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# Children Speak

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*A Newsletter of the Organization for the Protection of Children's Rights*

## Message from the President

Children are by definition vulnerable because they depend on us, the adults, to provide them with the basic necessities of life: food, shelter, emotional and psychological support, a safe and happy home and an opportunity to succeed in life and become independent and productive adults. We fail our children when we cannot meet these needs.

We are failing our children when 16,000 of them die every day because they do not have enough food to eat.

We are failing our children when 5760 children die every day because they do not have safe drinking water.

We are also failing our children when they are forced to become refugees or are internally displaced in their own country and are separated from their parents.

Refugee and asylum seeking children and adolescents often experience very traumatic events including the violent death of a parent, terrorist attacks, bombardments and shelling, beatings and/or physical injury, sexual assault, disappearance of family members/friends, famine, forcible eviction, separation and forced migration.

Children and adolescents who have witnessed or have been subjected to such traumatic events may exhibit

symptoms of very high anxiety, social withdrawal, regressive behaviors, flashbacks, poor concentration, sleep disturbance, complaints of physical discomfort and conduct problems,

aggressive behaviors, delinquency, nightmares, trauma and guilt over one's own survival.

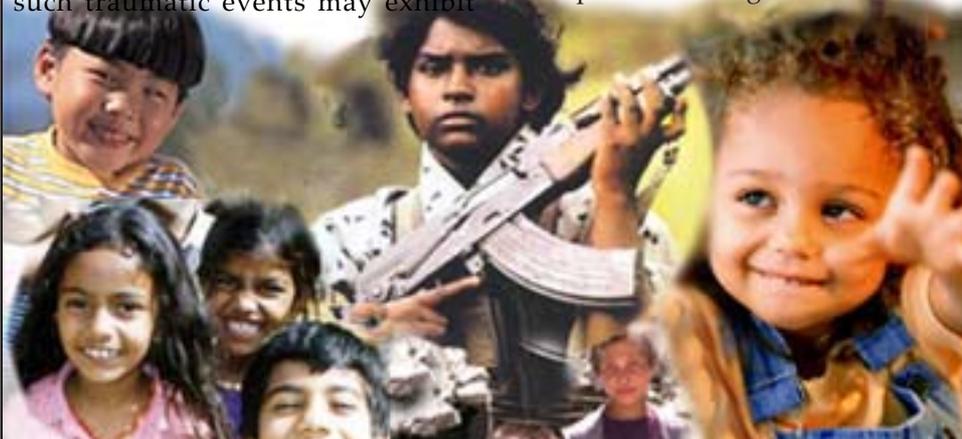
[www.hreoc.gov.au/human\\_rights/children\\_detention](http://www.hreoc.gov.au/human_rights/children_detention)

It is clear that concerted efforts are needed to support humanitarian assistance in all regions of the world where civil conflict or persecution produce such devastating results on our lights of hope – our children. Eliminating the conditions that lead to the displacement of children and their parents is the best way of ensuring their safe return home. Peace-building efforts must be increased if we want the over 13 million internally displaced people in Africa to be able to provide a future for their children.

This issue of Children Speak is dedicated to all those vulnerable children that we continue to fail every day. We can only hope that we, the adults, learn to right the wrongs that cause such strife to the most precious beings on earth. ■



Riccardo Di Done



# Law, Police and Vulnerable Children in India

By Maitri Porecha

**C**hildren are often the missing face of the society especially when it comes to those who are neglected and not taken care of. The society, government and most important of all, the police force should act responsibly in the direction of their rehabilitation.

## The Juvenile Justice Act 2000:

The Juvenile Justice Act 2000 of the Indian

Constitution aims at providing appropriate guidelines for the civil society to act in a sensitive manner towards the rights of children.

Children who are in difficult circumstances and in need of protection are covered under the broad category of law related to Juvenile justice. The Juvenile Justice (Care and Protection) Act, 2000 is a new law which has repealed the earlier Juvenile Justice Act of 1986. This act aims to provide proper care, protection and treatment of children by catering to their development needs. It also commits to use a child friendly approach and keep the best interests of the child in mind while adjudicating cases related to children.

This Act broadly covers two categories of children

- Children who are in conflict with the law;
- Children who are in need of care and protection.

According to the Act, a child is a person below 18 years of age. The Act provides for separate systems for children who are in conflict with the law and children who are in need of care and protection in terms of the competent authority that can hear their cases, the place of custody, etc. However, it provides the same measures for their rehabilitation and social



Lunch Time at Dongri Children's Remand Home - Asia's largest remand home; Its archaic system is every child's nightmare.

**Children often fear the Police and do not look up to them for assistance; On the other hand, the Police are ill-equipped to deal with drugs, smoking and other vices of unattended children**

Magistrate at the Juvenile Justice Court. The Magistrate is given information about their family background and about their medical condition (a medical check up is conducted at the Observation Home as soon as a child is brought in). The Magistrate orders an inquiry into their background - home and parents/guardians, in case information is insufficient.

They are subsequently either reunited with their families or sent to the remand home for stay until some permanent arrangement is made - of rehabilitating them into an orphanage.

Children in need of care and protection, such as physically challenged or mentally disabled children or children with sick parents, tortured children or children affected by mass disasters - are dealt with by the Child Welfare Committee (CWC). The CWC, composed of a Chairperson and four members, has powers of a

integration. The Act also provides penalties for offences committed against children.

## Juvenile Aid Protection Unit:

The Juvenile Aid Protection Unit (JAPU) of the Bombay Police, headquartered at the Head Office of the Mumbai Commissionerate, takes responsibility for unattended juveniles in the

city under Section 32 (A) of the Juvenile Justice Act 2000. This unit is divided into two major departments: JAPU Protection and JAPU Escort for Juvenile protection and improvement

The Unit, which functions from key locations in the city, takes unattended, destitute and runaway children into custody and sends them to the Juvenile Observation Homes at Dongri where within 24 hours, they are presented in front of the

magistrate. Every district in the State has a Child Welfare Committee (CWC). Children are brought before the CWC by the police, by citizens, by NGOs or the children themselves.

Juvenile delinquents are also presented before the courts and an attempt is made to bring about a sublime change in their behavior and development. The premier mandate of the Juvenile Justice Act 2000 remains to reunite the children with their families.

**Police and Children:** The Majority of unattended children in the city, live in a fraternity, which inculcates vices such as smoking, drug addiction and gambling. Unfortunately, the JAPU is not equipped to deal with these habits of children or to rehabilitate them. Also, the children, due to some reason, fear the Police, and do not approach them for help or assistance. It is for this reason that the JAPU members patrol railway stations and other public areas in civil clothes.

The JAPU has 81 centers in Mumbai city. At least, one Police Inspector in each of these 81 Police Stations is well trained on the issue of Child Rights. JAPU networks with various NGOs dealing with child rights and the CWC (Child Welfare Committee) in order to rehabilitate vulnerable children.

**Children of Refugees or Illegal Immigrants:** Information from The Juvenile Aid Police Unit indicates that very few children migrate on their own into the country. Such children are dealt with by the SB2 department of the Police under the Indian Immigration Act, which deports them to their respective countries and attempts to reunite them with their parents or guardians. The SB2 department approaches the Consulate of the country from where the child hails from and gives all the necessary information about the child to the Consulate in order to rehabilitate them.

**Rehabilitation and Reintegration:** The Juvenile Justice Act 2000 states that the Family is the best social unit; therefore non-institutional services like adoption, foster-care and sponsorship are recommended before taking recourse to remand homes.

The CWC provides for the adoption of a child to any fit person or institution - government or non-governmental - certified by a competent authority. The Act provides for adoption of an orphaned, abandoned, neglected, destitute and vulnerable child.

In earlier years, religious and philanthropic organizations provided institutions such as Ashrams for those who sought refuge or did not have a home. Unfortunately, many of these have lost their relevance today and there is a

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## Dealing with European Child Refugees

The refugee crisis knows no borders and problems don't spare any continent. The European Council on Refugees and Exiles (ECRE) deals with the crisis of refugees in Europe. It is primarily concerned with the protection and assistance of asylum seekers and refugees. Within this overall concern, ECRE aims to improve the protection and assistance of refugee children and to strengthen the international promotion of these children's rights.

ECRE maintains that in many instances, the rights of refugees as children will supersede their rights as asylum seekers. ECRE General Secretary, Peer Baneké says: "The human cost of the failure of Europe's asylum and migration policies is

simply unacceptable. Our agenda calls for a new approach where European countries put human rights and respect

at the core of their programme and start sharing responsibility for refugees."

ECRE here refers to a "refugee child" as every child who is - Seeking refugee status or other international protection, - Forced to flee across an international border (as a result, for example, of war, civil war or generalized violence).

ECRE maintains that each unaccompanied child has a right to access the European territory and freedom from detention. The child has a right to apply for asylum and a right to legal representation. If *unaccompanied*, automatically receives such representation at no cost to the child or those caring for the child and is provided with interpreters trained in both refugee and child issues.

Every child is given a Right to be heard. The refugee child who is capable of forming his or her own views has the right to express these views freely in all matters affecting the child - particularly the refugee determination procedure. These views should be taken into account and given due weight, in accordance with age and maturity.

ECRE also provides full support for tracing the family of the child, contacting the family and reuniting the children with their parents. It also makes sure that the children are provided with efficient medical care and that the children have a right to education. A child refugee is able to benefit from additional education in his/her mother tongue in order to preserve cultural identity.

While more than 70% of the world's refugees remain in poor, developing countries that struggle to give them the protection they are entitled to, the number of asylum seekers arriving in Europe continues to decrease as governments strengthen border controls and develop ever more restrictive asylum systems. Amidst such problems ECRE is trying its best to rehabilitate the refugees and their children in a way which is as humane as possible.

([www.ecre.org](http://www.ecre.org))



# Vulnerable Refugees

## Children & the Canadian Refugee System

By Tony Manglaviti, Allegra Manglaviti, Immigration Attorneys

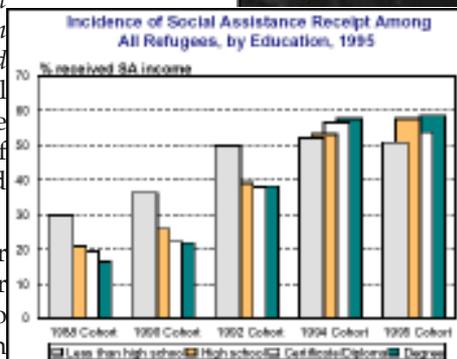
Each year thousands of people seek to leave their country of birth due to persecution. Using different means and at times suffering at the hands of ruthless agents whose only goal is to exploit people and take their money these same people arrive in Canada seeking protection. In many instances families are separated during the process and children find themselves alone and in need of particular attention.

The *Immigration and Refugee Protection Act* governs matters concerning refugee protection in Canada. Article 96 of the *Act* defines a Convention refugee as a person who has a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group, or political opinion. In addition to the *Act* which outlines Canada's commitment to protecting refugee claimants, Canada is also a signatory of the 1951 *Convention Relating to the Status of Refugees*, the 1967 *Protocol Relating to the Status of Refugees* and the 1984 *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment*. These legal instruments ensure that people seeking the protection of Canada obtain a fair and equitable hearing.

Canada, like many other countries, also receives its fair share of children claimants who have been either separated from their families by violence and torture or have been separated because the parents have made a conscious decision to protect their children and risk their lives. Whatever the situation, the child finds himself alone and vulnerable. The effects of this displacement can be traumatizing and usually have an impact on the mental and physical health of a child. The health of refugee children must be considered not only within the legal context of the *Immigration and Refugee Protection Act* but within the greater scope of their needs within society. The United Nations Convention on the Rights of Children, of which Canada is a signatory, requires countries to ensure that a child receives appropriate protection and humanitarian assistance. Whatever the situation the best interests of the child should be the guiding factor when assessing the



canadianheritage.org



Hungarian refugees arriving in Canada in 1957 after Soviet troops and tanks had crushed the democratic revolt in their homeland.

situation and making a decision affecting the child.

Upon their arrival in Canada children are usually met by an Immigration officer who, in addition to

refugee matters also ensures that the child is met by a person working within a Health and Social Services Agency. The issues of settlement including school, medical services, financial services, housing and clothes are among the things which are usually handled by the agency. In general, the frame work of support both within the context of the law and Canadian social services guarantees that a child receives the same quality of care and protection as most children in Canada. What the system does not protect against is the emotional roller coaster which a child finds himself on, without his parents to support him.

Achieving refugee protection or even citizenship is not enough. If we are to help these children, government and public policy must be designed to foster and facilitate reunification of parents with their children. This should be the PRIORITY. ■

# PROJECT KIRAN

## Human Resources Development and Updates

Three major events were conducted as part of capacity building measures for Project Kiran by O.P.C.R. Mumbai from August to October 2006 - a Training Program to orient Volunteers of Project Kiran organized by the O.P.C.R. Mumbai in coordination with the Vatsalya Trust, Mumbai; A Training Program for Developing Organizational & Communication Skills for the National Social Service (N.S.S.) Volunteers of Project Kiran; and a celebration organized by the Volunteers and O.P.C.R. Mumbai on the occasion of Diwali.



N.S.S. Volunteers of Project Kiran attend a Training workshop organized by O.P.C.R. Mumbai and Vatsalya Trust

- A discussion of the larger legal framework for protection of children: The United Nations Convention on the Rights of the Child, 1989 and the ratification by India in 1992;
- A discussion of the needs of the child;
- A discussion on the life of a street child and the various levels of abuse and exploitation they are exposed to (particularly girl

children);

- Information on the social, psychological, emotional and physical needs of the street child;

**Training Program at Vatsalya Trust, Mumbai** was organized at the Seminar Hall of the Trust at Kanjur Marg, Mumbai from 31 July to 1 August 2006. The objective of the workshop was to provide orientation to the volunteers of National Social Service (N.S.S.) Unit of Kirti College and OPCR members involved in the Project Kiran, to help mainstream them and to

### Events

- A discussion of communication techniques for the education of street children. This included methodologies such as songs and dance as means of training the volunteers for conducting informal education;
- Information on a 16- hour module with exercises in various subjects for developing an education curriculum for street children.

**Capacity Building Program in Organizational Development and Communication Skills:** On 20 October 2006, a capacity building program was organized by the O.P.C.R. Mumbai for N.S.S. volunteers. The Program organized at the Kirti College premises, Dadar, Mumbai, was attended by the Principal of Kirti College, Dr. Pendse, who distributed certificates to the

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*"I believe that if one always looked at the skies, one would end up with wings."*

*- Gustave Flaubert (1821-1880)*

<http://www.poemhunter.com>

find alternative means of growth and development for the children.

The workshop provided the volunteers with the means to develop educational modules for curriculum development and improve their communication skills in order to provide education for the street children involved in Project Kiran. The trainer for the workshop was Ms. Medhavinee Namjoshi, a Graduate from the Tata Institute of Social Sciences, Mumbai and Manager of the Documentation and Training Center of the Vatsalya Trust. Other main features of the workshop included:

- An introduction to the legal definition of child in the Indian context;



Rajeev Taishete, Hon. Treasurer, O.P.C.R. Mumbai, comments the Principal, Kirti College while Roshni Udyavar(L), Sadhana Mahashabde(R) & Prof. Pednekar applaud ; Inset: volunteer Anamika Lad receives certificate

## Law, Police & Vulnerable Children

huge vacuum in society in their absence. Such Ashrams should therefore be revived.

The Juvenile Justice Act provides two different forms of homes for children:

**Closed Institutions:** These institutions are closed, inmates -children do not go out. Rules and regulations are strict. The children are committed to the institutions until 18 years; if left earlier they can be released on license by the order of Commissioner.

**Open Institutions:** Children can freely move out. If a child runs away nobody is suspended.

In these institutions, all services such as food, clothing, education, vocational training and supportive services are provided. Despite all these services, children living in institutions lack emotional support and familial love. The ratio of caretakers per child is also very low in many cases, resulting in lack of individual attention. The average counseling ratio is 1 counselor for 150 children. Only Rs. 500 is given by the government for maintaining a child in the institution. They therefore are dependent on philanthropic individuals and organizations. Inspections are periodically conducted by government appointed inspectors.

The Juvenile Justice Act 2000 also provides for two major non-institutional supports:

### 1) Adoption and 2) Foster Care.

**Recommendations:** In order for legal mechanisms such as the Juvenile Justice Act 2000 to be effective, awareness must be generated among a cross section of society. The following recommendations are suggested:

- There should be regular interface with government officials working with the Social Welfare Board, lawyers, Magistrates, Superintendents of government homes, police and NGOs to upgrade the facilities and improve the quality of living in institutional homes.
- All government and non-governmental personnel including police and lawyers should receive training on children's rights as well as the methods to be used when communicating and dealing with children;

Childhood is a very special period in one's life - when an individual forms his or her opinion about life and society. Incidents in childhood, consciously or subconsciously, become benchmarks on which the future is based. We must strive to make these stepping-stones to a glorious and productive life for every individual. The world just cannot afford to let its children suffer from neglect and lack of care. The Legal system including the police force and the courts must therefore work towards the eradication of child abuse especially those who are vulnerable and lack the protection of a family and home. ■

## Project Kiran Updates



Bahadur lights up the college with lamps on Diwali;  
Inset: Roshni preparing rangoli with children

Volunteers who had conducted the survey and those who have been volunteering for the Project programs every week for more than 10 months.

The program was attended by more than 70 National Social Service Students from all over Mumbai. Roshni Udyavar, Chairperson, O.P.C.R. Mumbai, provided an overview of the project so far and its future. This was followed by a short movie on the Project Kiran - its aims, activities and long-term goals. Advocate Sadhana Mahashabde, Secretary, O.P.C.R. Mumbai, presented a talk on Child Rights. Communications expert, Prof. Suman Keluskar conducted a special session for the Volunteers on the future prospects of Project Kiran.

The program ended with a group dance lead by Volunteer Anamika Lad and a folk song lead by Volunteer Nilesh Bhonsale.

**Diwali Celebration with street children and Volunteers:** Diwali – the festival of light that is celebrated with pomp and splendor throughout India, also brought in light into all those involved in Project Kiran. On 23 October 2006, the Volunteers of Project Kiran organized a celebration with the street children involving festive customs such as lighting lamps, putting up “Kandeels” (illuminated paper lanterns), preparing “Rangolis” (decorative patterns made from colored sand), sharing of sweets and lighting fire crackers.

Nearly 25 children and an equal number of volunteers joined in the festivities. Volunteers from the Rotaract Club also joined in the celebration. The Chief of National Social Service of Bombay University addressed the students on this occasion.

The program concluded with refreshments and had all the volunteers and the children swinging to foot tapping tunes towards the end! ■