



Human Rights Council

Universal Periodic Review (UPR) of India

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Joint Stakeholders' Submission on:

The Situation on the Rights of the Child in India

Submitted by:

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Development
(NGOs in Consultative Status with ECOSOC)**

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I. Introduction

1. This stakeholders' report is a joint submission of the above-mentioned organizations. The report highlights key concerns related to the **Rights of the Child** in India in the following areas: **right to non-discrimination and right to education**. Each section conveys recommendations to the Indian Government.

2. The data and information obtained for this submission has come from various sources and includes information from IIMA's members in India who interviewed children and their families, teachers, educators, civil society members and health staff from IIMA communities in Tamilnadu, Kerela, Karnataka, Mangalore, Lonavala Bomby, Gauhati, Shillong, areas where IIMA work. Additional information was also provided by VIDES International . All information concerned the period from 2008 to 2011.

3. IIMA is an international NGO in special consultative status with the Economic and Social Council. IIMA is present in 93 countries where it provides education to children and adolescents, particularly the most disadvantaged and vulnerable.

4. VIDES International is an international NGO in special consultative status with Economic and Social Council. It was founded in 1987 to promote volunteer service at the local and international levels and protects children and women's rights. VIDES is present in 38 countries worldwide.

II. Context

5. On the occasion of the first Universal Periodic Review Indian government accepted some specific recommendations and committed itself to take measures to improve the conditions of children, women and vulnerable groups.. After four years we noted that some of these commitments were not achieved because we still register problems in **birth registration, caste, gender, minority based discrimination** as well as **disparities related to the full enjoyment of the right to education**.

Child' definition at national level

6. The total Population of India as recorded by UNICEF in 2008 is 1.18 billion. Children comprise 37.83% of the total population or 447 million. Within the child population 130 million live in urban areas and 317 million in rural areas. The child population under the age of 5 years was 127 million (10.72% of the total population) of which 37 million living in urban areas and 90 million in rural ones. The child population in the 5-18 year age group was approximately 320 million, with 93 million in cities and 227 million in rural dwellers.

7. The Census of India considers children to be any person below the **age of 14**, as do most government programmes¹. Individual countries can determine according to the own discretion the age limits of a child according to their own laws. But in India, various laws related to

¹ Biologically childhood is the stage between infancy and adulthood. According to the United Nations Convention on the Rights of the Child (UNCRC) a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

children have different age limits as noted in the **Indian Penal Code (IPC)**², **Indian Constitution**³, **Labour (Prohibition and Regulation) Act**⁴, and the **Prohibition of Child Marriage Act**⁵.

8. Concerning the definition of “child” at the national level we encourage the Indian Government to :

- 1) **Have a national, uniform definition of “child” to reduce the several disparities existing in different government programmes and laws.**

III. Birth registration

9. In India Birth Registration is under the authority of the State Governments, in accordance with “Registration of Birth and Death Act”. Birth registration figures differently across the states. Goa, Gujarat, Jammu & Kashmir, Karnataka, Kerala, Maharashtra, Mizoram, Punjab, Tamilnadu and all the union territories except Dadra & Nagar Haveli have achieved above 90% registration of birth. Andhra Pradesh, Assam, Bihar, Manipur, Meghalaya, Rajasthan, Uttar Pradesh have only 55% of registration birth.

10. Different reasons can explain this low registration rate. Included among these are the lack of infrastructure and political motivation to improve the system and limited knowledge of birth registration. However the most significant factor is the inability of poor families to pay for registration. Despite these problems, the Indian government, after the introduction of the Right of Children to Free and Compulsory Education (RTE) tried to guarantee the school enrolment for children without birth certificates. Notwithstanding this effort in some areas, especially in the remote areas of the country many children continue to be excluded from the educational system.

11. Considering the great differences existing across the country the government needs to make more concerted efforts to reach a homogenous and inclusive system of birth registration especially in rural areas.

12. We strongly encourage Indian government to:

² The **Indian Penal Code (IPC)** 1860 finds that no child below the age of seven may be held criminally responsible for an action (Sec 82 IPC). In case of mental disability or inability to understand the consequences of one's actions the criminal responsibility age is raised to twelve years (Sec 83 IPC). A girl must be of at least sixteen years in order to give sexual consent, unless she is married, in which case the prescribed age is no less than fifteen. With regard to protection against kidnapping, abduction and related offenses the given age is sixteen for boys and eighteen for girls.

³ According to Article 21 (a) of the **Indian Constitution** all children between the ages of six to fourteen should be provided with free and compulsory education. Article 45 states that the state should provide early childhood care and education to all children below the age of six. Lastly Article 51(k) states the parents/guardians of the children between the ages of six and fourteen should provide them with opportunities for education.

⁴ The **Child Labour (Prohibition and Regulation) Act**, 1986 defines a child as a person who has not completed fourteen years of age. The Factories Act, 1948 and Plantation Labour Act 1951 states that a child is one that has not completed fifteen years of age and an adolescent is one who has completed fifteen years of age but has not completed eighteen years of age.

⁵ **The Prohibition of Child Marriage Act**, 2006 states that a male has not reached majority until he is twenty-one years of age and a female has not reached majority until she is eighteen years of age.

- 2) **Make a greater effort to ensure the timely registration of all births (CRC/C/93/Add.5, para. 284), and provide training and awareness-raising measures as regards registration in rural areas.**

IV. The right to non-discrimination

Caste discrimination

13. People belonging to scheduled castes (SCs) and scheduled tribes (STs) are discriminated against in various forms both historically and in contemporary society. The system, which dates back more than 2,000 years, divides the population into higher castes, which include priests and warriors, and lower castes, such as laborers. At the bottom sit the "untouchables," known as Dalits.

14. Blatant caste discrimination is decreasing in big cities but persists in rural communities, where Dalits must live apart from others and take water from separate taps. In extreme cases, Dalits who violate caste codes are beaten and their houses destroyed. Some offending women have been stripped naked and paraded around as a humiliating lesson to others, according to the New Delhi-based National Campaign on Dalit Human Rights.

15. Many examples show the persistence of discrimination against Dalits :37.8% of village schools force Dalit children to sit separately; 27% of Dalits are not able to go to the police; 33% of public health workers refuse to visit Dalit homes; 12% of villages prevent Dalits from voting; 48% of villages will not allow Dalits access to water sources; 64% villages prevented Dalits from entering temples; 70% of villages do not allow Dalits to eat with non-Dalits.

16. Children of Dalit and tribal communities face a number of abuses. Unfortunately, there is not an official register of crimes committed against children of SC/ST, but we registered many cases of violence, rape, and torture. Those responsible for these acts in most cases are family members, or employers, often members of the highest castes.

17. Discrimination against ST and SC children affect children in the educational system. Despite the increased enrolment of SC and ST students many disparities across the country persist. Rajasthan, Uttar Pradesh and West Bengal have the lowest SC enrolment ratios. Non-attendance among Scheduled Castes is higher than among the general population with approximately 20 % in the 6-10 age group and 29 % in the 11-14 year age group. Attendance rates are the highest in Kerala and lowest in Bihar. Only 43% SC children completed primary schooling.

18. Among ST children Madhya Pradesh, Orissa, Rajasthan and Kerala have the worst enrolment rates. Rural school attendance rates of Scheduled Tribe children are highest in Sikkim, Mizoram, Nagaland, Andaman and Nicobar, Manipur, Meghalaya and Assam. Rates in Andhra Pradesh, Bihar, Madhya Pradesh and Orissa are extremely low even with their large tribal populations at 27.1%, 29.8%, 34.2% and 32.3% respectively. A majority of children drop out in class I and, in general, dropout rates among ST children are very high. Children who abandon school become domestic workers with low wages, street children or railway dwellers. Many of those who leave their homes become victims of prostitution, or are forced into thievery or begging. Some become so despondent by their circumstances that they resort to suicide.

Gender discrimination

19. Women and children are the most disadvantaged sections of the population in terms of resources, access to healthcare, education, and information and communication technology. Tragically, female children are most affected by gender discrimination.

In India families have a preference for sons instead of daughters, and for this reason infant daughters may be subjected to maltreatment, neglect and abandonment.

20. New technologies allow sex selective biases against females. India accounts, with China, for nearly 80 per cent of all missing women in the world.

21. Women are also discriminated in the work market. In fact, the participation rate for Indian women is only 25.7 per cent compared to 51.9 per cent of men. Women undertake productive work only when it is necessary due to weak economic circumstances. For this reason female participation rates are higher for economically underprivileged communities. Women continue to be concentrated in jobs with low pay as domestic workers, in the shops, run errands all the day, labourers in factories or in construction. Authority levels, place limits on their overall access to income, status and power.

22. Women are also at a disadvantage with respect to literacy and education. The female literacy rates is 53.67 per cent, while males are 75.26 per cent. The ratio of women to men with at least secondary education is less than 1:100. A similar ratio can be found the proportion of female members of Parliament.

Religion and minorities based discrimination

23. In India, in recent years there has been increasing discrimination against the religious minorities both Islam and Christianity in the form of vilification, alienation, discrimination and persecution. Recently, the Christian minority has suffered widespread attacks, particularly in Bharatiya Janata Party (BJP) administered states, where there is a culture of impunity for religiously-motivated violence. These attacks were addressed in name of the protection of India's religious identity and to foster communal harmony. They consisted of churches burned, bibles destroyed, people arrested in several states and physical attacks.

24. Despite the governmental efforts to put in place a commission to investigate these crimes, the press and police forces continued to ignore and even contributed to the defense and justification of violence against religious minorities, especially Christians.

25. In order to combat all these forms of discrimination we urge the Indian government to:

3) Take steps, in accordance with article 17 of its Constitution and article 2 of the Convention, to abolish the discriminatory practice of “untouchability”, prevent caste and tribe motivated abuse in employment, social security, housing, healthcare and education ; prosecute State and private actors who are responsible for such practices or abuses ; and remove obstacles faced by victims of discrimination when seeking redress through the courts ;

4) Undertake and enforce effective measures to ensure equal treatment and opportunities between men and women especially at the managerial level,

promote active political participation, and in the labour market, guarantee equal pay for work of equal value in both the public and the private sectors ;

- 5) **Continue its efforts to carry out comprehensive public education campaigns to prevent and combat caste, gender, religious and minorities based discrimination with a view to changing social attitudes, by involving, inter alia, religious leaders .**

Vulnerable children

26. Out of 55,744 identified AIDS patients in INDIA, 2,112 are children. These children are highly discriminated against, denied access to basic amenities and they are forced to accept the most simple and underpaid jobs.

27. Young girls are the most vulnerable in family and in society. They are forced into child prostitution. Child labourers are other vulnerable children who are forced to work for more than eight hours per day with minimum pay and minimum basic facilities, in spite of Government's strong actions against Child Labourers in recent years in INDIA.

V. Right to education

28. This NGO coalition welcomes the adoption of the Right of Children to Free and Compulsory Education (RTE) Act in 2009. This Act should serve as a building block to ensure that every child has the right (as an entitlement) to obtain a quality elementary education, and that the State, with the help of families and communities, fulfils this obligation.

29. Despite the efforts of the Indian government to sustain the educational system in the country, several critical issues continue to persist such as **low enrolment rates**, especially in rural areas, **a high dropout rate, the shortage of qualified teachers, inadequate curricula, lack of quality, and poor and unsafe infrastructures.**

Accessibility to education

30. In 2009, despite the increase in enrolments in India there were an estimated eight million six to 14 year-olds out-of-school. Total enrolment in primary classes (Class I to V) was 134.4 million in 2008-09⁶, while this percentage dramatically dropped in Classes VI to VIII, where the total enrolment was 53.4 million. In fact, just 54% of all children in the age group 11-14 years were actually enrolled, this means that approximately 44 million children in this age group do not go to school.

31. Moreover, education is affected by a very high dropout rate. In fact, 50% of children enrolled in Class I drop out by Class VIII. Totally nearly 2.7 million children drop out of school every year⁷.

⁶ The latest year for which complete data is made available in the District Information System for Education (DISE) flash statistics, collected by the National University for Educational Planning and Administration (NUEPA)

⁷ Joint review mission (JRM) of the Sarva Shiksha Abhiyan, 2010

32. Several factors can explain the reasons why children leave school at various stages. About 42% of girls left school to start housework and 14% because their parents thought that more education was unnecessary for them. In the case of boys 68% have to work to supplement the family income. Several children, both girls and boys, living in rural areas left school because of the distance of their house from the nearest school.

Availability of Education

33. The availability of education is a major concern where poor physical infrastructure of schools, teaching materials, not enough teachers can prevent the provision of quality education for the children.

34. The Indian educational system lacks of adequate facilities, especially in rural areas. Many schools have insufficient class rooms, play grounds, lack of drinking water, toilet facilities and do not enough light, especially during rainy seasons

35. We are very concerned about the slow increase of the budget allocations for education during the last few years. In fact the India government should increase the resources addressed to school facilities in order to allow children to attend class in the best and safe conditions.

36. During the last years, the number of private schools increased across the country. Private schools have better school facilities. In addition teachers are better prepared and paid are apperceived to be of a higher standard than those in the public schools.

Acceptability of education

37. Good quality education is impeded by a number of factors, including insufficient number of teachers and inadequate programs and methodology.

Teacher preparation. The Indian government did not invest enough resources in teachers training making especially elementary school teachers a real poor social status.

Despite the request of the National Council for Teacher Education (NCTE) which made demands for a higher qualification for elementary teachers' training the Indian government did not respond with follow-up actions. In fact the courses actually available are uninspiring and based on obsolete ideas. The number of teachers across the country remains insufficient especially in the northeast, West Bengal, and Jammu, Kashmir, Bihar and Madhya Pradesh.

For the southern States where the system is in better health, we note a serious lack of quality education.

38. On the occasion of the first Universal Periodic Review, India committed itself to continue efforts to allow for a harmonious life in a multi-religious, multi-cultural, multi-ethnic and multi-lingual society and to guarantee a society constituting one-fifth of the world's population to be well fed, well housed, well cared for and well educated. Despite the commitment to guarantee education to all this NGO coalition noted that several disparities in accessing education persist as well as in the acceptability and availability. For this reason, we suggest the following recommendations to the Indian government in order to implement the right to education:

- 6) Continue to make efforts to achieve universal primary education, compulsory and free of charge, by taking further initiatives to eliminate any form of**

discrimination affecting targeting disadvantaged and marginalised groups, in particular, children belonging to scheduled castes and scheduled tribes, girls, and Muslim children ;

- 7) Take measures to eradicate illiteracy, especially among disadvantaged and marginalized groups, women and among those living in poverty ;**
- 8) Adequate school facilities to children's needs, building new schools, especially in rural areas, and modernizing the old buildings, in order to guarantee equal access and opportunity to all children across the country ;**
- 9) Allocate increased funding to public schools, ensuring a better quality of education, through teachers fully trained and qualified, adequate school materials and updated programmes.**