri Lanka 16]. Such beliefs can legitimate very grave violations of children’s rights. [The Committee] expresses its serious concern at the persistence of adverse cultural norms, practices and traditions, as well as deep-rooted stereotypes regarding the roles and the place of children, in particular girls, in society. Such stereotyping contributes to the persistence of violence against children and harmful practices, including child marriage [Bangladesh 26].

12. Reconciling the CRC and social belief: Misunderstandings about the CRC can lead to the belief that it is incompatible with some portions of national custom or law. In these cases, there is an obligation to show that there is in fact a way to bring the two together. The Committee notes that the State party’s efforts to raise awareness about the Convention, including through several television and radio programmes on child rights issues, as well as its efforts to conduct training sessions for persons working with and for children. The Committee is concerned, however, that… (b) There exists among some members of the general public, and especially children, a misconception about the “incompatibility” of Islam and children’s rights, in part as a result of the limited knowledge of the Convention [Maldives 18].

13. Overcoming broad social stigma. Over time a body of social views and social practices can come together in a pattern that stigmatizes a group and its members. The stigma can be attached to concepts of shame and honor, weakness, defilement, punishment, and mental illness. It can lead to children being kept away from education or other rights, to isolation and punishment, and to neglect. These denials of rights are sometimes built into the law. The Committee is deeply concerned when it senses any group is stigmatized, seeing it as a lack of awareness of their very humanity as well as the rights under the Convention. It has expressed itself forcefully in several instances:

- The disabled: For every set of observations from 2014 to the present covering 7 South Asian countries, the Committee has highlighted the situation of the disabled [Bangladesh 53; Bhutan 32; India 62; Nepal 47; Pakistan 45-6; Sri Lanka 29]. The Committee is deeply concerned at the high rate of abandonment of children with disabilities by their parents. It is further concerned at the lack of coordination among relevant ministries in planning and implementing programmes for children with disabilities as well as at the State party’s approach to children with disabilities, which is mostly centred on institutional care and medical treatment… Conduct awareness-raising and educational campaigns targeting children with disabilities, the public at large and specific groups of professionals, with a view to preventing and eliminating discrimination against children with disabilities [India 62-3].

- Indigenous children: The Committee has noted that significant social and in some cases legal discrimination and stigmatizing beliefs are directed at indigenous groups and ethnic minorities [Bangladesh 72; Bhutan 43; India 66; Pakistan 18; Sri Lanka 40]. The denial of rights reflects in part a lack of awareness, which calls for corresponding awareness-raising measures: The Committee notes with satisfaction that the new Constitution recognizes the right of indigenous children to education in their mother tongues. However, it is concerned about: (a) The lack of legal clarity on the responsibility for implementing this right and the de facto suppression of the right of indigenous children to information and access to media in their native language; (b) Dalit children, children belonging to minorities and Tibetan children frequently suffering from hindrances to accessing education, health and social services; insufficient quality and cultural appropriateness of health care accessible to indigenous children and their mothers… The Committee recommends that the State party… (b) Provide culturally and linguistically adapted awareness-raising campaigns and targeted support measures in Dalit, minority and Tibetan communities to ensure meaningful access to education, health and social services[Nepal 66-67].
The Way Forward

Recommendations to increase awareness on Child Rights in South Asia

According to the CRC Committee there is a systematic lack of awareness on the Convention on the Rights of the Child (CRC) across South Asian countries with several Reports calling on State parties to reverse this situation as a first step to realizing the rights of children. Parliaments have a critical role in generating political will and action around the implementation of the CRC and keeping governments accountable on both national and international commitments. Increased awareness is important for both duty-bearers and right holders to be well informed about the codes and national laws that apply in the country as well as what mechanisms exist to claim unfulfilled rights. This section provides recommended actions in six key areas that are linked to awareness raising: knowing your rights; laws and legislation; right to information; claiming rights and generating demand; overcoming stigma and discrimination; and accountability and access to justice. The recommendations are based on the Concluding Observations of CRC and reports on the Sustainable Development Goals (SDGs).

Knowing your rights

1. Increase awareness within the parliament through parliamentary debates, the election of agenda officers or the establishment of cross party parliamentary groups serving as CRC focal points.
2. Make the Convention on the Rights of the Child (CRC) available in all the languages of the country and promoted through legislative, policy and educational measures.
3. Produce versions of the CRC that are child and adolescent friendly, increasing the accessibility of the document and its contents and making it relevant to the lives of children.
4. Produce nationwide outreach and awareness raising campaigns with targeted channels that reach the population paying particular attention to reaching the most marginalized.
5. Mobilize communities and the public at large, including girls, in collaboration with the mass media, social networks, community and religious leaders, judges and prosecutors to inform them about the Convention and to promote its adoption for all children.

Laws and legislation

1. Ensure child rights are weaved into existing laws, national codes and legal frameworks to ensure the legislative implementation of the Convention.
2. Punish violations to national codes, laws, policies and legislation on child rights with equal consequences for the violation of girls' rights and the rights of minorities and marginalized children from ethnic, religious, racial, backgrounds.
3. Provide guidelines and regular training for judges, lawyers, prosecutors, the police and other relevant professional groups on standardized, gender- and child-sensitive procedures for dealing with child rights offenders and child victims.
4. Publicize through mass media and social media channels the measures taken against perpetrators of child rights violations to raise awareness that these violations have consequences before the law.
5. Ensure that there are safe, reliable, child-friendly and gender sensitive channels for reporting child rights violations, particularly for girls who suffer higher rates of violations and are both stigmatized and disempowered in society when speaking up for their rights.
### Right to Information

1. **Adopt (if it does not already exist) and enforce a national Right to Information Act** that gives all citizens the legal right to access information about any public authority or institution, including non-government organizations that are substantially funded by the government.

2. **Ensure that information about existing laws, budgets and implementation schemes on the CRC is available in public institutions, authorities and organizations funded by government.**

3. **Raise awareness through mass, social media and channels accessible to poor communities on the existence of the Right to Information Act, making it accessible in terms of language and clarity to encourage its use by citizens.**

4. **Use media opportunities to discuss and share information on child rights, particularly when financing for children or child rights are being discussed in Parliament or when a news story regarding child rights and/or the situation for children is being covered by the media.**

### Claiming rights & generating demand

1. **Conduct an analysis on the underlying factors that contribute to and perpetuate the violation of child rights at all levels from the individual and their immediate relationships, to the community, society and institutional levels. This should aim to highlight and identify barriers such as harmful behaviours and practices rooted in cultural and religious belief systems.**

2. **Design and implement a multi-faceted campaign to raise awareness on child rights targeting the root causes of weak implementation and enforcement as well as the barriers found at the individual, community and societal level.**

3. **Work closely with institutions and organizations at the community level such as schools, hospitals, community centers, and religious institutions among others to empower them and strengthen their capacity for identifying and reporting child rights abuses making them an extension of CRC enforcement at the sub national level.**

4. **Ensure that there are clear mechanisms at the individual, community and societal level for claiming rights and reporting abuses and strengthen the interpersonal skills of attendants to ensure victims and those reporting are safe and treated with respect and dignity.**

### Stigma and discrimination

1. **Take awareness raising measures to overcome the misconception that children and inferior to adults and may only have rights when they are adults.**

2. **Engage with religious leaders and faith-based organizations and communities to clarify and expose the complementarity of the CRC and child rights with religion, engaging them as advocates within their spheres of influence.**

3. **Make concrete and explicit efforts to identify and reach out to children and families that are stigmatized and discriminated against on the basis of race, religion, ethnicity, gender, location and physical abilities.**

4. **Design campaigns and awareness raising initiatives using a variety of channels that are accessible to the public (TV, radio, drama, mass media, social networks etc.) on the value of racial, ethnic and religious diversity upholding the position of the State as one based on tolerance and equality under the rule of law.**

5. **Integrate clear clauses on non-discrimination into all laws, policies and programmes on the implementation of the CRC.**

6. **Firmly place specific child rights issues on the national agenda and speak on sensitive issues such as violence against children and harmful traditional practices that can hurt children.**

### Accountability and Justice

1. **Trigger a debate in Parliament on the need for the adoption of fair and effective accountability measures and channels for redress linked to violations and abuses to children under the framework of the CRC.**

2. **Invest in the design and implementation of institutionalized accountability measures that are known and accessible to the public at the district, municipal and national level.**

3. **Provide guidelines and regular training for judges, lawyers, prosecutors, the police and other relevant professional groups at all levels of government from the local to national and ensure that legal action can be taken against officials who act in discordance with national laws and codes that protect children from violations to their rights.**

4. **Ensure equal access to justice for all citizens and children regardless of race, ethnicity, religion, gender, socioeconomic status and location.**
6. ENDING CHILD MARRIAGE IN SOUTH ASIA

Ending child marriage in South Asia  91
The way forward  101
ENDING CHILD MARRIAGE IN SOUTH ASIA

Introduction
Child marriage, a harmful practice that disproportionately affects girls globally, preventing them from accessing their rights. It is defined as a marriage where one party is below the age of 18 and is a normal practice in many countries in South Asia with 29.8 percent of women aged 20-24 marrying before the age of 18 and 4.3 percent of men. South Asia is home to the largest number of child brides – 285 million. These percentages though mask the differences between countries. One in ten boys marry as a child in Nepal, the 10th highest prevalence in the world, and almost six in ten girls marry as a child in Bangladesh.

While the proportion of children marrying in South Asia is decreasing, the risks to these children remain. Marrying as a child forces the child into adult roles that they may not be equipped for such as being a parent, looking after a household, and going to work. Many children who marry are not in school, and girls face additional health care complications resulting from child bearing that their older counterparts will not face. And the children miss the important learning experiences gained through play and interaction with peers as girls often have to move into another household and possibly community, and both girls and boys are separated from children their own age, as they are considered ‘adults’. Marrying as a child can limit the agency the child has to make decisions about their lives, impacting on their ability to access their rights.

Ending child marriage is a global objective reflected in the unanimously endorsed Sustainable Development Goals, and specifically Goal 5.3 which calls for the elimination of harmful practices such as child, early and forced marriage. All countries in South Asia made a commitment to end child marriage as seen in the Regional Action Plan to End Child Marriage endorsed by SAIEVAC. Afghanistan, Bangladesh, and Nepal have national action plans to end the practice, and some states in India have also adopted plans, yet legally child marriage is permitted, and there is discrimination within the age of marriage between the sexes.

Table 1
Minimum Age for Marriage

<table>
<thead>
<tr>
<th>Country</th>
<th>Girls</th>
<th>Girls with Parental consent/ court approval</th>
<th>Boys</th>
<th>Boys with Parental consent/ court approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>16</td>
<td>15</td>
<td>18</td>
<td>-</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>18</td>
<td>No minimum</td>
<td>21</td>
<td>No minimum</td>
</tr>
<tr>
<td>Bhutan</td>
<td>16</td>
<td>-</td>
<td>18</td>
<td>-</td>
</tr>
<tr>
<td>India</td>
<td>18</td>
<td>-</td>
<td>21</td>
<td>-</td>
</tr>
<tr>
<td>Maldives</td>
<td>18</td>
<td>Puberty</td>
<td>18</td>
<td>Puberty</td>
</tr>
<tr>
<td>Nepal</td>
<td>20</td>
<td>-</td>
<td>20</td>
<td>-</td>
</tr>
<tr>
<td>Pakistan (Federal)</td>
<td>16</td>
<td>-</td>
<td>18</td>
<td>-</td>
</tr>
<tr>
<td>Punjab</td>
<td>16</td>
<td>-</td>
<td>18</td>
<td>-</td>
</tr>
<tr>
<td>Sindh</td>
<td>18</td>
<td>-</td>
<td>18</td>
<td>-</td>
</tr>
<tr>
<td>Other jurisdictions</td>
<td>16</td>
<td>-</td>
<td>18</td>
<td>-</td>
</tr>
<tr>
<td>Hindu marriages</td>
<td>18</td>
<td>-</td>
<td>18</td>
<td>-</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>18</td>
<td>No minimum for Muslim marriages</td>
<td>18</td>
<td>No minimum for Muslim marriages</td>
</tr>
</tbody>
</table>

Data on the present situation
With the commitment to end child marriage in South Asia, the prevalence of child marriage in the region could halve by 2030 with concerted effort. In 1985 63 percent of women aged 20-24 married before the age of 18. The current prevalence is almost 30 percent. If the observed decline continues this could be reduced to 20 percent by 2030 and possibly 13 percent if we double our efforts.

Graph
Percentage of women aged 20 to 24 years who were first married or in union before age 18, observed and projected, South Asia

Note: The projected percentage based on observed trends (red dotted line) applies the annual rate of reduction observed from the past 25 years. The accelerated scenario (purple dotted line) assumes a doubling in the rate of reduction. Analysis includes data from 6 countries in South Asia, covering 99% of the regional population.
Child marriage is practiced across all wealth quintiles. While at first glance it appears to be a larger issue within the poorest quintile, the percentage of the wealthiest who marry in Bangladesh is almost the same percentage as the poorest in Afghanistan, Bhutan, India and the Maldives.

Graph

### Percentage of women aged 20 to 24 years who were first married or in union before age 18

<table>
<thead>
<tr>
<th>Country</th>
<th>Total</th>
<th>Poorest</th>
<th>Second</th>
<th>Middle</th>
<th>Fourth</th>
<th>Richest</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>35</td>
<td>41</td>
<td>37</td>
<td>33</td>
<td>36</td>
<td>29</td>
<td>DHS 2015</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>59</td>
<td>79</td>
<td>64</td>
<td>60</td>
<td>55</td>
<td>44</td>
<td>DHS 2014</td>
</tr>
<tr>
<td>Bhutan</td>
<td>26</td>
<td>40</td>
<td>32</td>
<td>27</td>
<td>26</td>
<td>11</td>
<td>MICS 2010</td>
</tr>
<tr>
<td>India</td>
<td>27</td>
<td>46</td>
<td>37</td>
<td>29</td>
<td>20</td>
<td>10</td>
<td>NFHS 2015-16</td>
</tr>
<tr>
<td>Maldives</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>DHS 2016-17</td>
</tr>
<tr>
<td>Nepal</td>
<td>40</td>
<td>46</td>
<td>45</td>
<td>50</td>
<td>38</td>
<td>20</td>
<td>DHS 2016</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>DHS 2016</td>
</tr>
<tr>
<td>South Asia</td>
<td>30</td>
<td>47</td>
<td>38</td>
<td>32</td>
<td>23</td>
<td>13</td>
<td></td>
</tr>
</tbody>
</table>

Globally the data shows that girls with only primary education are twice as likely to marry or enter into union as those with secondary or higher education. In South Asia those who graduate from secondary school are less likely to marry as a child.

Graph

### Child marriage and education attainment for women aged 20-24 by child marriage status

- **No Education**: Married before 18
- **Incomplete Primary**: Married after 18
- **Complete Primary**: Married before 18
- **Incomplete Secondary**: Married after 18
- **Complete Secondary or higher**: Married before 18
However the above also shows a different pattern, when assessed in relation to the child marriage rates. For example in Pakistan where many girls have not had formal schooling compared with Bangladesh where while most girls have had some formal education, the proportion of child marriages is significantly lower in Pakistan at 18 percent compared with 59 percent in Bangladesh. That said, the greater the education and literacy level of the household head the less likely a child in their household will be married, and therefore emphasises the importance of education as an intervention to sustain and contribute to a continued decrease in the practise. Within child marriage there are other risks on the health of the married girl due to pregnancy and child bearing as a child, before her body is fully developed. While the below graphs clarify that not all married girls have a child before the age of 18, an important proportion of girls who have children may be married early.

The infants of adolescents are at higher risk of negative outcomes. Stillbirths and newborn deaths are 50 per cent higher among infants of adolescent mothers than among infants of mothers between the ages of 20 and 29. Infants who survive are more likely to be of low birth weight and be premature than those born to women in their 20s, as well as at higher risk of stunting.

The risk to domestic and sexual violence is much higher for girls caught up in child marriage. In Nepal, one in three married girls experience sexual violence while one in six experience physical violence and in Pakistan, those who married as children are more likely to report controlling behaviours, and more physical and emotional violence. The ability to address violence in marriage may also be hindered by cultural norms that do not recognise violence, including gender based violence, within marriage, and therefore illustrate a different approach to children who are married. Child marriage may be a coping mechanism during humanitarian situations and emphasizes the importance of addressing the increased vulnerability of girls which has the potential to be exacerbated during emergency situations.
CRC committee comments on the issue of child marriage

These findings are consistent with the most recent reports on from the Committee on the Rights of the Child. The Committee has commented on the issue for each of the most recent reports of the 8 nations of South Asia. This reflects the prevalence of the practice in the region and the salience of the issue to the CRC. Child Marriage has a harsh and enduring effect on the lives of the children affected, with consequences extending throughout the life of the child and extending to the next generation. While affects both boys and girls, it is in the great majority a dramatic life change visited on girls, who bear the most serious consequences.

The degree to which early and Child Marriage violates the CRC is seen through the breadth of comments made by the Committee. The CRC Committee has spoken about child marriage under these headings:
- Definition of the Child
- General Principles
- Civil Rights and Freedoms
- Family Environment and Alternative Care
- Basic Health and Welfare
- Special Protection measures/Violence Against Children

The following summary conveys the range of CRC Committee concerns to the nations of the region:

**Age at which marriage is allowed**

The Committee commends national laws that establish 18 as the age at which children acquire adult status and are able to freely enter into marriage. As noted earlier there are countries in South Asia that permit child marriage at any age under eighteen, and the Committee always notes its disapproval of these exceptions.

1. In a federal system, sub-national units may be allowed to set the age of marriage at <18. This is done on a legislative basis through the provincial/ state or other political entity’s law-making powers [Pakistan, paragraph 16 of the most recent Concluding Observations report by the Committee]; **subsequent references to Committee reports will simply state the Country and the paragraph.**

2. (in a state where national communities are recognized—often on religious or ethnic grounds—the communities are given certain powers of self-regulation and can use them to lower the age of marriage [India 51; Sri Lanka 15]: “The Committee is concerned at barriers impeding the full implementation of the [Prohibition of Child Marriage] Act, such as...the existence of different Personal Status Laws establishing their own minimum age for marriage applicable to their respective religious community and the lack of awareness of the Act by law enforcement officers.” [India 51])

3. Judges can be given the discretion to authorize marriages of persons under 18, usually subject to certain conditions such as the child having reached puberty. This transfers the decision from the legislative sphere to the judicial sphere [Bangladesh 22; Maldives 46-47].

4. Failure to secure the right to have one’s birth registered makes the child vulnerable to marriage because there is no official documentation of their age. There are large numbers of children in the region that do not have a birth certificate.

5. The ability to settle debts by ‘exchanging’—i.e. trafficking or marrying off—a child to resolve inter-family disputes or debts [Afghanistan 55; Pakistan 18a]: “The Committee remains extremely concerned about...the persistence of early marriages and exchanges of girls for debt settlement”[Pakistan 18a]

6. “The Committee recognizes the rich culture and traditions of the State party and their importance in daily life; However, it expresses its serious concern about the persistence of adverse cultural norms, practices and traditions, as well as deep-rooted stereotypes regarding the roles and the place of children, in particular girls, in society. Such stereotyping contributes to the persistence of violence against children and harmful practices, including child marriage”[Bangladesh 26].

Following from the above, the committee particularly notes with concern child marriage practices that negate the value of the girl child, such as:

- Sexual abuse of married girls over age 15 is not a criminal offense, to which is added that there are problems in securing effective treatment and in reporting [India 49]

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2. Girl victims of sexual assault are at a risk of forced marriage to the person that assaulted them [Afghanistan 70; Nepal 35]: “Ensure effective reporting and protection mechanisms to prevent forced marriages of rape to their aggressors” [Nepal 35].

Economics are not seen by the committee as a reason to permit child marriage, rather it calls for this to be addressed:

8. Certain geographic regions of a country may have a higher incidence, which can overlap with socio-economic (e.g. the rural economy) or ethnic factors. “The Committee...is deeply concerned about the prevalent practice of child marriage of girls, especially in rural areas”[Bhutan 25].

9. The law allows parental responsibility to maintain their children to end when the child is married, which can create an economic incentive to see a child married [Afghanistan 41]. “...maintenance of the child falls under the exclusive responsibility of the father who has the obligation to maintain a son until he is capable of making his own livelihood, and a daughter until she is married, which greatly contributes to early marriage for girls”[Afghanistan 41].

**Access to rights for children who are married**

Preventing child marriages so none occur is the ultimate goal. But until that it reached, the CRC and the Committee carefully look at the fulfillment of rights of children who are married. No child should have their rights diminished or withdrawn by virtue of being married. Unfortunately, that is not always the case. In recent reports, the Committee has noted these instances in South Asia:
- Sexual abuse of married girls over age 15 is not a criminal offense, to which is added that there are problems in securing effective treatment and in reporting [India 49]
• The provisions of the national Law on the Protection of the Rights of the Child do not apply to a married child (Maldives 24): “The Committee is concerned that Article 28 of the Law on the Protection of the Rights of the Child (Law No. 9/91) provides for three exceptions under which a child is not entitled to any rights provided by this law: a child who enters a contract of marriage; a child who becomes a parent; and a child who is employed.”

Continuing the theme of access to rights for children who are married, the Committee has noted options to recover rights that may seem to have been lost with the marriage. Recovery requires the active support of the State party and members of society. This is seen in these South Asian instances:

10. The Committee has recommended that the law allow an appeal option through which a child who is married can have that marriage rendered void. Just as a child can be married, they can be legally unmarried and restored to childhood [Nepal 39-40]

11. While there may not be a legal prohibition against a married child attending school, in fact schooling is often abandoned under the pressures of domestic labor, child rearing, and social beliefs about schooling for married children. The Committee notes that there may be a need for specific remedial measures [Sri Lanka 38]: “… the Committee... recommends that the State Party... provide school re-entry programmes for victims of child marriage.” [Sri Lanka 38]

### Table

#### Summary

Ending Child marriage in South Asia: areas of concern commented by CRC Committee in the latest Concluding Observations

<table>
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<tr>
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<tbody>
<tr>
<td>Definition of the child</td>
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<tr>
<td>Age of marriage is &lt;18 for some or all youth</td>
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<td>Judges have discretion by law to permit marriages of &lt;18</td>
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<tr>
<td>Married children not covered by the national law protecting child rights</td>
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<tr>
<td>General Principles</td>
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<tr>
<td>Adverse norms and stereotypes contribute to CM</td>
<td></td>
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<tr>
<td>Civil Rights &amp; Freedoms</td>
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<tr>
<td>Exchange of girls to settle debts; broad gender discrimination</td>
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<tr>
<td>Low birth registration rates hamper preventing CM</td>
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<td>Disability, basic health and welfare</td>
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<tr>
<td>Despite laws, violence against women persists, including CM</td>
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<td>Absence of effective anti-CM measures</td>
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<tr>
<td>Provide school re-entry programs for child brides and grooms</td>
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<tr>
<td>Special protection measures &amp; Violence against children</td>
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<tr>
<td>Lack of awareness that child marriage is illegal</td>
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<tr>
<td>CM remains prevalent despite laws</td>
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<tr>
<td>Sexual abuse of married girls over 15 is not a crime</td>
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<tr>
<td>Girl victims of sexual abuse are at risk of forced marriage</td>
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<tr>
<td>Lack of legal framework for refugees &amp; stateless persons makes children vulnerable to CM</td>
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THE WAY FORWARD

The data and the Committee of the Rights of the Child illustrate the need for a comprehensive approach to addressing child marriage. It requires looking at that full environment that the child lives in to provide the support required to end the practice. To end child marriage requires the empowerment of the adolescents, their families and their communities to address the practice and take a different path. Like any programme that aims for empowerment it requires agency, resources and opportunities.

Governance to Prevent Child Marriage
1. Establish a minimum age of marriage of at least 18 for both boys and girls*
2. Uphold the legal framework to prohibit child marriage, including removal of all exception clauses permitting marriage before the age of 18 for girls and boys, and emphasizing that the national law supersedes the different religious-based customary laws*
3. Prohibit and enforce laws against exchanging children to settle debts*
4. Ensure that minimum age at marriage laws apply to refugees and stateless persons*
5. Ensuring birth and marriage registration is available and that these systems are used to help prevent child marriage.

Creating an Enabling and Gender Respecting Environment
1. Using legislative, policy and educational measures, to end social, cultural and economic discrimination against girls and women
2. Amend legislation to eliminate any discrimination against girls and women and to ensure that girls and women enjoy the same rights and entitlements as boys and men in all aspects of life
3. Encouraging local champions and influencers including in households, communities, local institutions (including schools and health centres) and at all levels of government to promote the ending of child marriage
4. Strengthen awareness-raising campaigns and programmes on the harmful effects of child marriage on the physical and mental health and well-being of girls, targeting children, parents, teachers, health professionals, local authorities, community and religious leaders, judges and prosecutors.

Empower Adolescent Girls & Boys to Realize Their Rights
1. Engaging in discussions with government, UN and civil society on actions to end child marriage and adolescent empowerment
2. Develop and endorse national and sub-national policies to end child marriage
3. Inform children about their rights to informed consent to marriage

Protect the Rights of Children that are Married
1. Establish protection and support schemes for children wishing to void their marriage, particularly those who file a complaint*
2. Ensure that any laws protecting children apply in full to children who are married. To include laws prohibiting sexual assault of minors*
3. Promote the retention of married children in schools, including through special re-entry programs and alternative learning programs*

Sustain the Impact of Child Marriage Program
1. Demand for and review of civil registration data on birth and marriage registration
2. Review of budget plans to end child marriage against budget implementation

END NOTES
5. Note: The projected percentage based on observed trends (red dotted line) applies the annual rate of reduction observed from the past 25 years. The accelerated scenario (purple dotted line) assumes a doubling in the rate of reduction. Analysis includes data from 6 countries in South Asia, covering 96% of the regional population.
6. UNICEF global databases, 2018, based on DHS, MICS and other internationally representative surveys.
12. Based on most recently available MICS or DHS survey findings reports.
13. Based on most recently available MICS or DHS survey findings reports.
7.

YOUNG PEOPLE’S PARTICIPATION IN GOVERNANCE

Overview 105
CRC Committee Recommendations 112
The way forward 118
OVERVIEW

**Why Young People's Participation in Governance?**

Young people’s participation in decisions that affect their lives is a fundamental right as set out in the United Nations Convention on the Rights of the Child (UNCRC). Young people have the right to be part of deliberations, for their experiences to be understood by adults, and for their voices to influence change. Their participation in governance is not an option, but a necessity so that we bring about equitable and fair change not just for young people, but for also for communities. Ensuring the right to participation in decisions that affect their lives is also fundamental to achieving all other rights.

Participation is an essential component of a democracy. It is important for the growth of young people as constructive citizens and fully evolved and self-confident human beings. It enables young people to have a sense of belonging and perceive of themselves as agents of change. Genuine efforts for youth participation is also critical to counteract the growing sense of disengagement and disillusionment among certain groups of young people who are drawn to anti-social behavior and extremism. There is growing evidence of how this positive engagement and empowerment create increasingly equitable outcomes for young people and others.

**Who are Young People?**

Young people between the ages of 10-19 (adolescents) constitute around 340 million, or 20% of South Asia’s population. The population in this age group increased by 39% from 1990 – 2015. Not only are they a significant and growing proportion of the region’s people, but they are an important asset, due to their specific generational location, with the drive, passion, idealism and vision to change realities for themselves and others.

**South Asia’s Adolescent Demographics**

<table>
<thead>
<tr>
<th>Nation</th>
<th>Adolescent population</th>
<th>Adolescents as a % of the national population</th>
</tr>
</thead>
<tbody>
<tr>
<td>India</td>
<td>259 million</td>
<td>19%</td>
</tr>
<tr>
<td>Pakistan</td>
<td>38.8 million</td>
<td>21%</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>32.5 million</td>
<td>20%</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>8.3 million</td>
<td>26%</td>
</tr>
<tr>
<td>Nepal</td>
<td>6.6 million</td>
<td>23%</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>3.3 million</td>
<td>16%</td>
</tr>
<tr>
<td>Bhutan</td>
<td>144 thousand</td>
<td>19%</td>
</tr>
<tr>
<td>Maldives</td>
<td>64 thousand</td>
<td>17%</td>
</tr>
</tbody>
</table>

It is important to understand youth as a generational category through the demographic, social, physiological and ideological dimensions that define them (See Fig 1), if they are to be meaningfully connected to policy making processes. Young people are not homogeneous. They are diverse as individuals, and as communities of race, class, ethnicity, gender, sexual orientation, capabilities and disabilities.

**Dimensions of Youth**

**Demographically**
The UN defines young people as those between the ages of 15-24. Early adolescence is defined as those between 10-14 years, late adolescence as 15-19 years, and young adulthood as 20-24 years. The 10-19 age group is also known as the second decade of life.

**Socially**
Youth is seen as a transitory stage between childhood and adulthood, from school to work, from dependency to relative independence, for some, from family of origin to family of procreation, and, critically, as a time of value and identity formation.

**Physiologically**
The second decade of life is a period of substantial neurological development, where emotional skills and physical and mental abilities are reorganized. There is also increasing evidence that the age group 10-24, rather than 20-19, is more useful to understanding physiological and cognitive adolescent growth.

**Ideologically**
Young people are seen as “rebellious”, impulsive, stubborn. They are often seen as a “threat”, as they question established ways of doing and seeing things. UNICEF promotes the value that young people are assets, not liabilities, and that they need to be a productive part of all aspects of life. Young people are also seen as rights-holders.

They are also different in their worldviews, and opinions. All these diversities have to be brought into systems that enable young people’s participation in public decision making. In public policy forums, it is particularly difficult for young people to assert their identities and viewpoints as they are seen as somehow “less experienced” and not “informed”. This power dynamic needs attention when engaging with them.
Children’s Right to Participation and The United Nations Convention on the Rights of the Child

The Right to participation is found in multiple articles of the Convention:

- Article 12 of the Convention, the Right to Participation, is a fundamental right and also a general principle that cuts across all other rights. It requires that States Parties ensure young people have the right to express views on issues that affect their lives.
- Article 13 assures young people’s right to the freedom of expression.
- Article 15 enshrines the right to Freedom of Association and Peaceful Assembly. This implies the ability of young people to gather and organize in order to represent their views systematically.
- Article 17 articulates the Right to Information, a prerequisite for meaningful participation in decision-making domains.

Young People’s Action and Change

The participatory research to guide action on Resolution 2250 on Youth, Peace and Security titled The Missing Peace has shown that meaningful political and economic inclusion was a central demand from young people, with political exclusion viewed as underpinning all other forms of exclusion. At the same time, young people clearly stated that inclusion in corrupt, undemocratic or oppressive systems is not valid, legitimate or acceptable to most youth. Young people feel they need to be at the centre of transparent, fair processes leading to decisions that affect their lives. Realising this will declare that we are committed to implementing the UNCRC’s Articles on the Right to Participation.

In the absence of meaningful opportunities to participate socially, politically and economically, marginalized young people are forging alternative places of belonging and meaning through which to express themselves.

Young people across South Asia have voiced their opinions on their right to education, employment, safety and security through many forums such as student organisations, National Youth Councils and other formal and informal structures and movements. Often, young people are able to create positive relations with decision-makers and forge outcomes that are beneficial for them and for others.

In many other cases these relationships have been challenging, both to young people and decision-makers. Bottlenecks in meaningful policy engagement leads to challenges in attaining development goals; more than 25% of 15-20 year olds are out of Education and Training in South Asia. The richest children in South Asia have 40% more chance of attending school than the poorest children, indicating the relationship between access and wealth. Only a quarter leave school with the secondary skills they need, and 30% of women aged 20-24 were married before their 18th birthday. Children and youth that have not achieved a full education cycle can be intimidated from voicing their opinions or joining in supportive organizations. It is particularly important that States Parties take action to support most marginalised groups to achieve these rights as they often have the least access to policy spaces and sometimes may lack the confidence and capacities to express themselves in formal contexts.

International and Government Actions to Support Youth Empowerment and Organization

Countries across South Asia have established many official/endorsed structures that enable young people to organize themselves around activities and processes, and to articulate their aspirations (see Fig 3). Some examples are National Youth Councils, or networks of youth clubs such as those established by Nehru Yuva Kendra Sangathan in India, and the National Youth Services Council of Sri Lanka. Some countries in the region also have National Youth Parliaments, such as in Pakistan, where elected youth representatives engage with youth constituencies and adult decision-making structures. There are also many other forms of formal and informal youth engagement and participation prevalent across the region at various levels of governance that are yet to be adequately documented. All these structures and processes are important steps in helping build solidarity and connection among young people. A focus on involving adolescents, or younger youth, in these arenas, is also important.
Many countries in South Asia also have developed and/or implemented youth policies that foreground policy priorities for young people (See Fig 3). And almost all countries in South Asia have an established national Ministry with a youth portfolio.

At an international level, Resolution 2250 on Youth, Peace and Security, adopted by the United Nations Security Council in 2015 is the first resolution fully dedicated to the important and positive role young women and men play in the maintenance and promotion of international peace and security.

From the perspective of Article 12 of the UNCRC, resolution 2250 is as it critically foregrounds young people’s role as agents of change.

At the national and local levels, the creation of opportunities for young people’s activities and cultural events is an excellent start. State parties and societies now need to build on structures that genuinely support the representation of young people’s interest and to see young people as problem-solvers on issues of concern.

Figure 3

National Youth Policies, State/Endorsed National Youth Organisations and Associations

<table>
<thead>
<tr>
<th>Country (NYP Publication date)</th>
<th>Age range covered by NYP</th>
<th>National Youth Organizations and Associations with links to public bodies/legislation/policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan (2014)</td>
<td>12-17 (adolescents), 18-35 (Youth)</td>
<td>NYP recommends expansion of youth councils.</td>
</tr>
<tr>
<td>Bangladesh (2003)</td>
<td>18-35</td>
<td>The National Federation of Youth Organisations in Bangladesh describes itself as the “coordinating body for youth organisations” in the country, even though no acknowledgements of this role have been found.</td>
</tr>
<tr>
<td>India</td>
<td>13-19 adolescents 15-29 (youth)</td>
<td>Nehru Yuva Kendra Sangathan youth club network.</td>
</tr>
<tr>
<td>Maldives (2017)</td>
<td>18-35</td>
<td>National Youth Council (reported as no longer active)</td>
</tr>
<tr>
<td>Nepal (2010)</td>
<td>16-40</td>
<td>National Youth Council, the Association of Youth Organizations Nepal, and Youth NGO Federation</td>
</tr>
<tr>
<td>Sri Lanka (2014)</td>
<td>15-29</td>
<td>National Youth Services Council</td>
</tr>
</tbody>
</table>

Legal Stipulations

<table>
<thead>
<tr>
<th>Neon stipulations</th>
<th>Afghanistan</th>
<th>Bangladesh</th>
<th>Bhutan</th>
<th>India</th>
<th>Maldives</th>
<th>Nepal</th>
<th>Pakistan</th>
<th>Sri Lanka</th>
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<tbody>
<tr>
<td>Majority age</td>
<td>18</td>
<td>18</td>
<td>18</td>
<td>18</td>
<td>16</td>
<td>18</td>
<td>18</td>
<td>18</td>
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<tr>
<td>Voting age, lower</td>
<td>18-35</td>
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<td>house</td>
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<td>25</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>18</td>
</tr>
<tr>
<td>Consent to sexual activity</td>
<td>Marital status</td>
<td>14, for females only; limited to married couples, 18, for either sex, except for married adolescents</td>
<td>16, for females only</td>
<td>Marital status</td>
<td>16, for females only</td>
<td>Marital status</td>
<td>16, for females only, but excludes married Muslim girls</td>
<td></td>
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</table>

Some Laws in South Asia related to Youth as Agents and Decision-Makers

The following legal stipulations in South Asia refer specifically to the recognition of young people as actors and decision-makers in political and personal arenas.
Case Study 1: Nepal: Young People’s Participation In Constitution-Making

The formulation of Nepal’s new Constitution is an outstanding example of the participation of young people in the making of the Constitution. In 2007, children and adolescents made recommendations to the government on policy concerning their rights. Children from 63 districts were consulted at local and district levels. This was followed by a national consultation, held in the capital, of 63 child representatives selected from child clubs across 48 districts. The outcome was a 12-point agenda to be addressed by the State and put forth by the children, concerning their health, education, development, protection and participation. The Constitution of Nepal 2072 has well addressed the provisions of rights of children as their fundamental rights.

Case Study 2: Children’s Councils, Kerala, India

In Karnataka, Southern India, children and young people have been able to co-create with adults, mechanisms that feed into local government planning. Makkala Panchayats (children’s local governments) are designed as a children’s and young people’s equivalent to Grama Panchayats, the elected adult councils at the most local level, which manage day-to-day life in rural India under the ‘Panchayati Raj’ scheme of decentralised government. Elected by all the children of a Panchayat, the Makkala Panchayat monitors the work of the adult Panchayat, identifies problems facing children and young people, works to create solutions and, where necessary, demands action from adult representatives. Within a few years of being set up, Makkala Panchayats proved highly effective at enabling children and young people to organise and demand solutions to their problems.

CRC COMMITTEE RECOMMENDATIONS

The following CRC Committee comments on connecting youth and policy makers in the most recent reports concerning the eight nations of South Asia provides the specific actions required by governments on improving actions to implement youth participation in governance.

Introduction

Scope of the issue

1. The CRC calls on each state party to respect the views of the child. How that is to be accomplished and for which particular goals is not precisely stated. Consequently, the reports to the Committee and the committee’s observations range over many different themes. This note discusses how to respect the voice of the child in the realm of public policy and in the management of public services and systems. Beyond that it calls for the child’s voice to be respected in the community and in the family.

Breadth of Committee concern:

2. The degree to which respecting the voice of the child is of concern is seen through the wide range of comments made by the Committee. The CRC Committee has spoken about this theme under these headings:

- General Measures of Implementation
- General Principles
- Civil Rights and Freedoms
- Family Environment and Alternative Care
- Disability, Basic Health and Welfare
- Special Protection Measures/Violence Against Children
- Follow-Up

The General Principle: Respect for the Views of the Child

3. A broad right to participate in the public sphere. The Committee clearly states that the child is to have his/her views respected in a broad range of situations [Afghanistan 2011 report, paragraphs 31-32; Bangladesh 32-33; Bhutan 17; India 37-38; Maldives 32-33; Nepal 24; Sri Lanka 18]. That respect should extend throughout the public sphere, which is a very broad concept. The comment on the India report conveys just how broad that right to be heard is: The Committee welcomes the State party’s initiatives, such as the Child Reporters Initiative, to increase children’s participation in society, as well as its efforts to increase children’s participation in civil proceedings affecting their rights and well-being. However, the Committee is concerned that children are generally not perceived as rights holders by society and that their participation in the public sphere and opportunities to have their voices heard in the family, schools, community and at the central level are insufficient [India 37]. The Committee in all cases has said the State party must do more to realize this right.
Knowledge about the CRC: A General measure of Implementation

4. The CRC itself. For youth to engage in the publish sphere they must be aware of their rights, starting with the CRC itself. The Committee consistently highlights a lack of awareness of the CRC by rights holders as a shortcoming in South Asia. Seven (7) of the 8 most recent regional reports have some version of this Committee response [Afghanistan 7; Bangladesh 18-19; Bhutan 11; India 23-26; Nepal 17; Sri Lanka 11]. The Committee recommends that the State party continue to: (a) Increase awareness-raising activities in all languages to ensure that, among adults and children, there is widespread familiarity with and understanding of the importance of children’s rights and their implementation and all the principles and provisions of the Convention [Sri Lanka 11].

Broad encouragement that children should be engaged in policy-making processes:

5. Direct involvement is endorsed. The views of the Committee are not stable or consistent about directly engaging youth/children in policymaking. They are clear that they wish it to happen and that is not happening enough. But they are much less clear about the right way to achieve it, and so acknowledge different approaches without consistently endorsing a particular one:

• In public budgeting: Ensure transparent and participatory budgeting through public dialogue and participation, in particular that of children, and ensure proper accountability by local authorities [Afghanistan 16a]

• Through Children’s Parliaments but also by extensive participatory mechanisms to engage hard to reach children like those living in remote areas or who are out of school [Bhutan 17]

• Through a broad ‘toolkit’: Develop toolkits for public consultation on national policy development to standardize such consultation at a high level of inclusiveness and participation, including consulting with children on issues that affect them [India 37c]. Unfortunately the contents of such a toolkit are not discussed.

6. Indirect consultation is endorsed. Children may be seen to be inferior to adults or to not have rights [Bangladesh 27; India 37; Sri Lanka 16], which makes adult policy-makers unlikely to value their views. There can be pragmatic obstacles to consultation. Consequently, the Committee endorses indirect means to gather the youth and child views. One means is through the engagement of civil society organizations ‘including non-governmental and children’s organizations, in planning, implementing, monitoring and evaluating all State-supported policies, plans and programmes relating to children’s rights’ [Bangladesh 21]. However, it also notes that ‘coordination remains weak, limiting the participation of civil society organizations and non-governmental organizations in formulating and monitoring policies and strategies to implement the Convention’ [Bangladesh 20].

Engaging children around particular policy-making needs

7. A consistent mandate to engage on specific issues. The Committee time and again critiques a State party for providing insufficient or mis-directed services, or for building into policy the prejudices of the society. The Committee calls on the State party and society to respect the views of the child in these cases as a vital route to understanding what should be done.

8. The policy issues they identify for necessary consultation are among the most challenging in the entire public-private spheres. Consider these requests from the Committee that the state party:

• Consult with children ‘in the definition and the implementation of preventive strategies against domestic violence and other forms of abuse and neglect’ [Afghanistan 48 f] in reaction to the unlimited right of the father to discipline children and limits placed on where runaways can legally find safe haven [Afghanistan 47].

• Undertake a comprehensive study of the shortcomings of adolescent health services, with the full participation of adolescents, and use the outcome of this study to formulate adolescent health policies and programmes [Afghanistan 54]

• Develop and implement a comprehensive strategy on the rights of children with disabilities, with their full and meaningful participation... (because) the Committee is … concerned about the absence of a national law, a policy and programme on disabilities that affects the provision of adequate services to children with disabilities [Bhutan 31-32].

• Provide families faced with social and economic difficulties with adequate support and welfare services to prevent their children from engaging in child labor and sexual exploitation activities. Targeted programmes should be developed with the meaningful participation of children [Bhutan 45].

• The Committee is alarmed by reports that a large number of children live in street situations and are deprived of their basic rights, including access to health care, education and shelter, and are subjected to hazardous forms of labour, sexual exploitation, abuse and trafficking… The Committee reiterates its previous recommendation that the State party… (c) Respect the right of children in street situations to be heard when developing programmes and measures designed to protect and assist them [Pakistan 73-74]. The Committee likewise recommends that a national strategy for children in street situations that ‘observes and respects the views, autonomy and diversity of such children’ [Sri Lanka 43b; similar but less detailed Bangladesh 33b].

Institutionalizing the voice of children in public services and systems

9. The Committee wants to see the child’s voice respected within the services and systems that touch the child, and not just during the research and policy design processes. The policy must establish a policy of listening to the child and giving that voice significant weight at key decision points in the system, or within the rules that determine whose voice is heard in general.

10. In Judicial and Administrative proceedings. In several settings in South Asia, the child’s voice is absent or diminished in critical judicial proceedings. Issues that the Committee react to include the following:

• The failure to allow children to speak in any judicial or administrative proceedings affecting them or even to be present. A particular point of concern is proceedings on alternative care [Afghanistan 31; Pakistan 32; Bangladesh 33b; Bhutan 17b; India 36a, including specific mention of courts and social workers; Maldives 32; Nepal 24b; and Sri Lanka 18]

• Following an unnecessary and unrelated rule that ‘children under the age of 16or who have not attained puberty are not permitted to give testimony in court’ [Maldives 32].

• Gender discrimination that reduces the voice of girls compared to boys [Afghanistan 31]
11. In Health care and in Education. A similar pattern is seen of endorsing broad rights to participate and noting particular instances of suppressing or ignoring the child’s voice:

- A general call to respect the child’s voice in Education and Health, with the implication that this is rarely done [Bangladesh 33b; Nepal 24].
- A call to empower participation in schools, “including in student council bodies, with particular attention to girls and children in vulnerable situations” [India 38d].
- A call that the “views of the pregnant girl is always heard and respected in abortion decisions” [Maldives 57b]. Similar language is found in Pakistan 51-52, India 65b and Sri Lanka 32.
- A positive call to follow the Maldivian example of a school-based delivery of a comprehensive life skills package for adolescents on sexual and reproductive health [Maldives 56].

12. Through Monitoring systems and child-accessible helplines. The Committee is concerned not to limit the opportunities for the youth voice to be raised to specific policy making and service and systems processes. They will inevitably miss certain needs and thereby give the impression of not valuing the voice of children in unmentioned domains. For this reason, they also recommend that much broader options be instituted to monitor child rights implementation (e.g. the functioning of juvenile detention facilities) and to receive direct personal calls for support from children. The two main avenues for accomplishing this are the following:

- An independent monitoring function empowered to collect data and issue reports/mandate change. The Committee often cites its own ‘general comment No. 2 (2002) on the role of independent human rights institutions in the promotion and protection of the rights of the child’ [Nepal 16] as the broad guide. The Committee is especially concerned when such functions do not exist, but also recommends that existing ones be strengthened. An ombudsman function is often paired with or is part of the independent monitoring body but with a related role to receive and take action on complaints [Afghanistan 13; Bangladesh 16; Bhutan 10; India 22; Maldives 16-17; Nepal 16-18; Pakistan 5; and Sri Lanka 7 & 10]. Threats to the independence of the function are of special concern to the Committee (see comments on Maldives and Nepal).
- Helplines in which children can call for help on any issue of concern and especially on sensitive and danger issues they fear to raise at home or in the community [Bhutan 27; India 53-54; Maldives 48-9].

Summarizing the reactions of the Committee to the issue of Connecting Youth and Policy

The Committee has synthesized an overall view about participation and respecting the rights of the child, but in 2002. Considering progress since then and the results of efforts made as seen in their Observations, it is fair to say that the Committee has 2019 expectations that it wishes South Asian nations to follow:

- The general CRC principle of ‘Respect for the Views of the Child’ is vitaly important and all nations must strive to realize it.
- The CRC itself must be publicized and made easily available for both duty bearers and rights holders. Versions suitable for children should be made available.
- States parties are to seek to directly engage children in policy making processes. Direct means of engagement are encouraged, and many methods are acceptable.
- Social prejudice about the maturity of children and pragmatic considerations means that indirect methods of engagement through non-governmental and children’s organizations that articulate the voice of children are an acceptable second choice.
- Children are to be engaged to policy shifts and programme interventions in especially challenging areas such as violence, disabilities, child labor, and children in the street.
- Connecting with youth must extend beyond policy and programme development into the very implementation of the programs and the core processes of the state.
- This institutionalization of respect for the voice of youth needs to occur across judicial and administrative proceedings and into service sectors such as health care and education.
- Dedicated institutions to perform independent monitoring of how well children rights are respected should be established, funded, and left to function without pressure. Ombudsman functions to receive and act on complaints from children should be established.
Table

Connecting Youth and Policy Makers: areas of concern commented by CRC Committee in the last Concluding Observations

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THE WAY FORWARD

Translating Youth Engagement Principles and CRC Committee Recommendations to Practice

The principles of youth engagement and the recommendations of the CRC Committee indicate general directions in the implementation of systematic youth participation processes and mechanisms by duty bearers with the active participation of young people. At the core of participation policies, there need to be a deep purpose in how and why we formulate and enact them. On the one hand, by being signatories to the CRC, governments have committed to create youth-centric policy processes and institutions to enable young people to influence decisions, and on the other, to support young people themselves in their self-empowerment and creation of individual and collective voice.

The Role of Decision-Makers

Legislators and decision-makers have an important role to play in creating the right kinds of enabling legislative, policy, institutional and programming environments to make meaningful youth participation in governance possible. This will enhance positive relationships between decision-makers and youth, and create collaborative pathways for achieving development goals. It will also enhance the trust of young people in governance mechanisms. The Committee on the Rights of the Child have issued a general comment on the implementation of Article 12 and articulating the scope of the Article and implications for implementation. UNICEF, together with Save the Children, also developed a resource guide as a companion document to sit alongside the General Comment, to provide governments with more detailed practical guidance on how to implement it.
Principles of Engagement for Meaningful Youth Participation

In order for young people's participation to go beyond tokenistic participation to influence change systematically and in a responsive manner, UNICEF suggests the following principles:

**Principles of Youth Engagement**

**Transparent and informative:** Adolescents must be provided with full, accessible, diversity sensitive and age appropriate information about their right to express their views freely and their views to be given due weight, and how this participation will take place, its scope, purpose and potential impact. Adolescents should never be coerced into expressing views against their wishes and they should be informed that they can cease involvement at any stage.

**Respectful:** Adolescents' views have to be treated with respect and they should be provided with opportunities to initiate ideas and activities.

**Relevant:** Opportunities must be available for adolescents to express their views on issues of real relevance to their lives and enable them to draw on their knowledge, skills and abilities. Adolescent friendly environments and working methods: Adequate time and resources should be made available to ensure that adolescents are adequately prepared and have the confidence and opportunity to contribute their views. The approaches to working with adolescents should reflect their differing levels of support and forms of involvement according to their age and evolving capacities.

**Inclusive:** Engagement and participation must be inclusive, avoid existing patterns of discrimination, be culturally sensitive to adolescents from all communities, and encourage opportunities for marginalized adolescents, including both girls and boys, to be involved.

**Supported by training:** Adults need preparation, skills and support to facilitate adolescents' engagement effectively, to provide them, for example, with skills in listening, working jointly with adolescents and engaging children effectively in accordance with their evolving capacities. Safe and sensitive to risk: Expression of views may involve risks. Adults have a responsibility towards the adolescents with whom they work and must take every precaution to minimize the risk to adolescents of violence, exploitation or any other negative consequence of their participation. Working with families and communities can contribute to building understanding of the value of engagement, and minimize risks to which adolescents may otherwise be exposed.

**Accountable:** A commitment to follow-up and evaluation is essential. Adolescents are entitled to be provided with clear feedback on how their participation has influenced any outcomes. Wherever appropriate, they should be given the opportunity to participate in follow up processes or activities. Monitoring and evaluation of adolescents' participation needs to be undertaken, wherever possible with adolescents themselves.

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**Institutionalizing the Voices of Youth in Public Services & Systems**

1. Build capacity for the identification and engagement of diverse youth groups
2. Provide officials training on youth engagement and supporting youth empowerment
3. Mandate the participation of representative young people in institutional boards, advisory groups, programme planning, evaluation and budgeting processes
4. Create national and local independent monitoring bodies for young people’s rights in partnership with young people.
5. Develop youth safeguarding mechanisms to ensure young people are safeguarded from risks associated with participation.
6. Pilot initiatives on participatory governance with adolescents and youth around local priorities, peace and cohesion.
7. Invest in platforms that convene interfaith and interethnic adolescents and youth, with special efforts to engage young women and girls.
8. Prioritize young people’s right to participate in judicial and administrative forums, especially around family placement.
1. Invest financial and expert resources for building youth participation mechanisms including National Youth Councils, youth clubs, and in developing youth empowerment capacities.

2. Develop comprehensive education and awareness programmes around the Convention on the Rights of the Child and means of translating principles to practice.

3. Build and strengthen existing national mechanisms for young people’s participation in governance and policy making such as National Youth Councils and National Youth Parliaments with a particular focus on their representational role for issues that affect young people, particularly the most marginalized. This involves linking mechanisms to policy development processes.

4. Build and strengthen support for local youth groups for the consolidation of young people’s identities and issues and linking these to policy processes.

5. Develop capacity building courses and toolkits for young people’s empowerment and engagement.

6. Invest in capacity and skills development including life skills education that prepares adolescents and young people to be positive and productive citizens.

1. Develop tools and techniques for the identification of most vulnerable groups.

2. Develop strategies, processes and mechanisms for the engagement of particularly vulnerable groups in policy and programme planning, with specific attention to engagement in relation to their vulnerabilities.

3. Develop educational and awareness programs around children’s rights that are truly inclusive taking into account all levels of education, literacy and vulnerabilities.

END NOTES

1. UNICEF The State of the World’s Children 2016, P160 & 161

2. UNICEF Adolescent and Youth Engagement Strategic Framework, pp 6-7


5. The Missing Peace: Independent Progress Study on Youth Peace and Security, UNFPA and PBSO, 2018

6. Ibid

7. Adolescent Infographics Snapshot, UNICEF South Asia, 2017

8. Ibid.


11. Adapted from Concerned for Working Children Website, and Commonwealth Secretariat, Youth Mainstreaming in Development Planning: Transforming Young Lives, 2017

12. See a detailed discussion of General Comment No. 12 in the paper “CRC Committee comments on Connecting Youth and Policy makers in the most recent Reports concerning the 8 nations of South Asia


14. UNICEF Adolescent and Youth Engagement Strategic Framework, p. 21
8.

JUVENILE JUSTICE SYSTEM IN SOUTH ASIA

Present situation  125
The CRC Committee’s comments  130
The Way forward  135
Children encounter the justice system as victims, witnesses, because they are in conflict with the law or as parties to a justice process, such as in custody arrangements. Juvenile justice specifically refers to children in conflict with the law. These children may encounter law enforcement authorities for a wide number of reasons such as the committal of an offence or being perceived as ‘at risk of delinquency’.

The system that addresses children in conflict with the law could be connected with the formal justice and court system, the welfare system, or with an administrative system for minor offences. Such systems may function within the context of the adult criminal justice system, but wherever the system contains a degree of specialisation for children, it is frequently called the juvenile justice system.

This system covers a vast and complex range of issues from prevention through first contact with the police, judicial process, conditions of detention and social reintegration, and involves a wide range of actors. It is an approach to criminal justice that recognizes that children should be treated in a manner consistent with their rights and dignity, while taking into account their needs, and therefore the administration of juvenile justice balances more on the child’s rehabilitation and reintegration into society than their punishment.

Legislation

In all South Asia countries other than Maldives, specific juvenile justice laws have been introduced to promote a separate and distinct approach to handling children in conflict with the law, although some of these provisions fall short of international laws and standards. No country in the region has yet fully implemented a juvenile justice system as intended by their existing laws.

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<th>Age of Criminal Responsibility</th>
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While not recommended, in the region most countries also allow for criminal liability based on a subjective assessment of the child’s ability to understand the consequences of his/her actions (Doli Incapax). In all countries, except India and Sri Lanka, special juvenile justice protections apply to all children under the age of 18, as recommended by the CRC Committee. However, only the law in Afghanistan, Bangladesh and Bhutan is it clear that age is determined at the time of the alleged offence. Finally the upper age, above which the person would be tried in the adult criminal justice system, should at least be 18 according to the CRC and recognizes that some states extend this to 21.

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<th>Juvenile justice legislation, by country</th>
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<th>Country</th>
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<td>Afghanistan</td>
<td>Juvenile Code, 2005; Law on Protection of Child Rights, 2019</td>
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<td>Bangladesh</td>
<td>Children Act, 2013</td>
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<td>Bhutan</td>
<td>Child Care and Protection Act, 2011</td>
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<td>India</td>
<td>Juvenile Justice (Care and Protection of Children) Act, 2015</td>
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<td>Maldives</td>
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<td>Nepal</td>
<td>Act Relating to Children, 2018</td>
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<td>Pakistan</td>
<td>Juvenile Justice System Act, 2018</td>
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<td>Sri Lanka</td>
<td>Children and Young Persons Ordinance</td>
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Most countries in South Asia differentiate between children in need of protection and children in conflict with the law. Overall juvenile justice legislation no longer includes broad provisions for detaining children for acting contrary to societal norm or committing status offences. However, in Bangladesh, Nepal and Sri Lanka, children living and working on the streets are still subject to arrest and detention under penal or vagrancy laws. Juvenile justice legislation in Afghanistan and Sri Lanka still includes broad powers for courts to commit children to closed centres for having irregular behaviour or being beyond control. These children are in need of protection and should never be treated within the criminal justice system.

Court procedures

Most countries in South Asia guarantee children the right to be brought before the court within 24 hours but not all of the countries guarantee the rights to legal assistance. Legislation in most countries does not fully guarantee children the right to the presence and assistance of a parent or guardian at all stages of the criminal justice process. Juvenile justice legislation in all countries calls for the establishment of specialized courts to handle children in conflict with the law and provides for special proceedings. However currently only the juvenile justice laws in Afghanistan, Bangladesh, India, Nepal and Pakistan stipulate a time frame for completing children’s cases. Children in other countries could end up being in indefinite pre-sentence detention.

Sentencing

While detention is often used, a better option is alternatives to detention, which are measures that may be imposed on children who are being formally processed though the criminal justice system, at both pre-trial and sentencing stages, that do not involve deprivation of liberty. These could include warnings or discharge (Afghanistan, Bangladesh, Bhutan, India, Pakistan, Sri Lanka), community services (Afghanistan, Bhutan, India, Maldives, Nepal, Pakistan), probation (Afghanistan, Bangladesh, Bhutan, India, Sri Lanka), house arrest (Afghanistan, Maldives). Death penalty for children is prohibited in all countries in South Asia, except Maldives. Maldives still permits capital punishment to be imposed on children, with execution of the sentence postponed until the child turns 18. Life imprisonment of children is not expressly prohibited in Pakistan or Sri Lanka, and India prohibits only life imprisonment without the possibility of release.

Corporal punishment remains a lawful sentence for children in some countries including Afghanistan, Bangladesh, Maldives and Pakistan. Corporal punishment is only fully prohibited by law in all places of detention for children in India, Nepal and Pakistan. Diversion

One recommendation for supporting children in conflict with the law is diversion. Diversion means channeling children in conflict with the law away from judicial proceedings through the development and implementation of procedures or programmes that enable many - possibly most - to avoid the potential negative effects of formal judicial proceedings, provided that human rights and legal safeguards are fully respected. It may be employed when a child freely admits to having committed a lesser crime. Progress has been made across the region in legislating for diversion. Juvenile justice laws in all countries provide for discretion of police, prosecutors and courts to issue a warning, promote reconciliation, and refer the child to a diversion programme depending on the nature and circumstances of the offence as an alternative to initiating formal criminal proceedings. However, some countries have not adequately incorporated the key procedural safeguards as recommended by the CRC Committee, in particular the requirements that the child freely accepts responsibility for the offence, agrees to diversion conditions, and that completion of the diversion agreement results in conclusive closure of the case. Further diversion requires the development of programmes and services to which the child can be diverted, and then compliance monitored. It often involves collaboration across ministries. These systems are not necessarily in place.

Data

Countries are challenged to depict a comprehensive data on children in conflict with the law, including those who are arrested, who are in police custody, pre-trial/ pre-sentence detention, who are subject to custodial sentencing and the length of their detention, who are subject to diversion, and who are provided with after care to support their reintegration. Data in most countries if available are scattered across the different administrative units of the juvenile justice system. This lack of data does impact on planning and tracking progress for prevention and responses.

Due to the harm that can be caused to the child and further to society the Convention on the Rights of the Child strictly notes that deprivation of liberty of children should only be a measure of last resort and for the shortest period of time. In detention child must be treated with humanity and respect for their inherent dignity, in a manner that takes into account their age and specific needs. They should be entitled to legal and other assistance to challenge the legality of their detention. Yet globally, every year at least 410,000 children are held in remand centres and prisons, and an estimated one million children are held in police custody.

Majority of children in conflict with the law are in police and pre-trial detention (see figure on Sri Lanka). Only Bangladesh and Bhutan have an explicit statement of deprivation of liberty as a last resort applicable to pre-trial detention. Laws in Bangladesh, India, Maldives and Sri Lanka do not have restrictions on the duration of pre-trial detention. Alternatives to pre-trial detention remain relatively limited in most countries in the region. The number of children serving their time in correctional centres varies from hundreds to thousands, largely depending on the existing capacity of these facilities to accommodate (Afghanistan, Nepal and Sri Lanka example).

Most countries in the region have restrictions on imprisonment of children but do not include any limits in their legislation on the use of other custodial orders and give the courts broad discretion to send a child to a rehabilitation/ correctional centre.

“Data in most countries if available are scattered across the different administrative units of the juvenile justice system. This lack of data does impact on planning and tracking progress for prevention and responses.”
The CRC Committee has discussed the rights of children in conflict with the law primarily under the heading of "Special Protection Measures," and specifically in the sub-section pertaining to "Administration of Juvenile Justice." The issue is mentioned in relation to a range of other circumstances children may find themselves in such as refugee and asylum-seeking children, or children involved in armed conflict.

The CRC Committee has raised the following concerns regarding children in conflict with the law.

Lack of juvenile justice legal infrastructure:
The Committee notes the positive steps which have been taken by the State parties in reforming the administration of juvenile justice, and notes the development of important juvenile justice infrastructure: "The committee welcomes the reform of the administration of juvenile justice, which sets the upper age limit for juvenile justice at 18, provides for the appointment of a child affairs police officer in each police station and the establishment of one Children’s Court in every district" (Bangladesh, 2015, 80). Despite several examples of progress, the Committee notes in the majority of State parties, the number of juvenile courts on a per capita basis is insufficient (Afghanistan, 2011, 74; Bangladesh, 2015, 80; Pakistan, 2016, 79; Sri Lanka, 2018, 45), and often not available in jurisdictions outside of the cities (Maldives, 2016, 68).

Juvenile courts also need to ensure they have adequate human, technical and financial resources (Bhutan, 2017, 48). A resourcing challenge is noted by the Committee in the Maldives: "The Committee welcomes the establishment of the Child and Family Protection Service in Male, and family and children’s service centres on 19 atolls, to receive monitor and investigate child rights violations. The Committee is concerned however that the centres are understaffed and underfunded" (Maldives, 2016, 16). In India, the Committee was concerned by: "The very limited knowledge, sensitivity and capacity of the staff working at the Juvenile Justice Boards to handle cases involving children in conflict with the law, and the lack of adequate oversight of these Boards" (India, 2014, 87).

Children in conflict with the law are tried by family judges, many of whom are not trained to specialize in juvenile justice (Afghanistan, 2011, 74; Bhutan, 2017, 48). The Committee notes: "Child friendly approaches are not implemented in the courts and there is a general lack of understanding of the implications and requirements of a specialized system of juvenile justice" (Sri Lanka, 2018, 45)

Lack of legal aid provision:
Children are not provided with qualified, independent, free or subsidized legal aid (Afghanistan, 2011, 74; India, 2014, 87; Sri Lanka, 2018, 45) and statements may be forcibly extracted from them (Afghanistan, 2011, 74).

Lack of legal due process:
Informal courts continue to operate in some contexts despite being banned by law - and they adjudicate on cases concerning honor killing and bride price, among others (Pakistan, 2016, 79). These courts particularly affect girls adversely.

The Committee is concerned for cases which do not follow due process, whereby parents are not informed of their children's detention and children not allowed to meet with their parents (Afghanistan, 2011, 34).

Note: No data for Nepal in 2013. (Child population: Afghanistan 17.7 million, Nepal 11.2 million and Sri Lanka 6 million)
Sources: Combined second to fifth reports submitted by Afghanistan (CRC/C/AFG/2-5), April 2019; Nepal’s response to Global Study on Children Deprived of Liberty, Sri Lanka’s response to Global Study on Children Deprived of Liberty.
Children sentenced to death:
The Committee expressed alarm over reports that individuals had been executed while they were either under the age of 18 years or when their age was contested (Pakistan, 2016, 24). There remains a large number of persons on death row for crimes they allegedly committed when under 18 years of age, and that these persons have limited access to procedures for challenging their sentences on the basis of their age (Pakistan, 2016, 24).

Children tried as adults:
In some State parties, children can be charged with haddo offences under sharia law, and subjected to punishment such as amputation, whipping, stoning, and other forms of cruel and unusual punishment (Pakistan, 2016, 32), while in the Maldives, flogging remains lawful as a sentence for a crime (Maldives, 2016, 68).

Use of detention:
The Committee notes that detention is not used exclusively as a measure of last resort, and children in conflict with the law are being deprived of their liberty. Many of these children are in pre-trial detention for lengthy periods (Afghanistan, 2011, 74; Sri Lanka, 2018, 45). Alternatives to detention are rarely used despite legal provisions providing for them, including options such as community service, diversion, probation, mediation or counseling (Afghanistan, 2011, 74; Bhutan, 2017, 48; India, 2014, 88; Sri Lanka, 2018, 45). Refugee and asylum-seeking children, including unaccompanied and separated children, are held in detention due to illegal entry/stay in the State parties (Bangladesh, 2015, 71; India, 2014, 78). Children are also subject to arbitrary detention (Pakistan, 2016, 78) and lengthy prison sentences, particularly for haddo and terrorism-related offences (Pakistan, 2016, 79).

Torture and verbal/physical abuse while detained:
Children are subjected to abuse and torture by law enforcement officers whilst detained in police stations and prisons (Afghanistan, 2011, 74; Nepal, 2016, 28; Pakistan, 2016, 32). There is a lack of monitoring of detention sites, and a lack of accountability mechanisms through which children can report torture or ill treatment in detention (Sri Lanka, 2018, 22).

The Committee states: “The Committee is deeply concerned that almost half of the children arrested are reportedly subjected to different forms of verbal and physical abuse by the police during arrest in order to extract a confession, and that virginity testing is imposed on girls in judicial proceedings. The Committee also expresses grave concern that children are being handcuffed and shackled in juvenile rehabilitation centres, during transportation to court or hospital, and at night, allegedly for security reasons or as a form of punishment” (Afghanistan, 2011, para 39).

In some State parties, children can be charged with haddo offences under sharia law, and subjected to punishment such as amputation, whipping, stoning, and other forms of cruel and unusual punishment (Pakistan, 2016, 32), while in the Maldives, flogging remains lawful as a sentence for a crime (Maldives, 2016, 68).

Poor conditions of detention:
Children who are detained are not provided with adequate food, care, protection, healthcare, education and vocational training whilst in detention, which at times may be for lengthy periods (Afghanistan, 2011, 74; Bhutan, 2017, 48; India, 2014, 88; Maldives, 2016, 68; Pakistan, 2016, 80). In some contexts, children in conflict with the law, including those in pre-trial detention, are denied their right to education altogether (Maldives, 2016, 68; Sri Lanka, 2018, 45).

Children held in prison with their mothers suffer from a lack of childcare services and deficiencies in sanitation (Bangladesh, 2015, 50).

Children detained with adults or older children:
Children who are detained are not separated from adults (Afghanistan, 2011, 74; Pakistan, 2016, 79; Sri Lanka, 2018, 45). In the Maldives, detained children are held in separate but adjoining cells in adult facilities (Maldives, 2016, 68). In other contexts, there is no age-appropriate separation from other children in conflict with the law, as well as cases of children in conflict with the law being housed together with children in need of protection (India, 2014, 87). This leads to children being at risk of abuse by adult prisoners, prison staff and law enforcement, and older children.

Child victims treated as offenders:
The Committee is concerned that in some States, child victims of violence or sexual abuse may be considered and treated as offenders, charged with offences such as debauchery, homosexuality, running away from home, or adultery (Afghanistan, 2011, 70). A 2010 Edict in Afghanistan allowed girls who fled domestic violence and went to a non-relative’s house to be convicted as having committed adultery or prostitution (Afghanistan, 2011, 47). This is also the case for children (particularly girls) who are victims of child sex trafficking, child prostitution and child pornography, who risk facing charges such as adultery (Maldives, 2016, 71).

In Afghanistan, the Committee report notes that around half of the girls in Juvenile Rehabilitation Centres have been charged with “moral offences”, such as running away from home, some of them during pregnancy or childbirth (Afghanistan, 2011, 74).

Minimum age of criminal responsibility:
The Committee was very concerned with the low minimum age of criminal responsibility in some States - 9 years in Bangladesh (Bangladesh, 2015, 80); 7 years in the Indian Penal Code (which contradicts the Indian Juvenile Justice Rules which set the age at 18 years) (India, 2014, 87); 10 years in the Maldives (Maldives, 2016, 68); 10 years in Pakistan (Pakistan, 2016, 79); and 8 years in Sri Lanka (Sri Lanka, 2018, 45), while Bhutan was praised for raising the minimum age to 13 years (Bhutan, 2017, 48). In Afghanistan, a number of children are detained who under the age of criminal responsibility of 12 years (Afghanistan, 2011, 74). Judges in the Maldives tend to use attainment of physical puberty rather than the legal minimum age to establish criminal responsibility (Maldives, 2016, 68). In Sri Lanka, children over the age of 16 are excluded from the protection of the Children and Young Persons Ordinance (Sri Lanka, 2016, 45).

Children in street situations:
Children in street situations, including those under the age of criminal responsibility, have been arrested and detained by the police, at times for simply being in the street (Afghanistan, 2011, 68; Pakistan, 2016, 73; Sri Lanka, 2018, 43).

Children affected by armed conflict:
Children who have been involved with armed conflict are not formally protected from being arrested, despite State commitments towards non-prosecution (Sri Lanka, 2018, 49). When arrested, children used by insurgent groups are held with adults on national security charges for extended periods of time in facilities with limited access by national and international child protection bodies to monitor due process (Afghanistan, 2011, 64).

Children charged with terrorism:
Children have also been held accountable, detained, and prosecuted under anti-terrorism laws (Nepal, 2016, 70; Pakistan, 2016, 25). The cases involving children facing trial for terrorism charges should still be overseen by juvenile courts rather than special courts, in compliance with the Convention (Pakistan, 2016, 25).

Lack of data on children in conflict with the law:
The Committee notes inadequate Information Management Systems (IMS) and an overall lack of data on children serving prison terms, those in remand awaiting trial, the reasons for their detention, time spent on pending cases, and the role and functioning of different institutions (Bangladesh, 2015, 81; India, 2014, 87; Sri Lanka, 2018, 48). There is also a lack of data on those children on death row (Pakistan, 2016, 25).
Summarizing the reactions of the Committee to the issue of children in conflict with the law

While the CRC Committee has not provided an overall summary on the issue of children in conflict with the law in South Asia, there are a number of key concerns:

The Committee is monitoring closely the developments around minimum age for criminal responsibility, and encouraging states to maintain their minimum age in line with international standards.

There are serious protection concerns in some State parties, notably those where children are subjected to the death penalty or where child victims of violence and abuse are charged as offenders.

The use of detention overall is of great concern, particularly when it is not a measure of last resort, and detention is favoured over a range of other alternative options.

Children in conflict with the law are subject to torture, abuse and ill-treatment as they move through the justice system, with very little protection, monitoring or scope for redress.

Children in detention are held in poor conditions, and denied their right to education, which may extend for a long period of time, particularly with the practice of lengthy pre-trial detention.

The Committee also expressed concern about children being detained with adults.

Table

Summary

Children in conflict with the law: areas of concern commented by the CRC Committee in the last Concluding Observations

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<td>Insufficient number of juvenile courts per capita</td>
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<td>Inadequate human, technical and financial resources</td>
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<td>Due process rights</td>
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<td>Lack of legal and other appropriate assistance</td>
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<td>Children in need of protection treated as offenders</td>
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<td>Informal courts adjudicate on cases, despite being prohibited by law</td>
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<td>Children tried under anti-terrorism laws</td>
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<td>Age of criminal responsibility</td>
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<td>Children tried as adults</td>
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<td>Minimum age of criminal responsibility too low</td>
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<td>Upper age of criminal responsibility too low</td>
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<td>Deprivation of liberty</td>
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<td>Limited use of alternatives to detention</td>
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<td>Refugee and asylum seeking children held in detention due to illegal entry/ stay</td>
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<td>Abuse and torture while in detention</td>
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<td>Poor conditions of detention</td>
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<td>Detained with adults/ No age appropriate separation</td>
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<td>Sentencing</td>
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<td>Death sentence on children</td>
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<td>Corporal punishment and other forms of cruel, inhuman or degrading punishment allowed as sentencing</td>
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THE WAY FORWARD

Strengthening legal framework

While progress has been made in all eight countries in South Asia, significant gaps in legislation have continued to hamper the protection of children in conflict with the law. The following areas in legislation can be strengthened:

1. Increase the minimum age of criminal responsibility to at least 12 and the maximum to at least 18, and ensuring that juvenile justice laws apply to all children under the age of 18 at the time of the offence, regardless of the seriousness of the alleged crime.
2. Repeal any legal justification for use of force against children for the purposes of correction or discipline, with an explicit ban on corporal punishment of children in all places of custody and detention.
3. Strengthen protection of children against torture and all other cruel, inhuman and degrading treatment and punishment.
4. Promote the use of diversion while ensuring appropriate safeguards are incorporated.
6. Repeal provisions that allow arrest and/or detention need to be in place. This is to ensure that personnel do have a specialization in this area.

Improving information management system

To better inform policy and programming decisions, more efforts are required to have the data at hand. Comprehensive and disaggregated data on children in conflict with the law will inform better planning for and tracking progress of prevention and response programmes for children in conflict with the law. This information system needs to be confidential, and while it would need to cross administrative units (e.g., the police, court, detention, probation) not all information is required by all parties. It is necessary to monitor this data to ensure:

1. That children are in detention for a minimum amount of time, and as a last resort.
2. That pre-trial detention is of limited use.
3. That the time between the charges and conclusion of the case is no more than 6 months.
4. That diversion and alternatives to detention are the preferred response in cases of confirmed children in conflict with the law.

Separate institutional arrangements

The protection of children in conflict with the law requires institutional arrangements separate from those established to deal with adults in conflict with the law, including both personnel and infrastructure. In particular diversions procedures and alternatives to detention need to be in place. This is to ensure treatment of children according to their age and needs. Therefore:

1. Review the public sector planned and expended budget to assess its adequacy to care for the children.
2. Encourage the training institutes (police academy, judicial academy, schools of social work) to maintain specific training on children in conflict with the law.
3. Review job descriptions, in both the public and civil service, to ensure that the personnel do have a specialization in this area.

END NOTES

2. Inter-Parliamentary Union and UNICEF, Improving the protection of children in conflict with the law in South Asia, 2007.
7. Afghanistan Juvenile Code, arts. 3, 4, 6,4; Bangladesh Children Act, 2013, s. 4, 20; Bhutan Child Care and Protection Act, s. 18, 19, Nepal Act Relating to Children, 2018, s. 21; Pakistan Juvenile Justice System Act, 2015, s. 21; Pakistan Juvenile Justice System Act, 2015, s. 16(2).
8. Afghanistan Juvenile Code, arts. 3, 4, 6,4; Bangladesh Children Act, 2013, s. 4, 20; Bhutan Child Care and Protection Act, s. 18, 19, Nepal Act Relating to Children, 2018, s. 21; Pakistan Juvenile Justice System Act, 2015, s. 20; Maldives Criminal Procedure Act, s. 101; Afghanistan Juvenile Code, art. 21; Pakistan Juvenile Justice System Act, s. 19, 10.
10. Any conduct not considered an offence if committed by an adult such as truancy, curfew violations, or marriage.
15. Maldives State party report to the UN Committee on the Rights of the Child.
16. Afghanistan Law on Protection of Child Rights, art 87; India Juvenile Justice (Care and Protection of Children) Act, 2015, s. 82; Pakistan Juvenile Justice System Act, 2018, s. 16(2).
18. Bangladesh Children Act, 2013, s. 55; Maldives Criminal Procedure Act, s. 101; Afghanistan Juvenile Code, art. 21; Pakistan Juvenile Justice System Act, s. 19, 10.
19. Afghanistan Law on Protection of Child Rights, art 87; India Juvenile Justice (Care and Protection of Children) Act, 2015, s. 82; Pakistan Juvenile Justice System Act, 2018, s. 16(2).