



youth coalition

**REPORT TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL
FOR THE UNIVERSAL PERIODIC REVIEW
OF THE REPUBLIC OF INDIA**

On the Lack of Comprehensive Sexuality Education in India

CONTENTS

I. Introduction.....	1
II. Sexuality Education and Young People's SRRs.....	2
III. Sexuality Education and the Rights of the Child.....	4
IV. Sexuality Education and HIV/AIDS.....	4
V. Conclusion.....	5

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I. INTRODUCTION

1. This report describes the situation of sexuality education in India especially in light of the recent ban by 12 Indian State Governments against the Adolescent Education Programme (hereinafter “AEP”) introduced by the Central Government in association with the National AIDS Control Organization (NACO) and the United Nations Children’s Fund (UNICEF). This report argues that the lack of compulsory comprehensive sexuality education in schools violates the human rights of Indian adolescents and young people as recognised under international law.

II. SEXUALITY EDUCATION AND YOUNG PEOPLE'S SRRS

2. At the 1994 United Nations International Conference on Population and Development (ICPD) and its Five Year Review member states of the UN including India affirmed the Sexual and Reproductive Rights (SRRs) of adolescents and young people. It is understood that in order for adolescents and young people to freely make informed decisions on all matters relating to their sexuality and reproduction, they require comprehensive sexuality education. Therefore, as a part of their commitments under the ICPD agenda, governments are obliged to provide for free and compulsory comprehensive sexuality education for adolescents and young people.
3. In India, private schools are free to choose whether to include sexuality education in their curricula. It is unknown how many private schools have included a comprehensive curriculum in their syllabi. Those private schools affiliated with the Central Board of Secondary Education (CBSE) are required to have a component of sex education in their syllabi but such schools are a minority. Most schools – private and public affiliated with state boards of secondary education – do not have any form of sexuality education in their curricula.
4. Taking cognizance of this gap, the Central Government developed the AEP in association with NACO and UNICEF for implementation in all secondary and higher secondary schools. The objectives of the AEP were:
 - a. To ensure the integration of AE elements into the school curriculum and in teacher education courses,
 - b. To organize activities for life skills development,
 - c. To help students acquire authentic knowledge about Adolescent Reproductive and Sexual Health (ARSH) including HIV/AIDS and substance abuse, especially drugs, and
 - d. To inculcate in students essential life skills to develop healthy attitudes and responsible behaviour towards ARSH issues, including HIV/AIDS and substance abuse.
5. The materials of the AEP included a Teachers' Workbook, Reference Material, Facilitators' Handbook and a Flip Chart.

6. When this Programme was introduced in schools affiliated to state education boards, it was objected to by certain organizations on the ground that its explicit content was contrary to Indian culture and morality. As a reaction to these protests, it was banned by twelve State Governments including the large states of Madhya Pradesh, Maharashtra and Gujarat on the same grounds.
7. It has been claimed that sex education in schools will increase risky behaviour amongst adolescents and young people. Such a claim is baseless and the truth is quite the contrary. A study conducted by the World Health Organization (WHO) titled *Effects of Sex Education on Young People's Sexual Behavior* has shown that sex education does not encourage young people to have sex at an earlier age or more frequently. On the contrary, the study shows that sex education delays the start of sexual activity, reduces sexual activity among young people and encourages those already sexually active to have safer sex.
8. Further, arguments of morality and culture cannot justify the denial of live-saving information to adolescents and young people. Information may be presented in an age-appropriate and culturally sensitive way, but there can be no compromise on the content of the information.
9. In response to these bans, the Central Government has not taken any further action. It has justified its inaction by pointing out that under the federal structure of the Indian Constitution, Education and Health are both subjects that can be exclusively legislated upon and executed by State Legislatures and Governments.
10. It is well known that under International law federalism or any other argument of national law is not an excuse for the violation of international commitments. This rule has been codified by the 1969 Convention on the Law of Treaties and the 2001 Draft Articles on State Responsibility prepared by the International Law Commission. Further, the Indian Constitution enables the Central Government to make any laws or take any executive action if it is in furtherance of its international commitments – regardless of whether such a matter is a State subject under the federal structure. Therefore, the Central Government is obliged to make the AEP compulsory regardless of the opposition.

III. Sexuality Education and the Rights of the Child

11. The 1989 United Nations Convention on the Rights of the Child (hereinafter “CRC”) obliges state parties *to protect the best interests of children* (Article 3), *to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, mal-treatment or exploitation, including sexual abuse while in the care of parents, legal guardians or any other person in whose care they are* (Article 19) and *to undertake to protect children from all forms of sexual exploitation and sexual abuse* (Article 34). The CRC was ratified by India in 1992.
12. The reality of India’s 440 million children is far from ideal. Recently, a study commissioned by the Indian Ministry of Women and Children Development and carried out by UNICEF and *Prayas*, a non-governmental organization, interviewed 12,247 children and 2324 young adults in 13 Indian states. The study revealed that a shocking 53% of children between the ages of 5 and 12 have been sexually abused. Most often this abuse was perpetrated by parents, legal guardians or close members of the family. Further, the study disturbingly notes that more than half of all cases of sexual abuse and rape go unreported.
13. Educating children about their bodies and sexuality in an age-appropriate way can go a long way in helping them understand the difference between sexual and non-sexual touch. Such education can help children escape the guilt and fear that often accompanies sexual abuse and empower them to report previous or ongoing abuse.
14. In light of overwhelming evidence that there is rampant sexual abuse of children in India and strong suggestions that age-appropriate sexuality education for children can reduce the incidence and severity of sexual abuse, the failure on the part of the Indian state to provide for compulsory sexuality education for children in all schools amounts to negligence and thereby a violation of its commitments under the CRC.

IV. Sexuality Education and HIV/AIDS

15. The 2001 *Declaration of Commitment on HIV/AIDS* that came out of the UN General Assembly Special Session on HIV/AIDS and the 2006 Political Declaration of the

High-Level Review of the Declaration of Commitment note with alarm that there is a severe lack of information amongst young people regarding HIV/AIDS. These documents also reaffirm that young people need the information and skills to protect themselves from HIV or to live healthy lives with HIV as the case may be.

16. A study of the All India Educational and Vocation Guidance Institute found that between 42% to 52% of young students in India feel that they do not have adequate knowledge about sex. In a recent survey conducted by India Today, a leading news magazine, in 11 Indian cities revealed that almost half of all young people interviewed didn't know enough to protect themselves from HIV/AIDS.
17. This ignorance takes its toll. The 2006 surveillance figures show that approximately 2.5 million people were living with HIV in India in 2005 of which young people constitute a significant part. These figures also show an increase in HIV infection among groups of injecting drug users and men who have sex with men.
18. There is overwhelming evidence to show that adequate education on the modes of transmission of HIV can be a powerful factor in preventing HIV infection among young people. The right information and skills can also help young people living with HIV to get themselves tested and avail of nutritional and medicinal support to lead healthy lives.

V. Conclusion

19. Therefore, in light of the above, it is submitted that India is obliged to provide comprehensive sexuality education in all public and private schools in India and that the denial of such education to children, adolescents and young people generally and the banning of the AEP by state governments specifically is a violation of India's commitments under international law. Arguments on culture, morality or federalism are invalid in this context. Further, the provision of age-appropriate comprehensive education on sexuality and HIV/AIDS can also have important consequences in dealing with child abuse and in reducing the spread of HIV/AIDS.

