



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Rights Of Children In India: Constitutional Provisions And Policies

1. **S. PANNEER SELVAM**
Ph.D. Research Scholar (Part Time)
PG & Research Department of History,
C. Abdul Hakeem College,
Melvisharam, Ranipet District,
Affiliated to Tiruvalluvar University,
Vellore, Tamilnadu.

2. **Dr. P. KUMARAN, Ph.D.,**
Assistant Professor,
PG & Research Department of History,
C. Abdul Hakeem College,
Melvisharam, Ranipet District,
Tamilnadu.

3. **Dr. S.M. NAGESWARI, Ph.D.,**
Guest Faculty,
Department of History,
Pondicherry University,
Pondicherry.

Abstract

The children are the supreme asset of any nation; they are the greatest gift of humanity and a very important segment of human society. But unfortunately child has been exploited and discriminated every day in every society. Children working as labourers have been found as the cheapest and most disciplined labour. They can be found working in homes doing household chores, in factories- sometimes even in hazardous factories, fields, hotels, restaurants. Children are generally made to work under unhygienic conditions for long hours and the wages paid to them are generally very low. For strangers with perverted mentality, children are the easiest victim of sexual abuse. Children are also abused for organ and flesh trade. The fact is that children today, as they live in human rights and social justice, belong to the disadvantaged minority group. There are a range of laws in India and policy measures to protect the interests of children have been taken into account. It reveals, however, that children's rights are still not achieved in India. In this article an attempt is made to reveal the issues and challenges, constitutional provisions, legislations, and policy of the state prevailing in India for the enforcement of children's right.

Key Words: Children, Rights, Constitution, Policies.

Introduction

Children are the nation's most important asset and future resource of manpower for the development of the country. They constitute the core of human society. It is their development, which sustains the society. Their development with dignity is a matter of great concern throughout the world. Children are most vulnerable group of any society, on account of their weakness, vulnerability and dependence- they are being exploited, ill-treated and directed into undesirable paths by anti-social elements. The State thus has the duty to provide proper protection to the children all the times. The state in order to achieve this goal has enacted various enactments from time to time, to prevent crime against the children and to protect their rights. Childhood is a universal human experience. In every child, the foundation of a nation is laid. The proper development of the child is, therefore, imperative for the proper growth of a nation. The protection and welfare is of utmost importance to the society. Under the Child Labour Act of 1986, the child shall mean an individual who was not 14 years old. The Child Marriage Restraint Act of 1926 applies to a person who is not 21 years of age if a male, and not 18 years of age in case of a female. According to the JJ Act, 2000 that is Juvenile Justice (Care and Protection), a juvenile or a child means a person not 18 years old. In the context of children, eight types of key rights can be classified such as right to life, right to health, right to safe water, right to food, right to education, right to protection, right to freedom and the right to identity.

Constitutional Provisions

The supreme law of the land that is the constitution of India has provided various constitutional safeguards in order to protect the children's rights. The Constitution of Indian has determined the few provisions which as guarantees to each citizen including children to be liberated from misuse, and ensure their privileges. It guarantee by state with under commitment of constitutional norms to protect from the infringement of child rights. Apart from this there are number of legislations in the form of acts, policies, programmes and schemes have been formulated in order to protect the rights and interest of children's.

Article 14 and Article 15 of the constitution of India mandates the state not to discriminate on any ground as laid down in it. Article 2 of United Nations conventions on child rights, 1989 laid down detailed provisions for giving respect and ensure each child within their countries. The committee on the rights of the child during the 35th session has considered the reports submitted by India as one of the state parties under Article 44 of the Child Rights Convention for the implementation of the Convention (CRC) Indian government for providing for free and compulsory education to all children 6-14 years old, and to further give effect to this right, the Central Government introduce the Right of Education Bill. However the clause relating to 25 per cent mandatory reservation to backward class of students in the age group of 6-14 is not well received by private schools. In India at the Domestic level a good effort has been made for uplifting the position of the child. The consciousness relating to child rights and welfare is also reflected in some of the provisions of Indian Constitution. Constitution of India enables the State for making special provisions for children under Article 15 (3).Also provides fundamental right to free and compulsory education for children of 6 - 14 years of age. Article 23 of Constitution of India laid down Provision about Traffic in human beings, beggar and other similar forms of forced labour. They are prohibited and any contravention

of the provisions is now an offence in India. Children below the age of fourteen years are not allowed to work in any factory or mine or engaged in any hazardous employment. Article 39(e) provides that the State shall direct its policy towards securing that the tender age of the children are not abused and the citizens are not forced by way of economic necessity to avocation unsuited to their age or strength. The Constitution of India enshrines both in Parts III and IV the causes and best interest of children under articles 15(3), 24, 39(e),(f), 45 and 51-A(k). The National Policy for Children, 1974 was constituted for providing adequate services to children, both before and after birth and throughout the period of growth to ensure their full physical, mental and social development. Article 45 states that, before all children are six years old, the State shall strive to provide early care and education for all children. The weaker sections of the population which can be inclusive of children are to be protected against social injustice and other kinds of exploitation, according to Article 46. Article 47 safeguards the right to have proper nutrition and a good standard of living.

LEGISLATIONS RELATED TO RIGHTS OF CHILDREN IN INDIA

Child Labour (Prohibition & Regulation) Act, 1986

This Act is a result of a number of recommendations made by a number of committees. The parliament adopted the Prohibition and Regulation Act of 1986 (Child Labour Act), which was continuously seeking uniform substantive law to restrict the presence of children in many other occupations. The Act was amended in the year 2016 with Child Labour (Prohibition & Regulation) Amendment Act, 2016 and now stated as Child and Adolescent Labour (Prohibition and Regulation) Act, 1986. It defined child as “child” means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, whichever is more”.

Juvenile Justice (Care and Protection of Children) Act, 2015

Furthering the vision of the UNCRC, this law is “India’s fundamental law in dealing with children in need of care and protection. It caters to their needs through care, protection, development, treatment, social reintegration, through its child-friendly approach by addressing matters in the best interest of children”.

Right to Education Act, 2009

This act aims to provide that all children in India from 6 to 14 years old have free and compulsory education. No child must be detained, expelled or required to pass the board exam until primary education is completed. If a child older than 6 years of age has not attended or has not been able to complete primary school, the child shall be accepted into a proper class according to the child's age.

The Protection of Children from Sexual Offences (POCSO) Act, 2012

Special law was adopted for the first time in India to deal with the issue of sexual crimes against children. The Government of India has adopted "The Protection of Children against Sexual Offences (POCSO) Act 2012" in order to deal with child abuse cases. The act came into effect in accordance with the standards laid down there on 14 November 2012. The act identifies a child as a person under the age of 18 and protects all children from sexual assault, harassment and sexual entertainment. An offense is

deemed to be "aggravated" when committed in a child's place of trust or authority, for example by a person from security services, public officials, government officials. The act provides for the creation and preservation of the child's well-being in each legal phasing process of the special courts for preliminary offenses pursuant to the act. The act provides for child-friendly legal policies to report, record evidence, examine and prosecute crimes.

POLICIES AND SCHEMES FOR CHILDREN IN INDIA

The Indian government has taken a series of policies on the children of the country by taking into consideration of the physical, mental and social development. The government has also adopted several initiatives on children's welfare and education. Following are the some of the significant policies.

The National Policy for Children, 2013

The 2013 National Children's Policy reaffirmed that every child is a national resource of a kind and is especially important. "In NPC 2013 overall reaffirmation sections sees a change in language with a special addition of every child is unique and a supremely important national asset. "It is extremely heartening to see the change in language which is truly affirming state's commitment to rights based approach in addressing the continuing and emerging challenges in the situation of children". "In order to reduce or dispose of conditions which cause discrimination, special measures and governmental policies on children in society should be adopted". In the context of happiness, love and understanding, all children have the right to develop in a familiar domain. In thinking about and supporting their children, families are to be strengthened by a robust social safety net.

National Health Policy 2002

The first health reform, 1983, was introduced to ensure everyone's wellbeing in 2000. The second health policy of 2002 sets out to give priority to health problems in schools aimed at health education and regular school health checks. The policy recognised the vulnerability of children. It states (paragraph) 2.2.2 Access to, and benefits from, the public health system have been very uneven between the better-endowed and the more vulnerable sections of society. This is particularly true for women, children and the socially disadvantaged sections of society". The main feature of this policy was the prevention of transmissible diseases such as HIV / AIDS and the universal vaccination against all the major diseases that could be prevented.

Integrated Child Development Scheme (ICDS)

The targets of the Scheme are to add to the improvement in the prosperity of children in troublesome conditions, to decrease the vulnerabilities circumstance and activities that prompts misuse, disregard, abuse, relinquishment and division of children from parent. The Khoya-Paya portal was integrated into the Monitor Child application as a citizen corner, in the hope of creating a citizen-centred forum to allow people to report on missing children, as well as to browse the sites without losing much time. Discovered young people should also be held accountable. Any citizen can enrol with a Mobile Number from Khoya Paya. "The Kishori Shakti Yojana is an adolescent girl's scheme implemented through Anganwadi Centres under ICDS Projects. The objective of the scheme is to increase self-confidence, boost

morale and give dignity to the adolescent girls. The scheme includes two schemes such as Girl to Girl Approach and Balika Mandal Scheme”.

Schemes for Health and Nutrition of Children

“The Nutrition component of Prime Minister Gramodya Yojana and Nutrition Programme for Adolescent Girls is implemented with additional central assistance from Planning commission to promote nutrition of children”. “A National Nutrition Mission has also been set up to enable policy direction to the concerned Departments of the Government for addressing the problem of malnutrition of children”

Beti Bachao Beti Padhao

BetiBachao BetiPadhao, is an awareness raising and know how to enhancing platform for a girl's wellness. The scheme deals with the related problems of women's empowerment over a real life cycle. The Ministries of Women's and Child Development, Health, and Family Welfare and Human Resources Development are three-ministerial efforts. The key components of the plan incorporate Nation-wide awareness and backing effort; Enforcement of PC&PNDT (Pre-Conception and Pre-Natal Diagnostic Techniques) Act; Enabling young lady kid instruction; and multi-sectorial activity in chose areas of BBBP. There is a solid accentuation on mentality change through preparing, sharpening, and mindfulness raising and network preparation on ground.

Conclusion

To conclude, it may be pointed out that despite numerous laws enacted both at centre and state level for children. The effective implemented of these laws is missing. In fact to date in our country there is no single legislation for dealing exclusively with all type of problems of child exploitation and child abuse. In existing statutes most of the legal provisions are merely idealized postulates and far from reality, due to peculiar socio-economic structure of our country. It is only a dream to provide necessary facilities and protection to the children. In fact, a large number of children of tender age are exposed to labour and are abused by employer and their own parents, who want their children to seek employment to augment the income of their families and to expose them to the work which is not suitable to their age. In India the aspect of Child Rights and Child Abuse has not been addressed adequately. Apart from this in the recent past issues relating to that of health and education and general wellbeing of the children have received the focus and attention of the various officials and public authorities but in practice a lot is yet to be done. For that there is a need to make people aware about, rights of children and as to the importance of their growing as responsible and productive citizens. In this regard media, non-governmental organizations and educational institutions can play a vital role. Voluntary organizations could be powerful means of social communication in promoting Child Rights and Preventing the Children.

End Notes

1. Indian Express, National Family Health Survey, Indian Express, 22nd December, Mumbai, 2000.
2. Kacker, L., Varadan, S, Kumar, P Study on Child Abuse: INDIA, Ministry of Women and Child Development Government of India, New Delhi, 2007.
3. Ministry of Women & Child Development, India Report on the World Summit for Children, New Delhi, 2000.
4. UNICEF, Achievements, Challenges, Aims and Strategies, 2000.
5. Varma, Subodh, India home to a quarter of world's hungry population. Times of India, Nagpur, 2013.
6. World Health Report 2001, World Health Organization, Geneva.
7. Bajpai, Asha, Child Rights in India: Law Policy and Practice, Oxford University Press, New Delhi, 2008.
8. Bhandary, Shreya, Every second Indian child is malnourished: Report, Times of India, Nagpur, 2013.
9. Desai, Murali, Child Protection Rights, in Encyclopaedia of Social Work in India, New Royal Book Company, Lucknow, 2012.
10. Article 21 of the Constitution of India.
11. Article 21-A of the Constitution of India.
12. The censuses 2011 of India.
13. Article 12 of the Constitution of India.
14. Convention on the Rights of the Child, 1989.
15. <https://www.savethechildren.in/resource-centre/articles/a-brief-on-child-protection-policies-in-india?clid=EAIAIQobChMIu>
16. <https://www.cry.org/blog/the-national-policy-for-children-2013>
17. Shrinivasan, R., Dhawan, H, Sense of Census: Save the Girl Child. Times of India, Nagpur, 2011.
18. Times of India, Central Government's Ban (Order) on Employing Children in Homes & Hotels. The Times of India, Mumbai, 2006.
19. Times of India, SC/STs ahead of rest in child sex ratio, Nagpur, 2013.
20. Dhawan, Himanshi, India among 12 nations with most HIV+ adolescents, Times of India, Nagpur, 2013.