

Child Rights

Situational Analysis of Child Abuse, Abandoned and Runaway Children, Prevention and Strategies for Elimination

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The question of the rights of children in the modern times has emerged as one of the most vibrant issues in contemporary human rights discussions. National and international initiatives have been underway to understand and provide solutions with far reaching affects. Notable among which has been the *UN Convention on the Rights of the Child* adopted by the General Assembly of the United Nations, on 20 November 1989, the first legally binding code of child rights in 54 articles setting standards for the well being of children at different stages of their development. But the fact remains that children remain a part of the disadvantaged minority group even today as far as realization of human rights and social justice are concerned. This is primarily because children are generally physically, mentally and economically defenceless. In this age of globalization the care of children has completely taken a backseat, thus, affecting entire value system, social and economic needs, jeopardizing the very future of the humanity. The marginalization takes even a much worse turn when the vulnerable child receives unsatisfactory parenting, neglect by the society and crimes being perpetrated against them all ultimately violating their human rights.

India ratified the Convention on the Rights of the Child in the year 1992. The CRC draws attention to the four sets of civil, political, social, economic and cultural rights of the child:

1. **The Right to Survival:** includes the right to life, the highest attainable standard of health, nutrition and adequate standard of living. It also includes the right to name and nationality.
2. **The Right to Protection:** includes freedom from all forms of exploitation, abuses, inhuman or degrading treatment and negligence including the right to special protection in situation of emergency and armed conflicts.
3. **The Right to Development:** consists of the rights to education, support for early childhood, development and care, social security and right to leisure, recreation and cultural activities.
4. **The Right to Participation:** includes respect for the views of the child, freedom of expression, access to appropriate information and freedom of thought, consensus and religion.

The CRC states that the rights shall be extended to all children without discrimination of any kind, irrespective of the child's or his or her parents legal guardians race, nationality, colour, sex, language, religion, political or other opinion, national, social origin, property, disability, birth or other status. The CRC also provides legal basis for initiating action to ensure the rights of children in society. Yet around the world, children are denied the right that could enable them survive, develop fully and participate actively. In both

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developing and developed countries, children have to cope daily with street violence, pressure to use drugs and sexual exploitation and all sorts of abuses.

Child Abuse

Logically speaking, denial of the rights to the children in any form, entails child abuse and exploitation in some form. However, the term Child Abuse has acquired a particular connotation and it has been defined variously depending on the extent and type of mistreatment meted out to children. The cultural aspect of child abuse cannot be ignored while defining it as anthropological studies show clearly that what is viewed as abusive in one society today is not necessarily seen as such in another. Amongst the various definitions the most comprehensive is the one defined by the Goa Children's Act 2003. It clearly defines child sexual abuse by separating it into three categories.

- i. **Grave Sexual Assault** – which covers different types of intercourse: vaginal, oral, anal use of objects, forcing minors to have sex with each other, deliberately causing injury to the sexual organs, making children pose for pornographic photos or films;
- ii. **Sexual Assault** – which covers sexual touching with the use of any body part or object, voyeurism, exhibitionism, showing pornographic pictures or films to minors, making children watch others engaged in sexual activity, issuing of threats to sexually abuse a minor, verbally abusing a minor using vulgar and obscene language;
- iii. **Incest** – which is the commission of a sexual offence by an adult or a child who is a relative through ties of adoption

There is sufficient data available conforming that there is extensive exploitation of children in India. The different studies highlight factors like poverty, unemployment and mass illiteracy as the major ones pushing the children into vulnerable situations of exploitation and, at times, leading them to runaway from home and their abandonment by parents. Physical abuse by family members, including parents, constitute the foremost cause for children running away from homes. The next common reason is probably the desire for economic independence reflecting the conditions of deprived families they belong. Further reasons emerging for the children running away from homes included abandonment by parents, presence of stepparents or both parents being dead. Thus, reaffirming that the precipitating factors are physical abuse and sexual abuse in the house, poverty, rejection and emotional insecurity. These children who land up on the streets, railway platforms and orphanages are extremely vulnerable to sexual exploitation that can cause them to suffer physical and psychological harm. In most of the cases the exploiters are the taxi drivers, coolies, tourists with occasional cases of police demanding sexual services from the street children, threatening them with arrest if they refuse to comply.

However, the Dimension of the problem of minors who are runaways, sexually and physically abused, or abandoned can be assessed on the following basis:

1. **Social and economic inequality in rural areas-** Landlessness or small land holdings, lack of access to education, lack of employment options, illness, or death of parents, family disharmony-all these are reasons why children migrate and fall prey to traffickers and abusers. In villages it is necessary for children to seek employment. In cities, children of migrated families i.e. pavement and slum dwellers are easy prey for traffickers and

abusers. There is a lack of social safety nets for families in difficult circumstances. The village Panchayats also need to take cognizance and responsibility on these issues.

2. **Community Awareness-** Parents are often unaware of their child's destination, when trustingly handing her or him over to an agent (trafficker). Rural communities are often unaware of the dangers posed by trafficking. Currently, child abusers & traffickers present themselves as saviours to the families living in poverty.
3. **Child trafficking-**Adults with criminal intentions i.e. traffickers, victimize children in difficult circumstances. Some of the traffickers belong to organized rings others do not.
4. **Traditional system of Prostitution-** The traditional modes of Prostitution, like Devdasi system, forces young girls to get into sex abuse, trade and also work in brothels in big cities.
5. **International promotion of sex tourism-** The tourists and internet are widely used as a medium to promote Indian pornography and sex tourism worldwide.
6. **Urban environments and Venues-** The *runaway and trafficked children* find no support system or protective and they land up in brothel, beauty salons, massage parlors, beer bars, hotels, or the street and railway platforms.
7. **Social support-**This is generally lacking and inaccessible to children who are abused, runaway and abandoned. Their families in many cases are unable to support and care for these children. If rescued from abuse at workplace or prostitution, the issue becomes whether the family will accept the child and what kind of remunerative work will the child be engaged in.
8. **Health Care-** This is generally inaccessible to children who are runaways, abandoned or abused. These children are unaware of the dangers posed to their health becoming vulnerable to sexually transmitted diseases including AIDS.
9. **Politics-** It lacks the will since it doesn't form part of constituency or vote bank, to stop this deep-rooted problem in society where it gains financially from this problem like prostitution.
10. **Rescue and rehabilitation-** The children and minors deserve to be rescued and rehabilitated. The question is how and whether the state and society will take the responsibility without creating more problems for the victims.
11. **Government machinery-** Starting from the police, state government departments, and the judiciary all have a major role to play in not only rescuing but also in rehabilitation, restoration and ultimate resolution of this problem.

NATIONAL AND INTERNATIONAL CONVENTIONS

International Legal Conventions

India is a signatory to most of the international human rights instruments that are relevant to the prevention of all forms of sexual abuse and exploitation and to the effective protection of child victims. The conventions are as follows:

1. Convention for the Suppression of Traffic in persons and the Exploitation of prostitutes and others, 1949
2. The International Covenant on Civil and political Rights (ICCPR)
3. The anti- slavery Conventions

4. Convention on the Elimination of all forms of Discrimination against women (CEDAW), 1979
5. Convention on the Rights of the child, 1989
6. The minimum age convention, 1973
7. Forced Labour Convention, 1930 (some section of which India has not yet ratified)
8. The Copenhagen Declaration and Platform for Action of the Fourth World conference on Women, 1995, aims to eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.”
9. The world conference on Human Rights, Vienna, 1993, stresses elimination of all forms of sexual harassment, exploitation and trafficking, in women
10. India is in the process of ratifying the International Protocol to prevent, suppress and punish trafficking in persons, especially Women and children.

Constitutional Provisions

The constitutional provisions that deal with the rights of the child are as follows.

1. **Article 21** – provides for right to life and personal liberty
2. **Article 24** – provides that no ‘child below the age of fourteen years shall be employed to work in a factory or a mine or engaged in any other hazardous employment.
3. **Article 39 (f)** – makes it obligatory for the state to direct its policy towards security “ the health and strength of children and that they are given opportunities and facilities to develop in a healthy manner.”
4. **Article 45** – as per this provision, the state was to provide free and compulsory education to all children upto the age of 14 years.

Indian Legal Framework

In India there is no separate law for child sexual abuse. In fact it is barely recognized except scattered in various legal provisions. There are a few sections in the Indian Penal Code that can be used in cases of child sexual abuse. Unless rape has taken place, the offence and it is not considered to be very traumatic to the child. To prevent the children from abuse and offences against them the general penal code and various other protective and preventive ‘special and local laws’ are available. The cases in which the children are victimized and abused can be categorized under two broad sections.

1. **Crimes committed against Children which are punishable under Indian Penal Code (IPC)** – This includes punishable crimes, such as, Foeticides, Infanticides, Abetment of Suicide, Exposure and abandonment, kidnapping and abduction (for exporting, ransom, camel racing, begging, compelling marriage, Slavery, for seduction or illicit intercourse, prostitution, unnatural offences. The Indian Penal Code deals with the sexual abuse of children in the form of rape (Section 375), unnatural practices (Section 377), molestation and outraging the modesty. Exploitation is addressed in the form of obscenity, indecent representation and procuring persons for the purpose of prostitution and trafficking (Section 372 and 373). The common forms of sexual abuse of children do not come under the definition of rape.

2. **Crime Against Children which are punishable under ‘Special and local Laws’ – includes**
 - i. **Immoral Traffic Prevention Act, 1986** (where minors are abused for in prostitution)
 - ii. **Child Marriage Restraint Act**
 - iii. **Child Labour (Prohibition and Regulation) Act, 1986**
 - iv. **Juvenile Justice (Care and Protection of Children) Act, 2000** - is the most comprehensive legislation for ‘juveniles in conflict with law’ and the ‘children in need of care and protection’, including the abused, abandoned and runaway children, in India. It ensures that no child is deprived of his/ her liberty arbitrarily or unlawfully.

Prevention and Strategies of Elimination

Prevention and elimination of child abuse calls for a multipronged strategy.

1. **Childline (1098) as an Agency** – has been playing a crucial role in dealing with the children in various forms of distress.
2. **Help line booths** – are required to be established near the railway stations where the maximum number of runaway children are located.
3. Government should work with NGOs to develop programs to discourage families from abandoning their children and to develop alternatives to institutionalization, by providing assistance to families with disabled or special needs children and appropriate opportunities for foster care and adoption.
4. Governments should ensure that children in non-penal institutions receive appropriate care, including adequate housing, medical care, stimulation, individual attention, education, food and clothing. Governments should work towards the development and establishment of clear national and international standards on the treatment care, and protection of the rights of children confined in non-penal institutions.
5. Governments should immediately investigate reports of abuse or neglect of children in orphanages, and prosecute or discipline the individuals responsible. NGOs and professionals should be allowed unlimited access to monitor conditions.
6. Governments should ensure that children in custodial care are not diagnosed as retarded or disabled unless they have been observed and examined adequately over a period of time, and that children with disabilities receive the education and programs necessary to achieve their fullest individual development.
7. Implementation of the Stockholm Agenda for Action, agreed during the world congress against commercial sexual exploitation, and prosecute those who abuse and sexually exploit children, or profit from the practice.
8. Children engaged in prostitution must be treated as victims of sexual exploitation, violence, and forced labor, and not as criminals. Governments and aid groups should support quality rehabilitation and recovery programs for children who leave the sex trade, which include psychological counseling, health care, education and vocational training, and shelter, as appropriate.
9. Governments must develop prevention programs that will raise public awareness and encourage actions that protect children.

Prayas Intervention in the prevention of child abuse

Prayas is working for the rehabilitation of the neglected, abused and exploited street and working children since 1988, with the belief that “*the basic needs of a child are synonymous with his basic rights*”. It provides specially designed non- formal (Alternative) education for these children, vocational training and Child Empowerment Programs. Indoor and outdoor health care services are provided by means of mobile vans and health centres. It is the first NGO to run multiple homes and shelters, including government juvenile homes in Delhi, which provide custodial care and protection in addition to providing education and vocational training for the rehabilitation its inmates. The Prayas Institute of Juvenile Justice is a national level Institute for neglected Child and Juvenile justice in Delhi.

With a view to handle the investigation of sexual abuse of minor victims professionally and with sensitivity and to rehabilitate the needy ones amongst them the **Crisis intervention Centre (CIC)** was setup in the year 2000. Pioneered by Prayas it is joint project of Prayas, Delhi Police and Central Social Welfare Board. The CIC works with the following objectives for the rehabilitation of such victims:

- ❖ To provide emotional support, psychological support and counseling to the victims.
- ❖ To provide support structure to minor victims of rape by providing shelter, medical services, education, vocational training.
- ❖ To ensure professional investigation of such cases and its meaningful prosecution.
- ❖ To provide financial support through the National Human Rights Commission, NHRC.

Initiated by Prayas, the project was extended to all the Police Districts of Delhi. It is being replicated elsewhere in the country and is considered a unique model.

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