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LECTURE SERIES FOR MEMBERS OF PARLIAMENT**

**LECTURE DELIVERED BY
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MS. MARTA SANTOS PAIS: Thank you very much Mr. Secretary-General of Lok Sabha, Additional Secretary, Mr. Rajagopalan Nair and through you to the hon. Speaker, Shri Somnath Chatterjee, the hon. Members of Parliament, colleagues from the United Nations and other friends, ladies and gentlemen.

I am really thankful for this unique opportunity. I am very honoured to speak to all of you here and to have the opportunity of learning from you on the work that has been conducted by the Parliament and the Parliamentary Forum on Children which is in fact a model for many countries. It will certainly remain a reference for the research that we are conduct at the UNICEF Research Centre.

This meeting today is a very strong illustration of the very close and fruitful collaboration between the Parliament and the UNICEF. It is a demonstration of the strong commitment of Parliament on the question of children's rights. By putting children's rights at the centre, you are certainly giving human rights a new opportunity. I am very pleased to feel the excitement that all of you and certainly hon. Speaker puts behind this issue and this is a very strong inspiration for us in UNICEF and in our Research Centre.

I was told today about the establishment of Children's Corner in the Parliament Library Building just two days ago. That itself speaks as symbolic as it may be is again an appreciation of how high you put children issues in your work and how much this step can be a model for many other parliamentarians in the world. Thanks for this opportunity given to me.

I am very happy to come at this moment of life in the world as 2007 for all of us is a very special landmark for children's rights. In 2007, we are celebrating the 18th anniversary of the adoption of the Convention on the rights of the Child and we also celebrating the 5th anniversary of the entry of the two options of protocol to the Convention. For us, looking at the 18th anniversary of the Convention of the Rights of the Child and recognising that the convention is reaching majority age gives us a special opportunity to look back and look at all the fantastic things that have happened in India, Asia and other regions. It is also to reflect and find better ways of addressing many challenges that prevail. Also, in 2007, later this year, there will a high level review of the

achievement made in the follow-up on the special session on children and this session will be held under the auspices of the General Assembly will again a very important moment to review what has happened in May, 2002. India has presented an important report on what has happened in the country. But it will be again an opportunity to reaffirm the commitment of all the Governments and society at large to put children at the centre of the agenda and in doing that, to advance millennium agenda which the international community has endorsed.

In 2007, we are still celebrating two other initiatives to which I would like to draw your attention.

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First the General Assembly will review the process of follow up to the United Nations study on violence against children conducted by a Professor from Brazil. India played a very important role in this process. This study called the attention to the high incidence of violence against children. We have just heard from Mr. P.V.T Achary the reference to the many challenges in violence against children. It has shown in any society violence against children remains a challenge. It also remains a social taboo. It is an issue that people do not talk easily about. These events had called our attention to the need to create awareness and change the mindsets to prevent violence against children. It has shown that one of the most important areas is the data, the surveys that can expose the dimensions of the phenomena. India has played a very very strong role in promoting the widest survey on the incidents of violence against children. That remains a model for many other countries in the world. We are celebrating, in 2007, the ten years' review of the Mitchell study which was a ground breaking study conducted ten years ago by Prof. George Mitchell from Brazil on the impact. The General Assembly had an opportunity to review what is the change. Unfortunately, the many conflicts that continue to take place and the levels of political instability in many countries are compromising the promotion of children's rights. I am referring to these events because they have just confirmed that initiatives are

important. Attention is growing on children. But still many challenges prevail. We have an opportunity to change the world. Only with the leadership of Parliamentarians like yourselves this change can happen in a decisive manner. It is for this reason, for this growing attention that the Inter Parliamentary Union and also other regional parliamentary organisations are giving increasing attention to the children's rights. You might know that just a few months ago, the Inter Parliamentary Union has launched a hand book. It is a handbook for parliamentarians on how to eliminate the violence against children. In the European Parliament, in Brussels, there was a very important discussion three months ago on the children's right. The Council of Europe, which includes 46 countries of the European Union, has also given very high attention to this issue. India is providing leadership to many of these initiatives and will continue to be a model for them. India has adopted important steps in the recent past and the Parliamentary Forum on Children is a remarkable one. But clearly ratification of the optional protocols to the convention on the rights of child is an important legislative change. It is introduced in your country to protect children. This initiative and the establishment of Commission for the protection of the rights of children are important decisions that shows the commitment of the country to the realisation of children's rights. When we look at what it means to promote and safeguard the human rights of children, of course, we think of international standards adopted by the international community and particularly at the United Nations. For us in the UNICEF, the convention on the rights of child is at the very centre. This is the most widely ratified treaty in the world. You may know that there are today 193 State parties to the convention to the rights of children. In fact, there are more State parties to this convention than the members of the United Nations, which is in itself a quite important acknowledgement. When we consider what has happened since the adoption of the convention we see that there has been a process of social change happening across the regions, in countries with very different political system, economic solutions, social systems. This means

that we have a strong laboratory experience to draw from and lessons to draw from. In our research what we have concluded is that there are very often two perceptions when we assess the process. The first one is that for countries ratifying the convention of rights of children, the process of ratification is considered to be the important movement. The country becomes committed to the treaty. But then it is perceived as being less important to do the process that follows. We know very well that ratification is only a beginning of a long process. It is expressing commitment but it does not say what changes are there for the children on a daily basis. There is also a second perception which is that implementation means changing laws. Of course, for legislators like yourselves and for lawyers like myself, law is very important. But we know very well that we may have the most perfect law. But if it is not known, if it is not applied, if it is not given the resources, the law is a nice piece of paper. It will not achieve what we want to see happening in the world. It is for this reason that it is important to assess what complements legislation. Implementation is a very long term process. It is a never ending process in a way. It aims at promoting full development of all children, even those who seem to be less visible for policy making, for statistics, for discussions, those that belong to the most vulnerable groups. It means protecting children from abuse, from exploitation, from neglect. It means ensuring the improvement of the standards of living of children. It means also keeping a review, a constant review, of what is changing, what is the impact on the daily life of the children. Very often we feel happy with what we do. We do not try to evaluate what is the change that we do provokes. We also realise that it is very important to recognise that implementation of realisation of the rights of the children is multi-dimensional in nature. It is important to imply change in legislation. It is also important that there is greater understanding of the human rights of children for people, for families, for communities, for Government officials, for parliamentarians, professionals, lawyers, workers, teachers, chiefs of the communities and so on. It is also important to recognise that to make a

change, it is not possible to consider that only Government is accountable for children. By Government, I mean the Central Government, the State Governments or the District Governments. When we think about the economic, social, cultural, political, civil rights of children and young people, it is very important to recognise that every one needs to contribute to this process of change. Of course, parliamentarians play an instrumental role being the catalyst of change, being the interface between the people and decision makers and being actors in decision making processes. Parliaments have played a very important role throughout these eighteen years of history of the convention of rights of the child. IPU and UNICEF have been trying to systemically capture the process of engagement of parliaments in this process. Of course, you all know, by your own work, that parliamentarians can act as leaders, strong spoke persons for children's rights. When parliamentarians speak, people listen. They are the connection with the locals, with families, with children. That is very important. Parliaments have played a very critical role in the ratification of the convention of the optional protocols. The international treaties have been key in promoting legislations, new laws adopted but also in identifying gaps in existing legislation that needs to be adjusted.

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For instance, in introducing norms on adoption and inter-country adoption on changing the legislation on juvenile justice and on ensuring that children have access to school and are given support in terms of social support by the States etc. Very often, parliaments have been part of coordinating bodies that are established in the countries to articulate ivities on children being one of the stakeholders in this process and certainly also parliame  have been critical in promoting debates on the rights of children that help create awareness of what it means to respect the rights of children and put it high in the social agenda of any nation.

Parliamentarian Committees on Children make particularly three important contributions to the children's rights agenda. First of all, they include legislators from different parties and political groups and make them all accountable and activists in

favour of children's rights. So, by bringing cross party contributions, in fact, parliaments help getting children at the centre of the debate even when there is a change in Government or even when there is a new group of parliamentarians get into the Parliament, the high level of importance on children's rights is maintained and this is why in some countries such as Brazil it has been decided to have a cross party alliance for children in the Parliament.

The second contribution has been played by parliaments in being catalyst for engagement with the civil society in creating opportunities to broaden the process of dialogue on policies and changes that are required for children and this has been very important because it has created familiarity with the needs that are required to be addressed, maybe in legislation or on policies or even budgetary decisions adopted by the country that may favour the improvement of children's rights. By doing this, parliaments have helped creating acceptance in the society about the changes that are introduced. As you know, if the law is perfectly adopted by Parliament, but people do not understand why it is adopted, perhaps they will resist passively in implementing it. So, it is a great opportunity when parliaments make this contribution.

The third contribution has been to sustain the momentum and attention for children's rights on a regular basis. This is why in so many countries of the world, like your country, there has been a decision to establish commissions on the rights of the child, commissions that are responsible for discussing children's issues. This is recognition that there is not one single part of the State that can address all questions that are important for children. Everyone needs to help the Executive, the Legislature and also the Judiciary should try to join hands in addition to the State authorities both at the State and at the national level.

Let me give you some examples of important contributions made by parliamentary commissions and committees. Very recently, the Standing Committee on Human Rights of the Canadian Senate has adopted a very important and comprehensive study on the implementation of the Convention on the Rights of the Child in Canada. It is very interesting to note that this report which is a very huge report took more than two years to be finalised. It involved all the different commissions in the Canadian Senate and it addressed all areas that might be of relevance for children from legislation to policy

making to awareness raising to institutions that are required for children. Of course, such a comprehensive report has a number of recommendations and they will take many years to be implemented. But it is very important to note that there are a number of recommendations that stress that Canada has not yet done enough to create awareness about children's rights, that it is important that children are given an opportunity to participate more actively in decisions that affect their lives. In addition, it is important to establish a National Independent Ombudsman for Children in Canada that can be a voice for the best interests of children in all relevant situations. To explain, in Canada, at the provincial level there are some Commissioners for Children, but they are only responsible at the State level and so the recognition is that nationally there is a need for a voice for children.

Another example is, in Lebanon since 1991 a Parliamentary Committee on the Rights of Children has been formed and, of course, this was a reflection of the pressure to address children's rights in the country. It is interesting that this committee is chaired by a Member of Parliament, but at the same time includes other institutions in its membership including the Secretary-General for the Higher Council for Childhood and representation from Non-Governmental Organisations and also international agencies. For instance, UNICEF is a member of this important Committee.

The Committee in Lebanon develops legislations on children, it amends its existing legislations that are not yet perfect. To give you a few examples, it has, for instance, introduced stronger penalties for crimes committed against children and it has decided to establish a special Health Card for children under 5 years of age to enable children particularly those belonging to the most vulnerable groups to have free admission to hospitals, particularly in emergency situations. So, this committee has been very attentive to the needs of the children in the country.

I would like to give you few other examples. In Italy, for the last several years, the Parliamentary Commission on Children has been established. It brings representatives from the Senate and from the Deputy Chamber and it has very interesting responsibilities. For instance, it was this commission that supervised and adopted the National Plan of Action of Italy for Children. It proposes legislation, of course, on children's issues and it

is also the body that supervises the ratification of international treaties to translate them into Italian laws. But it keeps debating very important issues.

I would like to give you an example and the most recent one which took place just two months ago. It was a debate on the establishment in Italy of an Ombudsman for children. Again, it is a very interesting trend to create a voice for children's rights at the national level.

In France, there is a parliamentary investigative commission. On the rights of children it has also made very important recommendations which can be included in policy making in France. For instance, there was a debate in France whether the Convention on the Rights of the Child was part of the national legal framework or it was just a treaty people would refer to whenever needed. As a result of this Commission, now the Convention is incorporated into the national legal framework.

Another example is that child rights committees have been created at the local level as a result of this commission and the Ombudsman for Children in France has been created also as a result of the commission in the Parliament.

In other countries, the commissions are organising important debates on the rights of the child. For instance, in Germany, the Bundestag has a Commission on Children who does the debating at present on two important issues. One is the creation of a National Ombudsman for Children and the other is the inclusion in the Constitution of the rights of the child. This has not yet happened in Germany. There is a very interesting debate involving everyone in the country as a result of the hearing in the Parliament itself.


In some cases, rather than creating a formal commission in Parliament, countries have felt that it was better to have a kind of an informal Commission on Children where different parliamentarians belonging to different statutory commissions would participate to make sure that whatever debate takes place in Parliament, children's concerns are always brought into forefront.

Sweden is such an example and it is also mainstreaming children's rights in the parliamentary agenda when there is a debate on the budget, on the plan for the country, on asylum-seeking issues, on juvenile justice issues, whatever the case may be.

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Of course, in Asia, there are some examples. I would like to refer to the fact that in Sri Lanka, in early 1990s, a parliamentary law on children's rights had been established in the Parliament and this is responsible for creating awareness amongst parliamentarians on the rights of the child, raising questions in Parliament to Government about action or omissions on the rights of children and also to be a spokesperson to show concerns on the local authorities on the rights of children. This is the sequence of examples.

There are  different ways of keeping children central to parliamentary work. Of course, this is the natural result of the implementation process of the treaty. There is not a single solution and that is why, it is so important to see the work being done by the parliamentary forum in India. What is important is that each country finds its own best solution, creates the best structure and defines its best mandate and above all, keeps the best interest of the child at the centre as its concern.

At the centre of UNICEF, we have been very excited by this process and for that reason, we have started a very systematic review of what is happening around the world. In Asia, we have visited a number of countries and keep learning and that is why, I am happy to be here with you and we have particularly paid attention to changes in legal forum. Of course, this is a very important area of work for Parliament in India also.

I want to share some of the lessons arising from our review. They are rich and certainly show that a lot has happened but not enough has happened.

Now, what have we seen in legal forum? First of all, we have seen that three different approaches that usually happen across the region. Some countries, upon ratification of the Convention of the rights of the child have told that they have already done everything needed to ensure that legislation is in conformity with the Convention of the rights of the child. There is a very nice constitution and offices and there is no need to do anything further and I have to say this about particularly western countries and European countries which have strong legislative pieces and feeling that everything was thought. But suddenly they recognised that not enough has been thought. In fact, one example was that adoption was basically left out from most of the legislation in the early 1990s and all of a sudden, we started recognising that there was a need to draft this new issue.

Another area which you are very much aware is sexual exploitation of children. It was so much a tableau when it was not so much central through legislative discussions. Today, today it is becoming increasingly the case. And trafficking children is another example where we are all trying to adopt the best solutions and it is also the case in your own country. So, recognising that after all legislative solutions do not mean that they are enough. We should keep on reviewing and identifying gaps.

The second approach has been for countries to feel as a better way to fight for children rights is to adopt a very comprehensive law and a code on the protection of children rights where all areas could be covered in a single code or a single piece. This has been followed by a number of countries. In the Asian region like Vietnam has adopted this code and it has been followed by Indonesia. But all of a sudden, it was recognised that it is very difficult and lawyers noticed that we have to put all the details in a single piece of paper and so, a comprehensive legislation was a good solution but insufficient.

The third approach was to consider that it would be best to adopt sectoral pieces of legislation, address family law separately, address adoption, address sexual exploitation and violence against children in different legal pieces. Of course, what we conclude from our review is that none of these approaches is enough. Having a comprehensive code is good but it cannot have all the details. Having a sectoral approach is good but to provide details, it should fix into a broad framework. We should harmonise and be consistent.

So, what we conclude from our review is that it is very important and Parliaments are very critically placed to do it to keep reviewing on what is further needed to have a comprehensive legal framework to protect the rights of the children in an effective manner. More than having a legislation it is critical to enforce that legislation effectively. It means that it is important to train and retrain the professionals that apply the legislation, that creates mechanisms to react whenever the legislation is not enforced. That provides resources for the legislation to be effectively implemented. That supervises the implementation of the legislation. Also, there is an on-going review on what is happening and what is lacking. If we do not do all things, then it will be absolutely insufficient.

A few conclusions that we have drawn from our review are these. The first one is that again law reform is a very long term and never ending process. It needs to be pursued over and over again. This is natural particularly for a treaty like the convention on the rights of the children that covers social, political, economical and human rights which are referred to in this convention. So, it is important that we do not do it too quickly or in a short time. And we should adopt legislation too quickly without thinking about the implications of the legislation. In fact, we know that addressing children rights implies a different way of perceiving childhood as you well know. We stop looking at the child as a passive recipient of our decisions. We look at the child as a full citizen, as someone who has rights and has a opportunity to lead to solutions and to contribute to the change that is required. That in itself implies that we create opportunities for engaging children in understanding how the child sees the problem and the solutions for it.

It is also important that legislation is preceded by good research and analysis. So, we should do what is really required and do not limit ourselves with such a symbolic piece of law. Legislation is a process of adjustment as we also know well. That is why, in many countries, there is a trend to support legislative change with information and awareness campaigns that create interest and engagement in the society at large.

I will give you a recent example which I am aware of. In Netherlands, just two months ago, there was a new legislation adopted to prohibit violence against children. But it was recognised that the law would only be enforced two months later and two months as the right period to create a discussion in the society so that everybody will be aware of it. And never was the legislation enforced within a month. Everybody will be prepared to respect it and to monitor the implementation and to contribute towards the implementation.

To give you another example, in Japan, there have been strong interest in supporting the implementation of the legislation by campaign at the national and local levels. In the Philippines, to give you the third example, police have been provided with training on the ban of sexual abuse of children and the techniques of interviewing the child victim so that while trying to protect the child, we do not do any harm to the child.

It is important to keep reviewing how insufficient the legislation may be and try to address the gaps that may remain. In this regard, parliamentarians of course can again play a very important role.

There is another area where the parliamentarians can be decisive. I would like to call your attention in few of the particular situations in India. You may know that India is expected to report to the Committee on the Rights of the Child which is a UN body that provides the implementation of the convention within a year. And parliamentarians can play a decisive role contributing to this process. In some countries, parliamentarians have promoted a discussion before the report is presented to the Committee on the Rights of the Child. Again if there are things which the Parliament has identified and done, it can be reflected in the National Report submitted by the State. This is one example.

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In other situations, countries have done a debate in the Parliament after the discussion in the Committee on Rights of the Child to review the recommendations of the Committee and to help implementation of those recommendations, in terms of providing data on children, in terms of greater attention to the most vulnerable groups, in terms of bringing an end to traditional practices in the country, whatever the case may be. This has been incredibly important. The third example that I wanted to tell you is about the Parliamentarians going to Geneva to follow the debate. They cannot take the floor, but they can be present while the debate takes place. This has been very important to have first hand assessment of how the Committee sees how much has been done by the country and what are the areas where further action is required. This has helped the parliamentarians to go back to their countries and follow it up with debates where they keep the issues very much under review and continue to interact in a dialogue with the Government to achieve that change. I am confident that in the case of India this opportunity would also be sought so that the discussion of the Report on India in the Committee of Rights of Child is not just a formality but is perceived as strategic change for change and improvement of the situation of children in India. This is also why in some parliaments there has been

a decision to hold an annual debate on the rights of children. This is something which you may wish to pursue in the Parliamentary Forum. That is a debate where different stake holders can take place, where you can review the situations of reality of children in India. It also give a specific focus on some issues that you feel of great importance for India. You will be better placed to decide which these can be. I would certainly encourage you to consider this because it is an opportunity to make the nation aware of the children's rights because you are putting children so high in the parliamentary forum. It would be a pity that the nation as a whole would miss the contagious nature of your excitement and commitment. It is a great opportunity to stand as a model for many other countries in the world.

I want to conclude by recalling other conclusions and other findings from our study. I have mentioned a number of times that it is important to complement comprehensive pieces of legislation with sectoral pieces of legislation. I know that you have been engaging a number of debates for children. I have no doubt that you will continue to do that. I would just like to point out the fact that from our review what is clear is that very often in spite of good legislative changes, the general principles of the convention, particularly non-discrimination, participation of the child, etc. have not been given sufficient attention in legislation at the national level. It is very encouraging to see good progress is happening. I am sure India can play a leadership role in this. Another finding from our study that possibly would be of particular relevance for you is the promotion of legislative review with the participation, with the engagement of broad sectors of civil society. We know that legislators have an important mandate from the people and are spoke persons for the people in any country. When legislation is adopted, we do not have many information. So, those who see what is happening in practical terms can alert the parliament to important elements that can improve the piece of legislation being adopted. Parliament can be a very important interface for engaging the broad sectors of civil society. In fact it is very regularly done in

South Africa. It is one of the interesting cases because in any piece of legislation, the draft is provided for broad set of comments by many groups in civil society and then reviewed by the Parliamentary Commission on Children. Then, it goes back for comments and only after that it is adopted. People can be aware of what the legislative is going to impose and therefore adhere also more quickly to what it is going to be achieving. In some cases this engagement with the civil society has created opportunities for children to be listened to. I know the Children's Corner created two days ago is only a beginning and certainly there would be greater opportunities to engage children, to understand their expectations, suggestions. This is why there is increasing number of youth parliaments being created. I am hopeful that this will grow across the regions. Parliamentary Commissions on Children can expedite law reforms. This is the finding that I wanted to share with you. The Commissions can expedite the incorporation of the convention on the rights of child into the domestic law. They can help ensure broad support across political parties to change the situation, to improve the children's conditions where they can avoid considering children's issues as partisan issues. It is a cross party concern. Parliaments can help bring into the forefront professional groups and engage in dialogue with relevant Ministries in the Government structure. By giving you this quick review, I am trying to illustrate that legislation is keeping the spirit of the convention very much present in daily discussions. It is an important contribution. But across regions it continues to be a challenge to ensure effective implementation. Therefore, the oversight and supervision of parliaments can play a very important role to overcome this challenge. So, what can parliaments do to address this? Parliaments can continue to be active in assessing the process of law reforms in promoting it, in monitoring it and keeping it at the centre stage of policy making. Parliaments can help to assess the impact of the changes in legislation, what is the difference in the life of children when the law is adopted. You can promote regular debates of how this is being used, how this is being applied by courts, by civil servants, by Departments at the local levels and so on.

You can keep the children's concerns at the centre of the debate. I also see the role of Parliamentarians and your own parliamentary forum being a very critical in sharing the initiatives with other countries. I would certainly like to encourage you to do that vigorously. There is a lot to learn from India and there is also a lot to benefit from other countries. In doing this, being a research centre, of course, I would like to encourage you to enhance collaboration with academic institutions, research institutions because they can provide the analysis that may help do better things for children. In addition they can help create resource centre, an electronic resource centre that can help make available all this information on children, can help anyone who is interested to have access to what is happening in the Parliamentary Forum in India as well as in all other countries around the world. This is something we would like to join hands and to support and to work with you.

I would like to thank hon. Speaker, Mr. Achary and Mr. Nair for this opportunity. We would be very pleased to continue to work with you and to celebrate many achievements that you are promoting. Many thanks.

(Adjourned)