

**Three-day International Colloquium on “Children and Governance:
Holding the State Accountable”
Organised by
HAQ: Centre for Child Rights, July 20-22, New Delhi**

In a first-ever three-day international colloquium on children and governance, national and international experts and policy makers working in the field of child rights and protection keenly debated the issue of effective and improved governance for children from a child rights perspective.



“We all have to understand the situation of today’s children...For marginalised children it is a deficit of their childhood. This is because of deficit in planning and policy, mainly the state obligations which in turn leads to deficit in citizenship. Democracy means, justice, freedom and equity. We must enhance the meaning of democracy in order to highlight our children’s rights.”

Shantha Sinha, Chairperson, National Commission for Protection of Child Rights, India

As ‘governance’ lies at the core of child rights and protection, the colloquium attempted to address a wide and complex gamut of issues that fall within its purview so that the two critical yet distinct issues of ‘children and governance’ and ‘children in governance’ could be explored in depth and in all their nuances.

The colloquium broadly aimed to: frame a working definition of ‘governance for children’, assess State accountability and its role in empowering children (or the lack of it), widen the discourse of ‘children in governance’, evaluate the role of legal instruments and the relevance of international agreements and State compliance to them, and arrive at a consensus on pre-requisites for good governance for children as also on tools and indicators and models to monitor and measure State accountability.

Emphasis was laid on children’s right to self-determination; their right to access appropriate protection and provisions and determine the nature and quality of it. It was agreed that children need to be empowered for this and spaces be created where children could represent themselves, participate directly in governance and demand their rights as legitimate citizens.

The personalised interfaces allowed the participants – who included people working on child rights and protection in South Africa, UK, Ethiopia, Sri Lanka and Nepal and from within India – to share experiences, agree upon a set of recommendations (that could help steer the State and the diverse set of groups working in the child rights arena towards good governance for children), and find a collective voice and agenda for future action.

The colloquium was also addressed by policy makers and chairpersons of children's commissions in India who spoke at length about the policies and programmes of the State; the milestones reached and the constraints that halt progress in child rights and protection.

Rationale behind the international colloquium

It has been recognised across the world that improved or 'good' governance is a precondition for sustained poverty reduction and a peaceful and stable society. A commonly accepted definition of governance is the way the state exercises its political, economic and administrative power.

Key attributes of good governance are that institutions and processes should build on the rule of law, be accountable, open, effective and responsive, and give space for equal and meaningful participation by all sections of the society irrespective of caste, creed, religion, class, culture and age group. This kind of governance would, thus, necessarily be based on a rights-based approach.

The commonly accepted definition of good governance is the way the State exercises its political, economic and administrative power to positive effect. To explain it in simple terms, good governance means that the edifice of the State's institutions and processes is based on the rule of law; is accountable, open, effective and responsive; and gives space to all sections of society for equal and meaningful participation without discriminating on the basis of caste, creed, religion, class, culture, disability, age and gender.

Sound governance is therefore fundamental to children gaining their basic human rights, being treated as citizens, and being protected. Children and governance is essentially about the State recognising children as citizens in their own right, formulating and implementing child-responsive policies (through its executive, legislature and judiciary using a rights-based approach), and aligning its Constitution with the international instrument of UN Convention on the Rights of Children (UNCRC) (to ensure full rights and entitlements to children and also to enable their meaningful and active participation in governance).

Most policy-making processes ignore the voices of children, and most Governments fail to recognise the power of children's participation. Instead, as our interaction has witnessed, children have been used as tokens and political pawns.

Christina Nomdo, South Africa

In today's globalising world, however, the hold on the underlying tenets of good governance for children is loosening. The needs and rights of this huge demographic group are being increasingly neglected as the States priorities change determined by market and other forces.

Recognition of children as citizens in their own rights is also about understanding their role of children as protagonists. How, and in what varied ways can we put children in the centre of improved governance and realisation of child rights and bring about their effective "participation" in governance, is a question that many non-governmental organisations as well as governments are grappling with.

Across the world, groups, academia and institutions have been working consistently towards developing tools and mechanisms to assess and monitor State's performance in realising the rights of children. They are also planning and executing interventions to make governance systems more responsive to children's rights and entitlements. An overview of the actions undertaken in these areas so far shows that these include analysis of budgets, monitoring the performance of elected

"Who guards the guards...that is what state accountability is about..."

Frances Sheahan, UK

representatives and the judiciary, scanning and critiquing policies, laws and programmes; and entering into dialogue with governments and international bodies.

As this year marks twenty years of the UNCRC, and ten years of work on this subject at HAQ, it was felt that the time was here and now to raise an international debate on the issue of good governance for children and take stock of how well countries and organisations have performed in guaranteeing children's rights and protection, and indeed move towards gaining an overarching understanding of what constitutes "Child-sensitive governance".

HAQ was keen to underscore the need for children in governance. We were determined to bring to notice how their voices were unheard, and their participation stifled in governance. And, we wanted to unanimously say that children's future is now, not tomorrow!
The vision and proposition of the colloquium

The idea behind HAQ's efforts at the colloquium was to:

- Open a global discussion on good governance from a child rights perspective
- Define the underlying principles of child-friendly State accountability
- Understand, define and facilitate ways of children's full and meaningful participation in governance
- Share existing knowledge on developing and using tools to monitor and measure State accountability towards children rights
- Evolve methods and systemic checks and balances to make governance (that include programmes and policies) into a self-monitoring system
- Consider possible future steps in research, advocacy, education and policy engagement on child rights
- Strengthen alliance building, including strengthening of existing alliances at global and regional levels on these issues.

Using this umbrella framework, the participants delved into the finer points of:

- Arriving at a definition of 'governance' and 'State accountability' as they apply to children
- Pinpointing instances of State's failure to empower children in policy and programmes
- Deciding on tools, strategies and indicators to make the State more accountable
- Evaluating the role of international organisations and legal instruments in making the State child-sensitive
- Assessing the degree of State compliance with the UNCRC and the extent to which it is being implemented in spirit within its constitution and within its programmes
- Underscoring the significant role of child budgets in governance for children
- Determining the role of children in local self governments, policy making, developing alternate shadow reports, contributing to the child budgeting process, assessing government performance through report and score cards, and how they can use the rights to information, health, education and food security to ensure their rights and entitlements
- Highlighting the importance of critically evaluating the performance of the elected representatives, judiciary, and policies, laws and programmes with regard to governance for children through tools such as Right to Information legislation, strategic litigation, legislative monitoring, campaigning and networking

- Emphasising the need for defining the roles of diverse groups (NGOs, elected representatives, activists, media, judiciary, law enforcement officials etc) in ensuring child friendly governance
- Understanding the possible future steps in research, advocacy, education and policy engagement on child rights
- Being sensitive to the special needs of children who are displaced, caught in war situations, facing malnourishment and abused
- Understanding the basket of services needed to address access to justice for children

Some Excerpts....

“Rights-based approaches to development may also be useful, particularly if they contribute to a rethinking of children’s roles in development and the ways in which development impacts on children. This essentially means **shifting away from a view of children as victims or beneficiaries towards an understanding of children as citizens.** A rights based approach would also necessitate according equal priority to children’s participation and protection rights, alongside survival and development rights.”

Ossie Fernandes, Executive Director, Human Rights and Advocacy Foundation, Chennai, India



“**Qualitative data can demonstrate the gravity** of the child abuse problems. Only then the politicians can be ignited to initiate policies... Child protection is not only politician’s obligations but also every one of us. **No interference of politicians should exist while ensuring child protection by any institution, volunteers, activist and stakeholders.** Nobody can put blame on others; we all need to feel for the cause... A professional approach is crucial in investigating the issues and intervene them.”

Harendra de Silva, Former Chairperson of the National Child Protection Authority, Sri Lanka

“We need to **define accountability in the context of realisation of child Rights.** State accountability involves that state actors are answerable for their actions and sanction for non-performance... **Accountability is ensuring justice within the available framework.** It also includes the monitoring of the consequences of different policies.”

Frances Sheahan, UK



“The most interesting finding is that the level of **child-friendliness** had no correlation with the per capita income of the country. **It means governance is key. Laws and policies that are geared towards children’s rights are important.** It is politics, not economics that matter.”

Assefa Bequele, Executive Director, African Child Policy Forum, Addis Ababa, Ethiopia

“In Nepal, there is strong **participation of children in government policy making. Children participate in adult as well as children organisations working on issues pertaining them.** Their participation is school managing committees are encouraged and have enabled them to their raise voice regarding their rights. Village development committees invite children to become members. CWIN has collected 1 million signatures to include children’s suggestions in the new constitution which is being formulated. Such permeability in the system makes it possible for better accountability and transparency of government functioning”.

Sumnima Tuladhar, CWIN, Katmandu, Nepal





“Child participation is exercising their rights to self determination. It includes the determination of quality and nature of the provisions and protection provided to them. **To respect this right is not an option but an obligation.** It applies to government as well as non-government organisations. Consistency of maintaining this and how and where it begins is yet to be looked upon with greater priority.”

Kavita Ratna, Concerned for Working Children, Bangalore, India

“Children growing up in a young democracy have a window of opportunity to advocate for their own rights, and engage in governance issues. **Children’s participation in governance ensures that their perspectives, experiences and priorities inform, inter alia,** economic policy and budget allocations.”

Christina Nomdo, RAPCAN, Cape Town, South Africa



Key Recommendations and Plan of Action

The richness of the debates cannot be reflected in a report like this that aims to capture the overview of the colloquium. We have at best captured snapshots. But we have attempted to list some of the broad recommendations that emerged from this colloquium:

1. Defining governance vis-à-vis children

It was agreed by all the participants that it was critical to define child sensitive/ responsive/friendly governance. Key attributes of good governance are that institutions and processes should build on the rule of law, be accountable, open, effective and responsive, and give space for equal and meaningful participation by all sections of the society irrespective of caste, creed, religion, class, culture and age group. This kind of governance would, thus, necessarily be based on a rights-based approach.

The participants defined governance for children as one that Ensured All Rights for All Children and included the following components:

- Compliance with Constitutional and international obligations
- People and children-informed and driven process
- Establishment of the right conditions for participation in governance

It was agreed that the underlying principles that must define child responsive governance should be:

- Political will - and this must be visible in not just policy, law and programmes but also in their outcomes so that they would positive impact children
- First call for children - children must be the prime focus of all laws and programmes
- Best interest of the child – this premise must govern all government initiatives

2. Domains of action that spur child-responsive governance

The following actions were identified as indispensable for good governance for children:

- All arms of governance – executive, legislature and judiciary and their institutions should be accountable to children
- As the State is the primary duty bearer, it is the State alone that bears the onus of governance for children
- State action needs to be monitored with regularity for its efficacy or the lack of it
- Effective implementation and enforcement mechanisms must be put in place
- National policy and laws for children must be made mandatory
- Independent monitoring mechanisms for objective, non-partisan appraisals must be set up
- Coordination mechanisms should also be set up to pull together discrete initiatives of the State
- Empowerment of children at all tiers of governance and hastening the processes of decentralisation in governance to allow children's participation must be explored
- Facilitating the process of ensuring children's and people's participation in policy and programmes must be initiated
- There is need to build a scientific and credible knowledge base to campaign for children's rights in policy and programme

For some of these domains, indicators or elements to rate the responsiveness of the governance system towards children were developed:

a. National Policy for Children

- This will have to be scanned for non-discrimination, holistic approach and best-interest of children. Some of the indicators are:
- Existence of a national policy and plans of action for children
- They must be comprehensive and inclusive
- They must be consistent with the Constitutional and international obligations
- There must be mechanisms to popularise and implement the national policy and plans of action
- The existence of an independent monitoring mechanism can ensure State accountability
- It is important to accord a political locus to the authority responsible for implementation to make its powers inalienable
- Child impact assessments must be conducted regularly to assess the impact of State policy and programmes on this huge demographic group
- The National Policy for Children should be aligned with other national policies

b. National Laws

- Laws require formulation, implementation, enforcement and co-ordination. They have to be comprehensive and inclusive of all children.
- National legal instruments need to be harmonised with international obligations

- Critical evaluations of how judicial decisions reflect Constitutional and CRC principles need to be undertaken
- Existence of 'parental leave laws' to ensure that children in their vulnerable first few months have proper parental care from BOTH parents should be ensured
- Existence of domestic laws on child trafficking, sexual exploitation, corporal punishment and free education must also be ensured
- A juvenile justice system must be put in place
- Child friendly procedural codes to deal with offences against children are essential
- There needs to be an autonomous/authoritative child rights protection bodies such as an Ombudsperson

c. Resources

- Budgetary allocations and expenditure for children must be part of every State budget
- Regionalising budgetary allocations and expenditure should follow
- It must be ensured that allocations and expenditures have firm timetables (this is to ensure that resources are allocated on time, do not lie unutilised, are not spent in final quarter but is spent throughout the financial year)
- Laws must be backed with financial memorandum (that is, they must have financial allocations in the budget and the institutions that disburse the funds and mode of disbursement must be identified)
- The ratio of government contribution versus corporate and international aid contribution must be determined to ascertain the actual governmental commitment
- The use of funds in child budgets must be monitored in terms of input/outcome impact
- Mechanisms to monitor public-private partnership initiatives and reporting on the investment as well as outcomes/impact must be evolved.

3. Ensuring children's own participation in governance

This aspect of governance was explored in great detail and the following questions were raised for redress:

- How can children's voices be heard in governance?
- What is the degree of compatibility between Constitutions and the CRC?
- What are the administrative structures available to address children's issues?
- Is there a need to redesign some of these structures?
- How much power do these structures possess?
- Are all children's groups represented?
- Is it possible to facilitate the culture of self-determination among children?
- Is the marginalisation of children is due to failure of the state/duty bearers?
- How can an enabling environment be created for children so that children are empowered?
- Can this in turn cause a ripple effect triggering a positive effect on other children?
- How can we respect individuality of personhood within partnerships?
- How can children be transformed into agents of change?

- How can we enhance capacity of children to face opposition when undertaking attitudinal change within their families, schools or communities?
- How can we formalise CRC (rights orientation) in teacher training and education curriculum?
- How can we build successful and replicable models (with ripple effect)?
- How can we identify, expand governance structures within the legislature, executive and the judiciary?
- How can we present information in a child -friendly manner?
- How can process be amended to be child -friendly?

Measuring children's participation in governance: some indicators

- Structures available for child participation at different levels of governance. The power of the local government structures to ensure child participation in local governance, and the extent to which they exercise them.
- Is children's participation likely to be stronger if they can access government structures closer to their homes?
- Analysis of budgets available to set up the structures, make provisions for child participation, put in place protective mechanisms, and build capacities for adult stakeholders. How much money is being spent on issues raised by children? (Power over budget allocations and expenditure).
- The nature and extent to which the processes set up by government are child-friendly, and give space for children's opinions and interventions.
- The groups that find representation in processes and are all interest groups adequately represented?
- The extent to which elected representatives raise issues that children bring to their attention at higher levels of governance.
- Involvement of children in the planning processes from local to national levels.
- Measure to ensure to ensure follow-up of on processes and meetings with children.
- Blockages/ enablers for children's voices being articulated and heard.
- The time allocated for discussions on issues raised by children in relation to legislation or policy, and the extent of questions and debates in the state assemblies and national parliament emanating from issues raised by children
- The number and nature of resolutions passed in legislative assemblies and parliament based on the issues raised by children.
- The access mechanisms for children into monitoring bodies such as state and national commissions.
- Response of national governments to alternate reports by children. Are children's input sought and reflected in the drafting of the reports?
- Monitoring the extent to which children's voices heard and listened to in the justice system and the major blockages in this.