



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-fifth session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 44 OF THE CONVENTION**

Concluding observations: India

1. The Committee considered the second periodic report of India (CRC/C/93/Add.5) at its 932nd and 933rd meetings (see CRC/C/SR.932 and 933) held on 21 January 2004, and adopted, at the 946th meeting (CRC/C/SR.946), held on 30 January 2004, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State's party second periodic report, which followed the established guidelines. The Committee also takes note of the timely submission of the written replies to its list of issues (CRC/C/Q/IND/2), which allowed for a clearer understanding of the situation of children in the State party. The Committee acknowledges that the presence of a high-level delegation directly involved with the implementation of the Convention allowed for a better understanding of the rights of the child in the State party.

B. Follow-up measures undertaken and progress achieved by the State party

3. **The Committee welcomes the many activities undertaken at the federal and State level for the implementation of the Convention, inter alia:**

(a) **The adoption of the Constitution (86th Amendment) Act, 2002 providing for free and compulsory education to all children 6-14 years old;**

(b) **The adoption of the 2003 amendment to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994;**

(c) **The launch of a national programme for the formation of women's self-help groups, which have an important impact on children's rights;**

(d) **The extension of primary school access;**

(e) **A more comprehensive collection of data, which has demonstrated that some progress has been achieved with regard to more equal participation and education of girls and children from underprivileged social groups; and**

(f) **The establishment of free telephone "childlines".**

C. Factors and difficulties impeding the implementation of the Convention

4. The Committee acknowledges that the very large population and the high rate of growth are major impediments to the implementation of the Convention. In addition, extreme poverty, massive social inequality and the persistence of deeply discriminatory attitudes, as well as the impact of natural disasters represent serious difficulties in the fulfilment of all of the State party's obligations under the Convention.

D. Principal subject of concern and recommendations

1. General measures of implementation

Previous recommendations of the Committee

5. The Committee regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.115) after its consideration of the State party's initial report (CRC/C/28/Add.10) have not been sufficiently addressed, inter alia those contained in paragraphs 13 (implementation of legislation); 15 (coordination); 17 and 19 (monitoring); 29, 31, and 33 (non-discrimination); 37 (birth registration); 39-41 (torture); 45 (violence); 47 (children with disabilities); 49 and 51 (basic health); 53 and 55 (standard of living); 57-60 (education); 64 (armed conflict); 66-71 (child labour); and 80-82 (administration of juvenile justice).

6. **The Committee urges the State party to make every effort to address the previous recommendations that have been only partly implemented or not implemented at all, and the list of recommendations contained in the present concluding observations.**

Declaration to article 32

7. In light of the State party's numerous measures to implement progressively article 32 of the Convention, the Committee has serious doubts as to the need for this declaration.

8. **In line with its previous recommendations (CRC/C/15/ADD.115, para. 66), and in light of the Vienna Declaration and Programme of Action, the Committee urges the State party to withdraw the declaration made to article 32 of the Convention.**

Legislation

9. The Committee welcomes the fact that the Convention can be invoked before the courts and that the Supreme Court has adopted various decisions based on the Convention; however, the Committee remains concerned that domestic legislation, and in particular religious and personal laws which govern family matters, are not yet fully in conformity with the provisions and principles of the Convention.

10. **In light of its previous recommendations (ibid., para. 11), the Committee recommends that the State party:**

(a) **Scrutinize carefully existing legislative and other measures, including religious and personal laws, both at the federal and state levels, with a view to ensuring that the provisions and principles of the Convention are implemented throughout the State party;**

(b) **Ensure the implementation of its legislation and its wide dissemination.**

Resources

11. While noting the efforts undertaken to increase the budget allocation for some social services, the Committee is concerned at the slow increase of the budget allocations for education and at the stagnation, or even the decrease of funds allocated to other social services.

12. **The Committee recommends that the State party:**

(a) **Make every effort to increase the proportion of the budget allocated to the realization of children's rights to the "maximum extent ... of available resources" and, in this context, to ensure the provision, including through international cooperation, of appropriate human resources and to guarantee that the implementation of policies relating to social services provided to children remain a priority; and**

(b) **Develop ways to assess the impact of budgetary allocations on the implementation of children's rights, and collect and disseminate information in this regard.**

Coordination

13. The Committee notes that the Department of Women and Child Development is the body responsible for the coordination of all activities regarding the implementation of the Convention on the Rights of the Child and that a national coordinating mechanism was constituted in January 2000, but only met once, in September 2000. The Committee is, however, of the view that greater coordination is still required among the different bodies responsible for the implementation of the Convention at the federal and state levels and between the federal Government and the states.

14. The Committee recommends that the State party strengthen its national mechanism to coordinate the effective implementation of the Convention at the federal level, between the federal and the state levels and between states, with a view to, inter alia, improving the efficiency of the implementation process and decreasing or eliminating any possibility of discrimination as a result of that process.

National Plan of Action/National Charter for Children

15. The Committee notes the existence of the 1974 National Policy for Children as well as the 1992 National Plan of Action for Children and notes the current discussions regarding the National Charter for Children to replace the Policy, as well as the drafting of a new Plan of Action for Children. The Committee is nevertheless concerned that the National Charter for Children does not adopt a child-rights-based approach and does not explicitly include all rights and principles of the Convention.

16. The Committee recommends that the State party take all necessary measures to adopt, in consultation with all relevant partners, including the civil society, a new Plan of Action for Children that covers all areas of the Convention, includes the Millennium Development Goals, and fully reflects “A world fit for children”; to allocate the necessary human and financial resources for its full implementation; and provide for a coordination and monitoring mechanism. In addition, the Committee recommends that the State party expedite the adoption of the National Charter for Children and make sure that the Charter adopts a child-rights-based approach and covers all the rights and principles of the Convention.

Independent monitoring structures

17. The Committee notes the existence of the National Human Rights Commission and welcomes the introduction of the National Commission for Children Bill, 2003 in Parliament on 10 December 2003.

18. In light of its previous recommendations (ibid., para. 19), the Committee recommends that the State party expedite, as much as possible, the establishment of an independent national commission for children in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134) and the

Committee's general comment No. 2 on national human rights institutions, to monitor and evaluate progress in the implementation of the Convention at the federal and at the state levels.

Cooperation with NGOs

19. The Committee notes the cooperation with NGOs in the area of service delivery and their involvement in the preparation of various programmes relevant to the Convention, but is concerned that this cooperation is not systematic and that there is a lack of supervision of NGOs' activities.

20. **The Committee emphasizes the important role of NGOs as partners in implementing the provisions of the Convention and, in line with its previous recommendations (ibid., para. 23) recommends that the State party involve them in a more systematic and coordinated manner in all stages of the Convention's implementation, including policy formulation, at the national, state and local levels, and in the drafting of future periodic reports. It also recommends that the State party take into account the recommendations arising from the day of general discussion held in 2002 on the theme "The private sector as service providers and its role in implementing child rights" (CRC/C/121, para. 630) and improve its supervision of private organizations delivering services by, inter alia, improving the system of registration and authorization of service providers.**

Data collection

21. The Committee notes with appreciation the efforts undertaken to improve data collection, notably through the new system to collect data regarding budget allocations and trends relating to schemes and programmes addressing all issues concerning children. However, the Committee remains concerned at the insufficient data for some areas covered by the Convention.

22. **The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, social status (Scheduled Castes and Tribes, or religious community), and urban and rural area and make it publicly available. This system should cover all children up to the age of 18 with specific emphasis on those who are particularly vulnerable. It further encourages the State party to use these indicators and data for the formulation of policies and programmes for the effective implementation of the Convention. The Committee recommends that the State party seek technical assistance from UNICEF, UNDP and UNFPA, among others.**

Training and dissemination

23. The Committee welcomes the dissemination of its previous concluding observations and the various awareness-raising campaigns, but remains concerned that children and the public at large, as well as all groups of professionals working with and for children, are not sufficiently aware of the Convention and the rights-based approach enshrined therein.

24. **In line with its previous recommendations (ibid., para. 25), the Committee recommends that the State party:**

(a) **Strengthen its efforts to disseminate the principles and provisions of the Convention, and make those efforts systematic, in order to sensitize society about children's rights through social mobilization;**

(b) **Systematically involve parliamentarians and community and religious leaders in its programmes to eradicate customs and traditions that impede the implementation of the Convention, and adopt creative measures of communications for illiterate people and for people in remote areas;**

(c) **Undertake systematic education and training on the provisions of the Convention for all professional groups working for and with children, in particular, judges, lawyers, law enforcement officials, civil servants, municipal and local workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers;**

(d) **Further promote human rights education, including the rights of the child, in primary and secondary school curricula as well as in the curricula for teacher training;**

(e) **Seek technical assistance from, among others, OHCHR, UNESCO and UNICEF.**

2. General principles

The right to non-discrimination

25. In light of article 2 of the Convention, the Committee is deeply concerned at the widely disparate levels of enjoyment of the rights in the Convention by girls, children living in certain states, rural areas and slums, and children belonging to certain castes and tribal and indigenous groups.

26. **The Committee recommends that concerted efforts at all levels be taken to address social inequalities by reviewing and reorienting policies, including increasing budgetary allocations for programmes targeting the most vulnerable groups, and that technical assistance be sought from, among others, UNICEF.**

27. The Committee is deeply concerned at persistent and significant social discrimination against children belonging to Scheduled Castes and Tribes and other tribal groups, reflected, inter alia, by the many violations of the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the low number of such violations dealt with by the courts, and the fact that a majority of the states have failed to set up the special courts provided for under this Act.

28. **The Committee recommends that the State party, in accordance with article 17 of its Constitution and article 2 of the Convention, take all necessary steps to abolish the**

discriminatory practice of “untouchability”, prevent caste- and tribe-motivated abuse, and prosecute State and private actors who are responsible for such practices or abuses. Moreover, in compliance with article 46 of the Constitution, the State party is encouraged to implement, inter alia, special measures to advance and protect these groups. The Committee recommends the full implementation of the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the 1995 Scheduled Castes and Scheduled Tribes Rules (Prevention of Atrocities) and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Committee encourages the State party to continue its efforts to carry out comprehensive public education campaigns to prevent and combat caste-based discrimination with a view to changing social attitudes, by involving, inter alia, religious leaders.

29. The Committee welcomes the National Plan of Action for the Girl Child and the Platform for Action, but is deeply concerned at the persistence of discriminatory social attitudes and harmful traditional practices towards girls, including low school enrolment and high dropout rates, early and forced marriages, and religion-based personal status laws that perpetuate gender inequality in areas such as marriage, divorce, custody and guardianship of infants, and inheritance.

30. **The Committee urges the State party to take all necessary measures for the implementation of the National Plan of Action for the Girl Child and encourages the enforcement of protective laws. The Committee also encourages the State party to continue its efforts to carry out comprehensive public education campaigns to prevent and combat gender discrimination, particularly within the family. Political, religious and community leaders should be mobilized to support efforts to eradicate harmful traditional practices and attitudes which still discriminate against girls.**

31. While welcoming the special temporary programmes and other activities to improve the enjoyment of rights by girls and vulnerable groups such as children belonging to Scheduled Castes and Tribes, the Committee expresses its concern at the possibility that other children in situations similar to that of those groups are not receiving the same benefits.

32. **The Committee recommends that all existing and future special temporary programmes be provided with specified goals and timetables, in order to evaluate their success and justify their continuation, expansion and dissemination. The Committee further recommends that the State party start to develop special programmes for the allocation of educational and other benefits that are based on the child’s needs and rights rather than on the basis of sex, caste or tribe, or any other characteristic that may result in unjustifiable discrimination.**

33. The Committee notes the 2003 amendment to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, but remains deeply concerned that the sex ratio in the age group 0-6 years has worsened over the past decade.

34. In addition to its recommendations regarding gender discrimination (para. 30), the Committee strongly recommends that the State party:

(a) Take all necessary steps to ensure the implementation of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994;

(b) Further develop massive awareness campaigns, involving parents, communities, law enforcement officers, etc., and take the necessary measures, including imposing sanctions to end the practice of selective abortions and female infanticide; and

(c) Undertake gender impact studies when planning programmes relating to economic and social policies.

35. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking account of the Committee's general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

Respect for the views of the child

36. The Committee welcomes initiatives to increase child participation by the establishment of children's councils, associations and projects in several states and districts, but remains concerned that traditional attitudes towards children in society, especially girls, still limit the respect for their views within the family, at school, in institutions and at the community government level. The Committee further notes with regret that there are virtually no legal provisions guaranteeing children's participation in civil proceedings affecting their rights and well-being.

37. The Committee recommends that the State party:

(a) Promote, within the family, the schools, institutions, as well as in judicial and administrative proceedings, respect for the views of children, especially girls, and facilitate their participation in all matters affecting them, in accordance with article 12 of the Convention;

(b) Provide educational information to parents, teachers, government administrative officials, the judiciary, children themselves and society at large on the right of children to have their views taken into account and to participate in all matters affecting them; and

(c) Regularly review the extent to which children's views are taken into consideration, including their impact on relevant policies and programmes.

3. Civil rights and freedoms

Birth registration

38. The Committee welcomes the intention to review the birth registration system in the State party (CRC/C/93/Add.5, para. 281) but remains seriously concerned that about 46 per cent of children are not registered at birth.

39. **In line with its previous recommendation (CRC/C/15/Add.115, para. 37), the Committee recommends that the State party make greater efforts to ensure the timely registration of all births by the year 2010 as planned (CRC/C/93/Add.5, para. 284), and take training and awareness-raising measures as regards registration in rural areas. The Committee encourages steps such as the establishment of mobile registration offices and registration units in schools and health facilities, and recommends that the State party seek technical assistance from, among others, UNICEF and UNFPA.**

Right to nationality

40. The Committee is concerned that Pakistani refugee and Mohajir children residing in India (Rajasthan and Andhra Pradesh, respectively) are stateless.

41. **The Committee recommends that the State party take measures to provide these children with a nationality, in accordance with article 7 of the Convention.**

Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

42. The Committee is concerned at numerous reports of ill-treatment, torture and sexual abuse of children in detention facilities, and alleged instances of killings of children by law enforcement officials.

43. **In line with its previous recommendations (CRC/C/15/Add.115, paras. 39-41), the Committee recommends that the State party:**

(a) **Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**

(b) **Set up child-sensitive mechanisms to receive complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and in detention centres;**

(c) **Investigate and prosecute complaints in a child-sensitive manner;**

(d) **Strengthen its efforts to train the law enforcement personnel on the human rights of children; and**

(e) **In light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.**

Corporal punishment

44. The Committee notes the decision of the New Delhi High Court of December 2000 regarding prohibition of corporal punishment in the schools under its jurisdiction, but remains concerned that corporal punishment is not prohibited in the schools of other states, in the family, nor in other institutions for children, and remains acceptable in the society.

45. **The Committee strongly recommends that the State party prohibit corporal punishment in the family, in schools and other institutions and undertake education campaigns to educate families, teachers and other professionals working with and/or for children on alternative ways of disciplining children.**

4. Family environment and alternative care

Parental responsibility

46. While noting the judgement of the Supreme Court that the mother was as much the child's natural guardian as the father (*Githa Hariharan v. Bank of India*, 18 February 1999), the Committee expresses its concern that under the law, the father still has the main responsibility with regard to the child.

47. **In line with article 18 of the Convention, the Committee recommends that the State party take all necessary measures to ensure recognition and implementation of the principle that both parents have common responsibilities for the upbringing and development of their child.**

Adoption

48. The Committee welcomes the recent ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and the emphasis put on domestic adoption, but reiterates its concern at the absence of uniform adoption law and procedures in the State party and of effective measures to monitor respect for the rights of the children concerned and to follow up adoptions within the State party and abroad. The Committee is further concerned at the lack of registration and control of adoptions carried out by non-accredited agencies.

49. **The Committee recommends that the State party:**

(a) **Review the legal framework for domestic adoption and take all necessary measures, including the adoption of new guidelines by the central authority, to implement the newly ratified 1993 Hague Convention;**

(b) **Extend to the whole territory the application of the relevant provisions of the Juvenile Justice (Care and Protection of Children) Act 2000; and**

(c) **Ensure that adoption is possible for children of all religions, in accordance with the strict regulations reflected in article 21 of the Convention.**

Violence, abuse, neglect and maltreatment

50. The Committee is concerned at the high prevalence of violence, abuse, including sexual abuse, and neglect of children within the State party, and at the lack of effective measures to combat this problem. The Committee is further concerned at outdated laws concerning sexual abuse.

51. **In light of article 19 of the Convention and in line with its previous recommendations (ibid., para. 45), the Committee recommends that the State party:**

(a) Adopt new legislative measures and amend outdated legislation to prohibit all forms of physical and mental violence, including sexual abuse of children in the family, in schools and in institutions;

(b) Carry out public education campaigns and any other appropriate measures concerning the negative consequences of ill-treatment of children;

(c) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervention where necessary;

(d) Investigate and prosecute cases of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

(e) Provide facilities for the care, recovery and reintegration of victims;

(f) Train parents, teachers, law enforcement officials, care workers, judges, health professionals and children themselves in the identification, reporting and management of cases of ill-treatment, using a multidisciplinary and multisectoral approach; and

(g) Seek assistance from, among others, UNICEF and WHO.

5. Basic health and welfare

52. The Committee notes the numerous national plans and programmes initiated during the 9th and 10th five-year plans to address health issues. Nevertheless, it remains seriously concerned at the unavailability and/or inaccessibility of free, high quality primary health care; the slow decline in infant mortality; the worsening maternal mortality rates, due in part to the high increase of unattended home deliveries; the low immunization rate; the high incidence of low-birth-weight babies; the high number of children with stunting, wasting, or who are underweight; the prevalence of micronutrient deficiencies; and the low rate of exclusive breastfeeding and appropriate introduction of infant diet. The Committee further expresses its concern at the environmental pollution prevalent in some states, specifically arsenic and lead pollution, and at the lack of access to safe drinking water and adequate sanitation by a large percentage of the population. Finally, the Committee expresses its concern at the practice of traditional and modern medicine by untrained and unqualified personnel.

53. **The Committee recommends that the State party reinforce its efforts in developing effective policies and programmes to improve the health situation of children. It also recommends that the State party ensure access for all children to primary, free and quality health services; regulate and monitor traditional and modern medicinal practice; combat malnutrition; promote healthy nutrition habits, including breastfeeding; improve immunization rates; increase access to safe drinking water and adequate sanitation; and address the issue of environmental pollution effectively. Additionally, the Committee encourages the State party to pursue additional avenues of cooperation and assistance for child health improvement with, inter alia, WHO and UNICEF.**

HIV/AIDS

54. The Committee welcomes the adoption of the National AIDS Prevention and Control Policy, 2001, aiming at achieving no new infections by 2007. It also welcomes the decision to provide antiretroviral drugs to children and adults free of charge, but remains concerned at the rising number of children infected and/or affected by HIV/AIDS. It further expresses its concern at the discrimination experienced by these children in society and in the educational system.

55. **The Committee recommends that the State party:**

(a) Increase its efforts to prevent HIV/AIDS, taking into account the Committee's general comment No. 3 on HIV/AIDS and the rights of children;

(b) Strengthen its measures to prevent mother-to-child transmission, inter alia by combining and coordinating them with the activities to reduce maternal mortality, and take adequate measures to address the impact upon children of the HIV/AIDS-related deaths of parents, teachers and others, in terms of children's reduced access to family life, adoption, emotional care and education;

(c) Strengthen its efforts to raise awareness about HIV/AIDS among adolescents, particularly those belonging to vulnerable groups, and among the population at large, notably in order to reduce discrimination against children infected and/or affected by HIV/AIDS;

(d) Seek further technical assistance from, among others, the Joint United Nations Programme on HIV/AIDS.

Children with disabilities

56. The Committee notes the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and that the 2001 census took into account disability, but remains concerned at the lack of statistical data and of a comprehensive policy for disabled children, and at the existence of discrimination, which is still widespread. Concern is also expressed at the limited facilities and services for children with disabilities and at the limited number of teachers trained to work with children with disabilities, as well as the insufficient efforts made to facilitate their inclusion into the educational system and generally within society. The Committee also notes with concern that inadequate resources have been allocated to special education programmes for children with disabilities.

57. In line with its previous recommendations (*ibid.*, para. 47) and in light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee at its day of general discussion on the rights of children with disabilities (see CRC/C/69), it is recommended that the State party:

- (a) Establish a comprehensive policy for children with disabilities;
- (b) Take effective measures to collect adequate and disaggregated statistical data on children with disabilities and use such data in developing policies and programmes to prevent disabilities and to assist disabled children;
- (c) Reinforce its efforts to develop early detection programmes to prevent and remedy disabilities;
- (d) Establish special education programmes for disabled children and include them in the regular school system to the extent possible;
- (e) Undertake awareness-raising campaigns to sensitize the public, and parents in particular, about the rights and special needs of children with disabilities, including those with mental health concerns;
- (f) Increase resources, both financial and human, for special education, including vocational training, and the support given to families of children with disabilities;
- (g) Seek technical cooperation for the training of professional staff, including teachers, working with and for children with disabilities from, among others, WHO.

Harmful traditional practices

58. The Committee is deeply concerned at the existence of harmful traditional practices such as incidents relating to dowries and to devadasis.

59. The Committee recommends that the State party:

- (a) Enforce the Dowry Prohibition Act, 1961 and the Karnataka Devadasis (Prohibition of Dedication) Act, 1982 and Rules, 1982;
- (b) Take legislative and awareness-raising measures to prohibit and eradicate all kinds of traditional practices harmful to the health, survival and development of children, boys as well as girls; and
- (c) Reinforce its sensitization programmes, with the involvement of community leaders, practitioners and the general public, to change traditional attitudes and discourage harmful practices, in particular in rural areas.

60. The Committee is concerned at the very high percentage of early and forced marriages of girls, which can have a negative impact on their health, education and social development.

61. **The Committee recommends that the State party:**

(a) **Take all necessary steps to implement the Child Marriage Restraint Act 1929;**

(b) **Strengthen educational and awareness programmes, in cooperation with NGOs and community leaders, with a view to preventing early and forced marriage; and**

(c) **Strengthen sexual and reproductive health education, mental health and adolescent-sensitive counselling services and make them accessible to adolescents.**

Adequate standard of living

62. In spite of the growth of the gross domestic product, the Committee is concerned about the widespread poverty in the State party and the still high number of children who do not enjoy the right to an adequate standard of living, including access to clean drinking water, adequate housing and latrines. The Committee is further concerned at the negative consequences of displacement and rehabilitation projects which intend to improve living conditions but which remove children from their habitat to a new environment often not prepared for children's needs.

63. **In accordance with article 27 of the Convention, the Committee recommends that the State reinforce its efforts to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living. In light of its previous recommendations (ibid., para. 53), the Committee further recommends that the State party prevent any occurrence of forced relocation, displacement and other types of involuntary population movements.**

6. Education, leisure and cultural activities

64. The Committee welcomes the adoption of the Constitution (86th Amendment) Act, 2002 providing for free and compulsory education for all children aged 6-14, the continued efforts of the State party to increase girls' enrolment in school and the Midday Meal Scheme. While noting an increased enrolment rate, the Committee is seriously concerned that 60 million children do not attend primary school. The Committee is further concerned at the high, although decreasing, level of illiteracy and the striking disparities in terms of access to education, attendance at primary and secondary school and dropout rates between boys and girls. The Committee is also concerned that striking disparities regarding these rates also exist between different states, between rural and urban areas, and between the affluent and the poor and disadvantaged groups. The Committee is further concerned at the insufficient number of trained teachers, schools and classrooms, and the lack of relevant learning material, which affect the quality of education.

65. **The Committee recommends that the State party:**

(a) **Improve the education system with a view to achieving the aims mentioned in article 29, paragraph 1 of the Convention and the Committee's general comment No. 1 on the aims of education, and introduce human rights, including children's rights, into the school curricula;**

- (b) Strengthen its efforts to progressively ensure that that all girls and boys, in urban, rural and least developed areas and children belonging to Scheduled Castes and Tribes, have equal access to educational opportunities;**
- (c) Raise awareness of the importance of early childhood education and introduce it into the general framework of education;**
- (d) Encourage the participation of children at all levels of school life;**
- (e) Take the necessary measures to improve the quality of education and to ensure better efficiency in the management of education, including by decreasing the dropout rate;**
- (f) Hire more qualified teachers and provide them with more opportunities for training;**
- (g) Take all necessary measures to curb teachers' absenteeism;**
- (h) Build better infrastructure for schools; and**
- (i) Seek assistance from UNICEF and UNESCO.**

7. Special protection measures

66. The Committee welcomes the establishment of toll-free "childlines" in about 50 different cities/districts with the support of the Government, in accordance with section 32 (1) (iii) of the Juvenile Justice (Care and Protection of Children) Act 2000 and with the strong and crucial involvement of NGOs, but is concerned at the slow pace of establishment of these "childlines" in all districts of the country. The Committee is further concerned that calls for help and support from children via these "childlines" do not always receive an adequate response owing to the lack of capacity of existing services.

67. The Committee recommends that the State party provide the necessary human and financial support for the establishment and reinforcement of toll-free "childlines" in all districts of the State party and set as a target the date of the submission of its next report to the Committee. Furthermore, the Committee recommends that the State party take the necessary measures to support the existing services, in particular the NGOs, to respond adequately to the calls for help from children (or on their behalf) and, if necessary, for the establishment of new services.

Armed conflicts

68. The Committee is concerned that the situation in areas of conflict, particularly Jammu and Kashmir and the north-eastern states, has seriously affected children, especially their right to life, survival and development (article 6 of the Convention). The Committee expresses its very serious concern at reports of children who are involved in and are victims of these conflicts.

69. **In light of articles 38 and 39 of the Convention, the Committee recommends that the State party ensure respect for human rights and humanitarian law aimed at the protection, care and physical and psychosocial rehabilitation of children affected by armed conflict, notably regarding any participation in hostilities by children. The Committee calls upon the State party to ensure impartial and thorough investigations in cases of rights violations committed against children and the prompt prosecution of those responsible, and that it provide just and adequate reparation to the victims.**

Refugee children

70. The Committee welcomes the generous policy of the State party in hosting refugees and asylum-seekers, but remains concerned at the absence of legislation regarding these groups.

71. **In light of article 22 of the Convention, the Committee recommends that the State party consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and adopt comprehensive legislation to ensure adequate protection of refugee and asylum-seeking children, including in the fields of physical safety, health, education and social welfare, and to facilitate family reunification.**

Economic exploitation, including child labour

72. The Committee notes the tenth Plan for the National Child Labour Project but is extremely concerned at the large numbers of children involved in economic exploitation, many of whom are working in hazardous conditions, including as bonded labourers, especially in the informal sector, in household enterprises, as domestic servants and in agriculture. The Committee is further very concerned that minimum age standards for employment are rarely enforced and appropriate penalties and sanctions are not imposed to ensure that employers comply with the law.

73. **The Committee recommends that the State party:**

(a) **Ensure the full implementation of the Child Labour (Prohibition and Regulation) Act, 1986, the Bonded Labour (System Abolition) Act, 1976 and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993;**

(b) **Amend the Child Labour Act, 1986 so that household enterprises and government schools and training centres are no longer exempt from prohibitions on employing children;**

(c) **Promote community-based programmes for the prevention of child labour;**

(d) **Ratify ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment, and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;**

(e) Strengthen its efforts to raise awareness of the public at large, especially parents and children, of work hazards and to involve and train employers, workers and civic organizations, government officials, such as labour inspectors and law enforcement officials, and other relevant professionals; and

(f) Continue its collaboration with ILO/IPEC.

Sexual exploitation of children/trafficking in children

74. The Committee welcomes the ratification of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution; the adoption of a plan of action to combat trafficking and commercial sexual exploitation of women and children; the initiative to undertake a study, inter alia, to collect data on the number of children and women who become victims of sexual exploitation and trafficking; and the Pilot Projects to Combat Trafficking of Children for Commercial Sexual Exploitation in Destination and Source Areas, but remains concerned that the Immoral Traffic Prevention Act, 1986 does not define trafficking and limits its scope to sexual exploitation. In addition, the Committee expresses its concern at the increasing number of child victims of sexual exploitation, including prostitution and pornography. Concern is also expressed at the insufficient programmes for the physical and psychological recovery and social reintegration of child victims of such abuse and exploitation.

75. **In light of articles 34 and 35 and other related articles of the Convention, the Committee recommends that the State party:**

(a) Extend the scope of the Immoral Traffic Prevention Act to all forms of trafficking of children and ensure that all trafficked children are always treated as victims;

(b) Conduct a comprehensive study to assess the causes, nature and extent of trafficking and commercial sexual exploitation of children;

(c) Provide sufficient human, financial and technical resources for the implementation of the National Plan of Action;

(d) Adopt multidisciplinary and multisectoral approaches and take measures to prevent and combat sexual exploitation and trafficking of children, including an awareness-raising campaign and educational programmes, particularly for parents;

(e) Ensure that perpetrators are brought to justice;

(f) Strengthen its policies to facilitate the reunification of child victims of trafficking with their families and provide adequate care and reintegration programmes for children who have been sexually exploited and/or trafficked, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;

(g) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; and

(h) Collaborate with non-governmental organizations working on these issues and seek technical assistance from, among others, UNICEF.

Street children

76. The Committee welcomes the existence of the Integrated Programme for Street Children but remains concerned at the growing number of street children in the State party, due notably to the structural situation of the State party as well as to the lack of proactive policies and programmes of prevention and for the support of the family.

77. **The Committee recommends that the State party:**

(a) Strengthen and extend its Integrated Programme for Street Children to address the large and increasing number of street children, with the aim of protecting these children, especially girls, and of preventing and reducing this phenomenon, in particular through assistance to families and the provision of adequate housing and access to education;

(b) Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development, providing official documents when necessary;

(c) Ensure that these child victims of physical, sexual and substance abuse are provided with recovery and reintegration services, protection from arrest and maltreatment by the police, and effective services for reconciliation with their families and community;

(d) Collaborate with non-governmental organizations working with street children in the State party and seek technical assistance from, among others, UNICEF.

Administration of juvenile justice

78. The Committee notes the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2000 but remains concerned that no minimum age of criminal responsibility is fixed in the new Act and that the minimum age of 7 years found in the Penal Code is still in force. The Committee is further concerned that the Supreme Court has decided that the date of the commission of one offence is irrelevant for determining whether the alleged offender is a juvenile (CRC/C/93/Add.5, box 8.7). The Committee is further concerned that the mechanisms to enforce the Act have not been set up in most states and that the Act does not apply to the State of Jammu and Kashmir. In addition, the Committee expresses its concern at the fact that deprivation of liberty is not used only as a measure of last resort. Finally, the Committee is deeply concerned that the Prevention of Terrorism Act, 2002 allows for the prosecution of children by special courts and that the procedure used in these cases does not respect articles 37, 40 and 39 of the Convention.

79. **The Committee recommends that the State party take all appropriate measures to implement a juvenile justice system that is in conformity with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System.**

80. **In addition, the Committee recommends that the State party:**

(a) **Amend the Juvenile Justice (Care and Protection of Children) Act, 2000 to set a minimum age of criminal responsibility that shall be higher than that fixed in the Penal Code and reflect internationally accepted norms, and consider this age as the age when the offence was committed;**

(b) **Extend the application of the Juvenile Justice (Care and Protection of Children) Act, 2000 to the State of Jammu and Kashmir;**

(c) **Amend the Prevention of Terrorism Act, 2002 so that it fully respects articles 37, 40 and 39 and other related provisions of the Convention when it is applied to children;**

(d) **Take all necessary steps to establish, as a measure of urgency, the executing state mechanisms necessary for the full implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000;**

(e) **Strengthen training programmes on relevant international standards for all professionals involved with the system of juvenile justice;**

(f) **Strengthen rehabilitation and reintegration programmes;**

(g) **Use deprivation of liberty only as a measure of last resort; and**

(h) **Consider seeking technical assistance from, among others, OHCHR and UNICEF.**

Minorities/indigenous children

81. **The Committee is concerned at the situation of children belonging to minorities, including to the Primitive Tribal Groups, and at their limited access to social services, including health care, immunization and education, and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination.**

82. **In addition to its recommendation in paragraph 29, and in line with the recommendations made at its day of general discussion on the rights of indigenous children (CRC/C/133, para. 624), the Committee recommends that the State party**

implement and/or give the necessary follow-up to the recommendation made by the Standing Committee on Labour and Welfare on the Development of Primitive Tribal Groups (2002).

8. Optional Protocols

83. The Committee encourages the State party to ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

9. Dissemination of documentation

84. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations. The Committee recommends that the State party request international cooperation in this regard.

10. Periodicity of submission of reports

85. In light of the recommendation on reporting periodicity adopted by the Committee and described in its sessional reports (see CRC/C/114 and CRC/C/124), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. The Committee recommends that the State party submit its next periodic report on 10 July 2008, 18 months before the due date established under the Convention for the fourth periodic report, which is 10 January 2010. This report will combine the third and fourth periodic reports. Such a report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.
