A CONCEPT NOTE FOR FORTHCOMING INTERNATIONAL COLLOQUIUM ON CHILDREN AND GOVERNANCE-2011

Context


Key Recommendations and Plan of Action in the Colloquium, 2009:

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.

   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

The participants made some recommendations (see box) and also developed certain indicators (see appendix).
Since the Colloquium, there have been two other meetings organised by UNICEF and Save the Children along with their partners in New York and London. The African Child Policy Forum, has drawing upon HAQ’s methodology come out with a report “The African Report on Child Well-Being-Budgeting for Children” and organised a conference on this subject.

HAQ: Centre for Child Rights has since brought out a book (Every Right for Every Child: Governance and Accountability, published by Routledge) which draws upon experiences from across the world and across sectors on this subject. It has also, drawing upon the African model, developed a ‘Child Rights Index’ through which it is ranking the states based on their performance on realisation of child rights across different sectors. It has also, with support from Save the Children, Sweden developed a Beginners’ Guide for Budget for Children Analysis.

In view of the ongoing discussions in other parts of the world, HAQ feels that it is opportune to organise a follow-up colloquium/conference on this subject once again to take forward the discussions that were initiated in 2009, bringing into it the ongoing discussions in other parts of the world.

For this HAQ: Centre for Child Rights is seeking partnerships with other organisations to co-convene this colloquium/conference on this very important issue. This will enable all the participants to feed into the ongoing discussions on this subject in other parts of the world.

Secondly, in the Indian context this is also an important time because the 12 Five Year Plan formulations are on. The discussions from this meeting can be carried into similar planning processed of other countries as well.

Proposed Conference/Colloquium

“One of the hallmarks of “good governance” is its inclusiveness and attention to equity and participation for all groups. But even progressive governments that refer carefully in their policies to “women and men,” may express an unwitting bias against children (emphasis added). This is not unique to government. This bias can run deep in many quarters. Even in discussions among committed development professionals who are fully aware of the benefits of taking gender into account, it is not uncommon for interest to fade if the topic of children comes up. The unspoken message is that bringing children into the discussion is a not-quite-relevant tangent—that surely their needs are met if their parents’ needs are met. To some degree, this is true. But it is also true that boys and girls of different ages experience the world in particular ways, and may be affected in particular ways (sometimes profound and long-lasting) by a range of decisions and actions.”


Despite discussions on children and governance, the situation has not changed very much from what Barlett has described (box). This is a discourse that needs to be taken forward.

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and one or two discussions scattered across the world (three so far at the global level in three
years) needs to be generated between all stake holders-government as well as non-
government.

At the same time, governance with respect to children in this fast changing world needs to
keep pace and be responsive to changing needs of children, which has been referred to as
Newly Emerging Needs by Oudenhoven and Wazir. They recommend that policy makers
must be sensitive, flexible and increasingly prepared for new and as yet unfamiliar situations
that we are constantly confronted with in a fast changing world. They warn against a ‘cookie
cutter’ approach to developing interventions.⁴

It is in this backdrop that HAQ seeks to organise a colloquium on Children and Governance
to enable participants from India and different parts of the world to exchange their tools,
models and valuable experiences. Twenty years of the UNCRC is indeed a pertinent time to
see how far states and organisations have managed to reach in terms of their efforts towards
helping children realise their rights and entitlements.

About HAQ: Centre for Child Rights

HAQ: Centre for Child Rights began working in October 1998 and was formally registered
under the Societies Registration Act, in June 1999. HAQ seeks to focus on children in a
holistic way – as Actors in our society, as Citizens of Today and as Adults of the Future. It
believes that there is a need for realisation of human rights of children through policy, law
and action.

Our effort at HAQ is to mainstream children’s rights into all efforts -- governmental as well
as non-governmental-- and place this concern on the centre stage of national debate. HAQ
seeks to recognise, protect and promote all rights for all children. This is because children
are affected by any action of the government, whether specifically directed at them or not.
Agricultural, environmental and land policies for example have significant impacts on
children’s livelihoods and enjoyment of their rights.⁵ Indeed the key to child-sensitive
governance lies in mainstreaming child rights into all other sectors, issues, policies and
programmes. If children’s concerns are not integrated into activities of every arm of the
government and its Ministries and departments they remain confined to vertical and stand
alone interventions that do not bring about real change.

Following this, HAQ has worked on ensuring that child issues are included in the
recommendations made by NGOs to the proposed amendments to the Mines, Mineral
Development and Regulation Act. It has also been successful in lobbying with concerned
parliamentarians to include children’s issues as part of the Parliamentary Standing

Pages 23, 26 and 31

⁵ Enakshi Ganguly Thukral. Children and Governance: Concept and Practice. In Every Right for Every Child:
Governance and Accountability. Page 13 and 36 Routledge. New Delhi 2011 and HAQ: Centre for Child
page 32
Committee’s recommendations on the Prevention of Torture Bill, 2010. Similar efforts need to be undertaken for issues such as land acquisition, forest laws or the rehabilitation policy for displaced Persons. Yet another effort in this direction has been to understand Common Property Resources in the context of children."

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<th>HAQ's work on Children and Governance is based on the belief that....</th>
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<td>The basis of any work on children and governance must be the human rights principles that lay down the role of the state as the primary duty bearer, accountable for the realisation of all rights held by its people—children, women and men. However, for it to be truly sustainable, there is an urgent need to mainstream children’s rights into all developmental efforts (just as gender mainstreaming has come to be recognised)—governmental and nongovernmental. This means, unless all government policies and actions, be it the agricultural policy, the drug policy, policy on displacement and rehabilitation, forest laws, mining policy, and the like, are examined through a child’s rights lens, any attempt to address violation or denial of children’s rights will stand defeated, leaving scope for more and more children to fall out of the social security and safety net.</td>
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For this Colloquium, HAQ has sought partnership with CRY and UNICEF-India. CRY has already confirmed its interest and is willing to partner with HAQ. Although, UNICEF-India has confirmed its partnership in principle, the details of the partnership are still under discussion.

Objectives of the Colloquium:

- To review the on-going discussions based on existing knowledge, perspectives and varied experiences of the participants.
- Taking forward the agenda of the last colloquium (to open up a global discussion on ‘governance’ from a child rights perspective) to the next phase and feed into the ongoing discussions
- Alliance building, including strengthening of existing alliances at global and regional levels on these issues.

Participants

Participants in the colloquium/Conference will be practitioners, who have been working on developing and using tools to engage and advocate with the state, holding the state accountable and bringing in greater transparency, monitoring state performance and ensuring space for children and their rights as part of good governance, and striving towards systematic and strategic change in laws, policies and their implementation. Some of them will be participants who were part of the last meeting, have attended the ones organised by UNICEF and SAVE in 2009 and 2011.

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Appendix –I Key indicators to rate responsiveness of the governance system towards children

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

1. National Policy for Children
   - A national policy and plans of action for children are needed
   - 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

2. National Laws
   - 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

3. 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

• **4. 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?
  • It is 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?