

THE LEGAL RIGHTS OF CHILDREN

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Human rights are related to the protection of the dignity of individuals and groups. The enjoyment of rights is inherent in nature and cannot be withered away. In the arena of human rights, children are late entrants. Obviously, child rights are not ensured, for children are often neglected in the family and society. In fact, India occupies the sixth position on the list of countries that are hazardous for children to live in. This is alarming and shameful for our country. It is therefore imperative to protect the vulnerability of children and defend their rights.

Though India has recognised the need for urgent action, **it has proved an uphill task for the Indian Government to protect the rights of children.** For instance, the law enforcement agencies are often insensitive and create problems for the victimised children.

Major Issues and Problems

These are the key issues resulting in children's conflicts with the law: sexual abuses in the family and society, trafficking for forced labour and prostitution, child labour and denial of education to children, and corporal punishment affecting their mental and physical stability.

The state has the primary responsibility to protect children from exploitation. Because of their vulnerability, children are often exploited. Many cases are not even reported, for children are ignorant and sometimes fear to express how they are abused to their parents. Several parents are also unaware of the legal provisions protecting children, and even if they are, they find the procedures too complicated.

The state moreover manipulates the data regarding child rights with false statistics. The best example is child labour. When the NGOs present the actual statistics, the Indian government often denies

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them. There is also some confusion relating to sexual abuses, for the laws are not uniform regarding the age of children. And it is sad that India has not yet ratified the UN Convention on the Rights of the Child.

The Question of Law Enforcement

According to the 1973 Code of Criminal Procedure (CrPC), the police are obliged to investigate a cognisable offence after registering a first information report (FIR). *But the victim or the affected family is often made to run from post to post to register the FIR.* While the victims are entitled to give their statement at home, they are often forced to come to the court or police station. The mandatory laws concerning the medical examination of the victims of sexual abuse are often flouted and this remains unquestioned by the magistrates. S. 167 of the CrPC also stipulates that the charge sheet should be filed within 90 days of the FIR, but this is often delayed. Even then, the lawyers take several meaningless adjournments to present their arguments.

The crime victims are moreover often denied the access to relevant information regarding the proceedings. This deprived them of their rights. It is for instance the duty of the police to inform the victims and the witnesses, and their dependents, that they are entitled to be paid their travel and food allowances when coming to court for the investigation. In most cases, this is not paid because the victims are unaware of the services. *All this clearly shows the insensitivity of the enforcement agencies.*

Instead of being institutions to 'reform' children in conflict with the law and reintegrating them in the mainstream, as per their expected role, the **Juvenile Homes** often function as regular prisons for adults. Many children also languish in Juvenile Homes without proper enquiries by the Juvenile Justice Board for years together.

Guidelines of the Delhi High Court

The Delhi High Court has recently issued some guidelines on child sexual abuse cases. *These are some of its instructions.*

- The affected child shall not be kept in the police station at night.
- All cases shall be investigated within 90 days and the charge sheet shall be filed in appropriate courts under the supervision of superior officers.
- The evidence shall be recorded in the victim's residence or any

other convenient place where the victim shall give evidence without fear. • The investigation shall preferably be conducted by a lady officer trained to deal with child victims. • In case of girl child sexual abuse, the medical examination shall be conducted by a female doctor. • The parents or guardians in whom the child trusts shall be allowed during the medical examination. • The court proceedings shall be conducted in camera.

The Role of NGOs

The NGOs working on children's issues must adopt a comprehensive rather than compartmentalised approach, for all the issues are interrelated and need to be addressed. In fact, *there is a committee for the welfare of children in every panchayat*. The NGOs must join hands with one another and these committees to protect the rights of children. Furthermore, the parents and the whole society, including the enforcement agencies, should be made aware of the rights of children through parent-teacher associations and in every other way.

Since the existing courts are inefficient to handle children's cases, *the Indian Government – with the active participation of the Bar Council of India – should set up Children's Courts focusing on children alone*, as it was done with Mahila Courts dealing with women's cases. Such Children's Courts should first be tried in metropolitan cities and then be extended to District headquarters. This is the need of the hour.

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