



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Thirty-fifth session

### Summary record of the 933rd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 21 January 2004, at 3 p.m.

*Chairperson:* Mr. Doek

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*The meeting was called to order at 3.15 p.m.*

**Consideration of reports of States parties (continued)**

*Second report of India (continued) (CRC/C/93/Add.5; CRC/C/Q/IND/2; CRC/C/RESP/49)*

1. *At the invitation of the Chairperson, the members of the delegation of India resumed their places at the Committee table.*
2. **Ms. Sardenberg** wished to know whether India's data collection system collected information on all the issues covered by the Convention, including child labour, and to what extent the data was used in setting policy relating to children.
3. She also wished to know whether there were special curricula for the various age groups and extremely poor children, who were often behind educationally.
4. **Ms. Khattab** asked what the Government had done to enforce the Prenatal Diagnostic Techniques Act, 1994.
5. **The Chairperson**, speaking as a member of the Committee, wondered what were the penalties applied to doctors who aborted female foetuses.
6. **Ms. Rao** (India) acknowledged that India had a real problem of sex ratio, especially as the gap had recently widened still further in the under-6 age group. To deal with the situation, the Government had decided in 2003 to strengthen the Prenatal Diagnostic Techniques Act to prohibit all medical acts aimed at determining the sex of unborn children. There had been an overall improvement, since the country now had 933 women for every 1,000 men.
7. Despite the numerous safeguards relating to abortion, unscrupulous doctors or unenlightened parents continued to evade or manipulate the law. The solution lay in the establishment and observance of a real code of conduct and in a change in attitudes.
8. The Ministry of Women and Child Development, the Ministry of Health and the Indian Medical Association had undertaken extensive discussions with all the parties concerned and held numerous consultations with community leaders, religious leaders from all beliefs and faiths and women's groups, which had played a central role in combating discrimination against girls and altering behaviour in the spheres of health, nutrition and protection. Awareness-raising campaigns and courses on gender equality and empowerment of women had led in some regions to declines in child and maternal mortality.
9. **Ms. Sardenberg** asked whether India had concluded bilateral or inter-State agreements with neighbouring countries with a view to combating its problem of trafficking in children and women.
10. **Ms. Rao** (India) said that India had acceded to the relevant Convention of the South Asian Association for Regional Cooperation, but, because there had been too few ratifications, that instrument was not yet in force. There was, however, close cooperation with regional NGOs and government bodies to prevent and punish trafficking.
11. The law on human trafficking was in the process of amendment and the central Government was awaiting States' opinion on the matter. However, out of fear of losing some of their powers, States were on the whole opposed to the idea of establishing a federal agency on the lines of the Central Bureau of Narcotics.
12. State Governments were currently examining the recommendations of the Ministry of Home Affairs and the Law Commission of India regarding revision of the Penal Code to widen the definition of rape and include additional provisions to protect women and children.

13. Parliament was expected to adopt the bill on the prevention of domestic violence against women shortly.

14. **Ms. Sardenberg** asked whether the proposed establishment of a national commission for children that would act as an ombudsman for children might not overlap with the present public-interest litigation and whether children could file complaints before the courts. She also requested information on progress regarding the proposed national charter for children.

15. **Ms. Rao** (India) said that the bill for the establishment of a national commission for children, which would be an independent body for protecting, monitoring and realizing children's rights, had been submitted to Parliament in December 2003. The commission, which would comprise six children's affairs professionals under the leadership of a Supreme Court judge, would have full authority to receive and investigate complaints, order visits to child-care institutions and make recommendations to local governments. The States would have the right to set up their own children's commissions, but care would be taken to avoid overlap between the various activities in support of children in the country. Indian citizens were entitled to institute public-interest proceedings at any time.

16. The proposed national charter for children was intended as a guide setting out national child policy and governing all questions relating to children. It was a benchmark document drawn up in close consultation with NGOs and experts and bringing together the provisions of Indian children's law, the Indian Constitution and the Convention on the Rights of the Child.

17. **Ms. Smith** asked whether the charter could be invoked before the courts.

18. **Ms. Rao** (India) said that it could and stressed that it and the Convention, which was now part of domestic law, were complementary instruments, either of which could be invoked directly before the country's courts.

19. The questions of creating a national commission and drafting a national charter for children had been submitted to the population at large. Both projects had been posted on the Internet to enable anyone interested to comment on them.

20. India cooperated closely with NGOs and UNICEF on all matters relating to defence of children's interests. Furthermore, following a broad participatory process, it would shortly have a new national action plan for children based on its international commitments.

21. **Ms. Aluoch** questioned whether, in view of the proportion of the population having access to the technology, use of the Internet was effective.

22. **Ms. Rao** (India) responded that NGOs and other partners had their own capacity for disseminating information in all the strata and possible target groups in the population.

23. **The Chairperson**, speaking as a member of the Committee, observed that children had commented in detail on the bill for the creation of a national commission for children. That was proof that there was a close dialogue with civil society.

24. **Ms. Rao** (India) confirmed that the Indian authorities were anxious to have input from children who were old enough and mature enough to provide it. For example, the report under examination had been discussed with children at regional workshops. The principle of children's participation was gaining ground daily in communities, especially with regard to education; the progress was principally due to NGOs and to innovative projects undertaken with a variety of international organizations.

25. Regarding participation by civil society, every programme to help children was based on partnership with NGOs and every ministry had funds specially intended for activities undertaken by NGOs within such partnerships under previously agreed conditions. Use of the funds was supervised by the ministry concerned and, in the rare event that the central Government was late in releasing the funds a State had requested for a programme, the matter was usually easily resolved, thanks to constant interaction and correspondence between the relevant officials.

26. Women's self-help groups were unquestionably the most effective tools for awareness-raising. They really moved things forward in rural areas, which was why the authorities had, in 2003, devised training modules to prepare them to give information on health and nutrition, particularly adolescent health, and on the prevention of human trafficking. The groups had also, in just five years, generated visible changes in communities regarding discrimination against girls. Ministries' efforts against such discrimination focused on increasing school enrolment and improving health among girls, including by measures to prevent anaemia and raise the mean age of marriage.

27. **Ms. Khattab**, alluding to the very high rate of illiteracy in India, asked whether self-help groups had all the skills needed to discharge the function of awareness-raising that the Government apparently delegated to them.

28. **Mr. Liwski** wished to know if youth organizations were involved in government projects, particularly health programmes, and whether the budget allocations for primary health care were sufficient.

29. **Ms. Rao** (India) said that public initiatives only really yielded results if they were undertaken in cooperation with self-help groups and that those results were the best proof of those groups' extraordinary dynamism and unfailing commitment. She invited the members of the Committee to visit India to see for themselves what the groups could do. By giving women control over resources, the groups had, in addition, helped to improve resource management on the ground. Lastly, the groups represented a new modus operandi thanks to which women had found a place in village life and felt themselves supported not only by the men in their communities but, very importantly, at the political level.

30. A module for teaching community organizations to work with adolescents to deal with problems had just been completed as part of a national programme aimed at giving adolescent girls essential health and nutritional information and preparing them to be good housewives. The national youth-clubs support programme promoted cultural and sporting activities on the basis of requests from local people.

31. Recent statistics showed that 56 per cent of births were registered, as against only 47 per cent in 1999. The figures were, however, averages and hid considerable differences between States. The authorities took that situation seriously and had simplified registration procedures and took every opportunity, such as Child Days, to highlight the problem. A three-phase programme had been launched for the registration of unregistered children. Together those efforts should further improve the rate of registration.

32. After a long period of stagnation, child mortality, while still worryingly high, was beginning to decline. Over the past three years, the measures needed to tackle that complex problem, which was attributable to a combination of many factors, had been at the centre of public discussions that had largely shaped the recent recommendations in connection with review of the reproductive and child health programme. Among children under 5, two thirds of the deaths occurred during infancy, many of them during the first week of life. Preventing them therefore required, *inter alia*, efforts aimed at mothers, including the combating of anaemia and early marriages and pregnancies. There again the results of awareness-raising by self-help groups were encouraging. Action was also required to strengthen and facilitate access to obstetric care. Increasing the proportion of births in

health facilities, which was still only 36 per cent, should have a positive effect on child mortality, birth registration and maternal mortality, which, at 4 per 1,000 live births, remained too high. At the same time, home delivery needed to be made safer by providing training for village midwives.

33. Among the other priorities were vaccination coverage, which needed to be improved by strengthening the synergies between service providers, and the promotion of breastfeeding. The integrated management of neonatal and childhood illnesses was the subject of numerous discussions with WHO, UNICEF and the Ministry of Health. A pilot strategy in that sphere was being introduced in some 40 districts; training of the trainers was complete, and the results were eagerly awaited. Arsenic pollution was a problem in a small number of States and had prompted the implementation with the participation of UNICEF of a programme to teach people not to use contaminated water sources but to find new ones.

34. **Ms. Chandra** (India) said that after signing the Hague Convention India had begun a review of its international adoption procedures to align them with that instrument. The changes, which were minor, should be finalized soon. Adoption was governed by two laws, one of which concerned adoption by Hindus and the other all other cases of adoption. The coordinating agencies responsible for placing children described those laws' contents in detail to everyone contemplating adoption. When an adoptable child's religion was known, the agencies did all they could to place the child with a family of the same faith. Their priority was, however, to find the child a family within India and, ideally, within its region of origin so as to spare it from culture shock. It was therefore only if, despite thorough searching, no suitable family could be found in India that a child was declared available for international adoption. To prevent unethical conduct by the placement agencies, the fees they could charge families seeking children were capped. It was also expressly provided that siblings must not be separated. The provision in one State to the effect that families could not adopt more than one child of the same sex had been repealed and the new legislation now in force precluded bans of that kind.

35. The children's telephone hotline was a good example of partnership between civil society and the authorities. The central agency in charge of the hotline was the Childline India Foundation; it comprised 11 people and its responsibilities included deciding where the service should be set up, interacting with non-governmental organizations, liaising between decision-makers and interested parties and appraising the service. Local-level coordination was the responsibility of the network of municipal advisory boards. At the lowest level were the call centres, which operated round the clock and were managed locally by public or private organizations, including some from the voluntary sector. The free telephone number was the same countrywide. To identify strengths and weaknesses, the services provided by the hotline had been under constant assessment since the start of the project. The Government had pledged to increase the budget for the project and efforts would be made to improve resource management so as to make the hotline accessible to 100 per cent of children.

36. The Office of the Chief Commissioner for Persons with Disabilities had authority to receive and handle entirely independently complaints from any person or institution claiming to have suffered a breach of the rights of persons with disabilities or discrimination based on disability. After a relatively difficult three-year teething period, the Office had become a genuinely independent monitoring body which had already followed up more than 6,300 complaints and was very active in facilitating access for persons with disabilities to public and other places and buildings.

37. The policy of the Ministry of Education was to educate children with disabilities in ordinary primary schools whenever possible. The teachers were specially trained to meet such children's needs and the schools were equipped for accessibility. The statistics revealed a strong trend towards the integration of children with disabilities in the conventional education system. Only children with severe disabilities were assigned to specialized schools, where they were helped to achieve functional autonomy. In addition, training programmes had been set up for people responsible for dealing with mentally retarded or autistic children.

38. The Ministry of Social Justice and Empowerment had set the share of places in higher and technical education reserved for persons with disabilities at 3 per cent. It awarded 500 scholarships a year to young persons with disabilities who were studying for a master's degree or doctorate.

39. She acknowledged that the number of persons with disabilities was particularly high in India. The Committee would be given later the final results of the 2001 census, a whole section of which was devoted to that question.

40. **Mr. Acharya** (India) said that the best way to resolve the problem of school dropout and absenteeism, whether among pupils or teachers, was to delegate responsibility for such matters to the local education authorities, parents' associations, especially groups of mothers, and teachers' associations. The bill on free and compulsory education provided for the establishment at the local level of committees responsible for studying those questions and informing the competent authorities of developments and parents of their children's progress in school or, as the case might be, truancy.

41. The bill was also intended to correct the factors that had so far hindered the introduction of free and compulsory education, including the assignment of teachers to tasks not connected with teaching such as census-taking, election monitoring or the management of natural disasters.

42. Improving teaching quality and teacher training was a necessity, but India faced a dilemma in that regard, the only options for filling rural teaching posts being to appoint highly qualified teachers, who did not want to live in the countryside and were therefore often absent because they commuted every day, or to appoint worse qualified teachers from the local communities. In practice, the latter solution seemed preferable and more effective. The body responsible for defining the required levels of training for primary and secondary teachers was the National Council for Teacher Education.

43. The bill on free and compulsory education also classified all use of corporal punishment by teachers as professional misconduct.

44. Improving the educational situation of children with disabilities was another urgent need and the Government therefore planned a 50 per cent increase in the budget for their primary-level education. Disabilities would be identified and their prevalence measured countrywide with a view to responding to the problem through measures including the training of some 4 million specialized teachers.

45. The Government intended to set up schools for children in remote rural areas who did not currently have access to education. In time, however, those children would have to go to larger ordinary schools or, if they lived too far away to make the trip every day, to residential schools.

46. Under a very significant programme of aid to poor families, 105 million primary-schoolchildren were given a hot meal every day.

47. **Ms. Aluoch** asked why only seven States had implemented the Juvenile Justice Act that had come into force on 1 April 2001, the objectives of which included the monitoring

at State level of the establishment and functioning of child welfare committees. She wished to know whether the Supreme Court had based its decision of 15 May 2000 on the Juvenile Justice Act, 1986, or on the new Act and whether India had raised the age of criminal responsibility from its previous level of 7 years.

48. **Mr. Liwski** inquired what progress had been made in implementing the support programme for child victims of armed conflicts in Punjab and whether steps had been taken to reintegrate those children in society and in a family environment.

49. He wished to know whether India had machinery for registering complaints, to whom child victims of police violence or of cruel, inhuman or degrading treatment in institutions where they had been placed could complain, whether persons who ill-treated children were prosecuted and whether their victims received help with rehabilitation. He also asked whether the Government had conducted a national campaign against torture.

50. **Ms. Khattab** welcomed India's efforts to combat child labour and asked whether the Government intended to ratify the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182) and to withdraw its reservation to article 32 of the Convention on the Rights of the Child.

51. Observing that children were reduced to slavery in numerous branches of activity, including the silk industry, agriculture and work in family businesses, she asked whether India was considering adopting a human-rights based approach and if there was reason to hope that the rest of the country would follow the example of the State of Kerala, which was planning to ban all forms of child labour.

52. **Ms. Smith** asked whether replacing juvenile courts by juvenile justice boards pursuant to the new Juvenile Justice Act would affect the administration of justice, and in particular whether minors would still be able to have the aid of counsel and whether judges would prefer alternative penalties to custodial sentences.

53. **Ms. Vuckovic-Sahovic** asked what were India's criteria for granting or refusing refugee status, whether the competent authorities' decision was influenced by the person's country of origin and whether refugee children had access to education. She also wished to know whether India was aware of the existence of armed military groups that recruited children.

54. **Mr. Citarella** asked how India intended to enforce the new Juvenile Justice Act in all its States.

55. **Ms. Ortiz** asked how far health and education services took care of street children, of whom, very worryingly, there were thought to be 100 million, and what bodies at the central and local levels were charged with bringing down their numbers.

56. **Mr. Filali** asked what the Government was doing to prevent self-defence groups in Jammu and Kashmir from recruiting adolescents and whether it was looking after children who had been victims of violence in Gujarat in 2002 and 2003.

57. **Mr. Kotrane** asked whether, as the Committee had recommended when examining India's initial report, the country had ratified by the ILO Labour Inspection Convention.

58. **Ms. Sardenberg** pointed out that the Committee had also recommended improving methods of collecting data, especially data concerning slum and low-caste children, victims of sexual or economic exploitation, children with disabilities and children who had been involved in armed conflicts. She asked what was being done to ensure integrated management of the effects of natural disasters in the light of children's particular needs.

59. **Mr. Puri** (India) said that India had signed several ILO Conventions and that its experience in the regard had been positive in some cases and negative in others. For that reason, it no longer signed such instruments until it was certain it would gain by doing so.

60. The main reason why India was not a party to the 1951 Convention relating to the Status of Refugees was that that instrument was based on a very Western concept little suited to the situation of a country like his own, which was very large and had open borders, including with Bhutan and Bangladesh. India nonetheless continued to take in millions of refugees and to discharge its obligations by applying the principle of non-refoulement.

61. The Government was fully aware of the substantial delay in acceding to the Optional Protocols to the Convention on the Rights of the Child and the Optional Protocol to the Convention against Torture. The study of those instruments was, however, at a very advanced stage.

62. The authorities did not recruit children to the armed forces or paramilitary forces, nor, contrary to what some sources claimed, did the Government close its eyes to non-State groups' recourse to such practices.

63. **Mr. Chandramouli** (India) said that, thanks to a series of annual plans that had begun in the early 1990s and had received steadily increasing funding of as much as 6 billion rupees in 2002, the number of working children had, population growth notwithstanding, fallen from 11.5 million in 1991 to less than 10 million in the year 2000. Over 250,000 children had been able to return to primary school or take up vocational training and more and more girls were benefiting from the efforts. By 2007 all children should be attending school. In order better to combat bonded child labour, the Government also did its best to help some parents pay off their debts. It was to be hoped that within the next few years other Indian States would follow the example of Kerala, the first to have officially banned child labour.

64. **Ms. Chandra** (India) said that the Juvenile Justice Act, 2000, was applicable in all States except Jammu and Kashmir, which had its own legislation, but that a shortage of human and financial resources had prevented some States from setting up a sufficient number of child welfare committees and juvenile justice boards. Juvenile justice boards comprised a judge, a child protection professional and a psychologist; at least one of the members had to be a woman. The age of criminal responsibility was still 7, but until age 12 the prime consideration was the child's degree of maturity. All children appearing before a juvenile justice board had legal aid and their parents or guardian could be present at all stages of the proceedings. No minor could be sentenced to death or to life imprisonment.

65. It should be noted that street children were very difficult to reach and to monitor. At present NGOs were the main actors on the ground. The discussions with UNICEF concerning a possible study to, in particular, determine the number of street children had unfortunately proved fruitless, but the Government hoped that the overall measures against poverty would help to reduce the total.

66. **Ms. Ortiz** said that it was essential to tackle the underlying reasons why there were street children, whether that meant eviction in the case of children living in the streets with their parents or domestic violence in the case of children who had fled their homes.

67. **The Chairperson**, speaking as a member of the Committee, requested more information on violence in institutional settings.

68. **Ms. Chandra** (India) said that, notwithstanding the relatively small number of cases, the authorities had undertaken several awareness-raising campaigns aimed in particular at police officers and members of juvenile justice boards. If necessary, penalties were enforced in accordance with the law.

69. **Mr. Krappmann** thanked the delegation for having given a more precise idea of the situation in India and of the progress that had been made. The Committee would refer to a number of points of concern in its concluding observations and it was to be hoped that it and India would keep up a genuine partnership in the interests of a better future for the country's children.

70. **Ms. Rao** (India) said that her Government was firmly resolved to improve children's situation and could only do so through India's economic development.

*The meeting rose at 6.05 p.m.*