

GOVERNMENT OF GOA

LAW COMMISSION

Report recommending amendment to Children's Act 2003 by substituting the words "Children's Court" by the words "Children's Court for each District in the State of Goa" and requesting the Hon'ble High Court to appoint Additional Sessions Judges to function as full time Judges of the Children's Courts.

Report No. 11

August 2010

LAW COMMISSION, GOA

(REPORT No. 11)

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Forwarded to the Chief Minister, Government of Goa by Shri Ramakant D. Khalap, Chairman, Law Commission, Goa on the 6th day of August 2010.

The 2nd Law Commission constituted by Government of Goa for a period of one year (Order No. 9/5/2008-LA/100 dated 20th January 2009) and further extended for two years w.e.f. 06/04/2010 (Order No. 22/1/2010-LD(Estt.)/LC/530 dated 05/04/2010).

The Law Commission consists of the Chairman, and the two Members.

Chairman

Shri Ramakant D. Khalap

Members

Shri Cleofato Coutinho

Shri Mario Pinto Almeida

The Law Commission is located at B S/1, 3rd Floor, Paraiso de Goa, Porvorim-Goa.

Secretarial Support

- 1. Shri Manohar Shetye, O.S.D. to Chairman/ Acting Secretary**

**The text of this Report is available on the internet
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Any enquiry relating to this Report should be addressed to the O.S.D. to Chairman/ Acting Secretary and sent either by post to the Law Commission, B S/1, 3rd Floor, Paraiso de Goa, Porvorim-Goa or email to chairman-glc.goa@nic.in or rdkhalap@rediffmail.com

Report

The State of Goa has enjoyed great reputation as a peaceful, tension free place blessed in abundance with natural beauty and inhabited by a people who live in perfect harmony and comradery despite following different religions and faiths. This reputation of Goa and Goans has been attracting large number of tourists from different parts of the world so much so that tourism has now become one of the main contributors to the development of Goa and its economy.

In the recent past however this image of Goa as a haven for tourists received a severe jolt. A number of cases of sexual harassment, molestation, rape and murder of children and women were reported in succession. Some of the incidents involved foreigners. The incidents were widely reported by the print and visual media all over the world. Suddenly Goa was caught in the eye of a storm. Its image received a severe beating. What was once looked upon as the peaceful Gods Own Abode (G.O.A) appeared to be acquiring a new image as a haven for sex, drugs, rape, and murder and therefore a most unsafe place for children and women.

The issue was compounded by reports about tardy and faulty investigations by police and inordinate delay in Courts. At this juncture we, the Law Commission of Goa decided to step in and investigate the facts about pendency of cases relating to sexual violence against children and women in the Courts in Goa and suggest remedial legal measures wherever possible.

We therefore, invited statistics from the concerned organs of the Government.

The statistics provided by the Directorate of Child and Women Development showed that there is large pendency of cases involving Children as victims of crime. A number of cases are also pending before the Sessions Court in respect of offences relating to sexual violence in the North and South Districts. The Children's Court functioning at Panaji functions for the entire State of Goa. The Judge appointed to constitute the Children's Courts also functions as a Sessions Judge for sessions work in the District and is also allotted civil work as Additional District Judge.

Prompt and fair investigation and speedy disposal of cases leading to severe punishment to perpetrators of such crimes is a sine qua non to reestablish Goa's fair name as a tranquil holiday destination. We came across a case of rape of a foreigner in Rajasthan and were pleasantly surprised to read that the entire investigation trial and judgement were completed in a matter of a few days. It is not impossible for Goa to achieve a similar distinction.

Goa is divided into two administrative Districts. It has two District and Sessions Courts which are manned by District and Sessions Judges and several Additional District and Session Judges. Some of the Additional District and Sessions Judges are designated as judges of the Fast Track Courts which have been specially designated as such. We however have just one Children's Court which is headed by one of the Additional Sessions Judges who used to sit in sessions in the Children's Court twice a week. The sittings were increased to thrice a week on account of increase in the work load of the Children's Courts. The Directorate of Women and Child Development are of the opinion that the Children Court should be a full fledged Court with a full time President so as to give speedy justice to the victims. We are not only in agreement with this view but would like to suggest creation of two full fledged Children's Courts for the two Districts of Goa. This will require an amendment to the Children Act 2003 and a request to the Hon'ble Bombay High Court to spare two Additional Sessions Judges to constitute these two Courts. All cases relating to sexual offences against women could be allotted to the Additional Sessions Judges constituting the Children's Court in the two Districts of Goa. For administrative convenience the Children's Court may be designated as "Women and Children's Court". Proposed amendment to the Children's Act is annexed herewith.

We are aware that creation of Courts alone are not sufficient to wipe away the stigma attached to Goa's face. Concerted efforts by all concerned are required to instil a sense of propriety, sobriety, and good behaviour among our people.

Investigating agencies, NGO's and general public will have to be more vigilant and proactive in protecting the tourists who visit our State and contribute in immense measure to our economic upliftment. Indian culture looks upon a visiting guest as God Himself. "Athiti Devo Bhava (अतिथी देवो

भवः) is our creed and conviction. We hope Goans and rest of Indians as well will imbibe this spirit in their hearts and mind in immense measure.

Recommendation

1. Two Children's Court, one for each of the District of Goa be created.
2. The Children Court Act 2003 be amended as per proposed amendment annexed hereto.
3. The Hon'ble High court be requested to appoint Additional Session Judges to function as full time judges of the Children's Courts.
4. The Hon'ble High Court may also be requested to transfer all cases relating to sexual offences against children and women to these Courts.
5. The Children's Court may be designated as "Women and Children Court".
6. The Government may take appropriate steps administrative and otherwise to imbibe the spirit of Athiti Devo Bhava (अतिथी देवो भवो) in hearts and minds of our people.

The Children's Act (Amendment) Bill 2010

Bill No. of 2010

A Bill

To amend the Children's Act 2003

(Goa Act ...of 2010)

Be it enacted by the Legislative Assembly of Goa in the sixtieth year of the Republic of India, as follows:

1. Short title and commencement-

(1) This Act may be called the Children's Act (Amendment) Bill 2010 which will come into force at once

2. Amendment to sec 27- The words "**Children's Court**" for the State of Goa be substituted by the words "**Children's Court for each District in the State of Goa**".

RECOMMENDATION

It is therefore recommended that amendment to Children's Act 2003 by substituting the words "**Children's Court**" by the words "**Children's Court for each District in the State of Goa**" and requesting the Hon'ble High Court to appoint Additional Sessions Judges to function as full time Judges of the Children's Courts.

We recommend accordingly.

(Ramakant D. Khalap)
Chairman

(Cleofato Coutinho)
Member

(Mario Pinto Almeida)
Member

