

RIGHTS AT THE CENTRE: THE HINDU EDITORIAL ON THE SUPREME COURT RULING AGAINST MECHANICALLY SUBJECTING CHILDREN TO DNA TESTS

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In 1959, the United Nations General Assembly adopted the Declaration of the Rights of the Child, the first charter of its kind ensuring basic rights to all children below 18 years, with these words: "Mankind owes to the child the best it can give." Yet, as is well-documented, children, because of their vulnerability, often become victims of abuse of power by the very people who are entrusted with their protection. The advancements in digital technologies have helped on many fronts, from registration of births, creating a legal identity to health care, but in its forward march, it should not trample on the rights integral to a harmonious upbringing of a child. Leaning on a child's fundamental right to privacy, the Supreme Court of India has ruled that [children cannot be mechanically subjected to DNA tests](#) in each and every case between warring parents as a shortcut to establishing infidelity. In a petition filed by a man who questioned his second child's paternity, Justices V. Ramasubramanian and B.V. Nagarathna observed that genetic information sheds light on a person's essence, going to the very heart of who she or he is. This "intimate, personal information" is part of a child's fundamental right, the Court said. Children have the right, it pointed out, not to have their legitimacy questioned frivolously before a court of law.

Directing courts to acknowledge that children must not be regarded as material objects, and that they be subjected to forensic/DNA testing only as a last resort particularly when they are not parties to a divorce proceeding, Justice Nagarathna observed that it is imperative that children do not become the focal point of the battle between spouses. While this is a welcome move, a reading of the 1989 United Nations' Convention on the Rights of the Child shows that there are miles to go before every child in India is guaranteed "special care and assistance". Too many childhoods are cut short, and the maxim 'every child has every right' often forgotten. India ratified the Convention in 1992 and over the years several laws have been enacted to protect the rights of children though their implementation has often been dodgy, failing to shield them from abuse, violence, exploitation or neglect. The principle of best interest of the child must be at the centre of every aspect of social behaviour and not just in custody disputes.

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