



MEEK BODIES WITH OPTIMISTIC MINDS- A CRITICAL ANALYSIS OF THE APPLICATION OF POCSO ACT

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ABSTRACT

The growing intricacies of life and the dramatic changes brought about by the socio-economic transition in the society has played a major role in increasing the vulnerability of the children to various and newer forms of abuse. One of the forms of abuse inflicted upon the children is sexual abuse, which is a serious and pervasive social malady in India. This issue is more severe and complex in our nation as sexual offences against the children has always been a hidden problem and largely been ignored in public discourse. This is because intra-familial sexual abuse often goes unreported in the society. It is a major threat to the well-being of the children. Child sexual abuse can contribute to an array of psychological and emotional disorders that the children might experience for a lifetime. Keeping the development of this intricacy trends in the society, the Government in order to combat with this ubiquitous social evil, enacted the new legislation – the Protection of Children from Sexual Offences (POCSO) Act, 2012.

The present paper aims to focus on the working and the practical application of POCSO Act, 2012.

I. INTRODUCTION

“There can be no keener revelation of a society’s soul than the way in which it treats its children.” — Nelson Mandela, Former President of South Africa. Today’s children are tomorrow’s citizens and it is eventually in their hands to make or break a country. They are the backbone of any nation and hence their development and safety should be of utmost importance.

Being the world’s 3rd most populated country with a population count of 1.21 billion, India is also home to the largest number of children in the world, more specifically 41% of the total population¹ consists of children below the age of 18 years. Having a population this big, there is also a significant risk for the safety of children, considering that the stakes for issues like violence against children, abuse, exploitation, trafficking, labour, sexual violence, child right violation, child pornography, etc. are rather high. The extent of the problem and the numbers of children affected is very difficult to assess, as official data is very scarce.

The weakest statistics on children had always been in the area of child protection except for data on child marriage, birth registration, and child labour, the latter

¹ AGE STRUCTURE AND MARITAL STATUS, Office of the Registrar General & Census Commissioner, India, available at: http://censusindia.gov.in/Census_And_You/age_structure_and_marital_status.aspx (retrieved on March 18, 2019)



being afflicted by definitional issues. The intrinsic nature of the problem of collection of data on child protection related to trafficking, child abuse, and other illegal and unlawful activities have already been described.

The well-being of a child is of a primary concern to the nation as they are the future of the nation. Their health and family relations play a key role in their development and this was rightly stated in the case of **Lakshmi Kanth Pandey v. Union of India**². The guidelines set forth by the Supreme Court regulated adoption over many years and became an effective tool for child rights.

As stated in the judgement by the supreme court of India for the said case, "The nation's children are a supremely important asset. Their nurture and solicitude are our responsibility. Children's program should find a prominent part in our national plans for the development of human resources, so that our children grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with the skills and motivations needed by society. Equal opportunities for development to all children during the period of growth should be our aim, for this would serve our larger purpose of reducing inequality and ensuring social justice."

The United Nation Convention on Child Rights is a Human Rights treaty signed on 20th November 1989 and came into force on 2nd September 1990, has 140 signatories. It defines a child as "any human being under

the age of eighteen unless the age of majority is attained earlier under national legislation". The objective of this treaty is to ensure the safety of children and to keep them from issues like trafficking, prostitution, child pornography.

India ratified this convention on 11 December 1992, however it did not agree to the article which talks about child labour. This treaty isn't a legally binding document. However, it takes on a child's safety and development is more of an obligation than an investment. The child's safety is an investment because in turn it is eventually developing the nation but this treaty considers it more of an obligation which is also why children in most countries aren't safe and this is affecting not just their physical health but also their mental health.

Children in such a tender age are very vulnerable and they need special care and protection, and family plays the most important role in their development. The treaty indeed does state this but this has not brought much change in this the society.

The statistics of the crime against children in India are still the same and have rather increased over the years. The NCRB report shows the following data about the crime against children that were reported.

Crime Head	Crime Incidence (IPC+SLL)			Percentage Variation	
	2014	2015	2016	2014-15	2015-16
Total Crime against					

²1984 AIR 469, 1984 SCR (2) 795



Children					
	15,911	17,653	18,480	16.2%	4.7%

Source: Crimes in India, 2016 Statistics, NCRB, p. xxxiii

Source: Crimes in India, 2016 Statistics, NCRB, p. xiv

In the year 2012, the Ministry of Women and Child Development after brainstorming field work and surveys with various Non-Governmental Organizations (NGOs) has helped in breaking the conspiracy silence and generated substantial political and popular momentum to address this grave issue. Finally, it led to the enactment of legislation called the Protection of Children from Sexual Offences (POCSO) Act, 2012 with the objective to contribute for the enforcement of the right of all children to safety, security and protection from sexual abuse and exploitation.

Crime Head	Total cases reported	Major Metropolitan Cities during 2016		
		Delhi	Mumbai	Bengaluru
Kidnapping & Abduction	12,511	5,457	1,864	871
Protection of Children from Sexual Offences Act, 2012	4,473	1,374	979	351

Source: Crimes in India, 2016 Statistics, NCRB, p. xxxiii

II.

LEGALITY SANS LEGAL CLOUD – DAWN OF POCSO ACT

“Children are the world’s most valuable resource and its best hope for the future” – John F. Kennedy. India is surely blessed to have one of the largest population of the world’s most valuable resource and its best hope for the future, children.

Crime Head	Crime Incidence			Crime Rate		
	2014	2015	2016	2014	2015	2016
Total Crime against Children	89,423	94,172	1,06,958	20.1	21.1	24.0

In the early traditional societies, child rights were secured on the concept of *patria potestas*, the parent of the children enjoyed absolute autonomy to decide on the rearing and caring of the children. But with the passage of time and increasing community concern for the children, the concept of *patria potestas* evolved to be as *parens patria*, where the State began to exercise its power to safeguard the interest of children in need of care. In India, the first legislation dealing specially with the rights of children came in as the



Apprentices Act, 1850 and since then the paedo-jurisprudence is evolving and developing. The years 2012-2013 have been eventful both in term of legislative law and judicial law from the point of view of child rights in India. This vital period has been responsible for the development and expansions of the horizons of child rights in terms of its ideological underpinnings range of interest brought under its sweep and techniques of enforcement at the ground level. In India too, the concept of child rights has remained at the focus of brisk legislative and judicial activity leading to the passage of laws such as the Commission for Protection of Child Rights Act, 2005, Right of Children to Free and Compulsory Education Act, 2009, and the Protection of Children from Sexual Offences Act, 2012 which is also the latest legislation for the protection of child rights in the country.

The times have changed indeed, but being a victim has always been a constant for girls in this country. Right from being killed in the mother's womb, to sacrificing their life in practices like sati, to being forced to pay dowry, to being a rape victim, rising above such social evils has always been a challenge for the females in this country.

One of the major issues in a male dominated society like ours is patriarchy and it has now become a way of living for most people regardless of how modern they claim to be, which is also why woman in this country aren't able to rise above these social norms and all the challenges that they face in their lives aren't taken into account and are neglected. The fact that it has been

neglected over the years has led to this state today and things wouldn't change for better if there is no action taken to benefit the woman.

Normalisation of patriarchy in the nation needs to meet a red line. We all wish to live in a better world, but wishing is not all that we should be doing. The most vulnerable to the most horrendous of crimes are the children and woman of our nation. Before championing for a better world, we must champion for a better country. A country where there exists no place for paedophiles, no place for sexual abusers. A country where the dress of the little child, the saree of the woman is not covered with blood.

The POCSO Act, 2012 is a comprehensive legislation having many distinctive and new provisions to provide protection to children from a range of sexual offences with due regard for safeguarding the interest and wellbeing of the children at every stage of the judicial process, incorporating child-friendly procedures for reporting, recording of evidence, investigation and trial of offences and provision for the establishment of Special Courts for speedy trial of such offences. This is for the first time; a special law is passed to address the issue of sexual offences against children. The Act clearly defines the offences and also provides for stringent punishments, which have been graded as per the gravity of the offence which ranges from simple to rigorous imprisonment of varying periods.

III. IN CLOSE PROXIMITY OF POCSO – WORKING OF THE ACT

In order to effectively address the heinous crimes of sexual abuse and sexual



exploitation of children through less ambiguous and more stringent legal provisions, the Ministry of Women and Child Development championed the introduction of the Protection of Children from Sexual Offences (POCSO) Act, 2012. The Act has some salient features attached to it. These are:

- The Act has defined a child as any person below 18 years of age.
- To deal with the abuse faced by them, especially sexual abuse, the government of India came out with the Prevention of Children from Sexual Offences (POCSO) Act, 2012.
- It has been drafted to strengthen the legal provisions for the protection of children from sexual abuse and exploitation. It provides protection to all children from the offences of sexual assault, sexual harassment and pornography.
- The sexual abuse of children includes the following:
 1. Domestic violence against children.
 2. Raping of a child or doing sexual activities with him/her.
 3. Showing adult content to minors.
 4. Touching their private parts intentionally.
 5. Over exploitation of children.
- The provisions of this Act have been framed and are regulated by the Ministry of Women and Child Development. It is a gender neutral Act.
- 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.
- This Act is monitored and implemented by National Commission for Protection of Child Rights (NCPCR) and State Commission for Protection of Child Rights (SCPCR).
- This Act includes males, females and transgender as well.
- It gives the formal definition of a child i.e. any person below the age of 18 years.
- The reporting, recording of evidence, investigation and trial of offences should be done in a child friendly manner. The trial of cases should be done in camera.
- Recording the statement of the child at his/her residence or at a place of his/her choice, preferably by a woman police officer not below the rank of sub inspector.
- No child should be detained in the police station in the night for any reason.
- Translators should be provided to them to overcome the language barrier. A special educator or any person familiar with the manner of communication of the child should be provided if the child is disabled.
- The statement of the child should be recorded as spoken by the child.
- During the time of recording the statement of the child, the police officer should be in casual dress to reduce the fear of police in the minds of children.
- Punishment and fine should be flexible according to the crime and also according to the mental health of the child.
- The Act has provided provisions for the establishment of Special Courts for trial of offences. Frequent breaks should be given for the child during trial. The trial should be completed within one year of time.
- Child should not to be called repeatedly to testify.
- No aggressive questioning or character assassination of the child during the trial.



- Medical examination of the child should be conducted in the presence of the parent of the child or any other person in whom the child has trust and confidence/guardian. In case the victim is a girl child, the medical examination shall be conducted by a woman doctor only.
- Provision of long and short term rehabilitation through Juvenile Justice Board and Child Welfare Committee are also prescribed.
The POCSO Act casts a duty on the Central and the State Governments to spread awareness through media at regular intervals of time to make the general public, children, their parents and guardians acquainted with the provisions of the Act.

The Act pertains to the attainment of the best interests and well-being of the child as being of paramount consideration at every stage, to ensure the healthy physical, emotional, intellectual and social development of the child.

It gives an umbrella to the definition various forms of sexual abuse, including penetrative and non-penetrative assault as well as sexual harassment and pornography and deems as a sexual assault to be “aggravated” under certain circumstances such as when the child abused is mentally ill or when the abuse is committed by a person who is in a position of trust or authority vis-à-vis the child, likely to be a family member, police officer, teacher, or doctor.

People who traffic children for sexual purposes can also be punished under the provisions relating to abetment in the

POCSO Act. The Act has prescribed stringent punishment graded as per the gravity of the offence i.e., with a maximum term of rigorous imprisonment for life and fine. The punishments are mentioned in the table below:

SECTION	OFFENCE	PUNISHMENT
Section 4	Penetrative sexual assault	Imprisonment for 7 years which may extend to imprisonment for life.
Section 6	Aggravated penetrative sexual assault	Rigorous imprisonment for 10 years extending to imprisonment for life.
Section 8	Sexual assault	Imprisonment for 3 years extending to 5 years.
Section 10	Aggravated sexual assault	Imprisonment for 5 years extending to 7 years.
Section 12	Sexual harassment of child	Imprisonment extending to 3 years.
Section 14 (1)	Use of child for pornographic purposes	Imprisonment extending to 5 years and in case of



		subsequent conviction imprisonment extending up to 7 years.		Section 14 (5)	Use of child for pornographic purpose plus commission of offence under section 9	Imprisonment for 8 years extending to 10 years.
Section 14 (2)	Use of child for pornographic purpose plus commission of offence under section 3	Imprisonment of 10 years extending to imprisonment for life.		Section 15	Storing of pornographic material involving child	Imprisonment extending to 3 years.
Section 14 (3)	Use of child for pornographic purpose plus commission of offence under section 5	Regress imprisonment for life.		Section 21(1)	Failure to report or record a case	Imprisonment extending to 6 months.
Section 14 (4)	Use of child for pornographic purpose plus commission of offence under section 7	Imprisonment for 6 years extending to 8 years.		Section 21(2)	Person in charge of a company or institution fails to report or record a case	Imprisonment extending to 1 year.
				Section 22(1)	False complaint w.r.t. offence under section 3, 5, 7 and 9	Imprisonment extending to 6 months.



I. JUDICIOUS REFLECTION ON JUDICIAL REFORM – ISSUES AND CHALLENGES

a. Age of the victim

Issues related to deciding the age of the victim is very sensitive and complex. The age of the victim is an important aspect to be decided before considering the question as to whether an offence as under Section 4 of the POCSO Act was committed or not³. The victim must be a child as per the definition of —child provided under Section 2(d) of the POCSO Act which indicates that —child means any person below the age of eighteen years and it should be proved by the prosecution before the court that as on the date of the commission of the crime, the victim was a child.

On the question of whether the school certificate can be relied upon to ascertain the age, the Supreme Court decided that entry in the register is a relevant fact. The content of itself does not stand proved, only the document is proved. There has to be more evidentiary proof to prove it. Transfer certificate or other documents if produced it has to be proved further by the person who has actually given the information, and who got it registered. In the case of **Daya Chand v. Sahib Singh**⁴, two different dates of birth were recorded in two different schools; the Supreme Court decided that the Medical Report was to be relied upon to find out the actual age of the victim.

In **Pradeep Kumar v. State of U.P.**⁵ A three judge bench of SC accepted High School Certificate, Horoscope and medical opinion as an acceptable proof of age in the fact and circumstances of the case. Benefit of Children Act was given.

In the contest of the age of the child there are many complications; Rule 12 of the Juvenile Justice Act can be used in criminal matters to determine the ages under the POCSO cases. This was rightly held in the case of **Jarnail v. State of Haryana**⁶.

Determining whether an allegation involving underage sex was forced or consensual would depend greatly on individual interpretation of the circumstances. In the case of consensual sex between two minors, the concepts of victim and perpetrator become interchangeable as the law inexorably criminalizes sexual behaviour for under 18 year olds.

In **Santhosa v. State**⁷ the Court looked into the material placed on record and held that as on the date of the alleged incident, the victim was at the age of 13 years. The contention of the learned Counsel for the respondent was that there was free consent of both victim and the accused of consuming the marriage. The Court rejected the contention and framed the issue as per the sections of the POCSO Act, 2012. For an offence under POCSO Act, which is a more stringent Act, the consent of the child would be of no

³GangadharSethy v. State of Orissa; (2015) SCC OnLine Ori 173

⁴(1991) 2 SCC 438

⁵(1995) Supp 4 SCC 419

⁶(2013) 7 SCC 263

⁷CrI.P.No.906/2014



consequence, as she is protected by the provisions of law. Lack of proper support and professional help to the victim and accused in such matters sometimes cause greater psychological harm and trauma.

There are difficulties for the victim as well as for perpetrator under 18 years of age, the later are criminalized but are not provided with professional help they might need. In most countries, the age of consent varies between 13 and 18 years. The table below lists the age of consent in the selecting countries:

Country	Age of Consent	Law Applicable	Country	Age of Consent	Law Applicable
United States of America	Varies from state to state between 16 and 18 years. In some states, the difference in age between the two parties is taken into account. This can vary between 24 years.	Different state laws.	France	15 years.	French Criminal Code
			Malaysia	16 years for both males and females.	Malaysian Penal Code Child Act 2001
			China	Sex with a girl below 14 years is considered rape. Sodomy of a child (male or female) below 14 years is an offence.	Criminal Law of China, 1997
United Kingdom	16 years.	Sexual Offences Act, 2003	Canada	16 years.	Criminal Code of Canada
Germany	14 years (16 years if the accused is a person responsible	German Criminal Code	Brazil	14 years.	Brazilian Penal Code, 2009
			Australia	Varies between 16	Australian Criminal



	and 17 years among different states and territorial jurisdictions. In two states, a person may engage in sexual activity with a minor if he is two years older than the child. In such cases the child has to be at least 10 years old.	Laws	friends and therefore the crime committed within their houses or in places where it is difficult to collect the evidence from the scene. As a result, physical examination or medical examination is now an essential part of the investigation of sexually abused children as it helps in explaining the injury pattern, age and intensity of injury. Section 27 (2) of the POCSO Act, 2012 now mandates that in case of a female child/adolescent victim, the medical examination should be done by a female doctor. However, the law mandates the available medical officer to provide emergency medical care. On the other hand, the Section 166A of the IPC mandates that the Government medical officer in duty to examine the rape victim without fail. The conflicting legal position arises when female doctor is not available.
India	18 years.	Protection of Children Against Sexual Offences Act, 2012	Another important aspect to be taken into consideration and which also need cautious examination is effective child forensic interview. Child forensic interview is a formal, structured interview technique that is used to investigate whether a child has experienced or witnessed physical or sexual abuse and if so, to get disclosure. The goal of child forensic interview is to:

a. Corroborate evidence

When two objects come into contact, they always leave a trace on the other. Every criminal case can be connected to its criminal by contact traces carried from the sense of crime or left by him at the scene of the crime. Here the forensic science helps in tracing the chain of evidence which ultimately help in concluding the evidence with strong conjoin.

In the cases of sexual offences against children, the children become a victim by their close relatives or family members or

- To get maximum information while causing minimum stress and contamination.
- To assist the child in providing detailed information.
- On the nature and extent of the abuse, including those responsible.

b. Obligatory Reporting

Section 19 of the POCSO Act, 2012 mandates that any person, especially those

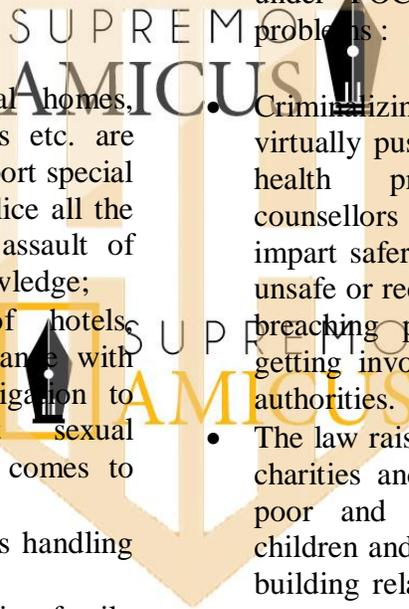


who are working with children and young people in the education, social, religious or health sector, who has either the knowledge of any offence given in this act has been committed or is going to be committed to provide the information to the local police or to the special juvenile police unit. Failure to do so carries legal sanctions of imprisonment up to 6 months and/or fine. In **Shankar Kishanrao Khade v. State**⁸, the Supreme Court exercising its *parents patria* obligation, especially with regard to children with intellectual disability, issues direction in respect of reporting of the offence, which are as follows:

- In charge of schools, special homes, shelter, hostels, remand homes etc. are under a special obligation to report special juvenile police unit or local police all the incidents of sexual abuse or assault of children that comes to their knowledge;
- Media persons, incharge of hotels, hospitals and clubs in compliance with section 20 are under an obligation to furnish information about sexual abuse/assault of children that comes to their knowledge;
- Special obligation of institutions handling children with disability;
- Where the accused of the crime is a family member reporting the matter relating to such children should be in consultation with the mother of the accused/assaulted child in the best interest of the child;
- Special obligation of the hospitals and medical institution where children come for treatment to report sexual abuse of children to appropriate authorities;

- Non – reporting of such crimes is in itself a serious offence and person should be subject to legal action for such in action;
- The Central and State Governments are directed to constitute Special Juvenile Police Unit in all the districts;
- Central and State Governments are directed to take all steps to give widest publicity to the provisions of the 2012 Act.

The overall purpose of the provision is included to encourage compliance with the law but the result of the same has mixed success. Mandatory reporting obligation under POCSO Act, 2012 raises three problems:



- Criminalizing sex less than 18 years virtually pushes it beyond the purview of health professionals and school counsellors who might be reluctant to impart safer sex advice or treat effects of unsafe or reckless sexual practices without breaching patient confidentiality and/or getting involved with reporting it to the authorities.
- The law raises many issues of institutions, charities and organizations working with poor and backward communities and children and who are deeply committed to building relationships based on trust with young people. Breach of trust would seriously jeopardize their efforts to communicate with and work with young people if they are legally bound to report any knowledge of consensual, albeit underage sex. Lack of training for professionals (doctors, teachers, psychologists, social workers, counsellors, etc.) working with children on how to deal with knowledge of sexual activity and to

⁸(2013) 5 SCC 546.



respond appropriately can be an additional problem.

- Mandatory reporting raises the issue of who is or should be responsible for enforcing this legal obligation. The police are overworked and scarcely possess the capacity to do so. Prescribing a legal obligation with penal and financial sanctions, without thinking through the mechanism for its enforcement, and the resulting lack of accountability, might mean that cases of failure to report fall through the cracks. There is a danger that the law may be used only retrospectively to punish transgressions, rather than ensure prospective reporting of suspected sexual offence against the child by competent authorities in appropriate cases.

c. Determination of the age vis-à-vis Child Marriage

Determining the age of the victim and the accused is fraught with problems. Section 34 (2) authorized the court to determine the age of the child, but no provision or guidelines has been provided as to how to determine the age. It is generally acknowledged that forensic means of establishing age of a living person can be inexact and quite complicated. In the matter of **Baboo Pasi v. State of Jharkhand**⁹, the Supreme Court decided that the age determination is very difficult in the absence of birth certificates or other official documentation and while the opinion of a specially constituted Medical Board may be useful, but it cannot be the only or conclusive factor to do so. The court further stated that a hyper-technical approach should also not be adopted and

the court should lean towards giving the benefit of the doubt to the juvenile while ensuring that the law is not being misused. In developing country like India where a large proportion of births are just not registered and therefore substantial sections of the population do not have documents like birth certificates or school leaving certificates to provide proof of age, thus creating lots of chaos.

The legal age of consent and mandatory reporting obligations of POCSO Act, 2012 combine with the difficulty in determining age could cause more problems than anticipated. In a report by the Indian Express, it is indicated that in India one in six women were married before they were 8 years of age, of which 17.5 per cent (6.5 million) women had been married within 4 years prior to when the data was collected. Thus there could be possible 6.5 million potential law suits under the POCSO Act. It would lead to enormous waste of time and resources of the criminal justice system in cases of consent to marriage by a girl between ages of 15 – 18 years.

Under the IPC, sexual intercourse by a man with his wife above 15 years of age is an exception to rape. The Criminal Law Amendment Act, 2013 raised the age of consent to 18 years but did not disturb this exception. As a result, sexual intercourse with a wife above 15 years of age and below 18 years of age will not amount rape under the IPC¹⁰. But in case of conflict between the provisions of the POCSO Act and other laws, the former will override. Owing to Section 42A of the

⁹(2008) 13 SCC 113

¹⁰ <http://www.nls.ac.in/ccl/justicetochildrenposcoact.pdf> (retrieved on March 22, 2019).



POCSO Act, the exception under the IPC will not apply. Thus, in all cases of child marriage where the bride or groom is below 8 years of age, a charge of aggravated sexual assault can lie against them under the POCSO Act.

IV. CONCLUSION

Children are the citizens of the future era. On the proper bringing up of children and giving them the proper education to turn out to be good citizens depends the future of the country... Every society must devote full attention to ensure that children are properly cared for and brought up in a proper atmosphere where they could receive adequate education, training and guidance in order that they may be able to have their rightful place in the society... "(Supreme Court of India in **Sheela Basre v. Children Aid Society and Others**¹¹) Justice V. R. Krishna Iyer remarked that, the world's culture and future are shaped by the practical policies and legal prescriptions relating to the work and growth of the Child, its environment and opportunities for development. The fledglings, if properly educated and brought up with sound initiatives, will be the wealth, not the tilth, of the country and the century'. This is evident by the fact that UNCRC is the most widely and rapidly ratified human rights treaty in the world, as every nation put the issues relating to the children at the top most priority realizing the importance of the same. Whereas in India, the number of children increasing year after and the problem of primary health, nutrition, immunization, school enrolment, the

noxious phenomenon of street children and orphans in neglect. Building a database focusing on disadvantage, elimination of social discrimination empowerment of women and pressing into use of NGOs as instruments to enforce the law and above all sensitization of the legal systems and all segments of society are under the eclipse.

After regular brainstorming exercises of the legislatures and judicial officer so much has been achieved in favour of the rights of the children but still there is so much to be contributed to the curb this social evil. First and foremost, there is need to mobilize, educate and sensitize the stakeholders and practitioners who are working in the field of education, health and social work about the possible methods and remedies available. Another is strengthening the vigilance of the matter coming up to the State for the speedy and effective delivery of the justice. Most importantly the government should take due diligence in securing the rehabilitation of the victims which is somehow left behind in many of the cases.

There has been no objective assessment of the manner and extent of implementation of Directive Principles by the Central State Governments excepting occasional surveys by the Planning Commission, some NGO studies and the Human Development Reports of the States. The annual reports of the Ministries of Human Resource Development and Health give scanty and fragmented data on investments and outcomes with no clear indication in terms of fulfilment of rights and obligations. As India is required to report

¹¹1987 AIR SC 656



performance on basic rights to the Human Rights Committee of the United Nations there ought to have been periodical reporting on nature and extent of rights availed or fulfilled to Parliament and State Legislatures so that there could be public scrutiny of not only government's performance but also that of Parliament's and legislatures as well.

