



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Sixty-sixth session

### Summary record of the 1886th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 3 June 2014, at 10 a.m.

*Chairperson:* Ms. Sandberg

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*The meeting was called to order at 10 a.m.*

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

*Third and fourth periodic reports of India on the implementation of the Convention on the Rights of the Child (continued) (CRC/C/IND/3-4; CRC/C/IND/Q/3-4 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of India took places at the Committee table.*
2. **Mr. Mezmur** (Country Task Force) asked whether there were any mechanisms in place for monitoring the application of the Juvenile Justice (Care and Protection of Children) (Amendment) Act (“the Juvenile Justice Act”) and whether measures to provide alternatives to imprisonment and multidisciplinary care were available to children in conflict with the law. He also asked whether it was correct that the State party planned to lower the age of criminal responsibility. The delegation should indicate whether the State party planned to reduce the costs of obtaining nationality for child refugees — particularly Sikh and Hindu children from Pakistan and Afghanistan — and whether it intended to become a party to the 1961 Convention on the Reduction of Statelessness. He wished to know when a programme adopted in May 2014 to pay a monthly allowance to all children whose parents were in prison would be implemented and whether children living in prison with their mothers received education and health care. Lastly, he asked whether practices detrimental to the dignity of child rape victims had been discontinued in all regions of the country.
3. **Mr. Joshi** (India) said that the principle of the best interests of the child was taken into consideration in all laws relating to children, including the Juvenile Justice Act.
4. **Ms. Chadha** (India) said that a large number of programmes to combat discrimination against children from vulnerable groups were implemented under the aegis of the National Commission for Minorities and the National Commission for Scheduled Castes and Tribes. Study grants were awarded to vulnerable children and literacy programmes were in place. Special courts responsible for handling matters concerning members of scheduled castes and tribes had been introduced in 31 states and union territories and a public prosecutor had been appointed to oversee them. In addition, several states had opened police stations specifically for caste and tribe members to lodge complaints. In 2008, a multisectoral development programme had been launched to meet minorities’ needs better in terms of education, employment, sanitation and housing.
5. **Mr. Gastaud** (Country Task Force) asked whether representatives of minorities were involved in the design of programmes to promote the rights of minority groups.
6. **Mr. Joshi** (India) replied that the programmes were designed by the representatives themselves, in close consultation with members of the communities concerned.
7. **Mr. Khera** (India) said that there were two programmes promoting the health of adolescents, the first being the Rajiv Gandhi Scheme for Empowerment of Adolescent Girls, known as “Sabla”, which operated in 205 districts and aimed to raise awareness among girls between 11 and 18 years of age about such issues as sexual health, hygiene and nutrition. The second programme focused in addition on maternal health, on preventing drug dependence and HIV/AIDS and on countering domestic violence. It reached its target audience directly through social media and by establishing local health centres (*Anganwadi* centres) throughout India.
8. **Ms. Wijemanne** (Country Task Force) asked whether adolescent girls from remote regions were also provided with sexual and reproductive health services.

9. **Mr. Joshi** (India) said that the aim of the Sabla scheme was to help adolescent girls who had dropped out of school to integrate into working life, adopt good dietary habits and look after their health. The programme had been introduced in several hundred *Anganwadi* centres in villages, covered a third of the country's districts and was managed according to the principle of peer education, with the support of State-sponsored non-governmental organizations (NGOs). If the girls needed more extensive care, they were referred to district health centres, which were all located within 10 kilometres from each village. Assessments of the Sabla programme, which had a five-year budget of 230 million rupees, had shown that it was effective. A similar scheme for boys would be introduced soon.
10. **Ms. Mathur** (India) said that respect for children's opinions was a central pillar of the new policy on childhood and that the same principle should form the basis for all decisions concerning children, especially in relation to juvenile justice.
11. **Mr. Gastaud** asked whether all schools had introduced suggestion boxes and whether children's opinions were taken into account within families.
12. **Mr. Joshi** (India) said that most schools had suggestion boxes allowing children to address anonymous complaints to the competent authorities.
13. **Ms. Wijemanne** asked what the State party was doing to prevent marginalized children and school dropouts from becoming victims of sexual or labour exploitation.
14. **Ms. Singh** (India) said that many schools had introduced school councils, which helped pupils to express their views on topics that interested them, and that, under the Nehru Yuva Kendra Sangathan scheme, pupils could take part in developing local policies and make their voices heard in the decision-making process.
15. **Ms. de Jesús Oviedo Fierro**, supported by Ms. Herczog (Country Task Force Coordinator), asked how many children were taking part in such initiatives, what budget had been allocated and how the initiatives were viewed by the children.
16. **Ms. Singh** (India) replied that the initiatives were funded by the Ministry of Youth Affairs and Sports and that the Committee would be informed at a later date of the exact figures for the amounts allocated.
17. **Mr. Joshi** (India), said that, regrettably, local authorities were not legally bound to take children's opinions into account and that a mechanism should be instituted to make it compulsory to do so. Any suggestion by the Committee in that regard would be welcome.
18. **Ms. Singh** (India) said that, in recent years, India had made considerable progress with the registration of births; almost 85 per cent of births were currently registered, compared with 50 per cent in 2003. Some states had even achieved 100 per cent registration. Births could be registered in hospitals, primary health-care centres or community health centres, thanks to the introduction of a computerized system that operated alongside a more traditional system suited to rural conditions. As some social benefits were paid only on presentation of a birth certificate, families had a real motivation to register births. The system was backed up by extensive information campaigns and substantial resources, thanks to which India was on course to reach a 100 per cent birth registration rate.
19. **Ms. Chadha** (India) said that the authorities were not aware of any children lodging complaints that they had been forced by their parents to change religion. Freedom of conscience and religion was enshrined in the Constitution.
20. **Mr. Gastaud** pointed out that the law prohibiting children from converting to another religion was at variance with the Constitution.

21. **Ms. Chadha** (India) said that India considered minors not to be capable of taking decisions of which they were not necessarily able to gauge the full consequences. It was solely for the protection of children against influences such as potential exploitation that the legislature had reserved to adults the exercise of certain rights, such as the right to convert or to marry.

22. **Ms. Herczog** asked for further information on the alternative care system.

23. **Mr. Joshi** (India) said that, under the Juvenile Justice Act, every district was required to have a juvenile justice body and a child welfare committee. Anybody knowing of a situation in which a child was deprived of parental care was obliged to notify the child welfare committee, which took due account of the best interests of the child to decide on the most appropriate form of alternative care. Child welfare committees favoured keeping children in the family, as far as possible, with the provision of financial assistance as required. The State was thus trying to develop alternative solutions to institutionalization. For example, fostering arrangements involved the payment of a monthly allowance either to the parents themselves or, where the parents were unable to fulfil their role, to members of the extended family. All institutions for children, whether managed by the State or by an NGO, were required to be registered, to obtain a licence and to comply with the standards set out in the Juvenile Justice Act. Regular monitoring to that end was carried out by district administration officials. The State financed a large number of such institutions through the Integrated Child Protection Scheme. Minors in conflict with the law were placed in separate institutions from those that took in orphans and other children deprived of parental protection.

24. **Ms. Mathur** (India) added that child welfare committees had already been set up in almost every district.

25. **The Chairperson**, speaking as a member of the Committee, noted that many parents took the decision to place their children in an institution themselves and asked whether parenting received any non-financial support.

26. **Mr. Joshi** (India) said that it did. Each district had three or four social workers whose primary mission was to provide support and advice for families in need. To make such work more attractive, it had recently been decided to raise social workers' salaries by a factor of two and a half. States also had budgets that they had complete discretion to use for dealing with unforeseen circumstances in the protection of children. One state, for example, had used its funds to pay for the operation of a child living in an institution who was suffering from a heart condition.

27. **Ms. Chadha** (India) said that a child could bring a case to a child welfare committee but that any legal proceedings must be instigated by a representative of the child on the child's behalf. The right to privacy was enshrined in the Constitution and had been reaffirmed as an element of the right to life in Supreme Court rulings.

28. **Ms. Singh** (India) said that combating cybercrime was a priority for the authorities, which had devoted considerable resources to that end, both financially and in terms of capacity-building. Almost all districts had specially trained police officers and, on the police website, there was a page aimed at children, setting out the basics of Internet security. Various awareness-raising campaigns were also conducted for children, parents and Internet users in general. The Criminal Code contained provisions on child pornography and the 2008 revision of the 2000 Information Technology Act criminalized acts such as hacking, online harassment and the publishing and transmitting of material depicting children in sexually explicit acts in electronic form.

29. **Ms. Mathur** (India) said that the Act on the Protection of Children from Sexual Offences, which had come into force in 2012, targeted all forms of sexual assault (with or

without penetration), sexual harassment, child pornography and trafficking for purposes of sexual exploitation, and provided for a wide range of aggravating circumstances. Punishment for such an offence was more severe if it was committed by a person in a position of trust or abusing a position of authority, by a group of people, or against a child aged less than 12 or a child with disabilities; or if it caused disability. The Act made it an offence to fail to report sexual violence. It also established the obligation not to disclose the identity of child victims and provided for the possibility for all victims to avail themselves of the services of an interpreter and a specialized teacher during any inquiry or trial and to receive compensation.

30. **Mr. Joshi** (India) said that all police academies and military schools had been informed of the contents of the Act on the Protection of Children from Sexual Offences, as had State administration services, which were required to provide the requisite training to members of staff.

31. **Mr. Mezmur**, after noting that sexual violence against girls was extremely common in the State party, said that he was troubled by the inappropriate reaction of some politicians to such offences and asked what measures the State party was taking to help change the mentality and attitudes prevalent in society.

32. **Ms. Wijemanne** requested information on the follow-up to complaints in sexual violence cases and on the measures taken against the perpetrators.

33. **Ms. Singh** (India) assured the Committee that the Indian Government shared its concern on what was a very serious issue. The Justice Verma Commission, which had been set up in December 2012 following a gang rape in New Delhi that had triggered a wave of demonstrations nationwide, had issued a report in January 2013 recommending, in particular, that the Criminal Code should be amended and that access to the courts should be made easier for victims. The Government had set about creating a more welcoming environment in police stations in order to encourage the reporting of sexual violence, especially by establishing contact areas system-wide for women and children, which were staffed by specially trained police officers. Any police officer who refused to register a complaint faced sanctions. The rise in the number of sexual offences recorded was undoubtedly due to those initiatives. Furthermore, pursuant to amendments to the criminal legislation in 2013, rapists incurred the death penalty for a repeat offence or for gang rape.

*The meeting was suspended at 11.45 a.m. and resumed at 12.05 p.m.*

34. **Ms. Sekhar** (India) said that the 2009 Right of Children to Free and Compulsory Education Act expressly prohibited all forms of corporal punishment at school. The Government had introduced mechanisms allowing children to lodge any kind of complaint with the National Commission for Protection of Child Rights, especially if they were victims of corporal punishment or harassment in schools.

35. **Mr. Joshi** (India) said that the Indian Government was aware of the crucial role of civil society in the implementation of welfare programmes and that the number of NGOs and non-profit organizations had increased significantly over the previous decade. The Government was their main source of funding and they were required to be accountable for their management. If, as the Committee had suggested, some NGOs representing minorities had been closed down, it was doubtless because they had violated legislation governing the running of civil society organizations. He requested the Committee to tell the delegation the names of the NGOs in question so that the delegation could provide it with further information on the matter.

36. **Mr. Reddy** (India) said that the Juvenile Justice Act currently permitted mild smacking of children, provided that it was “with good intention”. The Government intended

to amend the law and criminalize corporal punishment, namely the intentional subjection of a child to physical or psychological suffering for disciplinary purposes.

37. **The Chairperson** said he hoped that, when drawing up a new version of the law, the State party would take into account the view of the Committee, which considered that no form of physical violence was acceptable.

38. **Ms. Sekhar** (India) said that, to make it easier to adopt orphans, abandoned children and children in State care, the Juvenile Justice Act provided for the establishment in each district of specialist adoption agencies, with financial support from the Integrated Child Protection Scheme. The agencies kept up-to-date databases on prospective adoptive parents and conducted the procedure for placing children deemed by a child welfare committee to be legally free for adoption. Legally binding guidelines on adoption, approved in 2011, gave priority to adoptions within India. The introduction of a centralized records system should help to speed up the procedure for intercountry adoption. To prevent the adoption of children in contravention of the law on intercountry adoption, all specialized agencies and all establishments responsible for child welfare were registered and subjected to regular checks. In addition, awareness-raising campaigns had been carried out across the country to discourage illegal adoption.

39. **Mr. Joshi** (India) said that the Government intended to make the Central Adoption Resource Authority, currently registered as an association, a Government agency.

40. **Ms. Chadha** (India) said that adoption was permitted only under Hindu law on personal status; under the law of the Muslim, Parsi and Christian communities it was not authorized. Nevertheless, the section of the Juvenile Justice Act relating to adoption made no reference to the religion of the future adoptive parents and therefore anybody was allowed to adopt, irrespective of their religion.

41. **Mr. Joshi** (India) said that the policy promoting the care and education of preschool children, introduced in September 2013, aimed to offer 160 million children aged 5 years or under equal opportunities for access to preschool education. The Integrated Child Development Services programme, under which the Government implemented the policy, particularly focused on children under 3 years of age, pregnant women and nursing mothers and aimed at enhancing care for seriously underweight children. Parents were not obliged to register their children in *Anganwadi* centres but were strongly encouraged to do so.

42. **Ms. Sekhar** (India) said that centres for abandoned babies provided basic nutritional needs and protection until the babies were placed for adoption. The Ministry of Health was currently preparing a bill on surrogacy, under which a woman could become a surrogate mother no more than two times, in order to protect the child's right to health. The Government had also adopted guidelines, one of which required foreign couples wishing to use a surrogate mother in India to supply proof that the child would be authorized to go to their country of origin, acquire their nationality and be recognized as their biological child. Lacking such documents, the couple concerned would be refused an entry visa to India.

*Initial report of India on the implementation of the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/IND/1; CRC/C/OPAC/IND/Q/1 and Add.1)*

43. **Mr. Madi** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) asked whether the State party planned to withdraw the declaration it had made when acceding to the Optional Protocol and raise the age of voluntary recruitment into the Armed Forces to 18 years of age and also whether the parents' consent was currently required for the recruitment of minors. Noting that the age recorded on the school-leaving or school graduation certificate was often approximate, he asked whether the competent authorities were sure that no minors were sent to zones of

military operations and whether any law prohibited minors' participation in hostilities. He wished to know the minimum age for admission to the police forces; whether that age varied from state to state; and the required age for joining a village defence committee. He also asked whether the State party's legislation prohibited and criminalized underage recruitment by non-State armed groups. The delegation should tell the Committee what the results had been of the Bal Bandhu pilot scheme implemented across five states in 2009; whether there were plans to extend it to other states; and whether it was true that, in Jammu and Kashmir, the authorities continued to detain minors under the Public Security Act, falsifying their age. The delegation might also explain the scope of the Armed Forces (Special Powers) Act, which in some parts of the country, and particularly in "disturbed areas", seemed to take precedence over other laws, such as the Juvenile Justice Act. The delegation should also indicate whether any children had already been convicted of offences committed in the course of operations by non-State armed groups and whether India prohibited the export of arms, including small arms and light weapons, to countries where children were, or could be, recruited or involved in armed conflicts or hostilities.

44. **Ms. Wijemanne** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) asked whether there was a database containing information on children used by non-governmental forces and whether the families of such children had access to a mechanism to report that their child had been forcibly conscripted, wounded or killed. She wished to know whether schools always remained open in disturbed areas; whether children were arrested for involvement in internal conflicts or were prosecuted for taking part in armed operations against Indian forces; and whether it was true that children sometimes served as human shields and that some had gone missing.

*Initial report of India on the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/IND/1; CRC/C/OPSC/Q/1 and Add.1)*

45. **Ms. Wijemanne** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) asked whether the State party had set up a database on children who were victims of violations under the Optional Protocol; whether it was true that India was at the same time a country of origin, a destination country and a transit country for human trafficking; and whether children were victims of trafficking for prostitution, work and pornography, for the sale of body organs or for sexual exploitation. She also asked whether children were employed to cut diamonds and polish precious stones. She wished to know whether the State party had a national action plan ready for implementing the Optional Protocol and, if so, which body was officially in charge of coordinating the implementation activities and whether it was allocated sufficient resources. Welcoming the fact that new violations had been defined under the Criminal Code, including rape committed by a person in a position of trust, she asked whether there was a confidential complaints mechanism to which rape victims could report incidents. She also wished to know whether victims of offences under the Optional Protocol had access to rehabilitation and reintegration services.

46. **Mr. Mezmur** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) asked what measures the State party had taken to prevent all the offences covered by the Protocol. He also wished to know whether, to combat such crimes at the regional level, the State party collaborated with neighbouring countries, such as Bangladesh and Nepal, and whether it had signed extradition agreements with them. Lastly, he asked what had become of the 3,000 or so abandoned children taken into centres for abandoned babies since 2000; whether they had been adopted or placed in national centres; and whether any of them might have been subjected to illegal activities, such as trafficking.

*The meeting rose at 1 p.m.*