

INTRODUCTION

This research paper confer about the child's rights and the contribution that the child have in the society. This is every child right to say at the matters that affects its lifestyles. However, some youngsters are either too young to make good decisions. This research paper discusses on these rights and to what extent the kids can decide on their manner of existence.

Generally, early childhood is acknowledged as the most important stage of human life, demanding special care, attention, and protection. In these early years kids are vulnerable to numerous conditions about discrimination, poor health, violence and sexual abuse/exploitation and trafficking. Frequently children surrender to environments and easily get exploited because of their immaturity, lack of information and experience. It is a tough truth that in various cases, they are exploited by the dependable members accountable for their care and safeguard. Consequently, in order to safeguard children from these problematic situations they have been rendered special rights. These rights are conferred upon children as early as the prenatal stage.

Children constitute over 400 million from one billion plus population of India. It has the maximum number of children in the world. More than one third of the nation's population is below 18 years of age. It constitutes 40% of child undernourishment in evolving world. India has 37% of well-educated & 51% of uneducated girls who are married below 18 years of age and 10% of well-educated and 15% of uneducated boys who are married below 18 years. India has large number of child workers. And huge sum of sexually abused children. The Rights of the Child 1989 a child means every human being under the age of eighteen years under the law related to the child, majority is reached earlier. Children have the same right as the adult have. They are susceptible group, they have certain rights that recognize their extraordinary necessity for safeguard and also that help them to grow their full potential. Children should enjoy the basic potentials of life as rights rather than freedoms. A boy or girl regardless of age has unique significance as a person with a right for their human self-respect to be respected.

VARIOUS ACTS RELATED TO CHILD RIGHT

Alongside the rights, the safeguard of children was also commonly recognized by the United Nations Convention on the Rights of the Child¹ (UNCRC, 1989). The agreement of the UNCRC (1989) was constructed on the trust that "All children are born with fundamental freedoms and all human beings have some integral rights". India also approved the United Nations Contract on the Rights of the Child in the year 1992. The UNCRC comprehensive classification of 'Rights of Children' includes the Right to Survival, Right to Safeguard, Right to Growth and Right to Participation of each child. Additional, in order to efficiently address crimes of sexual abuse and sexual exploitation of children, the Ministry of Women and Child Development supported the application of the 'Protection of Children from Sexual Offences (POCSO Act, 2012)²'. The POCSO Act, 2012 is an inclusive gender-neutral law to safeguard children from the crimes of sexual assault, sexual harassment and pornography. The Act also safeguard the best attention of the child at every phase of the legal process by integrating child-friendly technique for reporting, recording of evidence, examination and instant trial of offences through Extraordinary Juvenile Justice Courts (SJPU). Though, India is known to habitat major amount of children in the world yet countless children in India not only undergo from child abuse with physical, emotional and sexual type but also poor education and health, dangerous service, early marriage and inequality(Ministry of Women & Child Development, 2007). Many pointers propose how the rights of children are being violated in diverse parts of our country though; most of the cases still endure under the iceberg.

RIGHTS OF CHILDREN³

The yearly report in 2018 presented by National Crime Records Bureau (NCRB) shows that entire 36,022 cases were recorded in diverse sections of the POCSO Act in the year 2016.

Thus, safeguard of children from violence and abuse needs a combined and synchronized method. Unquestionably, instructors have a significant part in protecting children's rights because they devote a lot of time with children and have a close interaction with them during

¹ The United Nations Convention on the Rights of the Child (UNCRC) explained (Scottish Government) (2008)

² Medical examination of child of sexual assault under the protection of children from sexual offences (POCSO), act 2012, 2 IP International Journal of Forensic Medicine and Toxicological Sciences 50-53 (2020)

³ Johannes Giesinger, *Children, Rights, and Powers*, 27 The International Journal of Children's Rights 251-265 (2019)

classroom communications. As the children themselves are not aware of their rights, they become the sufferers of abuse or delinquent.

RIGHT TO SURVIVAL: Conferring to the agreement, the Right to Survival comprises the right to life, the possible standard of health, nourishment and a satisfactory standard of living. It also comprises the right to a name and population. It gives children right to be born, least standards of food, shelter and clothing. It also give right to health care, to safe drinking water, nutritious food, a clean and safe atmosphere

RIGHT TO PROTECTION: Conferring to the Agreement, this right contains freedom from all forms of exploitation, abuse and unfeeling or humiliating treatment. This comprises the right to special safeguard in conditions of emergency and armed battle. The aim is simple, to safeguard susceptible children from those who would take benefit of them and to protect their minds and bodies. Some other rights are

- Right to be safeguard from all kinds of violence
- Right to be safeguard from abandonment
- Right to be secure from physical and sexual abuse
- Right to be secure from unsafe drugs

RIGHT TO FREEDOM OF EXPRESSION: Conferring to the Convention, the Right to Contribution accords the child access to suitable information and the freedom of thought and expression, integrity and belief. Right to freedom of opinion, Right to information, Right to participate in any decision making that comprises him/her directly or indirectly also comes under freedom of expression.

RIGHT TO DEVELOPMENT: This right contains the right to be educated, to receive care for growth and care during early childhood and to social safety. It also includes the right to freedom, to regeneration and to social activities. Right to all forms of growth, emotional, mental and physical.

Child has a right to live with his parents. The child can be detached from the parents if the situations are not fit for the child. Such circumstances may be abandonment or abuse by the

parents. After separation from the parents the state has to choose with which parent child has to live. If the child has no parents the state will decide a home or an organization for the child to live. In this case the child may not have the choice of whom to live with. Occasionally children run away from their homes to live with their relatives or even live on the roads. This may result in deficiency or rebellion.

The Announcement of the Rights of the child 1924, adopted by the fifth assembly of the League of Nations, can be seen as the first international tool dealing with children's rights. Children's rights are established by fundamental assurances and essential human rights⁴:

i. Children's rights identify fundamental rights: The right to life, the non-discrimination principle, the right to dignity through the safeguard of physical and mental integrity (protection against bondage, agony and bad treatments, etc.)

ii. Children's rights are civil and political rights, such as the right to uniqueness, the right to a population, etc.

iii. Children's rights are economic, social and social rights, such as the right to education, the right to a decent standard of living, the right to well-being, etc.

DIRECTIVE PRINCIPLES OF STATE POLICY⁵

•**ARTICLE 39:** the caring age of children are not battered and not involuntary by economic need to enter occupations unfitted to their age or strength;

That children are given chances and services to develop in a healthy manner and in circumstances of liberty and self-esteem and that childhood safeguard against exploitation and against moral and physical neglect.

⁴ Marian Koren, *Human rights of children: Their right to information*, 2 Human Rights Review 54-76 (2001)

⁵ Directive Principles of State Policy, <https://nhrc.nic.in/sites/default/files/ChildrenRights>

- **ARTICLE 45:** provides preliminary childhood care and schooling for all children till they accomplish the age of six years.
- **ARTICLE 46:** shall approve with extraordinary care the educational and monetary benefits of the weaker sections of the people, and in specific of the Scheduled Castes and the Scheduled Tribes,
- **ARTICLE 47:** raising of the level of nourishment and the average of living of its people and the growth of community health.
- **ARTICLE 51:** The State shall work to foster respect for international law and treaty responsibilities.
- **ARTICLE 51A:** parent or custodian to deliver chances for education to his child or, as the case may be, ward among the age of six and fourteen years.

UN DECLARATION OF THE RIGHTS OF THE CHILD

- Non-discrimination.
- Special safeguard, chances and accommodations to grow physically, mentally, ethically, internally and socially in a healthy and normal manner and in circumstances of freedom and self-esteem.
- The right to a designation and population.
- The right to social safety, sufficient diet, housing, regeneration and medical facilities.
- The differently-abled child to be given extraordinary treatment, education and care.
- The need for love and sympathy so that the child develops in the care and duty of his/her parents, and in an atmosphere of affection and moral and physical safety.
- Right to education, which should be free and obligatory, at least in the basic stages.
- The child should be among the first to receive safeguard and assistance in all situations.
- Safeguard against all forms of negligence, unkindness and exploitation, including that associated with service.

- Safeguard from practices that may substitute ethnic, religious and other forms of inequality.

FUNCTIONS OF CARA⁶

CARA grants the acknowledgement to Indian placement agencies on the references of the State Government for dispensation inter-country adoption. It also consensuses mobilization to foreign activities that are engaged in supporting applications of foreign potential adoptive parents. These agencies are licensed by the suitable Government Department in their country of origin to mediate in country and inter-country adoptions and their applications for mobilization/renewal are forwarded and recommended by India's Diplomatic Mission. At current, there are 74 familiar placement agencies in the nation and 158 overseas recruited agencies.

On November 20, 1989, the United Nations General Assembly adopted the Agreement on the Rights of the Child, a landmark for human rights. It is the first international treaty that identifies the civil, political, economic, social and cultural rights of children. India approved the Agreement on 1992. The Agreement on the Rights of the Child is the most broadly accepted human rights treaty. The Agreement on the Rights of the Child has 54 articles and most of these articles list an altered right that children have, and different duties that the Government, and others with parents, have to make sure that children have these rights. This comprises⁷:

1. **RIGHT TO EQUALITY: (Article 2)** The Government must make sure that all children have the rights in the Agreement, irrespective of their or their parent's race, colour, sex, language, belief, political or other view, state, cultural or communal origin, property, disability, birth or other status.
2. **CHILDREN'S INTEREST: (ARTICLE 3)** The Government must make sure that child's best welfares are taken into consideration when any decision is made which affects him. All administrations working with children should work in a way that is beneficial for children.
3. **RIGHT TO HAVE AN IDENTITY: (ARTICLE 7 and 8)** The Government must make sure that a child should recorded at birth i.e. a child should have a birth certificate and have

⁶ Functions of CARA, <https://nhrc.nic.in/sites/default/files/ChildrenRights>

⁷ Dario Carta & Stefano Reboli, UDHR (Lubrina Bramani) (2019)

a name and a nationality and that he know who his parents are. Having birth recorded is significant because it helps to exercise other rights. E.g. to get access to education, housing and other provision if needed, and will allow to list to vote.

4. **RIGHT TO PRIVACY: (ARTICLE 16)** The Government must make sure that no one is able to inhibit with privacy or outbreak his integrity or status.

5. **RIGHT TO EDUCATION: (ARTICLE 28)** The Government must make sure to get a good quality education. This includes making sure that primary and high school is free and obtainable to every child, that can attend school regularly and that schools don't discipline in a way that causes harm and only in a way that respects dignity.

6. **PROTECT FROM USING DRUGS: (ARTICLE 33)** The Government must safeguard children from using prohibited drugs.

7. **PROTECTION FROM SEXUAL ABUSE: (ARTICLE 34)** The Government must safeguard from any form of sexual exploitation.

8. **CHILDREN WHO HAVE BROKEN THE LAW: (ARTICLE 40) [4]** If a child has been accused of contravening the law, the Government must treat him with respect and dignity. He must be treated as innocent until have been proved to be guilty, be told about why he has been arrested straight away, and be able to get help from family and a lawyer.

The Constitution of India is the basic law of the nation that comprises the fundamental rights and directive principles for every resident. The fundamental rights in the Constitution of India levy on the state a primary duty of safeguarding that all the needs of children are met and that their basic human rights are fully protected.

Fundamental rights if dishonored then it can be brought before the courts. Directive Principles lay down the rules the Government have to follow. If they are violated, they cannot be taken before the courts but because of judicial clarification, many of the directive principles have now become enforceable through legal actions brought before courts.

A. THE FUNDAMENTAL RIGHTS⁸ IN THE CONSTITUTION THAT RELATED TO CHILDREN ARE

1. Article 15(3) needs the state to make extraordinary provisions for children.
2. Article 21-A provides free and obligatory education to all children of the age 6 – 14 years. In such a way as the state may by law regulate. This Article 21A of the Constitution of India states that children of age group 6 to 14 years have a fundamental right to education.
3. Article 23 bans trafficking of human beings comprising children.
4. Article 24 commands that no child below 14 years can work in any dangerous profession or industry.

Courts are a body that is in power to take decisions. In the case of *Mayanbhai Ishwarlal Patel v. Union of India* and in the case of *Vishaka v. State of Rajasthan* the Supreme Court set the principle that in the nonappearance of a domestic law the fillings of international agreements and rules are relevant for the purpose of clarification of the fundamental Rights. Therefore, the courts have on several cases responded the requirements in the areas of enhancement of situations of children in institutions, treatment of physically and mentally disabled children, child labor, adoption, Juvenile Justice, prevention of trafficking of young girls, welfare of children of prostitutes, schools and sex selection tests.

In *Bandhua Mukti Morcha v. Union of India and others*. The court held that when the announcement was made that the workers were being held in slavery without basic facilities like

⁸ The Constitution of India (Govt. of India, Ministry of Law, Justice and Company Affairs) (1980)

shelter, drinking water or two time meals a day it is a violation of the fundamental rights as in this nation everyone has a right to live with self-esteem and free from exploitation.

CHILDREN IN ESPECIALLY DIFFICULT CIRCUMSTANCES

In our nation today, there are a huge number of children who are existing in particularly problematic situations and need care of all stakeholders. Unfortunately, not much is recognized either of the nature of the difficulties faced by these children or of the numbers intricate. It was only as a result of the 1990 World Summit for Children and the World Announcement on the Existence, Protection and Development of Children to which India is a party, the Government of India through its National Plan of Action, for the first time, not only made a direct position about this group of children but concurrently enthusiastic an exclusive section on them. This apart, for the first time again, the section tried to spell out and bring organized at one place all the different groups of children in specially problematic situations, such as the physically handicapped, mentally handicapped, those affected by drugs, victims of natural and artificial disasters, refugee children, street children, slum and migrant children, orphans, destitute and beggars, children misery from HIV/AIDS, children of parents with HIV/AIDS and HIV/AIDS orphans, trafficked children, children of prostitutes and children forced into prostitution, children in battle with law and children whose labour is being exploited, so that it enhanced guard could be provided to them and the origin cause which has lead them to such circumstances could be decoded. There are other groups of susceptible children too, like children affected by violence, insurrection and riots which could be extra to this long list. Girl child, children who have been victims of sexual abuse are additional group that needs attention. The number of such categories of children is growing day by day, but because of their discrete character, they have run-away the care of policy makers. Answer to their needs has been ad-hoc and mainly in the form of relief. It is significant that such groups of children are recognized, their difficulties studied and plans established whereby these children could be saved and reformed. We also need to bring about development in the standards of service in most State run organizations and those run by charitable organizations. The finest technique to reach these children would be through non-institutional forms of care. Legal activities to safeguard these children are also needed.

CONCLUSION

Children have a right to contribute in choices that shape their life and consequently should be given a chance to express their own view. Though, this right is only exercised seeing the adulthood and the best interest of the child. Not all choices that a child makes will be reinforced by their parents or guardians. A child cannot make a choice not to go education institution. For the best interests of the child, the child should be involuntary to attend school. The major implication of the Agreement on the Rights of the Child is that it signifies a promise to refining the condition of children in India. Ways must be found, consequently, to enforce the application and to safeguard that children knowledge of childhood.

The constitution of India also authorizes the states to direct fundamental rights of the children so that the caring age of children and their childhood are secure from exploitation and moral desertion. These can be procured as the 'Right to equality and liberty; Right to be protected against being trafficked or bonded labour and safeguard of minority rights; Rights of weaker section of society to be secure from social injustice and discrimination of any type along with the Right to nutrition and standard of living with better-quality public health'. Beside the Rights of children, the nation has also passed special Acts and Laws for children. The Juvenile Justice (Care & Protection of Children) Act⁹, 2015 is an initiative to provide an all-inclusive legal outline to look after those children who on are not only in battle with the law but also in need of care and protection.

⁹ Child Protection Act Law and Legal Definition | USLegal, Inc. Definitions.uslegal.com, <https://definitions.uslegal.com/c/child-protection-act>