



**Convention on the  
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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-fifth session

SUMMARY RECORD OF THE 932nd MEETING

Held at the Palais Wilson, Geneva,  
on Wednesday, 21 January 2004, at 10 a.m.

Chairperson: Mr. DOEK

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

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Second periodic report of India (CRC/C/93/Add.5, CRC/C/Q/IND/2, CRC/C/RESP/49/Rev.1)

1. At the invitation of the Chairperson, Mr. Acharya, Ms. Chandra, Mr. Chandramouli, Mr. Puri, Ms. Rao, Mr. Saha and Mr. Saran (India) took places at the Committee table.
2. Ms. RAO (India) said that progress in the promotion of children's rights had continued since the submission of the second periodic report (CRC/C/93/Add.5). The Constitution (86th Amendment) Act of 13 December 2002 had made free compulsory education a fundamental right for all children from 6 to 14 years of age. A national commission for children bill had recently been submitted to Parliament after intense consultation with State governments, non-governmental organizations (NGOs), experts and members of civil society. The national commission would protect children's rights and investigate violations of those rights. A national charter for children was under discussion in Parliament.
3. Measures had been taken to prohibit sex selection before or after conception. Legislation had been amended to encourage breastfeeding and to prohibit the advertisement of infant milk substitutes and foods. The National Health Policy of 2002 was designed to improve public health and to achieve the registration of all births and deaths by 2010. Funding had been increased for the National Child Labour Projects. One objective of India's tenth Five-Year Plan was to ensure that children between the ages of 5 and 14 were prohibited from working in hazardous occupations and were sent to school. A national plan of action for children was being finalized. The plan included measures to reduce child malnutrition and infant, child and maternal mortality, provide free education for 6- to 14-year-olds, protect children from abuse and exploitation, and improve sanitation.
4. India had launched a programme for the creation of women's self-help groups. In areas where such groups were active, infant, child and maternal mortality rates had declined, school attendance had improved and malnutrition and anaemia had been reduced.
5. Since India had signed and ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, a larger number of formal adoptions had taken place and adoption had become more socially acceptable. Single mothers who adopted children were being increasingly accepted by society and their families. The age of children being adopted was increasing.
6. The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act had made it possible to extend guardianship beyond the biological age of 21. Preventive measures to reduce disability had been successful; in particular, cases of visual disability had decreased. Childline, the 24-hour helpline for children, currently functioned in 54 cities in India.

7. NGOs, children and the public had been involved in the preparation of the report. Data received from a variety of government and non-governmental sources had been included. Since the submission of the report, data from the Sample Registration System collected in October 2003 had indicated a significant drop in India's infant mortality rate.
8. India would continue to review and accelerate its programmes for children. The Government was mindful of the importance of working with NGOs and civil society to implement such programmes, and it particularly valued its partnership with the United Nations Children's Fund (UNICEF).
9. Mr. KRAPPMAN, Country Rapporteur, said that, although the protection of children's rights and well-being had improved, India's progress had been slow. He wondered whether lengthy development processes were caused by a lack of organization and coordination. He asked whether the proposed national commission for children would be responsible for implementing children's rights or merely monitoring them. He wished to know whether the national commission would be an independent body.
10. With regard to social assistance, children were categorized by gender and social status, which led to both positive and negative discrimination. He asked whether efforts would be made to develop a support system based on the rights and needs of individuals. Although the Committee had recommended the implementation of a number of protective measures to combat gender- and caste-based discrimination, India had apparently not taken any action in that regard. He wondered what could be done to strengthen existing laws.
11. He wished to know why data on the education of scheduled caste and scheduled tribe children had been included in the section on minority and indigenous groups rather than in the section of the report on education. He wondered why more efforts were being made to reduce discrimination against girls than to reduce discrimination against scheduled caste and scheduled tribe children.
12. The CHAIRPERSON, speaking as Alternative Country Rapporteur, wished to know why India had not withdrawn its declaration on article 32 of the Convention. He wished to know whether India was considering ratifying the Optional Protocols to the Convention, and why it had not yet ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He asked why India had not replied to the request of the Special Rapporteur on the question of torture to visit the country.
13. He wished to know the role of the central Government in ensuring that States amended personal and family laws. He asked whether the Government had sufficiently effective instruments to ensure that States were implementing the Convention. The delegation should provide examples of such instruments and their functions.
14. The Government had recently terminated several bilateral agreements with international donors and had requested that support should be continued through direct funding for NGOs. He wished to know whether that measure had been successful.

15. He asked how the Government planned to fund its efforts to achieve universal primary education by 2010. He wished to know how the authorities planned to reduce delays between the time funds were released by the central Government and the time they reached schools and teachers in the provinces.

16. According to a report by the parliamentary standing committee on labour and welfare of December 2002, tribal groups were threatened by displacement as a result of development projects. Such groups had only limited access to health care, education and housing, and their literacy rate was approximately 10 per cent. He requested information concerning the follow-up to the standing committee's report.

17. Mr. KOTRANE commended the efforts of the Supreme Court to implement economic, social and cultural rights. For example, the Supreme Court had ruled that the right to life extended to the right to adequate housing for families with young children. Consequently, it had rescued 500 families from eviction when a new housing project threatened to destroy their homes.

18. Ms. CHUTIKUL wished to know how the Government coordinated the work of the various federal and State ministries and agencies responsible for implementing the Convention. The delegation should explain why the National Coordinating Mechanism had met only once in 2000, and whether it had been replaced by another body. She requested information on the composition and mandate of the proposed national commission for children.

19. She wished to know whether the results of the 1992 National Plan of Action had been evaluated before work had begun on the new plan of action. It would be useful to learn how the plan of action differed from the proposed national charter for children and the tenth Five-Year Plan. She enquired whether the drafting process had included the participation of NGOs, and how resources had been allocated to implement the plan. Lastly, she wished to know how the Government ensured that each Union Territory followed the guidelines set forth in the plan.

20. Ms. KHATTAB asked why no reference to the Convention, or even to the term "rights", appeared in the proposed national charter for children. She wished to know why India had not yet ratified either International Labour Organization (ILO) Convention No. 138 concerning Minimum Age for Admission to Employment or ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

21. Discrimination against girls continued to occur in countless forms, particularly within the family. Parents tended to save money for hospital treatment and food for boys, which led to higher rates of nutritional deficiency among girls and complications in childbirth. More than 50 per cent of girls failed to enrol in school, and those that did were likely to drop out before the age of 12. She wished to know what the Government had done to address those problems, and whether it worked closely with NGOs to find appropriate solutions. She asked whether the National Plan of Action for the Girl Child followed a rights-based approach, and whether the necessary resources were available for its implementation.

22. Mr. AL-SHEDDI asked how the report had been compiled, and whether the Government consulted UNICEF with a view to identifying important issues. The delegation should explain how children had been encouraged to participate in the preparation of the report.

23. According to the written replies (CRC/C/RESP/49/Rev.1), the budget allocation for social affairs had declined by 1.5 per cent in the past two years. In that context, he wondered how the Government intended to fulfil its commitment under article 4 of the Convention.
24. He asked what kind of assistance was provided by the Childline Service, and whether it had the power to investigate complaints. He wished to know who had been involved in setting up the project.
25. It would be useful to learn whether the Government planned to establish a single database for child-related indicators. The fact that each ministry kept separate statistical records and only 35 per cent of births were officially registered made it very difficult to gain a comprehensive picture of the status of children.
26. Ms. OUEDRAOGO asked whether the Government was following up proposed legal reforms concerning rape, sexual harassment and domestic violence.
27. She wished to know whether the Convention had been incorporated into school curricula. She enquired whether professionals, other than police officers, who worked with children received training in the Convention. The delegation should explain whether any attempt had been made to evaluate the success of awareness-raising activities. She wondered how children who did not attend school, worked in the informal sector or lived in marginalized areas were made aware of their rights.
28. She asked whether the Government had implemented the recommendations of the Committee on the Elimination of Discrimination against Women concerning Dalit girls and the prevention of forced prostitution. She urged the delegation to make greater efforts to disseminate the second periodic report than it had made in the case of the initial report.
29. Ms. SMITH said that she did not understand the relationship between federal and State legislation, and the status of religious laws. Child-related laws seemed to be based firmly on passive, or protective, rights. She wished to know how active rights, such as the right to be heard, were also promoted in domestic legislation. She asked the delegation to explain whether the proposed national charter for children would have any legal force.
30. Ms. VUCKOVIC-SAHOVIC said that, although NGOs were welcome partners for the Government in providing services, they were rarely allowed to participate in drafting and implementing long-term policies. She asked how the Government supervised the provision of basic services by NGOs. She wished to know why the Pre-conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act had been adopted in 2003 to replace the previous legislation, and what new provisions it contained.
31. Mr. CITARELLA enquired whether the Convention could be invoked in court and applied by judges, even in the absence of corresponding domestic legislation. If so, the delegation should provide examples of relevant cases. He enquired whether State or local bodies had the power to enact legislation in the field of children's rights.

32. The State party's reservation to article 32 of the Convention appeared to reflect a conservative position, particularly in the light of the magnitude of India's child labour problem. He wondered whether the existence of a constitutional provision prohibiting children under the age of 14 from working in factories or mines or engaging in hazardous work might enable the State party to consider withdrawing its reservation.

33. He requested clarification on the respective definitions of children and minors in domestic legislation. The minimum legal age of marriage should be the same for boys and girls since it was discriminatory to maintain different minimum ages based on sex. It was also discriminatory to make a distinction between members of scheduled castes and scheduled tribes and other adults and children in India, and he enquired whether that distinction was reflected in local legislation. While the problem of discrimination against girls needed to be addressed, affirmative-action measures in favour of girls should be examined to ensure that such measures were in accordance with the provisions of the Convention.

34. Ms. SARDENBERG asked whether the Government had formulated any policies to meet the needs of children affected by natural disasters. The delegation should comment on the view that, since India did not have a unified children's code, children's rights were not a national priority. Before they were implemented, general policies should be analysed in terms of their impact on children. She asked whether any studies had been conducted on the implications for children of structural adjustment programmes, privatization and globalization, and whether any specific compensatory measures had been formulated.

35. She requested information on measures to enable children to participate at the local level, and she wondered whether any parliamentary committees were mandated to defend children's interests. She wished to know to what extent the National Commission on Scheduled Castes and Scheduled Tribes and the National Commission for Minorities dealt with children's issues.

36. Given the importance of article 2 of the Convention, the delegation should explain the view expressed by the Government of India in its tenth to fourteenth periodic reports to the Committee on the Elimination of Racial Discrimination (CERD/C/299/Add.3) that the situation of the scheduled castes and scheduled tribes did not fall within the scope of the International Convention on the Elimination of All Forms of Racial Discrimination.

37. Mr. FILALI wished to know why the State party had not ratified ILO Convention No. 138 concerning Minimum Age for Admission to Employment, and ILO Convention No. 182 concerning the Worst Forms of Child Labour. He expressed concern that India had not ratified the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

38. He asked whether the Government had established a mechanism to implement the proposed national charter for children. He wished to know whether any steps had been taken to harmonize legislation pertaining to the family in the Union Territories, where the application of customary law resulted in differences in the treatment of children. He asked whether the Juvenile Justice Act was applied in the Union Territories and how the central Government monitored its implementation.

39. Some of the minimum legal age limits contained in India's domestic legislation were not in conformity with the Convention, such as those pertaining to the age of criminal responsibility. The delegation should explain what was meant by the statement contained in section 83 of the Indian Penal Code that no offence could be committed by a child between the ages of 7 and 12 who had not attained sufficient maturity of understanding. He asked whether it was possible in India to prosecute children between the ages of 16 and 18 as adults.

40. He wished to know what measures the Government had taken to eradicate discriminatory attitudes towards girls and the practices to which they were subjected, such as infanticide, selective abortion and early marriage. He wondered why a minimum legal age of consent for sexual relations had not been established.

The meeting was suspended at 11.40 a.m. and resumed at 11.55 a.m.

41. Ms. RAO (India) said that 40 per cent of India's population of 1 billion was under the age of 18, making it the world's largest child population. The sheer number of children and the fact that children's issues were currently distributed among some 12 government departments were arguments for maintaining the current sectoral divisions rather than combining all the sectors into one department. Children's issues were included in the concurrent list, which consisted of matters that were the responsibility of both the federal and State Governments. All programmes pertaining to children were subject to ongoing coordination between the two administrative levels.

42. In preparing the second periodic report, the Government had sought information and feedback from all stakeholders. With the assistance of UNICEF, it had collated the information and submitted it for scrutiny to high-ranking government officials. The information included in the report, whether complimentary to the Government or not, was the result of a truly collaborative effort. The Government had played a strong coordinating role in the preparation of the report.

43. Ms. CHANDRA (India) said that certain segments of the population had not reached the same level of development as others. The framers of the Constitution had felt it necessary to incorporate an element of positive discrimination in order to ensure that such segments, called scheduled castes and scheduled tribes, were not left behind. The National Commission on Scheduled Castes and Scheduled Tribes had been mandated to oversee affirmative-action programmes in education, health care and other areas. The list of scheduled castes and scheduled tribes was not fixed but could be modified as needed to ensure parity in development among all groups. Affirmative action was also available under the Constitution to other groups, and decisions in that connection were made by an independent commission and subsequently submitted to Parliament for approval.

44. Mr. CHANDRAMOULI (India) said that the fact that India had not ratified ILO Conventions No. 138 and No. 182 did not mean that the problem of child labour was not being addressed. On the contrary, the Government considered the elimination of child labour to be an urgent priority. National Child Labour Projects were currently being carried out in 100 districts. By the end of 2003, 211,000 children had been withdrawn from hazardous employment in the most affected areas and rehabilitated through education in special schools. There were plans to increase the number of districts benefiting from the Projects to 250 by the end of 2007.

45. India's reservation to article 32 of the Convention did not mean that it rejected the provisions of that article; rather, it reflected the same procedural approach that India had taken to the ILO conventions.

46. Mr. ACHARYA (India) said that, although the 93rd Constitution Amendment Bill, which provided for free and compulsory education, had received Presidential assent in 2002, legislation to implement the bill had not yet been adopted. The first draft of that legislation had been improved as a result of feedback from States, political parties and NGOs. The second draft had been sent for comment, and the final draft would be submitted to Parliament at its forthcoming session.

47. Spending on education was currently above 4 per cent of the gross domestic product (GDP), and the Government aimed to increase that figure to 6 per cent. Between 1991 and 2001 per capita spending on elementary education had more than doubled and represented a substantial investment in the 190 million children in that age group. In addition, the Government had sought to increase available funds by improving efficiency and tapping external sources. A total of about \$1 billion had been promised in assistance to the *Sarva Shiksha Abhiyaan* (Education for All) programme over the next two to three years, and external agencies had expressed substantial interest in supporting that programme.

48. The gross enrolment ratios for scheduled caste and scheduled tribe children in elementary education had increased, respectively, from 82.5 and 84.4 per cent in 1991 to 85.5 and 88.9 in 2001/2002. At the secondary stage, the ratio of scheduled caste children had risen from 12.24 per cent in 1991 to 14.1 per cent in 2001/2002, which was only slightly below the 15 per cent of the total population who were from the scheduled castes. The scheduled tribes constituted approximately 7.5 per cent of the population as a whole, and the ratio of scheduled tribe children in secondary education had risen from 4.2 per cent in 1991 to 5.6 per cent in 2001/2002. The improvement had been largely due to a programme of scholarships that had been implemented nationwide, and to the provision of hostels and residential schools in remote areas.

49. Mr. KRAPPMANN asked for clarification of the difference between gross enrolment rates and net enrolment rates. He also asked what the Indian Government was doing to prevent high dropout rates and absenteeism, particularly teacher absenteeism. He questioned whether India's spending on education was sufficient, given the cost of achieving the goals of universal elementary education, bringing down the high teacher-pupil ratio and recruiting additional teachers. He wished to know whether those needs would be met through the privatization of certain sectors of education. He asked whether there was a mechanism for rescheduling the unmet targets under the Education for All programme. He drew attention to the particular difficulties facing girls, scheduled caste and scheduled tribe children, children with special needs, children who lived in remote areas and Muslim children, and asked for additional information about new and long-term programmes designed to ensure that such children enrolled in school.

50. The CHAIRPERSON requested additional information on the revisions to the system for birth registration and on the use of mobile registration units in remote areas.



51. He asked what was being done to address violence in and outside the home and requested statistics on cases in which children had been seriously abused or even tortured, particularly while being held in custody. He welcomed the collaborative efforts of NGOs and the police, which had met with some success in reducing ill-treatment of detainees. He would appreciate further information on the use of corporal punishment in schools, which was reported to be widespread.

52. He asked what was being done to improve reporting of child abuse within the family and to strengthen welfare services. The Childline Service would make services directly accessible to children, including street children, in need of emergency care or medical intervention. He wished to know whether the Government planned to provide more places in foster homes and emergency shelters. He also wished to know more about the impact of the Prevention of Terrorism Act on children.

53. Ms. AL-THANI said that, while the ninth and tenth Five-Year Plans had included a multitude of programmes on health, a lack of coordination had led to the neglect of some areas. Although good programmes were in place, their implementation often did not produce the desired results.

54. Although the infant mortality rate had declined, it was not clear why there was such disparity between the regions. She wished to know why Kerala, for example, had a low infant mortality rate but a high maternal mortality rate. She noted that few births were attended by trained midwives. Although 42 per cent of one- to two-year olds were fully vaccinated, there was significant variation in uptake between individual diseases. She wondered why there had been vaccination campaigns for some diseases and not others. Most babies were not exclusively breastfed during the first six months but were given additional water or supplements, which was significant in a country with a high prevalence of malnutrition. India had only partly implemented the International Code on the Marketing of Breast-milk Substitutes; for example, advertising of bottles was still permitted. She commended India's efforts to combat vitamin A deficiency and asked what was being done to combat iron and other deficiencies.

55. The need for parental approval to be tested for HIV/AIDS would prevent some children from benefiting from the anti-retrovirals, which were provided free of charge. She wished to know what was being done to combat discrimination against persons infected with HIV, especially since there had been reports that hospitals were refusing to accept such persons. She asked what measures were in place to prevent practitioners of traditional medicine from practising modern medicine and to ensure that they were properly trained. She wished to know what steps had been taken to combat arsenic and lead poisoning caused by environmental pollution.

56. Ms. LEE wished to know how independent the Chief Commissioner for Persons with Disabilities was, and what measures had been taken to implement the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act. She asked whether the Education for All programme extended to disabled and special needs children. The delegation should provide additional statistical information on children with disabilities and indicate whether figures were available on disabled children between 14 and 18 years of age. She was interested in knowing why the World Health Organization had estimated that people with disabilities accounted for 10 per cent of India's population, while India's own estimate

was 5 per cent. She asked what percentage of budget allocations for disabled persons was spent on children. She wished to know why physical disability was more prevalent among the young than the old.

57. No figures had been provided on the number of children with special needs who had been integrated into mainstream education. She would appreciate clarification of the 100 per cent financial assistance provided under the scheme for the education of disabled children. She asked whether the Indian Government had considered transferring responsibility for the education of children with disabilities to the Department of Education. She wished to have more information on early intervention programmes.

58. She requested additional information on the 1999 Kerala Early Childhood Care and Education Bill, and on disparities in enrolment for pre-school education. She asked whether the lack of data for scheduled caste and scheduled tribe children indicated that such children were not enrolled. She wished to know how pre-school education was funded. The requirement for teacher qualification of just one to two years after finishing secondary school was inadequate.

59. Ms. ORTIZ asked whether new guidelines would have to be drawn up as a result of India's ratification of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption in October 2003. She enquired whether there was a standard law on adoption, whether children of any religion could be adopted and whether, in the case of non-Hindu children, preference was given to international adoption. While the Central Adoption Resource Agency played a fundamental role in both national and international adoptions, it lacked the capacity to coordinate the different functions of the many adoption agencies. She asked how money received for adoption through affiliated agencies abroad was used and whether, as a result of that arrangement, priority was accorded to international adoptions. She asked whether the child's right to know his or her biological parents was guaranteed by law. Lastly, she wished to know what was being done about adoptions through non-registered agencies.

The meeting rose at 1 p.m.