



Protection of human rights of children in India

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Abstract

The foundation of human civilization is young children. Future human society's makeup will be shaped by people's mental and physical health. The emphasis given to one's child determines how a nation develops, just as a child's early years shape an adult's personality. It is crucial to take special precautions to ensure that youngsters develop into capable adults who are also physically fit, mentally sharp and alert, and morally and socially upright. Unfortunately, despite several resolutions and legislation at the national and international levels, the situation of children is far from ideal. Children should be protected against crimes by the state, families, and society as a whole. Crimes against children should be treated as crimes against humanity.

In this article, the condition of children's rights in India is examined, with a particular emphasis on how gender inequality has developed and been reinforced by conventional wisdom. It examines how tackling harmful cultural assumptions that legitimise discrimination against children is equally essential to enacting rights laws. This study's goal is to critically examine how effectively child rights violations may be averted in order to educate parents and the government about their duties to protect children's rights and minimise their vulnerability to risk.

Keywords: Children, human rights, rights, constitution of India, protection

Introduction

The foundation of human civilization is young children. Future human society's makeup will be shaped by people's mental and physical health. The emphasis given to one's child determines how a nation develops, just as a child's early years shape an adult's personality. Since children are the country's greatest resource, child care should take top priority in national policy. It is crucial to take special precautions to ensure that youngsters develop into capable adults who are also physically fit, mentally sharp and alert, and morally and socially upright. Unfortunately, despite several resolutions and legislation at the national and international levels, the situation of children is far from ideal. History bears witness to the numerous ways in which this defenceless and innocent creature has been exploited.

Status of Children's Rights

India has 472 million children under the age of 18, which accounts for 39% of the total population. 29% of the number, or a significant portion, are children between the ages of 0 and 6. Additionally, 73% of children in India live in rural areas where they frequently have poor access to necessities including nutrition, healthcare, education, and safety. youngsters's access to fundamental rights is frequently negatively repressed as a result of the significant percentage of youngsters living in rural areas. A small amount of progress has been made in advancing children's rights in India thanks to the commission for the protection of children's rights (act 2005) (amended in 2006). Eliminating child labour and protecting children and young people are particularly important. The commission's mandate, as stated in the 1989 UN Convention on the Rights of the Child and the Indian Constitution, is to "ensure that all laws, policies, programmes, and administrative mechanisms are in line with the child rights perspectives." It is evident that protecting and advancing children's rights in India is a top government priority because it is incorporated

in the constitution and covered by laws. Despite this, it remains difficult for children in India to exercise their rights, especially those that pertain to access to school, forced work, and child marriage. India has a population of 1.21 billion people, 39% of whom are children, hence it is crucial that their rights are upheld.

Violence against Children

Every child has a right to be protected from all forms of violence. All of the rights protected by the many international human rights treaties that have grown out of the Universal Declaration of Human Rights are applicable to children as human beings. The frequency of child abuse is too great to ignore. A kid who has been sexually abused by a parent, a child who is used as a domestic servant or industrial worker, a child who is married to an older man or a child who marries another child. These are all examples of violence against children. The following subheading can refer to violence against children

a. Child Marriage

A marriage in which one or both parties are children is referred to as a child marriage. The child marriage is a serious breach of a kid's rights, particularly a girl child. Child marriage ruins a child's life by preventing them from receiving a suitable education. Child marriage occurs frequently due to customs and poverty. Early births are more likely as a result of child marriage, putting both the mother and the kid's lives at risk. According to studies, women in their twenties have a five-fold lower risk of dying during childbirth than females who give birth before the age of 15. Additionally, newborns of young moms are also more vulnerable. A baby born to a mother under the age of 18 has a 60% higher probability of dying in its first year of life than a baby born to a mother over the age of 19. To prevent a youngster from getting married young, there is the Protection of Child Marriage Act of 2006.

b. Child Labour

The term "child labour" often refers to employment done by children that endangers them physically, psychologically, or morally, disrupts their education, or both. According to the International Labour Organisation, child labour is defined as any work that jeopardises a child's ability to grow up and pursue an education, as well as having an adverse impact on the kid's potential and sense of worth. A "child" is defined as a person who is under the age of fourteen under Section 2(ii) of the Child Labour (Prohibition and Regulation) Act, 1986, although child labour is not specifically defined in the Act. In India, 49, 83,871 kids were employed as labourers in 2009–2010. The government's biggest challenge is figuring out how old each youngster is. Many young people accept jobs out of necessity due to poverty, and when asked about their age, they either hide it or claim to be older than 14 years old.

c. Child Trafficking

Child trafficking occurs for the purpose of sexual exploitation, including sex tourism, forced prostitution, pornography, and paedophilia. Child trafficking can involve domestic labour, agricultural employment, various types of labour, begging, the sale of organs, the sale of drugs, and smuggling. As a support for entertainment like circus troupes and camel racing, children are also trafficked.

d. Child Sexual Abuse

There are many different ways that a kid might be sexually abused, including rape, touching, fondling, assault, sodomy, forcible kissing, pornography, and taking naked pictures of children. Object/vaginal penetration, penile/oral penetration, penile/anal penetration, finger/vaginal penetration, and penile/anal penetration were all included in the Writ Petition filed in *Sakshi v. Union of India* by an organisation to broaden the application of Section 375 of the Indian Penal Code, 1860. The petitioner's specific problem is ordered to be examined by the law commission of India by the court. In order to close any gaps, the court specifically asked the Law Commission to "examine the issues submitted by Sakshi and examine the feasibility of making recommendations for amendment in the IPC or deal with the same in any other manner." The legislative, the executive branch, and the court should jointly examine the issues surrounding child sexual abuse.

Needs of Children

a. Right to Health

Achieving children's rights involves addressing access to health care. An estimated 39 deaths per 1,000 live births occur to children under the age of five in India. When it comes to receiving health services like coverage for new mothers and babies, women and children are most likely to experience difficulties. Only one in three Indian women benefit from routine pregnancy monitoring. Only 37% of deliveries in rural areas are assisted by trained medical workers. More than 204 million people in India are undernourished, and Indian children continue to be the most vulnerable. Stunting affects children frequently in India, where rates can reach 39%. In response, the government launched a significant awareness effort to inform the populace of the value of a varied and balanced diet.

In addition, children confront other difficulties such as a high prevalence of HIV infections (3700 new infections among children), a lack of access to clean water, and

inadequate sanitary facilities. The latter because women and children in rural states may not always have access to comprehensive health services.

b. Right to Education

In India, gaining access to school remains a major and extremely troublesome obstacle to the realisation of children's rights. With 287 million adults, the largest population in the world, and 37% of all people, India continues to have the highest percentage of illiterate individuals in the world. Despite a 15% rise in literacy between 1991 and 2006, India's overall illiteracy rate remained high due to subsequent population growth. The decentralised character of India implies that wealthier states can spend far more on education than poorer states, despite efforts to allocate 10.5% of the country's total government spending to education. For instance, a wealthy state like Kerala spent \$685 annually per person on education, compared to a less wealthy state like Bihar's \$100. Children, especially those living in rural areas, are further marginalised by the unequal distribution of educational opportunities.

Millions of young Indians are marginalised in the educational system due to caste-related prejudice and discrimination against women. In spite of this, the Indian government is working to create solutions that would enable all Indians—young and old—to receive top-notch education and combat illiteracy. India may be immensely proud of itself for having made significant improvements in its educational system, despite the ongoing issues.

Since 2009, Humanium has worked with local partners in India to promote "child-friendly villages" and different higher education aid projects while also building residential special training centres for former child labourers. These initiatives seek to eradicate child labour through education, enhance the quality of life in entire rural villages, and give funding for initiatives that help young people from low-income households pursue higher education.

c. Right to life

According to the 1950 Indian constitution, "everyone has the right to life, liberty, and the security of persons," and "no person shall be deprived of his life or personal liberty..." Even though this fundamental right is protected by the constitution, India still has problems with life, survival, and child development.

Each day, thousands of children die, not only as a result of poverty but also as a result of the widespread usage of female infanticide. The primary danger to Indian children's right to life comes from this persistent cultural practise of female infanticide. In fact, thousands of young Indian girls lose their lives every day because they are not wanted or accepted by their families, either before they are even born or after they are born. The practise of killing female infants is influenced by a number of things, such as the dowry system, which labels daughters as "an unaffordable economic burden".

Numerous Indian families resort to feticide, or the selective ablation of the female foetus, to address this issue. Even more troubling, when having a kid is inevitable, families intentionally cause their deaths by drowning, poisoning, suffocation, or other means.

The reality is far more terrifying: every minute, 9 abortions of female foetuses will occur in India, and globally, 117

million girls demographically go missing as a result of selective sex-abortions. India also placed fourth among nations with the greatest skewed sex ratio, with 112 boys for every 100 females, as a result of sex abortions.

d. Right to protection and freedom of speech

Children in India have the right to protection from abuse, exploitation, and neglect both at home and outside. Children have a right to protection from harmful traditional practises, trafficking, child labour, commercial sexual exploitation, abuse, exploitation, violence, and neglect, to name a few. However, a government survey from 2007 found that abuse affects more than 69% of kids between the ages of 5 and 18. There are many people who must endure assault and humiliation every day.

More than half of child abuse cases include a small number of adults who are familiar to the victim and who have authority over them. Parents in Indian homes have complete control over their kids. Furthermore, a research indicated that 65% of school-going children have experienced corporal punishment at the hands of academic personnel, demonstrating the tight discipline that is also present in academic settings.

Cultural norms that place little emphasis on and respect for the words and opinions of children are a contributing factor to child neglect. Because of this, there is no formal mention of this right in Indian law, and youngsters are taught to respect adults.

It is critical to change one's perspective on children and their needs in order to properly realise children's right to protection. Additionally, funds must be allocated for training, educating, and convicting carers of children's fundamental right to protection.

Despite the fact that the UN convention on the rights of the child's second article guarantees the right to be free from discrimination, including sexual orientation. The LGBTQ+ community has historically faced prejudice in India. primarily due to Section 377), a 157-year-old legislation from the colonial era that makes some sexual activities illegal and carries a 10-year prison sentence. In addition to depriving LGBTQ+ children of their fundamental rights, this law also exposes LGBTQ+ children and youth to assault, bullying, harassment, and exclusion.

In a landmark ruling, India's Supreme Court declared that homosexual acts are no longer punishable by law, overturning a 2013 judgement that had upheld the section 377 law. The court has now found that discrimination based on sexual orientation constitutes a grave human rights violation. The court further argued that "the state had no right to control the private lives of LGBT community members and that denying the right to sexual orientation was the same as denying the right to privacy." This decision is a major victory for the LGBTQ+ community in India and serves as an example to other nations that still criminalise homosexuality that change is achievable.

e. Right Identity

Achieving children's rights also requires recognising their right to registration and identity. India has one of the highest rates of child non-registration worldwide. 41% of births are formally recorded. Urban and rural areas have significantly different rates of registration, with 59% of urban children under five being registered compared to only 35% of rural children. Due to their social invisibility and inability to

access child-sensitive social protection services and initiatives, these individuals face considerable challenges.

Child Rights in Indian Constitution

Children's rights are human rights that are specifically tailored to the needs, wants, and general wellbeing of children. They consider their brittleness, uniqueness, and age-appropriate needs. The goal of children's rights is to consider how important a child's growth is.

India joined the United Nations Convention on the Rights of the Child in 1992 as part of its effort to provide an ethical labour 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.

Human rights alone do not adequately protect children; they also exist to ensure that everyone is treated fairly and properly and to further their general welfare. Children, defined as anybody under the age of 18, have special requirements resulting from their vulnerabilities that go beyond basic human rights.

Additionally, the fundamentals of children's rights as outlined in the Convention and referred to in several provisions of the Indian constitution are listed below.

1. The Right to and Identity (Article 7 and 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. The Right to Health (Article 23 and 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. The 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. The Right to a Family Life (Articles 8, 9, 10, 16, 20, 22 and 40)

Children have the right to be looked after by carers 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. They must be given privacy protection from attacks on their way of life and personal history while being the ward of a family or caretaker.

Children who do not have access to a family have a specific need for care and must be properly raised by adults who respect their culture, language, religion, and ethnicity. Children who are refugees have a right to extra protection

and assistance. Children have the right to legal representation in misdemeanour cases as part of a juvenile justice system that ensures fair and prompt adjudication of cases.

5. The Right to be protected from violence (Article 19 and 34)

Even family members must be protected from violence, and children must not be subjected to maltreatment or sexual or physical abuse. This includes using force to chastise children. This article considers child pornography, child prostitution, and child sales as all types of sexual exploitation and abuse are unacceptable.

6. The Right to an opinion (Article 12 and 13)

All kids should have the freedom to express their thoughts without fear of rebuke or disdain. Children have a right to have their opinions taken into consideration when adults are actively making decisions on their behalf. Although a child's perspective may not be supported by facts, it is nevertheless a valuable source of information for parents and should be taken into account. However, this depends on the age and maturity of the youngster. Children are allowed to express themselves freely as long as they don't use their knowledge or opinions to hurt other people.

7. The Right to be protected from armed conflict (Articles 38 and 39)

War or any armed struggle can seriously harm a child's morale as well as perceptions of ethics, and this must be corrected in a nurturing safe environment. Armed conflict transforms innocent children into refugees, prisoners, or participants in armed conflicts, and these are all circumstances which contravene with the spirit of war. The government must make sure that children are not coerced into taking part in any armed conflict while also working to rehabilitate children who have been harmed by war.

8. The Right to be protected from exploitation (Articles 19, 32, 34, 36 and 39)

Since exploitation is frequently carried out violently, safeguarding children from violence is essential to rescuing them from it. This includes parental abuse, carelessness, and violence, even when it is justified as a method of enforcing domestic discipline. Furthermore, young people cannot be forced to perform hazardous or difficult tasks. Only safe tasks that do not interfere with their access to play, education, or health are acceptable for children to volunteer for. Another form of exploitation that takes advantage of children, sexual exploitation, is likewise forbidden. To facilitate healing and reintegration into society, survivors of neglect, abuse, and exploitation require specific assistance. Children also cannot be subjected to cruel punishment, even when it falls under the purview of the legal system. Death or life sentences are prohibited, as are penalties involving adult prisoners.

Conclusion

In numerous national and international legislation, numerous laws and policies are incorporated to "protect" the rights of women, children, and the elderly. This "protection" is a myth, though. Little has been done by recalcitrant states and the federal government to alter the patriarchal and antiquated laws pertaining to women, children, and the

elderly. It demonstrates the flaws and gaps in the current laws and regulations as well as the improper use of these laws to eradicate these social ills. "I am a free human being with an independent will; I am not a bird, and no net ensnares me." Jane Eyre, by Charlotte Bronte. It also applies to youngsters and the elderly who are repeatedly drawn into a man's diabolical yearning, not just to women. Everyman is now required to look for and seize his rights with the aid of the Indian Judiciary. But the state may play a wiser role by putting women's safety first because, in Virginia Woolf's *A Room of One's Own*, "Anything may happen when womanhood has ceased to be a protected occupation," and the root of these issues lies in negligence towards "WOMEN." Therefore, the government as well as individuals from various social strata urgently need to work together, consistently, and with focus.

Despite their differences, all kids deserve to be treated equally. No matter how their identity is defined by race, colour, religion, language, ethnicity, gender, or ability, they are entitled to all of these rights.

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