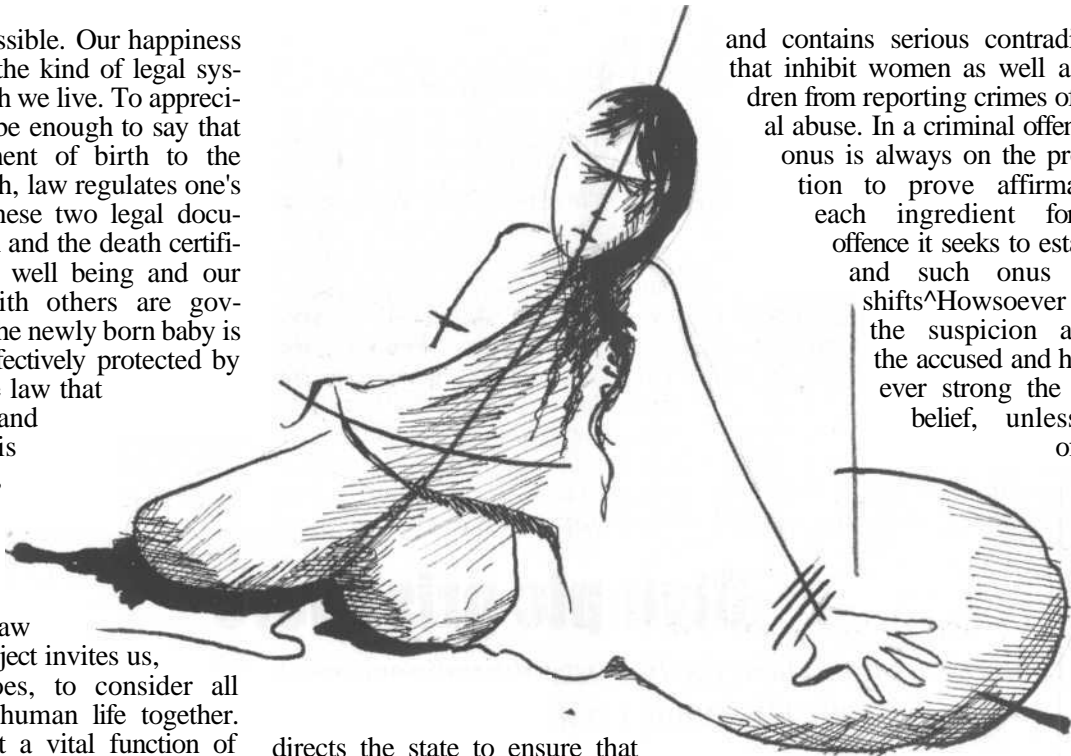


would be impossible. Our happiness depends upon the kind of legal system under which we live. To appreciate this it may be enough to say that from the moment of birth to the moment of death, law regulates one's life. Between these two legal documents, the birth and the death certificates, our own well being and our relationship with others are governed by law. The newly born baby is invisibly but effectively protected by law, for it is the law that will establish and safeguard his rights. In fact, no other branch of social activity is as intensively human as the law is. No other subject invites us, as the law does, to consider all aspects of the human life together. Law is in effect a vital function of society; one may say even an indispensable one. It can be ascertained that no other single science or art can be as close to life as law is.

In civilised society the welfare of the child is considered to be of paramount importance and the state can never overlook the most valuable asset of the nation. The Indian Constitution, the law of the land, is a complete document containing specific provisions relating to children and their rights starting from the Preamble itself. The Preamble of the Indian Constitution assures social, economic and political justice to all its citizens, which unequivocally includes children. Article 15(3) of the Indian Constitution states: "Nothing in this Article shall prevent the state from making any special provision for woman and children". Article 23 speaks of the prohibition of all forms of traffick in human beings, which can very well be interpreted to include children in it. Article 24 also specifically prohibits employment of children below the age of 14 years in any hazardous employment. Similarly Article 36(e) and (f), Articles 41, 42, 45, 47 fix certain principles to be followed by the state for the welfare of children. Article 39 (e) clearly reveals that the health and strength of workers, men and woman and the tender age of children are not to be abused. And Article 39 (f)



directs the state to ensure that children are given opportunities and facilities to develop themselves in a healthy manner. Besides those constitutional mandates, we have also several legislations, which are meant to serve the child better. The function of the children relating to their health,, family life, combat exploitation and harassment, etc., are reflected in these legal measures.

In spite of all the measures both at the national and even at the international level, children continue to be exploited. Recording to the national commission of women, existing law does not address the increasingly physical offence of child sexual abuse

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and contains serious contradictions that inhibit women as well as children from reporting crimes of sexual abuse. In a criminal offence the onus is always on the prosecution to prove affirmatively each ingredient for the offence it seeks to establish, and such onus never shifts. Howsoever great the suspicion against the accused and howsoever strong the moral belief, unless the offence

of the accused is established beyond reasonable doubt on the basis of legal evidence and material on record, the offender cannot be convicted. Now often the courts are taking a serious view of the matter and not seeking corroboration in every case. The courts have also started pronouncing judgments even on the basis of the sole testimony of the victim and even the apex court has convicted the accused even though the prosecutrix could not be examined as she did not understand the sanctity of oath and affirmation and she was not in a position to explain the sequence. Yet despite all this the situation has not improved to the required standard.

In the changed scenario when humanity and humanitarian values are gaining momentum, we have to change our outlook and consider the child to be the most fundamental and vital element of the nation; we should work together in accomplishing the objectives of child welfare and development. To put this in the words of Justice Subha Rao "Social justice must begin with children". Unless a tender plant is properly nourished it has little chance to grow up into a strong useful tree. So the first priority in the scale of social justice should be given to the welfare of children.

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