

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 5

2023

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The Human Rights of Children

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ABSTRACT

The Universal Declaration of Human Rights of 1948 plays a very role for shaping the world. It is written document which describe the rights of the Human. Prior to this declaration the world has so many act, Declaration, Convention and Treaties but they were in the state of opaque as they did not define the rights of Human in a better way. All living person have the Human Right. Due to the changing scenario of the society it has to be seen that the children are suffering from lots of abuses. And in the present scenario even they are used as new weapon for committing the offences. The Children are the most precious part of the society and due to this they are the subject of great care and attention. In the legal Context Child means the person below the age of 18 years or who are unable to maintain itself. The term "Child" has been employed in a number of legal frameworks to signify relationship, capacity, and to provide additional safeguards. So it is the responsibility of the Individual and society to take care of them as they are the future of any nation. Therefore, it is the responsibility of adults to think about, develop, and advocate for the rights of children who require care and protection. This article focuses on ways to better effectively implement children's rights as they are stated in numerous legal instruments.

Keywords: Constitution, UDHR, Child Rights, Human Rights, POCSO.

I. INTRODUCTION

There are about 2 billion children in the world ages zero to 18 years old. Children are human resource; they are precious and valuable but vulnerable. Children also have human rights which provide them security and chance to flourish themselves. These rights includes right to speak out, right to express opinion, right to equality, right to health, right to education, right to have clean environment, a safe place to live and protection form all kinds of harm.

II. GENEVA DECLARATION OF THE RIGHTS OF THE CHILD, 1924

The declaration of rights of children 1924 adopted by the fifth assembly of the League of Nations, can be seen as the first international instrument dealing with children's rights. The strange impression left by the 1924 Geneva Declaration on the Rights of the Child is that the

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international community is both promising to provide every child with a better future and criticising itself for falling short of this lofty goal.

Millions of youngsters lack access to education, toil long hours in dangerous environments, or have war threaten their safety and future. They experience deliberate attacks on their educational institutions, including their teachers, or they languish in institutions, jails, or detention facilities, where they are subjected to cruel treatment and assaults on their dignity, including physical and sexual abuse. These mistreatments have an impact on their growth and may lead to the loss of possibilities necessary for a healthy development. They are vulnerable to being exploited since they are young and still developing. In order for children to learn securely, to get fair treatment, and to thrive as they mature into adults, we are working to support the protection of children's rights throughout the world.

III. UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

The General Assembly recognised and proclaimed the fundamental rights of the child through the adoption of the Universal Declaration of Human Rights in order for him to grow up with a happy childhood and be able to enjoy the fundamental freedoms, particularly those listed in the Universal Declaration of Human Rights, for his own good and for the good of society. The General Assembly also calls on men and women as individuals, as well as local governments and nato No matter his paternity, all children—whether they were born within or outside of marriage—are entitled to these rights.

IV. UNITED NATIONS' DECLARATION OF THE RIGHTS OF THE CHILD, 1959

The General Assembly's adoption of the United Nations' Declaration of the Rights of the Child on November 20, 1959, served as the foundation for the growth of the field of child care and protection law. According to the Declaration's second guiding principle, "The child shall enjoy special protection and shall be provided with opportunities and facilities, by law and other means, to enable him to develop physically, mentally, morally, spiritually, and socially in a normal manner and under conditions of freedom and dignity."³

Children also have the right to human rights. International human rights treaties acknowledge that both adults and children are entitled to fundamental human rights. Due to their susceptibility to abuse and exploitation, children have a specific right to protection. 'Right' is used to describe a child's most fundamental requirements.

³ K.P. Singh, & Chitragada Singh, "*Jurisprudence of Child Care and Protection*" IPJ 163-206 (October – December, 2013).

V. UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, 1989

Children are granted their fundamental human rights under the UNCRC, including their civil, economic, social, cultural, and political rights, allowing them to reach their full potential. Children have some civil rights, such as the right to be given a name and a nationality, the right to be protected from torture and other cruel treatment, the right to be kept with their parents when they are separated from them, and others. The right to social security benefits, a living level sufficient to ensure normal growth, and protection from workplace exploitation are all considered economic rights under the UNCRC.

The rights to social care for children with disabilities, protection from child abduction and sexual exploitation, and access to the highest standard of health care are all included in the category of social rights. Children's cultural rights under the UNCRC include the right to an education, access to relevant information, leisure time, and participation in creative and cultural pursuits. It stands out from other human rights accords in that it addresses armed conflicts and how they affect children as both civilians and soldiers.

VI. THE VALUE OF CHILDREN'S RIGHTS

Children need protection and opportunity for growth because they are human beings. In the early years of life, their personality development happens more quickly. Therefore, it is crucial to provide services and care that are child-friendly. Children are younger than adults, smaller than adults, and have less energy. "A child means every human being below the age of eighteen years," states Article 1 of the 1989 United Nations Convention on the Rights of the Child, "unless, under the law applicable to the child, majority is attained earlier".⁴ They therefore require far more assistance and care than adults do. In spite of their contributions to society's advancement, they are too young to participate in politics or the judicial system. They require additional protection and adequate direction during their formative years because they are dependent on adults. Because they are susceptible to exploitation and abuse, children should have rights.

Children everywhere have the same rights. All rights are connected and equally significant. These concepts are emphasized in the Convention, which also mentions children's obligations to uphold others' rights, particularly their parents'. Likewise, a child's comprehension of the issues covered by the Convention will differ depending on their age. Educating kids about their rights does not entail pressuring them to make decisions that will have implications they are not

⁴ United Nations Convention on the Rights of the Child 1989, art.1.

yet mature enough to handle.

VII. CHILD RIGHTS IN INDIAN CONSTITUTION

India adopted the United Nations Convention on the Rights of the Child in 1992 as part of its effort to provide an ethical labor market to foreign firms in 1991. The Convention was born out of Jebb's intention to alleviate children's suffering by providing them with a safe, secure, and pleasant environment that would support their physical, mental, and emotional development. The Convention resonates strongly with these aspects. The Indian Constitution guarantees affirmative action or positive discrimination, particularly for kids. Due to their immaturity on a physical and mental level, children are particularly vulnerable and require extra protection. Part III of the Constitution contains a list of these rights. The Supreme Court or the high court may receive a writ petition if one of the fundamental rights is violated.

In addition, the essentials listed below with references to other articles provide a summary of the child rights in the Indian constitution as outlined in the Convention.

- (1) **Right to Identity (Article 7 & 8):** Children have the right to a name, to have their legal registration with the government, and to nationality (the right to be a citizen). Additionally, they must be entitled to an identity represented by a public record. This guarantees both access to social services and national support.
- (2) **Right to Health (Article 23 & 24):** The right to health and articles 23 and 24 on child rights in the Indian constitution elaborate on access to special care and support for children with special needs as well as quality health care (including drinking water, nutrition, and a safe environment, respectively). These rights cover medical care, nutrition, protection from harmful habits (including drugs), and safe working environments.
- (3) **Right to Education (Article 28):** For children to learn self-control and life skills and to find a safe and healthy environment to support their physical development, they must have the right to free primary education. This involves being free from abuse, assault, or neglect.
- (4) **Right to a Family Life (Article 8,9,10,16,20,22,40):** Children have the right to be looked after by caregivers if family members are not available. Until it is damaging to them, kids must live with their parents. The importance of "family reunification," or

allowing family members who live in separate countries to travel and reestablish touch, cannot be overstated.⁵

- (5) **Right to be protected from violence (Article 19 and 34):** Family members are also entitled to protection from violence, and children shall not experience maltreatment or sexual or physical abuse. This includes employing violence as a form of punishment. The selling of minors, child prostitution, and child pornography are all examples of sexual exploitation and abuse that are wrong.
- (6) **Opportunity to Children (Article 39-f):** The National Policy for the Welfare of Children was adopted by the Government of India in 1974 in order to put into reality the Directive Principle of State Policy outlined in Article 39(f) of the Indian Constitution. In order for our children to grow up to be strong citizens who are physically fit, mentally alert, and morally healthy and endowed with the skills and motivation needed by the society, children's programmes "should find a prominent part in our national plan for the development of human resources," according to the Preamble of the National Policy.

VIII. CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986

A piece of legislation created expressly to address the problem of child labour in India is the Child Labour (Prohibition and Regulation) Act, 1986. The Act also establishes a Child Labour Technical Advisory Committee to provide advice to the government on subjects pertaining to child labour. The Act forbids the employment of children in certain occupations and procedures and controls the working conditions of children in other industries. In conclusion, the Indian Constitution offers a thorough legal framework for protecting children from exploitation and child employment through its numerous provisions and the Child employment Act. But as crucial to eliminating the scourge of child employment from society is their successful execution.

IX. THE COMMISSION FOR THE PROTECTION OF CHILD RIGHTS ACT, 2005

Many social scientists and nonprofit organizations have stated the necessity for a national commission for the protection of children's rights in light of the development on a national and international level and the concern about violations of children's rights. The National Commission for the Protection of Children's Rights has been established by the government in order to better protect children's rights by ensuring quick trials for crimes against children or rights violations. Additionally, the States have been given permission to establish state-level

⁵Fundamentals of Child Rights in Indian Constitution | Bal Raksha Bharat Accessed on: 19 august 2023.

commissions for the defense of children's rights in their respective states. The Act, 2005 has been enacted to give effect to numerous policies implemented by the Government of India, standards set forth by the CRC, and all other pertinent international agreements.

X. PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

In order to effectively combat child sexual abuse and exploitation, the POCSO Act was created. The act was approved by the president on June 19, 2012, and on June 20, 2012, it was published in the Indian Gazette. The gender-neutral POCSO Act, 2012, is a piece of law. Any person under the age of 18 is considered a kid under the statute. Assaults that are penetrative and non-penetrative, sexual harassment, and pornography are all defined as kinds of sexual abuse. The POCSO Act also includes rules for preventing re-victimization and fostering a child-friendly environment at all levels of the legal system, and it places a high value on the best interests of the child premise. Through designated special courts, it includes kid-friendly methods for reporting, recording evidence, investigating, rapid trial of offences, and in-camera trial without disclosing the identify of the child. Additionally, the law mandates that sexual offences be reported.

XI. JUDICIAL DECISIONS

In *R.D. Upadhyay v. State of AP*,⁶ the Supreme Court provided specific instructions on how to care for infants who were housed in jails alongside their imprisoned mothers. The court stated that such children have a legal right to access to facilities for food, shelter, medical treatment, clothes, education, and recreation.

The Supreme Court gave instructions in *Bachpan Bachao Andolan v. Union of India*,⁷ a public interest lawsuit brought to ensure the rehabilitation and social reintegration of children working in Indian circuses. The court ordered that these youngsters be saved and held in the custody and protection of the state agencies until they turn 18 years old. Parents of the children should be contacted, and if they agree to let their children return home after proper verification, they may be permitted to do so. The court further ordered the governments to develop an appropriate plan for rehabilitating children who had been rescued from circuses.

The Supreme Court of India ordered the states to care for and safeguard the children of prostitutes without stigmatising them in the case of *Gaurav Jain v. Union of India*.⁸

⁶ (2007) 15 SCC 337.

⁷ (2011) 5 SCC 1.

⁸ (1997) 8 SCC 114.

XII. CONCLUSION

Social awareness, coupled with sensitivity towards children`s rights and proper implementation of the laws is what that makes the children of India truly safe and their rights fully realized. The rich and beautiful culture but is unfortunately polluted with certain social maladies deep-rooted in the society which still plague us today. Constitutional makers to great lengths to combat these social vices by drafting a comprehensive constitution that guarantees a wide range of rights to Indian citizens. It also contains special and exclusive provisions to strengthen and protect the rights of vulnerable members of society. India's constitution contains a well-designed set of rights to protect children as violence against children escalates.

Children, owing to their developing mind are vulnerable to the environment they are in. It is of utmost importance that such environment is made suitable for their growth and development, regardless of whether such child is in conflict with law or not and be given adequate care and protection of the law. No nation can flourish if children of such nation suffer, therefore India with the help of various international, national and state mechanisms tries to secure the rights of the children as has been discussed above.

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