

Victimization of Children: Dimensions and Responses of the Stakeholders

Inaugural Address
By
Justice Shri D. Murugesan
Hon'ble Member
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The Fourth International & Eighth Biennial Conference
of the Indian Society of Victimology organized by
Department of Criminology, University of Madras.

Prof. Dr. R. Thandavan, Vice Chancellor, University of Madras;

Prof. Dr. N.K. Chakrabarti, President, ISV and Director, KIIT Law School, KIIT University' Bhubaneswar;

Mr. Vidyasagar Ramamurthy, Child Protection Specialist, United Nations Children's Fund;

Mr. M.R. Sivaraman, Chairman, Organizing Committee & Former Revenue Secretary, Government of India & Executive Director, IMF;

Dr. M. Srinivasan, Secretary, Organizing Committee & Head of Department, Department of Criminology, University of Madras;

Dr. M. Priyamvada, Assistant Professor, Department of Criminology, University of Madras;

Chairpersons, Rapporteurs, speakers and Awardees of Plenary Session I & II,

Distinguished delegates, participants and dignitaries,

2. I am really privileged to be here amongst you this morning to present my inaugural address marking The Fourth International & Eighth Biennial Conference of the Indian Society of Victimology organized by Department of Criminology, University of Madras. The three days conference will witness, the invaluable presentations by dignitaries on various issues concerning child abuse. The conference assumes more importance in the present day context as we witness violence and abuse against children is increasing day by day and in various forms. I must congratulate the Madras University for having taken this subject for deliberations.

3. Child abuse has many forms: physical, emotional, sexual, neglect, child marriage, infanticide, Honor killing, female foeticide, trafficking, exploitation etc. Any of these that are potentially or actually harmful to a child's health, survival, dignity and development are abuse. Child abuse in India is often a hidden phenomenon especially when it happens in the home or by family members. Focus with regard to abuse has generally been more in the public domain such as child labour, prostitution, marriage, etc. Intra-family abuse or abuse that takes place in institutions such as

schools or government homes has received minimal attention. This may be due to the structure of family in India, structure of various institutions concerning children and the role children have in these structures.

4. Child victimization can then be categorized as –

- (i) conventional crimes against children which can be called criminal offences against children,
- (ii) acts that violate child welfare statutes, not only including abuse and neglect, but also some less frequently discussed areas like the exploitation of child labour, which can be termed as child maltreatment; and
- (iii) other kinds of victimization that occur among or against children; these include peer and sibling violence, violence perpetrated in institutions by functionaries.

5. Children are among the most vulnerable members of society, dependent on those closest to them for nurturing, guidance, and protection from harm. They also suffer a

considerable burden of victimization that are specific to being children like neglect and emotional abuse. Numerous studies have documented that the high incidence of victimization at home, at school and in neighborhoods, underscores the urgency of the need for their protection. Number of cases of child abuse in the homes and schools are hard to know because most of these crimes go unreported.

6. Societal abuses due to poverty such as malnutrition, lack of education, poor health, neglect, etc are addressed in various forms by the Indian legal system. Mal-treatment of care givers has the potential to emotionally and mentally harm children to a very different degree.

7. Similarly, the grave issue of child trafficking has been a major concern over a number of years. The trafficked children are misused for various purposes, as devdasis in temples, for commercial sexual exploitation, child labour, child brides, sex tourism, child pornography, begging and so on. It is an organized crime. Indeed, there are distinct "catchment" areas from which

children are trafficked and there are routes that are followed across the borders of South Asia to trap children in this cruel trade. India is no exception to this.

8. Poverty is undoubtedly a major causal factor for trafficking. However, poverty alone cannot adequately explain this phenomenon. Trafficking is the result of a complex inter-relationship of multiple push and pull factors. These can include dysfunctional families and communities, lack of education, domestic violence and sexual abuse in the home, growing consumerism, urban to rural migration, homelessness, street life, gender discrimination, corruption, and lax law enforcement. These factors must be seen within the historical, socio-cultural, and development context in each country. In some countries commercial child sex practices have existed for centuries embedded in discriminatory cultural traditions.

9. Child labor in India is a grave and extensive problem. Child labour practice is a worldwide phenomenon. This problem has

given rise to a number of socio-economic problems. It is beyond doubt that children are forced by circumstances to do labour in a tender age when they should have been studying in schools. These circumstances are poverty, unemployment, large family, illiteracy and ignorance of parents. Besides poor labour legislation, inadequate inspecting machinery, failure to strictly implement the law on compulsory education etc. are also some of the reasons responsible for child labour. Recently, child labour has increased in bonded labour particularly in migrant workers.

10. The problem of child marriage is another huge problem. Its complexity lies in the historical moorings and prevailing traditional religious customs. Dominant is the popular notion of the woman's role defined in terms of marriage, child bearing and rearing and taking care of all other domestic activities. Coupled with this is the general belief that women are dependent beings who would ultimately move from the father's house to the husband's house. This largely explains the parent's reluctance or failure in sending girl children for formal education. Instead they tutor the girl child to handle all domestic chores which are to benefit her after marriage.

The institution of child marriage is also the result of hypergamy, dowry, the notion of virginity and chastity. The ill-effects of child marriage are obvious as it results in problems of over- population, poverty, unemployment, ill-health, dependence upon parents, etc. Its repercussions, however, are more serious for girls than for boys as it leads to inadequate socialization, discontinuation of education and physiological and psychological damage due to early and frequent pregnancies and quite often an early widowhood. Low age at marriage is also a part of the vicious circle of high fertility, high infant mortality and maternal mortality. This in a way deprives the girl child control over her reproductive rights though at the national level child marriages create a longer legitimate reproductive life span and thereby contribute to population explosion.

11. The Convention on the Rights of the Child (CRC) was adopted by the United Nations General Assembly in November 1989. The Government of India ratified the Convention in December 1992. The Convention has three Optional Protocols –

- (i) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000);
- (ii) Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict; and
- (iii) Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.

The Government of India has ratified the former two Optional Protocols. Despite having ratified the Optional Protocols on Involvement of Children in Arm Conflict, umpteen numbers of incidents have come up where children have been surreptitiously involved in armed conflict in the North-eastern States and southern parts of India.

12. Earlier, the Government of India had ratified the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others adopted by the General Assembly of the United Nations in 1949. This convention calls upon States Parties to punish traffickers and to protect all persons against such abuse. It

also calls on States Parties to make suitable provisions for trafficked victims temporary care and maintenance including repatriation of trafficked persons. Keeping this in view the Government of India enacted the Immoral Traffic (Prevention) Act, 1956 but the law has failed to prevent trafficking in India. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime is another Protocol that Government of India ratified in 2011.

13. Article 21A of the Constitution of India mandates all the States in India to provide free and compulsory education to all children of the age of six to fourteen years. Article 23 of the Constitution of India prohibits traffic in human being, begging and forced labour. Article 24 prohibits employment of children in factories, mines or any other hazardous employment. Various laws are enacted to give effect to the above fundamental rights. For example, the Right to Education Act, 2009, which prescribes free and compulsory education as mandated under Article 21A of the Constitution of India. The Protection of Children from Sexual

Offences Act, 2012 is yet another milestone. The Child Labour (Prohibition & Regulation) Act, 1995 also requires a reference. Yet another important legislation is the Juvenile Justice (Care & Protection of Children) Act, 2000.

14. In my view, any number of legislations may not serve the purpose, unless and until the law enforcing machineries, various functionaries, parents, common man and various stake holders do understand the rights of the children. Sensitization on child rights related laws to these persons is paramount need of the hour. Strict implementation of laws shall also serve the purpose.

15. Abuse of children is a societal problem which demands attention, action, and reevaluation of existing investigative and prosecutorial protocols. I am sure that the event being organized by University of Madras will focus on the different kind of victimization of children. The outcome of this conference will help to frame a strategic plan of action aimed at a comprehensive policy on children that finally translates into sensitive and progressive law rooted in a child rights discourse.

16. It is my privilege to inaugurate this fourth International & Eighth Biennial Conference of Indian Society of Victimology and wish you all the best in the ensuing deliberations that would take place during the course of the day.

Thank you.
