



## CHILDREN'S HUMAN RIGHTS IN INDIA : LEGAL PERSPECTIVE

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### ABSTRACT

Children will be the keepers of sovereignty, rule of law, justice, liberty, equality, fraternity, and, lastly, world peace and security in the future. They have the power to embody our ideas, objectives, ambitions, and hopes for the future. They are the 'future shoulders' who will support the country in the shape of great thinkers, rulers, scientists, politicians, capable legislators, administrators, teachers, judges, technicians, industrialists, engineers, workers, and planners. Instruments of international law relating to children's rights: The Declaration of the Rights of the Child, adopted by the League of Nations' fifth assembly in 1924, is often regarded as the first international treaty addressing children's rights. Children are a great human resource, but they are also vulnerable. Various Indian laws concentrating on a position where children are treated as non-entities and where conscious attempts are taken to not only free them from exploitation and abuse, but also to enable them to realise their full potential with fair access to food, health, education, and respect. The United Nations General Assembly passed the Convention on the Rights of the Child, which is the first international convention to outline children's fundamental rights. A child's right to a safe childhood is a basic human right. They are drafted into the military. They face the death penalty, are kidnapped, are subjected to brutal and inhumane punishments, and are subjected to a variety of other forms of violence. The goal of this study is to critically examine how effectively child rights violations can be averted, as well as to provide necessary guidance to parents and the government on their responsibilities to protect children's rights and limit their susceptibility in dangerous situations.

**KEYWORDS:** Children, Human Rights, Constitution of India.

### INTRODUCTION:

Children will be the keepers of sovereignty, rule of law, justice, liberty, equality, fraternity, and, lastly, world peace and security in the future. They have the power to embody our ideas, objectives, ambitions, and hopes for the future. They are the 'future shoulders' who will support the country in the shape of great thinkers, rulers, scientists, politicians, capable legislators, administrators, teachers, judges, technicians, industrialists, engineers, workers, and planners.

Every human creature, including children, has certain inherent rights granted by nature. These essential rights have been given on humans from their inception. Human beings have rights from the time they are a foetus. Since the foetus in the mother's womb, human beings have been given certain basic rights. These rights are inherent in each and every one of us. These inherent rights cannot be given or taken away by the state. These rights must be recognised and protected by the state.

Instruments of international law relating to children's rights: The Declaration of the Rights of the Child, adopted by the League of Nations' fifth assembly in 1924, is often regarded as the first international treaty addressing children's rights.

Millions of children are exploited, abused, and discriminated against all across the world. These children include child labourers, children affected by armed conflicts, sexually exploited children, children in conflict with the law or in state custody, as well as children living on the streets, children with disabilities, and children who are discriminated against because of their religious or ethnic minority status.

Welfare benefits were given to children. The concept of children's rights did not arise until the twentieth century. Social justice, non-discrimination, equity, and empowerment are the main concerns of the rights approach. Children's rights are a top concern within Canada's foreign policy because of their specific vulnerability. Canada was a crucial player in the discussions that resulted in the United Nations Convention on the Rights of the Child being adopted in 1989. Universal Children's Day was established by the United Nations on November 20.

### WHO A CHILD IS?

The United Nations Convention on the Rights of the Child (CRC) defines a child as any human being under the age of eighteen years who has not reached majority under the law applicable to the child.

Children are defined as anyone under the age of fourteen in India by the Census of India and the Indian Constitution. A kid is defined by the Children Act as a person who has not reached the age of 16 if he is a boy or 18 if he is a girl.

### AIM TO HAVING CHILDREN'S RIGHTS:

The goal of children's rights is to ensure that every child has the chance to fulfil their full potential. Children's rights state that all children should be able to develop fully, have access to education and health care, grow up in a safe environment, be taught about their rights, and participate effectively in society, with-

out discrimination.

### Children's rights are a weapon for protecting them from violence and abuse.

- Children's rights encourage individuals to respect one another. Respect for children's rights can only be completely realised when everyone, including children, acknowledges that everyone has the same rights and then adopts attitudes and behaviours that promote respect, inclusiveness, and acceptance.

### Children's Rights are Recognized:

- The Declaration of the Rights of the Child, adopted by the League of Nations' fifth assembly in 1924, is often regarded as the first international treaty addressing children's rights. Fundamental guarantees and important human rights form the basis of children's rights:
- Children's rights recognise essential rights such as the right to life, the principle of non-discrimination, and the right to dignity through physical and mental integrity protection (protection against slavery, torture and bad treatments, etc)
- Children's rights include civil and political rights such as the right to identification, nationality, and citizenship.
- Economic, social, and cultural rights of children include the right to education, the right to a fair standard of living, the right to health, and so on.

### RESPONSIBILITIES OF PARENTS AND GOVERNMENT:

The United Nations General Assembly passed the Convention on the Rights of the Child on November 20, 1989, marking a watershed moment in human rights. It is the world's first pact to recognise children's civil, political, economic, social, and cultural rights. Canada adopted the Convention on the Rights of the Child in December 1991, pledging to respect, defend, promote, and fulfil the rights of children in Canada under international law. The Convention was ratified by India in 1992. Only the United Nations and Somalia have not ratified the Convention on the Rights of the Child, which is the most broadly acknowledged human rights convention among UN member states. The Convention on the Rights of the Child comprises 54 articles (parts), each of which lists a separate right that children have and several obligations that the government, as well as others, including parents, have to ensure that these rights are respected. This includes the following:

- Right to Equality:** (Article 2) The government must ensure that all children have access to the Convention's rights, independently of their or their parents' race, colour, sex, language, religion, political or other beliefs, national, ethnic or social origin, property, disability, birth or other status.
- Children's interests:** (Article 3) The government must ensure that the best interests of children are considered when making decisions that

impact you. All organisations that work with children should do so in the best interests of the children.

- *Parental rights and the right to a family life:* The government shall protect the rights of a child's parents, family, and carers to raise him or her in a manner that is respectful of his or her rights (article 5). Article 5 states that children have the right to know and be cared for by their parents, and that the government must ensure that they are not taken away from their parents without their choice unless it is in their best interests (articles 8 and 9). If you are separated from one or both of your parents (for example, if your parents have divorced), the government must ensure that you have contact with the separated parent, unless it is not in your best interests (for example, if seeing your parent will cause you harm) (article 9). The government must ensure that children with parents who live in separate countries can maintain regular contact with both parents (article 10). Parents or guardians have the task of raising you, and they should do it in the best interests of the child. The government must assist your parents where it is required to help them properly care for you (article 18).
- *The right to an identity document (birth certificate):* (Articles 7 and 8) The government must verify that you were registered at birth (i.e., that you have a birth certificate), that you have a name and nationality, and that you are aware of your parents' identities. Registration of your birth is vital since it allows you to exercise your other rights (e.g. to get access to education, housing and other support if you need it, and will allow you to register to vote).
- *Right to travel abroad:* (Article 11) The government must ensure that minors are not illegally removed from the United Kingdom.
- *Having your ideas heard (article 12):* You must be given the opportunity to express your views when choices that affect you are made, and the government must ensure that your views are considered by those making the decisions.
- *Freedom of expression and access to information:* You must have the ability to get and share information with others, as long as it does not harm others (article 13). The government must ensure that you can obtain information from a variety of sources, such as newspapers, television, and radio shows, and that the media contains programmes and material that are relevant to children and do not hurt them (article 17).
- *Thought and religion freedom:* (article 14) Thought, conscience, and religion freedom.
- *The right to congregate and join organisations:* (article 15): Association and peaceful assembly are protected under the law.
- *Right to Private:* (Article 16) The government shall ensure that no one can infringe on your privacy or jeopardise your honour or reputation.
- Violence, exploitation, abuse, neglect, and mistreatment are all things that need to be protected from (article 19)
- *Article 20:* Protection of children who are separated from their families (temporarily or permanently).
- Adoption is a term that refers to the process of (article 21) If you are to be adopted, the government must ensure that your best interests are the most crucial consideration.
- *Children with special needs:* (article 23) If you have a mental or physical impairment, the government must ensure that you are able to live a full and dignified life, and they must assist you in being able to accomplish things on your own and participate in community activities. If people who care about you require assistance, they must be given it.
- *Physique:* (article 24) The government must ensure that you can be as healthy as possible and that you have access to health care when you require it. You must also have access to safe drinking water, nutritious food, and a healthy living environment. The government must also ensure that you have access to health-related information.
- *Children who do not live with their parents:* If you do not live with your parents or have been separated from them, the government must ensure that you are cared for and provided specific help and protection (article 20). You must have someone examine your condition on a frequent basis if you are looked after by local authorities (e.g., in foster care) or placed in a special institution to provide you with particular care or treatment for a physical or mental health problem (article 25).
- The government must ensure that you and your parents or carers can receive financial assistance when you need it (article 26).

- *Living conditions:* (article 27) You have the right to a living standard that supports your physical, mental, spiritual, moral, and social development. It is your parents' obligation to see that these needs are addressed, but the government must assist your parents by providing financial assistance if they are unable to do so.
- *Right to Education:* The government is responsible for ensuring that you receive a high-quality education. This includes ensuring that primary and secondary education is affordable and accessible to you, that you are able to attend school on a regular basis, and that schools do not discipline you in a way that harms you but rather respects your dignity (article 28).

#### INDIAN CONSTITUTION AND CHILDREN RIGHTS:

The Indian Constitution is the country's foundational law, outlining the country's core rights and principles for all citizens. The Indian Constitution's fundamental rights place a main responsibility on the state to ensure that all of a child's needs are satisfied and that their basic human rights are adequately protected.

Fundamental rights can be challenged in court if they are violated. The Directive Principles are the rules that the government must follow. They cannot be brought before the courts if they are broken, but thanks to judicial interpretation, many of the directive principles are now enforceable through legal actions filed before the courts.

#### A. The Fundamental Rights in the Constitution that directly relate to children are:

- Article 15(3) of the Constitution mandates that the state establish specific arrangements for children.
- Article 21-A mandates that all children aged 6 to 14 get a free and obligatory education. In the manner that the state may determine by legislation. Article 21A of the Indian Constitution stipulates that children aged 6 to 14 have a basic right to education.
- Human trafficking, particularly child trafficking, is prohibited under Article 23.
- No kid under the age of 14 is allowed to work in any dangerous occupation or industry, according to Article 24.

#### B. The Directive Principles of State Policy that directly relate to children are:

- Articles 39(a) and (f) direct that governmental policies be aimed at securing children's young ages.
- According to Article 45, the state must make every effort to offer early childhood care and education to all children until they reach the age of six.
- Article 51-A states that it is the parent's and guardian's essential responsibility to give chances for education to their child or ward between the ages of six and fourteen.
- The 86<sup>th</sup> Amendment to the Constitution - the Right to Education – is a basic right. After a long struggle, the 86<sup>th</sup> constitutional amendment was passed in 2001, making the right to education a basic right. The state legislation has yet to be written. The Indian government has drafted a draught bill called the Right to Education Bill, 2005, which aims to put the 86<sup>th</sup> constitutional amendment into force.
- The draught bill's preamble states that all children aged 6 to 14 years have the right to free and compulsory education.

#### NEED OF PROTECTION:

Every youngster is entitled to be protected. This includes children who are in various situations and have experienced violence, abuse, or exploitation, as well as those who are not in any of these terrible situations but nonetheless require protection in order to remain within the social security and safety net. Child protection refers to safeguarding children from any perceived or real threat to their life, personhood, or childhood. It's all about lowering their vulnerability to harm of any kind and in dangerous situations.

Child protection is inextricably tied to all of a child's other rights. Failure to ensure children's right to protection has a negative impact on all other rights and the development of the child's full potential. Child protection entails safeguarding each child's individual rights. It must also address children's capacity for self-reliance and self-defense, as well as family, community, society, and state roles and obligations. Because of their unique socioeconomic and political conditions, as well as their geographic location, the need to safeguard certain children is unquestionably higher than for others. These are the children who are most at risk of harm, danger, or risk to their right to survival, development, and participation.

**IMPORTANCE OF HUMAN RIGHTS EDUCATION TO CHILDREN:**

Here are some of the reasons why children need to learn about human rights:

It's their right, after all! Children have the right to know their rights, according to Article 42 of the Convention on the Rights of the Child.

To improve human rights respect, Knowing your rights is the first step toward encouraging greater human rights respect.

Because human rights values are universally recognised, adults working with children are constantly faced with determining which behaviours are acceptable and which are not. Making such decisions frequently necessitates relying on personal experiences or principles. By referring to the universally recognised values that stem directly from the Universal Declaration of Human Rights, human rights education provides a clear framework for evaluating when and how to intervene.

To promote the development of self-esteem and active participation: As children become more aware of their rights, they begin to understand their own value as human beings. They also begin to recognise that what they live, think, and feel has value, and that they can contribute positively to the group's, family's, school's, and community's lives. Learning about rights motivates children to participate more actively.

To reinforce positive behaviours: Human rights education is one of the most effective ways to encourage positive behaviour because it combines critical reflection with the development of a child's sense of responsibility. Children are encouraged to think on how they interact with others and how they might adjust their behaviour to better reflect human rights principles through human rights education.

**CHILD RIGHT ISSUES:**

The Convention on the Rights of the Child defines children's basic rights, which cover a wide range of needs and issues.

- Education as a Right: 50% of Indian children aged 6 to 18 do not attend school. In classes III to V, the dropout rate rises alarmingly to 50% for boys and 58 percent for girls.
- The Freedom of Expression: Every child has the right to freely express himself in whatever way he sees fit.
- The right to information: Every child has the right to understand his or her basic rights and place in society. The high rate of illiteracy and ignorance among deprived and underprivileged children prevents them from learning about themselves and their society.
- Nutritional Rights: More than half of India's children are malnourished. In India, one out of every five adolescent boys is malnourished, while one out of every two adolescent girls is malnourished.
- The right to health and care: In India, 58 percent of children under the age of two are not fully vaccinated. Furthermore, 24% of these children are not vaccinated in any way. In India, more than 60% of children are anaemic.
- The right to be protected from abuse: There are approximately 2 million child commercial sex workers aged 5 to 15 years old, and approximately 3.3 million aged 15 to 18. They account for 40% of India's total population of commercial sex workers. Every year, 500,000 children are compelled to work in this industry.
- The right to be protected from exploitation: According to official estimates, 17 million children in India work. Children from poor and bonded families are frequently "sold" to contractors who promise lucrative jobs in the cities, and the children end up working in brothels, hotels, and domestic work. Many people flee and make a living on the streets.
- Every child has the right to development, which allows her or him to reach his or her full potential. Underprivileged children's living conditions prevent them from growing up in a free and uninhibited manner.
- The right to recreation: Every child has the right to spend time exploring and developing recreational pursuits such as sports, entertainment, and hobbies. In India, the majority of poor children do not have enough time to engage in recreational activities.
- The right to a name and nationality: Every child has the right to identify with a country. The vast majority of India's underprivileged children are treated as commodities and exported as labour or prostitutes to other countries.
- The Right to Survive: Of India's 12 million girls, three million do not live to see their fifteenth birthday, and a million do not live to see their first. Gender discrimination is the cause of death for every sixth girl child.

- The first step toward protecting and realising children's rights is to raise public awareness about "child rights."

**ADDRESSING THE NEEDS OF CHILDREN:**

There are many reasons for singling out children's rights in a separate human rights Convention:

- Children are not the property of their parents or the state, nor are they mere people-in-waiting; they have the same status as other members of the human family.
- Children begin their lives as completely reliant beings: Adults must provide the nurturing and guidance that children require as they progress toward independence.
- Government actions, or inactions, have a greater impact on children than on any other group in society: Children are impacted by nearly every aspect of government policy (for example, education, public health, and so on).
- Children's perspectives are rarely heard or taken into account in the political process: In general, children do not vote or participate in political processes in any way.
- Many societal changes have a disproportionate, and frequently negative, impact on children. In many countries, changes in family structure, globalisation, shifting employment patterns, and a shrinking social welfare net all have significant effects on children. In times of armed conflict and other emergencies, the consequences of these changes can be particularly devastating.
- The costs of failing society's children are enormous: The findings of social research show that a child's early experiences have a significant impact on their future development. Their contribution, or cost, to society over the course of their lives is determined by their development.

**CONCLUSION:**

Infant mortality, child marriage, maternal mortality, and the phenomenon of child widows, sex tourism, and child trafficking even beyond national lines for prostitution, child maltreatment, and child labour plague India, as they do many poor countries. There are a number of obstacles to overcome. The girl kid is perhaps the most socially disadvantaged of all demographic groups. She is particularly vulnerable to human rights violations at every stage of her life, from conception to adulthood. Recent occurrences of gang rape in Delhi and acid attacks in Pondicherry might be used as examples of girl child human rights abuse.

As a result, a child-centered culture must be formed. The legal system should interpret legislation in light of the CRC's rights and norms. The youngster will be able to seek justice through the judicial system as a result of this. All children's laws must be examined in light of the CRC and its standards, and there must be connections between them. The Indian judicial system has a long way to go in terms of protecting children's rights and delivering justice to them.

Justice for children cannot be achieved just through legal reform. Among the various service providers – doctors, teachers, lawyers, judges, police, volunteers, parents, trade unions, and social workers – the most effective preventive measure is raising awareness of such possible abuse and how to deal with it, so that they can significantly reduce the risk of abuse, if it does occur, by responding appropriately. As a result, these issues must be addressed as soon as possible. Above all, the universal legal principle of making policies, establishing structures and processes, and taking acts that are always and inevitably in the best interests of the child must be followed. Let the child flourish as a flower with the nourishment of rights, the fruits of liberty, and the care and attention of both parents and the state under the auspices of society. The fight for the achievement of children's rights will be lengthy and winding.

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