

**“Child Protection Laws and Policies”**

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**ABSTRACT**

Human Rights have been in existence in India in Ancient times, under the Muarya and Gupta, the rule of Dharma was observed by the king. The rule of Dharma includes duties, rights, law and conduct. The rule of Dharma states that the king must be under the law. With the establishment of the East India Company, the British government have passed several acts, legislation relating to public health, morality and safety. There’s an ambit development of human rights in 20<sup>th</sup> century.

Since Independence, the Constitution of India came into force on 26 January 1950; the Constitution of India is the world’s largest written Constitution. Part III (Article12-35) of the Constitution of India guarantees a set of fundamental rights to the every citizen of India. The set of fundamental rights protects the citizens of the India from being discrimination on the basis of castes, creeds, religions, etc. and provides freedom to the citizen of India.

Human Rights mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International covenants and enforceable by the courts in India and by the International Court of Justice.

Indian Constitution and International instruments like Universal Declaration of Human Rights (UDHR) and Convention on the Rights of Child (CRC) plays an important role in protection and promotion of Child Rights. There is a need of attention towards the matter relating to the rights of a child. Even though this issue has been talked about in several international platforms, yet not much has been achieved in this regard.

There is a need to improve and protect the rights of a child in India. The researcher aims to highlight the various legislation and policies relating to Child Rights. The emphasis must be laid upon how to protect the rights of a child and improve the standard of living of a child in the society which would result in overall development of the society. The Government and the International Community plays an important role in protecting and providing basis rights to the child and which would lead to overall development of the society.

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## **INTRODUCTION**

A child is defined as a person below the age of eighteen years. It is believed that children are citizens in their own right. Even if the children are not in a position to claim such rights the parents or guardians have rights to claim it. Childhood is the state or period of being a child, an important period for the development of personality of a person. Every country should take a strong initiative to ensure the implementation of policies designed to protect and safeguard the children against all the evils existing in the society.

Earlier child was considered as a part of or attached to an adult, but with new approach it is viewed as an independent being. Every child should be provided with all rights ensured to them by the constitution and the law. Every child must enjoy the basic rights i.e. Economic, Social and Cultural rights in order to ensure equality and quality of life. The developments of international concern for the rights of child have increased by a growing concern for human security and human development in globalizing world.

In 1924, the Assembly of the League of Nations adopted the Declaration on the Rights of the Child. The league's Declaration contains a sentence that has become the motto of all supporters of the children's cause: "mankind owes to the child the best it has to give". The UN General Assembly adopted the Declaration of the Rights of the Child on 20 November, 1959.

### **U.N. Convention on Rights of Child**

Prior to World War II the League of Nations had adopted the Geneva Convention on the rights of the child in 1924. In 1946, the United Nation took an important step towards the welfare of children by establishing United Nations Children's Fund in 1953. On 2<sup>nd</sup> September, 1990, U.N. Convention on Rights of Child came into force, as it was accepted by the international community as an international legally binding document concerning child rights. The Convention consists of 54 Articles consist of four major categories of child rights; Right to Life, Right to Development, Right to Protection and Right to Participation.

The general principles of the Convention are

- (a) Non-discrimination - Article-2 of the (CRC) states that the member states must obliged to respect and implements the rights without any discrimination.
  - (b) Best interest of child – Article-3 of the (CRC) is one of the vital principles of CRC, it states that all the legislative and judicial administrative related with children's right must take their decision and action to the best interest of child.
  - (c) Survival and development - Article-6 of the (CRC) ensures that the member states must oblige to provide education and health facilities and develop the personality of the children.
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(d) Participation and respect for the views of the child - Article-6 of the (CRC) ensures that the member states must oblige to ensure right to express one's views freely and the right to participation on issues concerning children.

### **CONSTITUTIONAL PROVISIONS**

**Part III (article 12-35)** of the Constitution of India is one of the most important parts because it contains the chapter on Fundamental Rights; it is applicable to all irrespective of race, religion, caste, creed or gender.

**Article 24** prohibits employment of children below the age of 14 in factories or in other hazardous employment.

**Part IV (Article 36-51)** of the Constitution is inspired by the Irish Constitution. It shall be the duty of the state to apply these principles in making laws.

**Article 39(e)** provides that the health and strength of workers, men and women and the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter avocation unsuited to their age or strength.

**Article 39(f)** provides that the children shall be given opportunities and facilities to develop the overall personality and must enjoy freedom and dignity and protected against exploitation against moral and material abandonment.

**Article 45** directs the state to make provisions for free and compulsory education for all children until they complete the age of six years.

### **LAWS FOR CHILD PROTECTION**

Apart from constitutional provision, state has enacted several laws for protection of children. Some of these are as follows:-

#### **Indian Penal Code**

**Section 82 and 83** provides that a child who commits a crime and is below the age of 7 is not considered as a crime.

**Section 368A** punishes for kidnapping minors for employing them for begging, human trafficking of minors and selling or buying of minor girls for the purpose of illicit intercourse.

**Section 372** Selling of minors for the purpose of prostitution or to illicit intercourse with any person is punishable.

Buying of minors for the purpose of prostitution or to illicit intercourse with any person is punishable under **Section 373**.

Under **Section 376** Sexual Intercourse with a girl below the age of 16 years is rape, even if there is a consent given by the same girl.

To abduct a girl with the intention of having illicit sex is criminal offence under **Section 367**.

### **Child Labour (Prohibition and Regulation) Act, 1986**

“**Child**” as defined by the Child Labour (Prohibition and Regulation) Act, 1986 is a person who has not completed the age of fourteen years. This act prohibits employment of children below the age of fourteen years in jobs related to transport of passengers, mails or any in factories or in other hazardous Occupations.

#### **Hazardous Occupations**

**Part III of Child Labour (Prohibition and Regulation) Act, 1986** prohibits employment of children in certain occupations listed in two parts; A and B

**Part A** provides that, no child shall be allowed to work in the following occupations:

1. Transport of passengers, goods; or mails by railways
2. Working in a catering at a railway station
3. Work in related to the construction of railway station.
4. Working under the port authority
5. Working in Slaughter Houses

**Part B** provides that, No child shall be employed in the following workshop:

1. Carpet weaving
2. Shellac manufacture
3. Cloth printing, dyeing and weaving.
4. Tanning industry
5. Building and construction industry.

As per data from the 2011 Census, almost 73 percentage of the working children in India from the age Group of 5-18 years and do not go to school<sup>2</sup>.

Child Labour in India, during 2003 in 10-18 age groups was with an estimated 11%<sup>3</sup>

### **Juvenile Justice (Care and Protection of Children) Act, 2000**

The Juvenile Justice (care and Protection of children) act, 2000 was passed to protect and care treatment and rehabilitation of delinquent juveniles. This act provides for separate treatment of Juveniles in conflict with the law and of children in need care and protection.

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<sup>2</sup> 2011 census, Ministry of Labour & employment, Government of India.

<sup>3</sup> Table 2.8, WDI 2005. The World Bank.

Child in conflict with law is not produced before a magistrate but it is produced before the Juvenile Welfare Board. He/she is not sent to the jail but to a juvenile home especially run by the government for the purpose. The act prohibits sentencing a child to death or life imprisonment. The act protects the privacy of a child in conflict with law by mandating that no report by newspaper shall disclose his/her identity.

### **POLICIES RELATED TO RIGHTS OF CHILDREN**

Apart from legal provisions there are several measures which have been adopted by the state for protection of Child's Right. The government has formulated many policies in order to protect the rights of Child and provide protection, care and development of children.

#### **National Commission for Protection of Child Rights**

The National Commission for Protection of Child Rights (NCPCR) is an Indian governmental commission, established by an Act of Parliament; this Commission was designed for Protection of Child Rights Act in December 2005, this commission works under the ministry of women and child development, Government of India. National protection for child rights give emphasis on protection of all children in the 0-18 Years age group is of equal importance. The National Commission for Protection of Child Rights to protect promote and defend child rights in India. The commission consists of one chairman appointment by the president and six Members appointment by central government from amongst a person of having experience and ability in child welfare.

#### **National Policy on Education, 1986**

The National Policy on Education (NPE) was adopted by Parliament on May, 1986. A committee was set under the chairmanship of **Acharya Ramamurti** to review NPE in 1990. The Central Advisory Board of Education has recommended a few changes in the policy. The National Policy on Education (NPE) with modifications undertaken in 1992.

According to the Policy the main motive is to solve the problem of dropouts, and ensuring retention at school level and to provide education to the children in order to uplift the lower section of the society by providing them with educational facilities. The policy states "it shall be ensured that free and compulsory education of satisfactory quality is provided to all children up to 14 years of age before we enter the twenty-first century".<sup>4</sup>

According to the **Article 45 of Directive Principle of State policy** directs the state to make provisions for free and compulsory education for children. In order to remove inequalities in the education system, this policy gives more emphasis on groups such as schedule tribes (STs), schedule castes (SCs), handicapped, Minorities, etc. Some of the provisions listed in this policy help the lower sections of the society to grow and to improve the standard of

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<sup>4</sup> National Policy on education 1986(As modified in 1992)

living. The policy provides incentive to families, pre-matric scholarships, retention and successful completion of Schedule Caste and Schedule Tribes students, recruitment of Schedule Caste and Tribes teachers, hostel provisions for Schedule Castes and Schedule Tribes students. In order to enhance the quality of higher education, boards of secondary education shall be granted autonomy.

### **National Charter for Children, 2003**

National Charter for children, 2003 is a policy document adopted by the government to promote and facilities nutrition for children. This includes the need for nutritious food, safe drinking water and sanitation to the poor families.it is the responsibility of the government to protect the children and facilities nutrition for children. It is the duty of the government both at central and state level to protect the child from being malnourished. India ranked 100<sup>th</sup> out of 118 countries with a serious hunger situation<sup>5</sup>. At least one in five children under the age of five years in India is wasted.

### **Integrated Child Development Services (ICDS)**

Integrated Child Development Services (ICDS) was launched in 1975 by the Government of India, as a centrally sponsored scheme which provides food, pre-school, primary health care facilities, immunization to children less than six years of age and pregnant mothers. This programme is designed to fight against the gender inequality by providing girls the same resources as boys.

The main objectives of Integrated Child Development Services (ICDS) are as follows:-

1. To provide Nutrition and Health information
2. To facilitates Supplementary Nutrition
3. To provide Pre-School education
4. To provide health check-ups to children and the pregnant mothers.

### **CONCLUSION**

There are lot of efforts given by the International community and the Government of India to protect and promote the Child Rights. Several convention have been formulated even there are several provisions in the Constitution of India and policies formulated by the state and central government to promote the children even for the children of lower section of the society, they should not be deprived of facilities given by the government of India. Apart from constitutional provision, state has enacted several laws for protection of children and to promote the child rights, there is a need to improve and protect the rights of a child in India. As the policies are not implemented by the executives at lower level as a result, the children remain deprives of many facilities given by the Government. Due to Corruption and causal attitude of the executives such implementation of policies cannot be done properly. The researcher highlights the various legislation and policies relating to Child Rights. The emphasis must be laid upon how to protect the rights of a child and improve the standard of

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<sup>5</sup> Global Hunger Index(GHI)2017 Report by IFPRI

living of a child in the society which would result in overall development of the society and would help to improve the country economically and socially.

There is a need to improve and protect the rights of a child in India. Modi launched the **Beti Bachao, Beti Pehdao** campaign on January 25, 2015, with an object to improve the welfare services provided to women and focuses on improving the child-sex ratio in India. Modi **Government** has introduced **No Detention Policy** where no student can be failed or expelled from school from class 1 to 8. All the students will automatically be promoted to next class. Even **West Bengal Government** has launched several schemes to protect and promote the child welfare in the state. **Shikshashree** Scheme provides scholarship to a student of class 5 to 8 belonging to Scheduled Caste and Scheduled Tribe. **kanyashree Prakalpa** provides scholarship to an unmarried girl child who is 13 to 18 years old studying in class 8 to 12.

The Government and the International Community plays an important role in protecting and providing basis rights to the child and which would lead to overall development of the society. If the literacy rate in a society increases then there would increase in the economic and social development of the country. All the executives including executive head of the nation plays a vital role in implementing the policies formulated by the government to protect Child Rights.