



# JUSTICE TO CHILDREN

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**CENTRE FOR CHILD AND THE LAW (CCL)**  
NATIONAL LAW SCHOOL OF INDIA UNIVERSITY (NLSIU), BENGALURU



**ARTICLES**

**STUDY ON THE WORKING OF SPECIAL COURTS UNDER THE POCSO ACT 2012 IN ASSAM**

**ENTITLEMENTS UNDER NATIONAL FOOD SECURITY ACT: A PEEP INTO SOME STATE EXPERIENCES**

**COMMERCIALISATION OF EDUCATION AND THE GOVERNMENT RESPONSE**

# CCL, NSLIU Priced Publications

Sl	Publication	Authors/Editors	Price
1.	<b>Manual for Commissions for Protection of Child Rights - How to implement The Commissions for Protection of Child Rights Act, 2005</b> ISBN No: 978-81-925521-6-3	Swagata Raha, Dr. Archana Mehendale and Arlene Manoharan Edited by Arlene Manoharan	INR 725.00 / \$ 16.00
2.	<b>Handbook for Local Authorities on The Commissions for Protection of Child Rights Act &amp; Grievance Redressal under The Right of Children to Free and Compulsory Education Act, 2009</b> ISBN No: 978-81-925521-9-4	Dr. Archana Mehendale Edited by Arlene Manoharan	INR 50.00 / \$ 3.00
3.	<b>Commissions for Protection of Child Rights - Answers to Common Questions Children May Have</b> ISBN No: 978-81-925521-7-0	Arlene Manoharan and Dr. Archana Mehendale Edited by Cheryl Bartholomeusz	INR 50.00 / \$ 3.00
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**Swagata Raha**  
*Juvenile Justice Programme*

## Study on the working of special courts under the **POCSO** Act 2012 in Assam

While the community is undoubtedly a source of strength in most parts of Assam and for most reasons, in cases of sexual violence, there is a definite need to build awareness about the law, restorative justice principles, and the criminal justice system.

**T**he Study on Special Courts established under the POCSO Act<sup>1</sup> in Assam was initiated by the Centre for Child and the Law, National Law School of India University, in June 2016 to understand if these Courts were facilitating “child-friendly justice”, and to identify critical issues of concern related to the implementation and interpretation of this Act. Thirty two interviews were carried out with a range of stakeholders in two districts and 172 judgments passed by Special Courts in 24 districts, from 1 January 2013 till 31 August 2016 were analyzed.

**This article highlights two issues, specific to Assam, that emerged from the Study.**

Institutionalization of children before recording of statement under Section 164, Code of Criminal Procedure (CrPC)

Interviews with stakeholders revealed that the magistrate directs the child victim to be placed in a State Home for Women for “reflection” when they are produced for recording of the statement under Section 164, CrPC. In some instances, the child who was placed by the Child Welfare Committee in a Children’s Home, was removed from there and sent to the State Home.

<sup>1</sup> Available at <https://www.nls.ac.in/ccl/jjdocuments/studyspecialcourtassamPOSCOAct2012.pdf>

This illustrates a deep disconnect between the child protection system and the criminal justice system that results in the unnecessary institutionalization of child victims. It also has several logistical and financial implications. For instance, the State Home closest to Dibrugarh is in Nagaon, which is approximately 300 kms away. No funds are available with the police, to escort the child to the State Home and then bring her back for the recording of the statement two to three days later. It is not entirely unlikely that the family of the child may be expected to bear the obligation to finance the transport, food, and other expenses.

This practice can be traced to an order of the Gauhati High Court in *Wajed Ali v. State of Assam*<sup>2</sup>, concerning an anticipatory bail application by a person accused of kidnapping and raping a 13-year-old girl. The High Court noted the increasing sexual exploitation of girls as well as the routine nature of investigation and the non-application of judicial mind in elopement cases. It referred to the requirement of giving time to the accused to reflect before making a confessional statement under Section 164(1), CrPC, to ensure that it is voluntary and bereft of police influence and opined that “the same principle is equally applicable in case of recording of statement of victims of sexual offence and more particularly if such victims are minor girls.” However, Magistrates in Assam appear to be sending children to State Homes in all types of cases and not just elopement cases.

This practice also contradicts the Supreme Court’s ruling in *State of Karnataka v. Shivanna*<sup>3</sup>, which requires the police to take a victim of rape within 24 hours to any Metropolitan/ Judicial Magistrate (and preferably a lady) for recording the statement under Section 164, CrPC.

Wanton institutionalization amounts to harassment of the victim, who is detained for no fault of her own, and is separated from her family or a setting that she is familiar with, and in which she can receive better care and protection. It offends the protection against arbitrary deprivation of liberty, and detention as a measure of last resort enshrined in Article 37(b) of the UN Convention on the Rights of the Child (UNCRC), as well as the principle of institutionalization as a measure of last resort under Section 3(xiii) of the Juvenile Justice (Care and Protection of Children) Act, 2015. The Magistrates also do not seem to consider whether it would be in the best interest of the child to separate her from her parents or guardian or remove her from the Children’s Home.

Over reliance of the community on non-formal systems

Approaching the gaonbura (village head), tea estate manager, and calling for a bichar (meeting) emerged as a common practice in POCSO cases in certain districts. FIRs are usually lodged only if the settlement is not amicable and the accused refuses to accept responsibility.

<sup>2</sup> Anticipatory Bail Application No. 1962 of 2012 decided on 05.06.2012 by Gauhati High Court.

<sup>3</sup> SLP (Crl.) NO. 5073/2011. Dated 25.04.2014



*In State v. Hari Nath and Ors.*,<sup>4</sup> the accused had allegedly committed penetrative sexual assault against a 14-year-old girl in her house when she was alone. Her mother came home and witnessed the offence. The accused escaped after assaulting the mother. The father called a village meeting in which he was advised by the villagers not to inform the police and instead, a resolution was passed, that the accused would pay Rs. 30,000/- to the victim. Tragically, on the following day, the victim committed suicide. The FIR was lodged thereafter against the accused as well as the other villagers. The accused was convicted based on the cogent testimony of the parents and the medical evidence. The presumption of guilt under the POCSO Act was also applied. The other villagers were acquitted because the charge of abetment of suicide was not established. Whether the suicide was prompted by the settlement is not known. However, such attempted compromises do little to foster healing or justice for the victim, in the case in question, and faith in the system by the wider society.

*In State v. Gour Nayek*<sup>5</sup>, the accused, a tea garden labourer, was a widower with a married son. The victim, a 12-year-old-girl used to work in his house. He was accused of aggravated penetrative sexual assault for making her pregnant. Her family placed the matter before the 'Bagan Pachayat' for 'bichar'. The accused refused to marry her. The family waited for five months in the hope of an amicable settlement after which they filed the FIR. The girl was 25 weeks pregnant at that time. During trial,

he agreed to marry her. The family also agreed and filed a compromise petition. The Special Court, however, convicted him and considering the future of the baby girl released him on probation of good conduct for a period of three years. He was directed to pay compensation of Rs. 10,000/- for loss and injury caused to the victim and the Special Court recommended further compensation to be determined by the district legal service authority.

While the above case ended in conviction despite the compromise, this was not the outcome in two other cases in which the compromise was expressly mentioned to the Special Court. According to one respondent involved in awareness raising on child protection in the tea gardens, the pressure on the families to compromise is very high due to the stigma attached to sexual offences. If the girl is pregnant, the family inevitably compromises and gets her married to the perpetrator.

While the community is undoubtedly a source of strength in most parts of Assam and for most reasons, in cases of sexual violence, there is a definite need to build awareness about the law, restorative justice principles, and the criminal justice system. Restorative justice processes are aimed at repairing the harm done to the victim and community and acceptance of accountability by the offender. In the absence of a human rights or restorative justice framework, the victim's interest is likely to be subordinated and the offender is likely to be let off without taking responsibility for his actions.

<sup>4</sup> Sessions Case No.- 159 of 2015 decided on 07.01.2016.

<sup>5</sup> Spl (POCSO) Case No. 14/2014 decided on 30.4.2015.



**Neenu Suresh**

*Right to Food Programme*

Statutory recognition of the human life cycle approach in tackling food security is the most progressive feature emerging from the ‘Entitlements’ chapter.

## Entitlements under National Food Security Act: A peep into some state experiences

Since the passage of the National Food Security Act (NFSA) in 2013, the Right to Food Programme at CCL has been closely following the formulation of State Rules under the Act. In early 2014, CCL had collaborated with the Food, Civil Supplies and Consumer Affairs Department, Government of Karnataka for framing the Karnataka State Food Security Rules. This enriching experience initiated a humble attempt towards a closer look at the rulemaking process in other States, mainly Southern States of India. Between July to December 2016, in addition to Karnataka, visits were made to Maharashtra, Kerala, Telangana, Andhra Pradesh, Puducherry and Goa, to hold discussions with key officials of all the departments engaged in administering the schemes

presently covered under the Act. One of the key aspects that the Programme analyzed is entitlements under the Act and the rulemaking process relating to them.<sup>6</sup>

Indisputably the most pivotal component of the NFSA is the chapter on ‘Entitlements’. Certain benefits that were hitherto provided under Targeted Public Distribution System (TPDS), Integrated Child Development Scheme (ICDS), Mid-Day Meal (MDM) and Maternity Benefit Schemes have become statutory entitlements with its incorporation in the Act. Owing to both its significance in breathing life to the food security legislation on the one hand, and the determinants of cost factor on the other, these were also the provisions that were most debated

<sup>6</sup> Due to some constraints, the team was not able to study Maternity Benefit Schemes in all the sample States and hence, the findings pertaining to this are not included in this article.



and contested among the legislators, bureaucrats and civil society. Analyzing the entitlements and the process of rulemaking pertaining to them assumes great significance as these are the critical elements that the policymakers believed would ensure 'food and nutritional security in a human life cycle approach' to enable people 'live a life with dignity'.

Statutory recognition of the human life cycle approach in tackling food security is the most progressive feature emerging from the 'Entitlements' chapter. Subject to certain exceptions pregnant women and lactating mothers, children up to the age of fourteen years or Class VIII, and identified eligible households are the right holders under this Act. This is also an embracement of the scientifically established fact that it is a healthy mother who can bear a healthy child and more importantly, the affirmation of the criticality of achieving household level food security in addressing the issue of hunger and food insecurity. Therefore, despite being a compilation of the existing benefits, this chapter holds much relevance in the food security discourse.

However, are these provisions sufficient enough to fulfill the objectives that have been laid in the Act? The flagship programmes - TPDS, ICDS, MDM - have been quite effective in addressing the perennial food insecurity issues plaguing the country for decades. While the importance of these programmes has been affirmed along with their comprehensive significance, a major criticism of the Act has been their dilution. Many of the existing benefits, even those strengthened through the interim Orders of the Supreme Court in the Right to Food case, have been left behind by the Act. Many State Governments were already providing higher benefits and covering more beneficiaries than prescribed under the Act. While

the Act does not restrict the State Governments from continuing or formulating food based schemes or plans which provide higher benefits than those under the Act, these have to be shelled out from the State Government's own resources.

Notably, the study found that most of the State governments have gone beyond the Act and continue to provide benefits over and above those mentioned under NFSA. While Kerala and Karnataka continue to give food grains free of cost to the Antyodaya Anna Yojana(AAY) and Priority households, in Telangana and Andhra Pradesh rice is still being provided at subsidized price of Re. 1/- per kg to identified households. In comparison, the NFSA prices are Rs. 3/-, Rs.2/- and Re. 1/- for 1 kg of rice, wheat and coarse grain respectively. Amongst the sample States, it is only Maharashtra and Goa that provides food grains at NFSA prices.

Again, enhanced quantity of food grains are provided in Telangana. The State government gives 6 kg of food grains for every beneficiary under Priority Household category, instead of the NFSA mandate of 5 kg. More importantly, the State governments also acknowledged the importance of not confining the food based benefits to cereals alone, a major shortcoming of NFSA. Essential commodities such as pulses, sugar, and oil among others are still being provided at subsidized prices in some of the sample States.

It is not just the subsidized prices and the higher benefits that are remarkable, but also certain State Government's determination to protect the existing beneficiaries. A major setback of NFSA has been the statutory recognition of 'Targeted' PDS. Scholars, lawmakers and civil society have long debated the merits and demerits of targeting social security benefits. In a diverse country like India where deep social, political and economic rift define everyday life

and survival, the proponents of Universal PDS, citing the illustrious examples of Tamil Nadu, Kerala and Chhattisgarh, emphatically establish that a Universal PDS records lower exclusion rates and is more effective in curbing leakages. However, considerations of subsidy implications weighed heavier in the minds of lawmakers and despite protests, they accorded statutory affirmation to TPDS. This is set to have major implications in the food security discourse in the coming days.

Not just Tamil Nadu and Kerala, who resisted the implementation of NFSA until being threatened by the Central Government with withdrawal of PDS subsidies for Above Poverty Line (APL) population, even other State governments that we studied were grappling to safeguard the existing beneficiaries. Still, many State governments we studied have stood firm to their commitment to protect the people, even at the cost of spiraling State subsidies. Akin to the former APL (State Subsidy) beneficiaries, Kerala continues to provide subsidized 2 kg rice at Rs. 2/- per kg every month to beneficiaries falling under the Non Priority(Subsidy) category, which is approximately 1.2 crore population. In Puducherry, under the State scheme, 20 kg of single boiled rice is given to every household. Government documents reveal that the additional number of beneficiaries not covered by NFSA but being covered under Targeted Public Distribution System (TPDS) in Andhra Pradesh is 1.13 crores.

Significantly, this manifestation of political will is not restricted to PDS alone. None of the State governments we studied were found to have withdrawn any existing benefits under ICDS and MDM post enactment of NFSA. It was heartening to meet officials explaining with pride

how their State government has been innovative with ICDS and MDM, to help empower their women and children. Extension of MDM beyond the NFSA cap of Class VIII, inclusion of eggs in the menu, replacing take-home ration with hot cooked meal for pregnant women and lactating mothers, provision of three meals through Anganwadis and so on are some of the key innovations worth mentioning.

The decisive move of the State Governments to secure the existing benefits of their people, notwithstanding the additional costs incurred, is a reflection of the significance these programmes or schemes hold for the people. Failure to incorporate these enhanced benefits in the State Rules is however a shortcoming. It is especially disturbing to find certain States tweaking the identification criteria numerous times to attune it with the NFSA limits. One will have to wait and watch how long States would be able to provide such enhanced benefits, given the escalating costs and the pressures on their already strained exchequer.

Furthermore, it is disheartening to find that food security legislation, enacted after a decade long struggle, potentially holds an imminent threat of diminishing those meager benefits which people were receiving from the State. In addition, the fanatic push by the Central Government for certain 'reforms' under the Act, such as cash transfer and Aadhaar, future looks all the more gloomy.

P.S: This is an abridged version of the Chapter on Entitlements appearing in the Programme's upcoming book **RULEMAKING UNDER THE NFSA 2013: Learnings from Some Selected States in India**





**Dr. Niranjanaradhya V.P  
& Krithika B.S**

Right to Education Programme

# Commercialisation of education and the **GOVERNMENT RESPONSE**

**E**ducation is a fundamental human right and essential for the exercise of all other human rights. It not only promotes individual freedom and empowerment but also yields important development benefits and is central to individual evolution. In a broader sense, education is always considered as social good and a powerful tool for social transformation.

In India, education has been given due importance since ages. However, it was considered to be a privilege of a few rather than a right of all for a long period of time. With the advent of the freedom struggle, the significance of universalization of free and compulsory education of masses found limelight, which subsequently became a noteworthy part of the freedom struggle.

Consequently, education was included within the purview of the Constitution of India in the form of Directive Principles of State Policy in Articles 41, 45 and 46. It was a time bound mandate under Article 45. However, as these provisions were restricted to the economic capacities of the state, missionaries and philanthropic institutions got themselves involved in the process of imparting education. Though the contributions of these institutions in the early years of independence towards imparting education were well recognized and appreciated, gradually these institutions started perceiving education as a business rather than as a social good. Such change of perceptions lead to various hostile practices such as capitation, donation and exorbitant fee structure in educational institutions

run by the private players thereby resulting in glaring discrimination in the society, which in turn led to the establishment of a hierarchy in the education system. Education thus gradually became a profiteering business rather than a tool for social transformation.

In this background, various executive and judicial measures were taken to uphold the social nature of education and make it the right of the masses. Accordingly, the recommendations of the Education Commission, the judgments of Hon'ble Supreme Court of India in cases of *Mohini Jain v. State of Karnataka*, *Unnikrishnan v. State of A.P.*, *T.M.A.Pai Foundation v. State of Karnataka*, *Islamic Academy of Education v. State of Karnataka* and *Modern Dental College and Research Centre v. State of M.P.* among others, all paved way for the recognition of education as fundamental right of all children, which in turn led to the insertion of Article 21A in the Constitution of India through the 86th Constitutional Amendment Act, 2002 recognising free and compulsory education as a fundamental right of all children in the age group of 6 to 14 years. The Right of Children to Free and Compulsory Education Act, 2009 was enacted to operationalise this Constitutional mandate and education was explicitly stipulated as non-profiteering and that no educational institution shall charge capitation fees.

While, the RTE Act, 2009 guides the right to education of all children at the national level, it is supplemented by the Karnataka Education Act, 1983 in the State of Karnataka which was enacted inter-alia for "better organization discipline and control over educational institutions in the

State with a view to fostering the harmonious development of the mental and physical faculties of students and cultivating a scientific and secular outlook through education." In order to achieve the objectives of the Act and ensure the educational right of all children, various rules have been formulated under the legislation.

It is noteworthy that at present, the spectre of privatization, public-private partnership (PPP), school nurturing programs, corporate social responsibility, and voucher system among others encompass the Indian school education system, which dismantle and discard it in favour of free market forces and thereby dissipate the core principles of 'social justice' and 'equality' embodied in the Constitution. The prime objective of all these initiatives is to plant the seeds of 'greedy profit' through 'privatization' and 'commercialization' of school education as a new philosophy and world order. The increasing privatization and commercialization of education for profit is daunting the very notion of social good through public funded education, and the menace of exorbitant fee structure in schools has had a colossal growth.

The Constitution of India secures the ideals of social justice, equality, and equity for its citizens as core values, which form an essential facet of development in India. Building a national system of education on the principles of social justice, economic justice and equality creates the necessary ground for achieving the larger ideals of the Constitution.

In this background addressing the issue of exorbitant fee structure of schools becomes vital



so as to ensure quality education to all children on an equal basis without any discrimination in accordance with the Constitutional values. It is for this purpose that various provisions under the Karnataka Education Act, 1983 and the RTE Act, 2009 were enacted to regulate the fee structure in educational institutions. Further, to operationalise the fee regulatory provision of the Karnataka Education Act, the Government of Karnataka formulated The Karnataka Educational Institutions (Classification, Regulation and Prescription of Curricula etc.) Rules, 1995 and The Karnataka Educational Institutions (Regulation of Certain Fees and Donations) Rules, 1999. Although, a particular provision and the corresponding rules are in place, it will not be wrong to note that the State of Karnataka has thoroughly failed to address the menace of capitation fee and exorbitant fee structure owing to the poor implementation of the provisions of the said Act and Rules. Aggrieved by the failure of the state machinery, parent organisations approached the Hon'ble High Court of Karnataka seeking relief and the Hon'ble Court issued directions for the immediate and effective implementation of the existing rules.

However, the State Government of Karnataka, instead of implementing the directions of the Hon'ble High Court, proposed an amendment to the 1995 Rules which inter-alia proposes to include the expenses in terms of salaries of outsourced staff, operation costs, rent, debt servicing, depreciation etc., to be considered while developing the fee structure. Further, additional costs to take into consideration the appreciation factor every year is proposed to be imposed in different proportions

based on the geographical location of the school which vary from absolute 50% to 100%.

It is pertinent to note here that the proposed amendments not only complicate the existing clear cut and easily implementable provisions but are also arbitrary in nature. The complications created will result in unending litigations seeking interpretation of the provisions of the Rules and stall their implementation thereby frustrating the very purpose of the Rule. It is a well-established norm that the tuition fees can never be stretched beyond salaries paid to the staff to impart quality education. The proposed amendment, on the other hand, not only proposes the consideration of new factors for calculation of tuition fees but also tends to approve private management methods of calculating income and expenditure thereby giving unbridled freedom to arrive at tuition fees according to their own whims and fancies. This results in strengthening commercialization of education which not only reflects but also enhances the discrimination and inequality among the equals which is contrary to the Basic Principles of the Constitution of India.

In the light of the above, the ideal course of action would be to first effectively implement the existing 1995 and 1999 Rules in its letter and spirit. Only then can the pros and cons of the existing Rules be understood. Upon careful examination it can be noted that the existing Rules of 1995 and 1999 adequately address the issue of exorbitant fee structure in educational institutions and hence, the directions of the Hon'ble High Court of Karnataka to effectively implement the 1995 and 1999 Rules should be sincerely adhered to by the Government.

# Capacity building for stakeholders

## Basic certificate course on child development for government functionaries



One week certificate course on 'Rights Based Child Development', which aims to create awareness and impart knowledge on child development besides enforcing children's rights effectively, was organized from 21st to 27th August 2016. This course designed by CCL, was conducted in collaboration with the Karnataka State Integrated Child Protection Society from the DWCD. The course was formally inaugurated on 21st August 2016. Delivering the keynote address, Dr. Niranjana Radhaya said "We want to take this course to the grassroots and the block level, hopefully by 2017. We will develop a more standardized course curriculum based on suggestions from the first two batches". Ms. Uma Mahadevan, Principal Secretary, DWCD, said she was excited that such a course had been started and added that a lot more was required to be done in the area of Child rights. Prof. (Dr.) R. Venkata Rao, Vice-Chancellor of NLSIU, Prof. (Dr.) V.S.Elizabeth, Coordinator of CCL, Ms. Narmada Anand, Programme Director for Karnataka State Integrated Child Protection Society (KSICPS), DWCD were present for the inauguration.

Around thirty three government employees from

six departments in Ramanagaram district participated in the first batch. The participants included police personnel from the special juvenile police unit of the district, panchayat development officers from the RDPR department, cluster resource persons from the Department of Public Instruction, Anganwadi supervisors from DWCD, health workers from health department and labour inspectors from the labour department. The course consisted of 15 modules, covering aspects such as child rights, child development, issues of child abuse such as child labour, child trafficking, child marriage, juvenile care and protection, child participation, planning for children, child budgeting, and roles and responsibilities of stakeholders among others. The course was conducted in the local vernacular language (Kannada). Exposure visits were organized for the participants as part of the course to schools, anganwadis, health centres, observation home, shishu griha and children's home. Reading materials distributed to the participants consisted of various books on child rights and a compact disc which included soft copies of various legislations, rules, policies and articles.

A valedictory function was held on 27th August 2016 to commemorate the concluding day of the course. Ms. Krupa Amar Alva, Chairperson of KSCPCR and Ms. Narmada Anand, Programme Director ICPS distributed the certificates to the participants for having successfully completed the course.

## Program Updates



## Capacity building for teachers

In the last three decades of educational reform, teachers have been viewed pivotal to address all quality related issues in education and their solutions. It is a big challenge to motivate government school teachers to achieve high levels of performance. Teachers are demotivated due



to closing of government schools, reducing number of children, irrational transfer mechanisms and the burden of administrative work. As a result of these circumstances, many good teachers have lost interest in teaching and there

is a need to find ways to boost the morale of these teachers. Ideally a motivated teacher is one who not only feels satisfied with his/her job, but is also empowered to strive for excellence and growth in instructional practice.

To address this concern CCL, in collaboration with the Department of Education, organized a one day motivational

workshop for around 40 teachers from Bannikuppe and Manchanayakanahalli clusters on 28th October 2016 in the Manchanayakanahalli government school. Mr. Sushanth Kumar from Leaders Academy facilitated the workshop in an interactive manner where the focus was mainly on stress management, and attracting children to classrooms among others. The participants were awarded participation certificates at the end of the workshop.

## Skill development and recreation for OH children

A total of 5 structured programmes were conducted between August to November for the children in conflict with law detained in the Observation Home, in collaboration with local organisations such as Dream a Dream and Indian Institute of Psychology & Research. Approximately 35 to 40 boys attended each of these sessions. These sessions mainly included awareness on varied topics, life skills education and recreational

activities for the children. The boys in the home are always overjoyed to interact with the team and learn various aspects that they would have never known before.

## Training on Restorative Justice

A 3 day restorative facilitation training was conducted by Mr Terry O'Connell and Mr. Jean Schmitz between 8 to 10 September 2016 at The Chancery, Lavelle Road in Bangalore. Terry O'Connell is the Director of Real Justice, Australia [a division of International Institute for Restorative Practices (IIRP)]. The training was organised by the Juvenile Justice team at CCL NLSIU with support from UNICEF, CRY and the Tata Trusts. The training was attended by 43 participants hailing from 12 states - Karnataka, Kerala, Madhya Pradesh, Tamil Nadu, Odisha, Maharashtra, Gujarat, Assam, Andhra Pradesh, Telangana, West Bengal, and Rajasthan. The participants included practicing lawyers, counsellors, CWC members, a JJB member, social workers working in the Special Juvenile Police Units and Childline, legal aid lawyers deputed from the Karnataka Legal Services



Authority, a Probation Officer deputed from the Govt of Maharashtra, grass root level workers, a representative from the Department of Police, law professors from National Law Schools in Odisha, Assam, West Bengal, and Bengaluru, and Child Protection specialists/officers from various UNICEF field offices. The training helped build a deeper perspective on the use of emotions and conversations as currency to enable rebuilding and strengthening of relationships in any setting. Participants reported feeling very hopeful and positive about using Restorative Justice approaches in their work as an alternative to the existing Criminal Justice System, while recognizing the need for more capacity building on the same and further reflection on how to use the approach, given the existing legal regime in India.

## Capacity building on POCSO Act

The Karnataka High Court Committee on Juvenile Justice, in its meeting held on 1st Nov 2016, included an agenda item 'To discuss about the steps to be taken for the establishment of Child Friendly Courts under the POSCO Act, 2012', which was discussed in depth. A resolution

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was passed 'to hold capacity-building programme for the Presiding Officers of Special Courts, Special Public Prosecutors, Magistrates, Members of the JJ Board, and for all other stakeholders by adopting the training module that is already prepared by CCL National Law School of India University.' It was also resolved and directed that the subcommittee should place the outcome of its deliberations before the J.J. Committee for the purpose of taking a final decision in this regard. In pursuance of this resolution, a meeting was held on 4th November 2016 at the office of the Project Director, KSICPS, during which the modules prepared by CCL for training of Judges of the Special Courts, JJBs, and Special Public Prosecutors was presented, reviewed and finalized in order to plan for the training programs to be conducted in the State. The trainings will begin in the forthcoming year.



## Capacity building programmes



*CCL NLSIU, in collaboration with Karnataka State Legal Service Authority (KSLSA) and support from the Tata Trusts, conducted a capacity building programme for 30 legal aid lawyers empanelled for representing children before Juvenile Justice Boards in Karnataka, between November 5 to 6, 2016. Hon'ble Justice M. Patel, Executive Chairman of KSLSA presided over the inaugural ceremony, while Ms. Uma M.G. Member Secretary, KSLSA, presided over the valedictory session. Adv. Maharukh Adenwalla came in as an external resource person to supplement the sessions conducted by Anjali Shivanand, Ganga Nair, Shreyas Rao - members of the Juvenile Justice team at CCL NLSIU.*



*The Juvenile Justice team at CCL NLSIU conducted a two day capacity building programme for 34 Legal Aid Lawyers empanelled by the Madhya Pradesh State Legal Services Authority (MP SLSA) to represent children in conflict with law before the JJBs in the State. The program was held on November 19th and 20th, 2016, and was organized in collaboration with MP SLSA, with support from the Tata Trusts. Adv. Maharukh Adenwalla and Adv. Anant Asthana came in as external resource persons to supplement the session taken by Ms. Anjali Shivanand*



*The Juvenile Justice team at CCL NLSIU, in collaboration with the Department of Juvenile Welfare, Andhra Pradesh, conducted a training for 50 participants consisting of Chairpersons and members of the Child Welfare Committees and Protection Officers in institutional care, in the State of Andhra Pradesh between November 17-18, 2016.*



*On 24th & 25th November 2016, a two day training for 31 participants consisting of Chairpersons and members of CWCs and protection officers in institutional care was conducted, in collaboration with the Department of Juvenile Welfare, in the State of Telangana.*

# Awareness programmes and lectures

## Legal literacy programmes (LLPs)

### Child protection

One session was conducted in September 2016 for 24 primary school teachers at Bidadi, Ramanagara district on the Protection of Children against Sexual Offence Act, 2012. Four male and twenty female teachers were part of the programme. The participants were intrigued by the purview of the Act even applying to sexual crimes on children within homes. There were many questions raised about how to report instances of sexual abuse, and their role in ensuring reporting even when parents/family of the victim child may not be interested in proceeding further. The discussion was enriching for teachers who felt they have learnt a lot, as there was no awareness on this issue prior to the programme.

Two sessions were conducted in the observation home for boys during September and November, 2016 each of which was attended by 45 and 42 boys respectively. During the first session 10 questions were elicited from the boys and discussed in detail. Similarly, during the second session a recap of the 10 questions discussed in the first were done for the benefit of the new boys, with an additional 5 questions taken for further discussion. The concerns raised by the boys were regarding issues such as bail process, hierarchy within court structure, legal process, purpose and utility of reports, and investigation process. It was observed that the children were concerned about their future prospects in terms of employment post involvement in juvenile justice system.

### Right to education

In July 2016, a legal literacy programme was held in Bangalore urban district on right to education and child labour in the form of a street play. Volunteers from Child Rights and You (CRY), hailing from different backgrounds enacted it in the slums. Children (40) and community members (30) participated in the event. Handouts highlighting the provisions of RTE Act was provided to them. After the street play, a small drawing and colouring activity for children in the area was organised.



### Child labour & child marriage

A legal literacy session was conducted for 39 first year MSW at the St. Joseph's College in Bangalore on the new child labour Act. Similarly, a session was conducted in an Urdu school in Bangalore on the prevalence and ill effects of child marriage. 31 participants including children and parents were present in the programme. Mr. Pramod Naikodi from Action Aid was invited as the resource person for this session. Keeping in mind the interconnectedness between child labour and child marriage, a session was conducted on these two key issues in Ramanagara district, where around 70 villagers participated in the programme.

### Right to food

A legal literacy programme on right to food was organised for 36 female students in the tenth standard in Bangalore. The children were provided an overview of NFSA 2013 and



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the various schemes, along with the working of public distribution system through ration card/ICDS/mid-day meals. The children benefited from the session and felt they could share the knowledge gained with their friends and family back home.

Three street plays were organized in November on right to food in D.G. Halli, and Pottery town area in Bangalore urban district. Around 150 people gathered to see these plays, which was enacted by the students of the Legal Services Clinic at NLSIU. The audience belonged to low-income families living in the neighborhood, and raised questions pertaining to right to food post the play and were provided pamphlets summarising the concept.

## Lecture Series

### Education status in Hyderabad Karnataka

As part of quarterly lectures series the right to education team organized a lecture in the Government school of Chittavadi, Hosapete Taluk, Bellary District on 13th August 2016. This lecture was organized in coordination with the district school development and monitoring committee (SDMC) coordination forum]. While Dr. Niranajanaradhya delivered the keynote address, Prof.T.R.Chandrashekar, former Dean of Development



Studies, Hampi Kannada University delivered the lecture on “Education Status in Hyderabad Karnataka”. The lecture was very interactive and informative. Around 250 People including SDMC members, teachers, and students attended the lecture.

### Increasing violence on children- An issue of concern

CCL organized its second quarterly lecture series on “Increasing violence on children- An issue of concern” on 14th November 2016 at Vinoba Hall, Gandhi Bhawan, Bengaluru. The lecture was organized on the occasion of Children’s Day with the objective to spread awareness on the rising issues of violence on children, both within the family and outside it. The lecture was delivered by Dr. Shaibya Saldanha, M.D (OBG), DGO (Bombay University) and founder of “Enfold Proactive Health Trust, Bengaluru and presided by Mrs. Swagata Raha (Consultant) CCL, NLSIU. The lecture was attended by 37 participants inclusive of child rights activists, civil society organization, child rights volunteers and college students.

Through her presentation, Dr. Shaibya made a critical

observation on the forms of violence inflicted upon children at various stages of life. The most common being within the family where corporal punishment and physical harassment is seen as an acceptable form of behavioral correction for children. Through her everyday experiences with several of her parents and clients, she explained how there is a huge communication gap between parents and children, and that most parents pay attention to imbibing discipline in their children only through punishment and societal expectations. Thereafter, Mrs. Swagata highlighted the legal gaps present within the juvenile justice system and the violence prevalent within the child protection system. The complexity involved



in every child’s case, such as the vulnerability of the child, the role of police and courts in dealing with the child, and the emotional and physical trauma that is associated with it being extremely large and concerning. Dr.Niranjanradhya and Mrs.Shibu Sweta facilitated the programme.

### Food security and law In India: Current challenges and debates

September 10th 2016 marked the completion of three years of notification of National Food Security Act 2013, which aimed at providing for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people, to live a life with dignity and for matters connected therewith. A lecture by Harsh Mander on 10th December 2016, looked at children’s right to food and its linkages with all other rights while identifying macro issues. The speaker highlighted that the food security act was being grievously injured due to the reduced budgetary allocation. The legislature was not respecting its own law, while the judiciary is pushing to enforce it. The food security regime is now caught in a tussle between the legislature and judiciary. He explained that social protection for food resources should be at the level of production, buying and receiving. He expressed concern on the growing invisible poor. The lecture was followed by a discussion.





# National and State level Consultations

## Juvenile justice system

CCL provided technical support to the One Man Supreme Court Committee on Juvenile Justice on two occasions. One, for a National Consultation - to conclude the second round of Regional Round Table Conferences on 'Strengthening Restoration and Rehabilitation of Children under the Juvenile Justice system in New Delhi, at Hotel Ashoka, on 3rd September 2016. Ms. Arlene Manoharan presented a brief summary of the Key Challenges and Solutions that had emerged from the regional conferences. The team also prepared a consolidated report of the round table conferences held in round two, which was released by the Hon'ble Chief Justice of India on 4th September 2016. Second, was for the third round table conference for the North Eastern States and Sikkim region on effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015 with a focus on rehabilitation services and linkages with the POCSO Act, 2012, in Guwahati, at the Assam Administrative Staff College, on 26th & 27th November 2016.



right to food campaign, which should be sourced from the community, along with strengthening the decentralization process.

## State level consultation for SDMC coordination

A two day round table meeting of the primary stakeholders was organized on 26th and 27th November 2016 in Bangalore by CCL in association with KSPSTA and SDMCCF. The idea behind this roundtable was to bring the issues related to Government Schools before the primary stakeholders and have deliberations amongst them. Dr. Niranjanaradhya delivered the keynote address and explained the agenda of the two days meeting. Well known poet, Kum Veerabadrappa made the inaugural speech and urged the Government to provide basic infrastructure to public schools. Representatives from SDMC, teachers, and mid-day meal workers were invited to the meeting. They discussed on various issues and prepared a Citizen's Charter to be submitted to the Government.

## Alternative legal framework on food security

A consultation towards exploring an alternative discourse on legal framework on right to food was held on October 6 2016. Experts on various aspects relating to food security such as Ms. Devika Singh and Ms. Sudeshna Sengupta of ECCD Alliance, Prof. Shanmugha Velayudham of TNFORCES, Prof. M.K.Ramesh, NLSIU, Prof. Babu Mathew, NLSIU, Dr. Raghu C, Agriculture Scientist, Ms. M S Tara, NIPCCD, and Ms. Shalini Aiyengar participated in the discussions. The participants conceded that there was a need to revitalize the



# Advocacy initiatives towards reform

## Protest against the transfer of excess teachers

Enraged over the transfer of excess teachers in the State of Karnataka, a protest was held on 11th July 2016 in Channapattana. SDMCCF, Taluk Primary



School Teachers' Association, Mid-day Meals workers Union, Kannada Sahitya Parishad, Dalitha Sangarsha Samithi, and Auto Drivers Union among others supported the protest. The protesters held placards and demanded that teachers remain in the school and not be transferred on the basis of an irrational policy of the State Government. Dr. Niranjanaradhya said that the government's circular to transfer excess teachers was unscientific and would directly affect the quality of teaching and learning. He underscored that if children were regarded as the future of the country, the government should not compromise on the quality of education. Instead, the government should take steps to improve the quality of teaching and boost the learning abilities of children so that their comprehension of fundamentals are strong.

### Submission to National Human Rights Commission

Dr Neetu Sharma made a presentation on NFSA and its implementation related issues during the Southern Regional Consultation organised by National Human Rights Commission in September 2016. A written submission prepared by the team was submitted, raising concerns about the lackadaisical manner in which NFSA is being implemented. Recommendations included need for increased participation of all concerned departments in the process of drafting rules at State/Ministerial/Central level, all benefits available under the schemes and entitlements should be made legal rights, and NFSA must be reviewed in the light of food security and nutrition.

### Framing Kerala Food Security Rules

In October 2016 Ms. Neenu Suresh was invited by the Food, Civil Supplies and Consumer Affairs Department, Government of Kerala to contribute towards the framing of Kerala food security rules. The right to food had earlier undertaken an analysis of the draft of food security rules of Kerala and Odisha, and submitted a set of recommendations to the state departments in charge of food

and civil supplies in both states. The key concern highlighted was the lack of convergence between the different departments responsible for providing various entitlements under the NFSA and lack of participation in drafting State rules.

### Public hearing on right to education

Four public hearing programmes on education were conducted by CCL, in collaboration with SDMCCF, KSPSTA and Mid-day Meals Workers Union, to discuss and find solutions to the problems in all four blocks of Ramanagaram district. In preparation, handbills depicting the importance of public hearing programmes were distributed in schools with the help of the panchayat forum members. It was ensured that complaints which were previously not attended to by the concerned authority were brought forward in the public hearings. The problems and issues that were brought to light were - increased number of children dropping out of schools, shortage of teachers, lack of suitable school building, lack of playground, scarcity of pure drinking water, and lack of separate toilets for girls among others. SDMC members urged the BEO to make strategies to improve the quality of education in public schools. BEOs in turn suggested that the SDMC members undertake a rigorous school enrolment campaign to persuade parents to send their children to government schools. A total of 52 complaints were raised in the four hearings, which was attended by 350 people (215 males and 135 females).

Education department officials like BEO, BRP and CRPs heard all the complaints and gave positive feedback.

### Children's special grama sabha

Department of Rural Development and Panchayath Raj has mandated the GPs to conduct Children's Special Grama Sabhas in the month of November through circulars issued in 2007, 2008 and 2012. RDPR has taken the process of organizing Children's Special Grama



Sabha on a mission mode and has been persuading the concerned Panchayat Development Officers to take the issue seriously. In this backdrop, CCL facilitated the Children's Special Grama Sabha this year at Bannikuppe (B) Panchayat.

CVC members, VECs and AVECs conducted preliminary meetings in all the villages of the panchayat and made a list of the problems faced by children as well as the community. The issues were classified into various categories and the agenda for the Children's Special Grama Sabha was prepared based on this classification. The Children's Special Grama Sabha was conducted on 14th December 2016. Children made evidence based presentations before the President, Vice-President and other elected members of the GP to reveal their problems and violations of their rights. The children mainly raised issues of drinking water in AWCs and schools, lack of sanitation facilities in schools as well as in their villages, unhygienic conditions in villages, the





fluctuations in supply of electricity, and more interestingly the problem of sale of illegal liquor in villages. The panchayat authorities assured children that their problems would be sorted out at the earliest. The meeting was chaired by the Chairperson of the GP.



public prosecutors to handle POCSO cases, and establishment of waiting rooms to prevent the victim from being exposed to the accused during the trial.

**Submission to Karnataka State Commission for Protection of Child Rights (KSCPCR)**

CCL was invited for the High Power Committee meeting on 14th December 2016, called by KSCPCR to solicit recommendations for implementation of POCSO Act in Karnataka. A set of recommendations for the effective implementation of the Act was submitted to the Commission, which included - establishment of exclusive special court under POCSO Act, appointment of exclusive

**Submission on the Universal Periodic Review**

The Juvenile Justice, Right to Education, and Right to Food team at CCL combined forces to prepare a compact, yet comprehensive report on the status of implementation of select legislations pertaining to children for India's Third Universal Periodic Review before the Human Rights Council, submitted on 22nd September 2016 . Recommendations made by CCL were reflected in the UN Compilation of Stakeholder's information .

<sup>7</sup> [https://www.upr-info.org/sites/default/files/document/india/session\\_27\\_-\\_may\\_2017/ccl\\_nlsiu\\_upr27\\_ind\\_e\\_main.pdf](https://www.upr-info.org/sites/default/files/document/india/session_27_-_may_2017/ccl_nlsiu_upr27_ind_e_main.pdf)

<sup>8</sup> [https://www.upr-info.org/sites/default/files/document/india/session\\_27\\_-\\_may\\_2017/a\\_hrc\\_wg.6\\_27\\_ind\\_3\\_e.pdf](https://www.upr-info.org/sites/default/files/document/india/session_27_-_may_2017/a_hrc_wg.6_27_ind_3_e.pdf)

**Farewells**

**Mr. Shreyas Rao,**

Social worker with Juvenile Justice programme

**Ms. Ganga Nair,**

Mental health professional with Juvenile Justice programme

**Mr. Samuel Sathyaseelan,**

Programme and administrative assistant, CCL

**Mr. S. Umamahesh,**

Legal research assistant with Juvenile Justice programme

**Accolades**

**Dr. Neetu Sharma,**

Programme head of Right to Food team, was elected as a steering committee member of the extraterritorial obligations (ETO) Consortium in June 2016. She has been an academic member of the consortium as well as the focal point on food security for Global South. The consortium is conducting a vision building exercise and several online meetings to discuss the framework for developing a vision document named 'World of Tomorrow'.

Interns at CCL, NLSIU July to December 2016

Juvenile Justice Programme

Anshritha Rai	ILS Law College, Pune
Priyamvada Shivaji	NALSAR University of Law, Hyderabad
Sudipto Koner	National law University, Odisha
Adyasha Samal	Hidayatullah National Law University, Raipur
Disha Chowdary V.	School of Law, Christ University, Bengaluru
Cicily Martin	School of Law, Christ University, Bengaluru
Tanvi Prabhu	NLIU, Bhopal
Krishangee Bhattacharyya	National Law University, Assam

Right to Education Programme

Pragya Pathak	National law University, Odisha
Sanjukta Gogoi	National law University, Assam
Devapreeti Sharma	National law University, Assam

Right to Food Programme

Pooja Ogale	Gujarat National law University, (GNLU), Gandhinagar
Viraj B Yaragol	Karnataka State Law University, Hubli





# 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:

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