Child Victims and Witnesses of Crime in India

Asha Bajpai

Children in India – The Paradigm Shift

India is a multicultural, multi-ethnic and multi-religious country. It is home to the largest number of children in the world: around 440 million of the one-billion-plus Indian population. The law, policy and practice of child welfare have undergone significant changes. Before 1839, the approach was authority and control. Earlier, the wellbeing of children depended on traditional Indian notions of welfare based on *daya* (pity), *dana* (charity), *dakshina* (charity), *bhiksha* (what you receive as charity), and *tyaga* (sacrifice), towards recipients of welfare measures. The 1950 Constitution of India, which is the basic law of the land, provides special status and protection to children in various provisions in the directive principles and fundamental rights. It guarantees fundamental rights to all children in the country and empowers the State to make special provision for them. The Directive Principles of State Policy specifically guide the State in securing children from abuse and ensuring that they are given opportunities and facilities to develop in a healthy manner in freedom and dignity. Thus the State must ensure that childhood is protected from exploitation and moral and material abandonment. In 1992 India ratified the

---

1 The Constitution of India was adopted by the Constituent Assembly on 26 November, 1949 and came into force on 26 January 1950.

2 Provisions in the Constitution of India relating to children:
   - Article 15(3) stipulates that the State can make special provisions to prohibit discrimination against children;
   - Article 21A provides for free and compulsory education for all children aged 6–14 years in such manner as the State may by law determine;
   - Article 23 prohibits trafficking of human beings;
   - Article 24 says no child below 14 can work in any hazardous occupation or industry;
   - Article 39(e) & (f) establishes State policies that are directed towards securing children;
   - Article 45 stipulates that the State shall endeavor to provide early childhood care and education until they complete the age of six years;
   - Article 51A states that it shall be the fundamental duty of parents and guardians to provide opportunities for education of their children or wards between the age of six and fourteen years.

Judicial interpretation has caused many of the directive principles to become enforceable through legal action before the Courts.

According to the 2013 National Policy for Children, the State shall promote child-friendly jurisprudence, enact progressive legislation, build a preventive and responsive child-protection system, including emergency outreach services, and promote effective enforcement of punitive legislative and administrative measures against all forms of child abuse and neglect. The policy commits the nation to promote and strengthen legislative, administrative and institutional redress mechanisms at national and State levels for the protection of child rights.\(^5\)

The constitutional mandates and judicial interventions, along with commitment to international norms and standards, have prompted a paradigm shift in the approaches to children. The focus has changed from needs to rights, from welfare to development and empowerment, from treating a child as a beneficiary and recipient to treating him or her as a participant and partner; and from isolation to inclusion and mainstreaming. These changes in approach have been incorporated in the law, policy and practice relating to children. The Government has also striven to incorporate the spirit and the articles of the Constitution of India, the CRC and other international instruments while developing various laws and policies related to children.

---

\(^3\) The CRC requires the State Parties to undertake all appropriate national, bilateral and multilateral measures to prevent (a) the inducement or coercion of a child to engage in any unlawful sexual activity; (b) the exploitative use of children in prostitution or other unlawful practices and (c) the exploitative use of children in pornographic performances and materials.
