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FMA NATIONAL
DEVELOPMENT FORUM



**Universal Periodic Review (UPR) of India
41st Session (October-November 2022)**

Joint Stakeholders' Submission on:

**Human Rights in India:
The situation of children and women**

Submitted by:

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**VIDES International - International Volunteerism Organization
for Women, Education and Development**

(NGOs in Special Consultative Status with ECOSOC)

FMA Provincials Conference of India (PCI)

and

National Development Forum (NDF) - India

Geneva, March 2022

I. INTRODUCTION

1. This stakeholders' report is a joint submission of the above-mentioned organizations. The report highlights key concerns related to the protection of children from early marriage, child labour and abuse, especially in the context of the Covid-19 pandemic. It also addresses some of the main challenges hindering the full enjoyment of the right to education in India. Each section conveys recommendations to the Government of India.

2. The data and information obtained for this submission came from various sources and includes information from educators, social workers, and volunteers working with children and their families in the 25 States of India: Tamil Nadu, Kerala, Andhra Pradesh, Karnataka, Telengana, Madhya Pradesh, Maharashtra, Gujarat, Odhisha, Haryana, Chhattisgarh, Jharkhand, Punjab, West Bangal, Sikkim, Arunachal Pradesh, Manipur, Goa, Tripura, Uttar Pradesh, Bihar, Assam, Nagaland, Maghalaya, Mizoram. All information covers the period between the previous UPR of India held in 2017 and March 2022.

3. Additional information came from the data obtained from the survey conducted during this period of the COVID-19 pandemic among 605 children and youth coming from the 9 States of India¹. The respondents are composed of 315 children (10-14 years old) and 290 adolescents/youth (15-20 years old). 45% of the respondents live in rural area, 28.8 % in urban area, 5% in slums and 0.2% in informal settlements. In terms of religious representation, out of 601 respondents, 256 of them are Hindus, 197 are Christians/Catholic, and 13 are Muslims.

4. **IIMA** is an international NGO in special consultative status with the Economic and Social Council. IIMA is present in 97 countries where it provides education to children and adolescents, particularly the most disadvantaged and vulnerable.

5. **VIDES International** is an international NGO in special consultative status with the Economic and Social Council, which is present in 43 countries worldwide. It was founded in 1987 to promote volunteer service at the local and international levels for ensuring human rights of vulnerable groups, especially children and women.

¹ Andhra Pradesh, Assam, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, and Tamil Nadu.

6. The **FMA Provincials Conference of India (PCI)** is a network of the seven Provinces of the Daughters of Mary Help of Christians (FMA), also known as the Salesian Sisters of Don Bosco, composed of 203 communities present in the 25 States of India. Their work covers the field of education, culture, health, social assistance and development. It has 265 schools, 6 Institutions of Higher Education, and carries out around 2,026 social works and non-formal activities, both in rural and urban areas.

7. The **National Development Forum (NDF)** was founded in 2008 by the Institute of the Daughters of Mary Help of Christians (FMA), to coordinate the social works of FMA provinces in India. It animates, empowers, and contributes to transforming the lives of the poor and vulnerable, especially women, children and youth. The NDF is instrumental in bringing social development offices of the PCI's seven Provinces under one umbrella for collective thinking and action, to respond creatively to the present-day challenges.

II. GENERAL REMARKS

8. This NGO coalition welcomes the constructive participation of India in the Universal Periodic Review (UPR).² The present joint submission represents the follow-up to the UPR recommendations accepted by India in 2017, with a special focus on children-related issues, especially girl children. The rights of women in India also are addressed in the present report.

9. This NGO coalition identifies **children and women, especially in remote and rural areas**, as the most vulnerable groups in India, due to the discrimination and human rights abuses to which they are subjected. The coalition acknowledges that the Covid-19 pandemic has had adverse effects on all groups of society as well as on the progress that the Government of the India is making in implementing the recommendations of the 2017 Universal Periodic Review.

10. The implementation of recommendations is crucial in order to ensure a true advancement of human rights in the State under review. Therefore, India should pay particular attention to the effective implementation of the recommendations and in consultation with Civil Society.

11. *This NGO coalition recommends that the Government of India:*

²The last review of India was held on 4 May 2017. See Report of the Working Group on the Universal Periodic Review of India (A/HRC/36/10), 17 Jul 2017; and its Addendum (A/HRC/36/10/Add.1), 6 Sep 2017.

a. Ensure the effective implementation of UPR recommendations through the establishment of a National Mechanism for Reporting and Follow-up as a permanent governmental mechanism to liaise with relevant ministries and consult with Civil Society, NHRI's and all relevant stakeholders.

III. RIGHT TO EDUCATION

12. This NGO coalition welcomes the recommendations n.161.63, 161.181, 161.182, 161.183, 161.184, 161.186, 161.188 and 161.189 accepted by the Indian government towards the promotion of free and compulsory education for children in India³, during its 3rd UPR held in 2017. The Right of Children to Free and Compulsory Education (RTE) Act serves as a building block to ensure that every child has the right (as an entitlement) to obtain a quality primary education, and that the Indian government, with the help of families and communities, fulfils this obligation. Despite the efforts of the Indian government to sustain the educational system in the country, there is a lack of stringent implementation of the Fundamental Right to Free and Compulsory Education Act throughout the nation, since the Act is not seen as a “time-bound constitutional provision.” As a result, the overall compliance to the RTE Act remains inadequate and unsatisfactory across all the States.

New Education Policy

13. On 29th July 2020, the Government has introduced the *NEP2020 Equitable and Inclusive Education*, hailed as a ground-breaking and progressive policy. A critical examination of the policy reveals that it is not being timebound in its promises. Similarly, the NEP commits to increase the public expenditure on education to 6 % of GDP, but without proper specification of the allocation between the Central and State Governments.

³ Recommendations No. 161.63 Expand the scope of the Right of Children to Free and Compulsory Education Act and promote human rights education in the school curriculum (Slovakia); 161.181 Increase the government expenditure in the field of education (Iraq); 161.182 Continue its efforts to ensure that all children have access to education at all levels and all categories (Lao People's Democratic Republic); 161.183 Continue to take steps to provide inclusive and quality education for all (Myanmar); 161.184 Continue its efforts in implementing its comprehensive policies to ensure quality education for all children (Qatar); 161.186 Step up its efforts to carry out the second phase of its Education for All programmes to focus on providing affordable and quality secondary education in the country (Brunei Darussalam); 161.188 Accept more efforts to increase girls' secondary education, including ensuring that schools are girl-friendly in all parameters (Kyrgyzstan); 161.189 Continue to ensure access to education for all, especially children of scheduled castes and tribes (Holy See). See Report of the Working Group on the Universal Periodic Review of India (A/HRC/36/10), 17 Jul 2017.

14. The increased emphasis on the mother tongue as a medium of instruction has a negative impact on the already marginalized groups as this hinders them from having access to equal educational opportunities, employability and privileges in places where English is widely used. Girls and women will remain to be disadvantaged and disempowered due to gender inequality as parents often prefer to invest more on boys education than that of girls.

15. NEP is seen as a roadmap towards privatizing education with the gradual dismissal of the system of affiliation to a university and grant autonomy. The privatization of higher education is a denial of social justice, indeed. It is evident that this seemingly visionary policy will in the end serve the interest of the high-income sectors of the population to the detriment of the vulnerable and already marginalized groups of society.

Digital divide in education

16. The Covid 19 pandemic has brought millions of children out of school. In particular, children from the marginalized sectors were denied of their right to education due to the fact that they have no access to electronic gadgets and internet services. The dropout rate has increased mostly in schools located in rural and tribal areas where online education is inaccessible. In fact, 65 percent of children in rural India fear they will have to drop out of formal school if they are not given additional support. A UNICEF Report of 20th March 2021 states that the closure of 1.5 million schools due to the pandemic and the resultant lockdown in 2020 impacted 247 million children enrolled in elementary and secondary schools in India. The Unicef Report also highlighted that online education is not an option for all as only one in four children has access to digital devices and internet connectivity in the country.⁴

17. This is further corroborated by the results of the survey run by this NGO coalition among 605 Indian children, adolescents and youth, which indicated that 374 of the respondents said that, in the last 18 months, the school was closed for 6 to 12 months, 82 of them responded that the schools closed 3 to 6 months, and 42 of them said that the schools did not closed in the last 18 month. 285 respondents said that replacement activities were provided through whatsapp group, while 212 have attended online lectures and e-learning, and 172 respondents have used educational apps while 53 of them have not attended any class at all, and only 11 children have attended outdoor lessons. In total, 313 of the respondents have used the internet for their school work. With regards to the providers of education replacement activities, 53.1% of the respondents have received support by Catholic Congregational school (Salesian sisters, Comboni Sisters, Good Shepherd Sisters, and the RNDM), 13.4 % of them were supported by the care givers, 19.3 % of them by the government, and 4.6 of them by NGOs.

18. Out of the 605 India children, adolescents and youth interviewed, 72.7% corresponding to 440 respondents declared to have found difficulties in studying and doing their homework during the last 18 months. 354 of the respondents stated that COVID-19 school restrictions have increased their difficulties to study at home. 97 of the respondents indicated lack of internet access as the main cause for the studying difficulties encountered.

⁴<https://theprint.in/india/education/covid-impacted-247-mn-children-in-india-due-to-closure-of-1-5-mn-schools-unicef-study-shows/615320/>

School Drop Out and Quality of Education

19. The pandemic has only exacerbated the difficulties and problems experienced in already precarious contexts, such as that of **rural areas** where several critical educational issues continue to persist, as showed by the **low enrolment rates and high dropout rates** as well as by the **shortage of qualified teachers and inadequate curricula**. Out of the 605 Indian children, adolescents and youth interviewed by this NGO coalition, 80 of them corresponding to the 13.2% are not enrolled in school. According to the same survey, 33 of the respondents did not attend schools because they could not afford to pay the school fees; while 16 respondents have not attended schooling due to the long distance walk from their home to the school; and 10 of them drop out fro school because of marriage and/or of pregnancy.

20. Another alarming situation, in some areas, the teacher-pupil ratio reaches the extreme situation of 2 teachers per school. This means that the very needy children receive even less educational attention and are deprived of quality education. In rural areas, a significant number of children still drop out of school mainly as result of the low quality of education. The situation is even worst when it comes to the **education of girls**. Generally, in rualal areas, only 27.3 % of women are able to have 10 or more years of schooling in contrast to 51.5% of women in urban areas.

Gender Discrimination in Education

21. Through the acceptance of Recommendations 161.187 and 161.188 made during the its 3rd UPR in 2017, India committed itself to ensure free education and come up with priority measures so as to eradicate the discrimination and exclusion that affect girls.⁵

22. However, the goal to ensure quality free education for all in primary to higher secondary education is still far from being realized. Lack of adequate educational infrastructures and basic facilities such as toilets, library, boundary wall, as well as lack of drinking water and midday meal for children, especially in the most remote areas, remain an obstacle to better quality education. A policy of zero tolerance towards discrimination is direly needed. Most importantly, the school *curriculum* need to be upgraded and standardized if it is to cater to the integral and holistic development of the learners. With gender discrimination in schools and the increase in school drop out saw also an increase in violence against children, child labour, early marriage, teenage pregnancy and child abuse. The pandemic has only worsened the

⁵ Recommendations No. 161.187 Increase investment in universal, mandatory and free education by giving priority to measures to eradicate discrimination and exclusion that affect girls, children with disabilities, Dalits and marginalized persons (Mexico); 161.188 Accept more efforts to increase girls' secondary education, including ensuring that schools are girl-friendly in all parameters (Kyrgyzstan). See Report of the Working Group on the Universal Periodic Review of India (A/HRC/36/10), 17 Jul 2017.

situation.

23. In early January of 2022, a dispute pertaining to school uniforms erupted in the Indian state of Karnataka, when some Muslim students of a junior college who wanted to wear hijab to classes were denied entry on the grounds that it was a violation of the college's uniform policy. Senior political scientist Muzaffar Assadi said, "Muslim girls are increasingly opting for higher education. But with these developments, there may be a setback with girls withdrawing from secular modern education."⁶

24. The ban on hijab, as a matter of fact, violates religious freedom which is guaranteed under India's Constitution. It is feared that hijab ban would stigmatise and marginalise more women and girls. The ruling party in Karnataka and in the center, the Bharathiya Janata Party (BJP), has for decades campaigned for the application of a Uniform Civil Code (UCC), which minorities believe would be tantamount to the imposition of Hindu laws. Despite Government's efforts to ensure quality education for all through the introduction of the New Education Policy, its imposition of certain rules, however, are offensive to the feelings and practices of minorities and does not prove to be democratic.

25. The NGO coalition is very much alarmed by the harassment among children and attacks on minorities due to their religious beliefs. The passing of the anti-conversion bill in the state of Karnataka and Haryana poses a threat to the freedom of religion enshrined in Article 25 of the Indian Constitution, according to which anyone can freely profess their religion.

26. The NGO coalition recommends that the Government of India:

- a. Fully implement the incorporation of the Right to Free and Compulsory Education Act of 2009 in the State education systems, ensuring consistency of States' legal framework with the RTE Act.**
- b. Establish Human Rights Education programmes that make children, especially in rural settings, aware of their human rights be they at school and at home.**
- c. Develop educational programmes adopted to rural settings in order to reduce school dropout and truancy rates, especially among girls in secondary education.**
- d. Guarantee teachers education reform to ensure better quality education through fully qualified and motivated teachers.**

⁶ <https://www.thehindu.com/news/national/karnataka/hijab-row-likely-to-hit-education-of-muslim-women-experts-fear/article65059979.ece>

- e. Provide adequate technical facilities and create child friendly teaching digital tools to bridge the digital divide in education.**
- f. Enhance partnership between Central and State governments, non-government organizations and the private sectors to address the gaps and the digital divide in education.**
- g. Effectively address gender discrimination in education, including through conformity to the Indian secularism as per Article 45 of the Indian Constitution.**
- h. Implement monitoring mechanisms to measure school enrollment rate for vulnerable children and reinforce mechanisms to ensure Indian secularism through maintenance of law and order and creation of state and district-wise 'Dash Board', as part of measures to evaluate if decisions taken are aptly implemented.**

IV. VIOLENCE AGAINST CHILDREN AND CHILD LABOUR

Child abuse

27. The survey conducted by this NGO coalition among 605 Indian children, adolescents and youth, shows that to the question “During Covid-19 lockdown how did you feel?”, 310 of the respondents replied they felt sad, 240 felt worried, 235 anxious, 167 felt fear, 154 were scared.

28. In 2020, ChildLine (India’s children’s helpline)⁷, received 92,000 calls reporting child abuse and violence. During the lockdown, within only eleven days, the helpline logged one-third of this number.⁸ There has also been an increase in cybercrimes against children, including cyberbullying, especially in urban areas. Current analyses attribute children’s vulnerability to their heavy use of the internet and social media.⁹

Child Marriage

29. We welcome the Government of India’s acceptance of several recommendations

⁷ChildLine is a nodal agency of the Union Ministry of Women and Child Development protecting children in distress.

⁸“[Coronavirus Lockdown | Govt. Helpline Receives 92,000 Calls on Child Abuse and Violence in 11 Days](#)”, *The Hindu*, April 8, 2020.

⁹Ojasvi Jain et al., “[Has the COVID-19 Pandemic Affected the Susceptibility to Cyberbullying in India?](#)”, *Computers in Human Behavior Reports*, 2 (August 2020).

aimed at eradicating child marriage.¹⁰ However, challenges still remain to address this issue. According to the Prohibition of Child Marriage Act (PCMA), 2006, the minimum age for marriage is 21 for boys and 18 for girls. However, the PCMA does not declare all child marriages illegal. Rather, child marriages are only considered null and void if they resulted from the use of force, threat, fraud, kidnapping or violation of a court injunction order to prevent the marriage.

30. The recent “Prohibition of Child Marriage (Amendment) Bill, 2021”, intends to amend the Prohibition of Child Marriage Act, 2006, by reinforcing its application by overriding all other existing laws, including any custom, usage or practice governing the parties in relation to marriage. It is expected to ensure the legal age for marriage for both women and men. It fully prohibits child marriage and made consequential amendments to other marriage-related laws. It also addresses the issue of girls empowerment. However, it is too early to determine and evaluate the effectiveness and impact of such tool.

31. In spite of that, child marriages increased during the pandemic, due to economic fallout, as vulnerable households were forced to adopt coping mechanisms. ChildLine reported 92,203 interventions, some 5,584 during the lockdown (35 percent) were related to child marriages. Of this number, 97 percent were minors (18 years and below) and 91 percent were girls.¹¹ **In the survey conducted by this NGO coalition in nine states among children, adolescents and youth (10-20 years), 14.8 percent of the respondents indicated that they have known someone below 18 years who got married. The 67.4 per cent of the respondents agreed that marriages have increased as a result of the pandemic, girls being mainly affected.**¹² 61.9 per cent of the respondents have also indicated an increase in teen girls pregnancy, of those below the age of 18.

32. In Madhya Pradesh, the recorded number of child marriages jumped from 46 cases between November 2019 and March 2020, to 117 cases in the shorter period of April to June 2020. Similarly, 18 cases of child marriages were reported in Chhattisgarh in the five months before the COVID-19 lockdown, but during the first three months of the lockdown, the number increased to 58.¹³

¹⁰ Recommendation No. 161.60 Continue efforts to eradicate child and forced marriage (Peru); 161.197 Improve the enforcement of the legal provisions prohibiting harmful and discriminatory practices against women and girls, in particular child marriages, dowry-related murders and honour killings, and ensure that all women, without discrimination, have access to public services (Czechia); 161.217 Ensure that legislation defining the minimum legal age of marriage at 18 is enforced at all levels, everywhere in the country (Iceland); 161.218 Step up its efforts to eradicate child marriage and so-called “honour crimes” (Israel); 161.219 Step up efforts to combat and eliminate child, early and forced marriages (Sierra Leone); 161.220 Adopt legislative measures and policies to prevent early or forced marriages (Honduras); 161.221 Continue and intensify the actions to prohibit child marriage (Gabon); 161.231 Continue strengthening institutions to protect children and adolescent girls and boys, with a view to eradicating child labour, sexual exploitation and the practice of child marriage (Chile). See Report of the Working Group on the Universal Periodic Review of India (A/HRC/36/10), 17 Jul 2017.

¹¹ <https://timesofindia.indiatimes.com/india/govt-intervened-to-stop-over-5584-child-marriage-during-coronavirus-induced-lockdown/articleshow/76661071.cms>

¹² These data are also support by Centre for Catalysing Change, “[Assessment Of Issues Faced By Adolescent Girls & Boys During Covid-19 And The Lockdown](#)”, September, 2020.

¹³ Biswajeet Banerjee, “[Child Marriages Surge during and after the Lockdown, Official Figure Tip of the Iceberg](#)”, *The National Herald*, October 24 2020.

33. Girls often lack proper medical guidance on reproductive health and pregnancies, especially given the fact that teen pregnancies and child bearing have an adverse effect on their physical and mental health as well as on the child. Education has proven an effective tool for preventing early marriages. It is vital, therefore, to ensure that girls and young women have increased access to free, compulsory and quality education.

Child Labour

34. India accepted recommendations 161.38, 161.40, 161.229, 161.236 and 161.237 made during the 3rd UPR cycle to ratify the Minimum Age Convention, 1973 (No. 138), consider acceding to the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and to establish a monitoring mechanism to oversee the effective implementation of the Child Labour (Prohibition and Regulation) Amendment Act, the National Child Labour Policy and the Accessible India Campaign to prevent exploitation of children and protect the rights of persons with disabilities. This NGO coalition recognized the government's efforts to strengthen the domestic legislative framework through the amendment of the Child Labour Act, (Prohibition & Regulation) Amendment Rules, 2017. Nevertheless, child labour in India remains very alarming. It was further exacerbated by the pandemic.

35. Global estimates indicate that 64 million girls and 88 million boys, a total of 152 million children are currently working, which correspond to 1 child out of 10 worldwide.¹⁴ Children belonging to low-income families are the most affected. India is no exception to this. According to the International Labour Organization (ILO), India has a total child population of 259.6 million, aged 5 to 14. 10.1 million of these children are classified as either main workers or marginal workers. In February 2019 alone, 10,826 cases of violation of the Child Labour Act were reported across the country. Only 6,032 cases, however, faced prosecution, while the rest failed to even reach the courtroom.

36. What is worrisome is that more and more children are hired in the workplace. Cases are increasing every year as clearly shown by official data. The pandemic has worsen the situation, preventing a great number of children to receive proper education and unlock their potential.¹⁵ Accordingly, a study conducted in three states (Bihar, Rajasthan and Uttar Pradesh), showed that 42 percent of 15-24 year-olds experienced an increase in their domestic workload over the last two years. The pattern has been clearer among adolescent girls (52 percent) than boys.

37. According to the survey run by this NGO coalition, 540 of the respondents, that is, 89.3% of them have been doing their household chores. 42.2% said that they had an increased work because of COVID. Moreover, out of 605 Indian children, adolescents and youth interviewed (10 – 20 years old), 117 of them, that is, 19.3% of them are involved in an economic activity, even to 24.7 hours work load per week. 67% of them have declared that they had to work to

¹⁴ “Prevalence and Potential consequences of Child labour in India and the possible impact of COVID-19 – A contemporary overview by Navpreet Kaur” published in Sage Journal on February 9, 2021.

¹⁵ “Child Labour: 2020 Global Estimates, trends and the road forward” is the first-ever joint ILO-UNICEF report on child labour estimates and forms part of a broader inter-agency effort to measure and monitor progress towards target 8.7 of the Sustainable Development Goals. Estimates are based on the extrapolation of data from 106 surveys covering more than 70 per cent of the world population of children aged 5 to 17 years old. Available at : https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_797515.pdf

earn to compensate for their family needs in the time of the COVID-19 situation.

38. The NGO coalition recommend that the Government of India:

- a) *Ensure budget allocation to the Ministry of Labour and Employment to improve the economic situation of families and address the root causes of child labour.*
- b) *Undertake community-based activities and clinical services within existing national adolescent health programmes to mitigate child marriages, headed by the Ministry of Women and Child Development.*
- c) *Enforce measures to ensure that girls have access to free, quality education as the most effective strategy to empower them and eradicate early marriages, especially in remote rural areas.*
- d) *Leverage multi-sectoral collaboration for a synchronized and effective child protection system.*
- e) *Create data repository on convicted sexual offenders and pedophiles to ensure that organizations recruiting persons interacting with children can approach government for background verification.*
- f) *Establish an online safety education program for parents and other community members so as to better support children's safety online under the supervision of the Office of the Safety Commissioner.*
- g) *Reconstitute and activate the community-based mechanisms like the Village Level Child Protection Committee (VLCPC), the Neighbourhood Child Protection Committee Level (NCPC), to monitor and address child rights violations especially child labour, child marriage, child trafficking and sexual abuse.*
- h) *Adopt an inclusive protection programme for children victims of violence living with their parents and establish a Child Friendly judicial system to provide them with prompt and effective justice.*
- i) *Conduct proper sensitization and training programs on child safety and the 2012 Protection of Children from Sexual Offences (POCSO) Act for personnel working in schools, residential and non residential areas, and other workplaces where children have access.*