

Examining the progress of India as per the International Standards in protection of the child against violence

ABSTRACT

Violence against children is one of the biggest problems affecting families and societies. It includes physical and emotional abuse, neglect and exploitation, such as through child pornography or sex trafficking. It happens all around the world, in all countries and societies; all too often, it happens in the family. Violence against children has lifelong impacts on health and well-being of children, families, communities, and nations. International law, by virtue of UN Convention on the Rights of the Child & the Guidelines for the Alternative Care of Children, clearly establishes that every child has right to protection against violence. India at National level has passed various laws for the protection and prevention of violence against child. Yet violence against children persists. As per the report of National Crime Records Bureau for 2016 -2017 crimes against children rose by 20% which is higher than overall number of crimes which rose by 3.6%¹.

Studies have suggested that prevention of crime against child requires systematic handling of risk and protection at four level: individual, relationship, community and society. Ten International agencies² under the leadership of World Health Organisation (WHO) have developed and endorsed an evidence-based technical package called INSPIRE. It includes seven strategies that together provide a framework for ending violence against children. Wide implementation of INSPIRE will also help countries and communities to remove achieve Target 16.2³, Target 5.2⁴, and Target 16.1⁵ of Sustainable Development Goals (SDGs)⁶. India represents one seventh of the world's population, the world cannot achieve targets of SDGs without India's

¹<https://www.indiatoday.in/india/story/crimes-up-3-in-2017-kidnapping-on-rise-ncrb-report-1611702-2019-10-22>

² WHO , CDC , End Violence Against Children , Pan America Health Organization , PEPFAR, Together for girls, UNICEF , UNODC , USAID , The World Bank

³End abuse, exploitation, trafficking and all forms of violence against and torture of children

⁴Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation

⁵Significantly reduce all forms of violence and related death rates everywhere

support.⁷ Thus, this paper aims to discuss and examine the strategies of India in child protection on basis of International Standard set by WHO by INSPIRE. Paper is divided into four parts,

INTRODUCTION-

⁶This Agenda is a plan of action for people, planet and prosperity. It also seeks to strengthen universal peace in larger freedom.

⁷<https://www.mediawire.in/press-releases/initiatives/india--sustainable-development-goals-pursuing-progress-sustainably-86906690.html>

First part deals with International standards. Second part focuses on the Indian laws. Third part discusses the report of NCRB to find out the problems/major concern area and last part deals with conclusion and suggestion.

For living a basic life human needs Food, Clean water and Shelter but today it became normal in some places that children have no rights over it, it means they haven't get clean water to drink, they haven't provided a proper education, Child labor, Lack of access to healthcare, Child marriage and when talk about the girl child they were facing some major problems like FETICIDE that means when some parent in India or some other places knew about the fact that they were having a baby girl they decide to kill her in the womb of her mother and also Female Genital Mutilation (FGM) all systems including fractional or complete expulsion of the female outer genitalia or other injury to the female genital organs for non-clinical reasons. It is the violation of Right to Health against girls and the average age of Girls who undergoes FGM is 10 years. And this practice occurs in many parts of the world.

If we talk about the education facility in India which is the basic right of a child then it shows on Google that it is 74.04 but the problem is that when a child came to know about the spelling of his/her name then he/she counts as a literate person but is it sufficient for the child to pursue his/her life in a systematic way or deals with all the circumstances that will come in the future.No it is not enough so for betterment of the child it is necessary to enhance the educational quality in all over the world. UN Convention of the Rights of the Child (CRC) a convention that has been signed by 190 countries across the world and makes this treaty the most widely adopted human rights treaty in history but after the existence of this treaty children are abandon from their rights.

International Legislation related to the safeguarding of children-

⁸In recent years the children's rights movement has gathered considerable strength and the adoption of international legal standards has been viewed by many as a particularly useful means to entrench in national law the notion that children have rights. In general those rights overlap

⁸ <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/childrens-rights-international-law#:~:text=Under%20the%20terms%20of%20the,children%20being%20thereby%20included%2C%20are>

significantly with all human rights, but they also extend to a variety of special measures to which children are entitled by virtue of their special vulnerability.

For Protection of Children from Alcohol there is a Licensing Act 2003 the Parliament of the United Kingdom of Great Britain and Northern Ireland and the main objective of this act is to the counteraction of wrongdoing and turmoil; public security; the anticipation of public aggravation; the assurance of children from hurt. Children and Young Persons Act 1933 it is also from the Parliament of the United Kingdom of Great Britain and Northern Ireland and its aim is to combine certain institutions identifying with people younger than eighteen years.

There are some International laws that have been made for the Protection of children from Tobacco, The Children and Young Persons (Sale of Tobacco etc.) Order 2007 Children and Young Persons Act 1933, Tobacco and Primary Medical Services (Scotland) Act 2010 this Act is implemented from Scotland Parliament and under this act the open advertisement and sales of Tobacco in shops has been ban and it also bans the use of Cigarette vending machine. Tobacco Retailers Act (Northern Ireland) 2014.

International Laws regarded Protection of children against Gambling. Gambling Act 2005, It is the most recent major update to gambling laws in the UK, and the most important for our purposes because it was the first to truly address online gaming. It has been created with three primarily objectives:-

1. Keeping betting from being a wellspring of wrongdoing or confusion, being related with wrongdoing, jumble, or as an assistant to wrongdoing.
2. Guaranteeing that betting is directed in a reasonable design. And the main objective of this act is
3. Protecting Children and other weak people from being hurt or misused by betting.

There is one more law related to Protection of Children against Gambling, National Lottery Regulations 1994. Child Employment is one of the major problems facing against the violation of the rights of children so for the Protection of children against Child Employment the Laws have been made. The International Convention on the Rights of the Child (ICRC) perceives the privilege of each child to be protected from financial misuse and from performing work that is risky or destructive to their health and development or that interference with their education. It

likewise expects governments to set a base age for work and to accommodate fitting hours and condition of employment. And the most important international agreements on combating child labour are the conventions of the International Labour Organization (ILO) determining the minimum age for the admission to employment and on the prohibition and immediate action for the elimination of the worst forms of child labour. Protection of children against Sexual abuse Sexual Offences Act 2003 (UK)

Sexual Offences (Scotland) Act 2009, It includes penalties for child sexual abuse offences, and applies to England and Wales and Northern Ireland. The Scottish Law Commission published its review of rape and sexual offences in December 2007, which includes a similar consolidation and codification of child sexual abuse offences in Scotland. For the betterment of child and ending violence against child INSPIRE has been launched globally in 2016 for. It is based on seven evidence strategies for countries and communities working to elimination of violence.

The World Health Organization (WHO) initiated preparation of INSPIRE, in collaboration with 10 agencies with a long history of child protection work the United States Centers for Disease Control and Prevention (CDC), the Global Partnership to End Violence Against Children, the Pan American Health Organization (PAHO), the President's Emergency Program for AIDS Relief (PEPFAR), Together for Girls, the United Nations Children's Fund (UNICEF), the United Nations Office on Drugs and Crime (UNODC), the United States Agency for International Development (USAID), and the World Bank .

These offices stand together what's more, ask nations and networks to increase their endeavors to forestall and react to viciousness against children.

1. Implementation and enforcement of laws- This is the first strategy of INSPIRE through this Laws that have been made for child, prevent violent behavior against children. Such Laws provides a path to hold perpetrators accountable for their action.
2. Norms and Values- This strategy talks about social and cultural norms that eliminates gender difference among people for example a girl teen marriage with a person who is almost double her age. Less education in comparison with boys.
3. Safe Environments- the aim for this strategy is to enhance or upgrade the places where children or adult spend most of their time so it will help to reduce in assault related injuries.

4. Parent and caregiver support- By giving different parent training program this strategy helps parent and caregiver to understand the importance of positive, non violent discipline and of close effective communication. It will help to negate negativity in child's mind.
5. Income and economic strengthening- This strategy focus on families financial stability for improving their condition and give a proper training to them. It will insure that their children must attend school. And the outcomes of this strategy are to reduction in physical violence by parent or caregiver to their child, reduction in marriage of girl's child.
6. Response and support services- improve access to good quality Health, social government assistance and criminal justice uphold administrations for all children who need them – including for reporting violence– to decrease the long term effect of violence.
7. Education and Life skill- The agenda of this strategy to monitoring the children in pre-school, primary and secondary schools to established a safe and enabling school environment and improving children's knowledge about sexual abuse and they can protect themselves again it. Train children to survive in life give them motivation to fight against in tough time. This will helps in reducing in suicidal tendency among children and many more.

Laws in INDIA related to the safeguarding of Children.

Protection of Children from Sexual Offences Act (POCSO), 2012- This act deals with the crime committed against child or a person who is below the age of 18, this act specially define “penetrative sexual assault”, “sexual assault” and “sexual harassment” and when the offence is committed by any police officer, public servant, any member of the staff at a remand home,

protection or observation home, jail, hospital or educational institution, or by a member of the armed or security forces then it termed as graver offence.⁹As per The Constitution of India, Article 15(3), State must make special provisions for children. Article 39 of Part IV of the Constitution asks the State to direct its policy towards securing (among other things), that children are not abused; not forced by economic necessity to enter avocations unsuited to their age or strength; and that they are given opportunities to develop in a healthy manner and in conditions of freedom and dignity, protected against moral and material abandonment. Further, the UN Convention on the Rights of the Child (UNCRC), adopted by the UN General Assembly in 1989, delivers universal recognition of children's rights to its member nations.

Under section 39 of POSCO act, the State Governments to get ready rules for utilization of NGOs, expert and specialists or people to be related with the pre-trial and trial stage to help the children. By the request of several state Governments the Ministry of Woman and Child Development prepare a Model Guideline and send it to all the States and UTs and further it has been accepted by all the states and UTs except Utrakhand. Under section 44 of POSCO Act, authorize State Commission for Protection of Child Rights and NCPCR to regulate the implementation of provisions of this Act. Procedure for Implementation of such aspects is:-

Designation of Special Courts, Appointment of Special Public Prosecutors ,Formulation of Guidelines u/s 39 of POCSO Act for various stakeholders ,Designation and implementation of modules for training of various stakeholders , Steps taken for spreading the awareness on the provisions of the POCSO Act , Setting up of child Welfare Committees (CWCs), District Child Protection Units (DCPUs) and Special Juvenile Police Units (SJPU) ,The number of FIRs filed under the Act, cases in which charge-sheet filed, compensation awarded to the victims, number of cases in which accused convicted/acquitted, number of cases in which witness turned hostile, cases in which appeal has been filed etc ,Number of trial of sexual abuse cases which have been pending with Special/Session Court for more than a period of one year ,Number of applications for compensation received by District Legal Services Authority, number of cases compensation awarded by the Special Court, number of cases pending for receiving the amount of compensation for more than 30 days etc.

⁹ <https://www.savethechildren.in/child-protection/a-brief-on-child-protection-policies-in-india/>

And lastly this Act provides for stringent punishments which have been graded as per the gravity of offence.

Commissions for Protection of Child Rights (CPCR) Act, 2005 the basic nature behind this Act is to give the provision to the constitution of a National Commission for Protection of Child Rights, State Commission for Protection of Child Rights and Children's Courts for giving fast preliminary of offenses committed against children or of violation of children rights and for issue associated therewith or accidental thereto. Under section 17, chapter IV of the Commissions for Protection of Child Rights (CPCR) Act 2005, Mentioned the powers and performance the function given to the state government of a particular state, this way the State Government protects the violation of rights against children. And if we talk about the powers and function of National Commission then we have to go through it:-

Look at and survey the safeguard gave by or under any law for the time being in power for the protection of child rights and suggest measures for their successful implementation ,Present to be central government, annually and at such different stretches, as the commission may consider fit, reports after working of those safeguards ,Inquire into violation of child rights and suggest commencement of procedures in such cases ,Look at all factors that repress the enjoyment of rights of children affected by terrorism, communal violation, riots, natural disaster, domestic violation, HIV/AIDS, trafficking, abuse, torture and exploitation, pornography and prostitution and suggest proper remedial measures ,Investigate the issue identifying with the children needing unique consideration and insurance remembering children for trouble, underestimated and distraught kids, kids in clash with law, juvenile children without family and children of prisoners and suggest suitable remedial measures ,Study settlements and other worldwide instruments and attempt periodical audit of existing strategies, programs and different exercises on child rights and make proposals for their successful execution to the greatest advantage of child ,Attempt and advance exploration in the field of children rights ,Spread child rights education among different part of society and advance attention to the safeguard available for security of these rights through publication, the media, class and other accessible methods ,Assess or cause to be examined any juvenile custodial home, or some other spot of home or foundation implied for child, under the control of the Central Government or any State Government or some other position, including any establishment run by a social association; Where children are detained or

held up with the end goal of treatment, renewal or protection and take up with these experts for medicinal activity, whenever discovered necessary ,Ask into complaints and take “suo motu” notice of matter related with :Hardship and violation of kid rights ,Non execution of laws providing for protection and improvement of child ,Resistance of policy decisions, rules or directions pointed toward moderating difficulties to and guaranteeing government assistance of the children and give alleviation to such child ,Or on the other hand remove up the issues ascending from such matters with proper specialists ,Such different capacities as it might consider fundamental for the promotion of Child Rights and some other matter accidental to the above function. a state commission or some other commission appropriately established under any law for the time being in power ,The Commission will not enquire into any matter which is pending before a State Commission or some other Commission properly established under any law for the time being in power ,Break down existing law, policy and practice to evaluate consistence with Convention on the privileges of the Child, attempt requests and produce covers any parts of strategy or work on influencing children and remark on proposed new legislation related to the child rights ,Present to the Central Government annually and at such different intervals as the Commission may consider fit, reports upon the working of those safeguards,Undertake formal examination where concern has been communicated either by children themselves or by concerned individual for their believe ,Promote, respect and genuine thought of the perspectives on children in its work and in that of all Government Departments and Organizations managing Child ,Deliver and spread information about child rights ,Aggregate and examine data on child ,Advance the incorporation of child rights into the school curriculum, training of teacher or faculty managing child ,And after Protection of Children from Sexual Offences Act (POSCO), 2005 there some amendment had been made in 2012.

NCRB reports.

The report has been released on 29th of September 2019 and the report were cleared that the rate of violence against children has increased by 4.5% as compare to 2018 added to this it also admitted that there was also an increment of 18.9% registration of case under the POSCO

Act. Almost 1,48,185 crimes were reported against children across the country in 2019. The official added that of the 26,192 cases reported under the POCSO Act including rape charges, 24,672 accused were known to the survivors. Besides, in 2,153 cases, the blamed was one for the relatives. The authority added that of the 26,192 cases enrolled under the POCSO Act including rape charges, 24,672 blamed were known to the survivors. Besides, in 2,153 cases, the accused was one for the family members. Uttar Pradesh revealed the most elevated number of violations against girl child under the POCSO Act with 7,444 cases. This was trailed by Maharashtra with 6,402 cases and MP with 6,053 cases. Then, among 19 metropolitan urban areas with in excess of 2,000,000 populace, Mumbai revealed the most elevated number of cases for utilization of kids in erotic pornography with 14 cases, with Maharashtra announcing 18 cases.

¹⁰"Strengthening the community-level child protection system is also a key to prevention. While there is growing evidence of the precarious lives that children in India are leading, it is essential that this evidence is used to effectively inform policy and programme initiatives," she said. As many as 501 incidences were also recorded under The Prohibition of Child Marriage Act, a 26 per cent jump from 2017 when 395 cases were reported under the Act.

¹⁰ <https://www.oneindia.com/india/22-per-cent-spike-in-cases-of-child-abuse-ncrb-3013322.html>