



# JUSTICE TO CHILDREN



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## INDIA'S UNFINISHED BATTLE AGAINST **HUNGER** AND **MALNUTRITION**

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# INDIA'S UNFINISHED BATTLE AGAINST HUNGER AND MALNUTRITION



*Ms. Meenu Maria Joseph and Ms. Jyotsna Sripada*  
*Right To Food Programme*

The world adopted the transformative agenda of Sustainable Development Goals (SDGs) in 2015, and along with other members of the United Nations, India committed itself to 'End hunger, achieve food security and improved nutrition and promote sustainable agriculture' besides sixteen other goals of SDGs. The SDGs had included the targets set by the World Health Summit, which also endorsed a set of nutritional goals to be met by the year 2025 in order to improve maternal, infant and young child nutrition rates across the world. With at least twelve of the seventeen SDGs having indicators relevant to nutrition, it has become the focal point of the 2030 agenda. India has been committed to the idea of meeting the global nutrition targets and as data indicates despite the improvement of nutrition in the country in recent

times and especially so in the last decade, India still has a long journey ahead to meet these targets. India missed the 2015 agenda of halving the proportion of undernourished by 2015, and thus was far from meeting the targets of Millennium Development Goals (MDGs). This raises questions of how successful it will be to meet the new set of targets endorsed by the SDGs.

## **Global Hunger Index and Where India Stands?**

Despite the long strides India has taken in terms of economic development, what remains a grave concern is the malnutrition status of children and adults. Malnutrition continues to remain an unfinished battle that the country is fighting with inadequate armor. Despite the numerous policies, schemes, programmes and even legal provisions guaranteeing the realization of

## India's status in the Global Nutrition Report 2016

### MISSING NUTRITION TARGETS

Indicator	Rate (in %)	Global Rank (lower is better)	Asia Rank	Position of nutrition indicators compared to World Health Assembly targets
Under 5 stunting	38.7	114 <sup>th</sup> out of 132	34 <sup>th</sup> out of 39	Off track
Under 5 wasting	15.1	120 <sup>th</sup> out of 130	35 <sup>th</sup> out of 38	Off track
Under 5 overweight	1.9	11 <sup>th</sup> out of 126	6 <sup>th</sup> out of 37	On track
Anemia in Women	48.1	170 <sup>th</sup> out of 185	45 <sup>th</sup> out of 47	Off track
Exclusive breastfeeding	46.4	48 <sup>th</sup> out of 141	12 <sup>th</sup> out of 40	Insufficient data
Adult overweight/obesity	22	21 <sup>st</sup> out of 190	10 <sup>th</sup> out of 47	Off track
Adult diabetes	9.5	104 <sup>th</sup> out of 190	16 <sup>th</sup> out of 47	Off track

Source: Global Nutrition Report 2016



Source: Global Nutrition Report, 2016 as published in Livemint

right to food and nutrition, not much impact has been witnessed. Over the past few years, several reports have been released across international and national fora in order to put forth a comprehensive understanding of the problem of malnutrition. One such report is the Global Nutrition Report (GNR), which acts as a report card on the world's nutrition—globally, regionally, and country by country—and on efforts to improve it. It assesses progress in meeting Global Nutrition Targets established by the World Health Organization (WHO) using a comprehensive tool, the Global Hunger Index (GHI). Multi-dimensional statistical tool used to describe the state of countries' hunger situation. It combines four component as indicators: the proportion of the undernourished as a percentage of the population; the proportion of children under the age of five suffering from wasting; the proportion of children under the age of five suffering from stunting; and the mortality rate of children under the age of five.

In September 2017, the twelfth Global Nutrition Report was released. Structured around a thematic focus on inequalities of hunger, the report examined data from 119 countries, including India. The report reveals a disturbing dichotomy across the world, where economic progress is masking a dangerously high rate of malnutrition. Almost every country in the world now has serious nutrition problems, either due to overeating leading to obesity or a lack of food leading to undernutrition. Two billion of the world's seven billion people are now overweight or obese. Worldwide, at least 41 million children under five are overweight, and in Africa alone, some 10 million children are now classified as overweight. The report found that while malnutrition rates are falling globally, their rate of decrease is not fast enough to meet the internationally agreed Sustainable Development Goal (SDG) to end all forms of malnutrition by 2030.

The world is facing a global nutrition crisis today.

The situation is equally alarming in India that carries a serious burden of anaemia, obesity and malnutrition. At 31.4, India's 2017 GHI (Global Hunger Index) score is at the high end of the 'serious' category, and is one of the main factors pushing South Asia to the category of worst performing region on the GHI this year, followed closely by Africa South of the Sahara. As per the report, India, which is ranked 100th, ranks below many of its neighbouring countries such as China (29th rank), Nepal (72), Myanmar (77), Sri Lanka (84) and Bangladesh (88). It is ahead of Pakistan (106) and Afghanistan (107). About 38 percent of the children under five are affected by stunting and around 21 percent of children under 5 have been defined as 'wasted' or 'severely wasted' – which means that they do not weigh enough for their height. Moreover, 51 percent of the women of reproductive age suffer from anemia and more than 22 percent of adult women are overweight. The percentage of overweight men in the country is slightly lower and stands at 16 percent of adult men. While the report does indicate that India has shown some progress in addressing childhood stunting for children under the age of 5, it presents worse outcomes in the percentage of reproductive-age women with anaemia, and is off track in terms of reaching its targets for reducing adult obesity and diabetes.

### **What needs to be done?**

The fundamental question that needs to be asked is the fact that despite numerous measures that have been undertaken in terms of policies, schemes, entitlements, infrastructure and alike, why is there an alarming gap in achieving set targets for nutrition? And given this gap, what can be done to achieve the same?

Foremost, and most important, there is a compelling need to change the direction in which policies are structured and implemented. Malnutrition is a phenomenon that is carried forward from one generation to another and cause permanent damage, if not addressed at the right time. In order to combat this, there is a need to adopt

nutrition specific as well as nutrition sensitive measures, which primarily constitute the multi-sectoral approach. The multi-sectoral and intergenerational cycle of malnutrition must be understood clearly and policies must be designed in a holistic manner. Apart from that, a bottom up approach, not only in terms of policy design but also in terms of assessing and monitoring where the problems and gaps exist is critical. Policies must be designed with the individual beneficiary, community and their interests as the central focus, and the process of implementation, monitoring and evaluation must emerge from the same focal point. Second, the need for well-maintained and regularly updated database is extremely important and has been highlighted in the GNR 2017 as well. Policy evaluation and monitoring relies heavily on data, and efforts must be scaled up in order to generate nutrition specific data in a consistent, segregated, and comparable manner. This will enable countries to track nutrition targets and devise measures to address challenges accordingly. Engaging with evidence-based studies also provides an opportunity for several civil society organizations to bring forward their learning, experiences and recommendations. Third, it is imperative that existing institutional as well as budgetary frameworks that are responsible for policy designing, implementation, monitoring and evaluation, grievance redressal are strengthened. More often than not, policy implementation fails due to a missing link between the top officials and the frontline workers. Communication must be enabled both ways in order to ensure that there is adequate space for feedback and reporting of the actual situation at the grassroots level.

What India needs today is a stronger commitment to ensure realization of right to nutrition of every single child and adult in the country. Any further delay would only mean depriving millions of their fundamental right to life!



# DOES THE **JUVENILE JUSTICE SYSTEM** ADEQUATELY RESPECT THE RIGHT OF PERSONS WITH DISABILITIES TO RAISE CHILDREN?



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The Rights of Persons with Disabilities Act, 2016 (RPD Act) and the Mental Healthcare Act, 2017 (MH Act) have significantly transformed the legal landscape pertaining to disability. Apart from terminological changes, these legislations expressly recognize the rights of person with disabilities including children with disabilities (CWD) and persons with mental illness. This article examines some implications and potential areas of conflict between the Juvenile Justice (Care and Protection of Children) Act, 2015, JJ Model Rules, 2016, and Adoption Regulations, 2017, and the above-mentioned legislations.

## **Who can order separation of a child with disability from parents?**

Under Section 9(1), RPD Act, no CWD can be separated from parents on ground of disability except on an order

of competent court, if required, in the best interest of the child. If the parents are unable to take care of a child with disability, the competent court should place the child with near relations, and failing that within the community in a family setting or in exceptional cases in shelter home run by the appropriate Government or non-governmental organisation, as may be required<sup>1</sup>. It is also the duty of the government to foster respect for the decisions made by persons with disabilities on all matters related to family life, relationships, bearing and raising children<sup>2</sup>.

Under the JJ Act, 2015, a child who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Juvenile Justice Board (JJB)

or Child Welfare Committee (CWC) will be considered a child in need of care and protection<sup>3</sup>. Such a child can be separated from the parents or guardian and placed in a Children's Home.

The RPD Act refers to "competent court" under Section 9, and makes no reference to the CWC under the JJ Act, 2015, which has the authority to declare a child with mental illness or intellectual disabilities, a child in need of care and protection if the parents are unfit to take care. The definition of "court" in the JJ Act refers to a "civil court" having the jurisdiction in adoption and guardianship matters and could include the District Court, Family Court and City Civil Courts. The apparent conflict can be resolved by reference to Section 96, RPD Act, which clarifies that the provisions of the Act are in addition to, and not in derogation of existing laws, and Section 1(4)(ii), JJ Act, which declares that notwithstanding any other laws "for the time being in force", it will apply to all matters concerning children in need of care and protection including procedures, decisions, or orders related to their rehabilitation, adoption, re-integration, and restoration. A harmonious reading of the two legislations would mean that the CWC should consider the options for placement specified in the RPD Act before institutionalizing the child. This would also be in consonance with the principles of family responsibility and institutionalization as a measure of last resort recognized under Section 3, JJ Act.

### **Implications of singling out children of "mentally retarded parents" for adoption**

Under the JJ Act, 2015 and Adoption Regulations, 2017, the child of "mentally retarded parents" can be declared free for adoption by the CWC based on a certificate reflecting "mental disability" of the parents from a medical board constituted by the Central Government/State Government, as per guidelines for

<sup>1</sup> RPD Act, Section 9(2)

<sup>2</sup> RPD Act, Section 39(2)(c)

<sup>3</sup> JJ Act, 2015, Section 2(14)(iv).



mental illness issued by the Ministry of Social Justice and Empowerment<sup>4</sup>.

The JJ Act, 2015, uses the term "mentally retarded parents" in the context of adoption. The Mental Health Act, 2017, distinguishes between mental illness and mental retardation and states that the latter "is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence"<sup>5</sup>. The term mental retardation has also been discarded by the RPD Act and replaced with "intellectual disabilities"<sup>6</sup>. It is thus not clear as to what is meant by "mental disability" in the Adoption Regulations.

The latent assumption in the JJ Act and Adoption Regulations that mentally retarded parents may not be fit to parent is, however, inconsonant with the RPD Act's prohibition on discrimination on the grounds of disability, recognition of reproductive rights, and State's obligation to foster respect for decisions related to family life, relationships, bearing and raising children. The MH Act also provides that a child below three years

<sup>4</sup> JJ Act 2015, Section 38(3) and Regulation 6(18), Adoption Regulations, 2017.

<sup>5</sup> Mental Health Act, 2017, Section 2(s); Rights of Persons with Disabilities Act, 2016, The Schedule, 3. Mental Behaviour, - "mental illness" means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence.

<sup>6</sup> Laxmi Narayan Choudhary & Thomas John, "The Rights of Persons with Disabilities Act, 2016: Does it address the needs of the persons with mental illness and their families", *Indian J. Psychiatry*, 2017 Jan-Mar: 59(1), 17-20, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5419007/>

should not ordinarily be separated from the mother when she is accessing care, treatment, or rehabilitation at a mental health establishment and allows temporary separation only if there is a risk of harm to the child<sup>7</sup>. The mother should, however, continue to have access to the child under supervision, and the decision to separate should be reviewed every 15 days during her stay in the mental health establishment. The separation should be terminated if the conditions for separation cease to exist, and approvals are required if it extends beyond 30 days<sup>8</sup>.

The JJ Act, 2015 has overlooked the Supreme Court's decision in *Sucheta Srivastava v. Chandigarh Administration*<sup>9</sup>, in which the decision of a mildly mentally retarded woman, who became pregnant as a result of rape while living in a Government institution, to bear a child was respected and the High Court's decision ordering termination of pregnancy was set aside. The Supreme Court made references to the UN Convention on the Rights of Persons with Disabilities, which had been ratified by India, and also observed:

“Her reproductive choice should be respected in spite of other factors such as the lack of understanding of the sexual act as well as apprehensions about her capacity to carry the pregnancy to its full term and the assumption of maternal responsibilities thereafter.”

The Supreme Court also refused to conflate mental retardation with mental illness for the purpose of the Medical Termination of Pregnancy Act, 1971, which allowed a guardian to give consent for termination on behalf of a mentally ill woman. It emphasized that “while the distinction between these statutory categories can be collapsed for the purpose of empowering the respective classes of persons, the same distinction cannot be disregarded so as to interfere with the personal autonomy that has been accorded to mentally retarded persons for exercising their reproductive rights.” The

Supreme Court also recognised the different degrees of mental retardation:

**“Persons suffering from severe and profound mental retardation usually require intensive care and supervision and a perusal of academic materials suggests that there is a strong preference for placing such persons in an institutionalised environment. However, persons with borderline, mild or moderate mental retardation are capable of living in normal social conditions even though they may need some supervision and assistance from time to time. A developmental delay in mental intelligence should not be equated with mental incapacity and as far as possible the law should respect the decisions made by persons who are found to be in a state of mild to moderate ‘mental retardation’.”**

### Conclusion

The JJ Act, 2015 and the Adoption Regulations, 2017 do not reflect nuanced understanding of mental retardation and it remains to be seen how it will be implemented. Will sponsorship be provided to such parents? Will they be linked to any of the schemes of the government for persons with disabilities to support them in parenting their child? Unless the child protection system also offers financial, physical, and psychological support, the rights of persons with intellectual disabilities to bear and raise children cannot be realized. An attempt to address some of these aspects can be made in the State Rules under the JJ Act, 2015. A provision requiring the CWC to consider specifically the provisions of the RPD Act and the MH Act and any other law in force when deciding whether to declare a child of persons with intellectual disability free for adoption can be added.

<sup>7</sup> MH Act, 2017, Section 21(2).

<sup>8</sup> MH Act, 2017, Section 21(3).

<sup>9</sup> Civil Appeal No. 5845 of 2009 decided on 28 August 2009.





# A JOURNEY TO SAVE, STRENGTHEN AND TRANSFORM EACH GOVERNMENT SCHOOL INTO **GENUINE NEIGHBOURHOOD SCHOOL**



*Dr. Niranjanaradhya V.P, and Krithika B.S.*  
*Universalization of Equitable Quality Education Programme*

## Background

The uphill task of achieving equitable schooling, to universalise equitable quality education to all children in India remains an unfinished agenda without the active participation of community especially the parents whose children are in schools. In our opinion, the parents of school going children constitute the critical mass to bring desirable changes; both in terms of quantitative and qualitative expansion and consolidation of school education to address the endemic problems haunting the education system through systemic solution. The Indian state recognized the importance of

community participation in early 80s and initiated various pilot programmes to involve community in the process of universalising school education. Some of the important initiatives in this regard are Andhra Pradesh Primary Education Project (1984-87); Rajasthan's Shiksha Karmi Project (1987); Bihar Education Project (1991); Uttar Pradesh Basic Education Programme (1993) and Rajasthan's Lok Jumbish (1992-94). The learnings and insights from these initiatives were fed into national flagship programmes like District Primary Education Programme (1994) and Sarva Shiksha Abhiyan (2000).

In the meanwhile, the efforts and unique initiative made by the State of Karnataka changed the entire discourse on community participation from being symbolic to a systematic democratic institutional structure through a new type of community ownership and participation. The process started way back in 1999 through preliminary discussions with the then education minister and later got crystallised in the report of the Education Task Force. As a first step to implement the recommendations of the Education Task Force, a draft Executive Order was drafted by the Department of Public Instruction and it was vetted with the parents, teachers and NGOs working in the field through consultations with the help of CCL-NLSIU to set up School Development and Monitoring Committees in all primary, secondary and high schools in the state based on the recommendations, in close collaboration with the Centre for Child and the Law, National Law School of India University.

As a result, the Government of Karnataka passed an Executive Order on 28.04.2001 to facilitate the process of constituting School Development and Monitoring Committees (SDMCs) in all state-run primary, secondary and high schools comprising of parents and guardians of school going children as primary stakeholders. Followed by this, the CCL-NLSIU joined hands with the Department of Education to raise awareness and provide trainings on the process of constituting these committees as per the executive order and developed resource materials to build the capacities of the members of SDMCs since 2002 in close collaboration with the department.

A study was conducted after 3 years of constitution of SDMCs in 2004 to assess the role of SDMCs in the development of School Education and functioning of SDMCs in collaboration with the Department of Education. Based on the report of this study, the process of merging SDMCs with Gram Panchayats was undertaken from 2005 through 2006. As a part of this,

an extensive study was conducted and the Karnataka Gram Panchayat (School Development and Monitoring Committees) (Model) Bye-Laws were framed in 2006. With these bye-laws, SDMCs were provided with more legal sanctions through delegated legislation under the Panchayat Raj Act to link SDMCs with the Gram Panchayat and to place them under existing statutory sub-committees within the Panchayat. This paved way for further decentralization of school governance from Panchayat authority and the powers of the Gram Panchayat with respect to school education was further decentralized to the School level.

These efforts made by the state of Karnataka to involve community especially parents of school going children brought visible far reaching changes in the school education which were recognized by the Central Government and the model of SDMCs in relation to composition of members was adopted in the Right of Children to Free and Compulsory Education Act, 2009 which is applicable to the entire nation. This Act came into force on 1st of April 2010.

After the RTE Act, the CCL-NLSIU continued its pioneering work of strengthening SDMCs at the school level as per the RTE Act and also continued the process of mobilizing the members from the Panchayat level to the State level under School Development and Monitoring Committee Coordination Forum(SDMCCF) which started in 2004. As part of this process SDMC presidents and Vice-presidents at the school were brought at the level of Gram Panchayat to constitute Gram Panchayat level SDMCCF as the basic unit. Followed by this taluk, district and state units were constituted respectively by bringing the elected office bearers of one level to the next level as part of representative democratic institution model.

At present, the presence of School Development and Monitoring Committee Coordination Forum is seen throughout the State of Karnataka from the Panchayat to the State level and these forums work



in close collaboration with government departments, local authority, teachers association and civil society organizations at each level. The Forum essentially works on its vision statement; “Save, Strengthen and Transform each Government School into genuine neighbourhood school”.

### **Memorable Event**

A decadal tireless work of the Forum culminated in its first state level community educational convention that was held on 30th and 31st October 2017 at Shikshakara Sadana, Bangalore. The state level convention was one of the historic and memorable events in the history of school education in Karnataka. 500 representative delegates from all 225 taluks of the state witnessed and participated in the deliberations of the two day proceedings. The convention started with a procession from City Railway Station to Shikshakara Sadana where members of the forum from every nook and corner of the state walked through the main road raising their basic demands, to strengthen public education. Well known Gandhian and Veteran Freedom Fighter Mr. S. Doreswamy gave momentum to the procession.

The procession was followed by an inaugural session. A host of dignitaries including Justice Rajendra Babu, Retired Chief Justice of Supreme Court of India; Mr. Tanveer Sait, Minister for Primary and Secondary Education, Government of Karnataka; Mr. Vijay Bhaskar. T.M., IAS, Additional Chief Secretary and Development Commissioner, Government of Karnataka; Prof. G. Siddaramaiah, President, Kannada Development Authority, Government of Karnataka;

Dr. Shalini Rajneesh, IAS, Additional Chief Secretary, Department of Education (Primary and Secondary Education), Government of Karnataka; Prof. (Dr.) R. Venkata Rao, Vice Chancellor, National Law School of India University; Mr. Basavaraj Gurrikar, President, Karnataka State Primary School Teachers’ Association; Mr. Ambarish Rai, Convener, RTE Forum, New Delhi; Ms. Shireen Vakil, Head-Policy and Advocacy, TATA TRUSTS, New Delhi and Prof. Dr. V. S. Elizabeth, Coordinator, Centre for Child and the Law, National Law School of India University attended the inaugural session.

The technical sessions on the burning issues haunting the current education system marked the essence of the convention. The technical sessions included Situational analysis of education in Karnataka – Effect on children belonging to weaker sections and disadvantaged groups; Implementation of Right of Children to Free and Compulsory Education Act, 2009 – Issues and Challenges; Privatization of School Education – Problems and Solutions; Role of SDMCs in strengthening of Government Schools – Possibilities and Challenges; and Common School System for Equality and Social Justice.

The two day historic convention was concluded with the Valedictory address delivered by the honourable Chief Minister of the State of Karnataka and presided Mr. H. Anjaneya, honourable Minister of Social Welfare and Backward Classes, Government of Karnataka along with other dignitaries including Prof.



Chandrashekar Patil, Renowned writer and Designated President of the 83rd Kannada Sahitya Sammelana; Dr. P.C.Jaffer, IAS, Commissioner, Department of Public Instruction, Government of Karnataka; Prof. (Dr.) O. V. Nandimath, Registrar, National Law School of India University; Dr. Vasundhara Bhupathi, President, Kannada Book Authority; Dr. K. Muralidhar, Secretary, Kannada Development Authority, Government of Karnataka; Mr. V. M. Narayanaswamy, Secretary, Karnataka State Primary School Teachers' Association; Prof. Babu Mathew, Professor, NLSIU; Mr. Abhijeet Nirmal, Manager, Child Protection and Anti-Human Trafficking, TATA TRUSTS, New Delhi and Mr. Gangadhar. V. P, President, Sama Samaja Nirmana Geleyara Balaga.

To conclude, the first state level convention made a far reaching impact on the issue of strengthening public



education. The SDMCCF reiterated its position to make public education a political agenda; mobilising citizens in support of quality and equitable education; massive campaigns to free education from the clutches of market forces in order to change social norms in support of education as a social good and tool for social transformation and work towards change of Policy, Programmes and Practices to “SAVE, STRENGTHEN AND TRANSFORM EACH GOVERNMENT SCHOOL INTO GENUINE NEIGHBOURHOOD SCHOOL”.

In fact, as concrete and visible outcome of Mammoth School Development and Monitoring Committee Coordination Forum State Convention on 30th and 31st October 2017, honourable Chief Minister had instructed the Education Minister to prepare an action plan to address all the issues raised during the convention and also the core issues raised by the representatives of the School Development and Monitoring Committee Coordination Forum in close collaboration with Karnataka State Primary School Teachers Association and other civil society organizations as part of appraising the Chief Minister on the deliberations of the two day convention to debate and discuss the burning issues. In response to CM's Instructions, the Education Minister has prepared a detailed action plan to address all the issues raised by the forum through the convention and the same has been sent to the Principal Secretary, Primary and Secondary Education, Government of Karnataka for appropriate action. This is nothing but the concrete outcome of the mammoth convention and personally all our efforts in the last two decades yielded very positive results. The entire credit goes to SDMCCF, Teachers Association and other civil society organisations.

# Voices of Children

## Are our justice systems truly child friendly?

JJ Act Section 2 (15) clearly defines child friendly approach as “any behaviour, conduct, practice, process, attitude, environment or treatment that is humane, considerate and in the best interest of the child”; and recognizes it as one of the basic principle. However the experience of children in the Juvenile Justice system does not seem to reflect this. They do not experience anything within the system as being child friendly- neither the attitude of the officials nor the approach adopted by the system for their future. All that they resonate with is a feeling of being stuck in the system. “This is a dirty system; I can never come out of it”- a child in conflict with law living in the Observation Home had to say this about the justice system when asked.

As per section 47 (1) of JJ Act 2015 Observation homes are established and maintained for temporary reception, care and rehabilitation of any child alleged to be in conflict with law, during the pendency of inquiry. Currently there are more than 40 children staying in the Observation Home in Bangalore. This is a floating population, as children come in and go (either they get bail or they are shifted to CWC- in cases where the JJB agrees that the child is a child in need of care and protection or is transferred to Special home - after final judgment, if the child is found guilty of committing the offence).

*“Entering into this system is like slipping into drainage. Whatever we*

*do we will always be seen as a criminal in everyone’s eyes; especially for the Police. Any crimes reported in our locality we will be the first person to be caught. I have no faith in the system. I’m sure I have to come back here”.*

*“I would have been in school, if I was released immediately. However now I don’t want to go back to school. I would like to go out from OH and stay at home, and study from home using a guide but not go out because I’m not sure how the society is going to look at me. I’m scared of my community. I don’t know how they will react after they get to know about my past.”*

*“Even if we would like to come out of the system and live a normal life, the Police will not allow us to do so. If any crime happens in our area; the Police will first search for us and book cases against us (atleast till the time they don’t get the real accused) and bring us back to the system. We cannot escape from this scenario even if we choose to”*

*“I have only one choice i.e. to leave the city and get settled in some other place. But that also requires a lot of money or atleast an assured job”*

Many children in the Observation home (OH) reflected this thought process. They feel that they can never escape from Police. They feel that the attitude of the Police towards them is not at all friendly. One boy shared his experience of staying in central prison for more than 3 months because the Police asked him to mention his age was above 18 yrs and he innocently did so. There is a sense of hopelessness. While speaking to some of the boys they said that the only thing they like about the OH is the food.

# Updates in Child Protection

## Significant Judgements

### Child marital rape: Supreme Court reads down

#### Exception 2 to Section 375

In *Independent Thought v. Union of India*<sup>10</sup>, a division bench of the Supreme Court of India read down Exception 2 to Section 375, Indian Penal Code, 1860, to the extent that it applied to girls between the ages of fifteen and eighteen, on the ground that it violated Article 14 and 21 of the Constitution of India. The Court held that the exception was in contravention of Article 14, insofar as the classification of minor girls into married and unmarried was concerned, and therefore deserved to be read down. The said classification was found to be arbitrary and the marital status of a minor girl was held to have no connection with any reasonable object. The Court also held that the exception contravened the rights of minor girls who were married under Article 21:

first, by restricting their reproductive choice, and secondly, by impinging on their self-esteem and confidence.

The Supreme Court categorically rejected the contentions of the respondent:

It held that the arguments set forth by the Union of India were more in the nature of historical reasons why the said exception had been placed in the IPC, and not a justification for why it should be retained. It added that in mentioning the remedy to have the marriage nullified or repudiated after attaining majority, the government was shirking responsibility and placing the entire burden on the parties subjected to a child marriage.

<sup>10</sup> *Independent Thought v. Union of India*, WRIT PETITION (CIVIL) NO. 382 OF 2013, decided on October 11, 2017, [Madan B. Lokur and Deepak Gupta JJs], available at [http://supremecourtindia.nic.in/supremecourt/2013/17790/17790\\_2013\\_Judgement\\_11-Oct-2017.pdf](http://supremecourtindia.nic.in/supremecourt/2013/17790/17790_2013_Judgement_11-Oct-2017.pdf) (Last visited on December 12, 2017).

Secondly, the Court held that merely because child marriages have been taking place by tradition is no reason to legitimize or validate such a tradition. In fact, given the many harms (discussed in detail) of child marriages, and minors being subjected to sexual intercourse, such a tradition deserved to be rejected.

Thirdly, the idea that the minor consented to sexual intercourse simply by virtue of being married was held to be contrary to other laws, and unconstitutional. A married woman, or married girl child, is not the property of her husband, and is not bound to be at his beck and call. Constitutionally, a female has equal rights as a male, and no statute should be read to derogate from this position. Further, when a minor is barred from consenting to sexual intercourse under all other laws, she cannot be assumed to have consented, or be capable of consenting, simply by virtue of being married.

Fourthly, the view that marital rape of a girl child has the potential of destroying the institution of marriage cannot be accepted. Marriage is not institutional, but personal. Nothing can destroy the institution of marriage except a statute that makes marriage illegal and punishable.

It was held, finally, that the exception should be read down to, “sexual intercourse by a man with his wife, the wife not being under the age of 18, would not be rape”.

#### **Bombay High Court judgment favoring child victim of sexual abuse**

In *Balaji Sarjerao Kamble v. State of Maharashtra*<sup>11</sup>, the applicant approached the court to have his sentence suspended. He was sentenced under S. 376, Indian Penal Code, and S. 4 and 8 of the POCSO Act. The proved case of the prosecution was that the applicant had taken the victim, his eight-year-old neighbour, to the stairs of her house and attempted to have penetrative sexual intercourse with her. The grounds urged for suspension of sentence was that Prime Witness 4, the medical examiner, had stated that the victim had an old tear in her hymen, whereas the medical examination had been done only 3 days after the alleged date of the incident. The High Court, however, held that the testimony of the victim had been cogent, and the medical evidence had corroborated the testimony in material particulars. Therefore, there was no ground made out to suspend the sentence. The application was dismissed with orders to expedite the appeal.

#### **Sikkim High Court Judgment on compensation under POCSO Act**

In *Deo Kumari Rai v. State of Sikkim*<sup>12</sup>, the appellant had been convicted under S. 9 and 10 of the POCSO Act for having sexually assaulted two minor children, aged 11 and 6 years respectively. Both children had been repeatedly sexually

assaulted, and the convict was a relative of the victims. The conviction had been appealed on the ground that the Special Court had convicted the appellant primarily on the testimony of the victims, which had certain inconsistencies, and should therefore not have been considered reliable. The Court, however, held that the inconsistencies did not weaken the testimonies of the victims, who had remained unshaken even in cross-examination. Therefore, the conviction was left undisturbed.

On examining of the facts of the case, and with particular focus on the young age of the victims, the trauma of sexual assault by a family member, and the poor financial condition of the family of the victims, the Court enhanced the compensation granted by the Special Court. It held that the compensation amount of Rs. 10,000/- would be realised only on payment of fine by the accused, and even then, would be insufficient. It was observed that the Special Court was obligated under S. 33(8), POCSO Act, read with the POCSO Rules, and S. 375(A), Cr.PC was required to assess whether the compensation awarded under S. 375 was enough for the rehabilitation of the victims, but this had not been done. The High Court directed that Rs. 45000/- be paid to each victim under the Sikkim Victim Compensation Scheme.

The Court also cautioned the Investigating Officer who filed the charge-sheet, the Judicial Magistrate who took the statement of the victims under S. 164, Cr.PC and the Special Judge to be mindful of the mandate of the POCSO Act, Supreme Court and the High Court of Sikkim, to protect the identity of the victims. This would extend not only to the name of the victim but also other identifying markers such as the names of the members of the victims’ families, the names of their schools, their neighbourhood, address, and so on.

#### **Delay in filing FIR in case of rape of minor girl held to be normal conduct of a helpless victim in adverse circumstances**

In *Siddharth Dagadu Sonde v. State of Maharashtra*<sup>13</sup>, the appellant had contested his conviction under S. 376, IPC and S.4 POCSO Act on the ground that the victim’s statement was unreliable, as she had not disclosed the alleged incidents of rape to anyone for one whole academic session. The Court examined the circumstances in which the incidents of rape had occurred. It was found that the victim had been forced to reside with the appellant, who was the husband of her paternal aunt, because her father had died, and her mother was in a state of penury. She had no choice but to take shelter in the home of her paternal aunt for her schooling. While the appellant would sexually assault her, ask her to massage his penis with oil, and even penetrate her vaginally,

<sup>11</sup> 2016 SCC OnLine Bom 10185

<sup>12</sup> Cr.L. Appeal No.13 of 2016, decided on 13.09.2017, [Bhaskar Raj Pradhan J] (Sikkim High Court).

she did not mention any of this either to her mother or to her aunt through the duration of the academic session. It was only when she went home during the vacations that she mentioned the incidents. The Court held that given her circumstance of dependence on the appellant and the state of penury of her own family, it was not surprising that the victim did not mention her plight to anyone. It was held to be completely normal behaviour, and therefore, the decision of the Special Court, that the delay in filing the FIR would not be detrimental to the case of the prosecution, was upheld.

### **Testimonies of child witnesses cannot be automatically rejected**

In *Hans Raj Bhola v. State*<sup>14</sup>, the accused had been convicted under S. 10 of the POCSO Act for kissing one child victim, and pulling down the underpants of another child victim and urinating in her presence. The appeal was based on the ground that the actual culprit was an 18-year-old boy, and not the accused, who a 40-year-old man. It was further based on the ground that the only evidence against the accused was the testimony of the child victims, and since they were very young, this testimony could not be accepted. However, the Court examined the testimony of both child victims and concluded that they corroborated each other, as well as the testimonies given by their mothers. The accused had been identified in Court, and there was nothing to suggest that there was another culprit. Therefore, the appeal was dismissed and the conviction was upheld.

### **Supreme Court holds that a minor survivor's deposition not must for rape conviction**

In *State of Maharashtra v. Bandu @ Daulat*<sup>15</sup>, the accused had been convicted under S. 376, IPC for raping the 14 year old victim, who had a hearing disability, speech impediment and intellectual disability. It was alleged that the accused had lured her with some sweet meats and raped her. The victim had been taken back home by two boys who found her, and on reaching home, she explained the incident to her mother by gestures. The High Court, however, held that since the victim herself had not been examined, the factum of rape could not be proved. However, the Supreme Court held that the medical examination of the victim and the testimony of the mother of the victim were conclusive proof that the victim had been raped by the accused, and it was not necessary to examine the victim. Further, it was held that there is a need to establish centres to examine vulnerable witnesses, such as those who suffer some form of disability, and directed that all High Courts in the country adopt the guidelines laid down by the High Court of Delhi regarding the examination of vulnerable witnesses.

<sup>13</sup> 2017 SCC OnLine Bom 7985

<sup>14</sup> 2017 SCC OnLine Del 10589.

### **Victim's statement is of great importance in cases under POCSO Act**

In *State of Himachal Pradesh v. Desh Raj*<sup>16</sup>, the accused had been acquitted by the Special Court under S. 8, POCSO Act. The case against him was that he was running a shop outside the school of the victim, and on multiple occasions he had pinched the breasts of the victim and asked her for sexual favours. On the other hand, the defence contended that the victim had stolen something from the shop of the accused, at which the accused had slapped the victim. This had prompted her family to file a case against the accused. The defence was able to establish that the victim had in fact stolen some biscuits and frooti from the shop of the accused, for which her uncle had later made payments. The classmates of the accused who were allegedly with her when the incident occurred turned hostile in Court. Therefore, it was held that the testimony of the victim, which is the most crucial evidence in POCSO cases, did not inspire confidence. The acquittal of the accused was upheld.

### **Consent for sexual intercourse, of a girl aged 14 years is immaterial and it is rape under POCSO Act**

In *Premkumar H.M. @Swamy v. State of Karnataka* a petition for bail had been submitted by the petitioner in a matter under S. 366-A, IPC. The statement of the victim under S. 164, Cr.PC showed that she had willingly accompanied the accused and had stayed with him for over a month. She also stated that she was in love with the accused. The Court, however, observed that the accused was only 14 years and 10 months old at the time of the alleged incident when the accused had taken the victim from her grandmother's house. Therefore, her consent to go along with him was immaterial. The petition for bail was rejected.

### **Watching or following a child with bad intention amounts to an offence under POCSO Act**

In *Manju Tejbal Vishwakarma v. The Union Territory of Daman and Diu*<sup>17</sup>, the proceedings pending in the Special Court under S. 11 and 12 of the POCSO Act were being challenged by way of a criminal writ petition. It was contended that the FIR against the petitioners was vague, and the offence under S.11 had not been made out by it. However, the Court observed that the victim, in her statement under S. 164, Cr.PC had stated that the petitioner no. 2 had a "bad eye on her", and used to follow her around and attempted to contact her. The Court held that this would be sufficient to make out the offence under S. 12, POCSO Act, and therefore, refused to quash the proceedings.

<sup>15</sup> CRIMINAL APPEAL NO. 1820 of 2017, decided on October 24, 2017 (Supreme Court of India) [A.K. Goel and U.U. Lalit JJs].

<sup>16</sup> 2017 SCC OnLine HP 1481.

<sup>17</sup> 2017 SCC OnLine Bom 8895.

## Reports & Publications

### Consolidated Report of the Third Round of Regional Level Round Table Consultations on Effective Implementation of the JJ Act

On 5 August 2017, the consolidated report of the key challenges and recommendations that emerged from the third round of Regional Level Round Table Consultations on Effective Implementation of the JJ Act, 2015 was released by the Hon'ble Mr. Justice J.S.Khehar, Chief Justice of the Supreme Court of India. The focus of the third round was on rehabilitation services and linkages with the POCSO Act, 2012. CCL-NLSIU provided technical assistance to the Supreme Court Committee on Juvenile Justice under whose aegis the consultations were held. The report captures the progress made in the effective implementation of JJBs, CWCs, legal services, and management of institutions and the challenges and solutions for linkages between the JJ Act and the POCSO Act and for rehabilitation of children in conflict with the law and children in need of care and protection. The report is available at [http://www.unicef.in/Uploads/Publications/Resources/pub\\_doc147.pdf](http://www.unicef.in/Uploads/Publications/Resources/pub_doc147.pdf)

### Working of Special Courts under POCSO Act - State Reports

The Karnataka study was undertaken in three districts and over 65 respondents from police, prosecutors, doctors, support persons, former Special Court Judges, NGOs, interpreters were interviewed. 110 cases from the three districts were analysed. The report was uploaded on August 8th and is available at <https://www.nls.ac.in/ccl/jjdocuments/posco2012karnataka.pdf>

The Maharashtra study was published on September 7, 2017 and is available at <https://www.nls.ac.in/ccl/jjdocuments/POSCOMaharashtrastudy.pdf>

1330 judgments of Special Courts from 30 districts of Maharashtra were analysed and 32 interviews were carried out with a range of stakeholders including Special Courts, Public Prosecutors, State Legal Services Authority, District Legal Services Authority, representatives of Child Welfare Committees, Juvenile Justice Boards, court staff, Investigating Officers, NGOs, lawyers, Support Persons, and others.

The Andhra Pradesh study report was uploaded on the 28th November, 2017 and is available at <https://www.nls.ac.in/ccl/OSCOAP2017study.pdf>. This study has analyzed 509 judgments from 11 districts of AP and interviewed 36 respondents including Special Court Judges, Public prosecutors, police, District Legal Services Authorities, Child Welfare Committees, representatives from Juvenile Justice Boards, NGOs, defence lawyers and children were interviewed for this study.

These reports analyses the extent to which the Special Courts structurally and procedurally complied with the provisions of the POCSO Act, the interpretation of the Act, and the child-friendly nature of the courts.

### State Rules under the Juvenile Justice Act, 2015

Tamil Nadu government has enacted the State Juvenile Justice (Care and Protection of Children) Rules 2017 on the 11th August 2017<sup>18</sup>, which is accessible at [http://www.stationeryprinting.tn.gov.in/extraordinary/2017/264\\_Ex\\_III\\_1a.pdf](http://www.stationeryprinting.tn.gov.in/extraordinary/2017/264_Ex_III_1a.pdf).

### Analysis of Manodhairya Scheme, 2017

The Victim Compensation Scheme of the State of Maharashtra, called Manodhairya was introduced in 2013. The amendments made to it in 2017 have significantly diluted its pro-victim, comprehensive nature.

#### *Unreasonable and restrictive categorization*

Original Scheme: All cases under Sections 326, 326A, 376, 376(2), 376A-E, IPC, and Sections 3,4,5, and/or 6, POCSO Act.

Revised Scheme: Compensation available only if: Rape victim is mentally traumatised and acquires permanent retardation/disability. (Upto Rs 10 lakhs): An unreasonable distinction is made between victims of rape who suffer mental trauma and permanent retardation/disability as a result of the rape, and those who don't; Gang rape victim suffers serious and grievous physical injuries. (Upto Rs 10 lakhs); Child victim of sexual assault is permanently mentally retarded/disabled. (Upto Rs 10 lakhs); Child/minor girl sustains serious grievous injuries (upto Rs 10,000); Rape/child sexual assault involving adultery or false promise of marriage (upto Rs 1lakh/10 lakhs); and No minimum amount of compensation is provided.

#### *Linking compensation to victim's statement/testimony and outcome*

Original Scheme: Registration of FIR was the only basis for compensation. No reference to recovery of money from the victim.

Revised Scheme: Compensation is subject to FIR, Medical Examiner's Report and victim's 164 statement. If the victim changes or retracts statement in court in cases involving adultery/false promise of marriage money can be recovered. Further, 75% compensation will be placed in Aadhaar linked account only if judgment is in victim's favour.

#### *Minimum compensation done away with*

Original Scheme: Minimum prescribed; Range was Rs 2 lakhs – Rs 3 lakhs for rape and child sexual assault.

Revised Scheme: No minimum limit; upper limit raised to upto Rs 10 lakhs in some cases.

<sup>18</sup> Social Welfare and Nutritious Meal Programme Department, Notification 264, G.O Ms No. 53, date 11/08/2017.



### *Delay in payment prolonged, not plugged*

Original Scheme: Within 15 days; full amount immediately if offence is aggravated; 50% immediately after lodging FIR and balance through cheque after charge-sheet was filed if rape committed by fraud, false promise of marriage, or luring the victim in any other manner.

Revised Scheme: Interim of Rs 25,000 or 25% of sanctioned amount whichever is less; Payment to be sanctioned after FIR, MER, and 164 statement is received. Final after chargesheet is filed.

### *Money inaccessible*

Original Scheme: 75% shall be kept as FD until the child completes 18 years or a period of 3 years whichever is later. Interest from FD (75% of amount) to be credited to victim/parent's account to be used for victim's welfare. 25% given to guardian for expenses and kept in a bank account for minimum three years if child was illiterate. Withdrawals permitted with permission of District Board for educational or medical expenses.

Revised Scheme: 75% of approved compensations to be kept in FD in child's name for 10 years and will roll for another 10 years. Premature withdrawals not permissible until child attains 18 years.

### *Aadhaar mandatory*

Original Scheme: No such requirement of Aadhaar. Duty of the DWCDO to assist victim in opening a bank account, and assistance of Collector to be provided, if necessary documents are unavailable.

Revised Scheme: Responsibility for opening an Aadhaar linked bank account is on the victim and the victim's parents.

### *Tracing victims*

Original Scheme: DWCDO should seek assistance of police to find victim's new address.

Revised Scheme: If the victim's address cannot be located after "maximum efforts" for three months, the DLSA/SLSA can pass an order to deposit the compensation amount in the State Treasury.

### *Withdrawal of Additional Support*

Original Scheme: Additional amount of Rs 50,000 could be provided to the child for treatment, travel, and other emergency expenses based on the decision of the District Board. Trained district trauma team comprising a woman counselor, medical officer, support person, and police officers was supposed to have been constituted to provide immediate emotional support to victims covered under the Scheme.

Revised Scheme: No such provisions in the revised scheme. For a detailed analysis of the dilutions caused by the amendment, see the Analysis of the Government's Revised Manodhairya Scheme, 2017<sup>19</sup> by the team at the Centre for Child and the Law.

## International Judgements

### **The Supreme Court of the State of Washington, United States of America Ruled that Sexting by minors would be equivalent to Child Pornography**

The petitioner in the State of Washington v. Eric D. Gray case had been convicted by the Juvenile Court and the Court of Appeals for sending an unsolicited picture of his erect penis to a 22-year-old woman, whom, it was alleged, he had been harassing over the phone for the past few months. The Court of Appeals held that the legislature could decide to protect children from themselves, and prohibit them from disseminating pictures of themselves engaging in sexually explicit Acts. It further made a distinction between Gray's case on the one hand, and cases of "innocent sharing of sexual images between teenagers" on the other. The case was appealed to the Supreme Court of the State of Washington, which framed two issues to be adjudicated:

First, whether the statute allowed the state to prosecute a minor for taking and distributing sexually explicit images of himself. And secondly, whether the statute was unconstitutional for being vague, and infringing upon the first Amendment rights (free speech) of teenagers. As regards the first issue, the Court held that a plain reading of the statute made it clear that it was meant to apply even to minors disseminating sexually explicit pictures of themselves, because the state had a vital interest in protecting children from those who sexually exploit them, including themselves. The Court answered the dissent that this ruling would amount to punishing victims of child pornography by saying that, when the child is used in the manufacture of pornography, and another person is involved in its creation, the child would be immune from prosecution. In answering the second question, the Court held that the statute was not "overbroad" because child pornography was not an exempted category of speech. It rejected the argument that because no harm was done to a child, Gray should have the same rights as an adult taking pictures of his own body, and reaffirmed that the picture he sent amounted to child pornography. In analyzing the issue of vagueness, the Court held that the statute did not give arbitrary discretion to the state, and therefore was not vague. Insofar as the question of teenagers consensually exchanging sexually explicit images of themselves was concerned, the Court declined to comment on the matter, since it was not in issue before them. It must be noted however, that they did not overrule the finding of the Court of Appeals that consensual exchange of such pictures by teenagers would be beyond the scope of the statute.

<sup>19</sup> <https://www.nls.ac.in/ccl/jjdocuments/Manodhairyascheme2017.pdf>

# Updates in Right to Education

## **Schedule to the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 amended.**

The Child Labour (Prohibition and Regulation) Act, 1986 was amended in 2016 and the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 came into force from the 1st of September 2016. The rules to the same were also amended in tune with the Act and it came into force on the 2nd of June 2017 through a notification of the Ministry of Labour, Government of India<sup>20</sup>. Subsequent to this, the Schedule to the Act was also amended and notified on the 30th of August 2017. The schedule has two parts - Part-A lists the Hazardous occupations and processes adolescents are prohibited to work in and children are prohibited to help, and Part-B lists the occupations where children are prohibited to help in family or family enterprises in addition to the hazardous occupations and processes listed in Part-A. Part-A of the Schedule lists 38 hazardous occupations and processes whereas Part-B of the Schedule lists 15 Occupations and 54 Processes.

## **Right of Children to Free and Compulsory Education (Amendment) Act, 2017<sup>21</sup>**

The Right of Children to Free and Compulsory Education Act, 2009 laid down a deadline for all teachers to acquire the minimum qualifications by the 31st of March 2015. Even after the completion of the said deadline, the State Governments failed to make provisions for the in-service training of teachers and approached the Ministry of Human Resources Development, Government of India to extend this deadline. The Ministry brought the amendment to the floor of the Parliament to amend the Right of Children to Free and Compulsory Education Act, 2009 and extend the deadline till the 31st of March 2019 for teachers appointed or in service as of 31st of March 2015 and do not possess the minimum qualifications to acquire the same. The Act is deemed to have come into force on the 1st day of April 2015 and was notified in the Official Gazette on the 9th of August 2017 post the President's assent.

## **Right of Children to Free and Compulsory Education (Second Amendment) Bill, 2017<sup>22</sup>**

A second amendment to the Right of Children to Free and Compulsory Education Act, 2009 was introduced in the Lok Sabha on the 11th of August 2017 by the Ministry of Human Resource Development, Government of India. This Bill seeks to amend Section 16 of the RTE Act, 2009, which prohibits detaining children till the completion of elementary education. The Bill proposes to replace this section by re-introducing regular end of the year examinations in the fifth and eighth standards. It provides that if a child fails in the examination, then s/he will be provided with additional instructions and an opportunity to appear for re-examinations within a period of 2 months. The appropriate Government has been given the

authority to allow schools to hold back a child in the same class if s/he fails to score in the re-examination. The appropriate government has also been given the authority to decide against holding back a child till the completion of elementary education. The bill further provides that no child is to be expelled from school till the completion of elementary education. The appropriate government has been given powers to frame rules in this regard. This bill was moved as there was a concern raised by the States and Union Territories that the No-detention Policy laid down in the RTE Act of 2009 was adversely impacting the learning levels of children. The Objectives to the Bill state that by re-introducing detention, the learning outcomes of children in elementary classes could be improved.

## **New Education Policy**

A committee headed by Prof. Kasturirangan was constituted in June 2017 to come out with the final draft of the National Policy on Education. This committee is to look into the report submitted by the T.S.R. Subramainiam committee, the consultations organized by MHRD at the Taluk, District and State Levels, as well as the suggestions and inputs provided by the various stakeholders like Teachers, educationists, Parents and children. The Committee is expected to submit its draft by the 31st of December 2017.

## **Children from Private schools moving to Government schools in Ramanagara District**

CCL has been conducting an enrolment drive every year since 2015 in Ramanagara district to increase enrolment to government schools. Various strategies have been adopted by the Centre like door-to-door campaign, Bike Rally, Distribution of Handbills, Conduct of District Education Conventions and Processions in this regard. The enrolment campaign was duplicated by other NGOs and the State Government and a positive response was received from the community. The visible impact of this campaign is the migration of children from private schools to government schools in huge numbers. 970 children in classes 1 to 8 have moved from private institutions to government institutions in 2017 alone.<sup>23</sup> A practical approach has been adopted by the centre to curb the effects of privatisation in the field of education and with sustained efforts, it is bound to increase the number of children enrolling to the government schools.

<sup>20</sup> [http://labour.nic.in/sites/default/files/The%20Child%20Labour%20\(Prohibition%20and%20Regulation\)%20Amendment%20Rules,%202017.pdf](http://labour.nic.in/sites/default/files/The%20Child%20Labour%20(Prohibition%20and%20Regulation)%20Amendment%20Rules,%202017.pdf)

<sup>21</sup> [http://mhrd.gov.in/sites/upload\\_files/mhrd/files/upload\\_document/RTE\\_2017.pdf](http://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/RTE_2017.pdf)

<sup>22</sup> <http://www.prsindia.org/uploads/media/RTE%20%282nd%20Amendment%29,%202017/RTE%20%28Second%20Amendment%29%20Bill,%202017.pdf>

<sup>23</sup> Data available with the Department of Public Instruction, Ramanagara District.

# Updates in Right to Food

## **National Nutrition Strategy by Niti Ayog**

The Government think tank Niti Ayog in September 2017 drafted a ten point nutrition strategy with a primary objective of bringing nutrition to the centre stage of development. The strategy lays down a roadmap for effective action, by both implementers and practitioners, in achieving nutrition objectives. It envisages a framework wherein the four proximate determinants of nutrition— uptake of health services, food, drinking water and sanitation and income and livelihoods—work together to accelerate decline of undernutrition in India. This strategy will enable states to plan policies in a decentralised manner, through local innovation and accountability for nutrition outcomes.

## **Guidelines for children affected by Severe Acute Malnutrition**

The Union Ministry of Health and Family Welfare has recommended the adoption of standards laid down by the World Health Organisation (WHO), in dealing with nutrition for children affected by severe acute malnutrition (SAM). The Women and Child Development (WCD) ministry is currently

working on a set of guidelines to tackle malnutrition among children afflicted by SAM. In the guidelines, the Department will define SAM and its parameters, the amount of food and nutrition that is recommended to combat it, and define the roles of anganwadi and ASHA workers.

## **Maatru Poorna Scheme in Karnataka**

The Karnataka State Government launched the Maatru Poorna Scheme on 2nd October 2017 with a primary objective of providing nutritious food to nearly twelve lakh pregnant women and lactating mothers, thereby addressing the problem of maternal as well as child undernutrition. The scheme is envisaged to provide the above mentioned benefits through the vast network of Anganwadi Centres managed by Anganwadi workers. As part of this scheme, it is proposed that the beneficiaries will be provided one nutritious meal every day, comprising of dal, with vegetables/ sambar, boiled egg and 200 ml of milk. For those who do not eat egg, two varieties of sprouts will be provided. That apart, Iron Folic Acid (IFA) tablets will be administered and gestational weight monitoring will be ensured for pregnant women.

## FAREWELLS

**Ms. Pushpa N**

Professional Assistant, Centre for Child and the Law

**Ms. Shashikala R**

Asst. Village Education Coordinator with Right to Education Programme

**Ms. Sakamma V**

Asst. Village Education Coordinator with Right to Education Programme

**Mr. Doddamayigowda**

Village Education Coordinator with Right to Education Programme



# PGDCRL

# POST GRADUATE DIPLOMA IN CHILD RIGHTS LAW



## National Law School of India University [NLSIU]

NLSIU invites applications for the one year Post Graduate Diploma in Child Rights Law (PGDCRL) - Distance Mode. The course is one of its kind in India recognised by the University Grants Commission (UGC) and draws from the rich insights gained by the Centre for Child and the Law (CCL), a specialized Research Centre of the NLSIU, engaged in multi-disciplinary research, training, teaching, field level intervention, networking and advocacy on various issues related to children and law since 1996. For more information – see [www.nls.ac.in/ccl](http://www.nls.ac.in/ccl)

The PGDCRL course will benefit a graduate/post-graduate from any background who wishes to work on issues concerning children at various levels. This includes direct work with children, intervention in legal settings, work in donor organizations supporting work on child rights, advocacy and any other work related to promoting, protecting and monitoring the rights of children. The course has so far attracted lawyers, doctors, members of various judicial and quasi-judicial bodies, members of Commissions for Protection of Child Rights, academics, practitioners working with children, teachers, doctors, representatives of donor agencies, and others from diverse walks of life.

**Eligibility for Admission:** Distance Education Programmes are designed to empower interested candidates in expanding and deepening their knowledge in a globalized world. Being a post-graduate diploma programme, any graduate in any discipline is eligible to apply for it. The programme does not have any age barrier.

**Duration:** One Academic year. (Maximum duration to complete the course is three years).

### COURSE PAPERS

- Paper I : Introduction to Law and Legal Systems
- Paper II : Child Rights, Policy and Law: International and National Framework
- Paper III : Key Legislations relating to children in India
- Paper IV : Working with children from a Rights Based perspective
- Paper V : Dissertation

**RESOURCE MATERIALS:** Candidates are provided with two sets of resource materials:

Self-Instructional Material: these are modules prepared as per the syllabus.  
Reading Material: these are compilations of academic resources arranged according to the modules and papers.

### REQUIREMENTS FOR SUCCESSFUL COMPLETION OF THE COURSE

- ✓ Every candidate has to appear for examination in the first four papers. All papers carry equal marks.
- ✓ Candidates are required to secure at least 50% marks in each paper.
- ✓ Every candidate has to submit a Dissertation (considered as Paper V)
- ✓ Candidates are permitted to continue the course beyond the first academic year, for an additional two years.

**Note:** The Post Graduate Diploma is a one year course. Every candidate admitted to the course has to pay the prescribed fees at the time of admission. If a candidate is required to continue the course beyond one academic year because of his/her non-fulfilment of the prescribed requirements for the award of the degree, he/she will be permitted to continue for the subsequent two academic years on payment of a continuation fee as prescribed for each year. At the end of the third academic year, if the candidate fails to fulfill all the requirements for the award of the degree, the admission will automatically stand cancelled.

### MODE OF TEACHING

The course is taught in English and through distance mode. Resource material is provided to the candidates on admission and contact classes are held as per the schedule given by the Distance Education Department (DED) NLSIU,

as notified on its website. NLSIU respects the time of candidates participating in the Contact Classes. Accordingly, best efforts are made to adhere to the notified schedules. Though the Contact Classes are not compulsory, it is advised that the candidates attend these and benefit from the teaching and class room discussions. Classes are held only at NLSIU, Bangalore.

### EXAMINATION SCHEME

Candidates are expected to write an in-class examination for papers I-IV, which carry 100 marks each. A Grading system is followed for evaluation of performance. Minimum B grade (50% marks) is required to pass a paper. Diploma students are also expected to write a Dissertation on a suggested topic for Paper V, which carries 80 marks. Students are expected to take an oral exam viva-voce, which will be based on the Dissertation, and this viva-voce carries 20 marks. The deadline for submission of Dissertation is one month prior to the examination. A minimum Cumulative Grade Point Average (CGPA) of 3.00 is necessary to complete the course.

**Examination Schedule:** The DED conducts examinations twice a year (Annual examination is held in June and the supplementary examination in December/January). A candidate, who is desirous of writing the examination, must pay the exam fees of Rs.300 per paper, at least 20 days before the commencement of the exam. Those who want to write some papers only can pay fees at the above rate for those papers only. The University has started two more exam centers and hence candidates have the option to appear for their exams in New Delhi, Pune or Bangalore. Exams are conducted over a period of 5 days (total 4 theory papers and one viva-voce)

### ADMISSION PROCEDURE

Candidates intending to enroll for admission are required to submit the duly filled in application form along with the attested copies of the Provisional/Degree certificates and the fee prescribed, before the last date of admission. Soon after completion of the admission process the confirmation of admission will be sent to the candidates. The advertisement for admission to the course will be made in all leading dailies in the month of April and on the DED website as well. Admissions are usually completed by June 30. However, at the discretion of the Vice Chancellor candidates may be admitted upto 31st August on payment of late fee of Rs.500/- Admission form and Handbook may be obtained upon payment of Rs.1500/- through demand draft (DD) favouring Registrar, NLSIU, payable at Bangalore. Filing of Application and payment can be made online from <<<http://ded.nls.ac.in>>>.

### COURSE FEE

Application Fee	Rs. 1,500/-
Admission Fee	Rs. 2,500/-
Course Fee	Rs. 11,200/-p.a
<b>Total Course Fee</b>	<b>Rs. 15,200/-</b>
<b>Total Course Fee (with late fee of Rs. 500)</b>	<b>Rs. 15,700/-</b>

### FOR FURTHER DETAILS PLEASE CONTACT:

#### The Coordinator

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