## National Commission for Protection of Child Rights

The National Commission for Protection of Child Rights (NCPCR) was set up in March 2007 under the Commission for Protection of Child Rights Act, 2005, an Act of Parliament (December 2005). The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child. The Child is defined as a person in the 0 to 18 years age group.

The Commission visualises a rights-based perspective flowing into National Policies and Programmes, along with nuanced responses at the State, District and Block levels, taking care of specificities and strengths of each region. In order to touch every child, it seeks a deeper penetration to communities and households and expects that the ground experiences gathered at the field are taken into consideration by all the authorities at the higher level. Thus the Commission sees an indispensable role for the State, sound institution-building processes, respect for decentralization at   the  local  bodies  and  community level and larger societal concern for children and their well-being.

The [National Commission for Protection of Child Rights (NCPCR)](http://ncpcr.gov.in/) was established in March 2007 as a statutory body under the Commissions for Protection of Child Rights Act, 2005. It was set up to protect, promote and defend child rights in the country. The Commission consists of a chairperson and six members who are well versed in child welfare.

The function of the commission is to:

* Examine any law or constitutional provisions to ensure that the safeguards of the law protect child rights
* Provide the central government with recommendations to improve correct the safeguards
* Inquire into child rights violations
* Examine the risk factors for children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/ AIDS, trafficking, maltreatment, torture and exploitation, pornography, and prostitution and recommend appropriate remedial measures
* Look into the special care and protection of children from distress, marginalised and disadvantaged backgrounds
* Study and ensure implementations of child rights treaties
* Conduct research in the field of child rights
* Create awareness through various mediums
* Inspect any children's home or observations homes where children have been detained
* Inspect any juveniles custodial home, or place of residence or institution for children, under the control of the central government or any other authority, ​and take up with authorities for remedial action.
* Inquire into complaints and take suo motu notice of matter relating to deprivation and violation of child rights or ​n​on implementation of laws providing for protection and development of children or ​n​on compliance of policy decisions, guidelines or instructions to ensure welfare of the children.

**Activities**

[Print Version](http://ncpcr.gov.in/contprintcont.php?lid=22&lang=1&level=0&linkid=25)

Last Updated On: 27/09/2016

In order to attain the Commission's Mandate of ensuring that each and every child has an access to all entitlements and enjoys all her rights, the Commission's focus is on the following tasks:

* The first is to build public awareness and create a moral force in the country to stand by children and protect their rights. A National Conscience has to be generated that captures the imagination of each citizen to take pride in the nation because it takes care of all its children.
* Armed with this kind of a mood the Commission's task is to look at the gaps in the policy framework and the legal framework and make recommendations to see that rights-based perspective is adhered to by the Government, while it makes its policies.
* Thirdly, the task of the Commission is to take up specific complaints that come up before it for redressal of grievances and also take up suo moto cases, summon the violators of child rights, get them presented before the Commission and recommend to the Government or the Judiciary, action based on an inquiry.
* Finally, the role of the Commission is in arming itself with proper research and documentation. The legitimacy and credibility to what the Commission says and does is based on solid research and data. Though everyone in the country knows that the predicament of the majority of children in our country is vulnerable and that children are not treated well, this has to be substantiated by information; it cannot just be an emotional argument.

The above tasks are to be rendered in a manner that the child is regarded as an individual with a character and mind of her own, not to be patronized in a relationship of benefactor and beneficiary. There is no favour to the child, it is the duty of the State to fulfill its obligations and the duty of society to create the environment where the child is in the centre of all decisions pertaining to the child. The Commission is of the opinion that in addressing the child, there is a focus on rendering dignity to the child, who is at the moment most vulnerable in society.

* + [Child Education](http://ncpcr.gov.in/index1.php?lang=1&level=1&&sublinkid=23&lid=615)
  + [Child Health a](http://ncpcr.gov.in/index1.php?lang=1&level=1&&sublinkid=32&lid=624)

This statutory body at the National and State level has been proposed to be set up under the Commission for Protection of Child Rights Act 2005. India has ratified the United Nations Child Rights Convention in the year 1992 and this Act was passed as one of the necessary steps to protect the rights of the children in the country.

The National Commission for Protection of Child Rights was constituted this year and is chaired by Dr.Shantha Sinha, a highly dedicated child rights activist. The Commission has been taking up various issues which were brought forth recently in the area of child abuse.

The functions and powers of the National Commission is to:

* Examine and review the legal safeguards provided by or under any law for the protection of child rights and recommend measures for their effective implementation
* Prepare and present annual and periodic reports upon the working of these safeguards
* Inquire into violation of child rights and recommend initiation of proceedings in such cases
* Undertake periodic review of policies, programmes and other activities related to child rights in reference to the treaties and other international instruments
* Spread awareness about child rights among various sections of society
* Examine and recommend appropriate remedial measures for all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence/riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution
* Undertake and promote research in the field of child rights
* Inspect institutions meant for juvenile/children
* Inquire into complaints of deprivation and violation of child rights, non-implementation of laws and non-compliance policy decisions, guidelines or instructions
* Undertake other necessary functions for the promotion of child rights. The Commission has the power of a civil court and all criminal cases brought to the same has to be forwarded to a concerned Magistrate who has jurisdiction to try the same.

The National/State Commission consists of seven members including a Chairperson and six members, of which at least two need to be women. The Act provides for Children’s Courts for speedy trial of offences against children or of violation of Child Rights.  
The Act empowers the State Government to notify at least a court in the State or a Court of Sessions in each district as a Children’s Court, with concurrence of the Chief Justice of the concerned High Court. For every Children’s Court, the State Government is required to appoint a Public Prosecutor or appoint an advocate who has been in practice for not less than seven years as the Special Public Prosecutor.



Add a note...

Clipped from: https://indialawyers.wordpress.com/category/child-abuse/

## [The Protection of Children from Sexual Offences Act, 2012 passed – Children in India get a new Law](https://indialawyers.wordpress.com/2012/05/23/the-protection-of-children-from-sexual-offences-act-2012-passed-children-in-india-get-a-new-law/)

Posted in [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [CHILD RIGHTS](https://indialawyers.wordpress.com/category/child-rights/), [TRAFFICKING](https://indialawyers.wordpress.com/category/trafficking/), [VICTIMS](https://indialawyers.wordpress.com/category/victims/) by NNLRJ INDIA on May 23, 2012

The Protection of Children from [Sexual Offences Act](http://en.wikipedia.org/wiki/Sexual_Offences_Act), 2012, has been passed by the Lok Sabha today, 22nd May, 2012. The Bill was earlier passed by the [Rajya Sabha](http://rajyasabha.nic.in/) on 10th May, 2012.

The Protection of Children from Sexual Offences Act, 2012 has been drafted to strengthen the legal provisions for the protection of children from sexual abuse and exploitation. For the first time, a special law has been passed to address the issue of sexual offences against children.

 Sexual offences are currently covered under different sections of IPC. The IPC does not provide for all types of sexual offences against children and, more importantly, does not distinguish between adult and child victims.

 The Protection of Children from Sexual Offences Act, 2012 defines a child as any person below the age of 18 years and provides protection to all children under the age of 18 years from the offences of sexual assault, sexual harassment and pornography. These offences have been clearly defined for the first time in law. The Act provides for stringent punishments, which have been graded as per the gravity of the offence. The punishments range from simple to rigorous imprisonment of varying periods. There is also provision for fine, which is to be decided by the Court.

An offence is treated as “aggravated” when committed by a person in a position of trust or authority of child such as a member of security forces, police officer, public servant, etc.

**Punishments for Offences covered in the Act are:**

1. Penetrative [Sexual Assault](http://en.wikipedia.org/wiki/Sexual_assault) (Section 3) –  Not less than seven years which may extend to imprisonment for life, and fine (Section 4)
2. Aggravated Penetrative Sexual Assault (Section 5) –­ Not less than ten years which may extend to imprisonment for life, and fine (Section 6)
3. Sexual Assault (Section 7) – Not less than three years which may extend to five years, and fine  ([Section 8](http://en.wikipedia.org/wiki/Section_8_%28housing%29) )
4. [Aggravated Sexual Assault](http://en.wikipedia.org/wiki/Aggravated_sexual_assault) ([Section 9](http://en.wikipedia.org/wiki/Public_Security_Section_9)) – Not less than five years which may extend to seven years, and fine (Section 10)
5. [Sexual Harassment](http://en.wikipedia.org/wiki/Sexual_harassment) of the Child (Section 11) – Three years and fine (Section 12)
6. Use of Child for Pornographic Purposes (Section 13) –  Five years and fine and in the event of subsequent conviction, seven years and fine ([Section 14](http://en.wikipedia.org/wiki/Public_Order_Act_1986) (1))

The Act provides for the establishment of [**Special Courts**](http://en.wikipedia.org/wiki/Special_Courts) for trial of offences under the Act, keeping the best interest of the child as of paramount importance at every stage of the judicial process. The Act incorporates **child friendly procedures** for reporting, recording of evidence, investigation and trial of offences. These include:

1. Recording the statement of the child at the residence of the child or at the place of his choice, preferably by a woman police officer not below the rank of sub-inspector
2. No child to be detained in the police station in the night for any reason.
3. Police officer to not be in uniform while recording the statement of the child
4. The statement of the child to be recorded as spoken by the child
5. Assistance of an interpreter or translator or an expert as per the need of the child
6. Assistance of special educator or any person familiar with the manner of communication  of the child in case child is disabled
7. Medical examination of the child to be conducted in the presence of the parent of the child or any other person in whom the child has trust or confidence.
8. In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.
9. Frequent breaks for the child during trial
10. Child not to be called repeatedly to testify
11. No aggressive questioning or character assassination of the child
12. In-camera trial of cases

The Act recognizes that the intent to commit an offence, even when unsuccessful for whatever reason, needs to be penalized. The **attempt to commit an offence** under the Act has been made liable for punishment for upto half the punishment prescribed for the commission of the offence. The Act also provides for punishment for **abetment of the offence**, which is the same as for the commission of the offence. This would cover trafficking of children for sexual purposes.

For the more heinous offences of Penetrative Sexual Assault, Aggravated Penetrative Sexual Assault, Sexual Assault and Aggravated Sexual Assault, the **burden of proof** is shifted on the accused. This provision has been made keeping in view the greater vulnerability and innocence of children. At the same time, to prevent misuse of the law, punishment has been provided for making false complaint or proving false information with malicious intent. Such punishment has been kept relatively light (six months) to encourage reporting. If false complaint is made against a child, punishment is higher (one year).

The media has been barred from disclosing the identity of the child without the permission of the Special Court. The punishment for breaching this provision by media may be from six months to one year.

For speedy trial, the Act provides for the evidence of the child to be recorded within a period of 30 days. Also, the Special Court is to complete the trial within a period of one year, as far as possible.

To provide for **relief and rehabilitation of the child**, as soon as the complaint is made to the Special Juvenile Police Unit (SJPU) or local police, these will make immediate arrangements to give the child, care and protection such as admitting the child into shelter home or to the nearest hospital within twenty-four hours of the report. The SJPU or the local police are also required to report the matter to the [Child Welfare](http://en.wikipedia.org/wiki/Child_protection) Committee within 24 hours of recording the complaint, for long term rehabilitation of the child.

The Act casts a duty on the Central and State Governments to spread awareness through media including the television, radio and the print media at regular intervals to make the general public, children as well as their parents and guardians aware of the provisions of this Act.

The National Commission for the Protection of Child Rights (NCPCR) and State Commissions for the Protection of Child Rights (SCPCRs) have been made the designated authority to monitor the implementation of the Act.

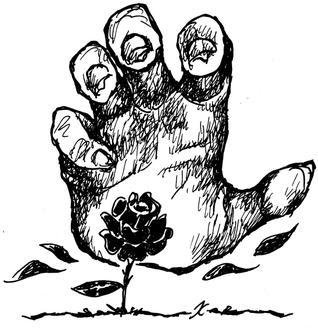
1. [SCR summary-Protection of Children from Sexual Offences Bill](http://nlrd.org/wp-content/uploads/2012/05/SCR-summary-Protection-of-Children-from-Sexual-Offences-Bill-.pdf)
2. [SCR Protection of Children from Sexual Offences Bill 2011](http://nlrd.org/wp-content/uploads/2012/05/SCR-Protection-of-Children-from-Sexual-Offences-Bill-2011.pdf)
3. [Children  sexual offences](http://nlrd.org/wp-content/uploads/2012/05/children-against-sexual-offences.pdf)
4. [Bill Summary – The Protection of children from sexual harassment Bill, 2011](http://nlrd.org/wp-content/uploads/2012/05/Bill-Summary-The-Protection-of-children-from-sexual-harassment-Bill-2011.pdf)

### Like this:

Tagged with: [Aggravated Sexual Assault](https://indialawyers.wordpress.com/tag/aggravated-sexual-assault/), [Assault](https://indialawyers.wordpress.com/tag/assault/), [Rajya Sabha](https://indialawyers.wordpress.com/tag/rajya-sabha/), [SEXUAL ASSAULT](https://indialawyers.wordpress.com/tag/sexual-assault/), [Sexual Offences Act](https://indialawyers.wordpress.com/tag/sexual-offences-act/), [Special Court](https://indialawyers.wordpress.com/tag/special-court/), [Sydney](https://indialawyers.wordpress.com/tag/sydney/), [Violence and Abuse](https://indialawyers.wordpress.com/tag/violence-and-abuse/)

## [Dignity is her birthright](https://indialawyers.wordpress.com/2012/03/24/dignity-is-her-birthright/)

Posted in [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [COMPENSATION](https://indialawyers.wordpress.com/category/compensation/), [CRIME AGAINST WOMEN](https://indialawyers.wordpress.com/category/crime-against-women/),[VIOLENCE AGAINST WOMEN](https://indialawyers.wordpress.com/category/violence-against-women/) by NNLRJ INDIA on March 24, 2012

[](https://indialawyers.files.wordpress.com/2012/03/24th_edpagegraphic_1016783e.jpg)

Dignity is her birthright

**JUSTICE PRABHA SRIDEVAN**[**IN THE HINDU**](http://www.thehindu.com/opinion/lead/article3207094.ece)

***The state should not forget the human rights perspective while dealing with a victim of***[***sexual violence***](http://en.wikipedia.org/wiki/Sexual_violence)***. It should not doubly, trebly victimise her.***

Women do not walk in a state of perpetual consent. But women do seem to labour under a delusion that it is safe for them to walk in public spaces, to travel in buses and trains. It obviously is not. They can be raped. It is difficult to understand rape. [Rape](http://en.wikipedia.org/wiki/Rape) is not about chastity or virginity. Long before these concepts were constructed, long before the institution of marriage was founded, a man raped a woman whenever he broke her sexual autonomy without her saying “yes.” It is a violation of her right to equality and her right to live with dignity which “We” promised ourselves when we gave to ourselves the Constitution. Surely women are included in the “We” of the Preamble, aren’t they?

Rape is the destruction of dignity through invasion of another person’s body without her consent. I use the word “her”, though the victim of this violence can be a child, a woman or a man. The anatomy of rape is common to all. But I will continue to use the pronoun “her”, since the majority of victims of sexual violence are female. Rape is a deliberate negation of the right over one’s body.

This right is born with us. It does not require a development of maturity or the consciousness of one’s body to acquire the right. So a girl child who is raped when she is 11 months old does not suffer less, nor is the crime less dark and bloody because the child does not know that she has the right not to be invaded. The consent that is required to make the [sexual act](http://en.wikipedia.org/wiki/Human_sexual_activity) not a rape must be understood as an active assent to the act. The consent cannot be presumed merely because a woman does not say “no”. She might not have said “no” because she was paralysed by fear, manacled by coercion or pounded by force. She might not have said no, because she was mentally damaged, incapable of making a decision in this regard; she might have been an infant, or disabled from moving because of [physical incapacity](http://www.metlife.com/individual/insurance/disability-insurance/individual-disability-income-insurance.html#howmuch). Yet it is rape. Only it is blacker if there is such a colour. It is the invasion of a woman who cannot say no.

**Act of subjugation**

It strips the victim of her dignity, it is intended to. It is an exertion of power, an act of subjugation, a statement that divests the victim of her right of control over herself and renders her an object. It is meant to objectify her. The dilution of the horror, by using words like “he lost control” is unjustified and is an insult to a woman. The violator does not lose control, but exerts control through the act of unspeakable violence.

In the Prosecutor v.[*Jean Paul Akayesu*](http://en.wikipedia.org/wiki/Jean-Paul_Akayesu), the International Tribunal held that rape is a form of aggression, the central elements of which cannot be captured in a mechanical description of objects and body parts. It noted “the cultural sensitivities involved in public discussion of intimate matters and recalled the painful reluctance and inability of witnesses to disclose graphic anatomical details of the sexual violence they endured.” It was intended to reconstitute the law’s perception of women’s experience of sexual violence.

In a sensitisation programme for judicial officers, an exercise was given which would give a clue to the rape complainant’s feelings in court. All judicial officers were asked to close their eyes and imagine the experience of their first union with their loved one. Then they were asked to narrate it to the colleague sitting on their right. They were horrified at this intrusion of their privacy. Then the trainers asked them: “If you cannot narrate a pleasant sexual experience to a friend without inhibition, how do you expect a frightened woman in a strange court hall to narrate fluently, in the presence of a battery of hostile lawyers, her devastating experience of sexual violence?” The officers had no answer.

But what is the reality? She is broken by having to repeat the incidence of rape again and again. “Madam, what was he wearing at the time of the occurrence? Did his tee shirt have a collar or no?” Oh yes, she can surely recall in vivid freeze-frames of “the occurrence.” And who will save her if she falters just once in the witness box? “See your Honour, the accused was wearing a blue striped chaddy, but she says red … totally unreliable,[Your Honour](http://en.wikipedia.org/wiki/Judge).” The Supreme Court has given strict guidelines on how her evidence should be weighed, and how her complaint should be assessed.

But a poor child who does not know an Ambassador from a Fiat was disbelieved by the trial court, until [the Supreme Court](http://en.wikipedia.org/wiki/Supreme_court) came down with all its majesty to the rescue of the child and noted that the [prosecutrix](http://en.wikipedia.org/wiki/Prosecutor) was a village girl studying in class 10 and her ignorance of the car brand, was irrelevant (State of Punjab v[*Gurmit Singh*](http://en.wikipedia.org/wiki/Gurmit_Singh) 1996 (2) SCC 384.)

**‘Distinct concepts’**

In the [Amnesty International](http://www.amnesty.org/) publication, “Rape and sexual violence — human rights law and standards in international courts,” we read how the human rights perspective must never be forgotten while dealing with sexual violence.

Sexual autonomy cannot be understood outside the umbrella of human rights. Its violation must be criminalised. The report says, “Unfortunately, however, sexual autonomy is frequently conflated with narrow views of ‘consent’ under domestic criminal law which do not capture the reality of how acts of rape and sexual violence are committed … Sexual autonomy and consent are two distinct concepts. The concept of ‘consent’ as used in domestic criminal law imports a notion of individual choice, typically without a consideration of the reality of abuse of power (whether evidenced through physical force, or other forms of coercion) and other factual conditions that may prevail before, during and perhaps after the sexual acts in question. A consideration of whether an individual was able to exercise sexual autonomy, by contrast, takes into account the overall dynamic and environment surrounding those sexual acts and how these had an impact on the victim’s ability to make a genuine choice.”

A woman who is raped goes through a variety of feelings like denial, self-hate, grief, degradation, suicidal impulse and more. She falters in her narration, oh yes, she does, but not because she is a liar, but because the act of rape not only inflicts physical harm but also incalculable emotional and psychological harm. Chemical changes take place in her brain because of the trauma. She may go into a fantasy that someone will rescue her from this nightmare. Post-rape, she lives in a smoke world of truth and untruth, denial and depression, nothing is the same any more. She is screaming on the inside “please, please put the clock back.” This is just a short, incomplete statement of what is happening on the inside.

What is happening on the outside? The whole family is devastated, it even looks at her as if she somehow brought it on herself. “Why did you go there?,” “I told you not to wear that” and so on. So the woman wonders if the first enemy is the family. It is not in every case that the woman actually lodges a complaint, because she and her family know what will follow the complaint is worse. It is hell. It is not necessary to give the details of the experience on the way to the police station and inside the precincts thereof. The world looks at her as if she carries a stain on her all the time. She may never be allowed to forget the occurrence. So will a woman lie that she was raped?

The Amnesty International report reminds us that women and girls are not “likely to make false accusations of rape and sexual violence. This is a particularly irrational stereotype as women and girl complainants usually have very little to gain and everything to lose by making allegations of rape, there is rarely an incentive for them to lie; many complainants pursue their search for truth and justice at enormous cost to themselves, in terms of stigma and rejection by their families and communities.”

In this harsh reality, society and especially the state and courts must remember that they shall not doubly and trebly victimise her, nor raise a cacophony of distrust. It will only silence the voices against this horror.

**(The writer is a former judge of the Madras High Court and Chairman of the Intellectual Property Appellate Board.)**

SOURCE:[Dignity is her birthright](http://www.thehindu.com/opinion/lead/article3207094.ece)

### Like this:

Tagged with: [Amnesty International](https://indialawyers.wordpress.com/tag/amnesty-international/), [Crime](https://indialawyers.wordpress.com/tag/crime/), [Gurmit Singh](https://indialawyers.wordpress.com/tag/gurmit-singh/), [Jean Paul Akayesu](https://indialawyers.wordpress.com/tag/jean-paul-akayesu/), [RAPE](https://indialawyers.wordpress.com/tag/rape/), [SEXUAL ASSAULT](https://indialawyers.wordpress.com/tag/sexual-assault/), [Sexual violence](https://indialawyers.wordpress.com/tag/sexual-violence/), [SUPREME COURT](https://indialawyers.wordpress.com/tag/supreme-court/)

## [Panel clears Bill to save kids from sex crimes](https://indialawyers.wordpress.com/2011/12/22/panel-clears-bill-to-save-kids-from-sex-crimes/)

Posted in [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [CHILD RIGHTS](https://indialawyers.wordpress.com/category/child-rights/), [INCEST](https://indialawyers.wordpress.com/category/incest/), [RIGHT TO LIFE](https://indialawyers.wordpress.com/category/right-to-life/), [SEXUAL OFFENCES](https://indialawyers.wordpress.com/category/sexual-offences/), [VICTIMS](https://indialawyers.wordpress.com/category/victims/) by NNLRJ INDIA on December 22, 2011

THE TRIBUNE / New Delhi, December 21

The landmark law on protection of children from sexual assault and pornography crossed the first big hurdle today as the Parliamentary committee reviewing its provisions cleared the Bill with one major rider. The committee rejected the government’s proposal to treat 16 years as the age of consent and not classify as an offence consensual sexual acts with children aged 16 to 18 years.

Though the Ministry of Child Development, piloting the law, argued for the age of consent saying sexual awareness of children couldn’t be overlooked, the committee said once the law had defined everyone up to 18 years as children, the element of consent should be treated as irrelevant. The ministry’s contention that not having the element of consent would lead to criminalisation of consensual action by 16 to 18-year olds didn’t go down well with the committee which said in its report to the Parliament today, “By having the element of consent, the focus will be on the victim, leading to his or her re-victimisation. Children can’t be exposed to lengthy cross examinations on issues of consent.”

The committee has further asked the government to cover religious institutions like muths, madrasas and monasteries under the law. It accordingly sought amendment to the clause – “Whoever being on the management or staff of an educational institution commits penetrative sexual assault on a child in that institution…would be punished” – to include religious institutions where young boys go to study. The law also covers households, hospitals, schools and juvenile homes.

The parliamentary panel has, however, sought the word “shared household” defined as “a household where the person charged with the offence lives or has at any stage lived in a domestic relationship with the child”. The existing definition is a bit limiting. This clause will protect children from family and is historic considering the 2007 government study which revealed that 53 per cent children had suffered sexual abuse and half of these were at the hands of persons in the position of trust.

The Protection of Children from Sexual Offences Bill 2011 (introduced in the Rajya Sabha on March 23 and referred to the committee) further allows children and anyone from the public to report the offence and its apprehension to the local police or special juvenile police unit. It covers sexual offences against children at the time of communal violence and provides for special courts to deliver justice in a child-friendly environment.

Its landmark features are – definition of sexual assault for the clarity of victims and law enforcers and the presumption that those who committed the offence are accused unless proved otherwise. Though the law has safeguards to prevent false complaints, it ensures that cases don’t fall through for want of evidence which is difficult to collect.

With this law, India seeks to fulfil its commitment to the UN Convention for Rights of the Child that it ratified in December 1992. The law is path-breaking considering 24 per cent rapes in India involve children (11 per cent of these involve those under 14 years). Government data further shows that conviction in rapes fell from 38.7 per cent in 2001 to 30 per cent in 2009; in matters where minors were procured for prostitution, conviction rate fell sharply from 39.1 per cent to 18.9 per cent over the same period.

**A STEP FORWARD**

Parliamentary Committee rejects government proposal to treat 16 years as the age of consent and not classify as an offence consensual sexual acts with children aged 16 to 18 years

[**http://www.tribuneindia.com/2011/20111222/main5.htm**](http://www.tribuneindia.com/2011/20111222/main5.htm)

### [Protection of Children from Sexual Offences Bill,2011](https://indialawyers.files.wordpress.com/2011/12/protectionbill.pdf)

### Like this:

## [Police/SJPU – how they can choose to be an adversary or a friend of Children in Need of Care & Protection and Juvenile in Conflict with Law](https://indialawyers.wordpress.com/2011/08/04/policesjpu-how-they-can-choose-to-be-an-adversary-or-a-friend-of-children-in-need-of-care-protection-and-juvenile-in-conflict-with-law/)

Posted in [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [CHILD RIGHTS](https://indialawyers.wordpress.com/category/child-rights/), [CRIMINAL JUSTICE SYSTEM](https://indialawyers.wordpress.com/category/criminal-justice-system/),[FUNDAMENTAL RIGHTS](https://indialawyers.wordpress.com/category/fundamental-rights/), [JUVENILE JUSTICE](https://indialawyers.wordpress.com/category/juvenile-justice/) by NNLRJ INDIA on August 4, 2011

[](https://indialawyers.files.wordpress.com/2011/08/juvenile-unit.png)

Delhi Police Juvenile Unit

**SUMAN NALWA , ADDL DCP / SPUWC -DELHI POLICE**

For any social and reformative legislation to be successful, it requires not just the good law but dedicated and motivated functionaries of the [criminal justice system](http://en.wikipedia.org/wiki/Criminal_justice) as well as the administrative wings of the govt in addition to responsive and responsible society. In the absence of these prerequisite, the law is but just a piece of paper and can never hope to make the impact it was intended to make.

The same stands true for our [Juvenile Justice system](http://en.wikipedia.org/wiki/Juvenile_delinquency) as well. **the object of** juvenile justice system is prevention (ensuring that children do not come in conflict with the law), diversion (that children are kept away from formal criminal justice system and into community based and restorative processes to prevent repeat delinquency), protection ( of CICL from [human rights violations](http://en.wikipedia.org/wiki/Human_rights) and the children from exploitation and abuse). **the mission being to**not to simply punish the violators but to help the young violators of law to get back in the society on the right path. The focus being to look into the complexity of the life situation of the child and thus offering commensurate rehab program in the [best interest of the child](http://en.wikipedia.org/wiki/Best_interests). Further, in case of [CNCP](http://en.wikipedia.org/wiki/CNCP_Telecommunications), to reach out to them and ensure their proper care and rehabilitation. Thus ensuring aftercare and reintegration of all the children who have been left out, back into the society.

Considering these objectives, it was felt that the existing machinery was not in sync with the need of the children and that it requires a separate juvenile justice system which will cater to the specific needs of the children through a sensitive police, informal and flexible judiciary ready to intervene in the best interest of the child and institutions who are well equipped to design and implement the individual rehab and reintegration programs.

At the police level, a separate system of Juvenile Welfare Officers at the[Police Station](http://en.wikipedia.org/wiki/Police_station) level, Special Juvenile Police Units at the District levels and State Nodal Unit at the state level were set up to upgrade the treatment meted out to the children at the hands of police to a more humane and sensitive approach. The [Child Welfare](http://en.wikipedia.org/wiki/Child_protection) Committees and Juvenile Justice Boards were also set up to look into the best interest of the child. However it has to be understood that the [Juvenile Justice Act](http://en.wikipedia.org/wiki/Juvenile_Justice_Act) is a social legislation, aimed at changing the way our children get treated in the society and the system, and just putting the administrative structure alone is not enough to reach the goals set up by the JJ Legislation, it requires corresponding change in behavior as well as mindset at all levels to make a real impact in the life of a child.

From the police perspective, the JJ act lays down the groundwork of what police is expected to do or work in a given set of  circumstance relating to children who are in need of care and protection as well as those in conflict of law, that they are specially instructed and trained and have an aptitude to handle the children. The rules go further and extols the police agency to be proactive. the rules bring out the proactive approach by making SJPUs the watch dog for providing legal protection against all kinds of cruelty, abuse and exploitation of child or juvenile and to take serious cognizance of adult perpetrators of crimes against children in addition to other duties mentioned thereof.

**Role of police under the JJ Act**

Police plays a substantial role in the juvenile justice system be it vis a vis the child in need of care and protection (CNCP) or the child in conflict with law (CICL). How it plays this role i.e., by taking the child along , in his best interest or considering him as any [regular criminal](http://en.wikipedia.org/wiki/Crime) or a victim depends on their level of sensitivity and commitment. In almost all the cases of CNCP as well as CICL, the police are usually the first point of contact with the child. This is indeed an important role as it means that the police officer, invariably the first contact point, now determines whether the child becomes the part of the juvenile justice system to begin with or not. And what kind of intervention the officer is going to make in the situation vis a vis the child often determines the future of this child.

The jj act and the modal rules lays specific duties for the police especially SJPUs vis a vis children such as to upgrade the police treatment of all juveniles and the children (Section 63), to coordinate and function as a watch dog for providing legal protection against all kinds of cruelty, abuse and exploitation of child or juvenile (rule 84(5)), to take serious cognizance of adult perpetrators of crimes against children and to see to it that they are without delay apprehended and booked under the appropriate provisions of the law (rule 84(6)), identifying CICL and CNCP in association with civil society(rule 84(7)) to name the few.

**Child in Need of**[**Care**](http://en.wikipedia.org/wiki/Foster_care)**and Prptection**: The specific role of police in how to address the situation when a child victim comes within their jurisdiction, is laid down in CrPC as well as JJ Act. This is more the procedural part which at best is but a skeletal and has to be augmented by the right attitude and inclination to do whatever is required in the best interest of the child. The police however, has historically and from the nature if its work profile is more inclined towards law and order and has more of crime criminal orientation. The change from crime and criminal orientation to victim orientation needs loads of efforts, interest and dedication in addition to a sensitized and dedicated police force. Whether it’s a case of physical, emotional or sexual abuse of the child, whether the child has been exploited for his work, whether the child is a [street child](http://en.wikipedia.org/wiki/Street_children) with nowhere to go, a beggar, whether this child who is in need of care and protection of the law comes within the purview of law requires a sensitive citizen who is ready to intervene as well as a sensitive police force which is duty bound to take such children within its cudgels so that the JJ system becomes operational . These children invariably cannot stand up for themselves and need all the support possible to access to the services available to them under the law. The children being children are afraid of the formal system be it the police which goes to rescue them or the judicial system and the children homes where they are taken. At that point a soft and sensitive approach wherein the child can trust and find a friend and a guide in police will definitely mean a new life for the child and give him courage to break out of the shackles and rise towards a better destiny in addition to helping the police to nail the culprits.

There have been instances where in the children were so afraid of police with stories as well as image of police brutality that it often took lot of time to allay their fears and establish a congenial rapport with them, remove that hostility and build a confidence that police is acting in their best interest.

**Child in Conflict with Law**

First of all it has to be realized that any interaction with a juvenile delinquent is an opportunity to prevent him from committing the crime again. This missed opportunity often leads to juveniles downslide into involvement in repeated, serious and often violent crimes.

The jj act gives lot of discretion to police while dealing with children. The very concept of giving the discretion is so that the police person can act responsibly in the best interest of the child. As stated earlier, the police at the first point of contact with CICL and decides whether the child will be a part of criminal justice system at all or not. Thus the most important decisions in law enforcement are made by the police officers. At this point of contact is required the most balanced and appropriate response.

Under the JJ Act there are three categories of juvenile offenders, firstly those involved in petty offences where in the police officer has been given the discretion to sort the matter at the PS itself without resorting to any procedural requirements. The second category is of juveniles involved in non serious offences i.e. those entailing punishment of less than 7 years under the IPC. In this category the police officer can apprehend the juvenile only when it is in his best interest and then also can state that the child be treated as CNCP rather than the one in conflict with law. In serious offences wherein the punishment is more than 7 years, the police officer again has discretion on how he wants to treat the child.  Thus the discretion comes with a responsibility to see to it that the police child encounter results in a positive intervention.

What is required to fulfill the objectives of JJ Act is sensitive, proactive and dedicated policing wherein the theory can be converted into practice because on the police interaction lies the outcome of a situation as well as the future of the child. Now the question that arises is how to make the force proactive? what are the kind of officers who are becoming JWOs? what is there orientation and interest? what are the perks and resources available with the commensurate challenges in handling  juveniles?

Till these questions are dealt with, we have to make do with getting the job done through administrative directions and strict supervision. Thus we need to develop code of conduct for police personal in the lines of SOPs while dealing with children in different situations. Next step is involving the society at large. We need to rope in NGOs, other public spirited individuals, RWAs and other institutions like state legal service authorities which not only help the police agencies but also act as checks through their feedback mechanisms.

In Delhi Police, the SJPUs were created in each and every district. To bring about attitudinal and behavioral changes, training and sensitization programs were conducted for police officers at two level i.e., the police station level for all the functionaries at all level who are working in the field and at State level for all the JWOs of the Police stations. The idea was to have a sensitized police force at all levels including the field staff that invariably were the first point of contact with the child. The unique part of the police station sensitization programs is that it is being done by the NGOs working in the field of child rights. The NGOs resource persons visit the police stations regularly and interact with the police staff at all levels thus bringing in an outsiders perspective on how Delhi police is responding to children issues.

In addition to this we have an excellent networking with governmental as well as nongovernmental organizations working on child rights. It is a kind of symbiotic relationship wherein both are working for a common goal in an atmosphere of trust, support and mutual respect.  The end result is that NGOs and other organizations now work hand in hand with police in the best interest of the child.

**PROBLEMS FACED BY POLICE in performing their duties vis a vis children**

One of the major problem faced is that there is still no separate exclusive JWO or SJPU in the distt. Role conflict and lack of time as well as lack of logistic support affect the expectations from the police as the time and patience required to deal with the child is seldom there. Some of the other problems faced are

1. the need for specialized training for appropriate handling of children
2. the role conflict experienced by the police officer in solving a crime and helping the child.
3. low community participation in addressing juvenile delinquency.
4. poor police image and perception makes it difficult to establish a rapport with the child and to work within the community with mutual trust and goals.
5. police has very little intervention or say when it comes to the orders for release or incarcerations  given by the JJBs. police rarely has any role in the after release processes that too when rules state that juvenile delinquency prevention is also one of the role of the JWO. Infect some of the orders of JJB have criticized the police officer from visiting the juvenile offender.
6. the important point is that the positive efforts of the police do not get reflected in their output as it is measured more on crime and law and order data thus the stakes or value additions for taking on this additional work is not there in our tangible goal oriented organization as well as society.

**Need of the hour** is to deal with juvenile delinquency and cncp in a holistic manner, addressing at risk families so that preventive strategy can be put in place. At present there are not enough institutions and programs to help the delinquents to re-integrate in society and lead the life without crime. At times the trust that they can indeed successfully do so is also missing. Recently prayas has taken up this initiative and have started a program “yuva connect” in this regard.

Police actions have to be accompanied by actions from other institutions. Police has a limited role and cannot make any promises vis a vis resources, professional counseling and reintegration and on its own has nothing much to offer. What is required is a holistic interdepartmental approach in dealing with the delinquent and preventing them in future. In the absence of any concrete and effective rehab program and liberal courts and the fact that the repeat offenders are ever increasing, forming gangs, becoming hardened and getting involved in heinous crimes, there is chronic frustration in the police and thus the whole JJ system appears to be more symbolic than actually addressing the issue of juvenile delinquency.

Also we need to inculcate responsibility in the juvenile for his acts and omissions, the intervention of JWO should be encouraged to ensure that juveniles do not return to crime. The community service should be encouraged for reparation of their wrongs and last but not the least there is a need to develop competencies to develop the delinquents as productive citizens.

[**http://dpjju.com/index.php?option=com\_content&view=article&id=374:p&catid=25:the-project**](http://dpjju.com/index.php?option=com_content&view=article&id=374:p&catid=25:the-project)

Paper delivered by Ms. Suman Nalwa,*Addl.DCP/SPUW&C*, Nanak Pura, New Delhi to National Seminar on Access to Justice-What it means to a child on 9th& 10thJuly, 2011 at Hall No. 6, Vigyan Bhawan, New Delhi

###### **Related articles**

* [National Leader in Juvenile Justice Poised to Release New Report](http://www.prweb.com/releases/juvenile_justice/disparities_reform/prweb3252764.htm)([prweb.com](https://prweb.com/))
* [Govt passes order to rein in errant agencies](http://shaktivahini.wordpress.com/2011/05/21/govt-passes-order-to-rein-in-errant-agencies/)(shaktivahini.wordpress.com)
* [Child rescued, but not rehabilitated](http://shaktivahini.wordpress.com/2011/05/19/child-rescued-but-not-rehabilitated/) (shaktivahini.wordpress.com)
* [23 kids rescued, 5 held for abduction](http://shaktivahini.wordpress.com/2011/05/12/23-kids-rescued-5-held-for-abduction/) (shaktivahini.wordpress.com)
* [Juvenile Justice Leader Releases Interactive U.S. Data Map Revealing Racial Disparities by State](http://www.prweb.com/releases/2010/03/prweb3676344.htm) ([prweb.com](https://prweb.com/))
* [The state of America’s children](http://seattletimes.nwsource.com/html/jerrylarge/2015719505_jdl25.html?syndication=rss) (seattletimes.nwsource.com)
* [“Should A Juvenile Ever Be Sentenced To Life Without Parole?” and related posts](http://blog.lawinfo.com/2011/05/21/should-a-juvenile-ever-be-sentenced-to-life-without-parole/) (lawinfo.com)

### Like this:

Tagged with: [CHILD PROTECTION](https://indialawyers.wordpress.com/tag/child-protection/), [Crime](https://indialawyers.wordpress.com/tag/crime/), [Criminal justice](https://indialawyers.wordpress.com/tag/criminal-justice/), [Department of Police Delhi](https://indialawyers.wordpress.com/tag/department-of-police-delhi/), [Foster care](https://indialawyers.wordpress.com/tag/foster-care/), [Juvenile delinquency](https://indialawyers.wordpress.com/tag/juvenile-delinquency/), [Juvenile Justice Act](https://indialawyers.wordpress.com/tag/juvenile-justice-act/), [Law](https://indialawyers.wordpress.com/tag/law/),[Non-governmental organization](https://indialawyers.wordpress.com/tag/non-governmental-organization/), [Police Station](https://indialawyers.wordpress.com/tag/police-station/), [United States](https://indialawyers.wordpress.com/tag/united-states/)

## [‘Jurisdiction of Indian courts not barred in child custody cases’](https://indialawyers.wordpress.com/2011/05/18/%E2%80%98jurisdiction-of-indian-courts-not-barred-in-child-custody-cases/)

Posted in [ADOPTION](https://indialawyers.wordpress.com/category/adoption/), [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [CHILD RIGHTS](https://indialawyers.wordpress.com/category/child-rights/), [JUSTICE](https://indialawyers.wordpress.com/category/justice/), [JUVENILE JUSTICE](https://indialawyers.wordpress.com/category/juvenile-justice/) by NNLRJ INDIA on May 18, 2011

**J VENKATESAN IN THE HINDU**

[The Supreme Court](http://en.wikipedia.org/wiki/Supreme_court) has held that [jurisdiction](http://en.wikipedia.org/wiki/Jurisdiction) of Indian courts is not barred while dealing with a case of custody of a child removed by a parent from a foreign country to India in contravention of the orders of the court where the parties had set up their matrimonial home.

Giving this ruling, a Bench of Justices V.S. Sirpurkar and T.S. Thakur said: “Interest and welfare of the minor being paramount, a competent court in this country is entitled and indeed duty-bound to examine the matter independently, taking the foreign judgment, if any, only as an input for its final adjudication.”

Writing the judgment, Justice Thakur said: “Recognition of decrees and orders passed by foreign courts remains an eternal dilemma in as much as whenever called upon to do so. Courts in this country are bound to determine the validity of such decrees and orders keeping in view the provisions of Section 13 of the Cr.PC 1908 as amended by the Amendment Act of 1999 and 2002.”

The Bench said: “The duty of a Court exercising its Parens Patraiejurisdiction, as in cases involving custody of minor children, is all the more onerous. Welfare of the minor in such cases being the paramount consideration, the court has to approach the issue regarding the validity and enforcement of a foreign decree or order carefully. Simply because a foreign court has taken a particular view on any aspect concerning the welfare of the minor is not enough for the courts in this country to shut out an independent consideration of the matter.”

The Bench said: “[Conflict of laws](http://en.wikipedia.org/wiki/Conflict_of_laws) and jurisdictions in the realm of private international law is a phenomenon that has assumed greater dimensions with the spread of [Indian diaspora](http://en.wikipedia.org/wiki/Non-resident_Indian_and_Person_of_Indian_Origin) across the globe. While intellectual content and technical skills of these youngster find them lucrative jobs in distant lands, complete assimilation with the culture, the ways of life and the social values prevalent in such countries do not come easy.”

It further said: “Experience has also shown that in a large number of cases one of the parties may return to the country of his or her origin for family support, shelter and stability. Unresolved disputes in such situations lead to legal proceedings in the country of origin as well as in the adoptive country. Once that happens, issues touching the jurisdiction of the courts examining the same as also comity of nations are thrown up for adjudication. The present happens to be one such case where legal proceedings have engaged the parties in a bitter battle for the custody of their only child, Kush, aged about 11 years, born in America, hence a citizen of that country by birth.”

In this case, the appellant, Ruchi Majoor, mother of the child, returned to India from the U.S. and obtained interim custody of the child from a trial court in Delhi.

On an appeal from the child’s father, Sanjev Majorr, the [Delhi High Court](http://maps.google.com/maps?ll=28.608953,77.236199&spn=0.01,0.01&q=28.608953,77.236199%20%28Delhi%20High%20Court%29&t=h)set aside the order, holding that Indian courts had no jurisdiction to decide the issue since the father had already obtained an order from a U.S. court for the custody of the child.

The present appeal by the mother is directed against that order.

The Supreme Court disposed of the appeal while entrusting the child’s custody with the mother, but allowing visitation rights to the father.

Kumar V. Jahgirdhar, president of Children’s Rights Initiative for [Shared Parenting](http://en.wikipedia.org/wiki/Shared_parenting) (CRISP), a Bangalore-based [NGO](http://en.wikipedia.org/wiki/Non-governmental_organization), reacting to the judgment, said: “In cases relating to international child abduction, the left behind parents, mostly fathers, are deprived of the [child custody](http://en.wikipedia.org/wiki/Child_custody). The only solution for preventing this crime is India should immediately sign the Hague Convention on International [Child Abduction](http://en.wikipedia.org/wiki/Child_abduction).”

<http://www.thehindu.com/news/national/article2026703.ece>

###### **Related articles**

* [Hindu marriages: HC ruling upsets settled law](https://indialawyers.wordpress.com/2011/04/10/hindu-marriages-hc-ruling-upsets-settled-law/)(indialawyers.wordpress.com)
* [A Challenge to Doing Gender Justice by Violence](http://shaktivahini.wordpress.com/2011/05/17/a-challenge-to-doing-gender-justice-by-violence/)(shaktivahini.wordpress.com)

### Like this:

Tagged with: [Child abduction](https://indialawyers.wordpress.com/tag/child-abduction/), [Child custody](https://indialawyers.wordpress.com/tag/child-custody/), [DELHI HIGH COURT](https://indialawyers.wordpress.com/tag/delhi-high-court/), [INDIA](https://indialawyers.wordpress.com/tag/india/),[Non-resident Indian and Person of Indian Origin](https://indialawyers.wordpress.com/tag/non-resident-indian-and-person-of-indian-origin/), [SUPREME COURT](https://indialawyers.wordpress.com/tag/supreme-court/),[Tennessee](https://indialawyers.wordpress.com/tag/tennessee/), [United States](https://indialawyers.wordpress.com/tag/united-states/)

## [Pro-poor judicial initiatives: now for a media push](https://indialawyers.wordpress.com/2011/04/25/pro-poor-judicial-initiatives-now-for-a-media-push/)

Posted in [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [CHILD RIGHTS](https://indialawyers.wordpress.com/category/child-rights/), [CONSTITUTION](https://indialawyers.wordpress.com/category/constitution/), [CRIME AGAINST WOMEN](https://indialawyers.wordpress.com/category/crime-against-women/), [FUNDAMENTAL RIGHTS](https://indialawyers.wordpress.com/category/fundamental-rights/), [JUDICIARY](https://indialawyers.wordpress.com/category/judiciary/), [JUSTICE](https://indialawyers.wordpress.com/category/justice/), [RIGHT TO LIFE](https://indialawyers.wordpress.com/category/right-to-life/),[SUPREME COURT](https://indialawyers.wordpress.com/category/supreme-court/), [TRAFFICKING](https://indialawyers.wordpress.com/category/trafficking/), [VICTIM COMPENSATION](https://indialawyers.wordpress.com/category/victim-compensation/) by NNLRJ INDIA on April 25, 2011

[](https://indialawyers.files.wordpress.com/2009/08/sc_2256e.jpg)

Supreme Court of India

**THE HINDU / NEW DELHI**

Three pronouncements made on three consecutive days this month by the[Supreme Court of India](http://maps.google.com/maps?ll=28.622237,77.239584&spn=0.01,0.01&q=28.622237,77.239584%20%28Supreme%20Court%20of%20India%29&t=h) have brought relief to different groups of economically and socially deprived people. The beneficiaries include children sold out by poor parents to work in circuses as child labour; young men and women determined to get married crossing caste barriers and harassed for that very reason by ‘khap panchayats’; and the hungry poor across the country denied their right to food, even as thousands of tonnes of food grains rot in government godowns.

Interestingly, the media, by and large, have been playing a proactive role in bringing the issues on to the public agenda. Daily newspapers and magazines have published several articles about hundreds of children, mostly girls, who were brought to India from neighbouring countries, especially Nepal and Bangladesh, to work in circus companies that have proliferated across the country. The living conditions were inhuman, resembling slavery. Thanks to some dedicated [NGOs](http://en.wikipedia.org/wiki/Non-governmental_organization) working in India and Nepal, the [Indian media](http://en.wikipedia.org/wiki/Media_of_India) have exposed the trafficking in girls, who end up being exploited and sexually abused by circus owners and their men. This is the pathetic life of girls bought for paltry sums of money from poor parents not only from adjacent countries but also from Indian States such as Uttar Pradesh and Bihar. This is the price these hapless children and their families pay to keep our children laughing. BBC News and international news agencies have also reported on the girls’ sufferings, while performing high-risk high-wire programmes.

Two decades ago, the hundreds of circus companies were in deep trouble owing to a gradual decline in public patronage. They sought State help to keep them going and save their performers and the emaciated animals that trek with them from camp to camp. The emergence of a large middle class with real purchasing power restored the economic health of the circuses, which have become one of the favourite entertainers for middle class children.

**A rights-based judgment**

In a rights-based judgment delivered on April 18, the Supreme Court banned the employment of children in circus companies. The court directed the [Central government](http://en.wikipedia.org/wiki/Government_of_India) to take immediate steps to rescue the suffering circus workers and arrange for their rehabilitation. Passing orders on a petition filed by the Bachpan Bachao Andolan, an organisation working for children, a Division Bench comprising Justice Dalveer Bhandari and Justice A.K. Patnaik directed the central government to issue suitable notifications prohibiting employment of children in circuses within two months, in order to implement the fundamental right of children under Article 21-A of the Constitution, which guarantees the right to “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.” The Bench asked the government to raid all circuses and liberate children and check violation of their fundamental rights.

Another Supreme Court judgment delivered on April 19 was highly critical of the caste system and declared ‘khap panchayats” illegal. They were instrumental, the court observed, in encouraging honour killings and indulged in other atrocities against boys and girls married or tried to marry from outside their castes. The Bench, comprising Justice [Markandey Katju](http://en.wikipedia.org/wiki/Markandey_Katju)and Justice [Gyan Sudha Misra](http://en.wikipedia.org/wiki/Gyan_Sudha_Misra), wanted the government to ruthlessly stamp out the barbaric practice. A significant aspect of the judgment was that it directed the administrative and police officials to take strong steps to prevent such atrocious acts as honour killing. The court also asked for departmental action against officials who failed on this score.

It may be recalled that when States such as Haryana and Rajasthan reported a series of honour killings a few months ago, the media went all out against the spread of the crimes and the failure of the State police and administration to arrest it. When the Central government floated the idea of a ban on khaps, even Chief Ministers and ex-Minister sought to scuttle the move.

**Starvation deaths**

**N**o less important is the serious concern expressed by Justices Dalveer Bhandari and [Deepak Verma](http://www.deepak-verma.com/newwoman1.htm) over the increasing number of starvation deaths in the country. They were hearing petitions relating to the streamlining of the public distribution system (PDS). The Supreme Court has once again questioned the approach of the Central government to the eradication of malnutrition and its failure to arrest starvation deaths in some areas. Justice Bhandari also questioned the [Planning Commission](http://planningcommission.nic.in/)‘s estimate that 36 per cent of the population was below the poverty line, which was inconsistent with the claim of several States, including Congress-ruled States, that the percentage was much larger. The judge wondered how the Planning Commission could fix a per capita daily income of Rs. 20 for urban areas and a per capita daily income of Rs. 11 for rural areas to determine BPL status. He also wanted the Deputy Chairman of the Planning Commission to file a detailed affidavit within a week “because the entire case rests on your figures.”

Progressive voices, including economists, scientists, and social activists, have been articulating in the media the demand for a universal PDS. When the National Advisory Committee was about to endorse it, the government ruled it out once again. At a time the Supreme Court has stepped up the pressure for a pro-people solution, a well-informed and decisive media push will certainly help.

readerseditor@*thehindu.co.in*

[**http://www.hindu.com/2011/04/25/stories/2011042552971100.htm**](http://www.hindu.com/2011/04/25/stories/2011042552971100.htm)

###### **Related Articles**

* [Halt honour killings, rules SC](http://shaktivahini.wordpress.com/2011/04/20/halt-honour-killings-rules-sc/) (shaktivahini.wordpress.com)
* [India bans child circus workers](http://r.zemanta.com/?u=http%3A//www.bbc.co.uk/go/rss/int/news/-/news/world-south-asia-13120380&a=41200266&rid=00000060-2518-000F-0000-00000000104d&e=bd69b63e84d6feb70d534f6eef4df124) (bbc.co.uk)
* [India court orders circuses to stop employing kids](http://www.sfgate.com/cgi-bin/article.cgi?f=/n/a/2011/04/18/international/i020544D17.DTL) (sfgate.com)
* [India court orders circuses to stop employing kids](http://seattletimes.nwsource.com/html/businesstechnology/2014803013_apasindiacircuschildren.html?syndication=rss)(seattletimes.nwsource.com)
* [Stamp out khap panchayats: court](https://indialawyers.wordpress.com/2011/04/20/stamp-out-khap-panchayats-court/) (indialawyers.wordpress.com)

### Like this:

Tagged with: [Deepak Verma](https://indialawyers.wordpress.com/tag/deepak-verma/), [Government](https://indialawyers.wordpress.com/tag/government/), [Gyan Sudha Misra](https://indialawyers.wordpress.com/tag/gyan-sudha-misra/), [INDIA](https://indialawyers.wordpress.com/tag/india/),[Markandey Katju](https://indialawyers.wordpress.com/tag/markandey-katju/), [Planning Commission](https://indialawyers.wordpress.com/tag/planning-commission/), [Supreme Court of India](https://indialawyers.wordpress.com/tag/supreme-court-of-india/)

## [SC reverses acquittal by High Court in the Mumbai Child Sex Abuse Case](https://indialawyers.wordpress.com/2011/03/18/sc-reverses-acquittal-by-high-court-in-the-mumbai-child-sex-abuse-case/)

Posted in [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [CHILD RIGHTS](https://indialawyers.wordpress.com/category/child-rights/), [CRIME AGAINST WOMEN](https://indialawyers.wordpress.com/category/crime-against-women/),[CRIMINAL JUSTICE SYSTEM](https://indialawyers.wordpress.com/category/criminal-justice-system/), [FUNDAMENTAL RIGHTS](https://indialawyers.wordpress.com/category/fundamental-rights/), [HUMAN RIGHTS](https://indialawyers.wordpress.com/category/human-rights/),[JUSTICE](https://indialawyers.wordpress.com/category/justice/), [JUVENILE JUSTICE](https://indialawyers.wordpress.com/category/juvenile-justice/), [TRAFFICKING](https://indialawyers.wordpress.com/category/trafficking/) by NNLRJ INDIA on March 18, 2011

[](https://indialawyers.files.wordpress.com/2009/08/sc_2256e.jpg)

Supreme Court of India

Two British men were sentenced to six years in jail in India on Friday for sodomising young boys living at a children’s shelter.Supreme Court justices P. Sathasivam and B. S. Chauhan said the men were “evil influences” on the children who had sought safety at the Anchorage Shelter Home in Mumbai in a ruling upholding a 2006 lower court verdict. [Duncan Grant](http://en.wikipedia.org/wiki/Duncan_Grant) and John [Allan Waters](http://en.wikipedia.org/wiki/Allan_Waters) were accused of sodomy and sexual assault by a 15-year-old boy who lived at the Anchorage Shelter Home in Mumbai. Other boys had made similar complaints.The shelter had been set up by Grant, a London charity worker, with money raised in Britain. Retired Royal Navy Lieutenant Commander Grant and Waters “had sex with children on multiple occasions”, the judges said.

The two men were not in India when the charges were filed in 2001.Grant, who also ran children’s charities in Tanzania, was extradited from the African nation in 2004. Waters was extradited from the United States in the same year after Interpol alerts were issued against the men. According to a 2007 national study in India, half of the 15,000 children and young adults surveyed said they had suffered some form of sexual abuse. A fifth of the child respondents said they had experienced severe sexual abuse, according to the study, conducted by Ministry of Women and Child, Government of India and backed by the United Nations.

In the year 1986, a petition was brought before the [High Court of Bombay](http://maps.google.com/maps?ll=18.9311833333,72.8304611111&spn=0.01,0.01&q=18.9311833333,72.8304611111%20%28Bombay%20High%20Court%29&t=h)complaining about the plight of children at various children homes in Maharashtra. In the same petition, the High Court appointed a Committee, namely, the [Maharashtra State](http://en.wikipedia.org/wiki/Maharashtra) Monitoring Committee on Juvenile Justice (in short “the Committee”) headed by Justice Hosbet Suresh, a retired Judge of the High Court of Bombay. This Committee received some complaints from the Child Rights Organizations like Saathi Online, Childline and CRY about the mismanagement of Anchorage Shelters, and on that basis, the Committee sought permission of the High Court to visit various Anchorage Shelters.

After visiting various Anchorage Shelters including the one at Colaba and Cuffe Parade, a report was submitted before the High Court.2(b) On the basis of the said report, specifically expressing unconfirmed report of sexual exploitation of children, on 17.10.2001, one Ms. Meher Pestonji telephoned Advocate Ms.Maharukh Adenwala and informed her that some children residing in Shelter Homes were sexually exploited by those who were running these Homes.

On receiving this information, Ms. Maharukh Adenwala met those boys, who were allegedly sexually assaulted, at the residence of Ms.MeherPestonji to ascertain the truth. After confirming the said fact, Ms. Maharukh Adenwala thought it proper to inform it to the Members of the Committee. After consulting the Committee, Ms. Maharukh Adenwala moved a suo motuCriminal Writ Petition No 585 of 1985 before the High Court.On19.10.2001, the High Court passed an order for the protection of the children at Anchorage Shelter Homes. On 21.10.2001, one Shridhar Naik telephonically contacted Ms Maharukh Adenwala and informed her that the order of the

High Court giving protection to the children was being misinterpreted by the police and, therefore, certain3 clarifications were sought from the High Court and by order dated 22.10.2001, the High Court clarified the same.

With regard to the sexual and physical abuse at the Anchorage Shelters, on 24.10.2001, [Childline India Foundation](http://en.wikipedia.org/wiki/Childline_India_Foundation) filed a complaint with the Cuffe Parade [Police Station](http://en.wikipedia.org/wiki/Police_station) and while lodging the said complaint, Ms. Maharukh Adenwala was also present there. In spite of the fact that a complaint had been lodged, the police did not take cognizance of the offence under the pretext that the matter was sub judiceand was pending before the High Court. Since the matter was not being looked into by the police, Ms. Maharukh Adenwala recorded statements of some of the victims and informed the said fact to the Members of the Committee. On 28.10.2001,Dr. (Mrs.) Kalindi Muzumdar and Dr. (Mrs.) Asha Bajpai met those victims at the office of India Centre for Human Rights and Law and endorsed that the statements previously recorded by Ms. Maharukh Adenwala were correctly recorded. After ascertaining the correctness of the statements by the Members of the Committee, the said facts were placed before the High Court and it was also submitted that the police4 authorities at Cuffe Parade Police Station were not seriously pursuing the complaint. The High Court, by order dated 07.11.2001, directed the police authorities of the State of Maharashtra to take action on the basis of the complaint lodged by the Childline India Foundation.

Based on this specific direction, Sr. Inspector of Police,Colaba Police Station was directed to investigate in detail the complaint lodged by Childline and to take such action as is required to be taken in law. On 12.11.2001, Colaba Police Station recorded the statement of one Sonu Raju Thakur and the statement of one Sunil Kadam (PW-1) was recorded by Murud police station on 13.11.2001. On 15.11.2001, police ultimately registered an offence at Colaba police station by treating the statement of Sonu Raju Thakur as formal [First Information Report](http://en.wikipedia.org/wiki/First_Information_Report) (in short ‘the FIR’) being C.R. No. 312/2001 and started investigation.

Though the offence was mainly registered against three accused barring William D’Souza, the remaining two accused, namely, Allan John Waters  and Duncan Alexander Grant had already left the country and 5 therefore, on 05.04.2002, an Interpol Red Corner Notice was issued against Allan  and Duncan. In pursuance of Red Corner Notice,Allan was arrested in [USA](http://maps.google.com/maps?ll=38.8833333333,-77.0166666667&spn=10.0,10.0&q=38.8833333333,-77.0166666667%20%28United%20States%29&t=h)and sometimes thereafter Duncan also surrendered before the Court in India. The Metropolitan Magistrate committed the case to the [Court of Session](http://www.scotcourts.gov.uk/) and after committal, it was initially assigned to the First Track Court at Sewree. All the three accused pleaded not guilty and,therefore, claimed to be tried.

The Sessions Judge, by judgment dated 18.03.2006, convicted William D’Souza for the offence punishable under Section 377 read with Section 109 IPC, Sections 120B and 323 IPC and under Section 23 of the JJ Act. Allan John Waters was convicted under Section 377 IPC, Section 120B read with Section 377 IPC and Section 373 IPC. Duncan Aleander Grant  was convicted under Section 377 IPC,Section 373 read with 109 IPC, Section 372 IPC and Section 23 of JJ Act.

Aggrieved by the said order, William filed Criminal Appeal No.681 of 2006, Duncan  and Grant filed Criminal Appeal No. 476 of 2006 before the High Court of Bombay. State Government also preferred Criminal Appeal No. 603 of 2006 before the High Court for enhancement of the sentence of the accused persons. The High Court, vide its common judgment dated 23.07.2008, set aside the order of conviction passed by the Sessions Judge and allowed the criminal appeals filed by the accused and acquitted all of them from the charges levelled against them and dismissed the appeal filed by the State Government.

Aggrieved by the order of the High Court, Childline India Foundation and Ms. Maharukh Adenwala filed Criminal Appeal Nos. 1208-1210 of 2008 and State of Maharashtra has filed Criminal Appeal No. 1205-1207 of 2008 before this Court by way of special leave petitions.

**Constitutional provisions relating to children**

Children are the greatest gift to humanity. The sexual abuse of children is one of the most heinous crimes. It is an appalling violation of their trust, an ugly breach of our commitment to protect the innocent. There are special safeguards in the Constitution that apply specifically to children. The Constitution has envisaged a happy and healthy 34childhood for children which is free from abuse and exploitation. **Article 15(3)**of the Constitution has provided the State with the power to make special provisions for women and children. **Article 21A**of the Constitution mandates that every child in India shall be entitled to free and compulsory education upto the age of 14 years. The word “life” in the context of article 21 of the Constitution has been found to include “education” and accordingly this Court has implied that “right to education” is in fact a fundamental right.

**Article 23**of the Constitution prohibits traffic in human beings, beggars and other similar forms of forced labour and exploitation. Although this article does not specifically speak of children, yet it is applied to them and is more relevant in their context because children are the most vulnerable section of the society. It is a known fact that many children are exploited because of their poverty. They are deprived of education, made to do all sorts of work injurious to their health and personality.

**Article 24**expressly provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any hazardousemployment.This Court has issued elaborate guidelines on this issue. The Directive Principles of State Policy embodied in them Constitution of India provides policy of protection of children with a self- imposing direction towards securing the health and strength of workers, particularly, to see that the children of tender age is not abused, nor they are forced by economic necessity to enter into avocations unsuited to their strength.

**Article 45**has provided that the State shall endeavor to provide early childhood care and education for all the children until they complete the age of fourteen years. This Directive Principle signifies that it is not only confined to primary education, but extends to free education whatever it may be upto the age of 14 years. Article 45 is supplementary to Article 24 on the ground that when the child is not to be employed before the age of 14 years, he is to be kept occupied in some educational institutions. It is suggested that Article 24 in turn supplements the clause (e) and (f) of Article 39, thus ensuring distributive justice to children in the matter of education. Virtually, Article 45 recognizes the importance of dignity and ersonality of the child and directs the State to provide free and compulsory education for the children upto the age of 14 years.

The **Juvenile Justice Act** was enacted to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of such matters relating to disposition of delinquent juveniles.This is being ensured by establishing observation homes,juvenile houses, juvenile homes or neglected juveniles and special homes for delinquent or neglected juveniles.

Even in the case of **Vishal Jeet**vs. **Union of India**,(1990) 3 SCC 318 this Court issued several directions to the State and Central Government for eradicating the child prostitution and for providing adequate and rehabilitative homes well manned by well qualified trained senior workers, psychiatrists and doctors.

**The above analysis shows our Constitution provides several measures to protect our children. It obligates both Central, State & Union territories to protect them from the evils, provide free and good education and make them good citizens of this country. Several legislations and directions of this Court are there to safeguard their intent. But these are to be properly implemented and monitored. We hope and trust that all the authorities concerned through various responsible NGOs implement the same for better future of these children.**

Under these circumstances, the impugned judgment of the High Court acquitting all the accused in respect of charges leveled against them is set aside and we restore the conviction and sentence passed by the trial Judge.

### Like this:

## [Integrated Child Protection Scheme (ICPS)](https://indialawyers.wordpress.com/2010/11/26/integrated-child-protection-scheme-icps/)

Posted in [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [CHILD RIGHTS](https://indialawyers.wordpress.com/category/child-rights/), [CRIMINAL JUSTICE SYSTEM](https://indialawyers.wordpress.com/category/criminal-justice-system/),[FUNDAMENTAL RIGHTS](https://indialawyers.wordpress.com/category/fundamental-rights/), [SEXUAL OFFENCES](https://indialawyers.wordpress.com/category/sexual-offences/), [VICTIM COMPENSATION](https://indialawyers.wordpress.com/category/victim-compensation/),[VICTIMS](https://indialawyers.wordpress.com/category/victims/) by NNLRJ INDIA on November 26, 2010

[](http://commons.wikipedia.org/wiki/File:Chennai_street_children.jpg)

Image via Wikipedia

Evaluation of the [child protection](http://en.wikipedia.org/wiki/Child_protection) schemes of the Ministry of Women & Child Development, including the scheme ‘An [Integrated Programme](http://en.wikipedia.org/wiki/Integrated_Programme) for Street Children’, in 2007 revealed shortcomings and gaps in these schemes and their implementation.To bridge these gaps and to provide safe and secure environment for overall development of children in difficult circumstances, the [Government of India](http://en.wikipedia.org/wiki/Government_of_India) in the [Ministry of Women and Child Development](http://en.wikipedia.org/wiki/Ministry_of_Women_and_Child_Development), has introduced a new comprehensive Centrally Sponsored Scheme, namely, Integrated Child Protection Scheme (ICPS) w.e.f. 2009-10 by merging three erstwhile schemes, including the scheme ‘An Integrated Programme for Street Children’ with additional components. This Scheme is being implemented through State Governments/ UT Administrations.

Under this Scheme, there is provision for setting up of ‘Open Shelters’ for children in need of care and protection, including the street children, in urban and semi-urban areas. The programmes and activities of these Open Shelters inter alia include age-appropriate education, access to vocational training, recreation, bridge education, linkages to the National Open School Programme (NOSP), health care, counseling etc.

There is no proposal in the Ministry of Women and Child Development to conduct a specific study to ascertain the number of street children in the country; However, ICPS provides for setting up of District Child Protection Societies by the State Governments/ UT Administrations in every district of the State. The role and responsibility of the District Child Protection Society includes identifying families and children at risk to prevent destitution of children and carrying out a situational analysis of children in difficult circumstances, including street children.

Section 62 of the Juvenile Justice (Care and [Protection of](http://en.wikipedia.org/wiki/Canadian_cultural_protectionism) Children) Act, 2000 provides that every State Government/Union Territory Administration shall constitute Child Protection Units for every district. To facilitate the States/UTs in setting up such Units, financial assistance is being provided to them on a cost sharing basis (90 per cent for North Eastern States and State of Jammu & Kashmir and 75 per cent for other States) through a Centrally Sponsored Scheme, namely Integrated Child Protection Scheme (ICPS).

As ICPS has been introduced very recently, i.e. in 2009-10, and the States have just commenced the implementation the Units are being progressively established by them. During the current year, 18 States have submitted the financial proposals for release of grants under this Scheme. Funds have already been released to 7 States. State -wise number of Units established, and funds released to them are at Annex.

ICPS provides for establishment of institutional mechanisms for monitoring the implementation of ICPS, including performance of the DCPS. Such mechanisms include District Child Protection Committees (DCPCs) at District level and State Child Protection Committee (SCPC) at State level and Central Project Support Unit (CPSU) under the Government of India in the Ministry of Women and Child Development. As the Scheme is at the initial stage of implementation, it is early to undertake the annual appraisal.

This information was given by Smt. [Krishna Tirath](http://en.wikipedia.org/wiki/Krishna_Tirath), Minister of State for Women and Child Development in a written reply to a question in the Lok Sabha today.

**YSK:PM  
(Release ID :67659)**

### Like this:

Tagged with: [CHILD PROTECTION](https://indialawyers.wordpress.com/tag/child-protection/), [Government of India](https://indialawyers.wordpress.com/tag/government-of-india/), [Krishna Tirath](https://indialawyers.wordpress.com/tag/krishna-tirath/),[Ministry of Women and Child Development](https://indialawyers.wordpress.com/tag/ministry-of-women-and-child-development/), [People](https://indialawyers.wordpress.com/tag/people/), [Street children](https://indialawyers.wordpress.com/tag/street-children/)

## [Offences against children- Bill on Protection of Children from Sexual Offences](https://indialawyers.wordpress.com/2010/11/26/offences-against-children-bill-on-protection-of-children-from-sexual-offences/)

Posted in [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [CHILD RIGHTS](https://indialawyers.wordpress.com/category/child-rights/), [FUNDAMENTAL RIGHTS](https://indialawyers.wordpress.com/category/fundamental-rights/), [HUMAN RIGHTS](https://indialawyers.wordpress.com/category/human-rights/), [RIGHT TO LIFE](https://indialawyers.wordpress.com/category/right-to-life/), [SEXUAL OFFENCES](https://indialawyers.wordpress.com/category/sexual-offences/) by NNLRJ INDIA on November 26, 2010

**26 NOVEMBER 2010**

The National Crime Records Bureau ([NCRB](http://en.wikipedia.org/wiki/National_Crime_Records_Bureau)) data shows that cases of sexual offences against children have been on the rise. From 2265 cases in 2001, the number has increased to 5749 in 2008. A Study on [Child Abuse](http://en.wikipedia.org/wiki/Child_abuse)undertaken by the [Ministry of Women and Child Development](http://en.wikipedia.org/wiki/Ministry_of_Women_and_Child_Development) in 2007: INDIA 2007, conducted in thirteen States, with a sample size of 12447 children, 2324 young adults and 2449 stakeholders has also revealed that out of 12,447 children interviewed, more than fifty-three percent reported having faced one or more forms of [sexual abuse](http://en.wikipedia.org/wiki/Sexual_abuse). Over Fifty percent abusers were persons known to the child or in a position of trust and responsibility. Major findings of the study are:

i. 53.22% children reported having faced one or more forms of sexual abuse.  
ii. Andhra Pradesh, Assam, Bihar and Delhi reported the highest percentage of sexual abuse among both boys and girls.  
iii. 21.90% child respondents reported facing severe forms of sexual abuse and 50.76% other forms of sexual abuse.  
iv. Out of the child respondents, 5.69% reported being sexually assaulted.  
v. Children on street, children at work and children in institutional care reported the highest incidence of sexual assault.  
vi. 50% abuses were by persons known to the child or in a position of trust and responsibility.  
vii. Most children did not report the matter to anyone.  
The Government proposes to bring a new law to protect children against sexual offences of various types. The draft Bill on Protection of Children from [Sexual Offences](http://en.wikipedia.org/wiki/Sex_and_the_law) which has been prepared, regards the best interests and well being of the child as of paramount importance at every stage of the judicial process. It incorporates child friendly procedures for reporting, recording, investigating and trial of offences. The Bill aims to protect the child’s right to privacy and confidentiality; provides for designation of[Special Courts](http://en.wikipedia.org/wiki/Special_Courts) for trial of offences and stringent punishment to provide adequate deterrence, while at the same time ensuring adequate penalty commensurate to the gravity of each offence.

The draft Bill on Protection of Children from Sexual Offences is at the stage of inter-ministerial consultation and will be introduced after these are completed and after seeking the approval of the competent authority. Smt. Krishna Tirath, Ministry of State (Independent Charge) for Women and Child Development, gave this information in the Lok Sabha today.

**YSK: PM  
(Release ID :67656)**

###### **Related Articles**

* [Media can’t report on sexual assault on children without consent](https://indialawyers.wordpress.com/2010/11/07/media-cant-report-on-sexual-assault-on-children-without-consent/)(indialawyers.wordpress.com)

### Like this:

Tagged with: [Andhra Pradesh](https://indialawyers.wordpress.com/tag/andhra-pradesh/), [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [Krishna Tirath](https://indialawyers.wordpress.com/tag/krishna-tirath/), [Lok Sabha](https://indialawyers.wordpress.com/tag/lok-sabha/),[National Crime Records Bureau](https://indialawyers.wordpress.com/tag/national-crime-records-bureau/), [Sex and the law](https://indialawyers.wordpress.com/tag/sex-and-the-law/), [Sexual abuse](https://indialawyers.wordpress.com/tag/sexual-abuse/), [Special Courts](https://indialawyers.wordpress.com/tag/special-courts/)

## [Media can’t report on sexual assault on children without consent](https://indialawyers.wordpress.com/2010/11/07/media-cant-report-on-sexual-assault-on-children-without-consent/)

Posted in [CHILD ABUSE](https://indialawyers.wordpress.com/category/child-abuse/), [CHILD RIGHTS](https://indialawyers.wordpress.com/category/child-rights/), [JUVENILE JUSTICE](https://indialawyers.wordpress.com/category/juvenile-justice/) by NNLRJ INDIA on November 7, 2010

### Aarti Dhar in THE HINDU

|  |
| --- |
| Bill prohibits comments on child, either as accused or victim of an offence, which may lower character or infringe privacy |

***No report shall disclose address, photograph, family details or school***

***For violation, Bill suggests jail for not less than one year***

NEW DELHI: In an attempt to rein in the media, the draft [Protection of](http://en.wikipedia.org/wiki/Canadian_cultural_protectionism)[Children](http://en.wikipedia.org/wiki/Child) from [Sexual Offences](http://en.wikipedia.org/wiki/Sex_and_the_law) Bill, 2010 prevents reporting on any child involved in an offence without “complete and authentic” information and without the consent of the child or his or her guardian. The publisher or owner of the media or the studio or photographic facilities shall be jointly held liable for the “acts and omissions” of his employees.

[The Bill](http://www.imdb.com/title/tt0084987/), piloted by the Women and Child Development Ministry, seeks to protect children against sexual assault, sexual harassment and pornography, and provide for establishment of special courts for trial of such offences. The gender neutral draft describes a child as an individual under 18.

No person from any form of media or studio or photographic facilities shall, without having complete and authentic information and without the consent of the child or his or her parents or guardian, make any report or present comments on any child who may be a involved in an offence, under this proposed law, either as an accused or as victim, which may have the effect of lowering character or infringing privacy, says one of the provisions of the draft Bill.

No report in any media shall disclose, without the consent of the child or his/her parents or guardian, the address, photograph, family details, school, neighbourhood or any other particular which may lead to revealing the identity of the child. The Bill recommends imprisonment for not less than one year and extending up to two years with a fine or both for anyone violating the provisions.

“Media must be sensitive”

Reacting to the media-related provisions, [Press Council of India](http://en.wikipedia.org/wiki/Press_Council_of_India) [Chairman](http://en.wikipedia.org/wiki/Chairman)G.N. Ray said the [PCI](http://en.wikipedia.org/wiki/Conventional_PCI) as an institution did not believe in any kind of blanket gag on the media. “But it has been noticed to the dismay that media has often transgressed its limits as has been seen in the Aarushi murder case,” he told The Hindu.

“[The media](http://en.wikipedia.org/wiki/Mass_media) has to be cautioned and must be sensitive to these issues,” Justice (retd) Ray said, while pointing out that curbing media reporting was a serious issue.

Call for debate

While maintaining the dignity of the child victim is important, the misdeeds of the accused should be brought to light, says Amod Kanth, chairman of the Delhi Commission for Protection of Child Rights.

“There needs to be a proper debate on whether or not the media should be prohibited from reporting on sexual offences against children and the media is one good platform for doing that. We cannot prohibit a discussion on such issues in society and when a debate is initiated, some references are bound to come up.”

Pointing out that the amended [Juvenile Justice Act](http://en.wikipedia.org/wiki/Juvenile_Justice_Act) also prohibited identification of children involved in criminal activities, Mr. Kanth said the provision, however, was not being implemented. Another issue to ponder was that of a child who was not alive, and the mention of gory details in the media to damage the reputation and dignity of the child and the reputation of the family, he said citing the Aarushi case.

###### **Related Articles**

* [Aarushi murder: Father moves SC to restrain media](http://ibnlive.in.com/news/aarushi-murder-father-moves-sc-to-restrain-media/127221-3.html?from=tn) (ibnlive.in.com)
* [Child safety is responsibility of schools: Child rights groups](http://topinews.com/mainstream/2010/09/18/child-safety-is-responsibility-of-schools-child-rights-groups/35138/)(topinews.com)
* [Kids’ sexual abuse: Driver sent to police custody, two detained](http://topinews.com/mainstream/2010/09/18/kids-sexual-abuse-driver-sent-to-police-custody-two-detained/35182/)(topinews.com)

### Like this:

Tagged with: [Child](https://indialawyers.wordpress.com/tag/child/), [Crime](https://indialawyers.wordpress.com/tag/crime/), [Juvenile Justice Act](https://indialawyers.wordpress.com/tag/juvenile-justice-act/), [Mass media](https://indialawyers.wordpress.com/tag/mass-media/), [New Delhi](https://indialawyers.wordpress.com/tag/new-delhi/),[Press Council of India](https://indialawyers.wordpress.com/tag/press-council-of-india/), [Sex and the law](https://indialawyers.wordpress.com/tag/sex-and-the-law/)

[Older Posts »](https://indialawyers.wordpress.com/category/child-abuse/page/2/)

# CHILD Protection & Child Rights » VII. [International Mechanisms](http://www.childlineindia.org.in/international-mechanisms-child-protection-child-rights.htm) »[United Nations](http://www.childlineindia.org.in/United-Nations.htm) » [United Nations Convention on the Rights of the Child](http://www.ohchr.org/en/professionalinterest/pages/crc.aspx)

[back](http://www.childlineindia.org.in/United-Nations.htm)

Over history there have been a number of international treaties and documents that outline the rights of a child. Prior to World War II the League of Nations had adopted the Geneva Declaration of the Rights of the Child in 1924. The [United Nations (UN)](http://www.un.org/) took its first step towards declaring the importance of child rights by establishing the United Nations International Children's Emergency Fund in 1946 (The name was shortened to[United Nations Children's Fund](http://www.unicef.org/) in 1953, but kept the popular acronym UNICEF). Two years later the [UN General Assembly](http://www.un.org/ga/) adopted the Universal Declaration of Human Rights, making it the first UN document to recognise children's need for protection.

The first UN document specially focused on child rights was the Declaration on the Rights of the Child, but instead of being a legally binding document it was more like a moral guide of conduct for governments. It was not until 1989 that the global community adopted the [United Nations Convention on the Rights of the Child](http://www.ohchr.org/en/professionalinterest/pages/crc.aspx), making it the first international legally binding document concerning child rights. The convention consists of 54 articles covering all four major categories of child rights: Right to life, Right to development, Right to protection, and Right to participation. It came into force on the 2nd September 1990.

The initiative to create a body of rights for children came from the draft document submitted by the Government of Poland to the Commission on human rights in 1978. A decade was spent drafting the Convention by an alliance of a number of small NGOs including Radda Barnen of Sweden, the International Child Catholic Bureau, and Defence for Children International, and United Nations human rights experts. Today the convention has been ratified by 192 countries becoming the most ratified of all international Human Rights treaties. India signed and ratified the convention in 1992. The only two countries who have not ratified the treaty are the United States and Somalia. Somalia has been unable to ratify due to the lack of a stable government and the US has signed the treaty showing their intention to ratify.

**Following is an overview of the convention.**

**Preamble:** Recognises many of the principles outlines in the Declaration on the Rights of the Child such as family as the best environment for a child to grow, the importance of child protection, best interest of the child, recognising child participation, etc.

**Article 1:** According to the convention a child is any person how has not reached the age of eighteen unless a different age of maturity is specified in any country's law.

**Article2:** It is the duty of the state (each country) to uphold the articles in the convention and apply it to all children regardless of the child's or the family's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. The state should protect the child against all forms of discrimination.

**Article 3:** the state will always act in the best interest of the child while taking into consideration the rights and duties of the guardians. The state shall ensure all institutions government or not adhere to this dictum.

**Article 4:** The state must make laws, implement policies and programmes and undertake other measures to unsure the rights set out in the convention are fulfilled.

**Article 5:** The state will keep in mind the rights of the guardians of the child or any other family member or community as in accordance with local customs

**Article 6:** States recognise that every child has the inherent right to life, and must work to ensure the survival and development of the child.

**Article 7:** Every child has the right to a name, birth registration and nationality. As far as possible every child has the right to know and be cared for by his/her parents. The state should make laws and provisions especially for stateless children.

**Article 8:** A child has the right to preserve his/her identity including nationality, name and family relations without unlawful interference.

**Article 9:** Every child has the right not to be separated from their parents against his/her will unless it is in his/her best interest. Any legal proceeding of separation shall be attended by all involved parties including the parents. The right has the right to maintain contact with his/her parent as long as it's not against his/her best interest. If the state is the cause of separation than the parents, child or any other family member has the right to know the whereabouts of the absent member.

**Article 10:** Every child and family has the right to enter or leave a state at any time they wish as long as it is in accordance with the laws of each state. If a child is in the different state as the parents the child has the right to maintain contact with his/her parent as long as it's not against his/her best interest

**Article 11:** The state shall combat child trafficking.

**Article 12:** The state shall ensure the child's right to form and express views with regard to things that affect him/her in accordance with the maturity and age of the child. A child shall hence we allowed to be heard in any judicial proceeding concerning the child directly or indirectly through a representative

**Article 13:** Children have a right to free expression and this includes right to information and ideas of all kinds and in any medium. This is only restricted by the violation of others rights or a threat to national security.

**Article 14:** Every child has the right to freedom of thought, conscience and religion. The state must respect the parents' right to guide the child in this regard. Freedom to manifest ones religion is only restricted if the act is harmful to others.

**Article 15:** Every child has the right to freedom of association and peaceful assembly unless the act is illegal or harmful to others.

**Article 16:** Children have the right to privacy and the right to be protected by law against such interference of attacks

**Article 17:** The state shall ensure that a child has access to national and international information that is aimed at the child's well being. For example they may encourage mass media to produce programmes that are informational for children and encourage the production of children's books and magazines.

**Article 18:** The state shall ensure the recognition of responsibility of both parents to care for a child as long as it is in her/his best interest. The state shall give appropriate guidance and assistance to parents to uphold the rights of the child. Children of working parents have the right to access child-care services.

**Article 19:** The state shall take all types of actions to protect the child from any form of abuse, exploitation or neglect. The state shall create system to ensure the child receives all needed support in form of prevention, protection and rehabilitation.

**Article 20:** Children have the right to protection by the state when they temporarily or permanently deprived of their family environment or if the environment has proven to be harmful for them. The state shall find alternate care for the child such as foster care, adoption or kafalah of Islamic law. The cultural, linguistic and religious background of the child should be continued as far as possible.

**Article 21:** All states shall permit and recognise the process of adoption. Adoption will be carried out only by a competent authority who will sure the adoption is permissible. Inter-country adoption will be permitted as an alter form of care only if that care cannot be provided for in the child's own country. The state must ensure that inter-country adoption does not result in financial gain, and that both national and international adoption is held to the same safeguards and standards.

**Article 22:** Children seeking refugee status and recognised as refuges with or without their parents shall be granted such a status by the state and have the same rights as all children in accordance with this convention and any other human rights treaty. The state shall with the assistance of other international bodies try and reunite the child with his family or provide the child with the appropriate care.

**Article 23:** States recognise that children with disabilities (mental or physical) have the right to a life with dignity and all other rights of this convention. The State also recognises the need to provide children with disabilities with special care, family assistance, free education, health, training, etc in accordance with the family's financial situation and aim for the child's social integration. The state shall also take measure to prevent the disabilities in children.

**Article 24:** Every child has the right to access health services and attain the highest degree of health. To do so the state shall reduce the infant mortality rate, ensure medical assistance, provide prenatal and post natal care of mothers and child, combat diseases and malnutrition, create awareness of correct health practises, and development preventive measure to protect children from possible risks. The state shall also abolish all traditional practises detrimental to a child's health.

**Article 25:** All treatments administered to children are subject to periodic review.

**Article 26:** Every child has the right to social security and social insurance. Benefits under state laws should take into account the economic and social needs of the families.

**Article 27:** Every child has the right to a standard of living required for his/her development. Parents have the duty to ensure this standard to the best of their ability. The state shall assist parents or others responsible for the child who require the help, and secure the maintenance of the child from those financially responsible within the state or abroad.

**Article 28:** All children have the right to education. The state shall endeavour to provide free primary education, encourage different forms of secondary education, make higher forms of education accessible, make vocational information available and encourage school retention and prevent drop outs. School discipline should not be in violation of child rights.

**Article 29:** Child education should be geared towards the complete development of the child, in accordance with the child's cultural identity and human rights treaties, and to prepare the child for responsible life in society. It should not be detrimental to the environment. People may be allowed to establish educational institutes in accordance with these standards.

**Article 30:** Children of minority communities have the right to practise and adopt the culture, languages and traditions of their community.

**Article 31:** Every child has the right to leisure, play and participation in cultural events. The state should encourage child participation in such events.

**Article 32:**Children have the right to be protected from economic exportation or any work that is harmful to their physical and mental development or considered hazardous or dangerous work. The state must constitute a day that dictates minimum age of employment, conditions of employment and hours of employment with regards to children.

**Article 33:** The state should take measure to protect children from substance abuse and prevent the use of children in the illegal trafficking of such substances.

**Article 34:** Every child has the right to be protected from sexual exploitation and sexual abuse. The state must hence prevent the coercion and prostitution of children for such activities as well as safeguard children from pornographic performances and materials.

**Article 35:** States shall take measure to prevent the abduction or sale of children for any purpose.

**Article 36:** The state shall protect children against any other form of exploitation.

**Article 37:** The state shall ensure that no child is subject to torture or any other cruel inhuman treatment, no child is deprived of his liberty unlawfully, and a child deprived of his liberty is entitled to proper care and humane circumstances, and be provided with legal consult if necessary.

**Article 38:** The state ensures and respects the rules of humanitarian law during times of conflict. The state should also ensure that children below 15 do no participate in the hostilities, and refrain from recruiting them in armed forces.

**Article 39:** The state should ensure the recovery, rehabilitation and reintegration of child victims of neglect, exploitation, or abuse, etc.

**Article 40:** The state shall recognise the right of every child who has committed a crime under the law to a proper care and reintegration into society. No child shall be accused or penalised for an act which is not a recognised crime. A child who has been accused of a crime are presumed innocent, should be informed of the charges against him/her, have the juvenile justice proceeding immediately without delay, not be compelled to give testimony or admit guilt and the right to privacy of all proceedings. States should endeavour to establish laws specifically catered to the needs of children who have been accused or found guilty of any criminal activity and establish a minimum age of guilt.

**Article 41:** The articles of this convention will not take priority over any laws national or intentional that better safeguard the rights of a child.

**Articles 42-54:** outline the establishment, composition and responsibilities of the[Committee on the Rights of the Child](http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx%E2%80%8B).

http://www.childlineindia.org.in/images/blank.gif

## What is the UNCRC?

The United Nations Convention on the Rights of the Child, or UNCRC, is the basis of all of [Unicef's work](http://www.unicef.org.uk/UNICEFs-Work/). It is the most complete statement of children’s rights ever produced and is the most widely-ratified international human rights treaty in history.

The Convention has 54 articles that cover all aspects of a child’s life and set out the civil, political, economic, social and cultural rights that all children everywhere are entitled to. It also explains how adults and governments must work together to make sure all children can enjoy all their rights.

In 1989, governments worldwide promised all children the same rights by adopting the UN Convention on the Rights of the Child, also known as the CRC or UNCRC. The Convention changed the way children are viewed and treated – in other words, as human beings with a distinct set of rights instead of as passive objects of care and charity.

These rights describe what a child needs to survive, grow, and live up to their potential in the world. They apply equally to every child, no matter who they are or where they come from. All children have rights, even those affected by conflict or emergencies, like the recent[earthquake in Nepal.](http://www.unicef.org.uk/landing-pages/Donate-Nepal-Earthquake/)

[Read about our work to promote children's rights in UK schools](http://www.unicef.org.uk/rights-respecting-schools/about-the-award/child-rights-in-schools/).

The Convention must be seen as a whole: all the rights are linked and no right is more important that another. There are four articles in the Convention that are seen as special in that they help interpret all other articles, playing a fundamental role in realising all the rights in the Convention for all children. They are called [general principles](http://www.unicef.org.uk/UNICEFs-Work/UN-Convention/general-principles/).

There are also a number of agreements, called [Optional Protocols](http://www.unicef.org.uk/UNICEFs-Work/UN-Convention/optional-protocols/), which strengthen the Convention and add further unique rights for children.

Unicef is the only organisation working for children recognised by the Convention. All UN member states except for [the United States](http://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en) have ratified the Convention. The UK signed it in 1990, and it came into UK law in 1992.

The UN Committee on the Rights of the Child is in charge of making sure that the Convention is properly observed by the countries who have signed it. [Find out more about the Committee’s work](http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIntro.aspx).

* [Read a summary of the CRC](http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_summary.pdf), or [get the full text](http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_PRESS200910web.pdf)
* [Get a child-friendly summary of the UN Convention](http://www.unicef.org.uk/Documents/Publications/Child_friendly_CRC_summary_final.pdf)
* [Find out more about the UNCRC on our international site](http://www.unicef.org/crc/)

### What Does the Convention on the Rights of the Child Say?

The UNCRC defines the child as a person under 18 years of age. It acknowledges the primary role of parents and the family in the care and protection of children, as well as the obligation of the State to help them carry out these duties.[Read the full text of the United Nations Convention on the Rights of the Child](http://www.childrensrights.ie/sites/default/files/submissions_reports/files/UNCRCEnglish_0.pdf).



The UN Convention consists of 41 articles, each of which details a different type of right. These rights are not ranked in order of importance; instead they interact with one another to form one integrated set of rights. A common approach is to group these articles together under the following themes:

1. **Survival rights**: include the child’s right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services.
2. **Development rights**: include the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion.
3. **Protection rights**: ensure children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.
4. **Participation rights**: encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their capacities develop, children should have increasing opportunity to participate in the activities of society, in preparation for adulthood.

The UN Convention includes four articles that are given special emphasis. These are also known as ‘general principles’. These rights are the bedrock for securing the additional rights in the UN Convention.

* that all the rights guaranteed by the UNCRC must be available to all children without discrimination of any kind (Article 2);
* that the best interests of the child must be a primary consideration in all actions concerning children (Article 3);
* that every child has the right to life, survival and development (Article 6); and
* that the child’s view must be considered and taken into account in all matters affecting him or her (Article 12).

### Watch Our Animation on the Convention on the Rights of the Child

### 

### Implementing the Convention on the Rights of the Child

When Ireland signed the UN Convention on the Rights of the Child (UNCRC), the Government agreed to be assessed periodically by the UN on its progress in implementing the rights in the Convention. This means that every few years the State submits a progress report to the UN Committee on the Rights of the Child and agrees to an oral examination by the Committee members. The Children’s Rights Alliance also submits an independent report on behalf of non-governmental organisations (NGOs). This is known as the ‘Parallel Report’ and we have done this three times; in 1998, in 2006 and in 2015.  [Read more about the reporting process](http://www.childrensrights.ie/content/uncrc-reporting-process).

### Read More About the Convention on the Rights of the Child

[Full text UNCRC English](http://www.childrensrights.ie/resources/united-nations-convention-rights-child-introduction-childrens-rights-alliance)  
[Full text UNCRC Irish](http://www.childrensrights.ie/resources/coinbhins%C3%BAin-na-n%C3%A1isi%C3%BAn-aontaithe-um-chearta-linbh-introduction-childrens-rights-alliance)  
[Summary of the UNCRC information Sheet](http://www.childrensrights.ie/resources/information-sheet-summary-un-convention-rights-child)  
[What is the UNCRC information Sheet](http://www.childrensrights.ie/resources/information-sheet-what-uncrc)  
[History of the UNCRC Information Sheet](http://www.childrensrights.ie/resources/information-sheet-history-un-convention-rights-child)  
[Children's Rights Alliance UNCRC Parallel Report (1997)](http://www.childrensrights.ie/resources/small-voices-vital-rights-submission-un-committee-rights-child-1997)  
[Children's Rights Alliance UNCRC Parallel Report (2006)](http://www.childrensrights.ie/resources/rhetoric-rights-second-shadow-report-united-nations-committee-rights-child-2006)  
[Ch](http://www.childrensrights.ie/resources/are-we-there-yet-parallel-report-ireland)

UN CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC)

Every child has the right to survival, protection and education, and to have their voice heard. These and many other fundamental children’s rights are outlined in the UNCRC.



The **United Nations Convention on the Rights of the Child** **(UNCRC)**is a legally-binding international agreement setting out the **civil, political, economic, social**and **cultural rights**of every child, regardless of their race, religion or abilities.

The UNCRC consists of **54 articles**that set out children’s rights and how governments should work together to make them **available to all children**.

Since it was adopted by the United Nations in November 1989, **194 countries**have signed up to the UNCRC, with only two countries in the world still to ratify. All countries that sign up to the UNCRC are bound by international law to ensure it is implemented. This is monitored by the**Committee on the Rights of the Child**.

Under the terms of the convention, governments are required to **meet children’s basic needs**and help them **reach their full potential**. Central to this is the acknowledgment that every child has basic fundamental rights. These include the right to:

* **life**, **survival**and **development**
* **protection**from **violence**, **abuse**or**neglect**
* an **education**that enables children to **fulfil their potential**
* be **raised by**, or have a **relationship with**, **their parents**
* **express their opinions**and be **listened to**.

In 2000, **two optional protocols** were added to the UNCRC. One asks governments to ensure children under the age of 18 are**not forcibly recruited** into their **armed forces**. The second calls on states to **prohibit child prostitution**, **child pornography** and the **sale of children into slavery**. These have now been ratified by more than **120 states**.

A **third optional protocol**was added in 2011. This enables children whose**rights have been violated** to **complain directly** to the UN Committee on the Rights of the Child.

The UNCRC is also the only international human rights treaty to give **non-governmental organisations** (NGOs), like Save the Children, a direct role in **overseeing its implementation**, under Article 45a.

[**Find out more about our work on ch**](http://www.savethechildren.org.uk/node/48)