

The Urgent Need for Special Legislation

Protecting Disabled Children in Legal Conflicts

A Vulnerable Intersection: Disabled Children and the Law

Disabled children, due to their unique physical and mental challenges are among the most vulnerable individuals in society.

Their vulnerability is further worsened when they find themselves as "children in conflict with the law." In such situations, these children may be exploited for various criminal offenses, ranging from theft to involvement in cybercrimes and sexual offenses often without their knowledge or consent.

THE GAP IN LEGAL PROTECTION

Despite laws like the Protection of Children from Sexual Offences Act (POCSO), 2013 and The Juvenile Justice (Care and Protection of Children) Amendment Act, 2021 which mention the engagement of special educators and translators, a critical gap remains. These acts do not provide comprehensive guidance on the use of specific forensic tools or the process of assisting disabled children who are entangled with the law.



THE ISSUE OF INADEQUATE LEGAL SUPPORT

Disabled children in conflict with the law face significant barriers in accessing legal aid and proper interpreters, primarily due to socio-economic constraints and lack of awareness among their parents or caregivers. This lack of support undermines their rights and the potential for fair legal representation.

A GLOBAL PERSPECTIVE ON DISABILITY

With over 1.3 billion people globally experiencing significant disability, the issue takes on an international dimension. Among these, approximately 240 million are children. The statistics in India reflect a concerning trend with a notable increase in juvenile crimes, yet there is no specific demarcation for the number of juvenile offenders who are disabled.



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THE LEGAL CONUNDRUM AND THE NEED FOR SPECIAL LEGISLATION

The current legal framework falls short in addressing the specific needs of disabled children in conflict with the law. This gap highlights the urgent need for amendments to existing legislation or the introduction of specialized laws to protect this vulnerable group.

TAILORING LEGAL PROCESSES TO DISABLED CHILDREN

The unique needs of disabled children require specialized approaches in legal processes. This includes adapting communication methods and considering cognitive and behavioural differences. Such tailored methods are crucial in ensuring a fair legal process that respects the diverse needs of disabled children.

PROPOSED AMENDMENTS AND RECOMMENDATIONS

Amendments to the Juvenile Justice Act are proposed, focusing on incorporating provisions for disabled children, specialized forensic tools and justice measures. These amendments include specialized training for law enforcement, the empowerment of the Juvenile Justice Board (JJB) to order forensic assessments and access to specialized forensic support during inquiries.

THE IMPORTANCE OF FORENSIC TRAINING AND PRIVACY PROTECTION

Training programs for stakeholders in the juvenile justice system covering the use of forensic tools related to disabled children, are essential. Additionally, the protection of privacy and confidentiality of forensic evidence obtained from disabled children must be prioritized.

A MODEL LAW FOR THE FUTURE

The "Child with Disabilities (Rights, Support, and Protection) Bill, 2023" is proposed as a model law. It focuses on ensuring equal access to legal protection for disabled children with specific considerations for their unique needs and circumstances. This includes provisions for accessible facilities, sign language interpreters and the presence of guardians or support persons during legal proceedings. The model law also emphasizes the need for specialized rehabilitation and support services for disabled children in conflict with the law. These services should address their educational, vocational, and psychosocial needs, aiding in their reintegration into society.

CONCLUSION: A CALL TO ACTION

The critical assessment by Jaydeep Findoria and Prof (Dr) Debarati Halder brings to light the urgent need for special legislation to protect disabled children in conflict with the law. The existing legal framework's inadequacies in addressing their unique needs call for immediate action. The proposed amendments and the draft of the model law serve as a blueprint for creating a more inclusive and fair legal system for disabled children. It's a call to action for policymakers and society at large to ensure that these vulnerable children receive the justice and support they rightfully deserve.

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