Title: Child Rights in the Asia Pacific Region

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'The hope of the world rests in the coming generations.'

– The Third Committee of the United Nations General Assembly, 1946

I. INTRODUCTION

The aftermath of two World Wars saw children being left Stateless, homeless, and deprived of basic healthcare and education. In 1946, the United Nations General Assembly created the International Children's Emergency Fund (ICEF) to provide supplies and support to children after World War II. For the first time, children were recognised as autonomous persons with their own needs, interests and rights. Dr Janusz Korczak — a Polish doctor, writer, and philosopher who dedicated his life to caring for children at the Treblinka extermination camp in occupied Poland — put forth a new concept of 'childhood'. At its core, the concept propounded that the rights and needs of children must be respected. In 1978, a little over four decades after the ICEF was created, the Polish Government submitted the first draft convention on the rights of the child, based on Dr Korczak's concept of 'childhood'.[1] In 1990, the Convention on the Rights of the Child (Convention) came into force as the most widely accepted human rights treaty in history.[2]

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† This article reflects the position of law as on 14 August 2019.

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[1] UNICEF, 'For Every Child, Hope UNICEF@70: 1946–2016' (2016) *UNICEF*, *available at* https://www.unicef.org/publications/files/UNICEF_For_Every_Child_Hope_1946-2016_WEB.pdf (last visited 14 August 2019).

[2] UN, *Convention on the Rights of the Child*, General Assembly Resolution 44/25, UN Doc A/RES/44/25 (20 November 1989) ('Convention').

The Convention sets out the civil, political, economic and social rights of children based on non-discrimination, devotion to the best interests of the child, the right to life, survival and development, and respect for the views of the child. It sets out these rights through 54 articles, and two Optional Protocols, separately ratified — the first, on the Sale of Children, Child Prostitution and Child Pornography, and the second, on the Involvement of Children in Armed Conflict. It is the State party's responsibility to infuse the bare text of the Convention with life, through its own national legislation. Article 44 of the Convention directs State parties to submit periodical reports on implementation of the Convention to a Committee on the Rights of the Child. The Committee, acting as a check on State parties, reviews these reports and makes recommendations for better implementation of the Convention to the State party. The Convention forms the bedrock of child rights in almost all nations.

The two most fundamental rights of the child are the right to health and the right to education. The right to health goes to the root of survival — basic nutrition and care are vital, especially to children from developing nations. State parties recognise the inherent right to life, and are obligated to ensure the survival and development of children to the maximum extent possible.[3] Proper nutrition is the foundation upon which developmental progress is built.[4] The recognition of the right to development includes within its ambit the right of the child to the highest attainable standard of health and the right to education.

[3] *Id.* article 6.
[4] UNESCAP, 'Inequality of Opportunity in Asia and the Pacific: Child Nutrition' *Social Development Policy Papers* (2018) #2018–04 *available at* https://www.unescap.org/sites/default/files/Child_Nutrition_report_20181221.pdf (last visited 14 August 2019) ('UNESCAP Child Nutrition').

This article focuses on child rights in the jurisdictions of Australia, China, India, Indonesia, Japan, Malaysia, Philippines, and Singapore — each of which is a State party to the Convention. It identifies the main sources of child rights as legislation, including constitutional protections, and policy, through which the State implements specific programmes to advance the goal of equality and access to food and education. The article provides a brief overview of the legislation and policies in each of these jurisdictions.

II. THE RIGHTS OF THE CHILD

The countries of the Asia Pacific region account for 60 per cent of the world's population.[5] The legal systems of these countries are varied — Australia, India, Malaysia, Philippines and Singapore are either entirely based on, or largely influenced by, common law. China, Indonesia, and Japan have adopted a civil law system. Each of these jurisdictions is based on some form of democratic government, except China, which is a single-party Communist State, and Japan, which is a constitutional monarchy.

Each of these jurisdictions has adopted the Convention, and incorporated child rights through a system of legislation and policy, including constitutional recognition of rights. Most countries have a robust constitutional mechanism which recognises the rights of children as human rights. These rights, once recognised, are given structure through framework legislation and policy. Legislation either recognises pre-existing rights within the national framework or creates new rights for children, and then lays down a basic structure (a programme)

[5] UNFPA Asia & Pacific, 'Population trends' *available at* https://asiapacific.unfpa.org/en/node/15207 (last visited 14 August 2019).

for implementation of those rights. For example, the right to free and compulsory education is codified in all of the selected jurisdictions. These laws create guidelines for the Government to achieve such free and compulsory education. Framework or programmatic legislation is then implemented through a scheme or policy, by State functionaries, government departments, the private sector, and the local community. Such schemes bring legislation to life; they detail the services or programmes to be provided, the target groups, the local government officials, agencies or workers involved, the duration, and the goal. A monitoring and evaluation process is put in place to track the progress of these schemes.

A. Australia

Under Australian law, the age of majority is 18.[6] There are 5.5 million children under the age of 18.[7] The Australian *Constitution* is silent on the rights and protection of children. Australia signed the Convention on 22 August 1990 and ratified it on 17 December 1990.[8]

Australia protects and promotes the rights of children through legislation, policy and programmes at Commonwealth (federal) and state or territory levels. The law relating to children differs in each state and territory, according to local needs, but the key principles of each legislation remain the same.[9] For example, legislation

[6] See, for example, *Age of Majority Act 1974* (Qld) section 5(2) (Australia).
[7] Australian Bureau of Statistics, Population by Age and Sex Tables 3101.0—Australian Demographic Statistics, Mar 2018 (2018) *available at* https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3101.0Mar%202018?OpenDocument (last visited 14 August 2019).
[8] United Nations Treaty Collection, *Convention on the Rights of the Child*, *available at* https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en#5 (last visited 14 August 2019) ('UN Treaty Collection').
[9] Bromfield, L. M., & Holzer, P. J. (2008). *A national approach for child protection: Project report*. Melbourne: Australian Institute of Family Studies *available at* aifs.gov.au/cfca/publications/national-approach-child-protection (last visited 14 August 2019).

in all jurisdictions in Australia stipulates the paramount importance of the principle of the 'best interests of the child'.[10]

The Government takes care of child nutrition and healthcare through policies and programmes, although the fundamental programme for basic healthcare, Medicare, is governed by legislation. According to the *Medicare Australia Act, 1973*,[11] all Australian children have access to Medicare, a programme which provides access to medical services, lower cost prescriptions and free care as a public patient in a public hospital.

Australia's primary health care system meets the needs of children, pregnant women and families at multiple 'contact points'. Midwives provide care during pregnancy, birth, and post-birth periods, while Child and Family Health Nurses provide services to children from birth to school entry age. General Practitioners' services are often at a financial cost to families.[12] The Australian healthcare system works to provide these primary services to all families, and then secondary, tertiary or targeted services to those families and children whose needs are identified and who may be referred to Specialists or General Practitioners.

The National Framework for Universal Child and Family Health Services (Framework) articulates the vision and principles which guide Australia's approach to universal child and family health services for all Australian

[10] See, for example, *Children and Young People Act 1999* (ACT) section 12; *Children and Young Persons (Care and Protection) Act 1998* (NSW) section 8(a); *Child Protection Act 1999* (Qld) section 5(1); *Children's Protection Act 1993* (SA) section 4(3).
[11] *Medicare Australia Act, 1973*.
[12] The Department of Health, 'National Framework for Universal Child and Family Health Services' *Australian Government, Department of Health, available at* https://www1.health.gov.au/internet/main/publishing.nsf/Content/AFF3C1C460BA5300CA257BF0001A8D86/$File/NFUCFHS.PDF (last visited 14 August 2019).

children aged zero to eight years, and their families.[13] The Framework's vision is reflective of the rights laid down in the Convention — that all Australian children benefit from quality universal child and family health services that support their optimal health, development and wellbeing.[14] The Framework recognises that access to services needs to be coupled with periodic evaluation to ensure continuous improvement. The core service elements are set in stages. Australian healthcare services should first focus on developmental surveillance or addressing parents' concerns, monitoring the physical, social, cognitive development of children. Next, they should focus on the promotion of health, prevention of diseases, including building awareness and education in the community, and providing support for parents or caregivers of children. Third, early identification of risk factors, and then working with families to address specific needs. Fourth and finally, to respond appropriately to those needs that are identified, so that they can be addressed adequately.[15] Australia seeks to adopt a universal population approach to childcare. This approach uses community mobilisation to change structures and social norms which directly affect health and well-being.[16]

The principles articulated in the Framework are reflected in Australia's targeted programmes on breastfeeding, immunisation and maternal health. The Australian Dietary Guidelines, published by the National Health and Medical Research Council, makes recommendations on food intake based on age groups, including for toddlers (1–3 years), children (4–11 years), adolescents (12–18 years) and

[13] *Ibid.*
[14] *Id.* table 1.
[15] *Ibid.*
[16] *Id.* section 2.3.

pregnant and breastfeeding women. One of the five main guidelines is to encourage breastfeeding.[17] The National Health and Medical Research Council also publishes Infant Feeding Guidelines, providing advice to the general public on breast and infant feeding.[18] Besides guidelines and directions, the Government of Australia funds an organisation known as the Australian Breastfeeding Association, which is the country's largest information and support service, providing information to new mothers on breastfeeding, and training to health professionals and volunteers from the community who work with mothers and babies.[19] Australia's action plan related to breastfeeding is, therefore, largely community based and awareness-driven, with the Government's support.

Australia's National Immunisation Program is a universal vaccination programme set up by the Commonwealth and state and territory Governments in 1997. The programme includes provision of free vaccines to babies, young children, and teenagers.[20] The Office of Health Protection, under the Department of Health, implements the programme and ensures that essential vaccines are made available to its beneficiaries, while the National Immunisation Committee of Australia takes into account the views of vaccine providers and consumers, and reports to the

[17] Nutrition Australia, 'Australian Dietary Guidelines 2013' *available at* http://www.nutritionaustralia.org/national/resource/australian-dietary-guidelines-2013 (last visited 14 August 2019).
[18] National Health and Medical Research Council, 'Eat for Health: Infant Feeding Guidelines Summary', February 2013, *available at* https://www.eatforhealth.gov.au/sites/default/files/files/the_guidelines/n56b_infant_feeding_summary_130808.pdf (last visited 14 August 2019).
[19] Australian Breastfeeding Association, 'About the Australian Breastfeeding Association', *available at* https://www.breastfeeding.asn.au/aboutaba (last visited 14 August 2019).
[20] Department of Health, Government of Australia, 'National Immunisation Program', *available at* https://beta.health.gov.au/initiatives-and-programs/national-immunisation-program (last visited 14 August 2019).

Australian Health Protection Principal Committee.[21] Immunisation services are provided at local council or community health clinics, school immunisation programmes, and through Aboriginal Medical Services.

The Council of Australian Governments' (COAG) have an agreement in place, known as the National Partnership Agreement on Preventive Health, consistent with the Framework, which supports behavioural change to improve the health of Australians. Through the Agreement, states and territories receive funding to implement programmes in preschools and schools, to assure that children meet the national guidelines for healthy eating and activity, that they are at healthy body weight, and that they receive a 'healthy start to life'.[22]

The COAG also initiated a programme, Closing the Gap, to bridge the gap in the quality of life of Aboriginal and Torres Strait Islander Australians and other citizens, by achieving equality in target areas such as health, education and employment.[23] In 2008, the Council of Australian Governments (COAG) committed to halving the gap in child (ages 0–4) mortality rates within 10 years (2018) and closing the gap in life expectancy between Indigenous and non-Indigenous Australians within a generation (by 2031).

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[21] Department of Health, Government of Australia, 'Immunisation policy and governance', *available at* https://beta.health.gov.au/health-topics/immunisation/getting-started/immunisation-policy-and-governance (last visited 14 August 2019).

[22] Council of Australian Governments, 'National Partnership Agreement on Preventive Health' clause 10, December 2008, *available at* http://www.federalfinancialrelations.gov.au/content/npa/health/_archive/health_preventive_national_partnership.pdf (last visited 14 August 2019).

[23] Department of the Prime Minister and Cabinet, Government of Australia, 'About Closing the Gap' *available at* https://closingthegap.pmc.gov.au/about-closing-gap (last visited 14 August 2019).

Education in Australia is governed by federal and state legislation. A federal law called the *Australian Education Act, 2013* provides Commonwealth financial assistance for schools.[24] Education is compulsory for children between the ages of six and 17, in most states and territories.[25] Government school education is free.[26]

A good example of the laws governing education is the *Education Act 2004* (Education Act) of the Australian Capital Territory.[27] The Education Act governs school education and home education. The general principle for everyone involved in the administration of schooling is that every child has a right to receive high-quality education.[28] Compulsory education is promoted until the child is 17 years old or has completed year 12 of schooling.[29] Parents are responsible to enrol a child who is of compulsory school age in a school or apply for their home education.[30] Not only are children required to be enrolled, but they are also required by the Education Act to participate in school.[31] If a child is not enrolled or does not participate in school, a notice is sent to the parent by a Director-General, requesting them to comply with the Act.[32] A parent's failure to comply with such a notice constitutes an offence.[33] Government schools are free,[34] and

[24] *Australian Education Act 2013*, *available at* https://www.legislation.gov.au/Details/C2018C00012 (last visited 14 August 2019),
[25] *Education Act 1990* (NSW) section 21B; *Education Act 2004* (ACT) chapter 2; *Education (General Provisions) Act 2006* (Qld) chapter 9; *Education Act 2015* (NT) part 4.
[26] *Education (General Provisions) Act 2006* (Qld) section 50; *Education Act 1990* (NSW) section 31, *Education Act 2004* (ACT) section 26; *Education Act 2015* (NT) section 75.
[27] *Education Act 2004* (ACT) *available at* https://www.legislation.act.gov.au/View/a/2004-17/current/PDF/2004-17.PDF (last visited 14 August 2019).
[28] *Id.* section 7(1).
[29] *Id.* section 8(b)(ii).
[30] *Id.* section 10(2).
[31] *Id.* section 10D.
[32] *Id.* section 11C.
[33] *Id.* part 2.6 Offences—parents.
[34] *Id.* section 26.

open to all.[35] A regular review of the government school system is carried out by the Director-General, reporting to the Minister.[36] Home schooling is recognised by the Education Act, as the right of a parent to choose a suitable educational environment for their children.[37] A child can be registered for home schooling on the condition that their parents provide high-quality education, and document the educational opportunities offered to the child,[38] and submit annual reports of such education to the Director-General.[39]

B. China

China ratified the Convention on 1 April 1992.[40] Under *The Law on the Protection of Minors*, a minor is defined as a citizen less than 18 years old.[41]

The *Constitution of the People's Republic of China* reflects the State's commitment to the education and health of its children.[42] The State has universalised compulsory primary education, and promotes pre-school and higher education. Under the Constitution, citizens have the right and the duty to receive education. The State promotes the all-round development of children and young people: morally, intellectually and physically.[43] It is committed to developing facilities to eliminate illiteracy.[44] Parents have a constitutional duty to educate their minor children.[45] Marriage, the family, the mother and child are accorded

[35] *Id.* section 18.
[36] *Id.* section 23.
[37] *Id.* section 128.
[38] *Id.* section 132.
[39] *Id.* section 138.
[40] UN Treaty Collection, *supra* n. 8.
[41] *The Law on the Protection of Minors* (2007) (China).
[42] *Zhonghua Renmin Gongheguo Xianfa* [Constitution of the People's Republic of China] (1982).
[43] *Id.* article 46.
[44] *Id.* article 19.
[45] *Id.* article 49.

protection by the State under the *Constitution*.[46] The State develops health services for the protection of all people's health.[47] The State Council, i.e., the executive arm of the State, manages affairs related to education and public health,[48] while the local People's Government conducts administrative work in these areas.[49]

China's *Compulsory Education Law* is the country's primary legislation on education.[50] The term 'compulsory education' is defined as education which is implemented uniformly by the State and shall be received by all school-age children and adolescents.[51] Every child who is a Chinese national, and who is six years old — the school age in China — has the right and obligation to receive free, compulsory education.[52]

China adopts a system of nine-year compulsory education,[53] with six years of primary school and three years of junior secondary school. Parents must enrol their children in school, and where the child needs to postpone his or her schooling, parents or guardians must file an application in that respect with the Government.[54] The law takes surrounding circumstances into account to facilitate compulsory education. Implementation of compulsory education is the duty of the State, free of charge to the children. Children do not have to take examinations during compulsory education.[55] Employment of school-age children is forbidden.[56]

[46] *Id.* article 49.
[47] *Id.* article 21.
[48] *Id.* article 89.
[49] *Id.* article 107.
[50] *Compulsory Education Law of the People's Republic of China* (1986).
[51] *Id.* article 2.
[52] *Id.* article 2, 4.
[53] *Id.* article 2.
[54] *Id.* article 11.
[55] *Id.* article 12.
[56] *Id.* article 14.

Where there is a newly established residential area, the law mandates that a school be constructed along with the construction of the residential area,[57] and in cases where children live in scattered areas, the Government may set up boarding schools.[58]

The law creates special obligations for four main stakeholders of society, to ensure that children receive compulsory education: (1) the People's Government at all levels; (2) parents or other statutory guardians of children; (3) schools and teachers carrying out compulsory education; and (4) social organisations and individuals.[59] The legal liability imposed upon these stakeholders is strengthened by censure, orders for correction or sanctions, depending on the degree of the violation of the provisions of the law.[60]

China's welfare-based, inclusive approach to education is expressed in its law. The local government is obligated to provide compulsory education to children with disabilities,[61] and juvenile delinquents.[62] The State is obligated to set up special funds for compulsory education in rural and ethnic minority areas.[63] The People's Government provides gratuitous textbooks and living cost subsidies to students with financial difficulties.[64] Its commitment to quality education is reflected in the way China treats its teachers. The whole society is obligated to respect teachers.[65] Salaries, welfare benefits and improved living conditions for teachers is the

[57] *Id.* article 15.
[58] *Id.* article 17.
[59] *Id.* article 5.
[60] *Id.* chapter VII.
[61] *Id.* article 19.
[62] *Id.* article 20.
[63] *Id.* article 47.
[64] *Id.* article 44.
[65] *Id.* article 28.

prerogative of the Government.[66] A significant improvement in access to education in China is, however, coupled with a gap in the quality of education in urban and rural areas.[67] The State has launched programmes to address the inequity — these include the Rural Primary and Secondary Building Renovation Project in Central and Western China to improve infrastructure, the national Free Pre-Service Teacher Education Programme to bring more teachers to rural areas with better remuneration, and the use of the Internet to provide long distance education programmes and higher quality teaching resources that originate in urban areas.[68]

To reduce the gap between urban and rural, China launched the Nutrition Improvement Programme for Rural Compulsory Education Students in 2011. The aim of the programme is to reduce the malnutrition status of children studying in rural areas by providing free meals as part of a school feeding programme across the country's poorest counties.[69] The programme currently covers about 33 million children in 100,000 rural schools, and will be extended for another ten years.[70]

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[66] *Id.* article 31.

[67] The World Bank, 'China: World Bank to Help Improve Compulsory Education in Guangdong' Press Release No: 2018/066/EAP, 31 October 2017, *available at* https://www.worldbank.org/en/news/press-release/2017/10/31/china-world-bank-to-help-improve-compulsory-education-in-guangdong (last visited 14 August 2019).

[68] Organisation for Economic Co-operation and Development, 'Education in China: A Snapshot', *OECD* (2016) available at https://www.oecd.org/china/Education-in-China-a-snapshot.pdf (last visited 14 August 2019).

[69] *Zhang, Fan & Hu, Xiaoqi & Tian, Zuyin & Zhang, Qian & Ma, Guansheng*. (2014). Literature research of the Nutrition Improvement Programme for Rural Compulsory Education Students in China. *Public health nutrition*, *available at* https://www.researchgate.net/publication/262681674_Literature_research_of_the_Nutrition_Improvement_Programme_for_Rural_Compulsory_Education_Students_in_China (last visited 14 August 2019).

[70] Schools & Health, 'China Increase Commitment to School Feeding following PCD, W' (July 2013) *available at* http://www.schoolsandhealth.org/News/Pages/China%20Increase%20Commitment%20to%20School%20Feeding%20following%20PCD,%20W.aspx (last visited 14 August 2019).

China has a multi-dimensional legal system on the protection of healthcare of women and children, based on one law, and two programmes, *i.e.*, the *Maternal and Infant Healthcare Law of the People's Republic of China* (Healthcare Law), National Programme for Women's Development (2011–2020) (NPWD), and The National Programme for Child Development (2011–2020) (NPCD).

The Healthcare Law came into force in 1995.[71] Medical and health institutions are mandated to provide healthcare services — checkups, advice on feeding new-born infants, and healthcare for the foetus — to women of childbearing age, and to women in their pregnant and perinatal period.[72]

The NPWD includes health as one of its major areas for women's development in China. Reduction of maternal mortality, bridging the gap between maternal mortality in urban and rural populations, and adequate access to make informed choices on birth control, form the main objectives of the NPWD.[73] Of the 11 State policy measures related to health, four are concerned with maternal and child healthcare: (1) strengthening and expansion of funding for maternal and child health care in rural and remote areas; (2) improving women's reproductive health services, at each stage of a woman's life; (3) guaranteeing safe delivery, especially for lying-in and rural women, and improving midwifery techniques; and (4) targeting interventions related to nutrition for prenatal, pregnant and lying-in, and breastfeeding women according to their specific needs.[74]

[71] *Maternal and Infant Healthcare Law of the People's Republic of China* (1995).
[72] *Id.* article 14.
[73] China National Programme for Women's Development (2011–2020), *available at* http://www.womenofchina.cn/womenofchina/html0/source/1502/998-1.htm (last visited 14 August 2019).
[74] *Ibid.*

The NPCD was launched to ensure healthy development and growth of China's children. The NPCD principles are important: protection, putting children first, equal development, participation of children and full consideration to children's interests[75] — all of which are in line with China's obligations under the Convention. The programme concentrates on health and education as the two main areas of development. The NPCD focuses on increasing survival of children: immunisation and vaccination, reduction of infant mortality, growth retardation, and treatment of birth defects find their place in the programme. Notably, the State also aims to reduce the effect of environmental pollution infliction on children. China's policy is to standardise its healthcare services, and expand the coverage of the national immunisation programme, to meet its aims.[76] It adheres to the Convention's mandate of proactively promoting breastfeeding.[77] The objective of the NPCD in education is twofold: to promote education for children of all age groups and increase enrolment rates at each level, and to ensure equality and access to quality services by rural and ethnic minority children, children with disabilities, and across regions and school.[78] The emphasis on equality permeates through the policies in the programme — the ultimate aim is to ensure equalisation of basic education services across the country.

China's welfare-based policies have significantly improved the health of women and children in the country. In 2004, the State passed the *Law on Preventing and Controlling Epidemics of PRC (Amendment)*, offering free regular immunisation

[75] China National Programme for Child Development (2011–2020), *available at* http://m.womenofchina.cn/womenofchina/xhtml1/source/1502/997-1.htm (last visited 14 August 2019).
[76] *Ibid.*
[77] *Ibid.*
[78] *Ibid.*

to children.[79] Major diseases affecting children have been incorporated into rural and urban medical insurance.[80] The Ministry of Health has established a 'green channel' system to ensure timely response and first aid to prevent death of newborns and women in labour.[81] The State's intensive measures in healthcare have resulted in China meeting the Millennium Development Goals of reducing infant mortality (MDG 4) and maternal mortality (MDG 5), well in time.[82] Reports indicate that by 2014, the net enrolment rate of primary school age children was 99.8 per cent, systems for special education are improving, and efforts are being made to ensure access to compulsory education in rural areas.[83] The challenge to the State comes in the form of bridging the gap between quality services, in education and healthcare, provided in urban areas and that of rural, marginalised and vulnerable groups of society.[84]

C. India

India is home to 20 per cent of the world's child population. The country acceded to the Convention on 11 December 1992.[85] The definition of 'child' in India varies according to different legislations. While the *Child Labour (Prohibition and Regulation) Act, 1986* defines 'child' as a person who has not completed his fourteenth year of age, *The Prohibition of Child Marriage Act, 2006* defines

[79] *See* United Nations System in China, 'Report on China's Implementation of the Millennium Development Goals (2000–2015)', (July 2015) *available at* https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/W020150730508595306242.pdf (last visited 14 August 2019).
[80] *Id.* p 45.
[81] *Id.* p 51.
[82] *Ibid.*
[83] *Id.* p 31.
[84] *Id.* pp 47, 55.
[85] UN Treaty Collection, *supra* n. 8.

'child' as a male who has not completed 21 years of age, and a female who has not completed 18 years of age. *The Indian Majority Act, 1875* does not use the word 'child', and pegs the age of majority at 18 years. Largely, India's food and education policies focus on children up to the age of 14.

Children's right to nutrition and education is recognised by the *Constitution of India*. The Constitutional protection guarantee to life and personal liberty encompasses the right to a healthy life, which includes the nutrition and health of all people.[86] The Directive Principles of State Policy — a Part of the *Constitution* containing non-binding principles which serve to guide legislation in India — include more specific articles related to children's health, development and education.[87] The right to education is a fundamental right under the *Constitution*, which mandates that the State, i.e., the Central and State Governments in India, shall provide free and compulsory primary education to all children from the age of six to 14. The Fundamental Duties listed in the *Constitution* also cast a duty, although non-binding, on parents or guardians to provide opportunities for education to his or her child or ward between the ages of six and 14. The *Constitution* therefore accords two-fold protection to children, in recognition of their vulnerability and importance: protection by the State, and protection by their guardians, and in effect, by society. Later, we will see that India, by legislation, also creates obligations for the private sector to ensure that children are educated at the primary level.

[86] *The Constitution of India, 1949* article 21.
[87] *Id.* article 39(e) states that the tender age of children should not be abused; article 42 relates to provisions for maternity relief; article 45 contains a provision of early childhood care and education to children below the age of six years; article 47 states that the duty of the State to raise the level of nutrition and the standard of living and to improve public health.

Nutrition and education are tied together in India by legislation and national programmes. In 1995, India launched the National Programme of Nutritional Support to Primary Education. Through it, India implemented the Mid-Day Meal Scheme, a school-feeding programme which incentivised sending children to primary school by providing them with a subsidised meal.[88] The object of the programme was to enhance enrolment, retention and attendance and simultaneously improve nutritional levels among children.[89] The programme requires states and Union Territories of India to monitor the attendance of children in schools in which the Scheme is implemented.[90] The impact of the programme was seen in two ways. First, school enrolment and school participation increased. Second, classroom hunger, or hunger in general decreased.[91]

India's rights-based, programmatic legislation on food and nutrition is the *National Food Security Act, 2013*. The Act entitles pregnant and lactating mothers to a free meal a day and maternity benefits in cash.[92] It entitles every child up to the age of 14 to a free, age-appropriate meal, in order to meet the nutritional standards prescribed in the Act. The Act also exclusively promotes breastfeeding for children below the age of six months.[93] The provision of these rights is in line with India's obligations under the Convention. The State Government has the duty

[88] Ministry of Human Resource Development, Government of India 'Mid-day Meal Scheme' *available at* https://mhrd.gov.in/mid-day-meal (last visited 14 August 2019).
[89] *Ibid.*
[90] Ministry of Human Resource Development, Government of India, 'Revisions/Modifications of Centrally Sponsored National Programme for Mid-day Meal in School (NP-MDMS)' F. No. 1-4/2018-Desk (MDM) (February 2019) *available at* http://mdm.nic.in/mdm_website/Files/Revision_mdm_Norms/Revision%20_%20modification_MDMS-28-02-2019.pdf (last visited 14 August 2019).
[91] *See* Jean Dreze and Aparajita Goyal, 'Future of Mid-day Meals' (2003) *Economic and Political Weekly available at* https://mpra.ub.uni-muenchen.de/17386/1/MPRA_paper_17386.pdf (last visited 14 August 2019).
[92] *National Food Security Act, 2013* section 4.
[93] *Id.* section 5.

to identify, and provide free meals to, malnourished children.[94] These rights are realised through local *anganwadis* (child care centres).[95] Here, the Act ties in smoothly with India's national programme for early childhood care and development—the Integrated Children Development Services (ICDS) Scheme. The ICDS was launched in 1975, even before the Convention came into force. It was established in response to two challenges: first, the lack of pre-school education; and second, the issue of malnutrition, mortality, morbidity and the resultant reduced learning capacity in children. The beneficiaries under the ICDS are children from the age of zero to six, pregnant mothers, and lactating mothers.[96]

The ICDS is universal in application across India, and converges six different types of schemes related to health and education into a single programme, viz., supplementary nutrition, immunisation, referral services, health check-ups, pre-school non-formal education, and health and nutrition education.[97] Immunisation, health check-ups and referral services are conducted through the National Rural Health Mission and the public health system.[98] The ICDS team comprises workers, supervisors and officers from the community, who work at *anganwadis*. Public agencies at block, district, and state levels coordinate the different services of the Scheme. Projects are implemented on a cost-sharing project basis between the Central and State Governments.[99] Individual states in India are also permitted to

[94] *Id.* section 6.
[95] *Id.* section 4, 5, and 6.
[96] *See* Ministry of Women and Child Development, Government of India, 'Integrated Child Development Services (ICDS) Scheme' *available at* https://icds-wcd.nic.in/icds.aspx (last visited 14 August 2019).
[97] *Ibid.;* Press Information Bureau, 'Implementation of ICDS Scheme' *Ministry of Women and Child Development, Government of India, available at* http://www.pib.nic.in/newsite/PrintRelease.aspx?relid=93731 (last visited 14 August 2019).
[98] *Supra* n. 96.
[99] *Supra* n. 97.

enlist the help of local non-government organisations or other voluntary organisations, deriving community support for their projects.[100]

The ICDS has been credited with improving immunisation, breastfeeding, providing supplementary nutrition and pre-school education.[101] In terms of reach, it was estimated that the ICDS possibly covers about 50% of children under the age of six. Even then, many communities still perceive ICDS centres to simply be feeding stations.[102] In other words, coverage does not guarantee proper implementation of services offered, due to the ignorance of the community and lack of institutional capacity. Although the ICDS currently caters to a laudable 82 million children younger than six years and over 19 million pregnant women and lactating mothers across India,[103] the poorest quintiles of the population are still left behind, especially in larger states that carry the highest burden of undernutrition.[104] The twofold requirement for the ICDS is to reach these poorest quintiles, and simultaneously emphasise more the effective utilisation of services.[105]

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) is India's first legislation to entitle every child from the age of six to 14 to free and compulsory elementary education.[106] A corresponding duty to provide for free

[100] *Supra* n. 96.
[101] *See* N Rao and V Kaul V, 'India's integrated child development services scheme: challenges for scaling up.' *Child Care Health Dev*. (2018) 01;44(1):31–40. doi: http://dx.doi.org/10.1111/cch.12531.
[102] Ministry of Women and Child Development, Government of India, 'Rapid survey of children (2013–14)' (2014) *available at* http://wcd.nic.in/sites/default/files/India%20fact%20sheet.pdf (last visited 14 August 2019).
[103] *Supra* n. 101.
[104] Suman Chakrabarti *et al.*, 'India's Integrated Child Development Services programme; equity and extent of coverage in 2006 and 2016' *Bulletin of the World Health Organization* (2019) 97:270–282. *available at* https://www.who.int/bulletin/volumes/97/4/18-221135.pdf (last visited 14 August 2019).
[105] *Supra* n. 101.
[106] *The Right of Children to Free and Compulsory Education Act, 2009* section 3.

education is cast upon the Government, local authorities, and the parents or guardian(s) of children.[107] The most progressive provision of the RTE Act is that the duty to provide free education is cast on private schools, as well as government or government-aided schools.[108]

The RTE Act relaxes several standard procedures for the admission and progress of children in school. A child and his or her parent or guardian shall not be subject to any screening procedure on admission.[109] Understanding the difficulty in providing official proof of birth, especially in hard to reach areas, the RTE Act states that no child shall be denied admission for lack of proof of age.[110] A child cannot be denied admission, even if the academic year has begun,[111] and cannot be expelled till after completing standard eight.[112] The National Commission for the Protection of Child Rights is charged with monitoring and ensuring effective implementation of the right to education.[113] It also inquires into complaints related to a rights violation under the RTE Act.[114]

The RTE Act prescribes the qualification of teachers,[115] their duties at school (regular attendance, completing the syllabus in a specified time, periodically meeting with parents and guardians to apprise them of their child's progress),[116] and mandates that teachers cannot conduct private tuitions[117] or be deployed for

[107] *Id.* section 8, 9, and 10.
[108] *Id.* section 2(n); section 12(1)(c) provides that unaided schools shall admit to class I, 25% of the total class strength, under the RTE Act, free of charge.
[109] *Id.* section 13.
[110] *Id.* section 14.
[111] *Id.* section 15.
[112] *Id.* section 16.
[113] *Id.* section 31.
[114] *Id.* section 31(1)(b).
[115] *Id.* section 23.
[116] *Id.* section 24.
[117] *Id.* section 28.

non-educational purposes.[118] Studies conducted after the RTE Act came into force reflect an overall increase in enrolment rates in India.[119] Although the national average saw an increase in the provision of facilities such as drinking water, mid-day meals, and usable toilets for girls at the school, these facilities were found to be deficient in several states across the north-east.[120] Only a small percentage of children can read and do arithmetic at their grade level.[121] While enrolment rates increase, academics believe India must shift focus by changing curriculum, getting rid of rote-learning, and implementing programmes for children. This will help children to acquire foundational skills and bridge the learning gap in India.[122]

India's draft National Education Policy (NEP) 2019 is an indication of the country's future plans for education. The NEP recommends the extension of the right to free education under the RTE Act to children aged three to 18, *i.e.*, to include early primary and secondary education within its ambit.[123] The responsibility of running *anganwadis* may shift from the Ministry of Women and Child Development to the Ministry of Human Resource Development, a move that intends to improve implementation of the programmes under the ICDS.[124]

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[118] *Id.* section 27.
[119] *See* Annual Status of Education Report (ASER), 'The thirteenth Annual Status of Education Report (ASER 2018) was released in New Delhi on 15 January 2019' (January 2019) press release, *available at* https://img.asercentre.org/docs/ASER%202018/Release%20Material/aser2018pressreleaseenglish.pdf (ASER Report) (last visited 14 August 2019); PRS Legislative Research, 'Trends in school enrolment and dropout levels' (October 2017) Live Mint, *available at* https://www.livemint.com/Education/k1ANVHwheaCFWCupY3jkFP/Trends-in-school-enrolment-and-dropout-levels.html (last visited 14 August 2019).
[120] *See* ASER Report, *supra* n. 119.
[121] *Id.* table 1 and table 2, p 14.
[122] *Ibid.*
[123] Draft National Education Policy 2019 (India) p 1.8 *available at* https://mhrd.gov.in/sites/upload_files/mhrd/files/Draft_NEP_2019_EN_Revised.pdf (last visited 14 August 2019).
[124] *Id.* p 1.3.

D. Indonesia

According to Indonesia's *Child Protection Law*, a child is defined as 'every human being under the age of eighteen, including those still in the womb'.[125] The *Law Concerning Human Rights* defines a child as an unmarried person under the age of 18.[126] Indonesia is home to approximately 85 million children, who make up a third of the country's population. Indonesia signed the Convention on 26 January 1990 and ratified it on 5 September 1990.[127]

The State Constitution of the Republic of Indonesia guarantees all children the right to live, to grow and to develop, and provides that all children shall have the right to protection from violence and discrimination.[128] More particularly, it states that impoverished and abandoned children shall be taken care of by the State.[129] The *Constitution*, under its chapter on human rights, grants all people, including children, the right to a healthy environment, and the right to obtain medical care.[130]

The *Constitution* has a dedicated chapter on education, under which all citizens have the right to education. Further, every citizen has the obligation to undertake basic education, funded by the Government. The Government is obligated to manage one single system of education, regulated by the law. Notably, the *Constitution* also provides for a minimum of 20 per cent of the State and regional budgets of the country to be utilised for national education. [131]

[125] *Law No. 23 of 2002 Regarding Child Protection* (Indonesia) article 1(1).
[126] *Law No. 39 of 1999 Concerning Human Rights* (Indonesia) article 1(5).
[127] UN Treaty Collection, *supra* n. 8.
[128] *The State Constitution of the Republic of Indonesia* (1945) (Indonesia) article 28B(2).
[129] *Id.* article 34(1).
[130] *Id.* article 28H(1).
[131] *Id.* article 31.

Indonesia's *Law Concerning Human Rights* recognises children's rights as human rights. Children have the right to protection by parents, family, society, and the State.[132] Children have the right to be raised, cared for, and educated by parents or guardians till they reach full age.[133] Children also have the right to access education, and be educated according to their interests, talents and intellectual capacity.[134] The Law grants children the right to adequate healthcare services and social security.[135]

The Law provides legal recourse to children whose rights are violated.[136] In case of a violation of a child's freedom, they are entitled to a private hearing by an impartial Child Tribunal, where they are entitled to defend themselves and access legal or other aid at each step of the process.

Healthcare of children and mothers in Indonesia is governed by the *Law Concerning Health*, passed in 2009.[137] Chapter VII of the legislation deals with the health of the mother, infant, child, teenager, geriatric and the handicapped. The Government ensures availability of affordable and good quality facilities and medicines related to maternal healthcare services.[138] Children have the right to be exclusively breastfed for the first six months after birth, unless there are medical reasons to avoid doing so. The State, along with the regional Government, family, and community are required to support the mother during the period of breastfeeding, through programmes and special facilities. The Law makes it an

[132] *Law No. 39 of 1999 Concerning Human Rights* (Indonesia) article 52(1).
[133] *Id.* article 57(1).
[134] *Id.* article 60.
[135] *Id.* article 62.
[136] *Id.* article 66(6), 66(7).
[137] *Law No. 36 of 2009 Concerning Health* (Indonesia).
[138] *Id.* article 126(3).

offence to intentionally hinder the exclusive breastfeeding programme practice—an offender could be sentenced to imprisonment or fine.[139] In line with the Law, the Indonesian Government has enacted Government Regulation 33/2012 on Granting Exclusive Breastfeeding, mandating that workplaces and public facilities must provide safe facilities for breastfeeding and expressing breast milk.[140] The Minister of Health Decree on Exclusive Breastfeeding in Indonesia requires all healthcare staff to inform new mothers to breastfeed their children.[141]

Indonesia's Healthcare Law casts an obligation on the State and regional Governments, parents, family and community to care for Indonesia's children. The Law requires children to be raised and cared for to ensure their growth and development.[142] The Government is responsible for immunisation of infants and children, and to make paediatric health services available to children. The Government is also responsible to ensure that children have a place to play to develop their social skills.[143] The Law does not, however, lay down with equal clarity the obligations of the Government or community related to teenage health. The Government is simply obligated to ensure that teenagers receive information and services to live responsible and healthy lives.[144]

[139] *Id.* article 198.
[140] Better Work Indonesia, 'Law and Regulations on Breastfeeding' *available at* https://aimi-asi.org/storage/app/media/pustaka/Better%20Work%20Indonesia%20Breastfeeding%20Campaigns/BFW%20Guideline%20-%20Law%20and%20Regulation.pdf (last visited 14 August 2019).
[141] The Minister of Health Decree 2004 No 450/MENKES/SK/VI/2004 on Exclusive Breastfeeding in Indonesia.
[142] *Law No. 36 of 2009 Concerning Health* (Indonesia) article 132.
[143] *Id.* article 135.
[144] *Id.* article 137.

Education in Indonesia is governed by the *Act on National Education System*.[145] The Law gives 'education' a well-rounded definition, defining it as an effort and a learning process to develop a personality and skills that one requires for oneself as well as for the nation.[146] The Law views education as a life-long process, where every citizen has equal rights to receive a good quality education.[147]

Children from the age of seven to 17 have the right to basic education,[148] and their parents are obliged to ensure that they receive it.[149] The Government guides and monitors the implementation of the education system.[150] Indonesia's system allows for formal and non-formal education to co-exist, and divides the levels of education into three: basic, secondary, and tertiary.[151]

Early childhood education is the foundation of basic education in Indonesia, and is provided through: (1) formal schooling, i.e., kindergarten (*taman kanak-kanak* or *raudatul athfal*); (2) non-formal education, i.e., playgroups (*kelompok bermain*) or child care centers (*taman penitipan anak*); and (3) family education.[152] Currently, for-profit and community services are the main direct providers of kindergartens and playgroups, and consequently, accessible largely to those who can afford to pay for these services. Academics believe that greater investment by

[145] *Act No. 20 of 2003 on National Education System* (Indonesia).
[146] *Id.* article 1(1).
[147] *Id.* article 5.
[148] *Id.* article 6.
[149] *Id.* article 7.
[150] *Id.* article 10.
[151] *Id.* article 14.
[152] *Id.* article 28.

the Government in Indonesia and guidance at a national level will improve access to early childhood education across the country.[153]

Basic education consists of primary and junior secondary schools.[154] The Government guarantees the implementation of compulsory basic education, free of cost.[155] The Government determines the curriculum for basic education.[156] Educators and educational personnel are responsible for creating a stimulating environment and for improving the quality of education in the country.[157] Their entitlements and qualifications are laid down by the law. Funding of education is the shared responsibility of the Government and the community.[158] In 2005, the Government introduced a school operational assistance grant to enable free access to basic education.[159] Since then, Indonesia has almost achieved universal primary education.[160]

The Government, central and local, along with a Board of Education and School Committee, supervises the implementation of the national education system.[161] The Government also carries out periodic evaluations of all levels and streams of education in the country.[162]

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[153] *See* Organisation for Economic Co-operation and Development/Asian Development Bank, 'Education in Indonesia: Rising to the Challenge', (2015) OECD Publishing, Paris *available at* https://www.adb.org/sites/default/files/publication/156821/education-indonesia-rising-challenge.pdf (last visited 14 August 2019).
[154] *Act No. 20 of 2003 on National Education System* (Indonesia) article 17.
[155] *Id.* article 34(2).
[156] *Id.* article 38.
[157] *Id.* article 40(2).
[158] *Id.* article 46.
[159] *See supra* n. 153.
[160] *Ibid.*
[161] *Act No. 20 of 2003 on National Education System* (Indonesia) article 66.
[162] *Id.* article 59.

E. Japan

Japan ratified the Convention on 22 April 1994.[163] Japan's *Child Welfare Act* (Welfare Act) defines 'child' as anyone below the age of 18.[164] Japan's child population is currently 12.3 per cent of its overall population,[165] and has one of the world's highest median ages.

The Constitution of Japan guarantees to all people minimum standards of wholesome and cultured living, and the State is obligated to use its resources for the promotion of public health, social welfare and security.[166] All people have the right to be respected as individuals.[167] The *Constitution* entitles all people to an equal education.[168] It also provides for free and compulsory education.[169] Japan's governance is entirely based upon the consideration of human welfare. The right to life, liberty and the pursuit of happiness is the supreme consideration of all laws and government affairs.[170] In line with its *Constitution*, the Welfare Act guarantees children's welfare. The Law states that Japan's welfare philosophy shall be consistently respected in enforcing all laws and regulations on children.[171]

Child health care in Japan is governed by the Welfare Act and *The Mother and Child Health Law*. The Welfare Act lays down the responsibilities of the Government and other organisations in promoting infant, child, and maternal care.

[163] UN Treaty Collection, *supra* n. 8.
[164] *Child Welfare Act* (1947) (Japan) article 4(1).
[165] 'Japan's child population shrinks to 15.53 million, setting another record low' (May 2018) *Japan Times, available at* https://www.japantimes.co.jp/news/2018/05/04/national/number-children-japan-falls-37th-year-hit-new-record-low/#.XT0Pu-gzbIU (last visited 14 August 2019).
[166] *The Constitution of Japan* (1947) article 25.
[167] *Id.* article 13.
[168] *Id.* article 26.
[169] *Id.* article 26.
[170] *Id.* article 13.
[171] *Child Welfare Act* (1947) (Japan) article 3.

Municipal governments, child guidance centers and local or prefectural governments work in tandem to collect information regarding the actual conditions of infants, expectant mothers and nursing mothers, and provide appropriate guidance to families for the same.[172] Public health centers in Japan provide consultations and check-ups for children, including medical treatment and education for children with disabilities.[173] Such centers also provide medical treatment to children with long term illnesses.[174] The Welfare Act provides for the setting up of nursery centers and child recreational facilities to provide daycare and opportunities to play.[175] Local or prefectural governments provide midwifery care to expectant mothers who may not be able to afford such services.[176] Where a mother is without a spouse, the local government must provide adequate maternal and child living support facilities.[177] The expenses related to child and maternal care services are largely borne by the Government.[178]

The Mother and Child Health Law casts several obligations on municipal governments to monitor and improve maternal and child health in Japan.[179] The municipal governments provide counseling services to pregnant women, parents and custodians of infants.[180] If required, the municipal government must send a doctor or health care officer or midwife to a family with a newborn, and arrange check-ups for children from the ages of one to four.[181]

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[172] *Id.* article 10, 11, 12.
[173] *Id.* article 12-6.
[174] *Id.* article 19.
[175] *Id.* article 39, 40.
[176] *Id.* article 22.
[177] *Id.* article 23.
[178] *Id.* chapter IV.
[179] *The Mother and Child Health Law* (1965) (Japan).
[180] *Id.* article 9, 10.
[181] *Id.* article 12.

A game-changing programme for Japan has been the Maternal and Child Health Handbook (Handbook) Programme. The Handbook was first distributed by the Ministry of Health and Welfare, Japan in 1947.[182] It was a 20-page book on registration, check-ups, maternal care, deliveries, and food rations. Since 1991, the Handbook has been distributed in municipalities, villages and towns across Japan. In 2002, it was upgraded to a 49-page book, to which local governments could add information as per local needs. The first section of the Handbook is a record maintained by parents and medical practitioners, while the second section of it consists of educational information for parents during pregnancy and early child rearing.[183] The role of the Handbook evolves with the child health situation in Japan. When the Infant Mortality Rate was high, the Handbook focused on preventing disease and starvation. Later, the Handbook was used for strengthening early detection and treatment for children with disabilities. Today, the Handbook provides psychosocial support for childrearing in Japan, where birth rates have decreased.[184] The Handbook is used by almost all parents in Japan.[185] Due to its record-taking capabilities, the Handbook Programme is credited by academicians as the leading tool for taking care of the child population in Japan.[186]

[182] *See* Yasuhide Nakamura, 'Maternal and Child Health Handbook in Japan', *JMAJ* 53(4): 001–007, (2010) *available at* http://www.mchhandbook.com/wp-content/uploads/2016/03/JMAJMCHHandbook.pdf (last visited 14 August 2019) (Nakamura).
[183] *Ibid.*
[184] *Ibid.*
[185] *See* Nakamura; and Jiro Takeuchi, Yu Sakagami, and Romana C. Perez, 'The Mother and Child Health Handbook in Japan as a Health Promotion Tool: An Overview of Its History, Contents, Use, Benefits, and Global Influence', (2016) *Global Pediatric Health* 3: 1–9, *available at* http://www.mchhandbook.com/wp-content/uploads/2016/09/MCHHTakeuchiPaper16.pdf (last visited 14 August 2019) ('Takeuchi').
[186] *See* Takeuchi *supra* n. 185.

Japan's *School Health and Safety Act* of 2008 also provides for measures of enhancing school children's health. According to the Law, school establishers must construct and provide facilities to enhance the physical and mental health of students and personnel in the school.[187] School nurses and physicians are required to give guidance to children with health problems.[188] When providing health check-ups or guidance, schools must cooperate, as required, with medical institutions in the region.[189] The Law also provides directives to the National Government to determine hygiene standards, and to the schools to adhere to those standards.

Japan's education system is based on the right to education guaranteed by the *Constitution*. *The Basic Act on Education*[190] sets out Japan's vision for education centered around the development of an individual, with a broader goal of creating a peaceful and democratic society and nation.[191]

The Act provides for equal opportunities in education to all people, without discrimination, and with the financial or other support of national and local governments in respect of persons with physical or economic disabilities.[192] The national and local governments must cooperate to provide compulsory education to children, and parents or other guardians are obligated to have their children receive that education. Compulsory education is free of cost in government schools. [193] The Law provides for other types of education. Families are

[187] *School Health and Safety Act* (2008) article 4.
[188] *Id.* article 9.
[189] *Id.* article 10.
[190] *The Basic Act on Education* (2006) (Japan).
[191] *Id.* article 1.
[192] *Id.* article 4.
[193] *Id.* article 5.

responsible for teaching children basic values and independence, with the governments providing information and support in that respect.[194] Early childhood education[195] and social education[196]—access to museums, libraries, community halls—are the responsibility of the national and local governments. The national and local governments are in charge of the administration of education in Japan.[197] Although political and religious education of children, in general, is encouraged, schools established by the Government refrain from educating children in favour of any one specific political party or religion.

F. Malaysia

Malaysia is situated in the heart of Southeast Asia and is a federation of 13 states. The country acceded to the Convention on 17 February 1995.[198] The definition of 'child' is governed by a number of pieces of legislation in accordance with their respective purposes, and are in line with the Convention. The age of majority in Malaysia is 18.[199] In 2018, children accounted for 9.4 million of Malaysia's 32.4 million population, *i.e.*, 29 per cent of the country's entire population.[200]

The Federal Constitution of Malaysia is largely silent on child rights related to health and education. However, the *Constitution* guarantees the right against discrimination only on the grounds of religion, race, descent, or place of birth, in

[194] *Id.* article 10.
[195] *Id.* article 11.
[196] *Id.* article 12.
[197] *Id.* article 16.
[198] UN Treaty Collection, *supra* n. 8.
[199] *Age of Majority Act 1971* (Malaysia) section 2.
[200] Children Statistics Publication, Malaysia 2018, *Department of Statistics Malaysia*, *available at* https://www.dosm.gov.my/v1/index.php?r=column/pdfPrev&id=RWsxR3RwRVhDRlJkK1BLalgrMGRlQT09 (last visited 14 August 2019).

respect of administration of an educational institution, and the grant of funds to maintain or educate students in an institution.[201] Children have the right to equal protection of the law in Malaysia.[202] They may also choose to enforce their rights through Courts For Children, established by the Government under *The Child Act 2001*.[203]

The Malaysian public health system is a network of hospitals and clinics and preventive services, funded by taxation and free of charge.[204] During the 1960s and 1970s, maternal and child healthcare was a major part of the rural health service programmes carried out in the country. Training and registration of midwives, and upgrading of midwives to community nurses, resulted in a steady increase in safe deliveries of children in Malaysia. Free services caused a threat to the livelihoods of traditional birth attendants (TBAs) from rural communities, which in turn lead to a partnership with TBAs in safe delivery and training programmes.[205] Access to skilled birth attendants, especially in remote areas and to underserved groups, allowed for wider coverage through the country.

By the 1990s, maternity centres were established in urban areas as an effort to provide facilities for safe delivery, closer to the community.[206] Malaysia's strategy to improve maternal health is a combination of improved access to and quality of

[201] *The Federal Constitution of Malaysia* (1957) (Malaysia) article 12.
[202] *Id.* article 8(1).
[203] *The Child Act 2001* (Malaysia) part IV.
[204] *See* Indra Pathmanathan *et al.*, 'Investing in Maternal Health Learning from Malaysia and Sri Lanka' (2003) *Health, Nutrition and Population Series, World Bank, available at* http://documents.worldbank.org/curated/en/367761468760748311/pdf/259010REPLACEM1008213536 2401PUBLIC1.pdf (last visited 14 August 2019).
[205] *Ibid.*
[206] *See* 'Malaysia Achieving the Millennium Development Goals', *United Nations Malaysia, available at* http://www.un.org.my/upload/mdg5.pdf (last visited 14 August 2019).

services, a strong monitoring system, and educating communities to increase the acceptability of modern maternal health services. A Health Management Information System allows for the regular monitoring of risk factors which may affect maternal health. Malaysia also implemented a programme for prenatal assessment of women, with trained midwives and medical practitioners, to avoid delays and cater to complicated or emergency cases. The country's success in keeping its maternal mortality rate below 20 per 100,000 live births, at par with developed countries, is due to its systematic approach to maternal health.[207]

Child health care in Malaysia is implemented through policies and programmes. For improving the health and nutritional status of children in Malaysia, the World Health Organisation (WHO) Code of Ethics for Infant Formula was implemented in June 1979 to promote breastfeeding.[208] The Baby Friendly Hospital Initiative (BFHI), a global programme by the WHO and UNICEF to promote breastfeeding, was also implemented in government and private hospitals in Malaysia. The BFHI was introduced to incentivise the use of 'Ten Steps for Successful Breastfeeding', a set of activities—such as outreach to communities, having a policy for breastfeeding in place in the country, and staff training—which is now a global standard on infant care. In 2016, 75.3 per cent of Malaysia's reported births took place in 'baby-friendly' hospitals.[209]

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[207] *Ibid.*

[208] Country Report—Malaysia, 'The 6th ASEAN & Japan High Level Officials Meeting on Caring Societies: Healthy Next Generation: Strengthening Joint Collaboration Between Health and Social Welfare' (September 2008) *available at* https://www.mhlw.go.jp/bunya/kokusaigyomu/asean/asean/kokusai/siryou/dl/h20_malaysia.pdf (last visited 14 August 2019).

[209] World Health Organisation, 'National Implementation of the Baby-Friendly Hospital Initiative' (2017) appendix 2, *available at* https://apps.who.int/iris/bitstream/handle/10665/255197/9789241512381-eng.pdf?sequence=1 (last visited 14 August 2019).

The Malaysian National Immunisation Programme (NIP) was introduced in the 1950s by the Ministry of Health. Today, the NIP provides protection against 12 major childhood diseases.[210] The NIP provides vaccinations to children, free of charge, across government clinics in the country. Although not compulsory, Malaysia also has vaccination programmes for children under the age of 15, in public schools.[211]

Education in Malaysia is governed by the *Education Act, 1996*.[212] A unified system of education is divided into five parts: pre-school, primary, secondary, post-secondary, and higher education.[213] A national curriculum is prescribed by the Government, and specifies the skills and knowledge that children shall gain at the end of the schooling period.[214]

Primary education is the duty of the minister. Primary education is, provided for a period of six years.[215] The law provides for compulsory primary education for every child whose parents are Malaysian citizens.[216] A parent who fails to enrol or keep their child in school during the period of compulsory education is liable to imprisonment or fine.[217] Secondary, post-secondary, and other educational institutions such as colleges, special schools, and polytechnics are also established and regulated by the Minister of Education (Minister). The Minister may establish

[210] Immunise4life, 'Basic Protection – National Immunization Programme (NIP)', *available at* https://immunise4life.my/basic-protection-national-immunisation-programme-nip/ (last visited 14 August 2019).
[211] 'Vaccination in Malaysia', *InfoMed Malaysia* (June 2015), *available at* http://infomed.com.my/vaccination-in-malaysia (last visited 14 August 2019).
[212] *Education Act, 1996* (Malaysia).
[213] *Id.* section 15.
[214] *Id.* section 18.
[215] *Id.* section 29.
[216] *Id.* section 29A.
[217] *Id.* section 29A(4).

kindergartens, which use a National Pre-School Curriculum.[218] Teacher education is governed by the Act, as is the training, course work, certificate to be awarded, and establishment of teacher training institutes.[219] Matters relating to education are referred to a National Education Advisory Council, constituted under the law.[220]

There is a great concentration of authority at the central level in Malaysia's education system. The Minister of Education has the power to control curricula and regulate all levels of schooling. A more flexible system of control may foster greater growth.[221] While there is only a small level of disparity in the system, reports suggest that shifting focus from student performance to greater access and quality education for all will help to achieve true inclusivity in education.[222]

G. Philippines

Philippines signed the Convention on 26 January 1990 and ratified it on 21 August 1990.[223] There is no common definition of the term 'child' in Philippine legislation. *The Special Protection of Children Against Abuse, Exploitation and Discrimination Act* defines 'child' as 'a person below 18 years of age or those over but is unable to fully take care or protect oneself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or

[218] *Id.* sections 21 and 22.
[219] *Id.* chapter 9.
[220] *Id.* section 11.
[221] UNESCO, 'Malaysia Education Policy Review, Abridged Report, May 2013' (May 2013) *available at* https://unesdoc.unesco.org/in/rest/annotationSVC/DownloadWatermarkedAttachment/attach_import_fea2ce82-5b1f-4776-841a-866ca06c4219?_=221132eng.pdf (last visited 14 August 2019).
[222] *Ibid.*
[223] UN Treaty Collection, *supra* n. 8.

condition'. Under the *Family Code*, emancipation from parental authority takes place by attaining majority age, which is 18. *The Child and Youth Welfare Code* uses 'child', 'minor' and 'youth' interchangeably, and defines those terms as meaning a person below the age of 21.[224]

The Constitution of the Republic of Philippines[225] guarantees the rights of children related to health and education. The Filipino family is recognised as the foundation of the nation, and the State is obliged to defend a child's right to proper care and nutrition.[226] The State is required to prioritise the health needs of children.[227] The State is also required to protect and promote the right of all citizens to quality education, and the access to such quality education.[228] Under the *Constitution*, the State is mandated to maintain an integrated system of education, in which elementary education is compulsory for all children, and education is free at the elementary and high school levels. The State must provide for grants, scholarships, and any other incentives, to deserving students from public and private schools, and also encourage all sorts of learning systems—formal, non-formal, indigenous, and self-learning.[229] Notably, the *Constitution* vests ownership of educational institutions in the people, while the State is in charge of regulation.[230]

The child is the centre of Philippines' rights-based legislation. *The Child and Youth Welfare Code* (Code) is an all-encompassing bill of rights and duties. It lists the rights and duties of children, parents, community, and State, and briefly

[224] *The Child and Youth Welfare Code* (1974) (Philippines) article 2.
[225] *The Constitution of the Republic of Philippines* (1987) (Philippines).
[226] *Id.* article XV, section 3.
[227] *Id.* article XIII, section 11.
[228] *Id.* article XIV, section 1.
[229] *Id.* article XIV, section 2.
[230] *Id.* article XIV, section 4.

describes how each functionary of the State and community must interact with children, to ensure the best interests of the child. Article 8 of the Code echoes the 'best interests' principle of the Convention.[231] Every child has the right to basic physical requirements of a healthy life: food, clothing, shelter, and a balanced diet.[232] Every child has the right to the care and assistance of the State, particularly when their needs are not met by their guardians.[233]

The Code accounts for child rights concerning health. Childcare begins at prenatal and postnatal care, and the Code requires State entities dealing with health, welfare and education to assist parents when required.[234] The community — local governments, individuals, and institutions — is also required to ensure a healthy environment to facilitate child growth.[235] The State and local governments must set up health centres in every *barangay* — administrative division— to provide treatment and consultation services to children, expectant or nursing mothers, and children with physical handicaps.[236]

With the Code as its foundation, *The Barangay Level Total Development and Protection of Children Act* is a district level programme creating a health care system for pregnant mothers, infant care \(through prenatal and neonatal care) and the provision of day care centres for children up to the age of six.[237] The programme also monitors growth, immunisation, and nutritional intake of

[231] *The Child and Youth Welfare Code* (1974) (Philippines) article 8 states: "In all questions regarding the care, custody, education and property of the child, his welfare shall be the paramount consideration."
[232] *Id.* article 3(4).
[233] *Id.* article 3(10).
[234] *Id.* article 11, 62.
[235] *Id.* article 85(1).
[236] *Id.* article 134.
[237] *The Barangay Level Total Development and Protection of Children Act* (1990) (Philippines).

children. *The Philippine Food Fortification Act of 2000* provides for mandatory fortification of staple foods to compensate for nutritional inadequacies, especially young children.[238]

Every child has the right to education[239] and a corresponding duty to develop his potential by undergoing formal education.[240] Schools must assist parents to provide the best possible education to children.[241] Parents must inculcate the habit of reading in children,[242] and provide them with full opportunities to join social, cultural or educational organisations or movements.[243]

Schooling is compulsory till elementary education level. The State ensures that no child is refused admission to school, and parents are obligated to enrol their children in schools for at least the compulsory education.[244] The Code offers a broad range of assistance to ensure children receive education. Such assistance may be in the form of school lunch, financial assistance, school supplies, or special programmes which do not require continuous attendance in school — to remove any barrier which prevents a child from receiving an education.[245] Local school and government officials ensure that the school environment is safe and healthy, and that students have access to adequate medical services.[246] The community is

[238] *The Philippine Food Fortification Act of 2000*.
[239] *The Child and Youth Welfare Code* (1974) (Philippines) article 3(6).
[240] *Id.* article 4(4).
[241] *Id.* article 12.
[242] *Id.* article 51.
[243] *Id.* article 53.
[244] *Id.* article 71.
[245] *Id.* article 72.
[246] *Id.* article 75.

obligated to help schools and other educational institutes to achieve the goal of education.[247]

Other institutions also help in implementing child rights. *Barangay* (district) councils are required to oversee education and child health. They also hold classes and seminars on child rearing.[248] Nurseries provide day-care for children below the age of six.[249] Maternity homes are places of residence which provide support to women, before, during or after birth.[250] Nurseries and maternity homes are classified as child and youth welfare services, which can function only under a licence acquired from the Department of Social Welfare.[251] Persons employed in such services must be of good health and character, and trained for their work.[252]

In addition to childcare, the Department of Social Welfare organises a periodic Parent Education Congress, a meeting which helps parents to understand and improve relationships with their child, with the community, and in turn, improve their contribution to the community.[253]

The Governance of Basic Education Act of 2001 is Philippine's framework on the organisation of basic education in the country.[254] It designates officers at a national, regional, district level to formulate national policies, and to monitor, support, and implement the same. The Act also defines the roles and responsibilities of offices which implement education programmes. The Law

[247] *Id.* article 85(2).
[248] *Id.* article 87.
[249] *Id.* article 117(5).
[250] *Id.* article 117(6).
[251] *Id.* article 118.
[252] *Id.* article 123.
[253] *Id.* article 138.
[254] *The Governance of Basic Education Act 2001* (Philippines).

reaffirms Philippines' commitment to providing free and compulsory elementary education, as well as free education at the high school level.[255]

H. Singapore

Singapore is one of Asia's greatest successes in the field of children's education. The country achieved universal primary education in 1965, even before the Convention came into force, and universal secondary education in 1970.[256] In 2016, Singapore ranked first in the OECD's Programme for International Student Assessment (PISA), which provides rankings based on international tests taken by 15-year-olds in math, science, and reading.[257]

The age of majority in Singapore is 21 years as per common law. The Women's Charter spells out the responsibilities of parents towards the care of their children who are minors. Section 2 of the Women's Charter defines a 'minor' as 'a person who is below the age of 21 years and who is not married, or a widower or a widow'.[258] Singapore acceded to the Convention on 5 September 1995.[259]

The *Constitution of the Republic of Singapore* follows a policy of non-discrimination in matters concerning education.[260] It is otherwise silent on matters concerning child rights.

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[255] *Id.* section 2.
[256] Organisation for Economic Co-operation and Development (2011), 'Singapore: Rapid Improvement Followed by Strong Performance' in *Lessons from PISA for the United States*, Strong Performers and Successful Reformers in Education, OECD Publishing, Paris. doi: https://doi.org/10.1787/9789264096660-en.
[257] Sean Coughlan, 'Pisa tests: Singapore top in global education rankings' *BBC News* (December 2016) *at* https://www.bbc.com/news/education-38212070 (last visited 14 August 2019).
[258] *Women's Charter* (1961) (Singapore) section 2.
[259] UN Treaty Collection, *supra* n. 8.
[260] *Constitution of the Republic of Singapore* (1965) (Singapore) article 16.

Child health is protected and promoted in Singapore by way of legislation and programmes. The *Early Childhood Development Centres Act 2017* (ECDC Act) was enacted to regulate the operation of childcare centres in Singapore.[261] The ECDC Act does not apply to government-run centres. It regulates care and education provided to children below the age of seven at private centres. Centres are permitted to operate only after procuring a licence under the ECDC Act. Third party education service providers must receive the approval of an officer called the Chief Liaisoning Officer, before they are engaged to provide their services.[262] Licencee centres must maintain and submit a record to the Chief Liaisoning Officer of the services provided, for monitoring and evaluation purposes.[263] Furnishing of false information is an offence under the ECDC Act, making such a person liable on conviction to a fine or imprisonment.[264]

The Early Childhood Nutrition programme by the Health Promotion Board (HPB) of Singapore supplies information regarding the nutritional requirements of a baby at each stage of growth, *i.e.*, from zero to 12 months.[265] The programme promotes exclusive breastfeeding for infants up to six months, and provides information on different types of formula. The HPB supports the Association of Breastfeeding Advocacy (ABAS) to raise awareness on breastfeeding benefits among health professionals and provides workplace support for breastfeeding mothers.[266] The HPB also supports the Baby Friendly Hospital Initiative (BFHI), which ensures

[261] *Early Childhood Development Centres Act 2017* (Singapore).
[262] *Id.* section 29.
[263] *Id.* section 35.
[264] *Id.* section 39.
[265] Health Promotion Board, 'Early Childhood Nutrition', *Health Hub, available at* https://www.healthhub.sg/programmes/122/early-nutrition-for-babies (last visited 14 August 2019).
[266] 'About', *Association for Breastfeeding Advocacy (Singapore), available at* http://www.abas.org.sg/aboutus.htm (last visited 14 August 2019).

that maternity hospitals meet best practice standards with respect to breastfeeding.[267]

The HPB and School Health Service (SHS) provide for Student Immunisation and Screening Services.[268] The HPB provides three main services related to child health care, which are integrated into the schooling system in Singapore. These services are immunisation for primary school, immunisation for secondary school, and health screenings. The SHS provides for vaccinations to children in primary school, in accordance with the schedule of the National Childhood Immunisation Programme in Singapore. In secondary school, the SHS will check whether a child has received all the required vaccinations. A student who has missed any of their earlier immunisations will be referred to a Student Health Center or parents may take their child to their own doctor.[269] Doctors and nurses from the SHS conduct annual, age-appropriate health screenings for students in primary schools[270] and secondary schools[271], to detect and treat specific conditions at school. A child's basic health care needs are therefore taken care of within the school system of Singapore.

The *Compulsory Education Act* (Act) is Singapore's rights-based and programmatic legislation on compulsory education. It provides for compulsory

[267] Health Promotion Board, 'Baby Friendly Hospital Initiative', *Health Hub, available at* https://www.healthhub.sg/a-z/medical-and-care-facilities/63/baby-friendly-hospital-initiative (last visited 14 August 2019).
[268] Health Promotion Board, 'Student Immunisation and Screening Services', *Health Hub, available at* https://www.healthhub.sg/programmes/16/growing_up_strong_healthy (last visited 14 August 2019).
[269] *Ibid.*
[270] Health Promotion Board, 'Health screening for primary school', *Health Hub, available at* https://www.healthhub.sg/live-healthy/365/health_screening_for_primary_school (last visited 14 August 2019).
[271] Health Promotion Board, 'Health screening for secondary school', *Health Hub, available at* https://www.healthhub.sg/live-healthy/366/health_screening_for_secondary_school (last visited 14 August 2019).

primary education for all children in Singapore.[272] Primary education is defined as a six-year course of education commencing when a child attains the age of six.[273] Parents are responsible for ensuring that their child attends primary school regularly, while the Minister of Education is entitled to granted exemptions under the Act.[274] A Compulsory Education Board is the monitoring body which investigates into violations of the Act.[275] The requirement of the Act, in general, is questionable, in view of Singapore achieving universal primary education without the legislation, even before the Convention came into force. Nevertheless, Singapore has managed to improve not just access to but also the quality of education, reflected by the most recent PISA ranking.

III. RECOGNITION, IMPLEMENTATION, AND ACCOUNTABILITY

Rights on paper are meaningless unless translated into action. To understand whether the Convention has been effectively implemented by the Asia-Pacific nations, the author has used the Recognition, Institutionalisation and Accountability (RIA) Framework set out by the United Nations Special Rapporteur in his report on extreme poverty and human rights.[276] The RIA Framework involves (1) ensuring (legislative) recognition of the rights; (2) creating institutional support for their promotion; and (3) exploring innovative accountability mechanisms for their implementation.[277]

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[272] *Compulsory Education Act* (2000) (Singapore).
[273] *Id.* section 2.
[274] *Id.* section 4.
[275] *Id.* section 6.
[276] UN Human Rights Council, *Report of the Special Rapporteur on extreme poverty and human rights*, *Philip Alston,* 28 April 2016, A/HRC/32/31 available at https://srpovertyorg.files.wordpress.com/2018/08/social-and-economic-as-human-rights-report-2016.pdf (last visited 14 August 2019).
[277] *Ibid.*

Recognition is the first prong of the RIA Framework. Child rights must be explicitly recognised by legislative measures to be effectively implemented.

Recognition of child rights is an important feature of the Convention itself. Article 3 of the Convention obliges each State party to consider the best interests of the child while taking any action concerning children, including action through legislative measures. Article 3(2) of the Convention obliges each State party to 'take all appropriate legislative and administrative measures' to ensure the care and protection of children. Article 4 obliges State parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the Convention.

The Asia-Pacific jurisdictions covered by this article have somewhat fulfilled the criterion of having rights-based legislation on education and nutrition. It is notable that each of the laws in these jurisdictions related to education, including constitutional protections, recognise the right of a child to free, compulsory, and importantly, quality education. In contrast, however, there are few to no laws which explicitly recognise the right to quality food and nutrition, in these countries. Legislation on the right to health and nutrition is related to health insurance, or food security. Most of these laws are programmatic in nature. There are, however, robust rights-based constitutional frameworks in countries such as China, India, Indonesia and Philippines, which explicitly recognise the rights of the child to nutrition and health. This recognition is the foundation towards treating the right to quality nutrition and health as a human right per se. Countries in the Asia-Pacific may consider inserting an explicit recognition of this right in their

laws, to shift from programmatic to a more human rights-based approach to the right to children's health.

Institutionalisation is the second building block under the RIA Framework. The Convention embodies a set of rights, under the assumption that institutional support will be set up to promote the realisation of those rights. Child rights, and in fact all human rights, acquire meaning when they are developed and implemented through a framework.

Each of the Asia-Pacific jurisdictions have dedicated government departments overseeing the implementation of education and healthcare related programmes at the local, territorial or central level. It is the responsibility of these government departments or ministries to set up a plan or policy to further the rights granted by law. The Australian Government works closely with non-profit organisations in the child and maternal healthcare sector, while India, Indonesia, and Philippines rely largely on a network of local workers at district centres providing integrated education and healthcare services for children and young mothers. In each jurisdiction, the community plays an important role in supporting the framework set up to advance child rights. In jurisdictions where the population is diverse in terms of culture or location, multi-stakeholder consultations will help to better explore reasons for localised disparities in education.[278] Ministries and agencies must coordinate better by sharing information and design strategies to tackle a host of issues which deal with child nutrition, including education of parents, access to

[278] *See* UNESCAP, 'Inequality of Opportunity in Asia and the Pacific: Education' *Social Development Policy Papers* (2018) #2018–01 *available at* https://www.unescap.org/sites/default/files/Education_Report_20190129.pdf (last visited 14 August 2019) ('UNESCAP Education'), section 7—'Recommendations for closing the gaps'.

better healthcare facilities, child feeding practices, and the affordability of nutritious food.[279]

The structures for implementation of rights are in place, although better coordination between all stakeholders would translate into improved efficiency of the education and healthcare services provided to children and mothers, at a local level. In several cases, however, barriers exist in the form of lack of strict accountability measures—the final block in the RIA Framework.

Accountability is regarded as the key to any service delivery improvement. A rights-based approach is grounded in society's legal and moral accountability as duty-bearers towards children as rights-holders.[280]

The Convention itself has a monitoring agent to keep check of State parties' progress, in the form of the Committee on the Rights of the Child. The Committee is responsible for broad oversight of States parties' actions, and for making recommendations for improvement in meeting the provisions of the treaty. The reporting process on progress in meeting obligations under the Convention shines a light on the Governments' performance and allows civil society to demand that the Committee's recommendations be implemented. These demands can motivate new laws and policies.[281]

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[279] *See* UNESCAP Child Nutrition *supra* n. 4; FAO, IFAD, UNICEF, WFP and WHO, *The State of Food Security and Nutrition in the World 2017. Building Resilience for Peace and Food Security*. Rome, 2017.
[280] Dr. Natasha Blanchet-Cohen, Dr. Stuart Hart and Dr. Philip Cook, 'Child Rights in Practice: Measuring and Improving our Impact A Model of Accountability to Children' (May 2019) *International Institute for Child Rights and Development, available at* http://www.iicrd.org/sites/default/files/resources/A_Model_of_Accountability_to_Children_Final_0.pdf (last visited 14 August 2019).
[281] Elizabeth D. Gibbons, 'Accountability for Children's Rights' (March 2015) Working Paper, *UNICEF Human Rights Unit, Programme Division, available at* https://www.unicef.org/policyanalysis/rights/files/Accountability-for-Childrens-Rights-UNICEF.pdf (last visited 14 August 2019).

Another form of accountability comes in the form of Independent Human Rights Institutions for Children, established to promote and protect child rights. Encouraged by the Committee on the Rights of the Child, their role is to monitor the actions of Governments and other actors, investigate child rights violations, promote children's rights, and offer a space for dialogue between children and the State.[282]

Australia, India, Indonesia, Japan, and Philippines each have either established child rights commissions or have offices for children's rights within existing institutions.[283] India's National Commission for the Protection of Child Rights was established by the *Commissions for Protection of Child Rights Act, 2005*. It is the only independent human rights institution for children in Asia.[284] In East Asia, only the Philippine Commission on Human Rights has a specialised child rights department, but some human rights commissions have established committees to deal with children's issues.[285] A number of institutions in Philippines, India, and Japan have a local presence.

Lack of funding is a serious concern for child rights institutions in the Asia-Pacific. These institutions rely on international donors for support.[286] This results in

[282] 'Independent Human Rights Institutions for Children', *UNICEF Office of Research-Innocenti, available at* https://www.unicef-irc.org/research/independent-human-rights-institutions-for-children/ (last visited 14 August 2019).
[283] *See* 'Global List Of National Human Rights Institutions Specifically For Children', (10 May 2017) *Child Rights International Network*, *available at* https://archive.crin.org/en/library/publications/global-list-national-human-rights-institutions-specifically-children.html (last visited 14 August 2019); and United Nations Children's Fund (2013). Championing Children's Rights: A global study of independent human rights institutions for children, UNICEF Office of Research, Florence, *available at* https://www.unicef-irc.org/publications/pdf/c950_ccrbook_130903web_noblanks.pdf (last visited 14 August 2019) ('Championing Children's Rights').
[284] *See* Championing Children's Rights *supra* n. 283, chapter 16: 'Asia and the Pacific'.
[285] *Ibid.*
[286] *Ibid.*

limited implementation of institutional recommendations. Work is not sustainable; it is project-based and for a limited duration.[287] Another concern for child rights institutions is their lack of involvement in reviewing child-related legislation in their jurisdictions. Research shows that although these institutions play a part in convening debates, their actual influence is on a one-off basis, and difficult to evaluate.[288]

There is a general decline in the independence of national human rights institutions in Asia, with the laws establishing institutions making them partially dependent on the Government, in particular, in their appointment processes and budgets.[289] Strengthening the independence of these institutions, along with improving their visibility and creating child participation, remain key concerns of child rights institutions in the Asia-Pacific. Each of these concerns relates, in turn, to a lack of accountability.

The RIA Framework reflects the road ahead for the Asia-Pacific, towards promotion and protection of child rights. While the law is (largely) in place in each country discussed above, there is tremendous scope for improvement in implementation and accountability. Strengthening these two building blocks will ensure a better foundation on which child rights can be furthered in the region.

[287] *Ibid.*
[288] *Ibid.*
[289] *Ibid.*

IV. CONCLUDING REMARKS

Health and education are two of the core components of the United Nations' Sustainable Development Goals (SDG) for 2030.[290] SDG 3 is good health and well-being and SDG 4 is quality education. Several countries of the Asia-Pacific have already made significant progress — China has drastically reduced infant and maternal mortality ratesl Japan's Handbook, upon which model similar programmes are being adopted globally, has improved child and maternal health;[291] enrollment rates in primary school in India have increased; and almost all jurisdictions have a plan for free and compulsory education in place. Research indicates, however, that while access is improving, identifying those who are left behind will improve the status of child rights in these countries.

In terms of nutrition, data reflects that belonging to a minority can have an additional negative impact on stunting among children in the region.[292] Children from poorer households or mothers with lower levels of education are also important factors.[293] Advertising the long-term effects of investing in child nutrition may help. An example of this is China, where the reduction in stunting prevalence from 32.7 per cent to 14.4 per cent is estimated to have resulted in economic productivity gains of a RMBv 101 billion from 1991 to 2002.[294] Another success story is that of Maharashtra in India. Maharashtra achieved an unprecedented decline of 15 percentage points in stunting rates within a span of

[290] United Nations, 'Sustainable Development Goals', *available at* https://sustainabledevelopment.un.org/sdgs (last visited 14 August 2019).
[291] *See* Takeuchi, *supra* n. 185.
[292] *See* UNESCAP Child Nutrition *supra* n. 4, figure 10.
[293] *Ibid.*
[294] *See* UNESCAP Child Nutrition, *supra* n. 4.

six years by empowering women, improving maternal health and having the political will to improve nutrition.[295] Key considerations for policymakers are to strengthen methods of data collection, understanding what affects the community, and coordinating between ministries to improve nutrition among pregnant mothers and their children.[296]

Primary school net enrolment rates are above 90 per cent in almost every country in the Asia-Pacific region.[297] Inequality of opportunity in education comes from lack of access to quality education. While all Asia-Pacific jurisdictions discussed above have legislation and programmes in place to ensure enrolment of children in schools, a better indication of the level of education is the retention of those children in schools.[298] Poverty and geographical location is a circumstance shared by all the groups that are left behind.[299] To keep children in schools, government agencies must collaborate to provide greater incentives for households to invest in the education opportunities afforded to them.[300] Incentives must also be provided to help women stay in school so they can transition from education to the workforce. Perhaps the most important recommendation concerning education is to prioritise poorer households through stipends and social pensions, not necessarily connected to children, so that communities can send their children to school.[301]

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[295] *Id.* citing Haddad, L.; Nisbett, N.; Barnett, I. and Valli, E. (2014) Maharashtra's Child Stunting Declines: What is Driving Them? Findings of a Multidisciplinary Analysis, Brighton: IDS.
[296] *Id.* section 7—'Recommendations for closing gaps'.
[297] *See* UNESCAP Education *supra* n. 278.
[298] *Ibid.*
[299] *Id.* figure 12.
[300] *Id.* section 7—'Recommendations for closing the gaps'.
[301] *Ibid.*

As Jaap Doek said, 'The greatest danger for the Convention is complacency, given its wide-spread ratification there is a tendency to view the Convention as an end in itself when in fact it is merely a beginning.'[302] Asia-Pacific nations have a long way to go in achieving equality with respect to child nutrition and education. Ratification of the Convention was the first step, following which these nations have built bodies of law in compliance with their obligations as State parties. The policy measures taken by these jurisdictions are only as effective as their implementation is. The diversity within the region requires the Governments to adopt newer methods of data collection, and targeted methods to ensure these services reach those children and mothers most in need. Governments must also ensure that such services are sustained in these communities. Nations in the Asia-Pacific must strengthen the coordination between ministries, and in general, the framework in which these rights are sought to be implemented to ensure that the gaps between groups — whether based on income or geographic location or culture — are narrowed. Stricter accountability to independent and government institutions would assist in treating child rights as rights per se. A better understanding of the social factors affecting each community, improved methods of data collection and analysis to identify those in need, coupled with the political will to improve access and quality, can break poverty traps and create opportunities for successive generations. It is then that the measures taken will reflect the core aim of the Convention—to protect the best interests of the child.

[302] Doek, J. E. (2003). The Protection of children's rights and the United Nations Convention on the Rights of the Child: Achievements and Challenges. *Saint Louis University Public Law Review*, XXII(2), 235–252.