

CHILD ABUSE AND ROLE OF LAW ENFORCEMENT AUTHORITIES

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ABSTRACT

Children are one of the most vulnerable populations in any culture. When children are victims of crime, they require constant protection from the government, the law, and other society members, especially criminal justice professionals. Child abuse is a widespread issue. In order to properly act in child abuse instances, no one agency has the necessary training, personnel, assets, or legal authority. Dealing with assaulted children is not the primary purview of any one entity. The children are exposed to violence not only at home but also at work, in detention centres, refugee camps, schools, foster homes, care centres, and the streets. Children who witness such violence may experience trauma and have detrimental effects both immediately and later on, such as sadness, anxiety, academic failure, and violent behaviours. Under this paper, the author discusses various forms of violence to which children are subjected to and how law enforcement agencies can prevent and reduce it. The research paper also recognises the difficulties and challenges which the authorities encounter while dealing with child abuse cases.

Keywords: child abuse, law enforcement, legal protection, child, criminal offences

INTRODUCTION

‘Child abuse and negligence is a societal and public health issue, which can lead to long lasting effects into adulthood’.¹‘However, all children that are exposed to abuse and mistreatment, are not affected the same. For some, the consequences of abuse could be ongoing and devastating; others could experience less severe results’.² According to the Convention of Rights of Child 1989, the term child is defined under ‘Article 1, which defines a “child” as every human being under the age of 18 years unless, under the law applicable to the child, majority is attained earlier’.³

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The term child victim, victim and witness has also being defined under the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985). The act clearly defines that “Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power. Child victims and witnesses denotes children and adolescents, under the age of 18, who are victims of crime or witnesses of crime regardless of their role in the offence or in the prosecution of the alleged offender or groups of offenders.’⁴

Violence against children can be either physical or psychological, according to UNICEF. Violence can take the form of mistreatment, injury, neglect, careless handling, exploitation, and sexual assault. The child's growth is frequently hampered by the violence, which also compromises their physical and emotional health. In some circumstances, the child may also pass away as a result.

Cases involving child abuse differ from other sorts of cases in that they have certain features that set them apart. Children make "perfect" victims for a variety of crimes, and sexual offences against children are among the hardest cases for law enforcement to look into. Due to their physical and mental development, children are typically unable to defend themselves; also, they sometimes find it difficult to discuss the abuse. They might withhold information or merely reveal a portion of the truth. There is frequently an emotional connection between the victim and the abuser; children may want the abuse to cease but may not want the perpetrator to be punished. In the majority of cases of sexual assault, there is no solid medical proof that the abuse took place. Additionally, there are no witnesses because it takes place in a private setting.

When any offence against any child whether physical or mental takes place, the law enforcement authorities comes into play. A broader definition of criminal justice encompasses the processes and governmental agencies that uphold the law. The criminal justice system in our nation can be broken down into three categories of law:

1. Law Enforcement Officers, which includes only police officers
2. The Magistrate, District, High, and Supreme Courts are the three levels of the court system.
3. Correctional, jail, parole, and probation reforms.

INTERNATIONAL CONVENTIONS ON CHILD PROTECTION

In the late eighteenth and early nineteenth centuries, reformers started to push for the protection of children from exploitation through labour laws, regulations requiring children to attend school, laws against child abuse and neglect, and other types of public protection against parental abuse. Children were freed from the obligations that had historically restrained them and prevented them from fleeing poverty and illiteracy as childhood became longer. On the other hand, they persisted without the freedoms that adults obtain at majority, such as the freedom to choose a place of residence, the freedom to marry, the freedom to practise a certain religion, and the freedom to engage in a specific profession.

Children have the same legal rights and basic freedoms as everyone else, but, like other groups with particular vulnerability like women and indigenous people, they have received special status and protection under international human rights law and in local treaties governing human rights. These accords provide States constructive obligations to safeguard the well-being of children. Children's human rights breaches committed by government agents are particularly serious.

Rights of children have been recognized in International law in 1924 when the first International Declaration on the rights of child was adopted by League of Nations. Universal Declaration of Human Rights 1948 and regional instruments recognized more generally the human right to be free from violence, abuse and exploitation. These rights applied to everyone including children.⁵

The following international instruments were created to prevent child abuse:

1. Convention on Economic, Social and Cultural Rights, 1966

On December 16, 1966, the General Assembly of the United Nations adopted the Convention. The convention's signatory states provide that without making any distinctions based on parentage or any other factor, specific protective and aiding measures shall be implemented on behalf of all children. Protecting children and young people from social and economic exploitation is important. Their employment at work not only endangers their morality or health, but also poses a risk to their safety or retards their growth in a natural manner. The law ought to penalise it.. States should also set an age limit below which paid employment of child labour should be prohibited and punishable by law.⁶

2. Convention on Civil and Political Rights 1966

The United Nations General Assembly approved this Convention on December 16, 1966. The convention was to take effect ten years later in all countries that became state parties.⁷The Convention introduces that every child shall have the right to adopt such measures of protection which are necessary for his status as a minor on the part of his family, society and state, without any discrimination of race, colour, sex, language, religion, national or social origin, property or birth.⁸It implies that all children ought to be protected without distinction.

3. Convention on the Rights of the Child 1989

In December 1989, the United Nations General Assembly took up the Convention on the Rights of Children. On September 2, 1990, it went into effect. The convention's primary goal is to clarify the moral and political obligations that nations have to their children. Between the participating states, it is an extensive treaty on children's rights. State parties must take reasonable steps to safeguard children from all types of maltreatment and exploitation. Children should be protected from sexual abuse. Children are sexually abuse by legal guardian, their parent and other person who has the care of child. Judicial involvement should be necessary to protect children from abuse.⁹ The convention assign duty to government to provide protection and assistance to children who deprived of a family.¹⁰

The Convention includes clauses that protect minors from torture and other cruel, inhumane, or humiliating treatment or punishment. Children must be shielded from unjust arrests. Children are so shielded from suffering torture and being deprived of their freedom. Any state party to the convention shall provide protection for any child injured by any form of exploitation or abuse, torture, or other cruel, inhumane treatment or penalty.

4. The Optional Protocol on the Sale of Children, Child prostitution and Child Pornography

On May 25, 2000, the United Nations General Assembly ratified it. It becomes effective on January 18, 2002. 129 states have approved it as of October 2008. The convention's principal goal is to outlaw child prostitution and child pornography. Child trafficking is also forbidden. State Parties of the convention must prohibit supplement acts which may help in the trafficking of children, child prostitution and child pornography.¹¹

5. Optional Protocol on Children in Armed Conflict

The treaty requires States parties to make sure that anyone under the age of 18 is compelled to join their armed forces. It also take every possible measures to ensure that a person who has not completed 18 years of age , should not directly participate in hostilities in the Armed Forces.¹²

6. SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

The aim of the convention is to support cooperation among member states to effectively deal with various aspects of the prevention, prohibition and repression of trafficking in women and children. It also support the repatriation and rehabilitation of victims of trafficking.¹³ The agreement contains a clause stating that the state parties must make such an offence punished by a suitable punishment. According to Article 3, anyone who owns, operates, maintains, or finances a site for human trafficking must be punished.

INDIAN LAWS AND POLICIES FOR PROTECTION OF INTEREST OF CHILDREN

The most valuable and significant gifts that God has given to humanity are the children. Any community's progress and welfare are greatly influenced by the health and welfare of its children. According to a proverb, "Who holds the soul of the children holds the nation." The way a country is shaped in its early years has a significant impact on both its physical and mental health. According to Justice V.R. Krishna Iyer, it is our duty to the generation to provide every child with the opportunity to develop their unique personalities and reach their full physical, moral, mental, and spiritual potential. It is also every child's birth right to demand justice from the rest of the world, and this is what we must do.

Major Child Issues In India include:

- # Child labour.
- # Girl Child.
- # Malnutrition.
- # Poverty.
- # Illiteracy.
- # Child Marriage.
- # Child Trafficking.

- # Gender Inequality.

1. Provisions under Indian Constitution for child protection

Article 21A provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.¹⁴

No child under the age of fourteen may be employed to work in a factory, mine, or in any other hazardous occupation, according to Article 24. According to Article 39(e), there shall, in particular, direct its policy towards insuring that the health and strength of employees, men and women, and the young age of children, are not misused, and that citizens are not pushed by economic necessity to adopt vocations inappropriate to their age or strength. According to Article 39(f), there shall be, in particular, focus its policy on ensuring that children are provided with the possibilities and resources to develop in a way that is beneficial and in conditions of dignity and liberty and that young people and children remain safeguarded against abuse and against material and moral neglect.

Many more provisions for child protection are provided under different other sections of the Constitution of India, under articles like Article 21, 23, 46, 27, etc.

2. The Factories Act, 1948

The Act was established in 1947 and it underwent further revisions in 1948, with the following essential elements. 'The act prohibits hiring kids who are younger than 14 in factories'¹⁵. An establishment is considered a factory if it employs at least 10 people with the help of electricity or 20 people without it. Under the following conditions set forth in Sections 68, 69, and 71 of the Act, individuals between the ages of 14 and 15 may be employed: Section 69 of the act clearly mentions that the 12-hour period between 10 p.m. and 6 a.m., which includes the overnight hours, should be avoided for children.

Different laws have been enacted from time to time for protection of children by Indian government. These laws include The Child Labour (Prohibition and Regulation) Act, 1986, The Juvenile Justice Act 2000, Right to Education Act 2009, etc. these acts and legislations shelter children and provide me basic protection from different offences which are done against children.

JUDICIAL DECISIONS SAFEGUARDING CHILDREN

1. M.C. Mehta Vs. State of Tamil Nadu and Others¹⁶

M.C. Mehta, an activist from India, filed a lawsuit against the Tamil Nadu government in this case to demand that the state do more to protect children from hazardous labour and to improve the working circumstances for those who are saved from it. The Hon'ble Supreme Court made a significant decision, concluding that Article 24 of the Indian Constitution mandates the state to make every effort to provide children with a free, obligatory education. The government was compelled to create and maintain a child labour rehabilitation welfare fund after the court ruled that young people under the age of 14 could not work in dangerous jobs.

2. J.P. Unnikrishnan & Others Vs. State of Andhra Pradesh & Others¹⁷

The Supreme Court ruled in this case that Article 21 of the Constitution confers a basic right to education on all people of this nation. Nevertheless, this right is not unassailable. To get a free education till the age of fourteen, every child and citizen of our nation is entitled. Following that, the State's economic potential and level of development are constrained by his right to an education.

3. Vishal Jeet vs. Union of India¹⁸

The state government was given instructions by the Hon. Supreme Court to establish rehabilitation facilities for children found begging in the streets as well as for young girls who were coerced into the "flesh trade" in houses that would provide them with protection.

4. Neeraja Chaudhary Vs. State Of Madhya Pradesh¹⁹

Justice P.N. Bhagwati, "Whenever it is found that any workman is forced to provide labour for no remuneration or nominal remuneration, the presumption would be that he is a bonded labourer unless the employer or the State Government is in opposition to prove otherwise by rebutting such presumption." The Court stressed on released and rehabilitation of bonded labourer.

CONCLUSION AND SUGGESTION

The most important human resource in the country is children. The growth and development of the nation's children will determine its future prosperity. Milton, a great English poet, once stated that a child reveals a man like a morning reveals a day. Therefore, it is the responsibility of society to provide for every child in order to ensure that their personality develops fully. Children are the society's future stewards and torchbearers; they are the carriers of its knowledge, cultural history, ideologies, and philosophical beliefs. Children are actually the future's greatest instructors, scientists, judges, rulers, doctors, planners, engineers, and politicians, upon whom the foundation of the entire civilization is based. Sadly, millions of kids are denied their right to childhood and an education, and as a result, they are subjected to a variety of harmful conditions.

Conventional safeguards alone are insufficient to keep kids safe from harm; teamwork is needed. The construction of social programmes that offer the required support for the children and those who are caring for the child should follow a successful procedure as part of such acceptable protective measures. Governments, national security systems, and the international community should make addressing the root causes of misuse a top priority. To allow people to denounce violations against them, the nation should establish efficient local grievance systems.

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