

Recommendations to the National Child Protection Policy with Special emphasis on marginalized category of children from a gender and sexuality lens

In conjunction with recommendations given by Partners for Law in Development (PLD), these recommendations are to highlight the structural marginalization of gender and sexuality in the lives of children especially the adolescents with their associated cultural, social and emotional constraints which go beyond legal parameters. We believe that a national policy which aims to encapsulate provisions for protecting children should be forward looking and should explicitly lay out gender and sexuality concerns in a futuristic manner that is invested in building and nurturing the future generations for a gender just society.

Issues of gender and sexuality are a matter of great interest in context of children and adolescents especially due to the cultural stigmas and taboos that are attached to their sexualities. This becomes particularly important for those who lean towards non-conforming gender and sexual identities. These vulnerabilities are exasperated due to the lack of awareness, capacities and sensitization of the stakeholders (who include member of State and Social System including teachers, case workers, protection officers and peer groups among others). Studies show that one of the primary reasons for sexual abuse is the inability of children to talk about their abuse because of the culture of non-engagement with sexuality. Due to this, children are unable to give a language to the positive and negative experiences of their sexuality. This is reflected in the evidences that there is an 82% increase in cases of child rape in the country. 11.9% of girls in the country are married before the age of 18. 14.1% are in rural India and 32% of girls married between the age groups of 15-19 years reported giving birth.

Though this policy is based on the principle of equality by saying “[...] race, color, gender, sexuality, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”. It does not ensure the principle of equity; the document is limited in its specificities of principles of equity, making the reality of the most marginalised invisible. We thus need to address the specific vulnerabilities and layers of marginalization. Gender and sexuality should be seen as cross-cutting issue of marginalization along with other realities of disabled children, children of migrant workers and children in conflict areas among others. For instance, the reality of a disabled child in rural areas Kashmir who recognizes herself as a lesbian should be recognized and laid out in this policy.

Hence, following are some of our recommendations for the proposed policy for protecting children;

1. Inclusion of Comprehensive Sexuality Education (CSE): UNESCO defines Comprehensive sexuality education (CSE) as a “curriculum-based process of teaching and learning about the cognitive, emotional, physical and social aspects of sexuality. It aims to equip children and young people with knowledge, skills, attitudes and values that will empower them to: realize their health, well-being and dignity; develop respectful social and sexual relationships; consider how their choices affect their own well-being and that of others; and, understand and ensure the protection of their rights throughout their lives.”

With gender and sexuality evolving during the adolescence, the inclusion of sexuality education in schools and other institutions would create enabling environments where children will not only be able to share their experiences of abuse and express themselves. It will also sensitize other relevant stakeholders in these schools and institutions who are responsible for ensuring safe environments for the children.

2. Equipping stakeholders around children and adolescents: The policy has listed down the various Penal Codes under Rights of Children. While it is important to create protection mechanism and penalizing those who violate them; it is also crucial to create an environment and opportunity to engage with child rights using the agency of children and giving space to their voices. This becomes critical because adolescent children are vocal about their needs; if we don't recognize them, it will create conflicts in schools and other institutions. Additionally, the policy needs to fill the important gaps in terms of equipping the stakeholders that include teachers, institutions, both State and Non-State Actors in building their perspective towards child rights, giving them a language to effectively communicate with the children and enhancing their knowledge about Right to Body, Gender identities and sexual agency of the children.

We would thus urge MWCD to widen the scope of the Child protection Policy to include the diversities and various inter-linkages of our children especially in context of gender and sexuality which intersects with other forms of marginalization so that the policy is able to address the Rights and Entitlements of the most marginalised in the best holistic manner.

Nirantar Resource Centre