Proposed Plan of Action for a Coordinated Response of Human Rights Institutions to Child Rights

- Suggested Plan of Action emerging out of the Inter-Commission Dialogue on Child Rights, organized by Centre for Child and the Law, National Law School of India University, in partnership with UNICEF - India Country Office, on 22nd February 2012, New Delhi
Functions of Human Rights Institutions

- Examination and review of safeguards
- Inquiry into violation of rights
- Inspection of custodial institutions
- Reporting on safeguards
- Recommendation for effective implementation of international treaties
- Promoting Research and Spreading Human Rights Literacy

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Proposed Areas of Coordination

Research & Advocacy on issues of common concern

Complaints Mechanism

Human rights literacy

Promoting implementation of International Conventions

Law Reform

Institutionalizing mechanisms for co-ordination
Research & advocacy on issues of common concern

**Thematic Areas**
- Health, education, discrimination in schools, child marriage, child trafficking, and child labour.
- Prevalence of the problem: States in which it is rampant and groups it affects.
- Focus more on prevention of human rights violations.

**Research Areas**
- Issues concerning child rights violations that require in-depth research
- Collaborating with each other, and also Universities and other civil society organizations to bring out in depth research reports'.

**Legal Advocacy and Reform**
- Consider approaching the courts collectively on issues affecting a large body of children
- Discuss amendments required to existing laws to strengthen the protection of child rights in India.

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Case Scenario

- Children of commercial sex workers are denied admission in a government school. The children belong to Scheduled Castes. In such a case, a complaint could lie before the NHRC, SHRC, NCSC, NCW, SCW, NCPCR or SCPCR.

- How can Commissions determine if any other Commission has taken up the matter?
Avoiding duplication of inquiry

Commissions can and usually do:

◦ Check if the complaint has been addressed to them directly or only a copy is marked to them.
◦ Ask the complainant if he or she has filed the complaint before any other Commission and whether that Commission has started looking into the matter.
◦ Ask the government or public authority it is writing to for a report whether any other Commission is also looking into the matter.
◦ Keep track of media reports to see if any other Commission has taken *suo motu* notice of the matter.
Gaps in the existing system

- But there still are instances wherein two Commissions are looking into the same matter.
- This could lead to loss of considerable time and resources, and possible secondary victimization of child complainants due to parallel inquiries.
- It is imperative that a system be developed to enable smooth transfer or referral of complaints between the Commissions so that a victim of an alleged human rights violation is not denied timely relief.
It is also essential that technology be used to connect implementing agencies with monitoring agencies from national-state-district-sub-district level.

Such technology can help to detect if the same complaint has been filed before any other human rights institution.

The Commissions could consider developing Protocols, Standard Operating Procedures, Guidelines and adopt them so as to cement co-ordination between Commissions.

Commissions can conduct Joint Public Hearings and Social Audits on common issues.
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- Commissions may collaborate for the purpose of:
  - Promoting inclusion of human rights, including rights of specific groups, into school curriculum and training manuals of personnel dealing with these groups
  - Creating common modules on human rights literacy and education
  - Inclusion of role and mandate of Commissions in the curriculum and manuals
  - Capacity building of teachers on child rights law

Trainings for various functionaries such as Chairperson and Members of Commissions, government officials deputed to the Commissions, and others.
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Promoting implementation of international conventions

- The Protection of Human Rights Act, 1993 and the Commissions for Protection of Child Rights Act, 2005 expressly provide for study of international treaties and recommendations for their implementation as one of the functions of the Commissions.

- While the NCSC, NCST, NCM, and NCW have not been vested with such a function nothing prevents them from making doing so as part of general functions.

- HRIs can press for law reform and policy changes based on recommendations made by various treaty bodies on child rights.
At the end of the Universal Periodic Review of India’s human rights record in 2008, the following recommendations relevant to child rights were made:

- Recommendation No.9: Review the reservation to article 32 of the Convention on the Rights of the Child;
- Recommendation No.11: Take into account recommendations made by treaty bodies and special procedures, especially those relating to women and children, in developing a national action plan for human rights which is under preparation.
Recommendations by Committee on the Rights of the Child that Commissions may consider

- Take steps to abolish untouchability, prevent caste and tribe-motivated abuse and take measures to advance and protect these groups.


- Take steps to implement the National Plan of Action for the Girl Child

- Develop awareness campaigns and take necessary measures including imposing sanctions to end the practice of selective abortions and female infanticide.
Action Points with regard to study of international treaties

- Examine whether the government has taken any steps to achieve the recommendations (relevant to the mandate of the institution) made by the Human Rights Council or treaty bodies and accepted by the government.
- Collectively lobby the government to accept the recommendations which have been rejected, particularly reservations or declarations made against treaty provisions.
- Press upon the government to ratify the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, and ILO Conventions: No. 182 on the Worst Forms of Child Labour and No. 138 on Minimum Age and sign and ratify the third optional protocol to the UNCRC on Communications Procedure that enables children to file complaints regarding violation of rights under the CRC and the two optional protocols.
Submissions to treaty bodies and special procedures

- On the right to education, the NCM, NCW, NCSC, and NCST could join hands with the NCPCR to assess the extent to which this right is available to children from minority groups, SC and ST community, and the girl child and make a submission to the Special Rapporteur on the right to education.

- Commissions can identify other issues on which they could jointly make submissions to treaty bodies or special procedures.
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Areas of Law Reform

- Identify laws pertaining to child rights that require amendment.
- Identify areas pertaining to child rights on which legislation is required.
- Specifically, identify reforms required to laws relating to human rights institutions in order to strengthen them and safeguard their independence.
- 'Model Rules under the CPCR Act to be framed and considered by States for adoption. (CCL NLSIU research to be considered)
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Institutionalizing mechanisms for Co-ordination among Human Rights Institutions on the issue of Child Rights

- Section 3(3) of the PHR Act states that the Chairperson of the NCW, NCM, NCSC, and NCST are deemed to be members of the NHRC for the purpose of discharge of all functions other than inquiry into complaints.

- Need for co-ordination mechanisms at both national and state levels.

- Setting up of a Child Rights Desk/Officer designated for child rights in each human rights institution.

- Quarterly meetings with these officers/desks may be called by NCPCR/NHRC or SCPCR/SHRC at national and state levels respectively.
Institutionalizing mechanisms for Co-ordination (Contd)

- Sustain the dialogue through quarterly meetings to be convened by NHRC or NCPCR or both.
- Bi-annual Conclave on Child Rights to be held.
- Innovative and creative solutions that are necessary to overcome the constraints – structural and practical (intermediary agency, creating local ecosystems, tapping resources of other statutory bodies like Universities)
- Commissions could share best practices that have been developed, so that they may be considered for adoption in other IHRIs. The Integrated Plan of Action to Prevent and Combat Human Trafficking can be replicated for other issues as well as emulated even at the state levels
Thank You