

Dear Prof.Parasuraman, Prof.Nadkarni, members of the faculty, students, government officials, representatives of civil society organizations and members of the press.

Thank you for inviting me to deliver the prestigious, **Kumarappa Reckless Lecture**. I am told this lecture series was instituted in the memory of one of the distinguished former directors, Dr.J.M.Kumrappa and Dr.Walter C Reckless, reknowned criminologist and UN expert on Correctional Administration. Dr.Reckless I believe was invited to India by Pandit Nehru to help frame the correctional policies in the country in the early 1950s. He was here at the Institute and along with Dr.Kumrappa played a stellar role in initiating a series of developments relating to law and policy in the field of criminal justice and corrections. This includes the first ever training program for prison officers from the country and framing of the Probation of Offenders Act, 1958. I am also told one of the eminent Professors and Head of the erstwhile Department of Criminology and Correctional Administration at the Institute, Prof. Pannakal, had a key role to play in instituting this lecture series.

India has 420 million children in the age group of 0-18 years. It encompasses children in geographical terrains across rural and urban areas, covering arid and semi-arid zones, coastal belts, forests and deserts, hills and glaciers, townships that are decaying and growing with varied occupational patterns. Children are embedded in diversities of cultures, religions and languages. The challenge is in keeping children's rights as primary, which cuts across differences and allow it to capture the imagination of one and all and to be recognized as being indispensable to country's democracy and development.

NCPCR and its Role

The NCPCR has been set up by an Act of Parliament in December 2005 and it began its functioning in the middle of March 2006. As a Commission it sees itself as an independent human rights institution focusing on children's rights which has the advantage of privileging the poorest in the community as well the corporate houses, the government functionaries as well as the NGOs in the best interest of the child. It sees itself as an instrument on behalf of children to ensure that the child rights perspective informs each of the policies, programmes and legal framework in our country. Since the success or failure of the institutions meant for children largely depends on the public action and pressure NCPCR would draw a lot in building an atmosphere in favor of children and their rights. As a Commission it would take cognizance of violation of child rights on a suo moto basis and would also respond to specific complaints that are made. Considering that the data base on children and their predicament is not readily available the NCPCR hopes to facilitate building of a data base. Finally it would recommend changes in the law after going through a process of consultations in the country. NCPCR understands that attainment of children's rights is more than a welfare issue and a process of institution building, resolving of conflicts and is thus a hard program requiring support of all the sections in our population. The functioning of democracy in India is enhanced when the local bodies take care of its children who are among the weakest in the society and monitor their rights. The gram panchayats are ideally suited for this task as children for at the level children are not numbers and statistics but real names and

faces, in the knowledge of all in the neighborhood. They are therefore the best agencies to protect children and legitimately so.

However it is found that the strengths of the local bodies have not been fully realized. Most programs seem to be bureaucracy driven requiring members of local bodies to make repeated trips for getting approvals and sanctions. There are also complaints that States have set up parallel committees to the gram panchayats such as School Education Committees, Self Help Groups to deal with many of the subjects that should have rightly been handled by the local bodies thereby weakening them. These committees become alternate centers for decision making bypassing the statutory local bodies. There is also a criticism that there has been little real devolution of power and authority, resulting in decisions continuing to be top down. This ineffectiveness has been attributed to lack of political will, lack of clarity of roles and functions at different levels within the system and reluctance to delegate power to the local level both by the state level bureaucracy and politicians. These have undermined the statutory bodies and as a consequence undermined the fabric of democracy in India.

As far as children are concerned, it is felt that it is only in the process of deepening of democracy that their rights get protected and thus the need to strengthen the capacities of the gram panchayats in this regard is very important.

Protecting Children's Rights under Six years of age

It is widely acknowledged that there is lack of progress in providing children in the ages 0- 6 years their right to food, nutrition, care and protection.

In India, pregnancy and delivery are fraught with risk. The mother's health or even the child's survival does not cause anxiety, despite the fact that the child and mother may or may not survive. There is a silent resignation to fate, despite all the advances in medicine. This attitude, cutting across classes, is so pervasive and there is general indifference. When the child dies, consolation is drawn from the fact that not all is lost; the mother can give birth to more children, there is always another chance.

Such an attitude is compounded among the poor where the lives of infants are precarious, and parental instincts are numbed in the struggle for survival. Absence of a normative framework that supports the well-being of women and children is bound to adversely impact the manner in which the state takes up its responsibility towards mothers and infants. The infant mortality rate in India is 59 per 1,000 live births; 46 per cent of children are malnourished; there are 60 million underweight children under the age of five; and 67 per cent of pre-school deaths are associated with malnutrition. In absolute numbers, there are as many as 2.42 million malnutrition deaths under the age of five each year. The maternal mortality rate is 301 per 1,00,000, which is unacceptable by any standards. When the data are further disaggregated on the basis of birth, socio-economic status, caste and gender across the country, analysis reveals that several districts and blocks in the country have alarming statistics on infant and maternal mortality, almost on

par, if not even worse, than countries in sub-Saharan Africa. Bangladesh fares better than India with regard to both infant mortality and maternal mortality rates.

This is a “hidden” disaster, larger in scale than the tsunami of December 2004. In a true democracy, every child must be regarded as indispensable and the government must be held accountable for the deaths of children and mothers. Continuous failure on this account has to be perceived as a threat to the nation’s progress. It is in the process of responding to the most vulnerable, the pregnant women, poor mothers and infants in their weakest moments that democracy is tested.

The Constitution of India recognized how crucial children’s well-being was to the functioning of India’s democracy when it stated “that the state shall direct its policy towards ensuring that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment”.³ Article 45 of the Directive Principles of State Policy assured that children up to 14 years of age would be covered under free and compulsory education. However, the recent 86th amendment and introduction of Article 21A, making education a fundamental right for all children in the age group 6-14 years, does not provide for children in the 0-6 years age group. According to estimate pre-schooling under ICDS and other private initiatives covers about 34 million children leaving out approximately 26 million children. Thus, the gap between the number of pre school children and available pre school services is large. Moreover, there are disparities in provision of ECCE in rural and urban areas.

Although there is a clubbing of all children under six years of age as one whole, each milestone to be achieved requires an ambit of interventions, institutions and entitlements that are specific to the age group. For example children in the zero to six months of age it is imperative that the child is exclusively breast fed, provision of crèches and abundance of support at the family level for giving time to the child and thus it is linked to guarantee of maternal entitlements. Children up to 3 years of age would need access to health and nutrition, safe places such as crèches and so on. While children in the 3-6 years age group, in addition to health and nutritional care would need early child care centers and interventions for stimulation and learning. All these interventions must have a universal coverage and therefore as a matter of right.

At present there are certain legal instruments derived from the labor legislations pertaining to factories act, mines and plantations, construction workers, etc, which mandate that crèches must be provided. In reality they “hardly exist”. There are not more than 23,000 crèches, “whereas 8,00,000 crèches are needed to cater to approximately 220 million women working in the informal sector and in dire need of childcare services”.

The Supreme Court has also issued orders that the ICDS should be universalised to cover all settlements in the country, reaching out to every child under six years of age, mother and adolescent girl with supplementary nutrition. Universalizing ICDS in accordance with the Supreme Court directive would mean increasing the number of ICDS centres by almost three times from the present nine lakh anganwadi centres to the required 17 lakh.

For the provision of the necessary physical infrastructure and for professional support, there is a need to provide all such essential services that enable children have access to health, nutrition, care and protection. There is need for a process by which the poor woman in labor can complain about the non-availability of the doctor or even a trained midwife. There is also a need for the state to provide for all the services and procedures any woman can demand in a primary healthcare centre, sub-centre or a general hospital. There is a need for provision of maternal entitlements enabling exclusive breast feeding. There is a need to take punitive action because children in a village have not been immunised for months together, because of the absence of an auxiliary nurse midwife (ANM) or the required dosages. There is need for to guarantee protection for children of informal sector and migrant workers. There is indeed a need for a law that guarantees early child care centers, setting up standards for such centers. It is of utmost importance that there is a debate on the basic entitlements of children in the 0-6 years of age and explore the need for providing them the fundamental rights.

Every birth has to be seen as a statement of the child's trust in humanity and must evoke the finest of sentiments and normative values. Every child that is born and that will be born has to come under the purview of law. For this to happen there has to be an outrage that something very wrong is happening to our children and that it cannot go on like this. A culture that welcomes and celebrates birth of every child and grieves over the loss of life of an infant and her mother has to develop. A system that establishes entitlements of children as a matter of right has to be guaranteed under law. This has to be complemented with public institutions, structures and processes and wholehearted investments to actualize the rights of children.

Child Labor and Education for all Children

There are over 250 million children in the 6 – 14 years age group and half of them do not even complete class V. Only one third of them survive upto class 10 and only 10 percent actually pass the examination. Even the ones who do progress through the system, 50% cannot read or write, leaving much to be improved in quality of education.

Millions of children who are out of schools inevitably join the labour force given the existence of an enormous demand for children as source of cheap, docile and unquestioning labor. They are trafficked, work as migrant labour, beaten and abused, forced to work long hours deprived of basic care and protection, living lonely lives of insult and humiliation and forming a sizeable fraction of the growing informal sector. It is not often realized how much our lives, what we eat and wear, and our own shelter have become dependent on their suffering and exploitation. Although the government has prohibited child labor in several sectors, including domestic labor, child labor in the agriculture sector continues. Thus there is a vast reserve army of children, joining the informal sector - both rural and urban.

Market forces take advantage of a weak and unaccountable education system and ineffective legal instruments to continue using child labour. They also take advantage of the lack of a social conscience that calls for the abolition of child labour, and instead

tolerates their absence from school. It is this attitude that we must strive to work against, for it is this lack of social responsibility on the part of the employers that renders child labour invisible.

On the other hand, we are witness to a crying and explosive demand for education that has been nurtured both by civil society initiatives and the massive program of the government for universalisation of primary education. The poor look to education as invaluable for breaking the cycle for poverty and an indispensable means for attaining freedom.

There is a need to stand by the poor in their demand for education. It is imperative, then, to adopt a rights based approach to compulsory education and abolition of child labour. The existing Child Labour (Prohibition and Regulation) Act 1986 is limited as it prohibits child labor only in some identified processes and occupations and regulates the conditions of work in all other occupations. Further, those children working for their own families are left unprotected, even if they are working in those occupations that have been prohibited. Children working in the agriculture sector the largest number of child labour in the country, do not fall under the purview of the law.

On the education side, the system has to remove all barriers and enable every child to survive in the school system till she finishes 10 years of schooling, including providing the necessary infrastructure, schoolteachers and sensitivity to the first generation learner. There have to be changes in the governance of schools for taking care of integrating the back log of children in the schools as well as providing for lateral entry to school dropouts at all levels up to 10th grade. There has also to be a strong voice against violence on children in schools and corporal punishment.

It is in this context that I see the role for the Commission to generate a public debate and discussion to direct a policy shift in linking the programs of abolishing child labor in all its forms to that of ensuring the children's right to education and vice-versa. Given the current view that child labor is inevitable there is a need to galvanize the energies of one and all – from local to global, state and civil society agencies, multi-lateral donor and policy-making bodies, to give a whole-hearted message in taking the voices and aspirations of the poor to those in power and establishment for educating their children.

Our older children

Within India, there are approximately 80 million children in this age 15 – 18, group. The first step in the direction of protecting their rights is in the State clearly accepting them as children. While some laws in the country such as the Child Marriage Act, Juvenile Justice Act, and the Disabilities Act consider 18 years as appropriate to define the child there is an ambiguity on this issue with the education and child labor laws limiting the age of the child to 14 years alone.

Most of them are illiterates or semi-literates, ill-equipped and unskilled to take advantage of the boom in the economy. They are totally disempowered and helpless when they are actually at an age to have an insatiate spirit of exploration, creativity and living a

productive life. Missing the bus of education has serious implications first and foremost for the dignity of these children. While, in theory, we in India never fail to recognize children as assets, in practice, they are the most exploited class. We are still grappling with a cohesive policy for them.

Conclusion

In sum, there has to be a combination of sturdy institutions for children, in terms of early child care centers, schools, hostels, residential programs, without calculating costs. The importance of professional services of the staff working at directly with the children and their conditions of service and dignity cannot be undermined – as this is inextricably linked to human rights. Experience shows that institutions do not operate in a vacuum. Institutions for the weakest, such as children, become vibrant and efficient only when there are processes of institution building with strong community interface. This means greater authority to the local where children are not just statistics, but real faces and names. In other words, institutions would require processes of institutionalization with conscious effort of adhering to principles of equity and justice. One of the spin-offs of protection of children's rights is a deepening of democracy with the local abiding by universalistic values. The role for the Commission is in taking bold stands in favor children, and in giving absolute values for rights of children. The Commission also needs to partner with civil society organizations, academia and policy making bodies like the Planning Commission and government departments at the State and Central level to achieve its agenda.

This is indeed a challenging task but not an impossible one. It requires the flow of energy from each one of us in the society that goes beyond moral indignation into specific actions in favor of all our 420 million children in the 0-18 year's age group and their well-being. It requires a public debate and discussion on child rights in our country to arrive at the indispensability of protection of children's rights in India. It necessitates State's obligation to them, a State that would take on the task of creating the environment and normative framework on behalf of children, as well as all the legal, policy, and programmatic commitments on a rights based perspective.

As mandated for the Commission children come first. They are our priority and it is hoped that they become so for one and all.