



Standing Committee Report Summary

The Protection of Children from Sexual Offences Bill, 2011

- The Standing Committee on Human Resource Development submitted its 240th Report on ‘The Protection of Children from Sexual Offences Bill, 2011’ on December 21, 2011. The Chairperson was Shri Oscar Fernandes.
- The Bill seeks to protect children from offences such as sexual assault, sexual harassment and pornography. The Committee recommended that the Bill be passed after incorporating the suggestions made by it. It also stated that the government provide a note stating reasons for not incorporating certain recommendations.
- The Committee stressed that the Bill does not include provisions for relief and rehabilitation of a child who has been abused. It recommended that an exclusive law on protection of children on sexual offences should include all allied aspects. Also, it should ensure that all the institutional arrangements are fully functional.
- The Committee suggested that the training programmes being conducted by different agencies be assessed so that the officials are sensitised. The Committee also proposed that an effective monitoring mechanism be put in place to monitor the implementation of the law. Such a system was established for the Juvenile Justice Act where the Supreme Court designated High Court judges in every state to monitor the law. Also, the National Commission for Protection of Child Rights (NCPCR) could be considered for a monitoring role.
- The Committee felt that it was necessary to sensitise and inform children, teachers and parents about sexual offences. It could be done through sex education in schools.
- The Committee recommended some modification of definition of “child”, “shared household”, “special court” and “aggravated penetrative sexual assault”. It also stated that a “gang” should be defined and the list of possible places where assault could take place be expanded to include religious institutions.
- The Bill states that if the child is between 16 and 18 years, it shall be considered whether consent for the act was taken against his will. The Committee was of the view that if the child is defined to be below 18 years, the issue of consent should be treated as irrelevant.
- According to the Bill, penetrative sexual assault shall be considered to be aggravated if it causes the child to become mentally ill or mentally unfit to perform regular tasks. The Committee advised that this provision be modified to define mentally ill according to the Mental Health Act, 1987. Some provisions specifically protecting Scheduled Castes and Scheduled Tribes children be included.
- The Committee recommended that the Bill include provisions to protect victims of child trafficking for sexual purpose since there is no exclusive legal mechanism for curbing the practice. It pointed to the UK Sexual Offences Act, 2003 which contains provisions on trafficking.
- If an offence is committed under this Bill, it shall be reported to either the local police or the Special Juvenile Police Unit. The Committee proposed that Child Welfare Committees should also be allowed to receive complaints.
- The Bill makes it mandatory for any person (including a child) to inform the designated authorities if he apprehends that an offence is going to be committed. However, the Committee felt that such a provision would be too far-fetched and difficult to assess. Therefore, it recommended that this provision be relooked. It also felt that penalising a person for not reporting may be counter-productive given the social stigma attached to the issue. The Committee advised that mandatory reporting be confined to designated authorities such as child care custodian.
- The Committee recommended that the media be prohibited from reporting the identity of the victim categorically in line with the Juvenile Justice Act. The Committee proposed that the ‘Procedures for recording statement of the child’ be made more extensive in line with the guidelines given by the Delhi High Court in 2007 and NCPCR. Children’s courts, set up under the Commission for Protection of Child Rights Act, 2005, should try offences too so that there are no multiplicity of institutions.
- The Committee was of the view that Special Courts should not have the discretion to decide about compensation to the child victim. Compensation should be awarded in each case and a part of the amount should be paid by the perpetrator. Alternatively, a Fund may be set up under the state government or the court for the purpose. Each penalty clause should specify a minimum amount of fine. Also, the Rule making clause should indicate specific areas where Rules are required to be framed.

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