



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### **Concluding observations on the consolidated third and fourth periodic reports of India\***

1. The Committee considered the consolidated third and fourth periodic reports of India (CRC/C/IND/CO/3-4) at its 1885 and 1886 meetings (see CRC/C/SR.1885 and 1886), held on 2 and 3 June 2014, and adopted, at its 1901<sup>st</sup> meeting, held on 13 June 2014, the following concluding observations.

#### **I. Introduction**

2. The Committee welcomes the submission of the consolidated third and fourth periodic reports of the State party and the written replies to its list of issues (CRC/C/IND/Q/3-4/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses great appreciation for the positive dialogue held with the multisectoral delegation of the State party.

#### **II. Follow-up measures undertaken and progress achieved by the State party**

3. The Committee welcomes the adoption of the following legislative measures:

- (a) The National Food Security Act, on 10 September 2013;
- (b) The Protection of Children from Sexual Offences Act, on 14 November 2012; and
- (c) The Right of Children to Free and Compulsory Education Act, in August 2009.

4. The Committee also notes with appreciation the ratification of:

- (a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict, in November 2005;
- (b) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in August 2005;

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\* Adopted by the Committee at its sixty-sixth session (26 May – 13 June 2014).

(c) The Convention on the Rights of Persons with Disabilities in October 2007; and

(d) The Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children as well as the Protocol against the Smuggling of Migrants by Land, Sea and Air, which supplement the Convention against Transnational Organized Crime, in May 2011.

5. The Committee also welcomes the following institutional and policy measures:

(a) The National Early Childhood Care and Education Policy, on 27 September 2013; and

(b) The National Policy for Children, on 26 April 2013.

6. The Committee notes as positive the standing invitation extended by the State party to United Nations special procedures in 2011.

### **III. Main areas of concern and recommendations**

#### **A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)**

##### **The Committee's previous recommendations**

7. The Committee, while welcoming the State party's efforts to implement the Committee's concluding observations adopted in 2004 on the State party's second periodic report (CRC/C/15/Add.228), notes with regret that some of the recommendations contained therein have not been fully addressed.

**8. The Committee urges the State party to take all necessary measures to address those recommendations included in the concluding observations of the second periodic report under the Convention that have not been implemented or insufficiently implemented, particularly those related to non-discrimination, adoption, harmful practices, sexual exploitation, education, health, child labour and the administration of juvenile justice.**

##### **Declaration on article 32**

9. The Committee reiterates that it deems the State party's declaration on article 32 to be unnecessary.

**10. The Committee urges the State party to consider withdrawing its declaration on article 32 of the Convention, in line with the Committee's previous recommendations (CRC/C/15/Add.115, para. 66 and CRC/C/15/Add.228 para. 8).**

##### **Legislation**

11. The Committee notes that since the consideration of its second periodic report (CRC/C/93/Add.5), the State party has adopted or amended a number of federal laws to strengthen the legislative framework for children's rights. However, the legislation still does not cover the full scope of the Convention. The Committee is concerned that the different levels of authority and competencies within the State party's federal structure have resulted in a differentiated application of the legislation on children's rights and there is fragmentation and inconsistencies in the implementation of child rights across the State party.

12. **The Committee recommends that the State party undertake a revision of all its legislation related to children to ensure the coherent and consistent harmonization of the legislative framework on children's rights at the federal and state levels with the principles and provisions of the Convention and that they are applied in the same way to all children in the territory of the State party.**

#### **Comprehensive policy and strategy**

13. The Committee notes the adoption of the National Policy for Children in 2013. However, the Committee is concerned that:

- (a) The National Plan of Action to implement the policy is yet to be developed;
- (b) There is a lack of information with respect to progress at the state and district levels concerning the development of their respective action plans, in line with the National Policy for Children, as well as of resources allocated to ensure the effective implementation of the policy.

14. **The Committee urges the State party to:**

- (a) Prioritize the development of the National Plan of Action and similar plans at the state and district levels, which contain the elements enabling the application at all levels of the National Policy for Children;**
- (b) Ensure the timely allocation of sufficient human, technical and financial resources for the effective operationalization of the National Policy for Children**
- (c) Promote and facilitate the active involvement of children and youth, parents, NGOs and other interested and relevant bodies.**

#### **Coordination**

15. The Committee notes that the State party strengthened the authority and coordination role of the former Department of Women and Child Development by upgrading it into a full-fledged ministry that is the Ministry of Women and Child Development (MWCD). This included increasing its financial and human resources, as well as the establishment of the National Coordination and Action Group (NCAG) mandated to monitor the implementation of the National Policy for Children. However, the Committee is concerned that these measures have not yet led to better coordination among ministries and departments at all levels to implement policies and programmes related to children.

16. **The Committee recommends that the State party strengthen its efforts to ensure that the Ministry of Women and Child Development (MWCD) has sufficient authority to coordinate all activities related to the implementation of the Convention at the inter-ministerial level as well as at the federal and state levels, and that the NCAG functions effectively at all levels. The State party should ensure that the MWCD and the NCAG are provided with the necessary human, technical and financial resources for its effective operation.**

#### **Allocation of resources**

17. The Committee notes the efforts of the State party to improve the planning and budgetary processes as well as to increase the budget allocated to schemes and programmes for children. The Committee is however concerned that budgetary allocations do not adequately take into consideration child protection needs. There is also mis-management of allocated resources, a problem which is exacerbated by a high level of corruption, and the lack of effective monitoring and evaluation systems.

18. In the light of its Day of General Discussion in 2007 on “Resources for the Rights of the Child – Responsibility of States” and with emphasis on articles 2, 3, 4 and 6 of the Convention, the Committee recommends that the State party:

(a) Increase substantially the allocations in all social sectors, in particular education, health and child protection, including earmarked resources for children at the federal and state level;

(b) Establish a budgeting process, which includes a child rights perspective and specifies clear allocations to children in the relevant sectors and agencies, including specific indicators and a tracking system;

(c) Establish mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of the Convention at the federal and state level; and

(d) Take all necessary measures to prevent and combat corruption.

#### **Data collection**

19. The Committee is particularly concerned at the scarcity of available data on children between 15 and 18 years and limitations in the type of data collected, which does not cover all areas of the Convention.

20. In light of its general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child, the Committee urges the State party to expeditiously improve its data collection system. The data should cover all areas of the Convention and should be disaggregated by age, sex, geographic location, ethnic, national and socioeconomic background in order to facilitate analysis of the situation of all children, particularly those in situations of vulnerability. Furthermore, the Committee recommends that the data and indicators be shared among the ministries concerned and used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention. In this context, the Committee also recommends that the State party strengthen its technical cooperation with, among others, UNICEF.

#### **Independent monitoring**

21. The Committee notes the establishment in 2007 of the National Commission for the Protection of Child Rights (NCPCR). This also included the establishment of Commissions at the state level and also in the Union Territories, mandated to, *inter alia*, receive complaints from children on violations of their rights. The Committee is, however, concerned at the lack of a procedure for the selection of members of Commissions fully in line with the Paris Principles, inadequate budgetary allocations, lack of autonomy to comply with their mandate as independent bodies as well as that such State Commissions do not yet exist in all states.

22. Taking into account the Committee’s general comment No. 2 (2002) on the role of independent human rights institutions, the Committee recommends that the State party:

(a) Ensure the independence of the NCPCR and all other Commissions at all levels, including with regards to their funding, mandate and immunities, so as to ensure full compliance with the Paris Principles. To that effect, the Committee recommends that the State party strengthen technical cooperation with, among others, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UNICEF; and

(b) **Expedite the establishment of pending Commissions throughout its territory.**

#### **Dissemination and awareness-raising**

23. The Committee notes the efforts of the State party to disseminate and raise awareness on the Convention. However, there is concern at the low level of awareness of the Convention among the public in general and children in particular, and the lack of assessment of the measures taken.

24. **The Committee reiterates its previous recommendation and urges the State party to strengthen its efforts to disseminate the Convention and sensitize the public in general and children in particular about children's rights through awareness raising programmes. This should include all forms of communication such as media as well as targeted interventions to raise awareness among the most socio-economically disadvantaged regions, with a view to ensuring that the public in general will recognize children as subjects of rights. It also recommends that the State party take all necessary measures to ensure the availability of child-friendly versions of the Conventions in local languages.**

#### **Training**

25. The Committee is concerned that the State party's efforts to provide training and enhance the capacity on children's rights have proven to be insufficient to cover the demand of all professionals working for and with children.

26. **The Committee reiterates its previous recommendations and urges the State party to strengthen its efforts to provide all professionals working for and with children with adequate and systematic training in children's rights. This includes in particular law enforcement officials, judges, prosecutors, teachers, media, health workers, social workers, personnel working in all forms of alternative care and migration authorities. In this respect, the State party should, among others, undertake awareness raising campaigns, elaborate specific manuals, conduct capacity building workshops and incorporate child rights in school curricula.**

#### **Cooperation with civil society**

27. The Committee notes with appreciation the cooperation of the State party with non-governmental organizations (NGOs) in various areas of service delivery. However, it is concerned that such cooperation is not systematic and that the State party appears to delegate the provision of services for children to NGOs as contractors appointed by the state, while not monitoring and evaluating the quality of the services delivered.

28. **The Committee calls on the State party to systematically involve communities and civil society actors, including all non-governmental and children's organizations, in planning, implementing, monitoring and evaluating all State supported policies, plans and programmes related to children's rights. It also recommends that the State party undertake measures to effectively monitor the quality and coverage of services provided for children by NGOs.**

#### **Children's rights and the business sector**

29. The Committee is concerned about the forced displacement of a high number of children and their families and the loss of their ancestral lands because of business operations. This particularly concerns children living in the area of the large scale Posco steel plant and port in the state of Odisha. There is also lack of information about

safeguards in place to guarantee compliance with the Convention and international human rights standards.

30. **In light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights and the United Nations "Protect, Respect and Remedy" Framework, accepted unanimously in 2008 by the Human Rights Council, the Committee recommends that the State party establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to children's rights. The Committee further recommends that the State party:**

(a) **Establish a clear regulatory framework for the industries operating in the State party to ensure that their activities do not negatively affect human rights or endanger environmental and other standards, especially those relating to children's rights;**

(b) **Ensure effective implementation by companies, especially industrial companies, of international and national environment and health standards, effective monitoring of implementation of these standards and appropriately sanctioning and providing remedies when violations occur, as well as ensure that appropriate international certification is sought; and**

(c) **Require companies to undertake assessments, consultations, and full public disclosure of the environmental, health-related and human rights impacts of their business activities and their plans to address such impacts.**

## **B. General principles (arts. 2, 3, 6 and 12 of the Convention)**

### **Non-discrimination**

31. The Committee is concerned at the disparity in access to education, health care, safe water and sanitation and other social services and enjoyment of the rights enshrined in the Convention among different groups of children as well as the persisting discrimination against children from Scheduled Castes and Scheduled Tribes, children with disabilities, children with HIV/AIDS as well as asylum-seeking and refugee children.

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

(a) **Adopt and implement a comprehensive strategy addressing all forms of discrimination, including multiple forms of discrimination against all categories of children in marginalized and disadvantaged situations, ensure that it has adequate human, financial and technical resources and implement it in collaboration with a wide range of stakeholders and involving all sectors of society so as to facilitate social and cultural change; and**

(b) **Ensure that children who are in marginalized or disadvantaged situations, such as children from Scheduled Castes and Scheduled Tribes, children with disabilities, children with HIV/AIDS and asylum-seeker and refugee children, have access to basic services and enjoy their rights under the Convention. To this end adopt adequate programmes and assess their results.**

33. The Committee is deeply concerned about the pervasive discrimination against girls and women in the State party and the persistent patriarchal attitudes and deep-rooted stereotypes and practices that perpetuate discrimination against girls. The Committee is further concerned that due to long-standing traditions and cultural influences that perpetuate boy preference and unequal status of girls, sex-selective abortions, female infanticide and

abandonment of girls remain widespread, resulting among others in a high male-to-female sex ratio.

34. **The Committee urges the State party to adopt a comprehensive approach to take effective and systematic action to prevent and combat social, cultural and economic discrimination against girls and women, including its root causes, social and institutional norms and practices that are inconsistent with the provisions of the Convention and that perpetuate discrimination against girls. The Committee further recommends that the State party:**

**(a) Take urgent measures to ensure the achievement of its sex ratio target (950 girls/1000 boys) in line with the 12<sup>th</sup> National Five Year Development Plan;**

**(b) Take immediate legal, policy and awareness-raising measures to prevent female infanticide and abandonment of girls, including by addressing factors that reinforce cultural norms and practices that discriminate against girls; and**

**(c) Ensure the effective implementation of the Pre-Conception and Pre-natal Diagnostic Techniques Act so as to prevent sex-selective abortions and strengthen regulatory mechanisms.**

#### **Best interests of the child**

35. While noting that the National Policy for Children (2013) incorporates the principle of the best interests of the child as a guiding principle in all administrative and judicial proceedings, policies and programmes related to children, the Committee is concerned at the lack of detailed information on measures taken to ensure that in practice the right of children to have their best interests taken as a primary consideration is consistently applied by professionals working for and with children in all areas affecting them.

36. **In light of its general comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party:**

**(a) Develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration. Such procedures and criteria should be disseminated to courts of law, administrative authorities and legislative bodies, public and private social welfare institutions, as well as traditional and religious leaders and the public at large; and**

**(b) Establish effective monitoring and evaluation procedures in this regard.**

#### **Respect for the views of the child**

37. The Committee welcomes the initiatives of the State party to increase children's participation such as the Child Reporters Initiative as well as its efforts to increase children's participation in civil proceedings affecting their rights and well-being. However, the Committee is concerned that children are generally not perceived as rights holders by society and that their participation in the public sphere and opportunities to have their voices heard in the family, schools, community and central level is insufficient.

38. **In light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party take measures to strengthen this right in accordance with article 12 of the Convention. The Committee further recommends that the State party:**

**(a) Take measures to ensure the effective implementation of legislation recognizing the right of the child to be heard in relevant legal proceedings, including**

by establishing systems and/or procedures for social workers and courts to comply with the principle;

(b) Conduct research to identify the issues that are most important to children, to hear their views on those issues, to find out how well their voices are heard in family decisions affecting their lives and the channels through which they currently and potentially can have the most influence on national and local decision-making;

(c) Develop toolkits for public consultation on national policy development to standardize such consultation at a high level of inclusiveness and participation, including consulting with children on issues that affect them; and

(d) Conduct programmes and awareness-raising activities to promote the meaningful and empowered participation of all children within the family, community and schools, including within student council bodies, with particular attention to girls and children in vulnerable situations and ensure regular assessment and evaluation of these programmes and activities.

## C. Civil rights and freedoms (arts. 7, 8, and 13-17)

### Birth registration

39. The Committee expresses its concern at the low level of birth registration in general as well as at disparities in the rates of birth registration across the territory of the State party and the insufficient awareness among the relevant authorities and the population regarding the importance of universal birth registration. It is also concerned at the discordance between the rate of birth registration and the issuance of birth certificates.

40. The Committee strongly urges the State party to:

(a) Expedite the adoption of the amendments to the Registrations of Births and Deaths Act (1969), make it accessible to the population, and guarantee both birth registration and the prompt issuance of a birth certificate;

(b) Take all necessary measures to increase the level of birth registration, for example by establishing mobile registration offices in particular in rural areas, and by undertaking a new campaign with a view to registering all children who have not yet been registered and are deprived of a birth certificate; and

(c) Promote awareness of the importance of birth registration among parents and relevant authorities through regular mass campaigns, providing information on the procedures for birth registration, and on the rights and entitlements derived from the registration.

### Right to identity

41. The Committee is deeply concerned about the operation of Cradle Baby Reception Centres that allow for the anonymous abandonment of children in several regions of the State party, which is in violation of, inter alia, articles 6 to 9 and 19 of the Convention.

42. The Committee urges the State party to take all necessary measures to end the practice of anonymous abandonment of children and to strengthen and promote alternatives as soon as possible. Furthermore, the Committee urges the State party to increase its efforts to address the root causes that lead to the abandonment of infants, including by providing family planning services and adequate counselling and social support for unplanned pregnancies and the prevention of abandonment due to gender or disability, or lack of acceptance of children born out of wedlock.



### Nationality

43. The Committee is concerned about the statelessness of children born in villages situated in border areas between the State party and Pakistan, such as children belonging to the Kutchi community and the consequent limitation of their rights in all areas covered by the Convention.

44. **The Committee urges the State party to take all necessary measures to provide children belonging to these communities with a nationality in line with article 7 of the Convention and consider ratifying the Convention relating to the Status of Stateless Persons.**

### Freedom of thought, conscience and religion

45. The Committee is concerned that, while the Constitution of the State party guarantees the right to freedom of religion, children are not allowed, according to the law, to choose a religion different to their parents.

46. **The Committee recommends that the State party take all appropriate measures in order to ensure that every child, whatever his or her parents' religion is, has the right to enjoy freedom of religion.**

## D. Violence against children (arts. 19, 24, para.3, 28, para. 2, 34, 37 (a) and 39)

### Corporal punishment

47. The Committee notes the prohibition of corporal punishment by law in all educational and care institutions. However, it remains concerned that:

- (a) Such prohibition in educational institutions only applies to children between 6 and 14 years;
- (b) Corporal punishment is still lawful in non-institutional care settings;
- (c) Corporal punishment as a disciplinary measure and as sentence for a crime is not prohibited throughout the territory of the State party; and
- (d) Despite the efforts of the State party, corporal punishment continues to be widely used within the family, alternative care settings, the school and within the penal system.

48. **With reference to the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and/or general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party:**

- (a) **Explicitly prohibit all forms of corporal punishment against children under 18 in all settings throughout its territory;**
- (b) **Introduce comprehensive and continued public education, awareness-raising and social mobilization programmes, involving children, families, communities, traditional and religious leaders, on the harmful effects, both physical and psychological, of corporal punishment, with a view to changing the general attitude towards this practice;**

(c) **Ensure that legal proceedings are systematically initiated against those responsible for ill-treating children, including that those responsible are duly prosecuted;**

(d) **Promote positive, non-violent and participatory forms of child-rearing and discipline; and**

(e) **Strengthen existing complaints mechanism with a view to ensuring confidentiality and child-friendliness.**

#### **Abuse and neglect**

49. The Committee reiterates its great concern regarding reports of widespread violence, abuse, including sexual abuse, and neglect of children in the State party (CRC/C/15/Add.228 para. 50). This includes family settings, alternative care institutions, schools, and the community. It expresses its serious concern at:

(a) The non-criminalization of sexual abuse if committed to married girls over the age of 15 under the Criminal Law (Amendment) Act (2013) and which is inconsistent with the Protection of Children from Sexual Offences Act (2012);

(b) Data indicating that one in three rape victims in the State party is a child and that 50 per cent of the abusers are persons known to the child or in a position of trust and responsibility;

(c) The fact that most cases of child sexual abuse are not reported due to fear of social stigma as well as at the lack of information available on the rate of prosecutions of the cases reported; and

(d) The inadequacy of child-sensitive treatment and professional examination services for child victims of sexual abuse.

50. **The Committee, in line with its previous concluding observations (CRC/C/15/Add.267, para. 52), urges the State party to:**

(a) **Ensure that all forms of sexual abuse of girls under 18 years of age, including marital rape, are fully criminalized.**

(b) **Further strengthen and promote awareness-raising and education programmes, including campaigns, with the involvement of children, in order to formulate a comprehensive strategy to prevent and combat child abuse, including physical, sexual and emotional abuse, taking the gender dimension into account;**

(c) **Establish a national database on all cases of violence against children with special emphasis on sexual abuse and corporal punishment in all settings, in particular schools, and undertake a comprehensive assessment of the extent, causes and nature of such violence;**

(d) **Establish mechanisms, procedures and guidelines to ensure mandatory reporting all of cases of child sexual abuse and take necessary measures to ensure the proper investigation, prosecution and punishment of perpetrators; and**

(e) **Conduct awareness-raising activities to prevent child sexual abuse and respond to the stigmatization of victims of sexual abuse. It is important to have an effective reporting system, which is accessible and child-friendly.**

#### **Harmful practices**

51. The Committee is deeply concerned at the high prevalence of child marriages in the State party, despite the enactment of the Prohibition of Child Marriage Act (PCMA, 2006). It is further concerned at barriers impeding the full implementation of the PCMA, such as

the prevalence of social norms and traditions over the legal framework, the existence of different Personal Status Laws establishing their own minimum age of marriage applicable to their respective religious community as well as the lack of awareness about the PCMA by enforcement officers. It is also concerned about the prevalence of other harmful practices against girls such as dowry and devadasi.

**52. The Committee urges the State party to ensure the effective implementation of the Prohibition of Child Marriage Act (PCMA, 2006), including by clarifying that the PCMA supersede the different religious-based Personal Status Laws. It also recommends that the State party take the necessary measures to combat dowry, child marriage and devadasi including by conducting awareness-raising programmes and campaigns with a view to changing attitudes, as well as counselling and reproductive education, to prevent and combat child marriages, which are harmful to the health and well-being of girls.**

#### **Helpline**

53. The Committee notes that a 24 hours helpline for children is being run by the State party in collaboration with Childline India Foundation, but is concerned that it is not accessible to all children at a national level.

**54. The Committee recommends that the State party ensure the availability free of charge of the 24-hour helpline to all children at all levels, national, state and district level. It further recommends that the State party promote awareness as to how children can access the helpline; provide the necessary human, technical and financial resources for the effective functioning of the service; and ensure feedback including advice and counseling, information on referral services and rescue operations when necessary.**

### **E. Family environment and alternative care (arts. 5, 9-11, 18 (paras. 1 and 2), 20-21, 25 and 27 (para. 4))**

#### **Children deprived of a family environment**

55. While welcoming the National Early Childhood Care and Education Policy of 2013, which would enable parents to take better care of young children, the Committee is concerned that its implementation has not yet started. The Committee is further concerned about the lack of a national strategy and programs implemented to support parents and families to fulfil their child-rearing obligations and the lack of family counselling and parenting programs, which increase the risk of neglect, maltreatment and abuse of children within the family. The Committee notes the efforts of the State party to improve the alternative care system, but is concerned that institutionalization is still dominant in the State party instead of family-based care. The Committee is also concerned at:

(a) The lack of disaggregated data on children in need, on those provided with services and in different forms of alternative care, on support services for parents and kinship caregivers, on abandonment, neglect and abuse of children, and on measures adopted, other than legislation; and

(b) The lack of information on the assessment, selection, training, remuneration and supervision of foster parents and kinship caregivers, review procedures for children in care, as well as accreditation, minimum requirements for and supervision of children's homes, and a complaint mechanism for children in public care, including State and private, NGO or church run facilities.

56. Recalling the United Nations Guidelines for the Alternative Care of Children (A/RES/64/142), the Committee emphasizes that financial and material poverty — or conditions directly attributable to it — should not be the sole justification for removing a child from parental care. The Committee recommends that the State party:

(a) Establish adequate support services for parents, as well as adopt and implement awareness-raising and training programmes on parenting skills, including on alternatives to corporal punishment;

(b) Support and facilitate family-based care for children wherever possible and establish a system of kinship care and foster care for children in alternative care, with a view to reducing the institutionalization of children;

(c) Ensure adequate safeguards and clear criteria, based on the needs as well as best interests of the child, for determining whether a child should be placed in alternative care;

(d) Ensure independent and periodic review of the placement of children in foster care and institutions, and monitor the quality of care therein, including by providing accessible channels for reporting, monitoring and remedying maltreatment and abuse of children; and

(e) Ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services, in order to facilitate the quality of rehabilitation and social reintegration of children resident therein to the greatest extent possible.

#### **Adoption**

57. The Committee welcomes the adoption of the Guidelines Governing the Adoption of Children (2011). However, it is concerned that:

(a) Adoptions continue to take place informally in the State party and that there is no supervision of adoption procedures;

(b) Different pieces of legislation are in force with respect to adoption and that there are inconsistencies among them as well as legal loopholes in the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 with respect to the finalization of an adoption deed;

(c) Legislation with regard to adoption of children and families in general, regardless of the ethnic and religious affiliation, is absent; and

(d) Commercial use of surrogacy, which is not properly regulated, is widespread, leading to the sale of children and the violation of children's rights.

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

(a) **Review its legislation on adoption with a view to harmonizing it in line with the Convention and with the Hague Convention on Protection of Children and Cooperation of Inter-country Adoption (1993);**

(b) **Ensure the effective implementation of the Guidelines Governing the Adoption of Children (2011), establish effective monitoring mechanisms and accreditation of all individuals and entities dealing with adoptions directly or as intermediaries, consider limiting their number, and ensure that domestic and inter-country adoption processes do not result in financial gains to any party;**

(c) Ensure that the best interests of the child are the paramount consideration during the entire adoption process, the child's view being taken into account to the greatest extent possible, with due regard to the child's age and maturity; and

(d) Ensure that the Assisted Reproductive Technology Bill or other legislation to be developed contain provisions which define, regulate and monitor the extent of surrogacy arrangements and criminalizes the sale of children for the purpose of illegal adoption, including the misuse of surrogacy. This should include ensuring that action is taken against all those who have undertaken illegal adoptions.

#### **Children of incarcerated parents**

59. The Committee notes that children under the age of 6 years can live with their imprisoned mothers, as well as the State party's newly introduced scheme to provide financial help to children of prisoners. However, it is concerned that the best interests of the child are not always taken into account, including when sentencing parents.

60. The Committee recommends that the best interests of the child are taken into account as a primary consideration when sentencing parents, avoiding, as far as possible, sentences for parents which lead to the separation from their children. It also recommends that the State party give due consideration to the child's best interests when deciding whether the child should live with his or her incarcerated parent. In doing so, due consideration to the overall conditions of the prison context and the particular need for parent-child contact during early childhood should be taken into full account, with the option of judicial review.

#### **F. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) and 33)**

##### **Children with disabilities**

61. The Committee is deeply concerned at the high levels of abandonment of children with disabilities by their parents. It is further concerned at the lack of coordination in planning and implementing programmes for children with disabilities among relevant ministries as well as at the fact that the State party's approach to children with disabilities is mostly centred in the context of institutional care and medical treatment.

62. In the light of article 23 of the Convention and of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability and specifically recommends that it:

(a) Develop a national plan of action for children with disabilities which integrates all provisions of the Convention as well as indicators to measure outcomes and ensure effective coordination among relevant ministries for its implementation;

(b) Allocate adequate human, technical and financial resources to support parents of children with disabilities with the aim to prevent the abandonment of these children;

(c) Take adequate measures to ensure that children with disabilities fully enjoy their rights as enshrined in the Convention, including their access to education, health care and social services;

(d) Conduct awareness-raising and educational campaigns targeting children with disabilities, the public at large and specific groups of professionals, with

**a view to preventing and eliminating discrimination against children with disabilities in all areas of the State party.**

#### **Health and health services**

63. The Committee notes the various policies and programmes in place in the State party to improve children's health and their access to health services. It is however deeply concerned about the persistence of disparities in quality of and access to health services between urban and rural areas as well as the increasing reliance of the State party on the private sector to provide health services, its high costs for the population and the lack of regulation of the quality services provided. The Committee is also concerned at:

(a) High levels of neonatal mortality and the fact that these deaths represent half of the 1.4 million children under-five years who die annually in the State party;

(b) The high rate of maternal mortality despite various initiatives of the State party as well as at the fact that 55.3% of women in the range between 15-49 years have anaemia, situation which leads to low birth weight of babies;

(c) The high levels of chronic malnutrition (stunting), wasting (acute malnutrition) and underweight among children, in particular children under 5 years, which are closely linked to maternal undernutrition and anaemia, and inadequate infant and young child feeding practices;

(d) The fact that only 46% of children under six months are exclusively breastfed and that only 24% of children are breastfed within one-hour of their birth. This implies the use of infant formula and related negative impact on the health status of infants;

(e) The low improvement of the immunization rate and the fact that only 21% of children are fully vaccinated;

(f) The prevalence of communicable diseases among children, such as acute respiratory infections, diarrhoea and fever, including fever linked to malaria, all of which are the leading causes of morbidity and mortality of children; and

(g) Insufficient access to safe and sanitation and hygiene, in particular in rural areas along with the widespread practices of open defecation and its negative impact in the health of children as around 88% of diarrhoea deaths among children under-five are linked to these factors.

64. **The Committee, in light of its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, recommends that the State party:**

**(a) Strengthen its efforts to address, as a matter of urgency, the existing disparities in access to and quality of health services, including by establishing partnerships with the private sector so as to increase access to and affordability of the health services and by regulating the services provided by them;**

**(b) Ensure that appropriate resources be allocated to the health sector, with particular attention to specific maternal and child health care policies, programmes and schemes to improve the health situation of children, in particular to respond to high rates of acute respiratory infections, malnutrition and diarrhoea;**

**(c) Ensure the effective implementation of the National Food Security Act (2013) which contains provisions aiming at combating children's undernourishment;**

**(d) Enhance efforts to promote exclusive breastfeeding practices, including the promotion of breastfeeding from birth, complementary feeding strategies with or without provision of food supplements as well as micronutrient interventions for**

mothers; and ensure the effective implementation of, and compliance with, the International Code of Marketing of Breast-milk Substitutes, and that a monitoring and reporting system to identify violations of the Code is established, as well as stringent measures are taken in all situations of violations of the Code. Violations include the promotion and distribution of samples and promotional materials by the private sector institutions involved in the Infant Formula marketing and distribution.

- (e) Ensure full vaccination of all children;
- (f) Conduct awareness raising campaigns on the health risks of the practice of open defecation targeting the public at large and take measures to ensure access to safe water and sanitation services in particular in the rural and poorest areas and invest in improving safe water resources; and
- (g) Strengthen technical cooperation with UNICEF and the World Health Organization (WHO), among others, in this regard.

#### **Adolescent health**

65. The Committee notes that the State party has adopted a strategy on Adolescent Reproductive and Sexual Health (ARSH), however, it is concerned at the scarcity of information with respect to its implementation and impact on the health of adolescents throughout the country. It is seriously concerned at the lack of access to sexual and reproductive information and services, including modern contraception methods, by adolescent girls and the consequent high rate of teenage pregnancies, widespread use of female sterilization and unsafe abortions in the State party.

66. Referring to its general comment No. 4 (2003) on adolescent health, the Committee recommends that the State party:

- (a) Ensure the effective implementation of the strategy on Adolescent Reproductive and Sexual Health (ARSH) and that sexual and reproductive health education is part of the mandatory school curriculum and targeted at adolescent girls and boys, with special attention on preventing early pregnancy and sexually transmitted infections;
- (b) Take measures to ensure that adolescent girls and boys have effective access to confidential sexual and reproductive health information and services such as modern contraception as well as girls' access to legal abortions in practice. In this context the State party should guarantee that the views of pregnant teenagers are always heard and respected in abortion decisions; and
- (c) Take measures to raise awareness of and foster responsible parenthood and sexual behaviour, with particular attention to boys and men. This should include access to life skills, and the prevention of substance abuse.

#### **HIV/AIDS**

67. The Committee notes the adoption of the Policy Framework for Children and AIDS in 2007. However it is concerned that a significant number of all HIV/AIDS infected people in the State party are children and the lack of information with respect to the provision of antiretroviral for these children. The Committee is also concerned at the non-identification of a large number of HIV positive pregnant women due to the limited coverage of antenatal care services, access to counselling and testing which increases the risks of children to be infected.

68. In light of its general comment No. 3 (2003) on HIV/AIDS and the rights of the child, the Committee recommends that the State party:

- (a) **Adopt the HIV/AIDS bill (2006) and ensure that it contains specific provisions addressing the needs of children infected with HIV/AIDS in line with the Convention;**
- (b) **Sustain the measures in place to prevent mother-to-child transmission of HIV/AIDS and develop a roadmap to ensure the implementation of effective preventive measures;**
- (c) **Improve follow-up treatment for HIV/AIDS-infected mothers and their infants to ensure early diagnosis and early initiation of treatment;**
- (d) **Improve access to quality, age-appropriate HIV/AIDS, sexual and reproductive health services;**
- (e) **Improve access and coverage of antiretroviral therapy and prophylaxis for HIV-infected pregnant women and children; and**
- (f) **To this effect, strengthen technical cooperation with, inter alia, the Joint United Nations Programme on HIV/AIDS (UNAIDS) and UNICEF.**

#### **Standard of living**

69. The Committee is concerned at the high percentage of people living below the poverty line despite the GDP growth in the State party. It is concerned at the prevalence of poverty among children, both in urban and rural areas as well as at the large disparities in the standard of living among children, with children in disadvantaged and marginalized situations being particularly vulnerable.

70. **The Committee recommends that the State party to:**

- (a) **Take all necessary measures to combat poverty;**
- (b) **Take all necessary measures to eliminate urban-rural, social, caste and tribe based disparities in children's standard of living through, inter alia, social protection and targeted programmes for children and families who are particularly vulnerable to poverty; and**
- (c) **Consider holding well focused consultations with families, children and children's rights civil society organizations on the issue of child poverty, with a view to strengthening the strategies and measures for fulfilling children's rights in the 12<sup>th</sup> Five Year Plan.**

### **G. Education, leisure and cultural activities (arts. 28, 29, 30 and 31)**

#### **Education, including vocational training and guidance**

71. The Committee welcomes the adoption of the Right of Children to Free and Compulsory Education (RTE) Act 2009, as well as at the almost universal enrolment rate of children in Grade 1. However, it is concerned at the high drop-out rates of children, in particular children of Scheduled Castes and Scheduled Tribes, and girls. The Committee is also concerned about the high number of children that are out of school, high dropout rates at grade 5, low numeracy and literacy skills, low quality of education, as well as shortage of qualified teachers and classrooms.

72. **The State party:**

- (a) **Strengthen its efforts to fully implement the Right of Children to Free and Compulsory Education (RTE) Act 2009 at the federal and state levels, including by, inter alia, developing RTE compliant school development plans;**



**(b)** Take the necessary measures to improve the quality of education, and provide adequate training for teachers, in particular at the state level and in the rural areas;

**(c)** Introduce child rights education in the school curricula nationwide;

**(d)** Address various discriminatory practices in the education settings, such as forcing children in marginalized situations to sit at the back of a classroom;

**(e)** Improve preparedness for schooling and expansion of programmes on early childhood education;

**(f)** Further adopt specific programmes aiming at decreasing the high drop-out rates of school, and ensure that out of school children, child labourers, children in disadvantaged and marginalized situations as well as girls are supported and assisted to exercise their right to education;

**(g)** Improve data and information systems to track out of school children, measure quality and learning outcomes, and correlate education with child protection data for effective planning and response; and

**(h)** Take measures to increase access of adolescents to secondary education and develop and promote quality vocational training for children who have dropped out of school to enhance the skills of children.

73. The Committee expresses its serious concern about attacks on school facilities by non-State armed groups as well as their occupation by the security forces.

74. **The Committee urges the State party to use all means to protect schools, teachers and children from attacks, and include communities in the development of measures to better protect schools against attacks and violence. It also urges the State party to prohibit the occupation of schools by its security forces and to urgently rehabilitate and repair damaged schools as necessary.**

#### **Early childhood development**

75. The Committee notes with appreciation the adoption of the National Early Childhood Care and Education Policy in September 2013. However, the Committee is concerned that the RTE Act does not require the provision of early childhood care and education, and that the Policy has not yet been implemented.

76. **The Committee recommends that the State party incorporates early childhood care and education into the RTE Act as part of the education system, in compliance with the National Early Childhood Care and Education Policy and allocate sufficient resources for the implementation of this Policy at all levels with the aim to ensure universal, high quality early childhood education and care services to all 0-6 years old children.**

### **H. Special protection measures (arts. 22, 30, 32-33, 35-36, 37 (b)-(d), 38, 39 and 40)**

#### **Asylum-seeking and refugee children**

77. The Committee welcomes a number of measures taken by the State party, such as decisions to allow refugees to apply for long-term visas and work permits and to simplify the procedures for acquisition of citizenship for Hindu and Sikh refugees. However, the Committee is concerned at reports of hardships faced by asylum-seeking and refugee children in accessing services, for instance due to language barriers, and discrimination

against asylum-seeking and refugee children in schools by teachers and classmates, in health services facilities and limitations on the right to play in public spaces due to discriminatory attitudes. It is further concerned at reports indicating the routine detention of Rohingya asylum-seekers from Myanmar, including children, because of illegal entry into the State party.

**78. In line with its general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, the Committee recommends that the State party:**

**(a) Strengthen existing child protection systems, including the Integrated Child Protection Scheme (ICPS) with the aim to identify and provide assistance to children in need of protection, especially unaccompanied refugee and asylum seeking children;**

**(b) Guarantee refugee and asylum-seeking children access to education and health, including by taking measures to eliminate societal barriers and discrimination against them;**

**(c) Release asylum-seeking and refugee children in detention and grant them access to UNCHR; and ensure that unaccompanied and separated children, refugees and asylum-seeking children are not detained because of illegal entry/stay and grant them the right to seek asylum and to stay in the State party until the completion of asylum procedures;**

**(d) Establish a proper referral system from the Ministry of Home Affairs to UNHCR, and develop standard operating procedures to facilitate the prompt identification and referral of asylum seeking children; and**

**(e) Consider acceding to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.**

#### **Children belonging to religious minorities, Scheduled Castes and Scheduled Tribes**

79. The Committee is seriously concerned that despite the State party's initiatives aiming at addressing inequalities and improving living conditions and access to education, health and social services of religious minorities and Scheduled Castes and Scheduled Tribes, many children belonging to these groups continue to be deprived of a number of their rights under the Convention.

**80. The Committee urges the State party to strengthen its efforts to ensure that all children irrespective of their religious background, Scheduled Castes or Scheduled Tribes enjoy the whole range of rights enshrined in the Convention.**

#### **Economic exploitation, including child labour**

81. The Committee reiterates its serious concern that, despite some efforts made by the State party, there is still a large number of children involved in economic exploitation, including child labour in hazardous conditions, such as in bonded labour, mining, agriculture and as domestic servants, as well as in the informal sector (CRC/C/15/Add.228, para. 72).

**82. In line with its previous recommendations (CRC/C/15/Add. 228, para. 73), the Committee recommends that the State party:**

**(a) Expedite the adoption of the Child Labour (Prohibition and Regulation) Bill, 2012 and develop a comprehensive strategy to prevent and eliminate all forms of child labour, including sanctions against individuals involved in child labour. This includes establishing a database on the types and extent of child labour, most of which**

occurs in the informal sectors such as domestic work, but also includes mining and quarry work which is hazardous;

**(b) Consider ratifying ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment, No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and No. 189 (2011) concerning Decent Work for Domestic Workers; and**

**(c) Develop technical cooperation with the International Programme on the Elimination of Child Labour of the International Labour Office in this regard.**

#### **Children in street situations**

83. The Committee notes that the Integrated Programme for Street Children benefited a number of children. However the Committee is deeply concerned at the limited impact of the programme given the large numbers of children in street situations in the State party and the fact that a number of those children are treated as criminal instead of being considered as victims.

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

**(a) Based on a systematic assessment of the situation of children in street situations, develop and implement, with the active involvement of the children themselves, a comprehensive policy which should address the root causes, in order to prevent and reduce this phenomenon;**

**(b) Avoid in all situations treating children in street situations as criminals;**

**(c) In coordination with NGOs, provide children in street situations with the necessary protection, including a family environment, adequate health-care services, social services and the possibility to attend school, and allocate the necessary human and financial resources for these purposes; and**

**(d) Support family reunification programmes, when that is in the best interests of the child.**

#### **Sale, trafficking and abduction**

85. The Committee notes the adoption of the comprehensive Scheme for 'Prevention of Trafficking, and Rescue, Rehabilitation, Re-integration and Repatriation of Victims of Trafficking for Commercial Sexual Exploitation' in December 2007. However, it is concerned at the high levels of internal trafficking of children as well as at the fact that the State party is a source, destination and transit of trafficking of children for labour and sexual exploitation, including sex tourism and child pornography. It is concerned at reports indicating that children are being trafficked in the State party for begging, marriages and illegal adoptions. The Committee expresses its concern at the lack of effective measures to address and prevent the sale, trafficking and abduction of children as well as at the lack of data.

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

**(a) Establish a comprehensive and systematic mechanism of data collection on the sale, trafficking and abduction of children, as well as ensure that the data are disaggregated, inter alia, by sex, age, national and ethnic origin, state or autonomous region, rural or urban residence, indigenous and socio-economic status, with particular attention to children living in the most vulnerable situations;**

**(b) Conduct awareness-raising activities in order to make both parents and children aware of the dangers of both internal and external trafficking; and**

**(c) Further strengthen its cooperation with countries from South of Asia to combat trafficking in children across States, including through the conclusion of bilateral and multilateral agreements.**

**Administration of juvenile justice**

87. The Committee notes the efforts made to strengthen the juvenile justice system such as the setting up of Juvenile Justice Boards (JJBs) in 608 out of 660 districts across the territory of the State party, as well as the Juvenile Justice Rules of 2007 establishing the minimum age of criminal responsibility at 18 years. However, it is seriously concerned that in the Penal Code the minimum age of criminal responsibility is still set at 7 years, which precludes the application of the Juvenile Justice Rules. It is also concerned at:

(a) Indications that the State party plans to lower the minimum age of criminal responsibility set in the Juvenile Justice Rules of 2007;

(b) The very limited knowledge, sensitivity and capacity of the staff working at the JJBs to handle cases involving children in conflict with the law as well as at the lack of adequate oversight of the JJBs;

(c) The inadequacy of Information Management System to collect data on children in conflict with the law, time taken by pending cases, the general functioning of JJBs including the nature and quality of orders issued by JJBs, as well as the role and functioning of Special Juvenile Police Units; and

(d) The lack of age-appropriate separation of children in conflict with the law in Observation Homes (meant for temporary reception and upon completion of an inquiry) and Special Homes (for children who have been sentenced), as well as cases of children in conflict with the law being housed together with children in need of protection;

88. **The Committee urges the State party to bring its juvenile justice system fully into line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards, and the Committee's general comment No. 10 (CRC/C/GC/10, 2007). In particular, the Committee urges the State party to:**

**(a) Give effect to the Juvenile Justice Rules of 2007 establishing the minimum age of criminal responsibility at 18 and maintain it at an internationally acceptable level;**

**(b) Provide the Juvenile Justice Boards with adequate human, technical and financial resources, designate specialized judges for children and ensure that such specialized judges receive appropriate education and training;**

**(c) Ensure the provision of qualified, independent, free or subsidized legal and other appropriate assistance to children in conflict with the law at an early stage of the procedure and throughout the legal proceedings;**

**(d) Promote alternative measures to detention, such as diversion, probation, mediation, counselling, or community service, wherever necessary, and ensure that detention is used as a last resort and for the shortest possible period of time and that it is reviewed on a regular basis with a view to withdrawing it;**

**(e) In cases where detention is necessary, ensure age-appropriate separation of children in Observation and Special Homes and that children in conflict with the law are not detained together with children in need of protection or with adults and that detention conditions are compliant with international standards, including with regard to access to education and health services; and**

(f) To that effect, make use of the technical assistance tools developed by the Interagency Panel on Juvenile Justice and its members, including the United Nations Office on Drugs and Crime (UNODC), UNICEF, OHCHR and NGOs, and seek technical assistance in the area of juvenile justice from members of the Panel.

#### **I. Ratification of international human rights instruments**

89. The Committee recommends that the State party, ratify the core human rights instruments to which it is not yet a party, such as the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

#### **J. Cooperation with regional and international bodies**

90. The Committee recommends that the State party cooperate, among others, with the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children.

#### **K. Follow-up and dissemination**

91. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented and be made widely available in the languages of the country.

#### **L. Next report**

92. The Committee invites the State party to submit its combined fifth and sixth periodic report by 15 July 2020 and to include in it information on the implementation of the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1). and should not exceed 21,200 words (please see General Assembly resolution 68/268, adopted on 9 April 2014, paragraph 16). In the event a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation of the report for purposes of examination of the treaty body cannot be guaranteed.

93. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3). The word limit is 42,400 words as established by the General Assembly in its resolution 68/268 (para. 16).