

UN CONVENTION ON THE RIGHTS OF THE CHILD: MONITORING and REPORTING

An overview of South Asia



Save the Children

Save the Children's vision is a world in which every child attains the right to survival, protection, development and participation.

Save the Children's mission is to inspire breakthroughs in the way the world treats children, and to achieve immediate and lasting change in their lives.

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Foreword

The United Nations Convention on Rights of Child (UNCRC) is the most widely accepted Human Rights Instrument for children at present. Article 42 to 45 of the Convention explains the provision of the Committee on Child Rights and an Obligation for State Parties and Civil Society Organisations to submit periodic reports to the Committee based on the monitoring of the progress made by the States to ensure Children's Rights.

Monitoring and Reporting of the UNCRC has always been one of Save the Children's key activities across the globe. It is a subject of high importance and is equally challenging. Assessing children's situation in different contexts and relating their situations to the existing laws and policy is a vital step in developing constructive criticism and innovative alternatives. In South Asia, civil society organisations particularly are active in developing alternative reports to the Committee on the Rights of the Child. Coalitions and Networks of Civil Society organisations are engaged in highlighting the issues children face in different countries. The process is inclusive and children have also participated in assessing the situation of children and presenting their findings to the UN Committee on Child Rights.

Over the years, the monitoring and reporting process has achieved significant milestones in bringing positive changes to the legislation of countries in South Asia. For example in Bangladesh the age of criminal responsibility is increased from 7 to 9, In India the department of women and child transformed into full fledge Ministry and so on...

Still there is greater room for civil society organisations and children to become more active in the monitoring of the UNCRC. The Committee, in its guidelines to the Government, has strongly recommended following a continuous process of monitoring of the UNCRC. The NGO group for the Convention on the Rights of the Child, a network of 79 international and national non-governmental organisations has provided similar recommendations to Civil Society Organisations. The report submitted to the Committee should be a natural outcome of a continuous process of monitoring and hence reflect the trends and changes taking place over the years in all areas pertaining to children's rights. Unfortunately, we have a long way to go to meet this standard in South Asia.

This overview of the analysis of current trends in State and Alternative reporting is a step forward in understanding the status of monitoring and reporting on the UNCRC in South Asia. The study reveals some of the significant changes taking place in the region based on the concluding observations made by the Committee. I am happy to share this document with a greater vision that it will contribute to strengthening the Monitoring and Reporting Systems in South Asia as spelled out in the UNCRC.



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1 Introduction

Chennaswamy, a ten year old orphan boy from Chennai, was beaten by his employer. He called Childline for help, and was rescued by them. Today he is in an institution and enjoying his studies.

A children's group from Chittagong district of Bangladesh took action to stop the marriage of their friend at an early age. They convinced the community leaders and their friend's parents of how an early marriage could harm their friend.

Balbirsingh from Jalalabad in Afghanistan has joined school once again after the establishment of a special school for minorities in his area. (Names have been changed to keep confidentiality)

Today, there are thousands of such examples in South Asia showing the positive change in the lives of marginalised and neglected communities of children. But twenty years ago there was no Childline to rescue Chennaswamy, or opportunity for children in Bangladesh to raise their voice. There was no special school for children of minorities in Afghanistan.

What made this change possible? What made States take affirmative action in the interest of children? Who is guiding our States to take such positive action?

The answer is the United Nations, through the Convention on the Rights of the Child. This booklet looks at the UNCRC and examines how its monitoring and reporting mechanisms help to make it effective.

About the UNCRC

The United Nations Convention on the Rights of the Child (UNCRC) came into force in 1989, aiming to make child rights a reality. Some of its highlights¹ are:

- The UN Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights – civil, cultural, economic, political and social
- It is the first human rights treaty to specifically mention disability (articles 2 and 23)
- 195 states have ratified the UNCRC, making it the most widely accepted human rights treaty
- General principles:
 - Article 3: Best Interests of the Child
 - Article 12: Participation
 - Article 2: Non-discrimination
 - Article 6: Survival and Development

Over the years it has responded further to the needs of children by developing two 'optional protocols':

- Involvement of children in armed conflict
- The sale of children, child prostitution and child pornography

and has made considerable progress towards a third optional protocol on an individual complaint mechanism. Also, a Universal Periodic Review (UPR)² and omnibus resolution³ with special focus on child participation have been introduced.

In South Asia, the UNCRC has been a vital guiding force for legislative and structural changes. In particular, the requirement for State and civil society to report on the progress made on implementation of the UNCRC is an important provision.⁴

However, there is still a long way to go. Millions of children are still waiting for effective policy and legal changes to ensure their rights to survival, protection, development and participation. And even where these policies are in place, there are still many needs at community level to ensure their effective implementation.

About this booklet

This booklet attempts to create awareness among civil society organisations in South Asia to take the UNCRC monitoring and reporting process to a higher level of effectiveness. It focuses on the UNCRC reporting process, its positive impact on the policies and laws of South Asian countries and recommendations to strengthen the reporting process in South Asia.

It is aimed at those taking part in the reporting, grassroots level civil society organisations, and community-based organisations. The booklet's key objectives are:

- To make civil society and community-based organisations, and fresh practitioners of child rights, aware of the reporting process as prescribed under the UNCRC and its link with monitoring of the child rights situation.
- To highlight positive aspects of the reporting process in the South Asia region so that the reporting mechanism is strengthened.
- To encourage the establishment/strengthening of monitoring systems at country level that can follow up on the recommendations given by the UNCRC Committee.

The booklet provides information and identifies innovative ideas to make the monitoring and reporting process into an effective method of bringing positive changes in children's rights policies. The children deserve no less!

2 International treaties and the human rights approach

*'Human rights are universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements and human dignity. Human rights law obliges governments (principally) and other duty-bearers to do certain things and prevents them from doing others.'*⁵

International human rights treaties and humanitarian law prescribe certain fundamental rights to every human being irrespective of his/her gender, age, class, caste, race, religion and nationality.

All children are equally entitled to all human rights. However, sex, age, geographical context, culture and faiths often deprive them of these rights. They therefore deserve special provisions for their protection.

The UNCRC provides a special protective shell for children. In addition, the two optional protocols, on involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, provide extra protection.

In addition, the Human Rights Council⁶ has agreed on the drafting of an optional protocol on individual complaint. This will be the third optional protocol, and would provide an opportunity to all children to submit their individual complaints directly to the committee. The recent omnibus resolution,⁷ with thematic focus on children's participation, is also considered to be an effective instrument to advocate for relevant policy change.

There are also many other human rights instruments that are equally applicable to children (see Box). Ratification of human rights instruments affirms the commitment of the State Party (government) to take action in order to implement the provisions specified. The human rights approach promotes application of these instruments in the interest of the right holders, and implies collective efforts from organisations

Human rights instruments

- a. Universal Declaration of Human Rights, 1948
- b. Geneva Conventions, 1949
- c. Convention of the Elimination of all forms of Racial Discrimination, 1965
- d. Covenant on Civil and Political Rights, 1966
- e. Covenant on Economic, Social and Cultural Rights, 1966
- f. Convention on the Elimination of All forms of Discrimination Against Women, 1979 (CEDAW)
- g. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
- h. The Beijing Rules 1985, UN Rules for the protection of Juveniles deprived of their Liberty 1990, and The Riyadh Guidelines, 1990
- i. United Nations Convention on Rights of Child (UNCRC) 1989
- j. ILO Convention 182 concerning the prohibition and immediate Action for the Elimination of the Worst Forms of Child Labour, 1999
- k. Convention on the protection of the Rights of All Migrant Workers and Members of Their Families, 2003
- l. SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002
- m. SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, 2002
- n. Convention on the Rights of Persons with Disabilities, 2006 (UNCRPD)

working in different areas to promote the rights of children, women and other vulnerable groups.

3 The UNCRC reporting mechanism

The UNCRC is monitored through a system of reporting by States Parties to the Committee on the Rights of the Child. Each State Party is required to submit a report two years after ratification of the Convention. Progress reports are required every five years after that. The Committee may also request a complementary report or additional information between these periods.⁸ All States Parties from South Asia have submitted their initial reports to the Committee.

This section provides information on the different stakeholders that are involved in the monitoring and reporting process.

Reporting mechanisms

Committee on the Rights of the Child

The Committee is composed of 18 independent experts who are elected in their personal capacity to four-year terms by States Parties. The Committee is responsible for examining the progress made by States Parties in fulfilling their obligations under the Convention and the Optional Protocols.

Although the Convention only requires that Committee members be of 'high moral standing' and competent in the fields covered by the Convention, other possible criteria include demonstrated expertise in the field of human rights, particularly children's rights. It meets in Geneva three times a year for a period of four weeks for each session.

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A small permanent Secretariat at the Office of the High Commissioner for Human Rights in Geneva is responsible for providing support and advice to the Committee.

The mechanism for addressing individual complaints under the UNCRC, once introduced, will help those children whose voices are not heard by the national authorities. Children from the most marginalised and oppressed communities can take advantage of this provision. This mechanism should therefore come within the functions of this committee. Other treaty bodies

The Constitution of the Committee

The Committee is composed of 18 independent experts who are elected in their personal capacity to four-year terms by States Parties. An equitable geographical distribution and representation of the principal legal systems is taken into consideration in their selection. Each State Party has the right to nominate one person from its country to serve on the Committee. Although the Convention only requires that Committee members be of 'high moral standing' and competent in the fields covered by the Convention, other possible criteria could include: demonstrated expertise in the field of human rights, particularly children's rights; the ability to devote sufficient time to the work of the Committee; representation from a wide variety of professional backgrounds; experience of working with non-governmental organisations; awareness and sensitivity to cultural differences; and fluency

such as the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women and the Committee against Torture have individual complaint mechanisms and can also receive complaints from children.

The NGO Group

The NGO Group⁹ for the UN Convention on the Rights of the Child has been in existence since 1983 when the drafting of the Convention began. It was then known as the Informal Ad Hoc Group for the Convention on the Rights of the Child and was actively involved in the drafting process. After the Convention came into force in 1990 the Group changed its name to the present one and currently has a membership of 77 national and international non-governmental organisations (NGOs).

The NGO Group's mission is to facilitate the promotion, implementation and monitoring of the Convention. Over the years the NGO Group has been a platform for action for members, primarily to influence the UN system but also to work with regional and national forums.

Since 1993, The NGO group has ensured effective interaction between national and international NGOs and the Committee on the Rights of the Child. The main activities of the NGO Group focus on supporting national NGOs and coalitions from over 160 countries in reporting on the UNCRC and its Protocols. The NGO Group also has several thematic subgroups that play an essential role in coordinating members' efforts so as to ensure greatest impact on particular issues.

Days of General Discussion

The Committee on the Rights of the Child holds a general discussion every September in Geneva on a specific article of the UN Convention on the Rights of the Child or related subject. These meetings provide an opportunity to foster a deeper understanding of the contents and implications of the UNCRC. The Day of General Discussion focuses on a topic selected by the Committee and is announced a year in advance of the event.¹⁰ So far 18 such discussions have taken place (see Box), for which the Committee observations and recommendations are published.¹¹

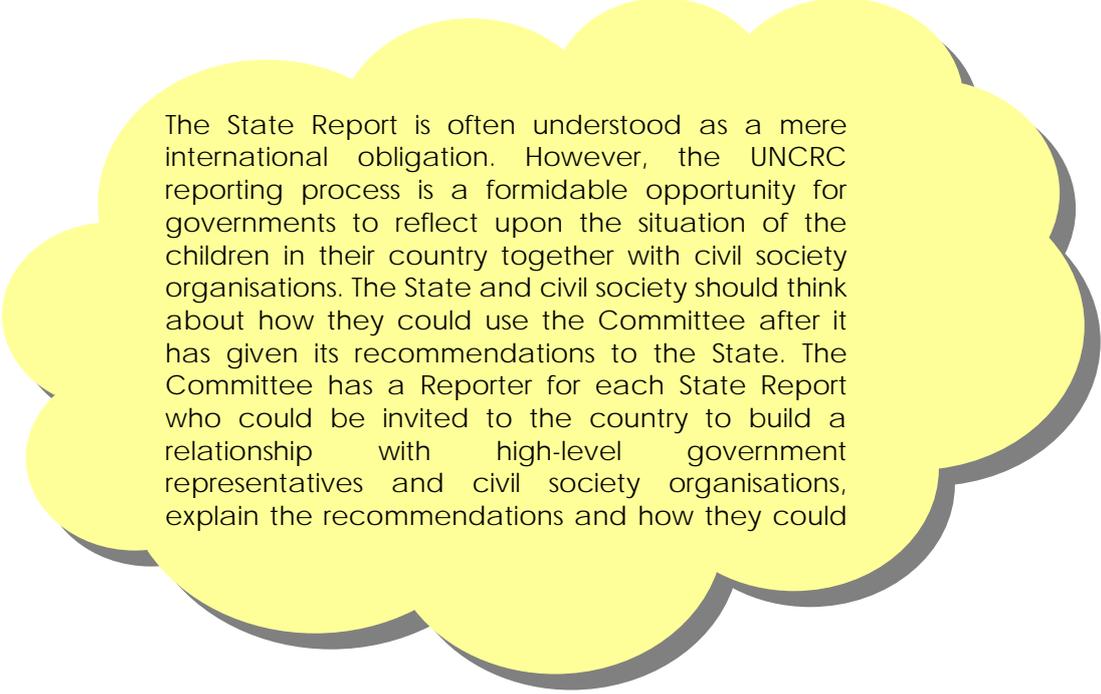
Reflections on these discussions and their fall-out in the South Asia region are discussed in later chapters.

Issues discussed in Days of General Discussion

- Children in armed conflicts (1992)
- Economic exploitation of children (1993)
- The role of the family in the promotion of the rights of the child (1994)
- The girl child (1995)
- Administration of juvenile justice (1995)
- The child and the media (1996)
- The rights of children with disabilities (1997)
- Children living in a world with AIDS (1998)
- Tenth anniversary of the UNCRC commemorative meeting: achievements and challenges (1999)
- State violence against children (2000)
- Violence against children, within the family and in schools (2001)
- The private sector as a service provider (2002)
- The rights of indigenous children (2003)
- Implementing child rights in early childhood (2004)
- Children without parental care (2005)
- The right of the child to be heard (2006)
- Resources for the rights of the child –

States Parties

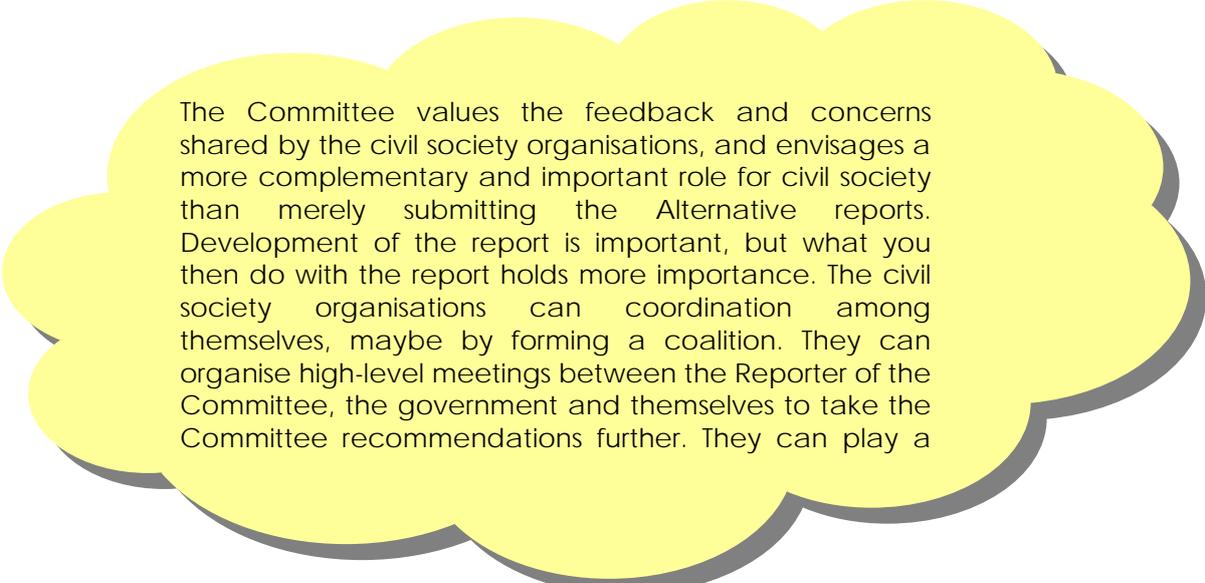
States Parties to the UNCRC are required to submit an initial report two years after ratification and progress reports every five years.¹² States Parties to the Optional Protocols are also required to submit an initial report two years after ratification, but then progress reports are included in the progress reports on the implementation of the Convention.¹³ The report is examined and discussed by the Committee, preferably with government representatives who are directly involved at the national level with the implementation of the Convention. At the end of the dialogue, the Committee prepares Concluding Observations which reflect the main points of discussion and indicate concerns and issues which would require specific follow-up action at the national level.



The State Report is often understood as a mere international obligation. However, the UNCRC reporting process is a formidable opportunity for governments to reflect upon the situation of the children in their country together with civil society organisations. The State and civil society should think about how they could use the Committee after it has given its recommendations to the State. The Committee has a Reporter for each State Report who could be invited to the country to build a relationship with high-level government representatives and civil society organisations, explain the recommendations and how they could

Alternative reporting

The Committee on the Rights of the Child may invite specialised agencies, UNICEF and 'other competent bodies' to provide expert advice on the implementation of the Convention.¹⁴ The term 'other competent bodies' includes non-governmental organisations. The Convention expressly gives NGOs a role in monitoring its implementation. Any complementary information received by the Committee is then reviewed in the presence of these organisations during the pre-sessional working group composed of a few Committee members. The working group prepares a list of issues to be submitted in advance to the government. Governments are requested to respond to these questions in writing before the plenary session where State reports are discussed with the State representatives.



The Committee values the feedback and concerns shared by the civil society organisations, and envisages a more complementary and important role for civil society than merely submitting the Alternative reports. Development of the report is important, but what you then do with the report holds more importance. The civil society organisations can coordinate among themselves, maybe by forming a coalition. They can organise high-level meetings between the Reporter of the Committee, the government and themselves to take the Committee recommendations further. They can play a

Essential elements of the reporting process

Reporting guidelines for both State Party and Alternative reporting suggest some key elements to be reported on.

Essential elements of State Party reporting

- a. **Cooperation with civil society organisations:** States Parties should report on the cooperation and consultations they have had with civil society organisations, NGOs, youth groups etc. while implementing the UNCRC and preparing the report.¹⁵
- b. **Awareness and dissemination of reports:** States Parties should widely disseminate copies of the UNCRC in language that general people and children can follow. They are also obliged to disseminate the reports they make to the Committee, the list of issues raised by the Committee, the responses given by the State and the Concluding Observations. The States Parties are expected to report on the way they have disseminated information, to whom and in what manner.
- c. **National human rights institutions:** States Parties are obliged to establish independent human rights monitoring institutions such as Human Rights Commissions. They are expected to report on the role of these institutions in protecting children's rights, and on their financing. It is highly recommended that there should be an independent ombudsperson exclusively for children, who may be under the human rights institutions.
- d. **Budgetary allocations:** States Parties are expected to provide detailed information on their budgetary allocations for implementation of Child Rights. The information should contain the trends in allocations and sufficiency of provided funds against the actual need.
- e. **Reservations and Declarations:** Some States Parties have placed their reservations against particular articles of the UNCRC while ratifying it. These reservations make the overall impact of the UNCRC weak in these countries. States Parties having placed such reservations are required to report on whether

they still need to continue with them. They are expected to provide a substantial rationale for continuing the reservations and should also report on the efforts made towards withdrawing them.

Essential elements of Alternative reporting

- a. **National coalitions of NGOs working for children:** The NGO Group has been promoting the creation and development of national coalitions of NGOs working for children. A national coalition often allows for more effective monitoring of the implementation of the Convention at national level due to the specialist knowledge of coalition members and the variety of points of view that may be represented.
- b. **Contribution to State reporting process:** The Committee on the Rights of the Child has emphasised that the process of preparing the State Party report should be a broad and participatory one which offers an opportunity to conduct a comprehensive review of national legislation, administrative rules and procedures and practices. Although responsibility for reporting lies with the State Party, NGOs may contribute to this process. In some countries there has been consultation with NGOs in the preparation of the State Party report and their contributions have been incorporated into the official report.
- c. **Participation of children in the reporting process:** The active participation of children in the reporting process is important. There is no specified method for them to take part in the process and, so far, the ways in which they have contributed to the process have been varied. Consultations with children have been held in most countries, either through youth groups, clubs or on an ad hoc basis. Activities have included surveys and local, regional or national consultations. The main NGO coalitions have sometimes organised and facilitated meetings for children to draft their own reports which have then been submitted directly to the Committee. At other times children have been involved as participants in the comprehensive NGO report. In a few countries, DVDs have been prepared at national level in order to allow children to express themselves more directly.

Presenting reports in the Committee

There are several ways in which Alternative and State Party reports are considered in the Committee.

Pre-sessional working group: Prior to the Committee session at which the State Party's report is reviewed, the pre-sessional working group of the Committee convenes a private meeting with UN agencies and bodies, NGOs and other competent bodies such as National Human Rights institutions and youth organisations which have submitted Alternative reports to the Committee.

The pre-sessional working group of the Committee is an opportunity to conduct a preliminary review of the State Party report and to examine supplementary and alternative information. The working group meets three times a year to identify, in advance, the main questions to be discussed with those States Parties which will appear before the Committee during the following session. The working group normally meets in Geneva during a five-day period directly following a plenary session of the Committee. As it is a working group, not all members of the Committee may be present.

The end result of the pre-sessional working group's discussion on a State report is a 'list of issues'. The list of issues is intended to give the government a preliminary indication of the issues which the Committee considers to be priorities for discussion. It also gives the Committee the opportunity to request additional or updated information in writing from the government prior to the session.

The plenary session on State Party reports: The State Party report should be sent electronically to the Secretariat of the Committee at the Office of the High Commissioner for Human Rights in Geneva. The Committee then schedules it for examination at the next available session. Priority is given, however, to the examination of initial reports. The Committee tries to examine all reports within one year of receipt based on the order in which they are received.¹⁶

The Committee invites nine States Parties as an average to present their reports at each session, with one day (two meetings of three hours each) devoted to public examination of each report. In addition, the Committee generally devotes between two and three hours towards the end of the session, in private, to its discussion of each set of Concluding Observations.

Concluding Observations: After the discussion with the State Party, the Committee will, in a closed meeting, agree on written Concluding Observations which include suggestions and recommendations.

The Concluding Observations usually contain the following aspects: introduction; positive aspects (including progress achieved); factors and difficulties impeding the implementation; principal subjects for concern; suggestions and recommendations addressed to the State Party. The Preliminary Observations usually have a similar structure, but it is made clear that they are not final.

The Concluding Observations are made public on the last day of a Committee session during the adoption of the session report, of which they form a part. Once adopted, they are made available to the States Parties concerned, and also issued as official documents of the Committee.

4 Structure of the reports

The Committee has issued guidelines for drafting States reports (see Box). These are widely disseminated and are also available on the internet.

Besides these the NGO Group has issued reporting guidelines for NGOs to develop the Alternative reports.

Structure of the States Parties reports

The Committee has identified eight clusters for the structure of States Parties' reports (see Box below). The guidelines suggest providing information in each cluster on the following areas:

Key guidelines issued by the Committee

- Guidelines for State reporting on UNCRC, issued in November 2005
- Guidelines for State reporting on OPAC, issued in October 2007
- Guidelines for State reporting on OPSC, issued in November 2006
- Guidelines for partners (NGOs) to participate in Pre-Sessional Working group of the Committee (CRC/C/90, Annex VIII)
- Provisional Rules of Procedures for Committee, issued in April 2005
- The Decisions taken by Committee, 2005 (This keeps being updated and

- **Follow up:** Concrete measures taken with regard to Concluding Observations
- **Comprehensive national programmes' monitoring:** Mechanism established within the government to monitor progress

Eight clusters for reporting

- General measures of implementation (articles 4, 42, 44.6)
- Definition of the child (article 1)
- General principles (articles 2, 3, 6, 12)
- Civil rights and freedoms (articles 7, 8, 13, 14, 15, 16, 17, 19, 37(a))
- Family environment and alternative care (articles 5, 9, 10, 11, 18, 20, 21, 25, 27.4)
- Basic health and welfare (articles 18, 23, 24, 26, 27)
- Education, leisure and cultural activities (articles 28, 29, 31)
- Special protection measures (articles 32, 33, 34, 35, 36, 37, 38, 39, 40, 41)

- **Allocation of budgetary and other resources:** Amount and percentage of the national budget devoted annually to children
- **Statistical data:** Annual statistical data disaggregated by age, gender, urban/rural, minority, ethnicity, disability, religion or other appropriate category
- **Factors and difficulties:** Factors and difficulties affecting the fulfilment of the obligations of States Parties.

State Party reports developed and submitted so far (Bangladesh, Sri Lanka, Pakistan and Bhutan) have all followed the instructions suggested in the guidelines.

Structure of the Alternative reports

The NGO Group guidelines emphasise the content as well as the process of presenting the report to Committee in the working group session. The guidelines are widely available and can also be downloaded from the internet.¹⁷

NGOs (individual NGOs or national coalitions of NGOs) who are interested in preparing written information for the Committee should request a copy of the State Party report from their government or from the NGO Group Liaison Unit.¹⁸

NGOs should not wait, however, until the State Party has submitted its report to the Committee before establishing a structure to monitor the implementation of the Convention. Monitoring and analysis are ongoing processes that need to start early. The NGO report should not be finalised until the State party has submitted its report to the Committee in order to be able to comment on its contents and avoid the need for an update. The NGO report should contain a section-by-section analysis of the State party report rather than an article-by-article approach.

The aim of the Alternative report is to undertake a systematic analysis of the extent to which law, policy and practice in the State Party is in compliance with the principles and standards of the Convention. The report is based on the broadest possible range of information sources, including:

- current legislation and government reports on its implementation
- government statistics
- verbatim records of parliamentary/legislative proceedings
- reports published by organisations and professional bodies working with children
- published research (government, academic, NGO), books and periodicals.

The main issues are identified through consultation with key organisations and individuals. The report should analyse the implementation of legislation in order to give an accurate picture of the practice in the country. Governments have a tendency to prepare legalistic reports and NGOs have an important role in providing information on the practical implementation or lack of implementation of the Convention. For example, in the case of India, the State has developed an Integrated Child Protection Scheme as a mechanism for child protection, under which several aspects of child protection are structured. This will be reported as measures taken in the next State reporting from India. However, the civil society organisations can provide information on the budgetary allocations towards ICPS, the sufficiency of human resource and other resources for implementation of the scheme, the central and federal relationships and their impact on the implementation, etc.

5 Progress on monitoring and reporting in South Asia

The reporting on the UNCRC has revealed examples of positive, encouraging and sometimes inspirational change in governance and practices as well as some concerns pertaining to the Convention's implementation. This section analyses the reporting so far with the aim of encouraging the stakeholders, including small grassroots organisations, to develop ownership of the process at community level.

The main objectives of the preparation, submission and consideration of the reports are:

- a. To assess the positive and negative trends and changes regarding the status of children
- b. To assess the follow-up of the State Party to the Concluding Observations adopted by the Committee
- c. To define the future action and measures required in order to improve the situation of children.

Some encouraging facts ...

More States are reporting

All the countries in South Asia have ratified the UNCRC and have also submitted their initial reports to the Committee (except Maldives). Civil society organisations and child-led organisations have taken part in the reporting process. As of March 2010, a total of 16 reports from seven countries have been submitted. Of these, three (from Bangladesh, Pakistan and Sri Lanka) are combined reports for the third and fourth period of time.

Reporting is recognised as an accountability process

It is evident from the State reports submitted so far that the reporting process has significantly influenced the legislation and implementing structures of the government in different countries, making them more child-centred and sensitive to children's need. For example:

- Bangladesh has raised the age of criminal responsibility from 7 years to 9 years
- Pakistan has withdrawn its reservations
- Afghanistan has made a provision for a Child Rights Commissioner under the Human Rights Commission
- Bhutan has established a commission on women and children
- India has upgraded the Department of Women and Child Development into an independent ministry
- Nepal has established a National Human Rights Commission
- Sri Lanka has established a National Child Protection Authority.

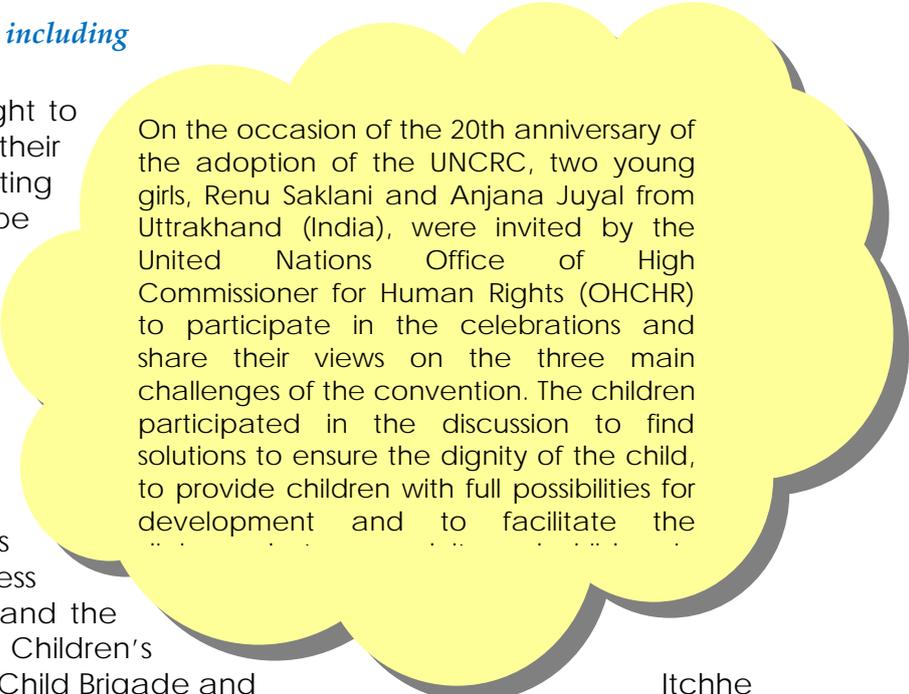
The list of positive examples is long and indeed inspirational. This list indicates that the reporting on the UNCRC is recognised as a very serious process of accountability and the recommendations provided by the Committee are followed up.

Increased involvement of organisations in reporting

The increasing number of civil society organisations and child-led organisations participating in the reporting process is also very encouraging. The reporting process has empowered these organisations to hold the government accountable for the commitments made. The reporting process has provided a unique platform for them to voice their concerns and reflections on the situation of children in their country. Civil society organisations have formed networks and increased internal cooperation, built consensus and begun acting as a unit for promoting child rights and good governance in their respective countries. There are now a number of networks in South Asia active on different issues such as trafficking, violence against children, education and child labour. Some networks, such as India's Alliance for Child Rights, exclusively work on the UNCRC Alternative reporting. Nevertheless, there is still a need for a regional level coalition of networks, INGOs and NGOs to provide technical support to increase the participation of community-based organisations and child-led groups in the reporting process.

More involvement of right holders, including children

Article 12 specifies children's right to participate and voice their concerns. The reporting mechanism is considered to be the best opportunity for children to come together, understand their rights, understand the services provided by their State and share their opinions on these services.



On the occasion of the 20th anniversary of the adoption of the UNCRC, two young girls, Renu Saklani and Anjana Juyal from Uttarakhand (India), were invited by the United Nations Office of High Commissioner for Human Rights (OHCHR) to participate in the celebrations and share their views on the three main challenges of the convention. The children participated in the discussion to find solutions to ensure the dignity of the child, to provide children with full possibilities for development and to facilitate the

The reporting process has thus contributed to raising awareness among children on their rights and the ways to claim these rights. Children's participation from Bangladesh (Child Brigade and Itchhe Media), India (Bhima Sangha), Nepal (South Asia Regional Forum for Young People) and Afghanistan are some good examples of children's participation in the reporting process.

Highlights of the monitoring and reporting for each cluster

The State reports are structured into the eight clusters as recommended by the Committee:

- 1 General measures of implementation (articles 4, 42, 44.6)
- 2 Definition of the child (article 1)
- 3 General principles (articles 2, 3, 6, 12)
- 4 Civil rights and freedoms (articles 7, 8, 13, 14, 15, 16, 17, 19, 37(a))
- 5 Family environment and alternative care (articles 5, 9, 10, 11, 18, 20, 21, 25, 27.4)
- 6 Basic health and welfare (articles 18, 23, 24, 26, 27)

7 Education, leisure and cultural activities (articles 28, 29, 31)

8 Special protection measures (articles 22, 30, 32, 33, 34, 35, 37, 38, 39, 40)

1 General measures of implementation

Under this cluster, States Parties are expected to provide information under the following components:

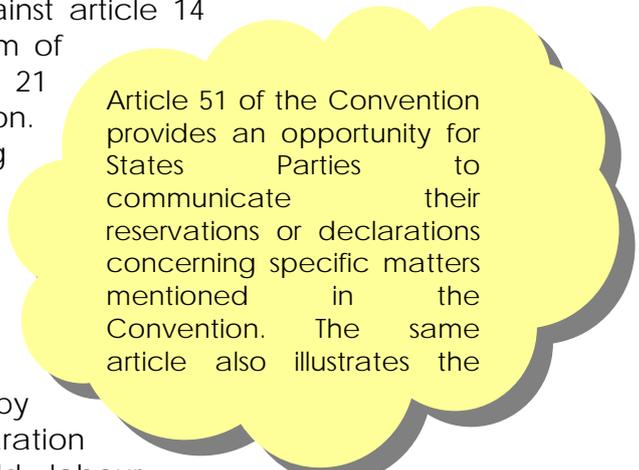
- | | | |
|-------------------------------|----|---|
| a. Reservations to Convention | to | e. Resource allocations |
| b. Children's Ombudsperson | | f. Monitoring mechanisms for UNCRC implementation |
| c. Broad legislative changes | | g. Process of developing the State report |
| d. International assistance | | h. Dissemination of information on the UNCRC |

The analysis in this section is based on the State reports, the Concluding Observations and the key Alternative reports from seven countries (Afghanistan, Bangladesh, Bhutan, India, Nepal, Pakistan and Sri Lanka) for all previous reporting periods.

a. Reservations to Convention

Bangladesh has expressed its reservations against article 14 paragraph 1 (the right of the child to freedom of thought, conscience and religion) and article 21 (on adoption) while ratifying the Convention.

Afghanistan has made a declaration stating reservation against all the articles that are incompatible with Islamic Sharia and local legislation. Pakistan had initially expressed reservations according to which the provisions of the Convention should be interpreted in the light of Islamic laws and values, but eventually withdrew them following concerns expressed by many other countries. India has made a declaration regarding article 32 paragraph 2 on child labour, declaring that it would take a long time to implement the provisions of this article in its totality but that the State will take progressive measures.



Article 51 of the Convention provides an opportunity for States Parties to communicate their reservations or declarations concerning specific matters mentioned in the Convention. The same article also illustrates the

Declarations and Reservations reduce the impact of the provisions made by the Convention, and therefore States are encouraged to ratify the Convention unconditionally. The Vienna Declaration¹⁹ also encourages the unconditional ratification of the Convention. Though the Committee has repeatedly recommended the review of reservations/declarations of Bangladesh, Pakistan and India, the only success has been the withdrawal of reservations by Pakistan. The Alternative reports also share the concern and co-related recommendations on withdrawal of declarations and reservations.

b. Children's Ombudsperson

The Children's Ombudsperson is a trusted intermediate body that listens to children's voices, and provides concrete recommendations to relevant service providers, including States, to take appropriate action.

Though the UNCRC does not specifically mention a children's ombudsperson, it is implied in various provisions. The Committee in its guidelines for State reporting

specifically mentions its expectations on updates on the establishment and role of an independent human rights commission (paragraph 9 of the guidelines).

In the case of South Asia, there has been significant development in the past two decades (see Box). Afghanistan, India, Bhutan and Sri Lanka have established an ombudsperson's office exclusively for protection of child rights. Nepal has established the Human Rights Commission. Pakistan has established an ombudsperson's office at Federal level and in the three provinces²⁰ and Bangladesh is also on the way to establish such an ombudsperson.

However, the mere establishment of an ombudsperson is not enough. It is important to ensure coordination where there may be several ombudspersons (for example in India and Sri Lanka) and also clarify their role in addressing the issues of children.

The appointments of the office bearers of these ombudspersons, their autonomy, the resource allocations towards them and the empowerment of these institutions are still issues under larger debate. Unfortunately State and civil society reports hardly reflect these issues.

c. Broad legislative changes

What have legislative changes achieved for children in South Asia after ratification of the UNCRC?

1. **Afghanistan:** Guaranteed free and compulsory education for all children including those with special needs. Complete prohibition on physical and psychological punishment in schools. (The Education Law, Art. 48.1-3)
2. **Bangladesh:** Safer environment for women and children till the age of 16 by imposing stern measures including death penalty or life imprisonment for the crimes of rape, abduction and dowry
3. **Bhutan:** Protecting Bhutanese children from trafficking and prostitution through imposition of law in 2004 making it illegal
4. **India:** Free and compulsory education for all children till the age of 14. Education is a fundamental right in India
5. **Nepal:** Rehabilitation and development opportunities for working children in hazardous industries

Children's ombudspersons in South Asia at a glance

1. **Afghanistan:** Afghanistan Independent Human Rights Commission, with Child Rights Unit and a Child Rights Commissioner, established in 2002
2. **Bangladesh:** A law on Children's Commissioner drafted and awaits final approval of the Cabinet.
3. **Bhutan:** National Commission for Women and Child established in 2004
4. **India:** National Commission for Protection of Child Rights (NCPCR) set up in 2007
5. **Nepal:** National Human Rights Commission established in 2000
6. **Pakistan:** The Child Protection bill having provision of a National Commission for

A significant amount of work has been undertaken in the area of legislative changes in all countries in South Asia (see Box).

Nevertheless, although the State reports generally present the provision of new laws or policies, they usually lack details of their implementation in the form of information on establishment of institutions and human resource and financial allocations.

The Alternative reports are thus expected to be more focused on the implementation practices of these legislative provisions and should provide practical recommendations to make these provisions effective.

However, while they often provide a critical analysis of the legislative measures and sometimes reveal contradictions between different legislative measures, they usually do not offer concrete solutions. Further, some of the Alternative reports are drafted in such technical language that they are very difficult to understand.

d. International assistance

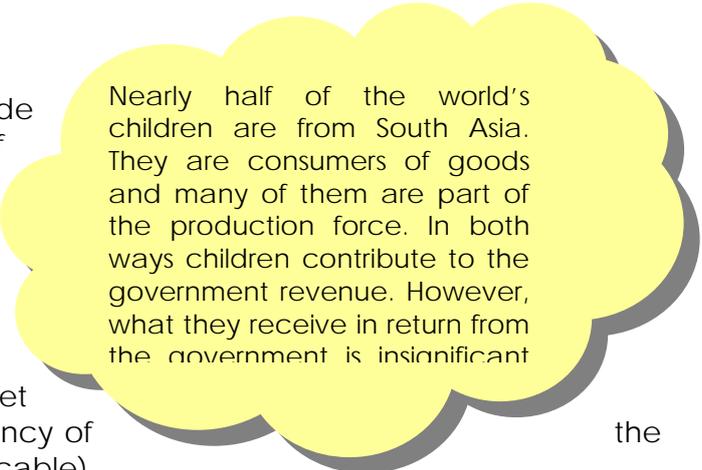
The Guidelines on State reporting expect States Parties to report on the kind of international cooperation and assistance they have received/provided to ensure different provisions of the Convention.²¹

Most of the State reports include their cooperation with UN organisations as international assistance. In some reports the international aid received through INGOs is also considered as international assistance; in others international assistance is considered through bilateral and multilateral agreements. However, in all cases the information provided is not sufficient to comprehend the impact of such international assistance on the lives of children.

The Alternative reports have an opportunity to highlight the issues related to regional instruments (SAARC Conventions) and their implementation, and bilateral treaties on specific issues such as illicit transfer of children, trafficking, etc. However, few organisations actually comment on these issues in their reports.

e. Resource allocations

States Parties are expected to provide detailed information on the kinds of resources they have provided to different mechanisms responsible for fulfilment of child rights.²² Further, the Committee expects a brief budget analysis in terms of the proportion of allocated resources against total GDP, trend in the budget allocation over the years, and sufficiency of budget (per child cost wherever applicable).



Nearly half of the world's children are from South Asia. They are consumers of goods and many of them are part of the production force. In both ways children contribute to the government revenue. However, what they receive in return from the government is insignificant

the

However, the initial reports of almost all States Parties and second periodic reports of many are silent on the budget allocations. They have provided budgetary information when specifically asked by the Committee in the list of issues, but the information provided does not lead to a meaningful conclusion as the proportions with GDP are missing. The trends of budgetary allocations are given under some schemes or projects run by the government (where the trend is obviously inclined) but overall trends and sufficiency of funds in consideration of growing populations and other emerging issues are missing.

In the case of Alternative reporting, many civil society organisations find budget analysis too technical a subject and as a result most Alternative reports lack this analysis.

f. Monitoring mechanisms for UNCRC implementation

Both the Committee and the NGO Group have expressed their desire to have a consistent monitoring system in each country. States Parties are therefore requested to provide information not only on the structures and institutions through which the implementation of the UNCRC is monitored but also the methods and indicators by which the progress of the UNCRC is measured.

However, in both State and Alternative reports, information on the methodology and indicators on which the progress is measured is not sufficiently addressed. Most of the reports describe the kinds of consultations they have organised in order to receive data, the kind of secondary references they have sought and inter-ministerial coordination, but what they lack are the indicators, reference to other instruments (such as World Fit for Children, MDGs, etc.) and specific methods of data analysis. In short, almost all countries lack a proper monitoring mechanism.

g. Process of developing the State report

The Committee expects that the State reporting process should be participatory and open even for small organisations and child-led groups to share their opinions. While specifying this, the committee also emphasises that the reporting process should be completely owned by the State – NGOs should not develop their report on behalf of the State. Reporting on the process of reporting helps the Committee to understand that how far these expectations are met.

Almost all the State reports have explained the reporting process. The consultations with civil society organisations and in many cases with children are organised by the States Parties.

h. Dissemination of information on the UNCRC

Almost all of the States Parties have taken measures to disseminate information on child rights.

2 *Definition of the child*

The UNCRC article 1 defines the child as every human being below the age of eighteen years unless a State Party defines it otherwise, which many do for different purposes. For example the age of marriage, the age of criminal responsibility, the age for recruitment in armed forces, the age for voting rights, and the age for entry into labour varies in different countries and in different circumstances. The UNCRC itself has room for accommodating such variations in the age in accordance with different laws and procedures. Nevertheless, in some cases international standards are recommended by UN bodies such as ILO.

Over the period of reporting in the past 15 years, many laws in South Asia have gone through progressive change. For example, the age of criminal responsibility in Bangladesh has been raised to 9 from 7 years, and in Sri Lanka it is proposed to be raised to 10 from the existing 8 years under the juvenile justice reforms.

The Alternative reports have raised their voices on the issues of age of entry into labour force, age of marriage for girls in some countries and age of criminal responsibility. The issue of a record of children's age has also been raised – in many countries the mechanisms for birth registration are poor and in many circumstances children are treated as adults because they do not possess a document proving their age.

The following table shows the variations in the definition of age in different contexts and the changes that have taken place in South Asia.

The definition of 'child' in different contexts in South Asia

	Marriage	Sexual consent	Entry in work force	Entry in armed forces	Criminal responsibility	Compulsory education	Consumption of alcohol	Majority
Afghanistan	16 years girls 18 years boys	Prohibited unless married	18 years 15 years for light jobs	18 years	12 years	18 Years	Prohibited	18 years
Bangladesh	18 years girls ¹ 21 years boys	14 years	14 years ²	16 years ³	9 years ⁴	10 years	16 years	18 years
Bhutan	18 years girls ⁵ 18 years boys	Not specified	18 years	15 years	10 years	14 years ⁶	18 years	18 years ⁷
India	18 years girls 21 years boys	16 years for girls ⁸	14 years ⁹	16 years ¹⁰	7 years	14 years ¹¹	18 years ¹²	18 years ¹³
Nepal	18 years girls 18 years boys ¹⁴	16 years	16 years ¹⁵	18 years	10 years	Not available	16 years	16 years
Pakistan	16 years girls 18 years boys	Prohibited unless married	14 years	18 years	7 years ¹⁶	10 years ¹⁷	Prohibited	18 years
Sri Lanka	18 years girls 18 years boys ¹⁸	16 years	14 years	18 years	8 years ¹⁹	14 years	21 years	18 years
UNCRC Standards	Not prescribed	Not prescribed	15 years ^{20,21}	15 years ²² (art. 38.3 CRC)	13 years ²³	15 years	Not prescribed	18 years

1 Religious personal laws permit marriage at an earlier age

2 Provided medical proof of age and fitness. This was introduced in 2006.

3 With parental consent

13 Changed though in some cases it is referred as 21 years

14 With parental consent. If parental consent is not available then 20 for both. (The General code ch.17 Para 2)

4 Changed from 7 in 2004
5 Changed in amended marriage act 1996
6 Up to class 8
7 Changed from 16 years for girls
8 Not defined for boys
9 In the case of mines and other hazardous labour, it is 18 years
10 The person is allowed to take part in active combat only after 18 years
11 It was a constitutional provision; however the law has been introduced in 2010 for implementation
12 Newly introduced in 2005

15 For hazardous industry according to change in law, 14 for light work
16 12 years in proposed child protection bill
17 In provincial compulsory primary education laws (newly introduced)
18 Changed from 12 for girls and 16 for boys. Muslim personal law does not specify the age of marriage
19 The proposed juvenile justice procedure code raises the age to 10 years
20 Members whose economy and educational facilities are insufficiently developed initially specify a minimum age of 14 years
21 Minimum age Convention, 1973, art. 2.3. This age is for employment in the non-hazardous sector. The minimum age is 18 for employment in the hazardous sector.
22 With preference to older child
23 South Asia and the Minimum Age of Criminal Responsibility by UNICEF

3 *General principles*

States Parties are expected to provide relevant information in respect of:

- a. Non-discrimination (art. 2)
- b. Best interests of the child (art. 3)
- c. The right to life, survival and development (art. 6)
- d. Respect for the views of the child (art. 12).

Almost all States Parties have admitted to issues related to discrimination in certain areas. Further, they have also expressed their commitments to reduce the level of discrimination by proposing measures that can provide more opportunities for children from discriminated communities.

States Parties have also expressed their commitments on the other principles and have provided information on legislative measures.

The right to life and survival is part of the fundamental rights as prescribed in the constitution of many countries and they are applicable to all citizens including children.

The Alternative reports have raised many significant issues on discrimination, right to life survival and development and also on the principle of respecting the views of children. The issues related to minorities and indigenous communities have been raised through Alternative reports from Bangladesh and Afghanistan. The issues related to refugee children and internally displaced people have been raised by the civil society from Nepal and Sri Lanka. Issues such as access to birth certificates, access to education and access to primary health care services are often raised by the civil society in the case of refugees and IDPs.

4 *Civil rights and freedoms*

In this section States Parties should provide relevant information in respect of:

- Name and nationality (art. 7)
- Preservation of identity (art. 8)
- Freedom of expression (art. 13)
- Freedom of thought, conscience and religion (art. 14)
- Freedom of association and of peaceful assembly (art. 15)
- Protection of privacy (art. 16)
- Access to appropriate information (art. 17)

What measures have been taken by the States to ensure non-discrimination?

1. **Afghanistan:** Children with disabilities will not experience social exclusion as the government of Afghanistan is taking a number of measures as described in the National Action Strategy for children with disabilities
2. **Bangladesh:** Girls in Bangladesh will be treated more equally now, as the gender biases in the textbooks of primary education are removed and tuition fees for girls up to grade 10 are waived
3. **Bhutan:** Children from remote areas of Bhutan will have access to education through community schools expanded by the government
4. **India:** A special provision is made for children from tribal communities to learn in their own dialects. Textbooks are being translated into Bhilli, Dangi and other languages
5. **Nepal:** Girls chosen as 'Kumari' (Goddess) will now be able to enjoy education, by assigning a special teacher at their residence and will enjoy normal life after withdrawal of their status
6. **Pakistan:** Girls in Pakistan will not be victims of discriminatory community practices such as Vani and Swara after introducing a stringent law in 2006
7. **Sri Lanka:** Children of minority faiths will have the right to be admitted in school where they can

- The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment (art. 37 (a)).

The States Parties have given accounts of different mechanisms, the provisions in the constitution and laws related to protection of civil rights and freedom. However, in most of the State and Alternative reports the required statistical data related to violation of these rights is lacking. The major events which have had implications for these rights, such as militancy, disasters and political instability, have been under-reported.

How are civil rights and right to freedom protected in South Asia?

1. **Afghanistan:** Children have a platform to express their views through 'Moaref', a children's magazine published by the Ministry of Education and circulated among 10,000 children
2. **Bangladesh:** Every child's birth will be registered now, as a birth certificate is made a requirement to avail services such as education, through a new act enforced in 2006
3. **Bhutan:** Children in Bhutan have a strong hope to have better access to information as 'Right to Information' (art.7.5) is included in the new draft constitution
4. **India:** Children can now enjoy more privacy as the amended Juvenile Justice Act 2000 prohibits disclosure of the identity of children in the news or any form of media
5. **Nepal:** More child births are expected to be registered as the State has taken strong steps to increase awareness on birth registration
6. **Pakistan:** Children have more opportunities to participate as the National Commission for Child Welfare and Development in collaboration with other NGOs organise children's consultations on important issues concerning them
7. **Sri Lanka:** Children in schools will not be

The Alternative reports, especially the issue-based reports, have raised the key underlying problems pertaining to violation of civil rights and freedom. For example, the reports from India have raised the issues of street children who are randomly harassed by the State Police and in some cases used for personal pleasures. Some civil society reports have gone to the extent of providing case-by-case examples of such children.

5 *Family environment and alternative care*

The State reports under this cluster have focused on the institutionalisation of children in the event of loss of parents. The reports seldom mention deinstitutionalisation or reintegration of children into society.

The State reports have also described substantial measures related to article 21 on adoption. In Nepal for example a Community Surveillance System Against Trafficking (CSSAT) has been established in 220 Village Development Committees in 14 districts to stop the illicit transfer of children abroad. Nepal is also signatory to the Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption. However, while it has instituted systems for tracking the records of

interested clients for adoption and monitoring of the children adopted in other countries, it has not established its linkages at community level through CSSAT.

In many countries different mechanisms are established for different issues but are not interlinked. An integrated approach to the rights of family environment and alternative care is missing in many countries.

With regard to children's homes the States Parties have reported the number of homes and children accommodated in the homes but have restricted their information on the kinds of services provided to these children. The information is also limited on whether the available infrastructure is sufficient to cater for the numbers of children requiring it.

Civil society organisations have brought up the issues of two categories of children: those who are in institutions and those who are seeking alternative care. Some civil society organisations have provided information on community-based mechanisms providing alternative care; however, such examples are not applicable in a wider context because they exist in a particular culture. The

Alternative reports therefore need to be more focused on cross-thematic analysis while making recommendations for institutional or non-institutional approaches.

Family environment and alternative care for children in South Asia

1. **Afghanistan:** Civil Society Organisations in collaboration with the Ministry of Labour and Social Affairs have established a number of day care centres to support children without family support
2. **Bangladesh:** Efforts have been made to transform orphanages into more family-like environments following the model established by NGO-run SOS Children's Villages
3. **Bhutan:** Ministry of Education initiated a School Parenting Education Programme in 2000 to educate parents on parenting skills
4. **India:** 'Childline', the only helpline service for children in India, is being expanded to more than 100 towns and cities. The service plays an important role in uniting missing children with their families
5. **Nepal:** Monitoring visits are carried out by State officials, Journalists and Social Workers to track the well-being of adopted children outside Nepal
6. **Pakistan:** In May 2005 UNICEF and Government of United Arab Emirates signed an agreement to help return and reintegrate under-age camel

6 Basic health and welfare

The State reports have focused on statistics related to infant mortality rate, child mortality rate, maternal mortality rate, safe birth and other programmes such as immunisation coverage. However, health from the point of view of children, how child-friendly is the access, is not addressed. Health is considered to be the most significant component of social welfare and almost all States Parties have a varied range of schemes, most of which are applicable also to children. However, the extent to which children are covered under these schemes is rarely mentioned in the State Party reports. There are no attempts to separate out resource allocations for children's health from those made to the entire health sector.

The States Parties provide statistics on health infrastructure, including in some cases the number of beds per thousand population, number of doctors per thousand population, etc. However, most of the reports lack information related to the quality of the available infrastructure and systems to access it. In many cases, the reports

are restricted to the hardware infrastructural information and legislative provisions, while the implementing software in terms of financial resources, competent human resources and intellect available in the country has been under-reported.

Basic health and welfare of children in South Asia

1. **Afghanistan:** The Ministry of Public Health has initiated two effective prevention and treatment packages to reduce the mortality rate of under-five children and infant mortality rate since 2002
2. **Bangladesh:** The Disability Welfare Act, 2001, focuses on the prevention and rehabilitation aspects of disability
3. **Bhutan:** In 2004 the government started a programme to provide all primary school children and all girls in higher education with weekly iron-folate tablets and introduced these also for non-formal education learners in 2005
4. **India:** The overall access to health services is under rapid improvement. A special helpline has been introduced for HIV/AIDS to spread awareness
5. **Nepal:** The government spending on the health sector was increased from 3.5% of total public expenditure in 1991 to 5.03% in 2000
6. **Pakistan:** New programmes such as National Hepatitis Control, Maternal and Neonatal Child Health Services, prevention of blindness, Integrated Management of Childhood Illnesses and National Nutritional Programme started
7. **Sri Lanka:** The government imports anti-

The Alternative reports on the other hand have raised issues related to accessibility and quality of health services, and on the insufficient financial resources provided. Privatisation of the health sector and introduction of user fees are also opposed by civil society.

However, in general the Alternative reports still have room to accommodate information on the status of mortality due to preventable diseases, State measures, and obstacles and specific recommendations.

The Alternative reports also generally explain the gaps in the health policies of the States Parties but limit their information to gaps in implementing mechanisms. Therefore the Alternative reports could be more specific on recommendations related to community-based health care mechanisms.

7 Education, leisure and cultural activities

Most of the State reports provide information on education, leisure and cultural activities. In education, they include: improvements in the literacy rate, school enrolment and retention rates, the legislative changes pertaining to education, and specific schemes in some cases for promoting girls' education. This is the section in which major changes have taken place over the past 15 years. Primary education has been made compulsory in all the countries in South Asia, though the age limits for this differ from country to country. For example, in Bangladesh compulsory primary education is a right for children aged between 6 and 10, whereas in Sri Lanka it is 5 to 14 years. The majority of State reports have also reported on the density of the schools. In Sri Lanka, for example, the State accepts the responsibility of providing a primary school at every 2 to 3 km distance. However, how far the States have fulfilled their responsibility is under-reported.

The State reports also report on secondary education. The data provided is usually in the form of increases in the number of schools and number of students enrolled, and provides little insight into the quality of education. There is seldom mention about

teaching methodologies, curriculum, teacher training programmes, assessment and monitoring of teachers, violence-free and child-friendly schooling, etc.

These components, though, are widely shared in the Alternative reports. The Committee has also made significant remarks in the Concluding Observations to many countries on taking measures to improve the quality of education. The Committee has also commented on the accessibility of education, especially for deprived communities and in remote areas. The budget provided to education has also been widely raised as an issue by the civil society organisations and it is evident from the Concluding Observations that the Committee has taken a serious note of this.

8 *Special protection measures*

The State reports have provided updates on legislative measures regarding children needing special protection, most notably: children of refugees, child labourers, children in armed conflict, victims of trafficking, child victims of violence and sexual abuse, children in minority communities, street children, children with mental and physical disabilities, children affected by natural disasters, and children suffering from HIV/AIDS. The area of special protection measures is vast and it is difficult to capture the complete picture.

Education, leisure and cultural Activities in South Asia

1. **Afghanistan:** Three new types of projects have been implemented since 2008: special education, early child education and inclusive education
2. **Bangladesh:** New programmes for sanitation at schools have been undertaken. The curriculum and adolescent health care are being revised to be more suitable for the children
3. **Bhutan:** A Special Education Unit was established in 2003 to refine the special education policy focusing on integrating children with disabilities
4. **India:** Primary education has been made compulsory and free. Girls' education up to secondary level is free and incentives are provided in some targeted areas
5. **Nepal:** Between 1996 and 1999 nine training centres for primary teachers were established
6. **Pakistan:** The Ministry of Education launched a

Special protection measures in South Asia

1. **Afghanistan:** Special monitoring of vulnerable children in border areas is carried out by Afghanistan Independent Human Rights Commission
2. **Bangladesh:** Under the Mines (Amendment) Act 2004, the age of children who can be engaged in mines has been revised from 15 to 18 years
3. **Bhutan:** A Narcotic Drugs and Psychotropic Substance Act was enacted in 2005 with provisions including supervision, treatment and rehabilitation of drug addicts
4. **India:** An Integrated Child Protection Scheme has been launched by the Government of India ensure a holistic approach to child protection issues.
5. **Nepal:** The Government adopted the Child Labour Master Plan 2001–2010 to make the education system effective, increase general standards of living and to create programmes for economic development National Plan of Action 2004 – 14
6. **Pakistan:** UNHCR is training Pakistani law enforcement officials and assisting

The majority of the State reports reflect a lack of an integrated approach towards child protection. Implementation of legislative measures for different categories of children also often lack internal coordination. For example, in the case of India, children are largely protected by the Juvenile Justice Care and Protection Act, 2000 (Amendment in 2006). According to this act there is a special provision of Juvenile Justice Boards (JJB) to deal with children in conflict with the law. However, in many cases, especially serious crimes such as involving narcotics, police do not refer children to JJB but keep them in custody.

Civil society organisations in their reports have raised the issue of coordination of child protection mechanisms as a key priority, along with many other issues including the quality of protection services and resource allocations. A specific issue flagged up by Indian organisations is the trafficking of children in the name of international adoption.

6 Areas of improvement and recommendations

While emphasising the fact that the UNCRC reporting process in South Asia has been positive, there is still room for improvement. This section identifies some of the areas that could be improved, and makes recommendations for how to do this.

Reporting on time

In January 2003, the Committee issued its decision (recommendation) designed to avoid delays in reporting. The Committee has decided that when the second periodic report is due between one and two years following the dialogue with the Committee, the State party shall be requested to submit that report combined with the third one. However, due to the significant number of reports received by the Committee every year, and the related delay between the date of submission of a State party report and its consideration by the Committee, the Committee urges the State party, in order to reduce the delay, to submit its consolidated second and third report 18 months before its due date. This

In the seven countries in South Asia discussed here, the initial reports were delayed by an average 49.8 months, due to lack of familiarity with reporting procedures and also due to internal political turbulence. The report from Afghanistan was delayed by 14 years and not submitted until 2009.

The next report has been further delayed by an average 52.6 months. The delay in submitting reports has since continued to an extent that none of the States Parties has submitted the third periodic report on time.

Bangladesh, Pakistan, India and Sri Lanka have used the new rule on reporting and submitted combined reports for the third and fourth periods and so are back on the reporting cycle track. These consistent delays in submitting reports are considered to be due to a lack of an efficient monitoring mechanism on the part of the UNCRC, lack of political will and lack of clarity on the reporting procedures.

Specific recommendations for State and civil society

- a. Form a National Monitoring Unit on the UNCRC. This should be a central body with experts from State and Civil Society, responsible for consistent monitoring of the UNCRC and providing information to State and Civil Society to assist development of their reports for the Committee.
- b. Coordinate closely with the Committee to ensure that the State report is submitted on time.

Quality of the reporting

It is evident from the increasing number of civil society Alternative reports that awareness of the reporting process and its importance is growing. However, the quality of reports and articulation of key issues is sometimes a matter of concern. Many State and Alternative reports are heavy in content, making it difficult for the committee to review all the content in the limited time. This is despite the recommended size of the State report being no more than 120 pages.

The State reports do not provide relevant statistical data in disaggregated form unless specifically asked by the Committee. Many State Parties also provide little or no information on budget allocations, and especially sufficiency of the budgets. Further, not all States Parties provide all the information requested by the Committee.

Some of the Alternative reports are issue-based and do not reflect comments on the State reports. Rather, they often identify issues where the State has not performed its obligations, without making concrete recommendations. Analysis of areas such as allocation of resources, establishment of children's ombudsman, withdrawal of reservations/declarations, and critical review of legislative measures still needs to be improved.

Specific recommendations for State and civil society

- a. Strictly follow the Committee and NGO Group's guidelines.
- b. Include more precise information on the changes taken place during the reporting period.
- c. Do not repeat the information provided in earlier reports.
- d. Include budget analysis against total GDP and total outlay.
- e. Include statistical information in each chapter.
- f. Specify the measures taken by the State, the status of implementation and challenges very clearly in each chapter.
- g. Prepare reports in light of the list of issues raised by Committee and Concluding Observations in previous reports.
- h. Develop cooperation between civil society and the State during the reporting process.

Integrated approach to UNCRC monitoring and reporting

The UNCRC is the main force for child rights globally. However, special provisions of other instruments are equally applicable to children, including the Millennium Development Goals (MDG), World Fit for Children, the Optional Protocols, other conventions on disability, the Committee on the Elimination of Discrimination against Women (CEDAW) and ILO Convention on Child Labour. Most of the State and Alternative reports need to include review of the provisions of other instruments and provide a holistic analysis of the situation.

Specific recommendations for State and civil society

- a. Develop a broad human rights framework with monitoring indicators based on global conventions, the days of general discussions and the national constitution to monitor the rights of the child.
- b. Form task groups involving experts from women's rights, disability rights, human rights, etc. The groups should analyse changes in each of the areas.

Need for consistent monitoring of the UNCRC

Both the Committee and NGO Group recommend that the UNCRC is monitored consistently. The guidelines developed by the NGO Group specifically mention that: 'The reporting process should be seen as one element in a process of continuous monitoring of the implementation of the Convention by both States Parties and by

NGOs. It is therefore important for NGOs to establish national-level monitoring processes which allow for continuous follow-up on progress made and regular reporting to the Committee on areas that require additional attention and follow-up.'

Most of the State and civil society reports reflect that the UNCRC monitoring mechanism needs to be strengthened. In most of the countries coalitions of civil society organisations undertake the process of Alternative reporting. However, once the report is submitted and discussed in the working group, the coalition members are rarely involved in following up Concluding Observations, reviewing the State policies and strategies to implement the Concluding Observations, and most importantly involving children in providing feedback on their recommendations. Consequently there tends to be only marginal change in policies and legislation between reporting periods.

Specific recommendations for State and civil society

- a. Develop six-monthly situational update reports based on the previous Concluding Observations. These reports can be disseminated among State and civil society organisations for them to follow up.
- b. Develop annual change reports. These will be important for understanding the milestones in the expected changes.
- c. Develop State and civil society reports based on the update and annual change reports. The State and Civil Society reports therefore become an outcome of the interpretation of these reports.

Need to strengthen and institutionalise participation of girls and boys

Most countries in South Asia in recent years have ensured intensive participation of children in the reporting process, through child-led organisations, children's clubs and groups. Child-friendly material is developed to empower children with knowledge, with facilitators being specially trained. In some countries children's representatives are also members of the civil society delegations to Geneva for the working group.

Despite all positive and encouraging aspects of child participation, only marginal change in governance is observed in the region, mainly because of lack of child participation in post-reporting processes. Children are seldom provided with child-friendly versions of the Concluding Observations, and are rarely consulted in the formation of advocacy strategies to follow these up. Children also are not part of the community-based monitoring of the UNCRC.

Specific recommendations for State and civil society

- a. Develop child-friendly versions of the Concluding Observations and if possible the State reports and then organise consultations with children's groups.
- b. Develop a child-friendly manual on how children themselves can monitor progress on the UNCRC at community level.
- c. Involve children right from the beginning of the reporting process.

Overall recommendations

Recommendations for States Parties

- Extend the cooperation with civil society and child-led organisations.
- Establish a coordinating mechanism within different ministries for monitoring child rights.
- Develop qualitative analysis of existing provisions and the status of implementation of laws.
- Extend cooperation with bilateral and multilateral organisations to develop a consistent UNCRC monitoring mechanism.
- Adopt an integrated approach to other applicable instruments while reporting on the UNCRC.
- Build the capacities of State officials on understanding of the UNCRC, monitoring and reporting.
- Develop country-based Child Rights Assessment indicators in consultation with children, civil society organisations, INGOs and the UN.
- Disseminate State Party reports, the response to the list of issues and the Concluding Observations to civil society organisations, children and the community at large in a local language.

Recommendations for civil society organisations

- Establish a national-level coalition on monitoring of child rights with task forces or sub-groups to monitor on a regular basis.
- Develop country-specific indicators and methods for regular monitoring of child rights.
- Develop annual reports to update the situation and to guide the local advocacy processes.
- Organise a mechanism to involve children at all stages, i.e. pre-reporting, during reporting and post-reporting.
- Develop a system to organise, store and analyse data on a regular basis.
- Develop a constructive rather than confrontational relationship with the State. Play a complementary role to achieve common objectives.
- Develop concrete recommendations (solutions) along with constructive criticisms.
- Coordinate with media on the key outcomes from the monitoring process.
- Translate the Concluding Observations into local languages and in a child-friendly way, and disseminate them to the general population, including children.

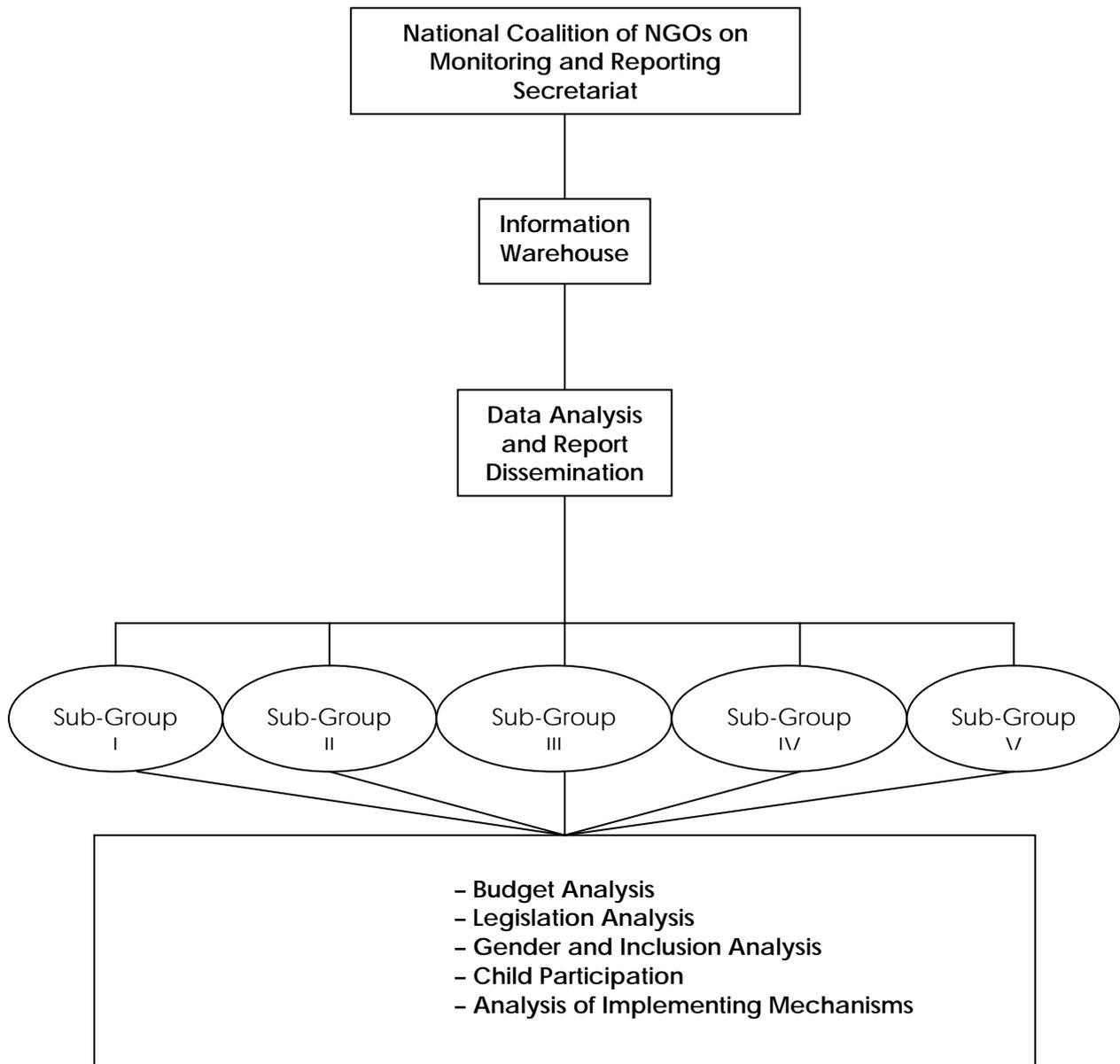
Recommendations for INGOs

- Develop a regional/national working group to develop the capacities of the State and civil society organisations for UNCRC monitoring and reporting.
- Develop user-friendly material/manuals for State, civil society and child-led organisations.
- Provide financial resources to the national coalitions to sustain their work on regular monitoring of child rights.
- Inform the national coalitions and States Parties of global updates on the child rights movement, such as Committee resolutions.
- Coordinate efforts among INGOs to focus on the key priority issues in tune with the Concluding Observations.
- Undertake regional research on the impact of UNCRC reporting.



Annex

The referral model for UNCRC monitoring and reporting



Endnotes

¹ For a full statement of the UNCRC, see www.unicef.org/crc/. A friendly guide for children, *On the Rights of the Child: Our Rights*, can be found at www.funkydragonjunior.co.uk/english/uncrc.html.

² The UPR was created through the UN General Assembly on 15 March 2006 by resolution 60/251, which established the Human Rights Council itself. It is a cooperative process which, by 2011, will have reviewed the human rights records of every country. Currently, no other universal mechanism of this kind exists. The UPR is one of the key elements of the new Council which reminds States of their responsibility to fully respect and implement all human rights and fundamental freedoms. The ultimate aim of this new mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur.

³ The United Nations Commission on Human Rights (UNCHR), composed of 53 States, meets each year in regular session in March and April for six weeks in Geneva. Over 3,000 delegates from member and observer States and from non-governmental organisations participate. There are numerous occasions when the rights of the child are addressed at the meeting. They are dealt with as a specific item of discussion and an 'omnibus resolution' on the rights of the child is adopted every year.

⁴ Article 44 of the UNCRC specifies the reporting process on progress made by States Parties. The initial report after ratification of UNCRC is expected to be submitted to the UNCRC Committee by States Parties within two years and thereafter every five years. Civil society is expected to develop a shadow/alternative report that can help the understanding of the situation of children and implementation of UNCRC.

⁵ 'Frequently asked questions on a human rights-based approach to development cooperation', Office Of The United Nations High Commissioner For Human Rights, 2006.

⁶ The Human Rights Council is an inter-governmental body within the UN system made up of 47 States responsible for strengthening the promotion and protection of human rights around the globe. The Council was created by the UN General Assembly on 15 March 2006 with the main purpose of addressing situations of human rights violations and making recommendations on them.

⁷ A/C.3/64/L.21/Rev.1.

⁸ Parts II (articles 42 to 45) and III (articles 46 to 54) of the UNCRC illustrate the provisions pertaining to accession, ratification, monitoring and reporting on the progress made by States Parties against all the articles of the UNCRC. According to article 43, a high-level Committee of experts is formed to examine the progress made by States Parties. This Committee is widely known as the United Nations Convention on the Rights of the Child Committee.

⁹ www.childrightsnet.org/ provides more information on the NGO Group.

¹⁰ Rule 75, Provisional Rules of Procedure, pg. 21, Committee on the Rights of the Child, states the provision of General Discussion on one specific article of the Convention or related subject.

¹¹ See www2.ohchr.org/english/bodies/crc/index.htm for further details.

¹² Article 44 of UNCRC.

¹³ www.childrightsnet.org/.

¹⁴ Article 45 (a) of UNCRC.

¹⁵ Section I paragraph 18 of the General Guidelines.

¹⁶ Information on which reports have been submitted to the United Nations, the expected date of examination of country reports by the Committee and copies of State Party reports are available at www.ohchr.org/english/bodies/crc/sessions.htm or from the NGO Group Liaison Unit Program (ngocrc-lup@bluewin.ch).

¹⁷ www.crin.org/NGOGroup/publications/GuideToReporting/.

¹⁸ NGO Group for the Convention on the Rights of the Child, Secretariat, 1, rue de Varembe, CH-1202 Geneva, Switzerland. Telephone: +41 (0) 22 740 4730, +41 (0) 22 7404730, Fax : +41 (0) 22 740 1145, Email : secretariat@childrightsnet.org. Alternatively the report may be found in unedited format at www.ohchr.org/english/bodies/crc/sessions.htm.

¹⁹ The Vienna Declaration and Programme of Action, also known as VDPA, is a human rights declaration adopted by consensus at the World Conference on Human Rights on 25 June 1993 in Vienna, Austria.

²⁰ *Background and details of progress:* Pakistan has progressed towards developing a national child protection system. Save the Children and Plan International with support from national child rights organisations implemented a year-long campaign to push for the passage of necessary legislation to provide a child protection system. The campaign included technical support to the National Commission on Child Welfare and Development (NCCWD) in drafting and fine-tuning the proposed legislation, lobbying with the government functionaries and parliamentarians, and a mass mobilisation campaign. The legislation in the form of two Bills – National Commission on the Rights of Children Bill 2009 and Child Protection (Criminal Law Amendment) Bill 2009 – is in the final stages of its approval. It has been vetted by the Ministry of Law and Justice and other relevant ministries. The National Cabinet has carried out one reading of the draft legislation and forwarded it to the Islamic Ideology Council for a final reading before approval by the Cabinet and subsequent approval by the Parliament.

The National Commission Bill has proposed a structure to respond to child protection issues in Pakistan; furthermore, provincial bills were also reviewed and provincial consultations were held under the campaign. Now the provinces have their provincial bills which need to be further sent to provincial assemblies to be enacted.

²¹ Article 17 (b) and Article 45 of the Convention encourage States Parties to seek international cooperation to implement the provisions made therein.

²² Article 4 of the UNCRC obliges States Parties to provide resources to their maximum extent to fulfil the provisions of the Convention.