



Justice To Children

Newsletter, Centre for Child and the Law (CCL),
National Law School of India University (NLSIU), Bengaluru



Bi-Annual Newsletter [Vol 2 - Issue No. IV : July 2014-December 2014]

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Post Graduate Diploma in
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Prof. (Dr.) R. Venkata Rao

MESSAGE FROM THE VICE CHANCELLOR

It delights me to know that the Centre for Child and the Law, National Law School of India University has released its 2nd Newsletter.

I also appreciate CCL team's effort to bring out a biannual newsletter, and the format now includes sections that will provide useful information on current issues and legal developments affecting children not only in India, but across the world.

I wish readers an enriching and informative reading.

I wish the Faculty Coordinator, Prof. (Dr.) Ashok R. Patil and the CCL team every success in their journey ahead.



Prof. (Dr.) Ashok R. Patil

MESSAGE FROM THE FACULTY COORDINATOR

I am happy that CCL is bringing out its 2nd edition of the Newsletter with an update of its work for the last six months. This edition of the newsletter not only contains updates of the work undertaken in the three programmes i.e. Education, Juvenile Justice, Right to Food, but also reports on the legal awareness programmes, policy debates, knowledge generation, capacity building and raises issues concerning rule making. It also features an article by a law intern highlighting the struggle and absence of justice to juveniles in Jammu and Kashmir. CCL newsletters will henceforth also include updates on various case laws in the last six months.

As the CCL team embarks in bringing out its biannual newsletter, I hope the readers will benefit from the diverse information and also information and updates on Child laws, Rule making under National Food Security Act 2013, and the report on conducting of Makkala Grama Sabha.

I highly appreciate the dedication and team work shown by the Program heads, and all the individuals working at CCL, in the area of capacity building through series of trainings, policy research, using insights from the field to ground their research, and in bringing out a number of publications.

“Why is that countries which we call strong are so powerful in creating wars but are so weak in bringing peace? Why is it that giving guns is so easy but giving books is so hard? Why is it, why is it that making tanks is so easy, but building schools is so hard?”

- Malala Yousafzai

(Excerpt from Ms. Yousafzai's Nobel Prize acceptance speech on 10th December, 2014. She shared the Nobel Peace Prize with Mr. Kailash Satyarthi of India.)



“Chart prepared by children expressing their views on juvenile justice system during a consultation held by TdH along with CCL NLSIU”

Trends in Rule Making under the National Food Security Act, 2013

One of the major issues that mire the implementation of the National Food Security Act (NFSA) 2013 that was notified on 10 September 2013, is the inadvertent delay in framing of the Rules under the Act. This waning commitment is not merely restricted to States, upon which the major task of implementation of the Act lie, but also the Central government which is yet to come out with Central Rules under NFSA. The Rule making power of the State Governments is recognized under Section 40 of the Act according to which States need to frame rules on: identification of eligible households, establishment of grievance redressal mechanisms as well as prescribe rules relating to transparency and accountability, conduct of social audit, composition of vigilance committees and any other aspect for which Rules are required to be drafted for the implementation of the Act. Additionally, States should also frame Rules on aspects such as role of local authorities, etc., which are not expressly provided under Section 40, but nonetheless are matters which the Act empowers the States to make Rules, for ensuring effective implementation of the Act.

The Act stipulated that the timeline for its implementation is one year from the enactment. However, identification of the eligible households for the benefits from the Targeted Public Distribution System (TPDS), which is regarded as the most critical aspect of the implementation of the Act, has not been completed in many of the states. While some states are awaiting the results of the Socio Economic Caste Census (SECC), others such as Rajasthan, Karnataka, Bihar and Madhya Pradesh have framed criteria for identification of households, and most have outlined both inclusion and exclusion criteria for identification. It is recommended to follow limited exclusion criteria which will have an overriding effect over inclusion criteria in order to ensure the inclusion of rightful beneficiaries. However, in cases where exclusion criteria are exhaustive, it will be worthwhile to have automatic inclusions as well, to negate the identification errors. In a major step forward, the Bihar government has recently announced that all Scheduled Caste and Scheduled Tribe households will automatically be included and eligible for priority cards under the National Food Security Act, thereby moving towards universal PDS. Though most states have framed rules on provisions required by the Act, it should be ensured that entitlements under various schemes are also included in the rules as certain existing benefits are specific to States. For instance, KsheeraBhagya is a scheme facilitated by the Government of Karnataka to provide milk to children attending Government schools.

Inclusion of this benefit in the Rules will give it the status of a legal entitlement.

Independence and effectiveness of the three tier grievance redressal mechanism in the Act that includes Internal Mechanisms such as toll free numbers and complain boxes etc., a District Grievance Redressal Officer (DGRO) and the State Food Commission (SFC), needs to be ensured through the State Rules. While there are many states that are designating either District Commissioners/District Magistrates as District Grievance Redressal Officer (DGRO), such as Madhya Pradesh, it is recommended to appoint an independent DGRO for ensuring efficacy. Similarly, the tendency of notifying existing Commissions as Food Commission also needs to be curbed in order to make sure that the experts in these areas can be drawn into an independent and effective Commission. Further, the selection procedure for the members of Commission should be fair and transparent and should be based on recommendation by representatives from the executive, legislature and the judiciary and the commission should have both functional and financial independence. The Draft Rules submitted by the Centre for Child and the Law, NLSIU to the Government of Karnataka envisage such a Commission. There seems to be a fair chance of such a Commission being established in the State. The Department of Food and Civil Supplies is the nodal agency for the implementation of the Act. However, it is important to ensure coordination with other departments like the Department of Women and Child Development (DWCD) and Department of Public Instructions towards the effective implementation of other schemes such as MDMS and ICDS. The Act also provides for reforms in TPDS, however, it is suggested along with PDS the same should be undertaken for other welfare schemes along with capacity building of functionaries and awareness generation among the public regarding the various provisions of the Act. While CCL NLSIU has made deliberate attempts at ensuring convergence, and has also included provisions pertaining to resource allocation, capacity building, awareness generation and for ensuring transparency and accountability in MDMS and ICDS in addition to TPDS; such provisions are entirely missing from the Draft Rules of other states.

Participation of the civil society organisations and academic institutions in this process has also been achieved successfully in Karnataka, however, there seems to be disconnect between the bureaucracy and the civil society on this issue in most of the states.

Juvenile Justice Team Update

TdH Program, October 31st 2014: The JJ team at CCL joined hands with Terre des Hommes (TdH) in an innovative effort to bring out the voices of children in policy matters that concern and affect them. A consultation was held with 80 children from various Southern states on the proposed Juvenile Justice Bill 2014. Kalpana Purushothaman, Shruthi Ramakrishnan and Sangappa Vaggar from CCL were aided by Dr. Preeti Jacob from NIMHANS to enable children to articulate their views on the Bill, particularly provisions regarding the provisions on transfer of juveniles (aged 16 – 18 years) alleged to have committed heinous offences to the adult criminal justice system. Despite having language and cultural barriers, the children came together and expressed their views through role plays, charts, songs and poetry. Many children shared their own experiences in dealing with peer pressure, and the influence of the media in their lives. They expressed the view that children are more vulnerable to influence and must be given a chance to reform themselves.



CCL, NLSIU was amongst the awardees of the prestigious International Award 'Juvenile Justice Without Borders' by The International Juvenile Justice Observatory awarded to 'Indian Coalition for Juvenile Justice'. (For more information please visit - <http://www.oijj.org/en/oijj-international-award/third-edition-2014>)

Technical Support to Hon'ble Justice Madan B Lokur, the one-man Juvenile Justice Committee, Supreme Court of India: The Supreme Court Committee on Juvenile Justice is organizing Regional Level Round Table Conferences bringing together all stakeholders to dialogue and strategize on the theme – 'Effective Implementation of the Juvenile Justice (Care and Protection of Children) Act 2000' with support from UNICEF – India, and technical support from CCL NLSIU. Representatives of the JJ team, i.e. Ms. Arlene Manoharan,

Ms. Swagata Raha, Ms. Kalpana Purushothaman and Ms. Shruthi Ramakrishnan, with external assistance from Ms. Nina Nayak, Ms. Bharti Sharma and Dr. Archana Mehendale, provided technical support for three regional round table conferences (held at Guwahati, Cuttack and Chennai) during this period.

Inauguration of Children's Library – 'Gnana Degula' – at Observation Home, Bengaluru for children in conflict with law: The JJ team in collaboration with the Department of Women and Child Development (DWCD), GoK, initiated a unique children's learning program called Gnana Degula on 25th August, 2014 at a function held at the Observation Home for Boys, Bengaluru. Through Gnana Degula, it is hoped that these children can not only find a meaningful way of passing their time in the home but are also inspired and motivated to resume their education.



Children's Library - 'Gnana Degula'

Children's Day celebration at the OH: 'MakkalaJathre' - A programme to celebrate Children's Day was organized by the team in collaboration with the DWCD, GoK with support

from the Indian Institute of Psychology and Research and the International Play Association (IPA) at the Observation Home, Madivala on the 14th & 15th of November. Art and craft prepared by the children residing in the home was displayed during the event. The children participated in a cultural performance that included plays, dance dramas, songs, etc. IPA also facilitated an interaction on the 'Right to Play', while the IIPR students facilitated art based games. Folk artist, Mr. Lakshman entertained the audience with high-energy folk songs on human rights and child rights.



Children's Day Celebration at OH

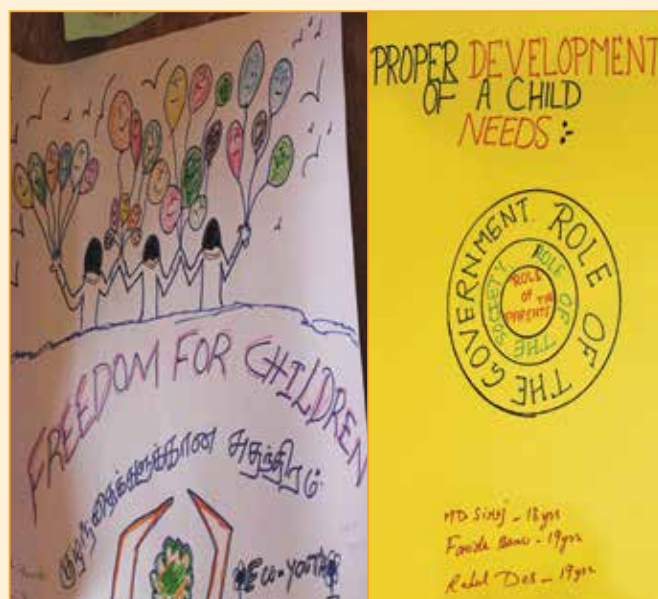
Trainings: Several lectures were delivered by representatives of the team at training programs conducted by others on the POCSO Act and the JJ Act for different audiences including JJB and CWC Members, Superintendents of child care homes, ICPS functionaries, members of SCPCRs and even private schools.

Submission to the Ministry of Women and Child Development (MWCD) on the JJ Bill & meeting with various MPs: CCL continued its campaign against the proposed transfer system under the JJ Bill, 2014. The team made submissions to the MWCD on 3 July 2014: (1) A joint submission with the Department of Adolescent and Child Psychiatry, NIMHANS highlighting the problematic aspects of the transfer system (available at <https://www.nls.ac.in/ccl/jjdocuments/NLSIUsubmission.docx>); (2) A submission on problematic provisions in the Bill (3) Testimonies by two children who had journeyed through the juvenile justice system sharing their stories and opinion on the JJ Bill. The team undertook advocacy with several Members of Parliament across all parties through Pro Child, a network of individuals, organizations and institutions working on child rights, and also went as resource persons for conferences organized by NALSAR, TISS, HRLN, TdH, CRY and Save the

Children on the issue. A submission was also made to the Parliamentary Standing Committee in October (available at <https://www.nls.ac.in/ccl/jjdocuments/mhrd.pdf>).

Submission to the NHRC and the NCW: Along with Pro Child, CCL, NLSIU drafted a petition for submission to the NHRC, and the NCW requesting them to take cognizance of the Juvenile Justice Bill 2014. The NHRC took up the matter and invited CCL to participate in a consultation on the Bill held on 6 September 2014 and again to comment on the draft emerging out of the second consultation organized on 9 October. Arlene Manoharan made a detailed written submission on both occasions.

Visit from Hidayatullah National Law University and Chhattisgarh State Commission on Protection of Child Rights to CCL NLSIU: The Registrar of HNLU, Raipur - Prof. Dr. Dipak Das and a delegation comprising members and the Secretary of the Chhattisgarh SCPCR (CGSCPCR) spent a day with CCL, NLSIU team on 26th November, in order to understand the history, structure and work of CCL NLSIU. The Government of Chhattisgarh is interested in setting up a similar Child Rights Centre at HNLU with support from the CGSCPCR. Prof. (Dr.) Ashok R. Patil and representatives of CCL NLSIU shared the work of the centre and offered whatever support is possible to achieve this goal, given that this activity is an important part of CCL's current project, supported by the Tata Trusts.



"Chart prepared by children expressing their views on juvenile justice system during a consultation held by TdH along with CCL NLSIU"

Right to Education Team Update

Public Hearing on RTE: Conducted public hearing programmes on RTE in four working Blocks of Ramangar District in collaboration with KSLSA, SDMCCF, Midday Meals Workers Union and District Advocates Association. In all four blocks, Senior Civil Judges' from taluk level



inaugurated the programmes. Around 710 participants predominantly from SDMCs and other primary stakeholders attended the public hearing programmes. A total of 108 complaints were heard and disposed.

Nanna Jaga Nanna Kalike: The team facilitated "My Space –My Learning" centres in 10 Villages during 6pm to 8pm in the evenings. Ten trained Village Volunteers are looking after these centres. On an average 253 children were attending these learning centres. Ms. Nikhita Nadakarni, Programme Associate, Monitoring and Evaluation Unit, Tata Trusts also visited one of the centres.

Shikshana Grama Sabhas: Village level Shikshana Grama Sabhas were facilitated in all 14 school based villages in the Panchayat. Around 200 different primary stake holders participated in the Shikshan Grama Sabhas. Issues like water problem, lack of drainage, lack of playground, lack of compound in schools and other issues were discussed. A Memorandum was submitted to the GP to address these problems.

Children Vigilance Committee: Five Children Vigilance Committee meetings were facilitated in order to ensure the effective implementation of RTE within the Panchayat. On an average 12 children attended in all the five meetings. Children discussed various issues like corporal punishment in school, RTE and other child rights violations, lack of infrastructure etc. Petitions were submitted to SDMC, GP and Head teachers to address these violations.

Right to Education Lecture Series: In order to discuss the larger issues related to Right to Education, six Monthly lectures were organised, during this period. These Lectures were organised in collaboration with the Karnataka State Primary School Teachers Association (KSPSTA) at their office premises. School Development & Monitoring Committee Coordination Forum (SDMCCF) members, teachers, general public and NGO representatives attended these programmes. A booklet was published after each lecture for dissemination.

All India Shikshana Sangharasha Yatra: All India Shikshana Sangharasha Yatra organised by The All India Forum for Right to Education was received and given a very warm welcome on 13th November 2014 by Centre for Child and the Law in collaboration with Karnataka State Primary School Teachers Association and the School Development and Monitoring Committee Coordination Forum at Janapada



Loka. Around 500 members received the Yatra lead by Prof. Haragopal and others. Later the members proceeded in a procession and submitted a memorandum to the Deputy Commissioner of Ramanagara District. A Public meeting was also held in front of the District Commissioner Office.

Quarterly Lecture on Child Rights: Centre for Child and the Law had organized the first Quarterly Lecture on Child Rights on the theme 'Right to Education and Global Democracy' on 27th December 2014. Around 85 people were present for the Lecture. Prof. Giovanni Pampanini, Researcher at SISSU, Catania, Italy was the resource person and he spoke about Global Democracy as the need of the day to curb the atrocities faced by humanity in achieving global democracy. He also identified the importance of "free public sphere" in the concept of global democracy and how global education helps in furtherance of this concept.

Right to Food Team Update

Submission of Draft Karnataka Food Security Rules prepared by CCL:

After extensive research which included visits within and outside Karnataka and multiple rounds of consultative process with various stakeholders, the Right to Food Programme at CCL submitted the draft Karnataka State Food Security Rules, 2014 to the Department of Food, Civil Supplies and Consumer Affairs, Government of Karnataka on 2 July 2014. The Department had earlier enlisted the support of CCL in drafting the State Rules under The National Food Security Act, 2013. In order to make sure that there is a holistic concept on of right to food captured in the State Rules, the RTF Programme also held discussions with the Department of Women and Child Development, GoK and Department of Public Instruction, GoK.

To discuss the draft Rules, the RTF Programme team met Mr. Dinesh Gundu Rao, Minister, Food, Civil Supplies and Consumer Affairs, GoK on 2 December 2014. Mr. Ravi Kumar, Principal Secretary, Department of Food, Civil Supplies and Consumer Affairs, GoK, Mr. M.C Gangadhara, Deputy Director (Procurement and Distribution), Department of Food, Civil Supplies and Consumer Affairs, GoK, Ms. Jyoti Bhat, PRO to Minister of Food, Civil Supplies and Consumer Affairs, GoK and Dr. Nandan Kumar, Private Secretary to Minister, Food, Civil Supplies and Consumer Affairs, GoK were also present for the meeting. During the hour long meeting, the contentious provisions in the draft Rules were discussed. The Minister proposed to take other concerned Departments on board and facilitate a consultation along with CCL.

As part of advocacy with other States and civil society organizations on rule making under NFSA, Dr. Neetu Sharma, Programme Head, Right to Food Programme facilitated a State level consultation in Lucknow on 17 July 2014. The consultation organized by- AIM, Lucknow and ICCO Cooperation, explored the possibilities for civil society organizations to engage in the process of drafting State Rules under NFSA. As a follow up to the consultation, a set of recommendations on State Rules were submitted to the Principal Secretary, Uttar Pradesh.

International Conference on “Rights based Governance beyond Borders - the Role of Extra territorial Obligations (ETOs)”.

Dr. Neetu Sharma, who is an academic member of the steering committee of ETO consortium, attended this conference held in Bangkok from September 1st -3rd,

2014 and discussed the role of ETOs from the point of view of the right to food, especially in the context of current developments in India. This conference organized by ETO Consortium, Chulalongkorn University, Focus on the Global South, the Stockholm Environmental Institute and the Asia Pacific Forum on Women, Law and Development aimed to: strengthen the understanding that human rights are foundational to international law and relations; clarify the role of ETOs in this context; and establish strategies for strengthening rights-based governance.

Global Conference on Food and Water Security and Responsible Governance:

Dr. Neetu Sharma participated in this conference held in Hamilton, New Zealand from November 22nd to 26th 2014. The objective of the Conference was to discuss and identify legal principles for governance of water, food and natural resources meant for common use and identify the governance issues as well as future areas for research. She shared her experience of engaging with the law making process and delegated legislation on food security, issues pertaining governance and the bureaucratic response to the same.

State level Discussion-cum-Public Hearing on NFSA and Draft Rules

In the State level public meeting on ‘National Food Security Act – 2013, State Rules and the PDS’, organized by Karnataka Chapter of Right to Food Campaign on 3 November 2014, Dr. Neetu Sharma presented a **paper on ‘Drafting Karnataka State Rules under the National Food Security Act 2013’**. She shared the process of Rule-making facilitated by CCL and also highlighted the key provisions from the Draft Karnataka State Food Security Rules, 2014.

Comments on the Integrated Child Development Scheme (Supplementary Nutrition) Rules, 2014:

Through the Department of Women and Child Development, GoK the RTF Programme submitted comments on the Integrated Child Development Scheme (Supplementary Nutrition) Rules, 2014, circulated by Central government seeking suggestions from state governments. The RTF Programme also submitted its recommendations on implementation of Mid-Day-Meal programme to the Department-related Parliamentary standing committee on Human Resources Development on 10th November, 2014.

Exploratory Study on Right to Food of Children in SC/ ST Pre-matric Hostels:

The RTF Programme conducted an

exploratory study to assess the Right to Food of children in SC/ ST Pre-matric hostels in two districts of Karnataka-Bengaluru (Urban) and Bengaluru (Rural). As part of the study, one- day orientation for team members of Action Aid, MSW and BSW students of St. Joseph Arts and Science College and MSW students of Bengaluru University was conducted on 5 November, 2014 at NLSIU. As part of the study the team conducted interviews with the hostel warden, cooks, officials, held focussed group discussions

with children and also collected quantitative information from all the children in the hostel.



Seeking children's opinion

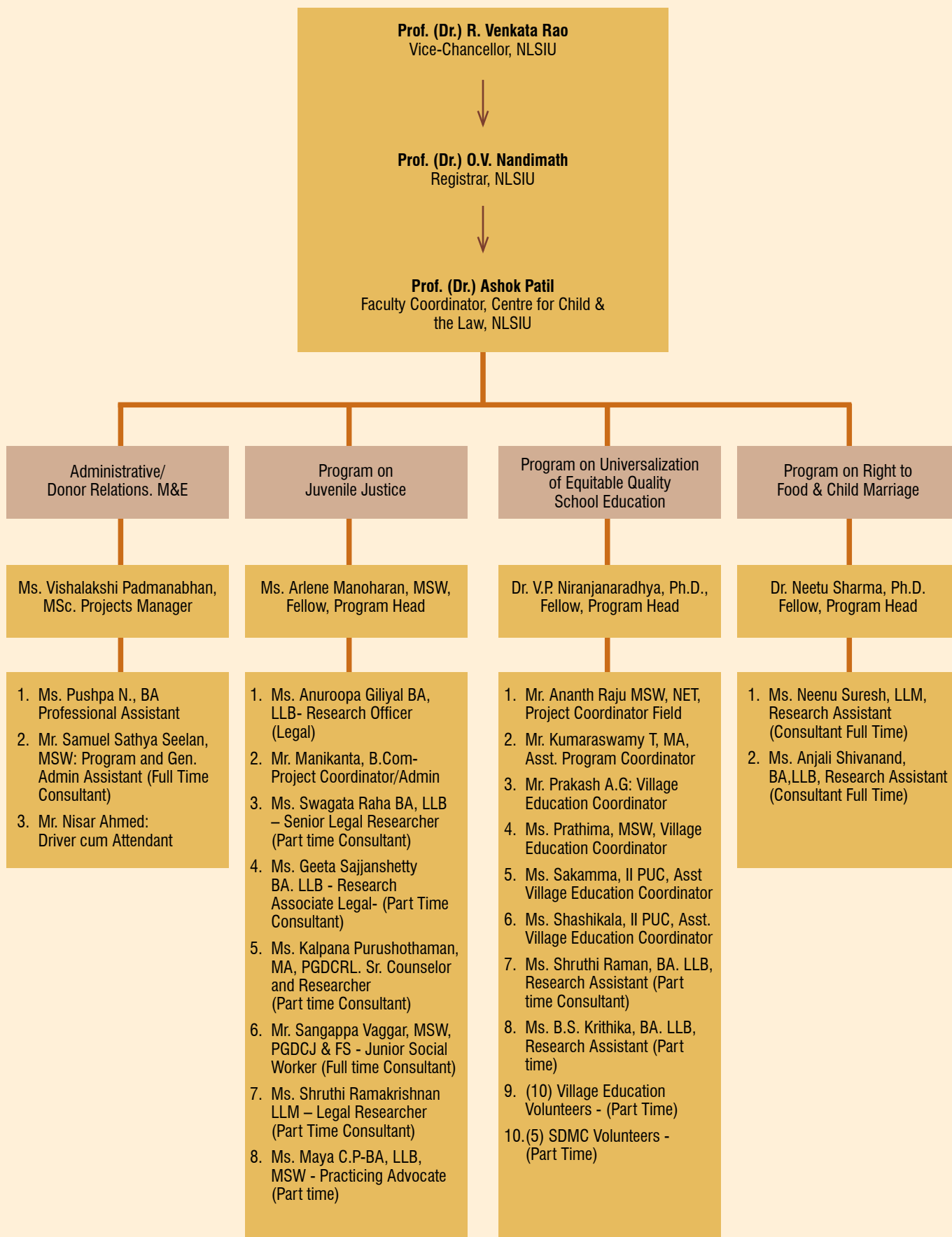


"We thank the people from Centre for Child and the Law (CCL) National Law School for telling us about our right to food and about the law that makes it possible. We understood about National Food Security Act and this will helps us to tell more people around us". (Legal Literacy Programme (LLP) on Right to Food organised in a Government School).



Dr. Neetu Sharma and Ms. Neenu Suresh of RTF Programme facilitated a one day consultation with CRY partners from various districts of Bihar on December 30th, 2014 at Navjyoti Bhavan, Patna. The objective of the consultation was to share CCL's experience and its learnings from engaging with the Karnataka state government for Rule making under NFSA and also explore similar possibilities for civil society organizations in Bihar. The team, then, visited Mr. Hukum Singh Meena, Principal Secretary, Food and Consumer Protection Department, Bihar to understand the status of rulemaking in the State. Seeking suggestions from the RTF Programme, the Principal Secretary shared a set of Rules prepared by the State government on various aspects under NFSA.

The CCL, NLSIU Team



Justice eludes juveniles in Jammu & Kashmir (J & K)

by Mudbir Nazir Bhat* with inputs from Swagata Raha

Painful Realities

Section 10 of the Constitution of Jammu & Kashmir states that all permanent residents of the states are entitled to the rights guaranteed to them under the Constitution of India. Yet, juveniles in J & K are deprived of treatment under the juvenile justice system on account of exceedingly poor implementation of the law. This constitutes not just the violation of an inherent constitutional right to equality but also a brazen violation of international norms on juvenile justice. Juvenile Justice Boards, Observation Homes and Special Homes do not exist in J & K. According to *Crime in India, 2013*, 130 juveniles were apprehended for IPC crimes and five under special local laws. In reality, children in the state are tried as adults.¹ This kind of treatment is unheard of in any contemporary democratic setup. The situation is further complicated by the application of certain special laws like the *Armed Forces Special Powers Act* and the *Public Safety Act, 1978* which authorizes pre-trial detention for a period of upto two years if a person is 'acting in any manner prejudicial to the security of the State' and restricts judicial review of such detention. Children in J& K are routinely charged under this Act for stone-pelting, a fact that does not find reflection in the NCRB report.

In 2012, Amnesty International highlighted² extensively the detentions of children under the Public Safety Act (PSA), and revealed that in at least three cases, authorities detained children by falsely recording their age as being above 18.

J & K signed a MoU with the Central Government in 2013, four years after the Integrated Child Protection Scheme (ICPS) had been adopted, to reduce the vulnerabilities that children face in various situations in addition to abuse and neglect.³ However, even today the execution of the scheme is in limbo. In 2013, the Supreme Court noted the poor state of implementation of juvenile justice in the State and agreed

to address it in a Joint Conference with Chief Ministers and Chief Justices.⁴ In January 2015, the Supreme Court dismissed a petition that drew attention to the detention of juveniles in adult prisons and asked the petitioner to approach the High Court.⁵ The situation at the ground level is grim as violations continue unchecked.

A history of [In]actments

The earliest state legislation pertaining to juveniles was the *Jammu and Kashmir Children Act, 1970* which specified the establishment of authorities and homes all of which remained on paper. 10 years after the central *Juvenile Justice Act, 1986*, the *Jammu and Kashmir Juvenile Justice Act, 1997* was enacted. However, with the enactment of the central *Juvenile Justice (Care and Protection of Children) Act, 2000*, the conflict between the Central and State was back. Like the JJ Act, 1986, the J& K JJ Act, 1997 was also not compliant with India's obligations under the UNCRC:

The age of a male juvenile was fixed at 16 instead of 18 years. Instead of using the distinction of child in conflict with law and child in need of care and protection it termed both the categories as juveniles by terming them as delinquent juveniles and neglected juveniles, respectively. It did not provide for any special juvenile police units and did not specify the composition of the Juvenile Justice Board.

The poor implementation of this Act did not escape the scrutiny of the Committee on the Rights of the Child and in 2004, it expressed its concern that the JJ Act, 2000 did not apply in the State.⁶ Finally, after a lot of pressure from activists, international and domestic NGOs, the State Government passed *The Jammu and Kashmir Juvenile Justice (Care and Protection Children) Act, 2013*. There still are certain aspects of the legislation which are different from the Central Act:

* Mudbir Nazir Bhat interned at Centre for Child & the Law during 19 January 2015 to 21 February 2015 with the Juvenile Justice Team.

1. ACHR, 'Juveniles of Jammu & Kashmir: Unequal before the Law and Denied Justice in Custody' (2011), <http://www.achrweb.org/reports/india/JJ-J&K-2011.pdf>
2. Amnesty International, 'Still a 'LAWLESS LAW' Detentions Under The Jammu And Kashmir Public Safety Act, 1978' at <http://www.amnesty.org/en/library/asset/ASA20/035/2012/en/807ef797-3994-4d2b-9469-f2e2456d91ef/asa200352012en.pdf> (Last visited on 31st January 2015).
3. <http://www.greaterkashmir.com/news/2013/Nov/1/jk-signs-mou-with-centre-to-implement-icps-24.asp> (Last visited on 15-2-2015).
4. http://supremecourtindia.nic.in/courtnews/2013_issue_2.pdf, p.21 (Last visited on 1st February 2015).
5. 'SC refuses plea on Kashmir's minors who were detained in the state's jails over stone-throwing incidents', <http://www.hrln.org/hrln/child-rights/pils-a-cases/1670-sc-refuses-plea-on-kashmirs-minors-who-were-detained-in-the-states-jails-over-stone-throwing-incidents.html#ixzz3Sd81JXl><http://www.hrln.org/hrln/child-rights/pils-a-cases/1670-sc-refuses-plea-on-kashmirs-minors-who-were-detained-in-the-states-jails-over-stone-throwing-incidents.html>
6. UN Committee on the Rights of the Child: Concluding Observations: India, 26 February 2004, paras 78, 80 CRC/C/15/Add.228.

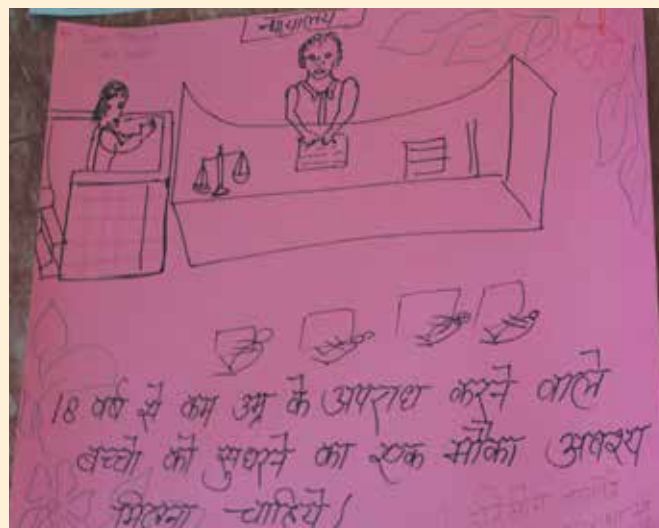
The JJ Act, 2000 provides that one of the two social workers in the Juvenile Justice Board must be a woman which is not the case in the state legislation. The JJ Act, 2000 provides that the government may “constitute for every district one or more Juvenile Justice Board” while the State Act provides for the Government to “constitute for a district or a group districts or each division of the state one or more Juvenile Justice Boards.” The JJ Act provides for transfer between Children’s homes and juvenile homes, of like nature in different parts of India. There is no such provision in the State Act, which is unfortunate because there is dearth of such institutions in the State.

In chapter VI of the Central Act, adoption and foster-care are given as measures for rehabilitation and social reintegration while in the corresponding chapter in the state Act, adoption and foster-care are not mentioned. It would, however, be erroneous to conclude that enactment of the 2013 legislations has put an end to the issues prevalent in the state because as always implementation remains the primary problem and not the law.

Conclusion

It is time that we respond to the crisis facing our children in J & K. With four decades of legislation on juvenile justice,

the landscape of violations and deprivations remains unchanged. The State needs to be pushed, encouraged and supported by the Centre and civil society to discharge its mandate. The ICPS must be implemented without delay. A State Commission for Protection of Child Rights should also be established so that it can vigilantly monitor compliance. Most importantly, children should not be tried and treated as adults under special laws.



“Chart prepared by children expressing their views on juvenile justice system during a consultation held by TdH along with CCL NLSIU”



CCL, NLSIU Retreat to Angana - the Country Inn on 11th & 12th November, 2014

Updates on Recent Legal Developments Concerning Children

National Developments:

Recommendations of High Level Committee on restructuring of FCI The recommendations of High Level Committee on restructuring of Food Corporation of India (FCI) chaired by Shri Shanta Kumar have invited criticism from various quarters for its attempts to dilute food security. The Committee whose mandate was to make recommendations for reorienting the role of FCI in different stages of food production and distribution, has suggested that FCI should hand over all procurement operations of wheat, paddy and rice to states that have gained sufficient experience and have created reasonable infrastructure for procurement. This is nothing but sounding the death knell for the one of the country's most important institutions ensuring food security. Even more distressing is its recommendation to revisit the National Food Security Act. While experience of well performing states makes a clear case for universal Public Distribution System (PDS), Shanta Kumar Committee makes a regressive move by advocating a further reduction of current coverage of PDS provided under National Food Security Act, which is 67% of total population to 40%. Cutting even deeper, it proposes to link the prices of entitlements for priority households to Minimum Support Price, thereby exposing them to inflation. Adding on to the recommendations fraught with a myopic vision, is its suggestion for gradual introduction of cash transfers in place of PDS. It is not understood why there should be a complete crushing of an existing PDS, especially when more and more states are increasingly reporting success with the Public Distribution System. Further, the already high number of farmer suicides has not woken up the Commission, is explicit from its recommendation to the Centre that it should warn States if in case of any bonus being given by them on top of MSP, Centre will not accept grains under the central pool beyond the quantity needed by the state for its own PDS and OWS.

Extension of deadline on implementing the NFSA: The Central Government has again extended the deadline for the implementation of the National Food Security Act, 2013 to 4 April 2015. The Minister for Consumer Affairs, Food and Public Distribution, Shri. Ram Vilas Paswan after a meeting with state food secretaries announced that states which do not implement the National Food Security Act by this deadline will have to purchase grain from the Centre at higher prices.

NREGA: After the cabinet reshuffle, for the time being, the new Rural Development minister Shri. Chaudhary Birendra Singh had confirmed that there will be no dilution of NREGA or reduction in coverage. The previous minister had proposed restricting it to 200 districts only, though the NCAER has shown that 69% of the poor live outside these poorest districts.

Priority cards for SC/ST in Bihar: The Bihar government has recently announced that all Scheduled Caste and Scheduled Tribe households will automatically be included and eligible for priority cards under the National Food Security Act, thereby moving towards universal PDS.

New Bill on Juvenile Justice: The Juvenile Justice (Care and Protection of Children), Bill, 2014 was tabled before the Lok Sabha and is currently pending in Parliament. The new Bill seeks to repeal the Juvenile Justice (Care and Protection of Children) Act, 2000 and introduce a new legislation with radical changes in respect of the procedure dealing with children between the ages of 16-18 years of age alleged to have committed a 'heinous offence'.

Guidelines in case of trafficking of children: The Delhi High Court in the case Delhi High Court Legal Services Committee v. UOI [(2014) 214 DLT 1], issued guidelines and steps to be taken after rescue of trafficked children, placing mandates on the different stakeholders in the system. The order issues these guidelines in light of the provisions contained in the Immoral Traffic (Prevention) Act, 1956, the Juvenile Justice (Care & Protection of Children) Act, 2000 and the Protection of Children from Sexual Offences Act, 2012.

Impact of the new Budget on RTE: The system of education since enactment of RTE Act 2009, is increasingly getting privatized. Even after the Act completing 5 yrs of implementation, budgetary provisions by both Center and State Governments is yet to be realized. This is reflected in non recruitment of regular, full time teachers. In this background the new budget placed by Hon. Finance Minister on 28/02/2015 is not only disappointing but also disturbing, as this directly impacts negatively on education, the fundamental rights of all children in the age group of 6-14 yrs. This means there is less funding from Central Government to State department of education. for e.g. the plan outlay for the department of School education & Literacy has been reduced from Rs.51,828 crore in 2014-15 to Rs.39,038.50 crore. The plan outlay for Sarva Shiksha Abhiyan has further declined from 28,258 crore to 22,000 crore. The flagship scheme mid-day meals program has been reduced from Rs.13,215 crore to 9,236.40 crore. The plan outlay for secondary education declined from Rs.8,579 crore to Rs.6,022 crore. Therefore it is imperative to strengthen our Advocacy process to engage critically and constructively with both Government and NGO's to strengthen the Right to Education, in its true spirit by demanding public funded common school system.

PIL Watch

- **PIL on NFSA:** A PIL was filed in the Bombay High Court by a member of the Anna Adhikar Abhiyan, challenging the eligibility criteria declared by the State Government for the National Food Security Act, 2013. The court on 24th September, 2014 has ordered the State Government to submit a progress report on the identification of priority households based on the Socio Economic and Caste Census (SECC) instead of the BPL census of 1997. The State Government filed an affidavit 'publishing of SECC draft list' for all the districts by 10th Dec 2014. This draft list was mandated to be validated by every citizen to check the correctness of the draft lists published and call for claims and objections within 82 days based on the process outlined by the Ministry. However, draft list have been displayed in some districts with appalling lack of outreach to ensure accurate verification.
- **Compensation for victims of rape:** A PIL was filed before the Karnataka High Court praying for the creating of a single window agency for the disbursement of compensation to women and children who are victims of sexual assault. The PIL called for immediate implementation of section 357A, 357B and 357C of the CrPC dealing with the procedure related to Victim Compensation. Hon'ble Chief Justice D.H. Waghela passed an order on 2 February 2015 observing that "it would be for the District Legal Services Authority concerned to take proactive steps for reaching out to the victims..." The full order of the court is available at <http://judgmenthck.kar.nic.in/judgmentsdsp/bitstream/123456789/41994/1/WP38667-14-02-02-2015.pdf>

International Developments:

Joint general recommendation/general comment by the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child on harmful practices: The CEDAW Committee and the CRC Committee issued a joint general recommendation on 4 November 2014 clarifying the obligation of states parties and at the same time urging them to eliminate harmful practices against women and children such as 'neglect of girls (linked to the preferential care and treatment of boys), extreme dietary restrictions (forced feeding, food taboos, including during pregnancy), virginity testing and related practices, binding, scarring, branding/tribal marks, corporal punishment, stoning, violent initiation rites, widowhood practices, witchcraft, infanticide and incest.' The Recommendation also covers practices of body modifications that are done in connection with adhering to beauty standards or for the marriageability of girls such as fattening, isolation, the use of lip discs and neck elongation with neck rings. (The full recommendation can be found at http://jurist.org/paperchase/CEDAW_General_Comment_31.pdf).

Somalia ratifies the UNCRC: Somalia became the 194th country to ratify the United Nations Convention on the Rights of the Child (UNCRC). Only two other countries – USA & South Sudan are yet to ratify the UNCRC, though both countries are already signatories.

Bolivia approves a School Feeding Law, an important step towards the fulfillment of the human right to adequate food: As part of its strategy to achieve food sovereignty, the government of Bolivia approved a new law to regulate complimentary school meals and to foster a social economy by means of produces purchased

from local producers. Law No 622 on School Feeding in the Framework of Food Sovereignty and Plural Economy, approved by the Plurinational Legislative Assembly, aims to contribute to educational performance and promote the permanence of students in the educational entities of the Plurinational Education System, through a safe, opportune and culturally appropriate diet. For details, see <http://www.fao.org/righttofood/news-and-events/news-detail/en/c/278534/>

Draft Law on Food Security & Sovereignty in the Dominican Republic: On 10 September 2014 the Dominican Chamber of Deputies approved by unanimity the Draft Law on Food Sovereignty and Food Security and Nutrition for the Right to Food. The Purpose of this law is to establish the institutional framework for the formulation and development of Food Sovereignty and Food and Nutrition Security policies as instruments to respect, protect, facilitate and implement the right to adequate food in accordance with the principles of human rights. The law will now move to the Senate for its consideration and final approval. For details, see <http://www.fao.org/righttofood/news-and-events/news-detail/en/c/173092/>

New UN Special Rapporteur on the Right to Food appointed: In May 2014 the Human Right Council appointed Ms Hilal Elver as the new United Nations Special Rapporteur on the Right to Food (UNSR). Ms Elver, who assumed office on 2 June 2014, is a Research Professor, and Co-Director of the Project on Global Climate Change, Human Security, and Democracy housed at the Orfalea Center for Global & International Studies at the University of California, Santa Barbara. For details see, <http://www.fao.org/righttofood/news-and-events/news-detail/en/c/238828/>

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<ul style="list-style-type: none"> • Fee fixation is against larger social good, Niranjanaradhya V.P., Times of India (on 6th November 2014). [http://epaperbeta.timesofindia.com//Article.aspx?eid=31806&articlexml=MY-OPINION-Fee-fixation-against-larger-social-good-06112014004047]
<ul style="list-style-type: none"> • Laiginka Kirukulamattu Purusha Pradhana Samaja, Niranjanaradhya V.P., Vijaya Karnataka (in Kannada on 3rd August 2014) on the issue of Sexual Abuse and Patriarchy. [http://www.vijaykarnatakaepaper.com/Details.aspx?id=15031&boxid=3182162]
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<ul style="list-style-type: none"> • Makkalannu Shalege Taralu Abhyanada Agatya, Niranjanaradhya V.P., Vijaya Karnataka, on the issue of mainstreaming out-of-school children under RTE (in Kannada on 20th August 2014). [http://www.vijaykarnatakaepaper.com/Details.aspx?id=15471&boxid=32732814]
<ul style="list-style-type: none"> • Makkligillada Hakkugala Sambhrama, Niranjanaradhya V.P., Vijaya Karnataka (on 26th October 2014) on the eve of commemorating 25 years of UNCRC. [http://www.vijaykarnatakaepaper.com/Details.aspx?id=18289&boxid=21533171]
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<ul style="list-style-type: none"> • Sadanadalli Kaledu Hoda Prashnegalu: Part-II, Niranjanaradhya V.P., Vijaya Karnataka (in Kannada on 26th October 2014) on the questions and answers in the state assembly on school education. [http://www.vijaykarnatakaepaper.com/Details.aspx?id=17371&boxid=22256619]
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<ul style="list-style-type: none"> • What parents should look out for before admission, Niranjanaradhya V.P., Times of India (on 26th October 2014). [http://epaperbeta.timesofindia.com//Article.aspx?eid=31806&articlexml=MY-OPINION-What-parents-should-look-out-for-27102014004042]

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2.	Handbook for Local Authorities on The Commissions for Protection of Child Rights Act & Grievance Redressal under The Right of Children to Free and Compulsory Education Act, 2009 [ISBN No: 978-81-925521-9-4]	Dr. Archana Mehendale. Edited by Arlene Manoharan	INR 50.00 / \$ 3.00
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- ✓ Every candidate has to submit a Dissertation (considered as Paper V)
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Application Fee	Rs. 1,500/-
Admission Fee	Rs. 2,500/-
Course Fee	Rs. 11,200/-p.a
Total Course Fee	Rs. 15,200/-
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