

**PROCEEDINGS OF THE INTERNATIONAL
COLLOQUIUM ON CHILDREN AND GOVERNANCE:
HOLDING THE STATE ACCOUNTABLE**

Organised by



HAQ: Centre for Child Rights

July 20-22, New Delhi

Preface

HAQ: Centre for Child Rights has completed ten years of formal existence in June 2009. The organisation has grown out of the recognition of the need for building and strengthening a child rights movement in India, and to mainstream children's rights into all efforts -- governmental as well as non-governmental-- and place this concern on the centre stage of national debate.

In doing so, our emphasis is on the need to look at the CHILD in an integrated manner and fill the conceptual and practical gaps, making crosscutting linkages between different categories of children and issues affecting them. Our effort at HAQ is to recognise, protect and promote all rights for all children. We believe that there is a need for realisation of human rights of children through policy, law and action.

Like all human rights organisations, HAQ believes the state is the primary duty bearer and accountable for the realisation of all rights held by its people. Performance of any state related to realisation of rights is linked to governance. It has been recognised across the world that improved or good governance is a precondition for sustained poverty reduction and a peaceful and stable society.

Over the last ten years therefore, HAQ, as part of its Children and Governance initiative, has been engaged in monitoring state performance in the realisation of the rights of children in India, and in creating tools for monitoring this performance in an effort to hold the state accountable. This has enabled us to analyse and document gaps in implementation of child rights in the country, as well as take action to hold the government accountable. It has also enabled us to advocate for policy and law change.

But time and again we are also confronted with the question—what would be the markers/ indicators of child responsive governance? We also felt it was important time to open up a global discussion on 'governance' from a child rights perspective and engage with practitioners from India and different parts of the world to exchange their tools, models and valuable experiences in an effort to answer this question. Also, twenty years of the UNCRC is a pertinent time to see how far states and organisations have managed to reach in terms of their efforts towards helping children realise their rights and entitlements.

This is the report of the colloquium that took place from July 20-22, 2009 in Delhi. We are confident that this will be an important contribution to the ongoing debate and discussion on this issue.

We thank Ms. Chitra Gopalakrishnan for preparing this report.

We would also like to acknowledge the effort and contribution of the entire HAQ team in organising this very important colloquium.

We also thank all the participants who were with us during those days, and have contributed greatly through their presentations and contributions.

Enakshi Ganguly Thukral
Co-Director

Bharti Ali
Co-Director

DAY ONE

INTRODUCTORY SESSION

HIGHLIGHTS



- HAQ timed this international colloquium on children and governance to coincide with the 20th year of reporting to UNCRC and 10 years of its own existence.
- The time was just right to run a checklist on the current State policies, programmes and practices for children to review its child-sensitivity and the inclusion of children in governance.
- Indian policymakers who addressed this session agreed to a deep deficit in basic rights for children in all almost all areas of governance.
- India ratified the UN Convention on the Rights of the Child (UNCRC) in 1992 but adherence to its principles in the country's Constitution and in its policy and programmes remains an unfinished agenda.
- There is continued disempowerment of children. Today, they are fighting harder for survival, nutrition, health, education and representation and participation in governance.
- The mid-term appraisal and strategic review of child rights and protection in the Eleventh Plan can remap their entitlements and participation in governance and also push up fiscal allocations.
- The energies of the civil society should be harnessed to create systems and mechanisms that benefit children.
- The message of the introductory session addressed by Indian policymakers was both worrying and heartening. While State ability and will in governance for children is woefully inadequate, a public scrutiny of its performance through the use of tools, indicators and models can force it to become accountable.
- The consensus was that children's future is here and now.

OPENING SESSION

Welcome Address

Enakshi Ganguly Thukral,
HAQ: Centre for Child Rights

On behalf of my Co-Director, Bharti Ali and all my colleagues, I wish to extend a warm welcome to all participants of this international colloquium.



This is the first international event that HAQ has organised since it came into existence ten years ago and I wish to specially extend a warm welcome to Dr Assefa Bequele of the African Child Policy, Ethiopia, whose organisation has worked extensively to develop powerful and compelling indicators to monitor commitment of governments toward child rights and protection, especially financial commitment; Dr Harendra De Silva, Founder Chairperson National Child Protection Authority, Sri Lanka, who has worked consistently to ensure that the State plays an active role in ensuring child well-being; Sumnima Tuladhar, CWIN, Nepal, whose organisation has been active over the last 25 years in the arena of child rights; Frances Sheahan, independent child rights consultant, UK, who has been articulate in bringing child rights violations into public attention; and Christina Nomdo of Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN) who in an earlier *avatar* worked with IDASA, which was among the first organisation to initiate a child budget analysis. It is unfortunate that our delegates from Bangladesh could not get a visa.

We have participants here from across the country, many of whom have been working consistently on child rights and governance issues, and we thank them for coming.

I am delighted to welcome my panel for the opening session, all of who are people of grit, determination and perseverance. I welcome Dr Shantha Sihna, Chairperson, National Commission for Protection of Child Rights, who is an activist in her own right and has for many years worked to eliminate child labour through her organisation M V Foundation. She has been awarded the Padma Shri and the Magsaysay award in recognition of her efforts.

I extend a very warm welcome to Syeda Hameed, Member, Planning Commission, and congratulate her nomination to a second term in the Commission. It is because of her presence in the Commission that the Eleventh Five Year Plan document, for the first time in the history of five-year plans in India, has a separate section on child rights. She is a former member of the National Commission for Women, apart from being a writer and activist. She was awarded the Padma Shri in 2007. She was the first woman *Qazi* in the country to conduct a *nikah*.

I welcome Ms Pradeep Bolina, Joint Secretary, Ministry of Women and Child Development, Government of India. It is persons like her who have to sit inside the system and fight to make change possible in policy and programming, and the rest of us outside the system depend on them to do so.

I welcome Mr. Amod K Kanth, Chairperson, Delhi Commission for Protection of Child Rights, who while being in the Indian Police Service, managed to develop and nurture Prayas, an NGO which works with underprivileged children, since 1988 and also set up the Prayas Institute of Juvenile Justice.

HAQ's focus on governance issues concerning children has been there from its very inception. Over the past ten years we have analysed budgets of the central government and selected states in India from the child rights perspective. We have engaged in a continuous documentation of the situation of children through its status reports, primarily *Children in Globalising India: Challenging Our Conscience, 2003*, *Status of Children in India Inc 2005* and *Still Out of Focus: Status of Children in India, 2008*. We have attempted to analyse the commitment of elected representatives to the young

citizens through an analysis of the proceedings in Parliament and the judiciary through the scanning of judgements and processes while providing legal aid to the children in need.

This colloquium is an extension of HAQ's own search in gaining an understanding of what constitutes "good governance" vis-à-vis children.

It has been recognised across the world that improved or good governance is a precondition for sustained poverty reduction and a peaceful and stable society. A commonly accepted definition of governance is the way the State positively exercises its political, economic and administrative power. The key attributes of good governance are the institutions and processes should build on the rule of law, be accountable, open, effective and responsive, and give space for equal and meaningful participation by all sections of society irrespective of caste, creed, religion, class, culture, and age group. This would mean necessarily adopting a rights-based approach. A rights-based approach has the notion of individual citizens, including children, as rights holders and states as primary duty bearers.

“Children and governance is essentially about the recognition of children as citizens in their own right, therefore as rights holders. Fundamental to this recognition is State action by formulating legislation, policies and programmes and also implementing them through the executive, legislature and judiciary.”

Through their own Constitutions and by ratifying international instruments, countries have agreed to ensure implementation of children's rights. Indeed, the promulgation and ratification of the UN Convention on the Rights of the Child (UNCRC) brought home the need to recognise the citizenship rights of children, to the states as well as organisations working with children. India ratified the UNCRC in 1992 but there is a need to critically evaluate the adherence to its principles in the country's Constitution as well as in the implementation of child-sensitive policies and programmes.

Across the world, groups, academia and institutions have been working towards developing tools and mechanisms to assess and monitor State performance in realising the rights of children. They are also planning and executing interventions to make governance systems more responsive to children's rights and entitlements.

An overview of actions undertaken by them show that these include: analysis of budgets, monitoring the performance of elected representatives in all areas of governance, scanning and critiquing policies, laws and programmes, and interfacing with the government and international bodies.

This is the 20th year of reporting to UNCRC. Twenty years of UNCRC is indeed a pertinent time to see how far States and organisations have managed to reach in terms of their efforts towards helping children their rights and entitlements. It is against this backdrop that HAQ organised this international colloquium on Children and Governance: Holding the State Accountable. The idea behind our effort was to:

- Raise a global debate on "child-sensitive governance" from a child rights perspective
- Enable participants from different parts of the world to share existing knowledge, experiences, perspectives, tools and models to measure State accountability towards children and their rights
- To arrive at a consensus on pre-requisites for good governance for children and workable tools, indicators and models to measure State accountability towards children and their rights so that all those working in this field can speak with a collective voice and agenda
- To find ways and means to bring children into governance processes
- To consider possible future steps in research, advocacy, education and policy engagement on child rights, and
- Build alliances at global and regional levels

The other subjects we wished to focus were: critical assessment of State performance (shining the spotlight on the continuing disempowerment of many sections of children); self monitoring systems for the State (safeguards and systemic checks and balances to ensure that policies and programmes do not hamper children's interests); role of legal instruments and the relevance of international agreements and State compliance to them; and the role of diverse groups like NGOs, elected representatives and activists, among others.

Violation of Child Rights : A Deficit in Democracy

Dr Shantha Sinha,
Chairperson, National Commission for Protection of Child Rights, India



Thank you for inviting me to address this colloquium. I am overwhelmed by your warmth.

Let me begin by fleshing out the role of the National Commission for Protection of Child Rights. It was set up by an Act of the Parliament and is symbolic of the country's deep belief and abiding commitment to democracy. The work of the Commission is consciously embedded in a rights-based approach and does not believe in the welfare approach. There are 420 million children in the country and we try to ensure that we extend rights to all of them without discriminating on the basis of age, caste or gender. We also believe in extending all rights for all children.

Our task is not easy. It must be recognised unequivocally by all that it is the State alone that is the rightful agency to protect children's rights and it is primarily responsible for the well-being of children rights in the 0-18 age group.

We face enormous challenges each day and the hurdles are getting tougher. To begin with the definition of children remains nebulous. India does not have a national legal definition. The Constitution states 14 years as the ceiling of childhood; and different laws -- the Juvenile Justice Act (2006) and the 2005 National Plan of Action -- state 18 years. This anomaly is reflected across sectors and policies.

There is an urgent need to reiterate that the age is 0 to 18 and that attention needs to be given to the pre-zero age group, that is, the child even before it is born, as female foeticide is rampant in the country. Unborn fetuses are killed with the help of sex determination tests. For us at the Commission, all age groups in children are important and each child is of equal worth. We also do not discriminate in terms of rights. We believe that all child rights are equal and each one of them deserves equal priority.

Yet we must admit that only 22 per cent of children in the country reach grade ten. The remaining 78 per cent children stand dispossessed of education. Schooling is a distant dream for them. For these marginalised children, there is a distinct deficit of childhood and citizenship. This is primarily due to a deficit in policy and planning. Children today are fighting harder for health, education, nutrition and representation and participation in policy and programme. I must also point to the fact that children in the 14-18 age group are neglected and there is no concerted policy to address their needs.

Education opens up opportunities and choices for children and by denying this right to them we are encouraging an evil and vicious nexus of drug abuse, trafficking and unemployment that can spell only a downward spiral for children.

Democracy means justice, freedom and equity. We must enhance the meaning of democracy in order to highlight our children's rights.

When we talk of planning we must take into account inter-generational change. We must consider what will happen to the children tomorrow if the state does not invest in their today. In fact for many children there is no tomorrow. People who say children are the leaders of tomorrow are just procrastinating. There is need to pay attention to their today.

"It must be recognised unequivocally by all that it is the State alone that is the rightful agency to protect children's rights and their well-being. We do recognise that for many marginalised children, there is a distinct deficit of childhood and citizenship and that this is primarily due to a deficit in State policy and planning. Democracy means justice, freedom and equity. We must enhance the meaning of democracy in order to highlight our children's rights."

To bridge the gap between poor households and government agencies, we need micromanagement through hundreds and thousands of volunteers and volunteer organisations. We need to find many more social mobilisers, or Change Makers as many call them, at all levels of governance. They have their eyes and ears to the ground and they are telling us where the gaps are in policy and programmes.

Change Makers are people – men, women and children – who bring about attitudinal change within their communities by engaging with them and changing perceptions and practices. In fact, they are the little heroes and heroines -- images of ideas in action -- and we are overlooking their contribution. It is time we paid tribute to their extraordinary efforts and made attempts to encourage more people to be agents of change.

Eleventh Plan: Opportunities of Mid-term Analysis and the Strategy Session to Review Child Rights

Syeda Hameed,
Member, Planning Commission, Government of India



At the very start let me say I am committed to the work that is done by HAQ. I think they are doing a tremendous job on many fronts in an area that is crucial yet sidelined in governance. HAQ has made a significant contribution to the drafting of the Eleventh Five Year Plan.

I would like to begin by highlighting several instances of child abuse in the country's capital and in NOIDA in the very recent past where senior government officers have been involved in victimising young children. In Erode in Tamil Nadu, one of the more progressive areas of the country, children have no text books to study from and depend on the notes that their teachers give them. In Malegaon, children work long and gruelling hours on the power loom. In the Sunderbans, West Bengal, children spend their time netting prawns instead of being in schools. In the Lakhimpur- Khedi area of Uttar Pradesh, I found that some girls were not allowed into the *anganwadis* (child care centres) because they belong to the less dominant castes. In many other parts of the country I have come across young mothers feeding their infants with

tapioca gruel as they could not afford to feed him. These images are a stark reminder of how much needs to be done to secure child rights in the country.

We are at this moment poised at a very crucial stage with regard to policy planning. The mid-term appraisal of the Eleventh Plan is approaching. I have been active in drafting the inputs to child rights in the Plan and Enakshi and Bharti have supported me on this with their valuable inputs. I would like to contribute meaningfully to the mid-term appraisal by attempting to institute changes that will have a positive impact on child rights and allocations in child budgets.

Allocations in the Union Budget 2009-10 for programmes for children are far short of the commitments made in the Eleventh Five Year Plan (2007-12) and the forthcoming midterm review must take this into account. The chapter on children that we worked so hard to write for the Plan is not reflected in the budget allocations and allocations for many programmes on children have failed to get cleared because of procedural hurdles.

The budgets apportion very little for children and the miniscule amount of money earmarked is insufficient for this huge demographic group that comprises over 40 per cent of the population. The government is always telling those who push for an increase in child budgets to hold the line. But this line of control is not applicable to the other sectors like power, industry and infrastructure. We need to build mass sensitisation so that policy makers accord as much importance to child budgets.

There are still many lacunas and several missing links in the way children's programmes and budgets have been envisioned. We are often deterred by tedious approval procedures that are technical in nature. But in spite of all these failures, we have progressed and there are many programmes that are giving children their due.

With regard to the midterm review, though we cannot tinker with the actual allocations made in the Eleventh Plan we can certainly

“The mid-term review of the Eleventh Plan is about to begin. I would like to contribute meaningfully to the mid-term appraisal by attempting to institute changes that will have a positive impact on child rights and allocations in child budgets. The government is always telling those who push for an increase in child budgets to hold the line. But this line of control is not applicable to the other sectors like power, industry and infrastructure. Much more political will is needed to chalk out a concerted and comprehensive plan for child rights and protection.”

go in for supplementary allocations. It is important that the Centre allocates sufficient budgets for children and set up standards that the state governments can emulate. The state governments also need to have a broader mandate and vision for children and demand funds to fulfil them.

The mid-term review of the Eleventh Plan has a strategy session to undertake a review of child rights but much more political will is needed to chalk out a concerted and comprehensive plan for child rights and protection. The government should also begin to recognise child budgets as an important tool for resource utilisation and we hope that the midterm appraisal will help fill up missing gaps in the child budgets. It is a good juncture where we can lobby for better interventions and attempt to reroute funding.

Harnessing the Unlimited Potential of the Voluntary Sector

Amod K Kanth,
Chairperson, Delhi Commission for Protection of Child Rights



In my presentation I want to emphasise that good governance for children is about creating systems and mechanisms that benefit children. I also want to draw attention to the fact the voluntary sector or the civil society can play a significant role in governance, especially governance for children.

Governance is the process by which a society manages itself through the mechanism of the state and other agencies. The core ingredients of good governance are: people's participation, transparency, responsiveness, consensus orientation, equity, inclusiveness, the rule of law, effectiveness and efficiency, accountability and strategic vision.

Governance in the context of governmental, non governmental, corporate and civil society organisations – who all pursue different goals, have to still fall in line with the overarching themes of democratic principles and national interests.

The Indian Constitution, its Preamble and Basic Principles, the Fundamental Rights, Article 21, the 73rd and 74th constitutional amendments and the Right to Information secure citizen's rights. Yet the role of the government is being increasingly reduced to taking care of sectors like defence, law and order, financial controls and other such activities and the corporate sector limits its activities to market-driven ventures. It is the NGO sector or the 'third sector' that is actually carrying on the task of upholding the aspirations of the marginalised sections.

Both the political leadership and the larger civil society, thus, must understand and harness this unlimited potential of the voluntary sector. We must together address the question why despite our highly acclaimed democratic and inclusive structures we have failed to associate our marginalised millions in the task of re-engineering our society towards development and growth. Though we are a democracy, the voices of the marginalised remain unheard and children's concerns remain invisible.

The government's Integrated Child Protection Scheme (ICPS) is commendable and the programme has made tremendous strides. Yet it alone cannot address the needs and concerns of the 6-14 age group where it hopes to achieve a breakthrough. This is evident by the fact that child protection issues remain unaddressed and by the fact that allocations remain glaringly insufficient. Around 280 NGOs have held around 14 meetings with the government to advocate for the cause of children but nothing much has been gained. They had requested Rs 20,000 million for the ICPS but the government has sanctioned only Rs 35 million. In fact the allocation for this year's ICPS in the budget has declined as compared to last year. The Delhi budget this year has also been hugely disappointing. It does not mention the word 'child' anywhere and the funds earmarked for children are inadequate.

We also know that 70 million children are out of school. This is by the government's own admission. The Delhi government has also admitted that there half a million children who do not go to school and that these children work as labourers. The *Sarva Shiksha Abhiyan* is a brilliant effort on the part of the government yet the achievement of this programme has only been 60 per cent. The Education Guarantee Scheme is also ineffective and it is only the efforts of NGOs that is keeping the scheme afloat.

Perhaps the duress of the courts can aid in the formulation of schemes that take children back to school as most State efforts to get children to school are short term, ad hoc and financially untenable. The government is also not paying attention to training schemes for children. Delhi has half -a -million child workers but has no projects for them except the Indus project.

The social structure currently that exists consists of the State, *Panchayati Raj* institutions, the corporate sector and the social sector. The State has political, administrative and bureaucratic set ups yet many of their departments are non-functional. The *Panchayati Raj* institutions have not reached their full potential. The corporate sector has made some contribution to social development but its efforts are through individual institutions. Hence, the voluntary sector is often expected to fill in the gaps. It bears the burden of huge expectations and tasks. Yet they are not equipped with budgets.

A way out of current impasse in State performance is to forge a link between the State, Panchayati Raj Institutions and the voluntary sector.

The voluntary sector has a strong outreach, functions in a democratic fashion, works with and empowers people and is flexible in its approach. It makes use of local resources and expertise and this helps them gain both self sufficiency and the trust of people.

With this linkage, the voluntary sector can take on sizeable responsibilities and make up for the government's lack of initiatives.

A way out of this impasse is to forge a link between the State, *Panchayati Raj* Institutions and the voluntary sector. The voluntary sector has a strong outreach, functions in a democratic fashion, works with and empowers people and is flexible in its approach. It makes use of local resources and expertise and this helps them gain both self sufficiency and the trust of people.

If this linkage between the State, *Panchayati Raj* Institutions and the voluntary sector is forged, the voluntary sector can take on sizeable responsibilities. It can make up for the government's lack of initiatives, its failure to ensure people's participation and sidestep the corruption that afflicts and stalls many initiatives. There are over two million registered NGOs and many more unregistered ones and I feel they can truly bring about a socio-economic transformation in the country.

The Planning Commission evolved a national policy for the voluntary sector in 2006 and envisaged it as independent, creative and effective sector yet the sector's efforts remain un-recognised and un-encouraged. The Eleventh Plan also seeks to strengthen the voluntary sector but the allocations are extremely inadequate.

I feel that the voluntary sector should not get disheartened and it should continue to keep up its efforts to influence policy and project formulation through membership within committees, and submissions of memoranda directly or through elected representatives. The sector should also continue to be watchdogs of violations of children's rights, advocate for child protection, act as educators (to ensure that both people and the children are aware of their rights, entitlements and responsibilities) and be service providers (especially to vulnerable and unreached children).

Governance has three levels -- internal systems and procedures; cutting edge systems and practice; and check- and-balance mechanism. At the first level, the civil society can influence policy and project formulation through membership on committees and submission of memoranda to elected representatives and interactive rule making in the implementation of policies. At the second level, there is a need to interact with the civil society and at the third level there is to expose irregularities.

There are a few failings of the NGO sector which they need to address: inability to cooperate with each other, many are not as accountable and transparent as they claim, their operations are small and there is uncertainty in the availability of human and financial resources hampering planning of their activities.

I would like to give you the example of Prayas to show the voluntary sector can contribute to collaborative efforts with the State. A registered national level voluntary organisation, we at Prayas started functioning in 1988/89 in collaboration with the Delhi Police, Delhi School of Social Work (University of Delhi), *Jan Shikshan Sansthan* and various governmental, bilateral, corporate and non- governmental organisations. We are committed to the cause of marginalised children, youth and women. We set an example to show that productive collaborations are possible.

Today, we operate in seven states and have over 225 community based centres with an outreach of 50,000 marginalised children and 10,000 youth and women. We address multiple issues relating to child protection and juvenile justice, trafficking of women, vocational and life skills training, entrepreneurship, child labour and alternative education.

This has been possible due to a good organisation structure, transparency of operation, and decentralised approach to work. I sincerely our efforts encourage others to enter into productive partnerships.

State Investments in Child Rights Issues through Policy and Programmes

Ms. Pradeep Bolina,

Joint Secretary, Ministry of Women and Child Development, Government of India



I am at a disadvantage as I am speaking last in this session and I realise that I have to be a little defensive about the government performance.

I would like to begin by saying that what has not been done by the government will get done. I have indeed taken note of all the reservations of the participants and I will share the initiatives of the government and its efforts to lead from the front to enable rights for the 440 million children in our country, which is among the highest child population in the world.

It is recognised that government standing with regard to governance on children depends on how well it addresses children's needs in education, health, and their overall development and well-being.

It is recognised that government standing with regard to governance on children depends on how well it addresses children's needs in education, health, and their overall development and well-being.

There is no comprehensive Children's Act as yet.

But the fact that the Indian government has set up a separate ministry of the Women and Child Development shows its commitment to the cause. Its ratification of the UNCRC in 1992 also shows that it is serious about child rights and child protection. This is an important year for us as UNCRC celebrates twenty years and we are taking our reporting mechanisms with utmost seriousness. State administrations, agencies and ministries are paying attention to how and what to report on.

The government formulated the National Charter for Children in 2003, the National Plan of Action for Children in 2005, and the National Commission for Protection of Child Rights (NCPCR), that ensures that laws, policies, programmes and administrative mechanisms are in consonance with child rights perspectives at the national, state, district and block levels, came into being in 2007.

The Integrated Child Protection Scheme (ICPS) is an integrated scheme that brings in the discrete elements of all programmes under one umbrella. It aims to provide care and protection for all children in conflict with law and children in need of protection. It creates a safety net for children, promotes preventive measures to allow families to stay together, encourages the setting of child protection units, sets up emergency services, builds capacity of NGOs and offers specialised health and counselling services.

The other schemes of the government revolve around Juvenile Justice, schemes for working children, Integrated Protection of Street Children, *Shishu Graha* Scheme, distress child lines, Rajiv Gandhi crèche schemes, setting up adoption homes, and creating a database for missing children.

We have set up State Commissions for the Protection of Children's Rights in Delhi, Maharashtra, Sikkim and Goa. These Commissions are formidable forces to fight for the protection of child rights and work in all sectors. The government is also paying a great deal of attention to female foeticide and making efforts to halt this practice through policy and law. It has declared 24 January as the National Day for the Girl Child.

Child budgets are an important tool to ensure child rights and the government earmarks significant resources for children. I agree that it is not sufficient and that much more needs to be allocated. Critical insights should go into the process of child budgeting

We also work with the NGO sector by drawing up memorandums of understanding and demarcating areas of work so that the implementation of the rights of the child remains an integral part of their work with the clear understanding that the onus of child rights ultimately lies with the government. I strongly feel that the government, family, community and society should work together to address children's needs.

Observations from the participants

Law without policy

- Children's laws in India suffer from a peculiar malady. Laws are not based on a comprehensive policy on the child.
- Further after 62 years of independence the abrogation of state responsibility to promote and protect child rights is real and becoming awesomely true. Most policies and laws of the state are not in the best interests of the child. Increasingly they lead to family deprivation and lend themselves to worst forms of exploitation.
- A policy for children must outline a sustainable development perspective and contain definite goals, time bound programmes, offering highest quality and be based on the UNCRC principles of first call for children (in all policy decisions and budgetary allocations) and the best interests of the child.
- A central element of a Policy on the Child is to guarantee the right to freedom of information, expression and participation of children at all stages of policy formulation and implementation.

Law without rights

- Children in India do not have rights. They have laws. Rights and laws are not the same – laws by the State are generally meant for curtailment of rights. Whereas rights are meant to empower those who require to be empowered because of powerlessness.
- Most laws on the child are inconsistent with the UNCRC and the Indian Constitution. Both the UN. Convention and the Constitution inter-protectively and substantially are progressive laws. Both go beyond the individual and affirm collective rights.

Abdication of State Responsibility

- The growing trend of handing over of responsibility or running institutions as well as programmes to NGOs and other civil society bodies in the name of public-private partnership amounts to abdication of state responsibility
- The role of the non-governmental organisations, civil society and the voluntary sector must be that of providing technical support and assistance to government, supplementing the work that government does and to monitor government performance.
- Government is and must continue to be the primary duty bearer, and it must be ensured that it continues to perform its role.
- Privatisations of institutions further marginalise the children from backward classes.

Existing programmes are designed to be unequal

- Unless the programmes and schemes are designed with care it results in greater marginalisation and exclusion.
- The Sarva Shiksha Abhiyaan is an example of a programme that by its very design excludes and marginalised children. It fosters unequal treatment to children by having parallel types of education. There are inadequate equipments, teachers and other facilities. SSA has to be corrected.

Budgets for children

- Budget for children needs attention. Lots of money allocated to schemes is unspent. There is a need to track down at what stages and how this happens and how plans are developed, and this needs a bottoms-up review.
- Many more of the programmes are now run through autonomous societies at the state and district level, and the budgets are directly transferred to them. As a result these budgets do not find mention in the state budget documents. How can these be monitored?



SESSION ONE

CHILDREN AND GOVERNANCE: EXPERIENCES AND LEARNINGS

HIGHLIGHTS



- Shared experiences and learnings by participants from Africa, Sri Lanka, Nepal and the UK underscored the need for political will, comprehensive policy and well-being indicators, child budgets, child-sensitive juvenile justice systems, space for child interaction in policy and international mechanisms to lend credence to ‘children and governance’ and ‘children in governance’.
- Child-friendliness among States can be measured using a comprehensive index based on policy and well-being indicators. A prototype developed by the African Child Policy Forum can serve as a model.
- State accountability can be determined by juxtaposing budgetary allocations or ‘inputs’ against the ‘outcomes’ achieved in terms of actual benefits and access to services for which budgets have been allocated. Child well-being is possible even at very low levels of development.
- It is important to invest in research (to gain a sound knowledge base and be able to influence policy in favour of children) and ensure a high degree of professionalism among the people who work in this field.
- Nepal has created an enabling environment for children to participate. Children have the right to form associations, be members of boards to national and local organisations, be represented at the Village Development Committees, have a voice in the framing of the new Constitution, give inputs to the National Plan of Action for Children and project themselves as ‘zones of peace’ to warring political parties.
- Children’s participation in governance in Nepal has paved the way for State accountability and resulted in transparency of operations in governments.
- In contrast, UK permits corporal punishment of children despite international condemnation.
- International reporting mechanisms offer opportunities to children to be involved in talking about and being listened to in terms of their rights. But they remain weak as States don’t comply with them.
- There is no right to petition under the CRC as yet and there is no analysis of jurisprudence/ case law relating to children in terms of international mechanism.
- Civil society is in the best position to strengthen international reporting mechanisms as accountability tools and guard the guards.

Governance and Child Well-being: Lessons from Africa

Dr Assefa Bequele,
Executive Director, The African Child Policy Forum, Ethiopia



Introduction

It comes as a surprise to many of us though it should have been manifestly clear long ago that, after all is said and done, governance is the key for the realisation of child rights and well-being. We at African Child Policy Forum (ACPF) stumbled at this conclusion almost by accident, and this is how it happened. This is to the best of my knowledge, the first seminar or workshop in the world to discuss governance in the context of children.

Our governments have an impressive record in their formal accession to the relevant international treaties on children, including the African Charter on the Rights and Welfare of the Child. However, the extent of their commitment varies widely, and the gap between promises and reality remains wide in many countries. Why? Which governments are doing well and which ones are not? How do African governments rank in relation to each other? What accounts for differences in government performance? To what extent are differences in government performance due to disparities in levels of development or levels of poverty? These were some of the questions that we addressed in our recent *The African Report on Child Wellbeing 2008: How Child-friendly are African Governments?*

This report uses the concept of Child-friendliness and a Child-friendliness Index to assess, score and rank the performance of all 52 African governments (those not covered being Somalia and Saharawi Arab Republic).

The Child-friendliness of African governments

The Child-friendliness Index developed by ACPF assesses the extent to which African governments are committed to child well-being. Three dimensions of child-friendliness were identified, namely the extent to which a government is committed to the principles of:

- (i) full **Protection** of children through appropriate legal and policy frameworks;
- (ii) adequate **Provision** for the basic needs of children, assessed in terms of budgetary allocation and well-being outcomes;
- (iii) **Participation** of children in decisions that affect their well-being.

Though child participation is important, it was not possible to obtain sufficient data, and therefore this dimension was not included in the development of the Child-friendliness Index. The index, thus, covers only the **Protection** and **Provision** components of child well-being.

The index uses a common framework for the organisation and analysis of information and data for all the 52 countries. It is based on some 40 policy and well-being indicators (see Chart 1 below) and assesses the individual and relative performance of all the 52 governments at a point in time (2004-2005) and over time (i.e. between the periods 1999-2001 and 2004-2005).

How protective are African governments of their children?

The first question is how committed are governments to protect children against harm, abuse and exploitation through the effective provision of appropriate laws and policies. The report assesses government performance in terms of protection by looking at such indicators as:

- i. Ratification of international and regional legal instruments relating to children
- ii. Existence of provisions in national laws to protect children against harm and exploitation
- iii. Existence of a juvenile justice system, National Plan of Action (NPA) and coordinating bodies for the implementation of children's rights
- iv. Existence of a national policy for free primary education.

The ranking based on the index values obtained using the above indicators shows how African governments performed in laying the legal and policy frameworks for protecting children against harm and exploitation. (See Table 1).

Chart 1: Child-Friendliness Index (CFI): Indicators, Components and Dimensions

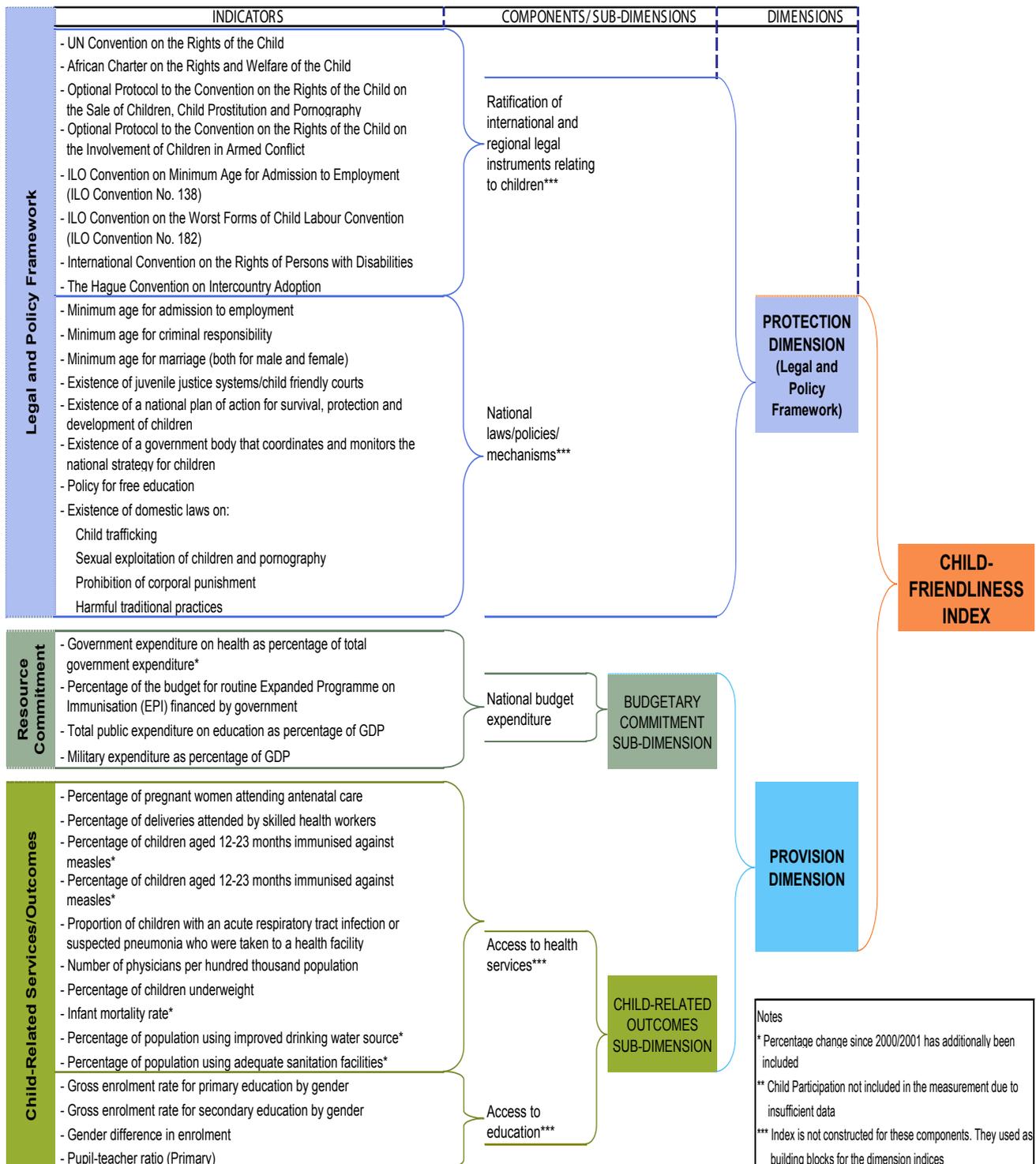


Table 1 | Index Values and Ranking for Protection of Children (The Best and Worst Performers)

| Best Performers | | | Worst Performers | | |
|-----------------|-------|------|--------------------------|-------|------|
| Country | Score | Rank | Country | Score | Rank |
| Kenya | 0.855 | 1 | Guinea-Bissau | 0.369 | 52 |
| Madagascar | 0.849 | 2 | Swaziland | 0.44 | 51 |
| Burundi | 0.821 | 3 | Gambia | 0.488 | 50 |
| Morocco | 0.821 | 4 | Sao Tome and Principe | 0.548 | 49 |
| Namibia | 0.821 | 5 | Central African Republic | 0.576 | 48 |
| Rwanda | 0.810 | 6 | Liberia | 0.583 | 47 |
| Mali | 0.798 | 7 | Djibouti | 0.587 | 46 |
| Burkina Faso | 0.774 | 8 | Zimbabwe | 0.595 | 45 |
| Nigeria | 0.768 | 9 | Seychelles | 0.595 | 44 |
| Libya | 0.766 | 10 | Gabon | 0.595 | 43 |

Note: For sources for this and all other tables, charts and figures please refer to The African Report on Child Well-being (2008)

Ranking of governments for child provision

The other dimension identified for the measurement of governments' child-friendliness is provision to meet the basic needs of children. Provision for children is measured based on two elements, each composed of distinct sets of indicators. The first element relates to budgetary expenditure that measures governments' resource commitment to provide for the basic needs of children and ensure their well-being. The other element measures the outcomes achieved in terms of actual access to various services (health, education, nutrition, water and sanitation).

Among the indicators used to measure governments' budgetary commitment are:

- i. Government expenditure on health as a percentage of total government expenditure;
- ii. Total public expenditure on education as a percentage of GDP;
- iii. Percentage of the budget for routine Expanded Programme on Immunisation (EPI) vaccines financed by government;
- iv. Military expenditure as a percentage of GDP; and
- v. Percentage change in governments' expenditure on health since the year 2000.

The proportions of government expenditure on these sectors are used as a measure of resource commitment. The use of proportions in the measurement enables us to control for differences in economic status and population size.

- **Health expenditure**

In assessing governments' budgetary commitment, one important domain of action is national expenditure on health. Chart 2 shows national budget expenditure on health as percentage of total government expenditure for 2004. As can be seen from the chart, health expenditure varied considerably between governments. Median health expenditure was found to be nine per cent, and nearly half of African governments had allocated between seven and 11 per cent of their total expenditure. Below the median is a wide spectrum of countries where the percentage of expenditure that went to health was less than five per cent.

- **Education expenditure**

The data refers to education expenditure between 2003 and 2006 and for some countries, the data refers to the period beyond the specified interval. Despite such limitations, however, we have noted that countries usually have reasonably consistent ratios of expenditure on education, and that these ratios in most cases do not drop or increase substantially

from one fiscal year to the other. Chart 3 shows that expenditure on education varied markedly by country and the median expenditure on education was 4.3 per cent of GDP.

- **Military expenditure**

Military expenditure is also used as an inverse measure of resource commitment to child wellbeing. It was used on the grounds that government expenditure on military reduces resources available for basic services related to children's wellbeing.

Ranking of governments for budgetary commitment

Table 2 below presents the index values for governments' budgetary commitment and the rankings derived from these values for the best and worst performance. Accordingly, the Government of Malawi came out as the most committed to using the maximum amount of available resources for children. A close look at the five indicators shows that the Government of Malawi spent higher proportions of its resources for health and education. Most importantly, its expenditure, particularly for health, increased four-fold over the last five years, indicating enhanced commitment to supporting the sector. At the same time, Malawi's military expenditure was found to be one of the lowest in the continent.

Table 2 | Index Values and Ranking for Budgetary Commitment, 2004-2005 (The Best and Worst Performers)

| Most Committed | | | Least Committed | | |
|----------------|-------|------|--------------------------|-------|------|
| Country | Score | Rank | Country | Score | Rank |
| Malawi | 0.717 | 1 | Eritrea | 0.075 | 52 |
| Botswana | 0.643 | 2 | Comoros | 0.187 | 51 |
| Burkina Faso | 0.613 | 3 | Sao Tome and Principe | 0.226 | 50 |
| Seychelles | 0.600 | 4 | Guinea | 0.276 | 49 |
| Namibia | 0.595 | 5 | Sudan | 0.298 | 48 |
| Tunisia | 0.591 | 6 | Central African Republic | 0.306 | 47 |
| Swaziland | 0.584 | 7 | Benin | 0.306 | 46 |
| Cape Verde | 0.571 | 8 | Guinea-Bissau | 0.311 | 45 |
| Mauritius | 0.571 | 9 | Equatorial Guinea | 0.311 | 44 |
| South Africa | 0.561 | 10 | Sierra Leone | 0.317 | 43 |

Following Malawi, the governments of Botswana, Burkina Faso, Seychelles and Namibia were found to be among the most committed. The group of least committed countries in budgetary terms includes Eritrea, Comoros, São Tomé and Príncipe, Guinea, Sudan, Central African Republic, Benin, Guinea-Bissau, Equatorial Guinea and Sierra Leone.

Achievement of outcomes for children

The previous section examined the elements of provision by looking at the 'input' aspects of government efforts. We now look at the outcomes as reflected on the children themselves and the achievements made in terms of actual service utilisation. We accordingly identified sets of indicators that measured "outcomes" under three main components: access to basic services (health and education); access to other services (water and sanitation, etc.); and outcomes for children (nutritional status, mortality rates, etc.). Each of these components, along with the corresponding indicators, were used to measure government efficiency and effectiveness. As in the case of budgetary commitment, we have aggregated the scores for each of the indicators into a combined index value. These values show the relative achievements of governments in providing services and bringing about outcomes that impact on children.

Ranking of governments for "overall provision"

As indicated earlier, the dimension on provision is composed of two interrelated elements: budgetary commitment and outcomes for children. The combined index of these two sub-dimensions captures both governments' commitment to

direct financial resources for the fulfilment of children's rights, and success in bringing about changes in their situation. The combined index values and the ranking for the overall provision for the best and the worst performance are presented in Table 3.

Table 3 | Index Values and Ranking for "Overall Provision", 2004-2005 (The Best and Worst Performers)

| Most Committed | | | Least Committed | | |
|----------------|-------|------|--------------------------|-------|------|
| Country | Score | Rank | Country | Score | Rank |
| Seychelles | 0.672 | 1 | Eritrea | 0.241 | 52 |
| Tunisia | 0.664 | 2 | Ethiopia | 0.309 | 51 |
| Mauritius | 0.660 | 3 | Central African Republic | 0.314 | 50 |
| Malawi | 0.648 | 4 | Chad | 0.321 | 49 |
| Libya | 0.622 | 5 | Guinea | 0.33 | 48 |
| Algeria | 0.618 | 6 | Comoros | 0.335 | 47 |
| Egypt | 0.610 | 7 | Sierra Leone | 0.342 | 46 |
| South Africa | 0.605 | 8 | Angola | 0.345 | 45 |
| Botswana | 0.605 | 9 | Guinea-Bissau | 0.363 | 44 |
| Namibia | 0.589 | 10 | Equatorial Guinea | 0.369 | 43 |

How do rich and poor African countries score in budgetary commitment?

The usual excuse offered by African governments for failing to enact pro-children policies is poverty. How far is this true? In order to answer this question, we compared governments' budgetary commitments with economic status as measured by GDP per capita. The comparison produced some interesting results. Policy problems as it concerns children seem to be the result of lethargy and neglect rather than poverty. A number of countries with low GDP per capita were found to spend far more significant proportions of their limited resources on the education and health sectors than some other countries with higher GDP per capita. (See table 4)

The conclusion is simple, and perhaps not surprising: child-friendliness of governments is not necessarily related to economic status or availability of resources. It has to do with political will and political enlightenment. There are many poor countries that are committed to children despite economic difficulties. On the other hand, there are countries that are doing well in the economic sphere, but are not investing proportionally in their children. Most notable among such nations is Equatorial Guinea, which lies on opposite extremes of the respective rankings for budgetary commitment and GDP per capita. The governments of Sudan, Comoros, Angola and Libya also performed poorly, moving down 26, 24, 23 and 22 places, respectively, in their rankings for budgetary commitment compared to their positions for economic status.

Table 4 | List of Countries by Difference in their Ranking for Budgetary Commitment from GDP Per Capita Rank, 2004-2005

| Countries which moved up in ranking for budgetary commitment | | Countries which moved down in ranking for budgetary commitment | |
|--|------------------|--|------------------|
| Country | Number of places | Country | Number of places |
| Malawi | +45 | Congo (Brazzaville) | -19 |
| Burkina Faso | +34 | Guinea | -21 |
| Niger | +26 | Libya | -22 |
| Burundi | +23 | Angola | -23 |
| Dem. Rep. Congo | +23 | Comoros | -24 |
| Mali | +22 | Sudan | -26 |
| Togo | +17 | Equatorial Guinea | -43 |

Source: The African Child Policy Forum, 2008 and World Bank's World Development Indicators, 2007

Most and least child-friendly governments

We now combine the results of these partial rankings and look at the overall picture. The countries that emerged in the top ten or twenty did so mainly for three reasons. First, they put in place appropriate legal provisions to protect children against abuse and exploitation. Secondly, they allocated a relatively higher share of their budgets to provide for the basic needs of children. Finally, they used resources effectively and were able to achieve favourable wellbeing outcomes as reflected on children themselves.

Poor performance or low score of these governments is the result of the actions they failed to take, specifically their failure to institute protective legal and policy instruments, the absence of child-sensitive juvenile justice systems, and the very low budgets allocated to children.

Table 5. Child-Friendliness Index (CFI) Values and Ranking of African Governments

| Country | Index Value | Rank | Category | Country | Index Value | Rank | Category |
|-----------------------------|-------------|------|------------------------------|--------------------------|-------------|------|-----------------------------|
| Mauritius | 0.711 | 1 | MOST CHILD FRIENDLY | Cameroon | 0.537 | 33 | LESS CHILD FRIENDLY |
| Namibia | 0.705 | 2 | | Congo | 0.534 | 34 | |
| Tunisia | 0.701 | 3 | | Angola | 0.530 | 35 | |
| Libya | 0.694 | 4 | | Côte d'Ivoire | 0.525 | 36 | |
| Morocco | 0.693 | 5 | | Zimbabwe | 0.518 | 37 | |
| Kenya | 0.680 | 6 | | Equatorial Guinea | 0.518 | 38 | |
| South Africa | 0.672 | 7 | | Sudan | 0.508 | 39 | |
| Malawi | 0.663 | 8 | | Sierra Leone | 0.507 | 40 | |
| Algeria | 0.654 | 9 | | Benin | 0.506 | 41 | |
| Cape Verde | 0.651 | 10 | | Ethiopia | 0.503 | 42 | |
| Rwanda | 0.649 | 11 | CHILD FRIENDLY | Comoros | 0.501 | 43 | LEAST CHILD FRIENDLY |
| Burkina Faso | 0.648 | 12 | | Guinea | 0.500 | 44 | |
| Madagascar | 0.637 | 13 | | Swaziland | 0.494 | 45 | |
| Botswana | 0.635 | 14 | | Chad | 0.482 | 46 | |
| Senegal | 0.634 | 15 | | Liberia | 0.478 | 47 | |
| Seychelles | 0.634 | 16 | | Sao Tome and Principe | 0.476 | 48 | |
| Egypt | 0.632 | 17 | | Gambia | 0.461 | 49 | |
| Mali | 0.629 | 18 | | Central African Republic | 0.445 | 50 | |
| Lesotho | 0.624 | 19 | | Eritrea | 0.442 | 51 | |
| Burundi | 0.622 | 20 | | Guinea-Bissau | 0.366 | 52 | |
| Uganda | 0.611 | 21 | FAIRLY CHILD FRIENDLY | | | | |
| Nigeria | 0.609 | 22 | | | | | |
| United Republic of Tanzania | 0.602 | 23 | | | | | |
| Gabon | 0.579 | 24 | | | | | |
| Mozambique | 0.571 | 25 | | | | | |
| Togo | 0.569 | 26 | | | | | |
| Zambia | 0.567 | 27 | | | | | |
| Mauritania | 0.564 | 28 | | | | | |
| Ghana | 0.557 | 29 | | | | | |
| Djibouti | 0.552 | 30 | | | | | |
| Dem. Rep. Congo | 0.551 | 31 | | | | | |
| Niger | 0.545 | 32 | | | | | |

Economic status and child-friendliness

Once again, a recurring explanation or excuse given by governments for inadequate action is their limited financial capacity, the low performance of their economies and lack of resources. To what extent is this true?

In order to answer this question, we compared Child-friendliness Index rankings with the ranking for economic status as measured by per capita GDP. An interesting finding thereby revealed was the fact that a number of governments with relatively low GDP have still managed to score high in 'child-friendliness' (see table 6 below).

Our analysis shows that the child-friendliness of a government does not necessarily relate to its economic status. A country can be child-friendly by making effective use of its available resources and laying appropriate legal and policy foundations for the realisation of children's rights and child well-being.

Table 6 | Child-friendliness Index and GDP Per Capita Ranking 2004-2005

| Countries which moved up in ranking | | Countries which moved down in ranking | |
|-------------------------------------|------------------|---------------------------------------|------------------|
| Country | Number of places | Country | Number of places |
| Malawi | 38 | Guinea | -16 |
| Burundi | 30 | Côte d'Ivoire | -17 |
| Madagascar | 28 | Sudan | -17 |
| Rwanda | 27 | Gabon | -18 |
| Burkina Faso | 25 | Angola | -19 |
| Mali | 21 | Congo | -19 |
| Dem. Rep. Congo | 20 | Gambia | -19 |
| Kenya | 18 | Swaziland | -33 |
| Uganda | 15 | Equatorial Guinea | -37 |

Source: The African Child Policy Forum, 2008

The Child-friendliness Index data strongly confirms the fact that governments with a relatively low GDP can still do well in realising child rights and well-being. The missing factor is political will, reflected in misplaced priorities and the clouded vision of governments as to what constitutes the long-term interest of their countries.

Conclusions

Two important conclusions emerge from this exercise.

The first is the beauty and power of simplicity. Much analysis of government obligations is hampered by the tedious task of having to scan voluminous information and bulky reports. But this CRC-inspired and CRC-based methodology provides a simple but powerful, transparent and objective framework for policy analysis and comparison and for assessing individual and relative government performance.

Secondly, the African experience confirms what many of us have long suspected. Yes, there are considerable challenges facing governments but progress is possible and feasible even at very low levels of development. You do not have to have oil and diamonds to provide a better country for your children. Rather, success has to do with whether or not children figure out in the election manifestoes of politicians and their parties; whether or not they are at the heart of the

Good governance for children means: Politics that put them first, Laws that protect them, and Budgets that provide for them.

budgeting process and are given a hearing; whether or not laws are based on the principle of the best interest of the child; whether or not the state has established a child-sensitive juvenile justice system; and whether or not we are moving towards a polity and society that is child-friendly. In other words, good governance, and this means: **Politics** that put them first, **Laws** that protect them, and **Budgets** that provide for them.

Child Protection: Sri Lankan Experience

**Professor Harendra de Silva,
Founder Chairperson, National Child Protection Authority**



Child abuse is not a new phenomenon. Even in the time of Buddha there is recorded evidence of Sopaka being abandoned in a cemetery by his stepfather to be eaten by wolves and that of Mattakundali who was left unfed and unattended.

It took Sri Lanka very long to recognise and acknowledge the existence of child abuse. Cases of physical abuse were dismissed as accidents. Vaginal bleeding among girls was presented as cases of leech bites. The only issue that got mentioned was battered baby syndrome.

When I made a presentation about cases of physical abuse in an academic conference in my capacity as a professor, the documentary evidence I provided made the scientific community sit up. No one had ever raised or dealt with such issues at conferences in the past. When I first suggested that I would like to discuss this issue, there was a lot of scepticism. But the scientific community soon realised the scale and severity of the problem and began to give the issue space and attention.

My long involvement in the area of child rights has made me realise that in order to make a case for State involvement and accountability, one has to invest in research that is credible, accurate and quantitative. It is this rigour in research that can stand up to scrutiny of politicians, policy makers and the scientific community. Sound research based on empirical evidence can also aid people working in the area. Another facet that needs to be explored in depth is the cost of child abuse and how this impacts the economy. This, too, can contribute towards the body of evidence and help campaigners in strategising campaigns.

When campaigning for child rights and protection, there is a dire need for professionals. A high degree of professionalism is called for among activists when they conceptualise, plan and implement the campaign. All those playing a role in the campaign need be professionals in their own right – be they grassroots level workers, health professionals, counsellors, researchers, government officials or policy makers.

All of them would require training even though they may be qualified professionals. This is because child's rights and protection is an area of work that calls for a particular sensibility where even a qualified paediatrician can make mistakes if s/he is not sensitised to multi-faceted perspectives like legal issues, socio-economic compulsions and policy guidelines.

In Sri Lanka, we were handicapped by the lack of a professional approach and by a lack of political will for very long. Children's issues remained invisible till the appointment of a Presidential Task Force on Child Protection in 1996. Based on its recommendations, the National Child Protection Authority Act, No 50 of 1998 was introduced in Parliament.

NCPA Members

- Chairman & Deputy Chairman
- Paediatricians
- Psychiatrists
- Psychologists
- Forensic Pathologists
- Police - DIG
- Senior Lawyer
- Five Appointed Members
- Ex Officio Members

Resource Panel

- Sen. Assistant Secretary or above
- Ministries of:
 - Justice
 - Defence
 - Health
 - Labour
 - Women's Affairs
 - Social Services
 - Provincial Councils
 - Media
 - Tourism
 - Education

As a founder chairperson of this Authority, I would like to take you through the functions of the National Child Protection Authority in detail:

It was laid down that the functions of the Authority shall be -

- (a) to advise the Government in the formulation of a national policy on the prevention of child abuse and the protection and treatment of children who are victims of such abuse
- (b) to advise the Government on measures for the prevention of child abuse
- (c) to advise the Government on measures for the protection of the victims of such abuse
- (d) to create an awareness, of the right of a child to be protected from abuse and the methods of preventing child abuse
- (e) to consult the relevant ministries, Provincial Councils, local authorities, District and Divisional Secretaries, public and private sector organisations and recommend all such measures as are necessary, for the purpose of preventing child abuse and for protecting and safeguarding the interests of the victims of such abuse
- (f) to recommend legal, administrative or other reforms required for the effective implementation of the national policy for the prevention of child abuse
- (g) to monitor the implementation of laws relating to all forms of child abuse
- (h) to monitor the progress of all investigations and criminal proceedings relating to child abuse
- (i) to recommend measures to address the humanitarian concerns relating to children affected by armed conflict and the protection of such children, including measures for their mental and physical well-being and their re-integration into society
- (j) to take appropriate steps where necessary for securing the safety and protection of children involved in criminal investigations and criminal proceedings
- (k) to receive complaints from the public relating to child abuse and where necessary, to refer such complaints to the appropriate authorities
- (l) to advise and assist Provincial Councils and local authorities, and non governmental organizations to co-ordinate campaigns against child abuse
- (m) to prepare and maintain a national data base on child abuse
- (n) in consultation with the relevant ministries and other authorities to supervise and monitor all religious and charitable institutions which provide child care services to children
- (o) to conduct, promote and co-ordinate, research in relation to child abuse and child protection
- (p) to provide information and education to the public regarding the safety of children and the protection of the interests of children
- (q) to engage in dialogue with all sections connected with tourism with a view to minimising the opportunities for child abuse
- (r) to organise and facilitate, workshops, seminars and discussions, relating to child abuse
- (s) to liaise and exchange information with foreign Governments and international organisations, with respect to detection and prevention of all forms of child abuse

The conceptual framework and the coordination mechanisms between the government bodies, NGOs, district and provincial level bodies and international organisations is depicted in the diagram .

The NCPA also makes use of highly visible communications – both conventional and non convention – to disseminate information on the issues relating to child rights and protection. It relies on posters, stickers, campaign identity items, radio and TV programmes, the mass media, books and leaflets, campaign songs, and the distribution of CD, cassettes and videos to popularise the messages.

The NCPA also invests in capacity building of paediatricians, lawyers, judicial medical officers, legal officers, high court judges, teachers, doctors, psychologists/psychiatrists, social workers, media and the police. The orientation for each of these groups has been different and the modules and training sessions have been tailor made to address their

needs. A manual for each group has been created.

District Child Protection Committees have been set up and the NCPA has formulated the Terms of reference (TOR). The NCPA has also initiated legal reforms.

Under the Penal Code Amendment: Act No. 22 of 1995, it has gone about

- defining new offences that were previously not defined or described adequately
- Increasing sentences
- Introducing mandatory jail sentences for some offences.



The amendment to the judicature act dispenses with the non-summary inquiry in the case of statutory rape; the Criminal Procedure Code allows for detention of suspects; and the Penal Code amended lays down legal obligation on developers of films and photographs to inform the police obscene material in relation to children. (Act no.29) of 1998. The NCPA is also active in monitoring the internet and keeping an eye on paedophiles.

To sum up I would like to say that the moment professionalism is dropped and the child rights and protection agenda is taken over by politically -driven mandates its efficacy declines.

Experiences and Learnings from Nepal

Sumnima Tuladhar,
Executive Coordinator, CWIN-Nepal



The child rights movement in Nepal is recent. Before the 1980s, children were beneficiaries of government projects that were welfaristic in nature. CWIN's inception in 1987 created a nationwide concern on safeguarding children's rights and it in many ways changed the understanding of child rights issues.

A strong child rights movement led by CWIN in Nepal in the early 1990s created a space for children as citizens and right holders defying the conventional outlook towards children, especially those living and working in risk situations (early 1990s).

The emergence of child rights forums and child clubs created a positive environment for children's meaningful participation at various levels during 1995-2001 and from 2002 onwards a consensus was reached among stakeholders to consult with children on issues concerning them.

In Nepal, children are important stakeholders as they comprise almost half of the Nepal's population (41.6 per cent of total Nepal's population is children under 16). A majority of Nepali children face the brunt of economic crisis, grapple with social anomalies and are entangled in situations of conflict. Though there are several initiatives to tackle various problems being faced by children, we at CWIN feel that unless children are involved in the process of arriving at solutions using their own experiences, these attempts are going to fail.

Nepal is poised to create 'a New Nepal' and formulate a new constitution of Nepal through constituent assembly. We see this as an opportune moment for children to claim their stake in the highest national law and institutionalise children's role in governance.

Children's participation can occur in governance of organisations, alliances and networks, schools, local and national governance.

As we see it, children's participation can occur within five categories: governance of organisations, alliances and networks, schools, local and national governance.

Children have started their own clubs and child rights forums – in schools and out of school (issue based forums). There are about 10,000 such clubs spread all over the country. A children's organisation called 'Jagriti Bal Club' and CWIN together have won a court case in the Supreme Court of Nepal (2004) on children's right to association. This grants children under 18 in Nepal the right to govern an organisation on their own without involvement of any adults and allows them to register with government authorities sharing same mandate as any other adult organisation.

Children can also have space in organisations as members of the board and advisory committee to national organisations and local organisations. They can also engage in monitoring and evaluation of organisations including in programme and policy.

Children have positions in executive boards of national networks such as Alliance Against Trafficking in Women and Children, the Consortium of Organisations Working with Child Clubs, and the National Alliance of Organisations working with street children and child home networks. Children' forums also take the lead in issue-based children's movement such as Working Children's Forum and Working Girl's Forum.

Children are also members of School Management Committees (SMCs) and are also consulted by Parent/Teachers Association (PTAs). They have contributed in democratisation of school governance after their involvement in SMCs and their presence SMCs has enhanced role of SMCs in school development and in addressing needs of children. The children are in addition involved in mapping of out-of-school children and enrolling child workers into their schools from

the quota of scholarships.

Representatives of children's groups/clubs are invited as advisors and as board members of Village Development Committees (VDCs) in few districts. At present, there are 4,900 VDCs in 75 districts. A few village development committees have made it mandatory to have at least one child club in each VDC. The District Development Committees have started consulting with children's groups for setting up local development priorities. One must, however, admit that the progress has been stalled in the absence of elected local governments in Nepal for a long time due to the conflict/post conflict situations.

Children from all five regions and most of the districts of Nepal were consulted in different stages by the Government of Nepal while formulating National Plans of Action for Children (2004-2014). Children's consultations are regularly organised to incorporate their opinions on national policies on trafficking, child labour and in the process of formulation of national child protection policy,

The children have been pro-active and handed over memorandums to conflicting political parties in the country requesting them to respect 'children as zones of peace' and also take note of children's issues in the comprehensive peace agreement between the government and the Maoists, the signing of which ended the 12-year-old armed conflict in Nepal.

Various children's groups have made appeals to political parties to give priority to children's issues in the election manifesto of political parties during the Constituent Assembly (CA) elections. They have worked as watchdogs to prevent use/misuse of children in the elections.

And, finally I would like to highlight the massive mass mobilisation efforts by children's clubs to collect children's views on how their rights should be guaranteed in the forthcoming constitution of Nepal. They handed over letter of appeal to the President and the Chair of the Constituent Assembly. Children have also organised public hearings inviting the constituent assembly members. They have succeeded in collecting one million thumbprints and have appealed to the Constituent Assembly to ensure children's rights in the new constitution of Nepal (2008-2009).

What has the impact of children's involvement in governance been?

Children's empowerment

- They have been successful in creating parallel platforms with the adults and find a voice for themselves in policies and programmes
- They have facilitated improved social relations and have gained an identity among families and communities
- They are recognized and respected as change agents and have contributed to social transformation
- Various capacity building interventions have enabled them to become resource persons in various children's issues
- With increased knowledge and experiences, they are able to operate on their own and are at ease in working together with adults and are able to dialogue and negotiate
- They have established a sense of ownership with campaigns and enjoy the right of self determination

Accountability and transparency

- As children are raising genuine concerns in the villages, communities, schools and in policies about their issues with honesty and without being politically motivated/vested interest, their issues are being taken seriously
- Children's participation in governance has paved the way for State accountability
- Children's engagement has also resulted in transparency of operations in governments

Child participation mainstreamed

- Children are being increasingly supported by adults and institutions including the government authorities

- Organisations have prioritised children's participation in their interventions and actions
- Policy makers have become more responsive while listening to children
- It is considered an 'added value' or rather a 'pre-requisite' to consult and have children's participation in projects and national policies concerning children

Many challenges remain. Many people as yet remain unconvinced about the immediate and urgent needed towards child rights and protection. Despite encouraging signs of children's participation, many children continue to be marginalised and exist at the level of the subliminal for policy makers. Though Child Protection Committees exist, many remain ineffectual. Mainstreaming of children's concerns though a vibrant process now still needs many inputs to create a revolution in child rights.

There is the growing concern of safety of child activists that as yet remains unaddressed. There is also concern about the forced recruitment of children by armed groups, political rallies and national students' movements and the crisis is deepening with each passing day. Finally, there is need to challenge conventional approaches that dole out welfare benefits to children and the lack of innovation among activists and practitioners on the ground who deal with child right and protection issues.

Our learnings so far are:

- Children's participation should be mainstreamed
- Children's role in governance and policy making should be respected and internalised by stakeholders, especially the State mechanisms
- Continuous commitment from adults, organisations and the state is needed – Nepal is heading towards a federal system and ensuring children's participation in the federal governance system is crucial
- There is need to consider ethical issues in involving children in governance –not snatching their 'childhood' by making the process of governance joyless
- It is vital to keep children's best interests /protection from possible harm as the premise of all programmes
- Sensitivity and consideration towards 'special situations' such as in armed conflict situations is needed
- An appropriate balance of adults and child responsibilities should be sought in the implementation of CP in governance.
- Solidarity from various like-minded movements is needed to take forward issues challenged by many

Getting Away With It: The Role of International Mechanisms in Holding States Accountable

Frances Sheahan,
Independent Child Rights Consultant, UK



I intend to review the role of international mechanisms in holding States accountable using the UK experience as a springboard to understand the challenges and opportunities in the arena of child rights and protection.

I begin with a definition of State accountability. It refers to the processes, norms and structures that require powerful actors (governors) to answer for their actions to another actor (the governed and/or international community), and suffer some sanction if the performance is judged to be below the relevant standard. This definition has emerged from the DFID Accountability Briefing Note 2008.

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Moving on to the essential objectives of the international human rights system, one can identify the aim of holding states accountable as:

- to persuade governments to acknowledge their accountability to their own citizens
- to ensure that governments can be held to account by the international community for violations of human rights through mechanisms such as reporting and petition

Some of the international mechanisms for children's rights are:

- Each State's Periodic Reporting to the UN Committee on the Rights of the Child, on their implementation of the CRC
- Periodic Reporting to the ILO Committee of Experts and Committee on Application of Standards
- Representations and Complaints under Articles 24 & 26 of the ILO Constitution
- Periodic Reporting and communications to the African Committee of Experts on the Rights and Welfare of the Child/ African Commission on Human and Peoples' Rights
- Petitions to the European and Inter-American Courts of Human Rights
- UN Special Procedures, including the work of the Special Rapporteurs and Others, for example, the Independent Expert's 2006 report on Violence against Children
- Reporting and Monitoring Mechanisms of UN Security Council Resolution 1612
- UN Human Rights Council: Universal Periodic Review

The reporting mechanism offer an opportunity to children to be involved in talking about and being listened to in terms of their rights and allows for civil society to publicly air problems and difficulties. It can also result in heightened visibility of child rights at domestic level; enable public exposure of rights violations; stimulate States into action by acting as a catalyst; facilitate the process of dialogue with Committee or Court that can result in mutual learning/ reevaluation/change in policy, law and practice; and act as a stimulus to data monitoring and collection on child right and lends immense symbolic value.

But the sad fact is that there is no right petition under the CRC as yet. The African Charter on the Rights and Welfare of the Child (ACERWC) has yet to consider pending cases and though there have been some success at European Court

of Human Rights (ECtHR (UK) and Inter-American Court of Human Rights (IACtHR), much needs to be accomplished in this area. There is as yet no complete analysis of jurisprudence/ case law relating to children in terms of international mechanism. As of now children in Africa and Europe are at an advantage with regard to petitions as opposed to children living in other countries.

In UK, corporal punishment by parents persists despite international condemnation. Domestic law allows for a defence of 'reasonable punishment' to be raised in court if a parent (or carer) is charged with common assault of a child (s58 Children Act 2004). Common assault is defined as minor injury, for example, temporary 'reddening' of the skin from slapping.

There has been international condemnation on the issue of allowing corporal punishment. In 1998, the ECtHR found that the beating of a young English boy by his stepfather breached the boy's right to protection from degrading punishment (A v UK). Yet the protection afforded in this area by the law to children within the home is significantly reduced by the defence open to parents. This is because they argue "that the acts in question were lawful, as involving the reasonable and moderate physical punishment of the child."

In 2002, the UN Committee on the Rights of the child noted that it "deeply regrets that the UK persists in retaining the defence of 'reasonable chastisement' and has taken no significant action towards prohibiting all corporal punishment of children in the family" and in the same year the UN Committee on Economic, Social and Cultural Rights recommended UK should prohibit corporal punishment in the family.

In 2005, the Committee of Social Rights and the Council of Europe body, monitoring conformity with the European Social Charter, noted that it "considers that since there is no prohibition in legislation of all corporal punishment in the home, the situation is not in conformity with Article 17 of the Charter". In 2008, the UN Committee on the Elimination of Discrimination against Women noted with concern that corporal punishment is lawful in the home and constitutes a form of violence against children, including the girl child; recommends prohibition.

In 2008, the UN Committee on the Rights of the Child once again noted that, "The Committee is concerned at the failure of State party to explicitly prohibit all corporal punishment in the home and emphasises its view that the existence of any defence in cases of corporal punishment of children does not comply with the principles and provisions of the Convention, since it would suggest that some forms of corporal punishment are acceptable."

UK's response to this unequivocal international condemnation has been: "The UNCRC has not been incorporated into UK law, but the Government believes that section 58 is compatible with the UK's obligations under that Convention, and that the UNCRC respects contracting states' rights to retain their own national systems and legal rules....." This is stated in the Review of Section 58 of the Children Act 2004 produced by Department for Children, Schools and Families 2007.

I would now like to identify the challenges of international mechanisms in holding States accountable:

- **It is indeed a paradox that the State is the main duty bearer and the main violator.** There is failure to be self-critical that can undermine the reporting procedure. Worse still, failure to comply with court orders undermines the petition procedure.
- **International mechanisms lack the power to sanction States for persistent non-compliance with obligation.** There is need for the international community to introspect on how to ensure true accountability and address this oversight in the international mechanisms that cannot ensure compliance.
- International mechanisms **rely to a degree on naming and shaming but this does not really engage political will.**
- The **language of accountability itself quite ambivalent in CRC**, the Committee is invited to 'consider factors and difficulties' rather than explicitly identifying violations (Art 44) 'examining progress made' rather than monitoring compliance (Article 43).
- The **mechanisms are retrospective and time scales are lengthy.** It is not about children NOW. The participatory mechanisms of accountability need to be more immediate.

The international reporting mechanism offer an opportunity to children to be involved in talking about and being listened to in terms of their rights and allows for civil society to publicly air problems and difficulties. It can also result in heightened visibility of child rights at domestic level, enable public exposure of rights violations and stimulate States into action.

- **The scale of reservations to the CRC undermines its power and influence in holding states accountable** – states can have their cake (acceptance in international community) and eat it (enter reservations which may undermine its efficacy at a domestic level).
- The processes themselves slow and unwieldy; they are often poorly resourced; suffer from a backlog of reports and petitions and government's don't always report on time.
- **'Who guards the guards?'** The Committee members for CROC/ ACERWC are nominated by state parties. One needs to ask 'Where is the room for civil society to influence this process?'

E Neumayer in *'Do International Human Rights Treaties Improve Respect for Human Rights?'* 2005, observes that, "international human rights regimes are particularly effective in political democracies and where the rule of law prevails. Such countries will find it more difficult to exploit the "expressive role" of international human rights treaties without undertaking any actual change."

If this is the case, then it is the civil society that is in the best position to strengthen international mechanisms as accountability tools. These are some of the ways it can do this:

- Continue engagement with all spaces that the international mechanisms provide - civil society reporting/ attendance at pre-sessions/ plenary sessions/ promotion of Concluding Observations in particular
- Ensure continued monitoring of states' compliance with human rights obligations to feed information into international system
- Enable concerted lobbying for a petition mechanism for CRC is vital
- Ensure that children are involved in and can access international mechanisms – giving them a voice to demand accountability strengthens concept of children as citizens and rights-holders
- Link children's rights forcefully with broader international human rights movement and gain strength from this – not just talking to each other!
- Attempt to assert the status of the CRC and other child rights treaties as legal instruments more boldly. The Vienna Convention on the Law on Treaties insists that "Every treaty in force is binding upon the Parties to it", and makes clear that a state "cannot invoke their internal law as justification for its failure to perform a treaty"
- Child rights activists are good at policy dialogue BUT could do more research on causal processes of politics as without understanding politics it is hard to effect change or map a way through the political landscape

SESSION TWO

CHILDREN'S PARTICIPATION IN GOVERNANCE

HIGHLIGHTS



- A detailed presentation of a model of children’s participation in monitoring budgets in South Africa initiated by the Institute for Democracy in South Africa (IDASA) demonstrates how valuable and necessary children’s inputs are.
- A step-by-step facilitation of this process is painstakingly described for those who wish to replicate this model.
- This model has given an opportunity to children to present their perspectives, priorities and experience via their budget monitoring activities.
- It involves setting up an initiating organisation to establish a rapport with children; constituting a reference group as a support structure; co-opting partners as parent organisations; selecting peer facilitators and budget monitors; and advocating and conducting workshops to familiarise children with the processes.
- Any process set up to involve children needs continuous support and as the IDASA experience shows, withdrawal of the initiating organisation led to an end of the entire process of engaging children.
- Lessons learnt and recommendations to fine-tune the processes are provided for each of the components in the process.
- The second presentation in this section articulates the crucial right of ‘self-determination’ for children. It explains this concept in depth and underlines that in essence it means empowering children to take their own decisions in all spheres of governance.
- As this right lies at the heart of the rights discourse, the author makes out a case for setting up effective platforms to achieve this.
- Her argument is that local self-governments that are closest to the communities’ children live in are the best forums for children to express themselves.
- The reasons: children have sustained access to local level ‘decision makers’ and are recognised as ‘individuals’ and not just another representative sample.
- The successful initiatives of children in Karnataka at the *Makkala Grama Sabha*, *Makkala Panchayat* and involvement at the *Panchayat* level planning are presented as case studies to show the deep and enduring impact created by children on local government functioning and budget allocations.
- Critical insights on how these processes can be further fortified and the emerging dangers that children will have to deal with are elaborated upon.

Reflections from the Children's Participating in Governance Project: Budget Monitoring within a Rights-based Framework

Christina Nomdo,
Executive Director, Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), Cape Town, South Africa



The advent of democratic government in South Africa in 1994 brought in transparency, accountability and citizens were able to participate in governance for the first time. Yet participation has been restricted to adult participation.

A special section of rights in the Constitution did reinforce the value of children in our society. These rights legally oblige the South African state to develop, finance and effectively implement programmes that provide services to children. But much needed to be achieved. It was in this context that the Children's Budget Unit (CBU) of the Institute for Democracy in South Africa (IDASA) decided to initiate a budget monitoring project for children in 2004. The project was called Budget Monitoring within a Rights-Based Framework: Children Participating in Governance (CPG).

Its objectives were to:

- create opportunities for children in South Africa to monitor government budgets
- improve children's participation in, and monitoring of, budgets for the realisation of rights in a way that ultimately informs policy
- contribute to the alignment of government budgeting with rights realisation

In this paper I intend to document the process and lessons learnt from the CPG Project to provide a blueprint for similar projects.

Process, lessons and recommendations

Initially, the CPG project was conceptualised as a process with three distinct phases: a training phase, using peer facilitation to help the children build the knowledge and skills they needed to engage with government budgets and rights instruments; the roll out of a local budget advocacy campaign conceptualised and implemented by the children and an impact assessment. However, factors beyond the control of the project leaders allowed only the training phase to be completed, and the advocacy phase was limited to only one constituency group. In the section below, I discuss the process of involving children.

The initiating organisation

The Children's Budget Unit (CBU), one of four units comprising Idasa's Budget Information Service, was established in 1995 to conduct research and disseminate information on government's budgeting for children in South Africa. The CBU built capacity within government and civil society bodies in developing countries to advocate for the generation and use of resources for realisation of children's rights.

The initiators of the CPG project had both previously worked in youth development initiatives and were able to establish an easy rapport and relationships of trust with children. Their experience and approach were key ingredients for a participatory skills development project.

The **lessons** learnt were that: the initiating organisation should be well established and sustainable as the project will probably be a medium to long-term project; it is essential that there is stability within the initiating organisation; it should also have a good infrastructure with a well-developed funding base, to ensure the continuity of the project; and a credible record in participatory governance issues is a great asset.

It is also important to have suitable personnel to implement a child participation project; facilitators should be approachable, flexible and able to identify with the issues that young people face. The project leaders will also be responsible for the children's safety when they travel; and the initiating organisation will need to take most of the responsibility to ensure implementation, even if it is working in partnership with other organisations.

Our recommendations were:

- It is critical to evaluate the internal capacities of the initiating organisation to ensure that it is prepared to support the project through the implementation and evaluation phase
- The individuals who implement the project are committed to the work and have the experience necessary to work in a supportive and productive partnership with children.

Constituting a reference group

Past CBU projects showed that a reference group is a very useful support structure for the implementation of a large project. The project leaders invited individuals with a positive track record in implementing child participation projects within South Africa to join the CPG reference group. Children were also invited to join the reference group, so that they could participate fully in all levels of the project.

The reference group meetings were used to discuss the project's strategic direction, review its progress and processes as well as consider any issues affecting its sustainability. To encourage the children's active participation, their opinions were solicited first.

The lessons learnt were that: the reference group was a great support mechanism for the project implementation; made strategic interventions that shaped the project from the start; and also gave legitimacy and credibility to the project: The children brought enormous energy to the planning processes.

The recommendations were:

- There is need to construct a support system for the implementation of the project that should consist of children representing different groups and experts who have worked in child participation projects.
- To ensure fair representation, the child members of the reference group should be democratically elected by their constituency groups.
- If possible, the children should also always be represented in reference group meetings.
- There is a need to allow the child representatives to reflect on their experiences of the workshops before the adults make their input. This gives the children confidence to articulate ideas during the meetings.

Selecting partners

Primarily, the project was funded by the European Union supported Foundation for Human Rights (FHR) as well as Save the Children Sweden. It also received funding from the Ford Foundation and the Norwegian Centre for Human Rights. These funders played different roles in the project. They were dependable and empathetic when difficulties arose that required funding extensions.

To implement the CPG project, the CBU opted to work with well established children's groups within credible development agencies – the Disabled Children's Action Group (DICAG), Life Hunters, It's Your Move and the City of Cape Town's Youth Development Programme (YDP).

The role of the initiating organisation is critical. It should be well established, sustainable and stable. It should have a good infrastructure with a well-developed funding base and a credible record in participatory governance issues. It should be prepared to support the project through the implementation and evaluation phase and the individuals who implement the project should be committed to the work and have the experience necessary to work in a supportive and productive partnership with children.

The rationale for working with these formalised groups was the recognition that our project was specialised and would need 'parent organisations' to build life skills and provide support.

The lessons we learnt were: that dependable and empathetic funders are required; they need to be flexible and amenable to negotiating changes in implementation plans; children's organisations should be stable, sustainable and committed; and that working in partnership with other organisations requires a significant investment in relationship-building.

The rationale for working with formalised groups was to take support from parent groups to build life skills and positive support.

Our recommendations were:

- It is very important to foster a good relationship with funding agencies; show commitment to this kind of child participation initiatives.
- Conduct an audit of potential partners and interview other organisations that have worked with the intended partners before establishing a formal partnership.
- There is need also to consider the diversity and mix of partners, and how they are able to give impetus to the project.

Selecting peer facilitators and budget monitors

The process of selecting peer facilitators and budget monitors was different for each constituency group. CBU staff visited the organisations identified as possible partners to introduce the project. They then either administered a questionnaire to all those interested in taking part, or provided the parent organisation with selection criteria. The criteria for being selected as a peer facilitator were: an interest in promoting children's rights; aspirations to a future career in politics; and an interest in a career in a monitoring profession such as internal auditing.

For budget monitors, an interest in being trained as well as a commitment to executing the campaign was the main criteria. Each organisation followed its own process in selecting participants for the project – this varied from a fairly formal selection process to more arbitrary ones, often depending on the strength of participants' relationships with key adult leaders within the organisations.

Children with different abilities, contrasting socio-economic backgrounds, rural/urban areas and diverse languages and cultures must be accommodated.

The lessons we learnt were that: we need to include diverse elements that are vital to the growth of individual participants like different abilities, contrasting socio-economic backgrounds, a rural/urban divide and diverse languages and cultures. And, also that there is need to integrate children with disabilities into the peer facilitation group and also that there are children from both rural and urban backgrounds.

Our recommendations were:

- A diverse group of children -- a balance of gender, race, socio-economic levels, language, mainstream and children with disabilities, age, urban/rural and geographic spread -- is required to minimise discrimination against one group by another.
- We felt diversity management and anti-discrimination skills and information should form an integral part of the programme.
- The project content and what is expected of participants are very important factors in determining participants' age.

Workshops and reference group meetings

Participatory training methods and a peer facilitation model were the main elements of our training methodology. A peer facilitation group of 20-25 children were trained in three workshops at six-monthly intervals, starting in February 2005. After each workshop, the peer facilitators shared information and skills with budget monitors in their constituency groups.

Materials and modules need to be changed according to the needs of participants, children with disabilities must be allowed to progress at their own pace and journals must be kept by the peer facilitators to reflect the direct communication between facilitators and the project.

Some of the lessons we learnt were that materials and modules need to be changed according to the needs of participants; children with disabilities must be allowed to progress at their own pace; journals must be kept by the peer facilitators to reflect the direct communication between facilitators and the project leaders; peer facilitators need continuous feedback; holding reference group meetings virtually using MSN messenger could be an interesting innovation; not all groups reached the implementation stage of their budget advocacy campaign; and funding needs to be flexible enough to respond to the dynamic way in which the project evolves.

Some of our recommendations were:

- Learning should be fun
- Regular breaks and energisers are vital in workshops
- Special preparatory sessions should be conducted with peer facilitators before constituency workshops
- The peer facilitation model is an excellent one for increasing the accessibility of material; peer facilitators should be encouraged to conduct the workshop in their mother tongue
- There is need to adopt a holistic approach to advocating for the rights of children.

Opportunities for advocacy

Attempts have been made to present the history of the project, hold learning exchange programmes, organise workshops on child participation and exchange budget methodologies.

The **lessons** we learnt was that there are opportunities for advocacy on different issues in this project; and that participating children are comfortable using the project methodologies (for example telling their life stories, to engage in advocacy work) and attending meetings. We also learnt that children already have an advocacy message right at the beginning of any engagement, as they are aware of injustices within their own realm of experience and that this development intervention has merely enabled them to refine their message and draw on new skills and information to do so.

Our recommendations were:

- In implementing a budget advocacy campaign in partnership with children, project leaders should aim to capitalise on the children's strengths and interests.
- Though children have pre-existing skills for advocacy, learning how to develop an advocacy campaign, write funding proposals and learn other advocacy techniques will benefit them.

Key lessons and the way forward

In the two years of its implementation, the CPG project was able to achieve the following three goals:

- The children were able to critique the South African government's National Budget of 2006/7 by contributing to a budget brief compiled and published on the Internet by the CBU. This is an important first step towards creating opportunities for children in South Africa to monitor government budgets.
- It enhanced the children's ability to participate in and research monitoring of budgets for rights realisation. Shaping policy, however, is a long-term process. It is not feasible to expect to achieve this outcome in two years by means of a training initiative. This can only be realised after the children have engaged in budget monitoring and advocacy for children's rights consistently over a longer period of time.
- By raising awareness of their ability to conduct budget analysis and lobbying for the inclusion of children in the budget process, the participants have contributed to the alignment of government budgeting to rights realisation – the third objective – and to fulfilling the fundamental human rights principle of participation. For example, representatives from Life Hunters attended various government youth consultation workshops.

Children's Impact on Governance

Kavita Ratna,

Director, Communications, The Concerned for Working Children (CWC)



Early this year, we learnt of a *Sangkat*, an urban local government unit in Cambodia, that is renowned because it has members from non-governmental organisations (NGOs) on its decision making body. This unique positioning enables the NGOs to represent the concerns of women and children in the local government. They also provide financial assistance to the local government and this contribution is listed in the official budget line of the government and is reported on. The national and international agencies in Cambodia are appreciative of this model and are considering its replication.

Examples such as these abound, showcased as 'good practices' and are often considered worthy of emulation in the children's rights arena.

Unfortunately, they are not recognised as illustrations of how adults repeatedly declare themselves as self appointed advocates of children, position themselves as the 'spokespersons' of the young people they are engaged with and in essence, monopolise the spaces through which children should exercise their right to self determination in order to improve the nature and quality of their lives.

The Right to Self Determination is the foundation of the Rights Discourse. Without it, all engagement with the civil society will only be either limited to providing protection or provisions – as determined by those who have the power to dispense them.

Yet, it is the least recognised of children's rights – even the well intentioned child rights activists are very often guilty of being ignorant of its full import. According to Richard Farson, in his book *Rights and Childhood, 1984*, "The issue of self determination is at the heart of children's liberation. It is, in fact, the only issue, a definition of the entire concept."

The Right to Self Determination is the foundation of the Rights Discourse. Without it, engagement with civil society will be limited to providing protection or provisions – as determined by those who have the power to dispense them.

For adults, since it challenges the power equation between us and the children, it is perhaps the most difficult to internalise and practise. Yet respecting children's Right to Self Determination is not an option, but an obligation, failing which we stand guilty as violators of their rights.

This Right is clearly articulated in Article 12 of the Convention on the Rights of the Child (CRC). Currently, the Committee of the UNCRC is deliberating about a General Comment on it as the Periodic Country Reports presented before it indicate a very poor understanding and reporting of the Right to Participation among the Governments from around the world.

For the Right to Self Determination to be exercised most effectively, there is a need for participation that either leads to or is a result of 'empowerment' which ensures 'mutual' accountability between the rights holders and the duty bearers.

However, at present children lack spaces through which they can voice their views and opinions without the fear of retaliation. A few rarefied spaces that did emerge for 'children's participation' in the last decades have been mostly in the international arena – because Children's Rights have begun to gain currency, and rightly, so to a certain extent in international policy related consultations.

One of the most famous breakthroughs has been the UN General Assembly Special (UNGASS) of 2002. Its Special Session was devoted exclusively to children and the first to include them as official delegates and involve them in a number of official meetings and key supporting events. Yet by the time children could interact most of the important decisions related to 'A World Fit for Children' were taken.

The only children whose voices were heard represented the working children's movements but again they were not timely enough to have a real impact on either the main document or the heated 'political' debates over semantics that were taking place in the inner chambers among diplomats.

For most children, such 'top heavy' consultative processes that have very little or no scope for real influence make a mockery of their Right to Self Determination. The building blocks of meaningful children's participation should be laid much lower down, closest to their own communities where they have sustained access to local level 'decision makers' and where they are recognised as 'individuals' and not just another representative sample.

The organised democratic participation of children and youth gives them collective strength, increased access to information, greater confidence, an identity and ownership over their initiatives. It actively inculcates values of inclusion. Individual children or youth who represent their own groups within its framework voice the views and aspirations of the collective.

What needs to be ensured is that all children and youth have an equal right to participate in the development of this collective voice, if not the hierarchies that exists in the adult world will find insidious ways to replicate themselves and to perpetuate among children as well.

Children's coming together also enables them to find collaborative ways to address their problems. It contributes to preserve and add a new vibrancy to a culture of egalitarianism, secularism and equity. While all these have a great value for all children, its significance is phenomenal for children who are the most marginalised.

The building blocks of meaningful children's participation should be laid much lower down, closest to their own communities where they have sustained access to local level 'decision makers'. Children's coming together also enables them to find collaborative ways to address their problems. It contributes to preserve and add a new vibrancy to a culture of egalitarianism, secularism and equity. While all these have a great value for all children, its significance is phenomenal for children who are the

Children and the State

The state of democracy in India is highly precarious. These are times when political accountability is at an abysmal low, fundamentalism and parochialism are flourishing, civil society movements are largely fragmented and corporate governance and privatisation are gearing up to high-jack democracy to fulfil the personal aspirations of the elite. In such a setting, when the notion of citizenship is questionable for adults, for children it is even more elusive.

Informed and organised participation is the key to effective protagonism of children, especially those who are most marginalised. Children need to have the collective strength as well as knowledge, skills and tools for accessing, analysing and using information to make logical and constructive interventions on their own behalf and also to advocate for effective solutions with policy makers.

Children's participation in State governance

In most cultures, children and youth are kept away from 'politics' as it is considered 'bad' for them until they are 18 years old. At the dawn of this biological milestone, they are expected to attain sufficient civil and political maturity to participate in direct democracy as members of the *Grama Sabha* or in indirect democracy as the electoral constituency of the various levels of State. It is no surprise that the young adults of India, having had no practical experience of participatory democracy fall despairingly short of this expectation.

The local governments are the most appropriate place for children's participation. On one hand they are the policy making bodies that are most accessible to children on a regular basis. On the other, they, as an elected body have to be accountable to their constituencies, which most certainly include children.

Nurturing our young within a framework of constitutional obligations and a secular national identity is the most urgent need of our times. Their effective participation depends largely on platforms for their participation. The creation of such mainstream structures should start from the bottom, and the local governments are the most appropriate place to start. On one hand they are the policy making bodies that are most accessible to children on a regular basis. On the other, they, as an elected body have to be accountable to their constituencies, which most certainly include children. They also have the political and administrative jurisdiction that mandates them to develop plans, monitor them and to manage resources.

Three examples from Karnataka

Here are three examples to show that children's participation in governance is not only critical for them to realise their Rights, but that it is also fundamental to protect, nurture and strengthen democracy.

Makkala Grama Sabha (Children Village Meeting)

A *Grama Sabha* of a Village *Panchayat* is the only political space available for its citizens to directly participate in a democratic manner to plan and monitor the development of their village. The Village *Panchayat* is the lowest level of administration in the system of local government. The term *Panchayat* refers to both the geographical and administrative units, as well as the elected body, which acts as the local council. A *Panchayat* is composed of a cluster of villages and several *Panchayats* constitute a *Taluk*.

While such *Sabhas* (meetings) are prescribed for the adults of the village in our Decentralisation Act, they are not considered relevant to 'children' as the popular understanding is that children are 'citizens of tomorrow', not of today.

The Concerned for Working Children (CWC) organised the first Children's *Grama Sabha* in Keradi, a *Panchayat* in the Udupi District of Karnataka in the year 2002. CWC is a pioneering organisation in child labour, children's rights and civil society participation with an emphasis on children's participation. www.workingchild.org

'*Makkala Grama Sabhas*' are especially meant for children and are modelled on the adult *Gram Sabhas*. They are essentially a meeting between the local government and all the young citizens who are its constituency. During this meeting, children interact directly with the local government. In addition to responding to children and reporting on actions taken, the local government also presents the status of Children's Rights in the village to the children and the entire community.

The audience at the first children's *Grama Sabha* included Vinay Kumar Sorake, the then Member of the Indian National Parliament as well as several members of the three tiers of the local governments. Sorake said, "A formal interaction between children and their governments of this kind is exemplary. Children have pointed out very specific problems and have also suggested specific solutions. All their points have been backed with detailed statistics. Most often the adult *Panchayats* or the concerned departments do not have such in-depth information. I highly appreciate the fact that children first conducted surveys and held discussions among themselves before presenting the points here. This children's *Gramasabha*, held in Keradi, one of the most remote *Panchayats* of Karnataka, should become a role model for all *Panchayats*."

When the Karnataka Government, through its Rural Development and Panchayat Raj Department issued a circular two years ago that made it mandatory for all the elected members of the 5653 *Gram Panchayats* of Karnataka State to conduct Children's *Grama Sabhas* to 'listen' to their young citizens once a year and be accountable to them – it was a celebration for those of us who have been advocating for children's right to be heard for decades.

One of the challenges the children's *Grama Sabha* is going to face is from adults who may try to usurp this space that has been exclusively provided for children to make policy and programme suggestions. This is even more likely to happen where adults are not making the best use of their *Grama Sabhas* to impact on local government. Both children and the adults who facilitate them will have to guard against this kind of manipulation – that will not only violate the true spirit of the children's *Grama Sabhas* – but also put children under tremendous risk of negative repercussions.

So there is need for extensive capacity building of the local governments, children and all other stakeholders to ensure that this space provided for the participation of children in local governance is used optimally. Processes such as the Children's *Grama Sabhas* that evoke the true spirit of *Grama Swaraj* (Local Self Governance) by creating a generation of empowered youngsters have a very important role to play to strengthen decentralised democracy.

Makkala Panchayats (Children's Councils) in Karnataka

The Concerned for Working Children, has been working in the rural areas of Karnataka through the *Toofan Panchayats* Programme, which is a comprehensive programme of community development aimed at creating an environment where children are not involved in any form of work that is detrimental to their development, and where all children's rights are recognised and realised. The programme works for the empowerment of all the actors in the community, through their partnership and participation.

In 1995 *Bhima Sangha* and The Concerned for Working Children (CWC), in collaboration with the Ministry of Rural Development and Decentralisation, initiated the formation of *Makkala Panchayats* (Children's Councils) in five village *Panchayats* in Karnataka.

During the process of creating the *Makkala Panchayats*, the members of *Bhima Sangha* noted that it was required not only by the organised 'working children' such as themselves, but by all children in order to speak up about their needs. Hence the structure of the *Makkala Panchayats* was designed to include different base groups of children such as working children, children with special needs, children from migrant communities and school going children.

The *Makkala Panchayats* are elected bodies. The voters are the children resident in the *Panchayat* in the age group of 6 to 18 years. The children who can contest are in the age group of 12 to 16 years. The elections for this *Panchayat* are conducted by the Village *Panchayat* and the *Taluk* Administration through a secret ballot.

Throughout the development of the *Makkala Panchayats* children put in great efforts to develop an appropriate protocol to define the mandate and structure of the *Makkala Panchayats* as well as the criteria for both the candidature and electorate. The *Makkala Panchayat* election criteria are revisited each term to ensure that the socially, economically and politically most marginalised groups of children have maximum representation.

In order to link the *Makkala Panchayats* to the Village *Panchayats*, a tripartite Task Force has been set up. It consists of representatives of the *Makkala Panchayats*, elected members of the local government, government officials and community based organisations. The Task Force also exists at sub-district, or *Taluk* (consisting of a cluster of *panchayats*) level to ensure that issues raised in the *Makkala Panchayats* are presented at higher levels. The regular involvement of high profile government officials increases the level of bureaucratic commitment. The close interaction between children and local government bodies creates a new form of political legitimacy for children on issues regarding their own welfare.

The Makkala Panchayats in Karnataka have given the local governments a new lease of life with their active involvement in not only identifying the problems they face, but also proposing solutions.

Each *Makkala Panchayat* selects a *Makkala Mitra* or Children's Friend, an adult whom they feel they can trust and whom they can depend on for support within the Task Force and in the community. The *Makkala Mitra's* role is to take immediate action in cases where children request help individually or collectively. Children have with the help of the *Makkala Mitra* been able to address and solve problems independently of the Task Force.

The *Makkala Panchayats* in Karnataka have given the local governments a new lease of life with their active involvement in not only identifying the problems they face, but also proposing solutions. They have made detailed presentations regarding the issues and problems they identified related to education, basic facilities, personal problems, gender discrimination, disability and child labour.

The issues collected from each ward are compiled after detailed discussions. When they list their problems, children make it amply clear that they have explored the matter thoroughly. They are able to not just raise a problem but also propose solutions that are most appropriate to them. They have clearly demonstrated how they can use political space to negotiate with the local governments and influence decision-making processes.

Experience has also shown that children always aim to use spaces constructively. They avoid confrontation and always seek win-win solutions. This is a value adult politics is urgently in need of.

Over the years, the members of *Makkala Panchayats* and *Bhima Sangha* have conducted research studies, made interventions on the basis of the information they collect, lobbied with the officials at various levels for developments in their communities, collectively fought for their rights as children. They have made themselves heard in the state, national and international policy discussions and have advocated for consulting children in matters that concern them.

The Panchayat level five-year planning process: Children lead the way

The Government of Karnataka, for several years has been trying to initiate a localised planning process – in which each local government is expected to assess its own needs and develop its plans for the five years ahead – with active involvement of their constituencies. In 2004, the State made several attempts to build capacities of the local governments to embark on a decentralised planning process.

In this context, CWC was requested by the Chief Executive Officer (CEO) of Udupi District, in Karnataka, to support the 56 Village *Panchayats* to develop their own plans. We accepted the invitation, with one caveat – that was the demand for high level participation of children in the planning process. The *Panchayats* did not hesitate to admit that they lacked the expertise to involve children in such a process, but extended their total support to our proposal.

About 20,000 children were involved in the planning process. Their plans were comprehensive and substantiated with statistics and data. Groups and issues, such as the problems of the disabled, environmental concerns and issues related to mobility and transport, were covered for the first time in a five-year plan.

The output was remarkable. About 20,000 children were involved in the planning process. Their plans were comprehensive and substantiated with statistics and data. Groups and issues, such as the problems of the disabled, environmental concerns and issues related to mobility and transport, were covered for the first time in a five year plan. They also recorded the history of the village, degradation of resources, made maps of their *Panchayats* that were accurate and informative and in many cases, proposed solutions as well. As a result, by and large, the children's plans became the official plans of the *Panchayats*. But more than that gap between the local government and the people has diminished.

The impact

Through their engagements with the local governments, the most important impact on children has been the assertion of their citizenship and their right to question their governments, if need be. As a result, a de facto accountability on the part of the local administration and a transparency in their functioning has been created, that has not only benefited the children but the entire community.

The members of *Makkala Panchayats* have been resource persons in the State Capacity Building Programmes and have provided inputs on decentralised planning to over 82,000 elected adult *Panchayat* members. All these have resulted in a paradigm shift in the way the Adult *Panchayats* view children. They acknowledge children's citizenship and have gained tremendous insights from the recommendations of children – which have resulted in child rights friendly village plans.

As a result, the adult *Grama Sabhas* and Village *Panchayats* too have become revitalised. Children, through their example, have made it possible for women to access the political space from which many of them have been excluded from. This is also true for members of the extremely marginalised communities from where initially children and now adults have begun to speak up.

The most important challenge for structures such as *Makkala Panchayats* today is the present political environment that is opposed to democratic decentralisation in our country. Instead of making attempts to build the capacities of the local governments that are closest to people – hence most accountable - often allegations are made about their inefficiency in order to justify the efforts to undermine the local governments.

As an organisation, CWC is coordinating a state level campaign that is countering the latest and the most blatant move by the State level elected representatives to take away crucial powers of the local governments.

'Citizenship' of children remains a difficult concept and children's political participation is not acceptable to a large number of adults worldwide. However, it is time that all agencies realise that children have a right to actively determine the course of their lives and not enabling them to do so, to the best of their potential is a violation of their rights.

Governance and Children's Participation

- *Children's participation in government programmes and policy development initiatives, leave much to be desired. The way children's rights and children's participation are interpreted and practiced shows up the cultural practices of a centralised and oppressive state.*
- *Children's participation in India is still going through the stages of experimentation, innovation, learning and promotion.*
- *Whether child participation is an issue or an approach or an ongoing process, it is a matter of concern in a country like India. Children's participation is an anomaly in a culture that forces restriction and regulation of information to children by the State parents, teachers and other elders, all of who decide what is best or appropriate for them.*
- *While the government seems more comfortable with the idea of welfare rather than rights with its political overtones, children's rights organisations are now faced with the challenge of projecting and promoting it as a positive societal value.*

Ossie Fernandes

SESSION THREE

CHILD SENSITIVE JUDICIARY AND LEGAL MECHANISMS

HIGHLIGHTS



- The governance systems are increasingly being designed to drown out voices of the poor and the marginalised and voices of dissent. It is time that the government paid attention to the mounting anger among the marginalised classes and people.
- It is also time for NGOs to realise that in this time of anger it is important to unite to inform policy in a better manner. Political solutions are necessary. Faced with lack of responsiveness from the state, direct action by citizens is the key.
- Goa has the unique distinction of being the only state in India to have a comprehensive law for children. The Goa Children's Act (2003) attempts to make the United Nations Convention of the Rights of the Child (UNCRC) legally enforceable. This clearly shows that when the state is willing, it can address the needs and rights of children in a comprehensive manner. The rights the Act gives children are that to education, health and nutrition. It also focuses attention on the issues of child labour and trafficking; sexual exploitation; and on issues related to children in difficult circumstances; the girl child and physically and mentally challenged children; children's homes; and commercial sexual exploitation.
- A law remains merely a statement of good intent unless it is matched with action in terms of implementation. For the Act to become a reality there need to be among other measures: political will to implement the Act in terms of budgetary allocations; a time limit for the formulation of a comprehensive set of rules for all sections of the Act; and the constituting of a Steering Committee to develop Plans of Action for the implementation of key provisions of the Act.
- A review of the overall implementation of the GCA shows that progress has been made with the setting up of various bodies: the Children's Court, District Inspection Teams to monitor shelter homes, the State Commission of Children and the Village Child Committees.

People's Initiatives over Legal Initiatives: The Only Answer

Colin Gonsalves,
Executive Director, Human Rights Law Network, New Delhi



I begin my presentation on a note of dejection. The government actions on children- both in law and implementation are a matter of great concern.

The Right to Education Bill has been passed by the Rajya Sabha recently (It has since become an act after it was passed in the Lok Sabha too). The Bill is the enabling legislation to notify the 86th Constitutional amendment, which gives every child between 6-14 years the right to free and compulsory education. Though the intentions are ostensibly good yet it is worryingly non-inclusive. It does not talk of the other age groups; other categories of children like the disabled, there is no focus on quality; learning outcomes; infrastructure or budgetary allocations.

The Food Security Bill is another problematic area where the government is keen to universalise food and nutrition schemes but without arriving at sure figures on BPL families; calculations on budgetary allocations; how to include all categories of other marginalised people like children, disabled, homeless, pensioners and poor single women; and how to plug the leaks in the current public distribution systems.

The National Commission for Protection of Child Rights (NCPCR), that was specially set up for statutory body for rights of children in India by an act of parliament, is just an advisory body with no legal teeth. It can at best 'advise' 'recommend' and 'monitor'.

There is also increasing evidence that child malnutrition in India is severe and the levels are among the worst in the world. Immunization levels are also alarmingly low and there is no monitoring at the lower tiers of government. A look at the hospitals in the capital tells one at the shocking apathy of the governments: the infrastructure is poor; the premises are filthy; medicines and beds are in short supply and the poor are discriminated against. We also know that though laws exist on almost every issue, implementation remains a challenge and that there is absolute lack of monitoring.

The Juvenile Justice Act lays down that every district should have a board and child rights committee but this is not the picture on the ground. Child labour continues with impunity as enforcement of laws is lax. The arrests are episodic and infrequent. Also, there are many loopholes in adoption laws. Only the Hindus cannot adopt in the country. This deprives the other communities from exercising this right. Public interest litigations help to help find a voice for the marginalised yet this tool is not used effectively.

It is time that the government paid attention to the mounting anger among the marginalised classes and people. It is also time for NGOs to realise that in this time of anger it is important to unite to inform policy in a better manner. Political solutions are necessary.

Many NGOs have co-opted with the government on these issues despite seeing how inadequate its efforts are. It is worrying to see how NGOs are also going along with the government's idea of middle class being the agents of change and do not advocate for the rights of the poor and the marginalised. The poor continue to remain dispossessed of resources and rights in all sectors. Not surprising therefore, that the government neglects to take the children's opinions into consideration.

Personally, I feel it is time for people to take law into their own hands. When people protested against some judges for using the term 'women of easy virtue' in their reference to sex workers, this term is no longer in use. Such pro-active action can help us today in addressing many woes. Clearly, more innovative and strategic measures are needed to hold government accountable, NGOs and civil society needs to rethink its role and response. This is the time for direct action

It is worrying to see how NGOs are also going along with the government's idea of middle class being the agents of change and do not advocate for the rights of the poor and the marginalised. The poor continue to remain dispossessed of resources and rights in all sectors.

The Goa Children's Act and Its Implementation

Nishtha Desai,
Director, Children's Rights in Goa



Goa has the unique distinction of being the only state in India to have a comprehensive law, the Goa Children's Act (2003) which attempts to make the United Nations Convention of the Rights of the Child (UNCRC) legally enforceable. It attempts to look at children in a holistic manner, providing for the protection of children's rights in the home, in educational institutions, and by the health care system. It attempts to address the issues of trafficking of children and child labour. It also provides for the setting up of Children's Courts in an attempt to make the process of law and justice more child- friendly.

The first conviction of a paedophile was of Freddy Peats. Once this was done, the law enforcement officials were encouraged to crack down on studios where child pornographic pictures were processed. There was attention given to unregulated shelter homes and delays in justice were addressed.

Then attention was focussed on travelling sex offenders. Of the many cases that came to light was that of an elderly man who was with a 14-year-old child in a hotel. Media and NGOs began to advocate that hotels be pro active and disallow people to check with children who were unrelated to them. They also wanted the police to intercept such happenings and not wait for forced physical activity to occur as proof of violation. They said it was shocking that the police were not willing to take pre-emptive action to stall rape and were only willing to get active when the child was child so that there was evidence of assault.

NGOs also began bringing to light cases of sexual assault against boys. This was not taken seriously earlier and it was dismissed as accidents or the boy children stood in danger of being threatened with Section 377 that dealt with unnatural sexual acts. Boys who were assaulted were seen as accomplices rather than victims.

Our organisation also began paying attention to issues related to education: many children continued to be out of schools; there were corporal punishments in schools and there were inadequate facilities for the disabled and mentally challenged.

The Government initiatives in collaboration with NGOs to combat these issues include:

- In 2002, Secretary WCD, Rina Ray, initiated series of meetings in conjunction with NGOs at taluka, district and state level
- The problems of children were identified
- Situational reports were collated
- The government involved the NGOs in drafting
- The need for comprehensive law to deal with issues relating to children was beginning to be emphasized
- A draft was then prepared by the government-appointed legal experts that was placed before the NGOs for a discussion
- NGOs protested that certain inputs they had provided were not included
- After the inclusion of some of their suggestions, the Goa Children's Act was framed in 2003
- The Bill was passed by the Assembly

To reiterate my point, the Goa Children's Act 2003 is the first comprehensive law for children in India. The process in which the drafting of the bill took place is unprecedented in India. For the first time NGOs were consulted and Clause 38 of the GCA enabled amendments to the Act within two years (later amended to five years).

The Act attempts to make the UN CRC legally enforceable and it addresses the needs of all children. It has 41 sections and attempts to bring about radical changes in the status of children in Goa through its Plans of Action. The numerous authorities and officials it empowers are: Special Officers, the State Commission for Children, the Village/City Child Committees, the Steering Committees, District Inspection Teams, Children's Courts, Victims Assistance Units, and the State Council.

The rights it gives children are that to education, health and nutrition. It also focuses attention on the issues of child labour and trafficking; sexual exploitation and commercial sexual exploitation; and on issues related to children in difficult circumstances; the girl child and disabled children; children in institutions etc.

The Act attempts to make UN CRC legally enforceable and it addresses the needs of all children. It has 41 sections and tries to bring about changes in the status of children in Goa through Plans of Action.

To ensure rights of a child, the State has undertaken to “ensure that children are protected from child abuse, sexual offences, child trafficking, child prostitution and violation of their rights”, and give children “opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity.”

The other important provisions made by the state include: framing a broader definition of sexual assault, viewing boys as victims of sexual assault, stating that adults need permission to live with children who are unrelated to them, ensuring that hotel owners/managers are responsible for their hotel premises keeping premises safe and banning corporal punishment.

The government has identified its goals in the arena of child rights and protection to be:

- Eradicate child illiteracy within a period of seven years from the enactment of the GCA
- Eradicate all forms of child labour in a phased manner and for the rehabilitation of children – POA to be published in gazette annually
- Ensure victims of commercial sexual exploitation are provided with education and livelihood skills facilitating their integration into society
- Education, rehabilitation and integration of children in difficult circumstances
- Prevention, early intervention, inclusive education and the provision of various vocational and community-based programmes for differently-abled children

When the Goa Children's Act is implemented in totality then All children will be in schools – without exception. There will be no child labour and effective schemes for rehabilitation will be put in place. There will be effective checking of trafficking, prevention of abuse by members of society because of the safe environment, safe and happy children's homes and the prosecution of offenders with minimum trauma to the child.

There are efforts to now to bring about amendments to the Act, list out penalties for all offences so that GCA ceases to be a 'wish list', increase punishments for severe offences and also equip Director and Special Officers (SOs) with power legal power.

Within two years of the enactment of the Act, the new secretary, Women and Child Development, Santosh Vaidya, initiated a process of drafting a comprehensive set of amendments to the Act as there were problems in its implementation. Once again, the NGOs too gave their inputs. It was felt that there was need to allocate penalties to make the Act enforceable and penalties were stipulated in Sections 3, 4, 5 and 7(5c). As per the amended Act, the penalty for grave sexual assault has been increased from a minimum of seven years and a maximum of 10 years imprisonment to a minimum of 10 years and a maximum sentence of life imprisonment. Hotel managers who compromise the safety of children on their premises can face imprisonment of up to three years and a fine to one lakh rupees.

But despite all these gains till date no adult has been charged under Section 8 for staying with an unrelated child without Director's permission. People are as yet unaware of Plans of Action under the Act. Corporal punishment continues in homes and schools. And, hotels, cyber cafes, photo studios, schools, hospitals, PHCs are unaware of the pro-active role they are required to play.

There has also been a play of words in the Act rather than meaningful interventions. The word *shall* has been replaced by *shall preferably* or *may*. For instance, the sentence: The government shall work towards the goal of universal primary

education has been replaced by shall strive to work. In the clause “All schools shall include child rights and gender justice in their curriculum”, the operative word ‘shall’ is now followed by ‘preferably’ Also, the time frame to fully implement the Act has been increased from three to seven years.

A review of the of the overall implementation of the GCA shows that progress has been made with the setting up of various bodies: the Children’s Court, District Inspection Teams to monitor shelter homes, the State Commission of Children and the Village Child Committees.

But for the Act to become a reality there needs to be the political will to implement the Act in terms of budgetary allocations. A time limit is required for the formulation of a comprehensive set of rules for all sections of the Act. A Steering Committee needs to be constituted without delay to develop Plans of Action for the implementation of key provisions of the Act. The prosecution and police need to examine how best to utilize provisions of the Act to ensure that offenders do not go scot - free.

The government must also make attempts to dissemination information on the Act so that children and all others know that there is legal recourse for children when their rights are infringed. Also, there must be pressure from civil society and NGOs to strengthen the implementation of the Act and monitoring mechanisms must be put into place. For the Act to gain in efficacy, there be collaborative efforts of the government, civil society and NGOs.

The Act could result in the universalisation of primary education and the phase-wise eradication of commercial sexual exploitation of children, but only if the Plan of Action is framed and implemented.

DAY TWO

SESSION FOUR
TOOLS TO HOLD THE STATE
ACCOUNTABLE

HIGHLIGHTS



- The government budgets offer an opportunity for civil society intervention and course correction.
- The civil society can intervene in four stages of the budget: formulation, legislative, auditing and implementation.
- To critically analyse the total allocation earmarked for children as a proportion of the total union budget, we need to look at child budgets within the state budgets (per child per annum expenditure) and sector wise distribution of allocations for children.
- We need ask ourselves whether increased levels of public expenditure are leading to better outputs/services and whether the outputs/services are leading to improvements in the development outcomes.
- Engaging with members of parliament in a variety of ways can help affect policy and understand parliamentary processes.
- People working in the arena of child rights and participation cannot ignore the fact that they are dealing with a political issue and hence need to get their perspectives to policy makers.
- The CRC country review and reporting mechanisms is another way to measure progress for children in India.
- The India Alliance for Child Rights has spearheaded a score-card initiative to help children and adults meaningfully participate in the CRC country review and reporting mechanisms.
- The score card provides some basic information to help judge whether the present children for children is good enough, and fair to every child and the idea is to allow a national review of child rights within the Indian situation. The answers in the score cards bring up how well and how far India has implemented the UNCRC which it officially accepted in 1992.

Holding the State Accountable: Civil Society and its Use of the Tool of Budgets

Yamini Mishra,
Executive Director, Centre for Budget and Governance Accountability, New Delhi



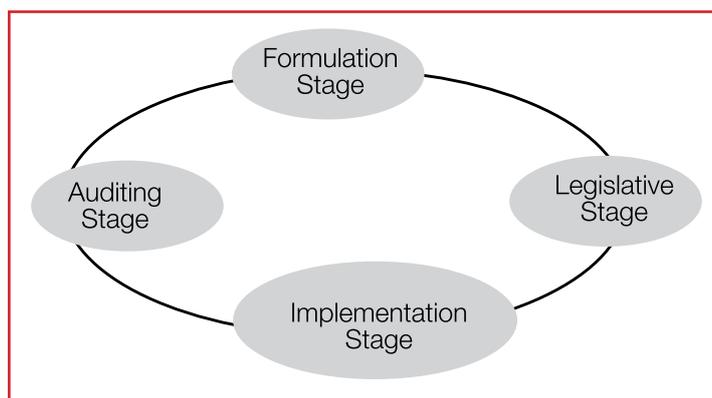
The question I am going to address is how can the civil society hold the State accountable? The government budgets offer them an opportunity and it allows spaces for intervention and course correction. The budget cycle consists of four stages: formulation, legislative, auditing and implementation.

The civil society can intervene in each of these four stages:

In the formulation phase, it can prepare and lobby for key demands, work with progressive individuals within the system to push for positive changes, submit alternate budgets that offer a differing perspective and also focus on working on participatory budgeting processes where their inputs also find resonance.

Yet despite their best efforts, the civil society may find its efforts stymied by the dominance of the executive which may brook no interference and allow the civil society very little space to intervene or the power to bring about enduring change.

At the legislative phase, there is enormous scope for the civil society to demystify budgets to the people by dissemination information on allocations, conducting trainings to diverse groups and seeking their assistance and inputs and also by offering technical support. One way they can impact the budgets effectively is to work directly with the Parliamentary Committees. The media can also be used to convey the perspectives of the civil society.



The civil society can however be curtailed in its efforts by the poor research capacity of parliamentarians, structural constraints that prevent their inputs in the budgets and off-budgets being reflected.

In the implementation phase, there is the possibility of tracking and monitoring procurement, expenditure— outputs and outcomes (using citizens report cards). Yet at the same time it must be underscored that it difficult to get data, and very

Table 1 | Total Time Spent for General Budget in the 14th Lok Sabha

| Budget Session (Period) | Total Time Spent for General Budget (h/m) | Total Time Spent for Lok Sabha Business (h/m) | % of Total Lok Sabha Time Taken |
|-------------------------|---|---|---------------------------------|
| 5th July-26 Aug 04 | 19h.28m | 92h.29m | 21 |
| 25 Feb-13 May 05 | 33h.41m | 212h.22m | 16 |
| 16 Feb-23 May 06 | 33h.42m | 194h.55m | 17 |
| 23 Feb-17May 07 | 34h.41m | 127h.04m | 27 |
| 25 Feb-5 May 08 | 42h.48m | 162h.09m | 26 |

Source: 14th Lok Sabha Business, Parliament of India

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Source: 14th Lok Sabha Business, Parliament of India

often funds get bypassed state's budgets.

At the auditing stage, the civil society can come up with parallel people's audits, demystify audit reports and build pressure for action on audit reports and follow-ups. Yet its lack of teeth means that most times audit reports are late by two years.

Fiscal Policy Space in India for Public Expenditure

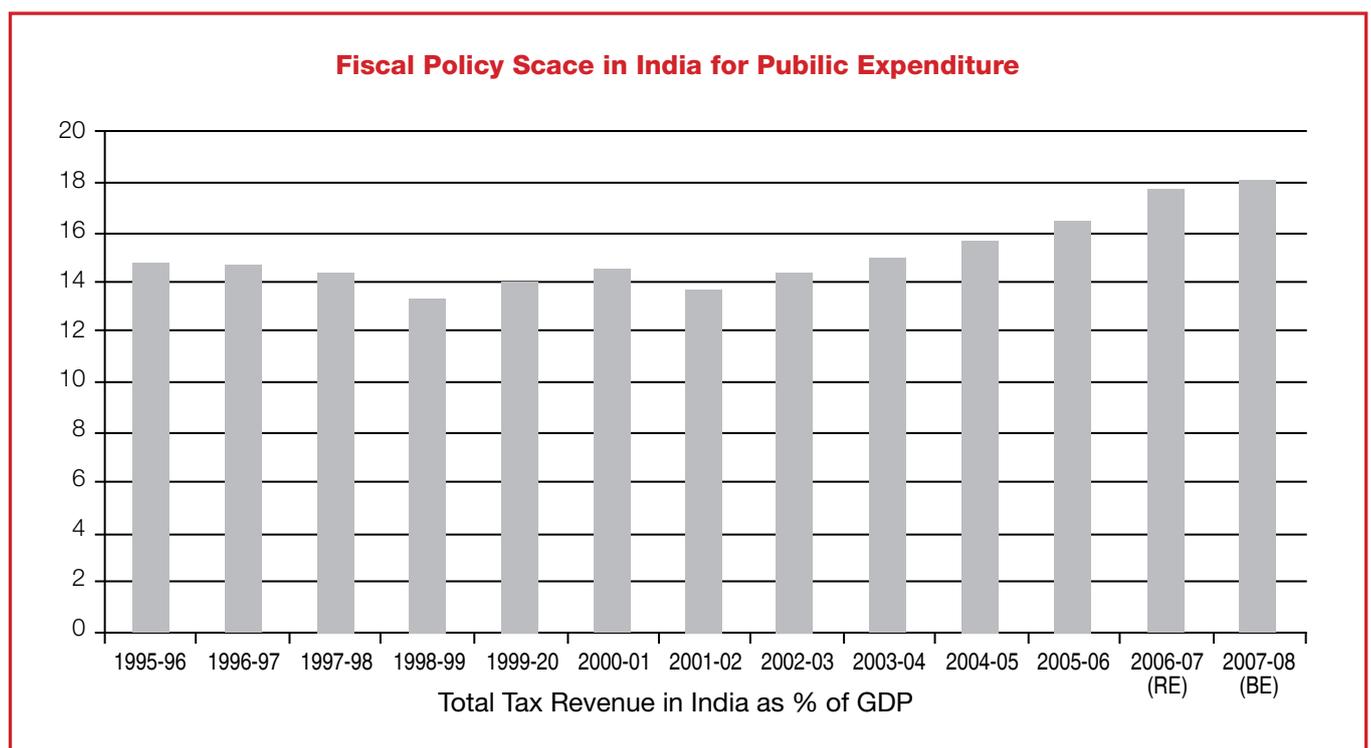
| Countries | Total Tax Revenue as % of GDP |
|-------------|-------------------------------|
| Sweden | 50.7 |
| Denmark | 49.6 |
| Belgium | 45.6 |
| Netherlands | 39.3 |
| Spain | 35.2 |
| U.S. | 25.4 |
| S. Korea | 24.6 |
| Mexico | 18.5 |
| INDIA * | 16 |

*(2004-05 BE for India), based on OECD Data.

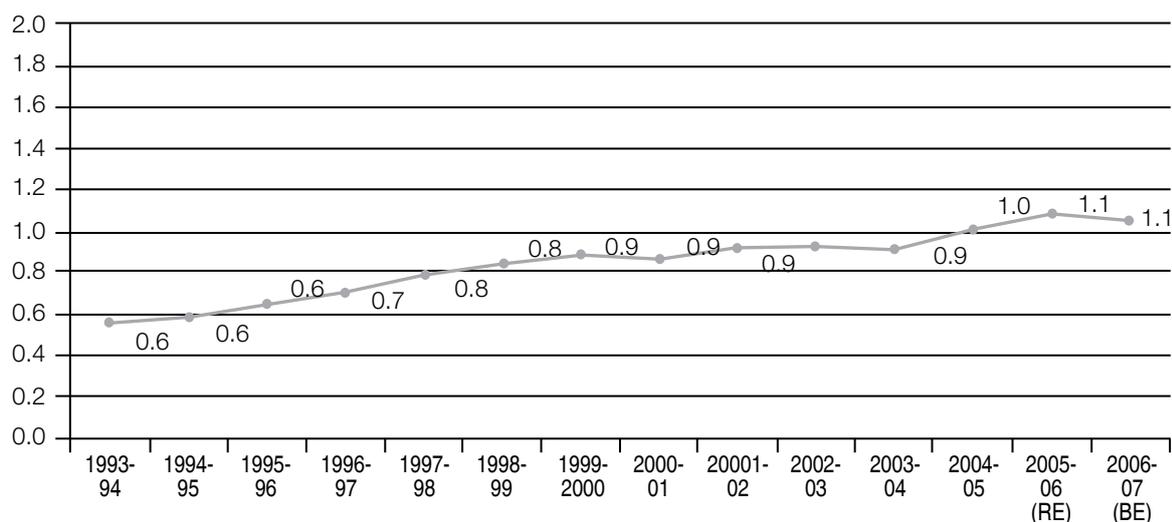
Budgets for children: priorities in allocation and constraints in utilization of resources

Before plunging into this issue, there is need to keep in mind the broader issues: the fiscal policy space in India for public expenditure, the priority for social sector in India's public expenditure, public expenditure focused on children - magnitude and sector-wise priorities and the constraints in effective utilization of budgetary resources in the social sector. As part of all the budget analysis work that we undertake, CBGA has also been undertaking child budget analysis drawing on HAQ's methodology.

Tackling the first issue I would like to present a comparative list of countries looking at total tax revenue as a percentage of GDP in 2004:



Expenditure on Social Sector from the Union Budget



Union Govt. Expenditure on Social Services as % of GDP

India's position internationally is rather low in this regard and the overall public resources available to the government in India to make investments towards socio-economic development appear inadequate in comparison to several other countries. The second graph is indicative that a significant proportion of tax resources is foregone due to tax exemptions (this has increased from 48 per cent to 69 per cent).

With regard to priority of the social sector in India's public expenditure, the level of aggregate public expenditure on social sector in India has been low and children stand to lose heavily as investments for them fall under this. A look at public spending on education and health among countries shows how poorly India fares.

An assessment of social sector spending within the country shows that it has been noticeably stepped up since 2004-05. However, state governments incur nearly 80 per cent of the total public expenditure on social sector. The priority for social sector in the state budgets had declined during 2000-01 to 2004-05 (period of fiscal stress); it shows an improvement since 2005-06.

Total Allocation Earmarked for Children as a proportion of the Total Union Budget (in %)

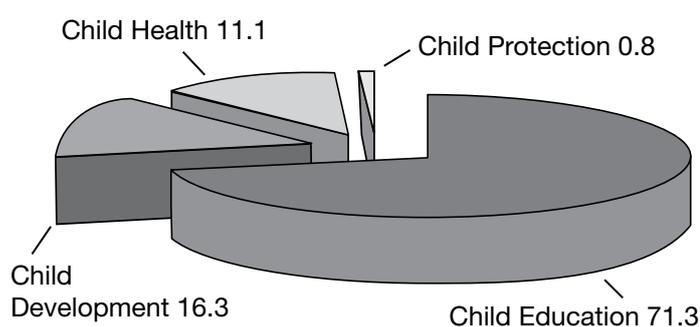
| | |
|--------------|------|
| 2004-05 (RE) | 2.59 |
| 2005-06 (RE) | 4.25 |
| 2006-07 (RE) | 4.63 |
| 2007-08 (RE) | 4.93 |
| 2008-09 (RE) | 4.13 |
| 2009-10 (BE) | 4.15 |

When we talk of public expenditure that is focused on the social sector, the Planning Commission and the Government of India have recognised the need for this and since 1980s and adopted plan strategies like: Scheduled Caste Sub Plan (SCSP), Tribal Area Sub Plan (TSP) and the Women's Component Plan (WCP). The Union Government has also started bringing out statements on: gender budgeting, budgeting for Scheduled Castes and Scheduled Tribes and child budgeting.

To understand what is the share of children, we should take a look at the total allocation earmarked for children as a proportion of the total union budget; child budgets within the state budgets (per child per annum expenditure). We also need to look at sector wise distribution of allocations for children to understand the situation in its entirety and the differences between States.

To understand the constraints in effective utilization of budgetary resources we need to look at it through the prism of outlays, outputs

Sector-wise Composition of Total 'Child Budget' in 2009-10 (BE)



Fund Utilization in Sarva Shiksha Abhiyan

Expenditure as % of Approved Outlay

| Year | Madhya Pradesh | Uttar Pradesh | Rajasthan |
|---------|----------------|---------------|-----------|
| 2002-03 | 49.4 | 42.9 | 21.1 |
| 2003-04 | 47.5 | 44.8 | 51.2 |
| 2004-05 | 56.2 | 78.0 | 62.5 |
| 2005-06 | 73.1 | 84.6 | 88.8 |
| 2006-07 | 79.6 | 76.3 | 89.9 |

Fund Utilization in RCH Programme

Expenditure as a proportion of Funds Released* (in %)

| State | 2003-04 | 2004-05 | 2005-06 |
|----------------|---------|---------|---------|
| Rajasthan | 73 | 104 | 87 |
| Madhya Pradesh | 107 | 19 | 39 |
| Uttar Pradesh | 85 | 72 | 40 |
| All India | 81 | 62 | 55 |

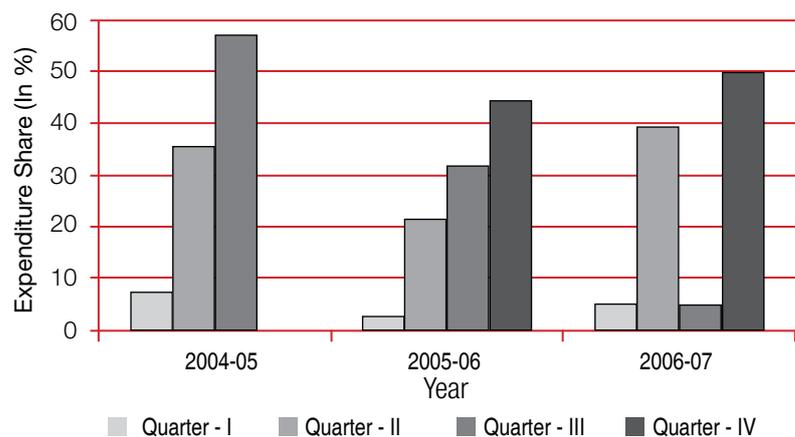
* Expenditure is made from Total Funds Available, which include unspent balances from previous financial year.

and outcomes. We need ask ourselves whether increased levels of public expenditure are leading to better outputs/ services and whether the outputs/ services are leading to improvements in the development outcomes.

I present statistics on fund utilization within the *Sarva Shiksha Abhiyan* from 2002-03 to 2007-08); fund utilization in Reproductive and Child Health Programme (2003-04 to 2005-06) across India with a focus on three states; and the quality of fund utilization in the last two quarters to show just how poor and skewed they are across components and regions.

Quality of Fund Utilization: Crowded in the Last Two Quarters

Share of Expenditure across Different Quarters in SSA, Rajnandgaon



Quality of Fund Utilization: Skewed Across Different Components

| Scheme | High | Low |
|--------|---|--|
| SSA | Salary, Civil Works, Textbook. IED, R&E, Community Mobilisation EGS/AIE | TLE (25 to 2%), Maintenance Grant (13.3%), CRC, Management Cost, School Grant, Teacher Grant, Teacher Training |
| MDM | Cooking costs | Kitchen shed construction, procurement of kitchen devices, MME |
| ICDS | ICDS (Gen), Construction of AWCs | Training of AWCs, ICDS Supervision, SNP |
| NRHM | RCH Flexi pool, Compensation for sterilisation, JSY, PPI | Untied fund for Distt Hospital, United fund for Sub Centre, Construction of Sub Centre, Training of ASHAs, MPW, drug procurement |
| TSC | School Toilets, IHHL (BPL) | IEC activities |
| NCPL | Project Society and Special School | Child Labour Survey, Awareness Generation, Teacher Training |

Expenditures from the State Budget across Different Districts in Chhattisgarh (figures in %)

| S. No. | District Name | 2005-06 | 2006-07 | 2007-08 |
|--------|----------------|---------|---------|---------|
| 1 | Raipur (Distt) | 35.3 | 37.0 | 38.5 |
| 2 | Durg | 5.5 | 5.8 | 6.3 |
| 3 | Raipur (City) | 16.1 | 15.0 | 8.2 |
| 4 | Bilaspur | 5.8 | 5.6 | 6.3 |
| 5 | Surguja | 6.2 | 5.5 | 5.9 |
| 6 | Bastar | 4.7 | 4.5 | 4.6 |
| 7 | Raigarh | 3.4 | 3.3 | 4.1 |
| 8 | Rajnandgaon | 3.3 | 3.6 | 3.9 |
| 9 | Janjgir-Champa | 2.5 | 2.9 | 3.0 |

If we ponder on the major factors constraining the extent and quality of fund utilization, we see that there are:

- Too many schemes with lack of convergence/integration across schemes: For instance, there are more than 125 Plan schemes in Chhattisgarh and around 336 Plan schemes in Uttar Pradesh
- Systemic weaknesses prevail and persist: There are often low unrealistic unit costs for outputs/services delivered through government interventions (affecting the quality of service delivery); there is a shortage of staff at important levels (managerial, finance and accounts, frontline service providers) and there are inadequate efforts towards capacity building of staff at district and sub-district levels
- Deficiencies in the process of decentralised planning: There are multiple plans instead of having an Integrated Plan for a district; there is a shortage of trained staff to carry out the planning process and there is low involvement of community and PRIs in planning
- Delay in flow of funds: Often, there is a delay in the process of formulation and approval of plans; there is an absence of electronic fund transfers; the involvement of multiple implementing agencies creates confusion and so do the multiple reporting requirements
- The other factors are delay in circulation of guidelines/sanction orders for expenditure; inadequate delegation of financial powers; rigidity of norms and guidelines; weak monitoring and supervision (due to both low spending on non-wage components and shortage of staff) and short tenure of key programme implementing officials.

Legislative Research and Advocacy as a Tool to Hold State Accountable

C V Madhukar,
Director, PRS Legislative Research, New Delhi



I will begin by telling you about my organisation. As our website informs you, PRS Legislative Research (PRS) that was founded in 2005 in New Delhi as an independent research initiative. PRS works with Members of Parliament (MPs) across party lines to provide research support on legislative and policy issues. Our aim is to complement the base of knowledge and expertise that already exists in government, citizens groups, businesses, and other research institutions.

The Indian Parliament has about 790 members affiliated to over 40 political parties. Each Member of Parliament (MP) represents close to two million citizens. MPs pass about 60 Bills a year on average, but do not have a dedicated research staff or institutional support to help them understand the implications of various legislations. This makes it difficult for them to prepare for debates and committee meetings.

PRS is one of the only organisations in the country that tracks the functioning of the Parliament. PRS provides a comprehensive and credible resource base to access Parliament-specific data, background information and analysis of key issues.

PRS also aims to deepen and broaden the legislative process by providing MPs the information they need for debates in Parliament. We seek out and synthesize feedback from a range of stakeholders to provide MPs across all party lines with up-to-date information. It has developed a professional relationships with over 100 MPs from over 20 different political parties.

PRS aims to increase public engagement on issues of national importance through collaborative activities. PRS has been reaching out to the citizen sector and the media to enable greater interaction with the legislative system. The PRS team frequently provides journalists with analysis related to Parliament and legislation. The work of PRS is freely available in the public domain.

We keep track of all Bills, their status and provide a text and summary of the Bill on our website; we also provide parliamentary updates, report summaries; and provide interesting profiles, for example the activities of first term MPs.

Keeping track of what is happening in Parliament and engaging with the legislature can be very effective way to hold the state and the elected representatives accountable. You could do this in a number of ways such as by engaging with them on bills and laws, or by getting them to raise questions or intervene in debates.

Let me take up the Right of Children to Free and Compulsory Education Bill, 2008, that was on June 20, 2009 by the Lok Sabha. The Standing Committee met just for 45 minutes to discuss this Bill and the amendments suggested. The only party to make a submission to them was the Government. The report of the Standing Committee with its recommendations should have been presented to the Parliament and its members at least 48 hours in advance, but the concerned Ministry requested for a waiver on this and the bill was introduced and passed in the Rajya Sabha with barely 56 MPs present in the house and they voted without knowing what the amendments were.

This is not to say that all of them are non-serious; in fact many MPs work very hard and are very meticulous in preparing for Parliament updates and questions. Yet we require much more rigour in their functioning. This is where we can intervene.

For child rights organisations and others, the opportunities to interact with Parliamentarians and effect positive policy change emerge from interfacing with the members of the Standing Committees (people elect MPs to be part of these

Committees and as these members are accessible it is possible to interact with some of the 31 members); Consultative Committee (the members act as a sounding board for MPs so that they are grounded in issues of their concern before they raise it with their minister); Parliamentary Forum on Children (MPs use this to champion children's rights) and with MPs on a one-to-one basis.

It would be interesting to debate with them on child budgets, allocations for children by each state, money spent per child, the cost per child on account of neglect in policy, the kind of questions raised by MPs on child rights, the time spent on them, the nature of rights discussed, the extent to which children's voices are heard and represented.

I see building relationships with MPs by people working in the arena of child rights and participation as very crucial to bringing about a change in policy. Our organisation works to provide information on a number of Bills on children and I would be happy to provide insights and inputs on how to source information and gain access to a voice among MPs.

Measuring Progress for Children in India: Citizen's Collective CRC Country Review and Reporting Country Audit: The Score-card Exercise, Even a Child Can Do It

Razia Ismail Abbasi,
Co-Convenor, India Alliance for Child Rights



I begin with the question - who can report on the status and state of children when the calendar signals a CRC reporting date, and the Government produces its official version of what it has done for children? Clearly, we the people can say our piece, and some of us regularly do so.

But the Convention is written in rather stiff language, and the UN reporting guidelines lay down a certain formal structure. If we know where to look up facts and figures, we can compare rights and realities – but if we don't then it is a problem.

Some people hesitate to express a view on information that is beyond their personal experience or local knowledge. Some feel that CRC reporting may be too technical a task. Some actually feel they lack the authority to give good or bad marks. Yet they might agree that if they see a media report that the price of milk will double, and deprive needy children, or that Indian Railways is not keeping up to safety standards, they could well say “that is bad, we should do better”.

Children and even youth often confide that they wonder if people are serious when asking for their views. When presented with information, they demonstrate their ability to comprehend and to judge, and to assess what one child has called ‘faraway facts’. While child-friendly versions of rights documents and information may need to be simple to read and use, this does not mean they need to lack serious content. The CRC score-card exercise shows this. Perhaps the secret lies in the presentation.

The present CRC review and reporting process in India has been on for more than two years now. It has the significant component of an anticipatory audit of national reports, statistics and information covering the same period of time (2002-2007/8) that the official CRC periodic report is supposed to address and report on. The country audit that has been promised and carried out invites the ordinary citizen to act as an ‘informal’ auditor, to assess whether country obligations to ensure some basic standards for children’s rights and well-being are being met well enough.

The score-card itself is a simple audit tool. The document sets out a brief explanation of child rights, provides a selection of official data and information that shows the current reality against each right – for a state or for the country – and asks for an audit discussion and a grading. In sum it says: this is the right, these are the entitlements it implies, and this is the real situation. And it asks: is this what should be happening? Is it good enough?

The budget section of the score-card tells what India officially allocates for investing in children’s rights and needs, and asks for grading of this evidence of prioritisation. The score-card also asks the respondent what could be the reason for this situation – and offers a listing of possibilities: lack of knowledge, lack of resources, lack of public demand, lack of will.

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The 'how-to-do-it' guidance includes easy starter exercises. Respondents may work in a group, or may study and answer the score-card on their own. Implicit in the score card exercise is the encouragement of anyone who reads it to feel able to comprehend what it says, to judge the information and performance reported and express a view on how India treats its children – and to know that taking part in this simple audit is a genuine and important contribution to national CRC assessment.

The score-card was developed with a focus on simple on simple presentation and easy use, with children in mind as its primary users. The score-card first used in July 2008 at a children's workshop. It has been extensively used with children's groups across eight states of north India during 2008. The results were reported to national leaders. In 2009, it was used in five Lok Sabha constituencies in the run-up to the General Elections. The local children who did the exercise then reported their audit results to election candidates.

The score-card has been regularly used in workshops for adults – NGOs and community members – and also in youth meetings. It is still in use. Theme specific score cards have been developed for focus audits. (right to life, definition of the child). The longer-term potential for the score-card is an aid to monitoring

The score-card was developed with a focus on simple on simple presentation and easy use, with children in mind as its primary users.

Background, context and genesis

Ever since India became a state party to the UN CRC, actual country implementation has been under the NGO scanner. Various NGOs made their independent reports in reaction to the Government's initial Country Report of 1997, and again submitted critiques of the Government's periodic report of 2001. The India Alliance was an initiator of the collective NGO alternate review process which produced the First Citizens Country Report in 2003.

Following the convention of reacting to the official report after its submission to the UN Committee, the 2003 alternate report was prepared by NGOs in the six-month time allowed.

Following the convention of reacting to the official report after its submission to the UN Committee, the 2003 alternate report was prepared at some speed in the six-month time allowed to NGOs. Even at that pace, it brought many organisations, networks and individuals together in common concern, and there were several consultations. But the concentration of energy was on checking facts, compiling information, analysing and drafting and editing and producing the report.

Neither children nor youth, not the so called 'little organisations in the field' were particularly visible among the assessors of 2003; several of these smaller and more local organisations were members or project participants of some larger national NGOs and networks, but it was not clear in the fast moving reporting period whether they had actually been drawn into the fact-finding and review activities. Many small-area or limited focus NGOs did sign up just to endorse the report before its formal submission.

The UN Committee noted our three pages full of lines of small print, listing many names, and it commended us for working like a national coalition. But we did perceive that while our report was widely endorsed by NGOs in India, we could have cast our participation net far wider. This was when the issue of balancing 'process' and 'product' first came to mind.

The experience may have been in our minds when the Alliance and others got together to trigger a review process to assess CRC performance for the 2002-2007 period.

Three things happened:

- The review got off to an early start, within agreement that networking and contract-building must get good attention. The Alliance started putting out a series of 'what and how' workbooks and fact-sheets of child rights data. These began to circulate.
- The nodal ministry set up a 'high powered' committee of central and state officials and handful of NGOs, convened it once to baptise it, but then left it in suspended animation. Our feeling of 'high power' gradually deflated.
- The ministry next organised a series of five inter-state consultations, inviting both state governments and state-based NGOs to take part. A total of about 140 NGOs attended one or other consultation. The interactions ran from summer to autumn of 2006, but feel short of their potential because neither the central nor the state government presence was senior enough. But

they demonstrated the keen interest and deep concerns of many NGOs who were coming to a CRC review for the first time. A thick file of assessments and recommendations emerged. There was a message there.

The UN deadline for the Government's report was set at mid July 2008, offering a year and more of working time of NGOs. What would we do with it? The idea of putting together a situation update, as an anticipatory compilation, emerged. It was agreed that the new citizens' collective country report would have a Part 1 of First Findings, comprising the date fact file and an advance critique of status information accessible from official sources.

It is worth noting the rich official information resources were available for a five-year review of 2002-2007 -- from all the published appraisals and reports on the Tenth Five Year Plan, a five-year national report of action for the World fit for Children objectives, official child status reviews for the Eleventh Plan, country reports on national and international commitments, and official or officially accepted surveys on social sector issues. Among these: a series of National Family Health surveys, the first country study on child abuse, three reports on learning achievement in primary schools were key.

The aims of networking, contract-building and enlisting interest made sense. When early gatherings revealed the low levels of CRC literacy among NGOs, the next investment was in capacity-building workshops. One aim of these was to convey the connection between the CRC booklet and realities on the ground. The tied aim was to promote auditing of 2002-2007, and also to wean the process away from producing long lists of recommendations for future action.

The country review had as its aim the formulation of a country report. But the process actually began with rights reviews of localities, municipalities, districts and local area assessment of ground conditions – often focusing on a specific theme or one set of rights. In Tamil Nadu, 90 NGOS from all 30 districts of the state joined in a workshop, then went back to district level for two months to extend the review further into community-based organisations. All along, national data from the growing NGO fact file culled from government reports was also provided for discussion and comparison at all levels. These fact-files and newer workbooks were the 'seeds' from which CRC score-card would grow.

As compilation of the situation update proceeded, some process and production faults became clear: (i) a number of review documents and interim reports were coming in, but they lacked a standard approach and format; (ii) there was no consistency of style or substance in the way participating NGOs were commenting on country data or information provided and (iii) some NGO meetings and workshops reported that organisers were not always able to provide facts and figures. There seemed to be a need for standard document or tool which could provide accurate information, encourage discussion as well as some discipline in responses, make sure that discussion also resulted in assessment or auditing, and still allow optimal freedom for participants to express their own views. The score-card idea was born.

At this stage, child participation began on a large scale with the mobilisation of about 5,000 community-based children's centres operated by World Vision India. The score card was developed and introduced at a July 2008 children's workshop and then went into full scale use in the India Alliance World Vision Project.

Children are still the majority in users of the score card but it is being used for adults as well. The response tally to date is more than 16,000 score cards. Child users have helped to modify and improve the card design and content. Most have learnt to make bar charts for the first time, to present their reports.

For adult users, the score card has demonstrated its value both as a 'starter' pack and a handy reference. The fact files and compilation of official reports also made for the review provide information for more detailed and in depth examination and assessment

The score card responses are already part of the fact findings of the citizens' review, which are circulating to a wider circle of people and organisations. They will be valuable part of the India citizens' report.

As the process moved into the field, translation became a priority, and the score card was provided in different Indian languages.

A new score card and reference package are now being developed for reaction to the Government's periodic report, which may become available soon. The six-month reaction and reporting period will involve children and youth, as well as adults, and the score-card approach may once again prove a useful way to carry out this more fast paced participatory activity.

SESSION FIVE
OTHER MEASURES TO HOLD
THE STATE ACCOUNTABLE

HIGHLIGHTS



- MV Foundation has evolved multiple strategies to withdraw children from child labour and retain them in schools.
- The Foundation has also involved the *Gram Panchayats* and the governing bodies of local communities in this endeavour.
- It aids the *Gram Panchayats* through reviews of the status of children, schools and the setting up of special Sub Committees which act as watchdogs regarding children's right to health and education, among other measures.
- The second presentation focuses on the Right to Information Act, 2005, and Delhi Right to Information Act, 2001, that makes it obligatory for public authorities to provide information and make all necessary arrangements to enable this process.
- In the arena of child rights and protection, the Right to Information can be used to question the functioning of the Juvenile Justice System, the statutory bodies, the Child Welfare Committees (CWCs), the Juvenile Justice Boards (JJBs), the Advisory Boards and the Inspection Committees.
- How can campaigns be sustained? How can advocacy efforts be long standing and be shaped to change policy? How does one make the State accountable? How can good governance be made possible?: these were the questions addressed in the last presentation

Working with the Local Self Governance System: Experiences of the MV Foundation

R Venkat Reddy,
National Convenor, M V Foundation



Before I begin my presentation, I wish to give an overview of MV Foundation's work and focus. MVF has been working on the issue of abolition of child labour for over 18 years now. It has withdrawn over 5, 00,000 children from work and mainstreamed them into schools. It currently monitors the status of 4, 00,000 children on a daily basis

M V Foundation's strategy is based on mobilising communities to abolish child labor and strengthening the school system to respond to school dropouts and first generation learners. It is currently active in 2,000 villages in the State of Andhra Pradesh and has a volunteer force of 20,000 members involved in the Child Rights Protection Forums (CRPF)

M V Foundation also provides technical support to government and voluntary organisations to build local institutions such as the CRPF, youth groups that act as conscience keepers on child rights in other states for e.g. in Bihar, Tamil Nadu, Madhya Pradesh, Jharkhand and Maharashtra.

It works on certain non-negotiables:

- All children must attend full-time formal day schools
- Any child out of school is a child labourer
- All work/labour is hazardous and harms the overall growth and development of the child.
- There must be total abolition of child labour
- Any justification perpetuating the existence of child labour must be condemned

In order to prevent children from joining the labour force and also reach out to girls, MV Foundation has been looking at the issue of abolition of child labour as an issue of children's right to education. It has evolved multiple strategies to withdraw children from child labour and retain them in schools. It has also involved the *Gram Panchayats* and the governing bodies of local communities in this endeavour. There are currently 470 *Gram Panchayats* in the MV Foundation project area.

As local bodies, *Gram Panchayats* are actively engaged in planning, implementation and monitoring of institutions related to children and also protecting child rights. They have, thus, consciously enhanced their capacities and built accountability with the *Gram Sabha*/community. The *Gram Panchayats* have taken it upon themselves to strengthen services in schools, *anganwadi* centres and health services for children and pregnant women. The result of their efforts is that *Gram Panchayats* in the Ranga Reddy district have incorporated child rights as one of their key agendas.

The *Gram Panchayats* undertake the following activities to track the progress of every child:

- Conduct survey of school going children and non school going children
- Organise door-to-door school enrolment drives
- Hold quarterly reviews of primary, secondary and high schools
- Identify administrative bottlenecks that deter children, especially girls, from attending school
- Prevent child marriages by involvement with campaigns
- Provide financial support to schools for basic infrastructure, by mobilising local resources and networking with the

administration

- Send petitions to the government for the required facilities in schools
- Ensure provision of birth certificates to all new born babies in their villages
- Sensitise child rights protecting forums and other local groups to take up the issue of child rights with *Gram Panchayats* and the local schools
- Facilitate peer reviews with other *Gram Panchayats*
- Ensure children are not charged unnecessary fees or punished for wearing improper uniforms

Role of M V Foundation

The M V Foundation has oriented the *Gram Panchayat* members and field staff in its field area on the issues of:

- Child Labour Acts
- Budget allocation for children
- Formation of sub-committees in the *Gram Panchayat*
- Inputs to the sub-committees to build their capacities so that they can evaluate the functioning and quality improvement in the school
- Inputs to prepare the *Gram Panchayat* members to come up with an annual plan for the school.

MVF facilitates systematic reviews as under:

- Reviews in schools: Convening meetings with the school headmasters, teachers and if need be the officials of the Education Department operating at the *Gram Panchayat* level and help in maintaining minutes, preparing agenda and working towards quality improvement in school
- Review the status of children: Children out of schools with reference to child labour, bonded labour, girl child abuse, child marriages and so on
- Review on follow ups: Follow up on registration of births and marriages
- MVF has developed special Sub Committees which act as watchdogs regarding children's right to health and education

MVF has also developed Sub Committees which act as watchdogs regarding children's right to health and education. Consisting of ward members, parents and educated village members, the Sub Committees visit local schools and conduct review reports detailing the conditions of child health and education.

In order to equip the village schools to respond to the first generation learners, the *Gram Panchayats* in these villages took up the following activities: monitoring school attendance; rectification of false names reported in attendance registers; raising the issue of lack of teachers; keeping an eye on the transfers of children from local to high schools; providing support for withdrawing children from work by negotiating with the employers and government departments and monitoring the grants received by the government for local schools.

At the *mandal* level, the issues raised are number of children in school, number of teachers in school, regularity of attendance, number of children not attending school, timings in schools and exploring the possibility of the formation of Children's Committees, addressing problems related to girl children, surveying the midday meal schemes, seeing if pressures are exercised on children for school uniform and fees and facilitating government schools to attract students who are studying in private schools.

In the efforts towards community health, the *Gram Panchayats* identify pregnant women, motivate them to access government health care centres, see to their dietary requirements and immunisation schedules, survey institutional delivery systems: their cleanliness; and also look into problems associated with child marriages among other issues. The *Gram Panchayats* also assist centres dealing

MVF orients the Gram Panchayats on laws, budgetary allocations and on how to give impoast to Sub Committees. It also undertakes reviews in schools, the status of children, and equips schools to monitor attendance and bring children back to school.

with issues facing children in the age group of 0-5 years. These include taking monthly weight of children, looking after underweight babies, holding meetings for adolescent girls, provision of iron tables to them and ensuring birth registration of newborn babies.

Challenges facing *Gram Panchayats*

Despite the progress that has been made, there are still a number of challenges facing *Gram Panchayats*:

- Even after *Gram Panchayats* identify issues of concern for their communities and petition the government, the response from the state is slow and weak
- The teachers and government staff still need to be more accountable to the *Gram Panchayats*
Current government schemes function according to centralized supply-side planning. This causes a disparity between the issues for which the government supplies funds and the actual local needs
- There needs to be more power accorded to the *Gram Panchayats* in negotiating with state and federal level government officials

Only when these issues are corrected will *Gram Panchayats* address the problems facing the communities.

The Right to Information: A Tool for Child Rights' Advocacy

Raaj Mangal Prasad,
Former Director, Association for Development Delhi



It is often said that information is power. It might sound clichéd but it is important for transparency and accountability and is important for the functioning of democracy.

Under the Right to Information Act, 2005, Section 4, dictates that the public authorities provide information on its workings when people demand it.

The Right to Information ensures various rights for children. To recount a few they include that of survival (foeticide, for instance, is a criminal offence), protection (child abuse again is punishable by law), development the Right to Nutrition (ICDS), the Right to Education (admission to school) and the Right to Health fall under its purview) and that of participation (children have a right to be part of the planning process and the implementation of programmes).

In our efforts to restore children on the streets to children's homes, we found that very often they escaped to the streets again due to the appallingly poor conditions within homes. We have used the Right to Information to get information on children's homes – their functioning and expenses. I would like to recount once such scam we uncovered as an example to show what is possible under this Act.

Using the Right to Information we asked for information on expenses in children's homes. We found that the average expenses were between Rs 10 and Rs 15 lakh

It is often said that information is power. It might sound clichéd but it is important for transparency and accountability and is important for the functioning of democracy.

The Right to Information Act, 2005, and Delhi Right to Information Act, 2001, makes it obligatory for public authorities to provide information and make all necessary arrangements to enable this process. The idea behind these Acts is to promote transparency and accountability in the workings of the public authority. Under the Right to Information Act, 2005, Section 4, dictates that the public authorities provide information on its workings when people demand it.

The procedure to derive information is simple. A person will have to fill up an application that costs Rs10. There is no fee from citizens who live under the below poverty line. Applications are available in post offices and the SPIOs and CPIOs can also be approached.

The Act stipulates that the application must be cleared within 30 days. The petitioner can make an appeal if his/her query has not been answered, if the information given is wrong or it is vague. A second appeal can be made within 90 days from the date on which information due or actually received.

The petition can also avail of Section 20 to press charges if his/her application is not received, if he/she has been given false information or if the sought information has been destroyed. The fine for such offences can range between Rs.250 per day up and Rs.25,000.

In the arena of child rights and protection, the Right to Information can be used to question the functioning of the Juvenile Justice System, the statutory bodies, the Child Welfare Committees (CWCs), the Juvenile Justice Boards (JJBs), the Advisory Boards and the Inspection Committees. It can also be used to derive information from children's homes, observation homes, on the functioning of government schemes and plans (the Integrated Child Development Scheme, for example), ambulance services for children, drug de-addiction facilities, advertisement expenses on missing children and for obtaining details on the status of restoration of children.

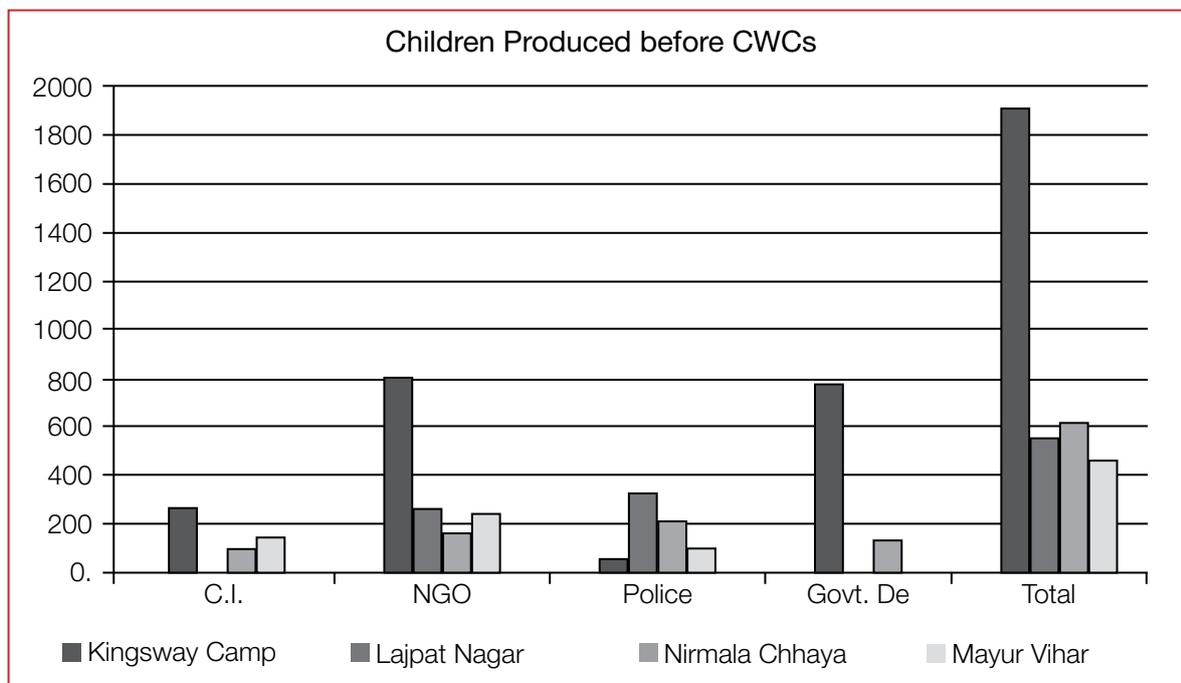
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per home yet these homes had no organised records of quotations of vendors (they could only produce comparative statements) and many of their documents were forged.

In our probes in the functioning of CWCs using the Right to Information, we found discrepancies in the timing and frequency of sittings within CWCs, and also exposed the weak implementation of the Juvenile Justice (C&P) Amendment Act, 2006. The following examples of show how important a tool using right to information can be in holding state accountable:

Children produced before CWCs 2006 (Jan. to Dec.)

| Agency | No. of Children |
|---------------------|-----------------|
| Child Line NGOs (5) | 478 |
| Other NGOs | 1397 |
| Delhi Police | 690 |
| Govt. Depts. | 887 |
| Total | 3452 |
| AFD/Pratidhi & GRP | 306 |



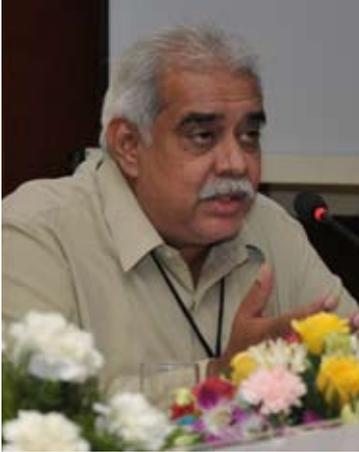
- Our scrutiny of other statutory bodies using the Right to Information showed that Advisory Boards have had only two meetings since 2003 and the Inspection Committees are defunct. The government in fact made a public admission of failure and the Public Grants Commission (PGC) ordered the government to mend the gaps. Even the Juvenile Justice Fund has been lax in dispensing with funds for children using the absence of timetables to dispense with the funds as an excuse. The PGC at that point ordered 31 March 2007 to be set as the deadline.
- We have also found that the recent ban on child labour is falling through in implementation as the role of government departments (the labour department, CWCs, Social Welfare departments and the police) falls far short of expectations. There is no coordination between these departments, and the children rescued under the Bonded Labour System (Abolition) Act are not produced before the CWC as is required by the Juvenile Justice Amendment Act 2006.
- According to the information we received from the Delhi Police, the rescued children are handed over to NGOS. But they admit that the identification of these children and their rehabilitation in their own homes remains a challenge.

- Our examination of the functioning of the Integrated Child Development Scheme shows that while the total allocation for 2005-2006 was Rs 14, 37, 64000, the money unspent was a whopping Rs 8,80, 38188. We also found that in 2005-2006, no nutrition was provided to children for 150 days
- In the homes for mentally challenged children, we found an abnormal number of deaths. There was a critical shortage of staff and space. We found there were 621 inmates as against the sanctioned strength of 350. We also found cases of child abuse and the lack of medical facilities. Our use of the Right to Information forced the PGC to intervene.
- Our investigations into the ambulance services for children revealed that officials were grossly misusing the ambulances and that children were dying in the absence of ambulance services. Based on our studies, the High Court intervened but the government officials continue to misuse ambulances.
- The situation in drug de-addiction facilities is no different: the facilities and the psychiatric assistance were found to be poor. In our analysis of expenses of advertisement expenses on separated children where the effort is to reunite them with their parents, we found that the allocation in 2005-2006 was Rs 15, 60, 475. The advertisements placed in English newspapers were Rs 7, 09, 573. The local newspapers were not made use of and the number of children reunited with parents was only 24. We found poor coordination between MPS, police and children's homes. Also these agencies do not maintain details of release and rehabilitation of children and the functioning of after-care homes are dismal.

The evidence gathered through the RTI applications can then be used to mobilise people, register complaints or file cases in court as the need be.

Sustaining Campaigns

Ossie Fernandes,
Director, Human Rights Advocacy and Research Foundation, Chennai



How can campaigns be sustained? How can advocacy efforts be long standing and be shaped to change policy? How does one make the State accountable? How can good governance be made possible?

These are questions that every activist working in the child rights and protection arena seeks to address. Good governance, on hindsight, is about sound and sensitive governance at the central, state, municipal, district and village level.

Good governance is about sound and sensitive governance at the central, state, municipal, district and village level.

Article 21 is a mirror that shows up the real performance of the government. And, today the truth is that we have a government that is brutal to children. Though they comprise about 45 per cent of the population, the budgets for children are small. The government earmarks whopping amounts of money for defence, infrastructure and for salaries of bureaucrats. Yet children get very little.

I have no hesitation in saying that the Indian State is semit-fascist and that it is not being held accountable to its children. After 62 years of independence the abrogation of state responsibility to promote and protect child rights is real and becoming awesomely true. Even the judiciary does not pay heed to the real needs of children. Some court judgements in fact are detrimental to the rights of children and worse still there is scant attention paid to the various categories of children. It is hardly unsurprising that in this context, the government seems in no hurry to have a national policy for children.

Law without policy

Children's laws suffer from a peculiar malady. Laws are not based on a comprehensive policy on the child. A policy for children must outline a sustainable development perspective and contain definite goals, time bound programmes, offering highest quality and be based on the UNCRC principles of first call for children (in all policy decisions and budgetary allocations) and the best interests of the child. A central element of a Policy on the Child is to guarantee the right freedom of information, expression and participation of children at all stages of policy formulation and implementation. There is an urgent need for a National Child Protection Policy to develop a comprehensive approach to child protection and provide direction to the laws, plans and programmes that make child's rights to protection a reality.

Law without Rights

Not surprisingly, children in India do not have rights. They have laws. Rights and laws are not the same – laws by the State are generally meant for curtailment of rights whereas rights are meant to empower those who require to be empowered because of their powerlessness.

Most laws on the child are inconsistent with the U.N. Convention on the Rights of the Child and the Indian Constitution. Both the U.N. Convention and the Constitution inter-protectively and substantially are progressive laws. Both go beyond the individual and affirm collective rights. In India, most laws of the state are not in the best interests of the child. Increasingly they lead to deprivation of child rights within a family and lend themselves to worst forms of exploitation. The laws the government has made in fact go to curtail the rights of children rather than empower them. The Right to Information is the closest right that children and adults enjoy in the country till date.

The legal framework for the child seems progressive in terms of the several areas covered by law. However several problems remain:

- There is no political will at almost all levels of administration to get these legislations actually implemented or amended wherever needed.

- There is no implementation of the law by the enforcement agencies
- Bad laws are made with several loopholes that defeat the objectives of the law
- The nexus between employers, owners, politicians and administrators constantly subvert the law
- Most laws are not based on the understanding that children have rights, children can make decisions, and children can participate in the monitoring of the implementation of the law. The policy must outline how the laws have promoted and protected children's rights and areas that require review and amendments or replacing by a new legislation.
- By and large Supreme Court and High Court given jurisprudence and law have been conservative and far below even the limited standards set by the UNCRC and the Constitution. Statute law often legalises what is already illegal according to the Constitution and International Instruments. The classic cases are the Child Labour Prohibition and Regulation Act where the Court has preferred to extensively argue and give directions within the frame of statute made law rather than the Constitution.

The government needs to focus on a rights-based approach. It will help contribute to a rethinking of children's roles in development and the ways in which development impacts on children. This essentially means shifting away from a view of children as victims or beneficiaries towards an understanding of children as citizens. A rights based approach would also necessitate according equal priority to children's participation and protection rights, alongside survival and development rights.

Activists on the other hand who run campaigns for children must have purpose, objective and strategy. They must be equipped with a professional approach and must take on the role that the State is expected to play but does not. Advocacy Campaign and Networking is all about developing and using tools to engage and advocate with the state; holding the state accountable and bringing in greater transparency, monitoring state performance and ensuring space for children and their rights as part of good governance, striving towards systematic and strategic change in laws, policies and their implementation. This requires consistently undertaking budget for children analysis, using it to engage and advocate for greater and more appropriate allocations for children, using the Right to Information Act, filing Public Interest Litigations, undertaking social audits and submitting shadow reports to the UN Committee and so on

Essential ingredients for advocacy and campaigning for children:

- A broad ideological social consent on the purpose, objectives and strategies. Tactics can be varied
- An acceptable common understanding of the character of the states
- An analysis of the content, issue, constant research and collation of research, policies, laws, budget instruments, etc.
- A core think tank/activists
- Involvement of professionals including concerned administrators to lend legitimacys
- A need to be rooted with groups/organisations social and political movements involved with human rights and state, 'accountability'
- The need to influence political parties and advocate/campaign with them to bring it on to their central agenda
- Crucial skills required are those of advocacy, lobbying, negotiation and communication
- a core team of lawyers/ law teachers for law analysis, legal advice, litigations
- Members of the campaign must be engaged also in mobilising-agitations use effectively right to information, public hearings, fact-finding investigations
- There is need to make use of legislative processes, from select committees to standing committees. Reports of these groups are significant.
- Informed lobbying with MPs, MLAs is required
- Constant information flow and advocacy with media is mandatory
- Regular information bulletin/booklets

SESSION SIX
CHILDREN AND GOVERNANCE
IN SPECIAL SITUATIONS

HIGHLIGHTS



- Children caught in special situations need special attention and care.
- Creating disaster management and conflict resolution strategies and guidelines are a must.
- There is need to put in place counselling services, vocational training and recreational facilities and ensure that child rights do not fall into jeopardy during the already stressful-times.
- The second presentation makes a case for the full implementation of basic rights of a child like the Right to Food.
- Though the law is comprehensive and comes with a slew of schemes to fulfill it, there are many missing gaps as yet.
- Children who are displaced are in severe distress. It is important to understand migration, its root causes, the challenges of displacement on children, and the best ways to rehabilitate children.

Child Protection Issues in Emergencies

Harendra De Silva,
 Founder Chairperson, National Child Protection Authority, Sri Lanka



This presentation is derived from the experience of the Asian Tsunami of Dec 2004, but its principles and the course of action would be applicable to any other human made or natural disasters.

Natural disasters cause a breakdown in communications and transport and reaching those in need of help becomes very difficult. The administrative machinery is also thrown out of gear with the death of many officials and displacement of many others, as they too stand seriously affected.

A disaster of this nature would lead to:

- Breakdown in Communications and transport and difficulties in access.
- Death and displacement of officials.
- “Fractured”, social, economic, legal and educational infrastructure
- The hierarchical infrastructure including the administration, police services

and professional services such as health care was fragmented as a result of the disaster.

Unfortunately, these unforeseen tragedies usually strike “ill-equipped” nations more where the governments are unprepared for such disasters and not professionally equipped, that sustain the most damage, and the impact is larger. On the other hand, though the US was also not prepared when the hurricanes struck, they could cope better because a disaster management system was in place.

Disaster preparedness is thus an important area of action that needs attention. Action plans must be anticipated and planned strategically. Personally, I think it is also important that a communication strategy be put in place. Professionals need to develop manual/s that could be used during natural disasters in ‘preparation’ of a disaster.

I have been personally responsible for the drafting of such a manual after the Tsunami on child protection and it has put on the internet for wide dissemination and has been widely used in the aftermath of the Pakistani earthquake.

What is critical is the awareness that children fall through the protection net at times of emergency and that the “system” for prevention of abuse must be in place:

Impact on children and interventions needed

Following a disaster, oftentimes, many decisions need to be taken by individuals that may not be appropriate or professional when viewed out of context, but are ‘justifiable’ when viewed within the framework of the disaster. These acts could include prioritising the saving of lives, providing health care, food and other supplies over preventing crime or child protection.

Yet it is vital that child rights and protection be prioritised in times of disasters as this is the time that children’s lives and rights are in jeopardy. It is well established that disasters cause stress in adults and children; it leads to a loss of privacy resulting in psychological, sexual and physical abuse of children; displacement and separation of children; and the loss of birth certificates and problems of identity of younger children; trafficking and exploitation of children; illegal adoptions, unauthorized foster care by unrelated persons; institutionalisation of children and violence in institutions; and most important, the drowning of children’s voices and participation.

It is well established that disasters cause stress in adults and children; it leads to a loss of privacy resulting in psychological, sexual and physical abuse of children; displacement and separation of children; and the loss of birth certificates and problems of identity of younger children. It also leads to trafficking and exploitation of children; illegal adoptions, unauthorized foster care by unrelated persons; institutionalisation of children and violence in institutions; and most important, the drowning of children’s voices and participation.

Database is critical: The National Child Protection Authority (NCPA) with the help of undergraduate volunteers visited the camps and enumerated the children who had lost both parents and one parent to establish a national database. Other countries can take similar initiatives. The database would be useful in monitoring of individual children, with a feedback to the donors. However, parameters of vulnerability of children should be developed, for example, details of say an alcoholic father, single parent, living in a conflict area and vulnerability to recruitment by terrorists should be made note of.

Policy on child protection: State policy has to be developed as soon as possible for the care and protection of separated and unaccompanied children. These policies should not be ad hoc but have a legal basis to deter unlawful adoptions, which often leads to exploitation and trafficking. It would be undesirable to initiate adoption procedures immediately after a disaster since screening and monitoring of prospective adoptive parents would be difficult during the initial phase.

Dealing with psychological trauma: Such situations create behavioural and psychological problems in children.

The psychological trauma after a disaster follows a noticeable pattern: the initial grief and despair in adults is followed by hope, and then they relapse again into despair when things don't go according to plan. But in most countries, there are no facilities to deal with the grief of not only families that lost persons but also others in the area,

Immediate professional involvement to create awareness amongst the affected population to prevent abusive situations is the most appropriate: rather than taking action after the abuse has taken place.

The biggest problem is the lack of counsellors which must be addressed by building capacity of people at the grassroots to be able to counsel people in grief. Teachers, youth, NGOs, health workers and those with drama, art, and music troupes can be trained to provide culturally appropriate counselling.

Use of media and communication: Media is a powerful tool that can be used to help and sensitise children to the dangers. The reach of the media would of course depend on the access of communication lines, level of literacy, and the presence of electricity if the medium of television.

It is also important to keep the cultural background, ethnicity, religion and the language/s of the affected communities in mind. Leaflets and posters in affected areas are useful especially when electricity is disrupted, provided the literacy is good.

Communication professionals should be used to develop modules and train 'middle' level trainers (TOT) who would then train the grassroots level workers on prevention of child abuse. We found that volunteers who were mobilized to conduct small group discussions in the community refugee camps proved to be extremely useful in preventing abusive situations as well as health hazards and it would also be good to train youth and children on child protection through small peer to peer awareness programmes.

Promotion of housing and privacy for children: Housing is key to safety. Overcrowding makes children vulnerable to abuse and exploitation. Therefore special care was taken to ensure arrangement of special sleeping preparations in refugee camps had to be made. Children of different age groups (and sexes in older age groups) were given special safe areas to sleep with supervision by an elder female.

Preventing of trafficking of children: Action was taken immediately in anticipation of possible trafficking of children overseas. We were aware of the existence of foreign paedophiles in the country at the time and others who very



quickly (would) arrive/(d) in the Island with questionable motives The immediate action by the NCPA within a couple of days was to inform ALL Embassies by fax of the possibilities and to scrutinize all applications for visas for children. The Immigrations department was immediately informed to scrutinize carefully all applications for new passports for children The Airport security and immigrations and the Ministry of Defence were also informed of the possibilities Fortunately Sri Lanka is an Island and there is only one exit point the airport

Preventing recruitment by LTTE: One of the biggest issues in Sri Lanka is the recruitment of children, especially those separated and unaccompanied into the terrorist cadres. This is done in the guise of giving protection to these children orphaned by the Tsunami and the so-called orphanages run by the terrorists are, in fact, the training ground for child soldiers.

Local advocacy against recruitment using a rights base has been used to bring pressure on the recruiters. Arrangements for special sleeping quarters in refugee camps were made. Children of different age groups (and sexes in older age groups) were given special safe areas to sleep with supervision by an elder female.

It has also been noticed in Sri Lanka that Children's and Youth Welfare "drop in" Centres are ideal places where children go after school or on holidays. Trained teachers, usually youth, thus make provisions for education, entertainment, leisure, recreation, play and vocational training. This can be done in other countries as well.

Instructions for volunteers and visitors: Disasters attract volunteers, social workers and philanthropists. It is critical to give them clear instructions of dos and don'ts. After the tsunami, the hundreds of thousands of people who visited the area with food and clothes were requested, hence, to 'listen' to the grieving, take toys to children and play with them and organise religious ceremonies to bring blessings on the dead.

To conclude, the overall objectives in such disaster situations must be:

- Sustainability and effectiveness of all programmes
- Monitoring and instruments of measurement should be in place
- The 'measurability' of the impacts and effectiveness is crucial
- Children's and Youth's views and participation in decision making has to be implemented

With our experience with disasters, we have come up with the following suggestions:

- Guidelines have to be developed and legalized to prevent the divulgence of identities of abused children to prevent stigmatisation of the children
- The whereabouts of separated and unaccompanied children cannot be divulged to prevent targeting of children for trafficking and exploitation
- However, carefully controlled release of information to organizations providing relief to these children may be necessary
- Parents looking for their separated child should also have access to the information
- Databases that include pictures of children are useful to parents
- The motives of foreigners arriving at the time of disasters must be verified as it has been established that many paedophiles use this opportunity to target vulnerable children
- Airport security, immigrations, and the Ministry of Defence need to be alerted to the dangers of such occurrences and possibilities

Hunger and Children's Rights and Entitlements

Biraj Patnaik,

Principal Adviser to the Office of the Commissioner, Supreme Court, New Delhi



In India we have many laws, but there are no rights. We have to approach the Supreme Court to ensure that our children do not die of hunger and malnutrition, even while there was an abundant food grain in government godowns

The need for right to food has also become important in light of the fact that 35 per cent of the low weight babies live in India and one in every malnourished child in the world lives in India. In fact, 46 per cent of child malnutrition in the developing world is in India. These figures are worse than that of Sub Saharan Africa. It is also estimated that 70 per cent of Indian women are malnourished. These stark realities persist even though India is the second fastest growing economy in the world. India's human development indicators are poor and they have slipped even behind Bangladesh. I would like to begin by saying that though in India we have many laws, there are no rights. Over the last 60 years we have built up a framework of laws, policies, case laws and well-oiled institutional mechanisms. Yet under this overarching umbrella of laws, citizens have no rights.

Take the Right to Food. This right began to recognise as a right only when the People's Union of Civil Liberties took up the case of chronic starvation deaths in the country in 2001 and the Supreme Court intervened. They pointed to the presence of abundant food grains in government godowns and questioned the discrepancy of starvation deaths while there was a surplus of food grains. The Supreme Court directed the states to identify families living below the poverty line and disburse the entire allotment of food grains from the Central government through various state schemes.

Yet such interventions have helped only a little. Though the Right to Food has been recognized as important, yet the laws are not binding and in the last nine years several NGOs have been fighting to get this right established.

The current government is also trying to make the Right to Food the centerpiece of its innings and attempting to tussle with the freezing of numbers of BPL families, its subsidy burden, quantity of food distribution, and delivery systems.

With the Supreme Court interventions, the Right to Food comes with legal entitlements: mid-day meals for children, food for mothers, infants, children and adolescent girls under ICDS, 100 days of wage employment under NGERA, subsidised rations for the poor in ration shops, and massive food, livelihood and social security programmes that include all categories of people have been put in place. There are also independent commissions set up to monitor corruption in misuse of food grains. Yet millions go hungry and this is deeply shameful.

Much more needs to be done. Labour laws and relationships need to be altered and the Right to Food needs to be deepened. The Parliament needs to legislate that no one should go hungry. It should become a justiciable right and there is need to punish errant officials who mismanage food programmes in the country, which are among the largest and most ambitious anywhere in the world.

Stress needs to be laid on children's Right to Food and this must come with legal entitlements and a financial memorandum. As breast feeding also is important for the growth of a child, legislation on food must also facilitate mothers being able to feed their children even if they are working. Women labourers must be provided crèches near their workplace so that they can feed their infants. The right to food must be comprehensive and all encompassing. Anything less than this is unacceptable as it would be a vulgar oversimplification of things.

The Right to Food must be comprehensive and all encompassing. Anything less than this is unacceptable as it would be a vulgar oversimplification of things.

The Story of the Displaced Children in India

Gita Bharali ,
 Director, Research, North Eastern Social Research Centre, Guwahati

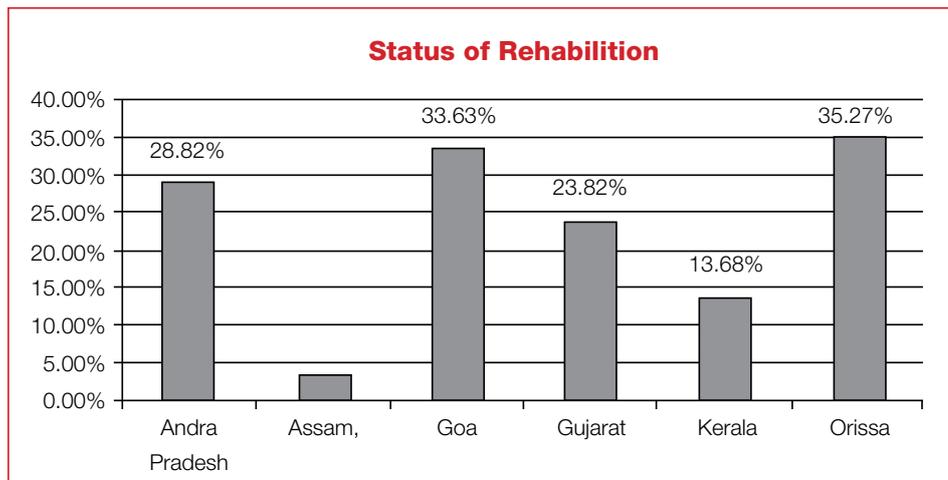


This paper is based on studies done by North Eastern Social Research Centre (NESRC) and Indian Social Institute (ISI) in Kerala, Goa, Andhra Pradesh, Jharkhand, Orissa, West Bengal and Assam. Some studies are also underway in Gujarat, Maharashtra, Tripura, Meghalaya and Mizoram, Manipur, Nagaland and Sikkim.

In this paper, I critique the current development paradigm on child rights and protection.

I begin with some harsh but true statistics: Thirty five per cent the developing world's low birth weight babies are born in India. Also, one in every three malnourished children in the world lives in India. Out of every 100 children, 19 continue to be out of school. Of those who enroll, almost 53 drop out before completing Class eight. India is home to the highest number of child labourers in the world. And, 2.5 million children die in India every year.

The Constitution of India has recognized the rights of the child as a citizen of the country. In the context of children, it talks of liberty, development, non-discrimination, need for free and compulsory education, and prohibition of employment in mines, factories and hazardous employment.



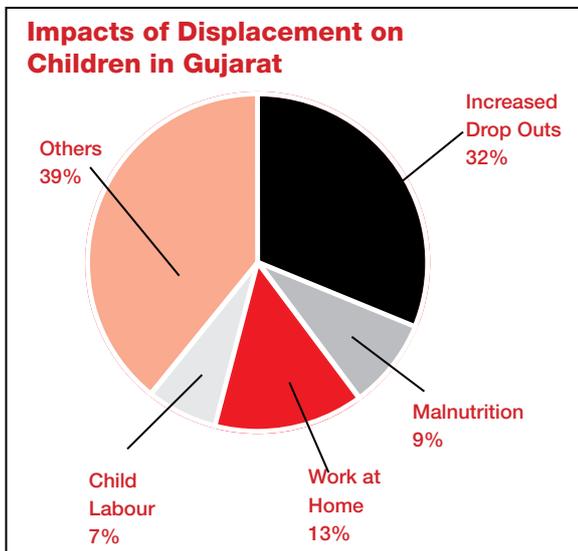
Article 21, in particular ensures the right to life with dignity for children. The Convention on the Right of the Child that was ratified in 1992 gives children the rights that adults enjoy. According to CRC every child has a right to survival, development, protection and participation. The UN documents pertaining to children also give them rights to housing with access to basic services and infrastructure and social and economic opportunities.

Yet post independence, children have not got the rights promised to them and instead many of them were put to work in mines, industries, dams, and military bases. Children have also been forced to resettle for employment with their families. It is estimated that around 50-60 million people have been displaced in the country so far, of them 40 per cent are tribals. Other studies show that only 25 per cent of this population has been partially resettled.

When families are displaced, it is children who are worst affected. Children are more vulnerable than adults; they have no political influence and economic power and they have no specific provisions in displacement policies. Health, education and nutrition of children are affected severely and child labour becomes an established trend.

Rehabilitation seldom occurs simultaneously with relocation. So even those children who may have had access to education pre-relocation, are now deprived of it. Let me give you the instance of Salandi in Orissa. People were shifted from a town to the forest area as rehabilitation. Schools were built a decade after the rehabilitation had taken place. The sad part was that the children had access to schools before the rehabilitation and attended regularly.

In Salandi Project in Orissa, people were shifted from a town to the forest area. Schools were built a decade after the rehabilitation had taken place. They had access to school prior to displacement.

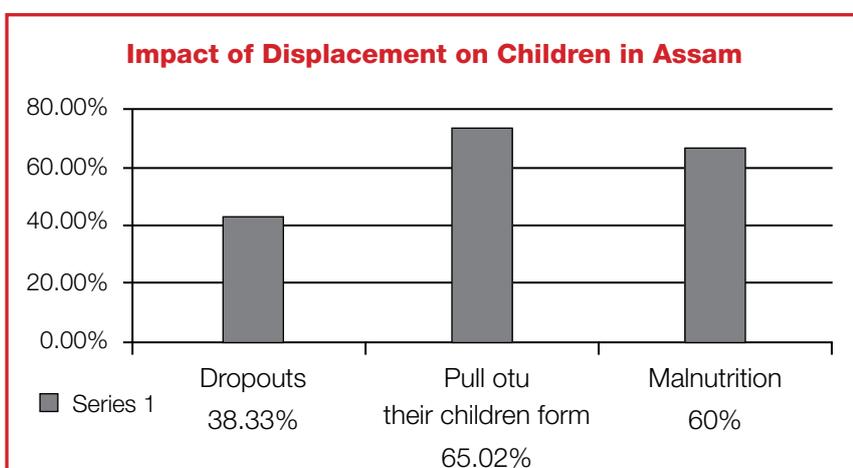


Here are some details of the impacts of displacement of children in Gujarat and Assam..

In Andhra Pradesh, 39.23 per cent children were forced to drop out of schools as a result of displacement; 20.57 per cent of the children said that the quality of schools were poor; and 13.24 per cent complained about not having school in the locality. Of the total number of children, 18.50 per cent were affected by malnutrition.

Tribal children suffer the most. Almost 95.24 per cent of the tribals spoke about lack of access to school for their children

A special provision has been made for providing lifetime monthly pension to the vulnerable persons, such as the disabled, destitute, orphans, widows, unmarried girls, abandoned women and persons above 50 years of age. Yet there is nothing specific for children in policies .



We still need to establish a system that ensures the rights to education, nutrition, housing, good health and the prohibition of child labour for children.

An infrastructure has to be built to suit these rights. Educational institutions, health institutes, other recreational facilities and a system which ensures right to food and prohibits child labour must come into being.

At the end of the session, participants agreed that to redress child rights and participation issues there is need of:

Obligation of transparent action

1. Government must submit reports
2. They must be available to the public at large
3. National debates and public scrutiny of child rights are a must
4. Review of government action against its own assessments is crucial
5. Reviews should extend to all government actions

Obligation of conduct

1. This is applicable to all administrative, legislative, budgetary, educational and advocacy measures
2. There is need to set up redress mechanisms for children
3. There should also be political will and action

Obligation of result

1. All rights for all children
2. Create conditions for achieving rights
3. Positively promote achievements

DAY THREE

SESSION

**KEY ELEMENTS OF GOOD
GOVERNANCE FOR CHILDREN**



The participants were divided into two groups. They arrived at key recommendations and plan of action for the underlined objectives:

Groups A and B – The framework of good governance and how to measure State performance

1. What must the State do to ensure good governance for children?
2. What results must the State achieve to ensure good governance for children?
3. What indicators should we use to measure State performance in ensuring and achieving good governance?

Group C – Children and good governance

1. How can children become a stronger voice within governance structures?
2. What indicators can we use to monitor the State's performance in ensuring they have a voice within governance structures?

Some Excerpts....

“Rights-based approaches to development may also be useful, particularly if they contribute to a rethinking of children’s roles in development and the ways in which development impacts on children. This essentially means shifting away from a view of children as victims or beneficiaries towards an understanding of children as citizens. A rights based approach would also necessitate according equal priority to children’s participation and protection rights, alongside survival and development rights.”

Ossie Fernandes, Executive Director, Human Rights and Advocacy Foundation, Chennai, India



“Qualitative data can demonstrate the gravity of the child abuse problems. Only then the politicians can be ignited to initiate policies... Child protection is not only politician’s obligations but also every one of us. No interference of politicians should exist while ensuring child protection by any institution, volunteers, activist and stakeholders. Nobody can put blame on others; we all need to feel for the cause... A professional approach is crucial in investigating the issues and intervene them.”

Harendra de Silva, Former Chairperson of the National Child Protection Authority, Sri Lanka

“We need to define accountability in the context of realisation of child Rights. State accountability involves that state actors are answerable for their actions and sanction for non-performance...Accountability is ensuring justice within the available framework. It also includes the monitoring of the consequences of different policies.”

Frances Sheahan, UK



“The most interesting finding is that the level of child-friendliness had no correlation with the per capita income of the country. It means governance is key. Laws and policies that are geared towards children’s rights are important. It is politics, not economics that matter.”

Assefa Bequele, Executive Director, African Child Policy Forum, Addis Ababa, Ethiopia

“In Nepal, there is strong participation of children in government policy making. Children participate in adult as well as children organisations working on issues pertaining them. Their participation in school managing committees are encouraged and have enabled them to their raise voice regarding their rights. Village development committees invite children to become members. CWIN has collected 1 million signatures to include children’s suggestions in the new constitution which is being formulated. Such permeability in the system makes it possible for better accountability and transparency of government functioning”.

Sumnima Tuladhar, CWIN, Katmandu, Nepal



“Child participation is exercising their rights to self determination. It includes the determination of quality and nature of the provisions and protection provided to them. To respect this right is not an option but an obligation. It applies to government as well as non-government organisations. Consistency of maintaining this and how and where it begins is yet to be looked upon with greater priority.”

Kavita Ratna, Concerned for Working Children, Bangalore, India

“Children growing up in a young democracy have a window of opportunity to advocate for their own rights, and engage in governance issues. Children’s participation in governance ensures that their perspectives, experiences and priorities inform, inter alia, economic policy and budget allocations.”

Christina Nomdo, RAPCAN, Cape Town, South Africa



Key Recommendations and Plan of Action

The richness of the debates cannot be reflected in a report like this that aims to capture the overview of the colloquium. We have at best captured snapshots. But we have attempted to list some of the broad recommendations which emerged from this colloquium:

1. Defining governance vis-à-vis children

It was agreed by all the participants that it was critical to define child sensitive/ responsive/friendly governance. The participants defined governance for children as one that Ensured All Rights for All Children and included the following components:

- Compliance with Constitutional and international obligations
- People and children-informed and driven process
- Establishment of the right conditions for participation in governance

It was agreed that the underlying principles that must define child responsive governance should be:

- Political will - and this must be visible in not just policy, law and programmes but also in their outcomes so that they would positive impact children
- First call for children - children must be the prime focus of all laws and programmes
- Best interest of the child – this premise must govern all government initiatives

2. Domains of action that spur child-responsive governance

The following actions were identified as indispensable for good governance for children:

- All arms of governance – executive, legislature and judiciary and their institutions should be accountable to children
- As the State is the primary duty bearer, it is the State alone that bears the onus of governance for children
- State action needs to be monitored with regularity for its efficacy or the lack of it
- Effective implementation and enforcement mechanisms must be put in place
- National policy and laws for children must be made mandatory
- Independent monitoring mechanisms for objective, non-partisan appraisals must be set up
- Coordination mechanisms should also be set up to pull together discrete initiatives of the State
- Empowerment of children at all tiers of governance and hastening the processes of decentralisation in governance to allow children's participation must be explored
- Facilitating the process of ensuring children's and people's participation in policy and programmes must be initiated
- There is need to build a scientific and credible knowledge base to campaign for children's rights in policy and programme

For some of these domains, indicators or elements to rate the responsiveness of the governance system towards children were developed:

1. National Policy for Children

- A national policy and plans of action for children are needed
- They must be comprehensive and inclusive
- They must be consistent with the Constitutional and international obligations
- There must be mechanisms to popularise and implement the national policy and plans of action
- The existence of an independent monitoring mechanism can ensure State accountability
- It is important to accord a political locus to the authority responsible for implementation to make its powers

inalienable

- Child impact assessments must be conducted regularly to assess the impact of State policy and programmes on this huge demographic group
- The National Policy for Children should be aligned with other national policies

2. National Laws

- National legal instruments need to be harmonised with international obligations
- Critical evaluations of how judicial decisions reflect Constitutional and CRC principles need to be undertaken
- Existence of 'parental leave laws' to ensure that children in their vulnerable first few months have proper parental care from BOTH parents should be ensured
- Existence of domestic laws on child trafficking, sexual exploitation, corporal punishment and free education must also be ensured
- A juvenile justice system must be put in place
- Child friendly procedural codes to deal with offences against children are essential
- There needs to be an autonomous/authoritative child rights protection bodies such as an Ombudsperson

3. Resources

- Budgetary allocations and expenditure for children must be part of every State budget
- Regionalising budgetary allocations and expenditure should follow
- It must be ensured that allocations and expenditures have firm timetables (this is to ensure that resources are allocated on time, do not lie unutilised, are not spent in final quarter but is spent throughout the financial year)
- Laws must be backed with financial memorandum (that is, they must have financial allocations in the budget and the institutions that disburse the funds and mode of disbursement must be identified)
- The ratio of government contribution versus corporate and international aid contribution must be determined to ascertain the actual governmental commitment
- The use of funds in child budgets must be monitored in terms of input/outcome impact
- Mechanisms to monitor public-private partnership initiatives and reporting on the investment as well as outcomes/ impact must be evolved

4. Ensuring children's own participation in governance

This aspect of governance was explored in great detail and the following questions were raised for redress:

- How can children's voices be heard in governance?
- What is the degree of compatibility between Constitutions and the CRC?
- What are the administrative structures available to address children's issues?
- Is there a need to redesign some of these structures?
- How much power do these structures possess?
- Are all children's groups represented?
- It is possible to facilitate the culture of self-determination among children?
- Is the marginalisation of children is due to failure of the state/duty bearers?
- How can an enabling environment be created for children so that children are empowered?
- Can this in turn cause a ripple effect triggering a positive effect on other children?
- How can we respect individuality of personhood within partnerships?
- How can children be transformed into agents of change?
- How can we enhance capacity of children to face opposition when undertaking attitudinal change within their families, schools or communities?

- How can we formalise CRC (rights orientation) in teacher training and education curriculum?
- How can we build successful and replicable models (with ripple effect)?
- How can we identify, expand governance structures within the legislature, executive and the judiciary?
- How can we present information in a child-friendly manner?
- How can process be amended to be child-friendly?

5. How can we measure children's participation in governance?

- Are structures available for child participation at different levels of governance? What is the power of the local government structures to ensure child participation in local governance? To what extent do they exercise these powers?
- Is children's participation likely to be stronger if they can access government structures closer to their homes?
- Are analyses of budgets available to set up the structures, make provisions for child participation, put in place protective mechanisms, and build capacities for adult stakeholders? How much money is being spent on issues raised by children?
- What is the nature of processes set up by government? Are they child-friendly and do they give space for children's opinions and interventions?
- Which are the groups that find representation in processes? Are all interest groups adequately represented?
- To what extent do elected representatives raise issues that children bring to their attention at higher levels of governance?
- What is the involvement of children in the planning processes from local to national levels?
- What are the measures taken to ensure follow-up of on processes and meetings with children?
- What are the blockages/ enablers for children's voices being articulated and heard?
- What is the time allocated for discussions on issues raised by children in relation to legislation or policy? What is the extent of questions and debates in the state assemblies and national parliament emanating from issues raised by children?
- What is the number and nature of resolutions passed in legislative assemblies and parliament based on the issues raised by children?
- What are the access mechanisms for children to monitoring bodies such as state and national commissions?
- What is the response of national governments to alternate reports by children? Are children's inputs sought and reflected in the drafting of the reports?
- Is anyone monitoring the extent to which children's voices heard and listened to in the justice system?

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