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## A critical study on children protection in India

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### Abstract

Childhood is a universal experience that cuts through all borders and artificial divisions. Every human being, including children, has some inherent rights given to them by nature. These fundamental rights have been granted to humans since their creation. From the fetus stage, all people have rights. The beginning is the fetus in the mother's womb at that time, and a person is granted a set of fundamental rights. All people are born with these rights. Human rights are necessary for living as humans; they are the fundamental norms without which people cannot exist or progress in dignity. They are innate, unalienable, and universal to the human individual. For every person to reach their full potential, human rights are crucial.

**Keywords:** Human rights, children protection act, children rights, child labour

### 1. Introduction

In India, child abuse and rights violations are widespread. Every day, many children are molested by family members. Female feticide via amniocentesis is a widespread kind of abuse in India. Parents and in-loco parents forsake many children. Parents frequently whip, burn, and sexually exploit young females. Illiteracy and social and economic backwardness are the leading causes of child rights breaches, especially by parents.

Employers abuse youngsters by giving them dangerous jobs. Children are sold to gangsters and used to deliver narcotics and other illegal substances. Because of poverty, many children are malnourished, sick, and dying. Kidnapping and abduction are rampant in our country. Children are kidnapped to beggars, prostitutes, circuses, tamashas, organ trading, etc. Organs from children are utilized in trades and investigations. Child abandonment and prostitution are blatantly promoted and linked to tourism.

The child was incorporated into society through their family in traditional society, according to the history of the development of children's rights. Traditions and social mores dictated behavior patterns for both parents and kids <sup>[1]</sup>. The primary responsibilities of parents were to watch over, protect, and educate their children, while their offspring were supposed to obey, respect, and take care of their parents as they age. However, the concept of rights as we know them today was not an issue.

From a historical perspective, there has been a significant change in child welfare law, policy, and practice. There was the idea of authority and control prior to 1839. Welfare programs were given to children. Only in the 20th century did the idea of children's rights become widely accepted. Notably, the emphasis has shifted from the "welfare" approach to the "right" one.

### 2. Major international conventions and Declarations

Children's rights and protection have long been top priorities for the international community. The "United Nations Treaty on the Rights of the Child (UNCRC)", a milestone in international human rights legislation, is the primary instrument for children globally. India adopted this convention in "December 1992". The Declaration on the "Rights of the Child was adopted in 1924 by the League of Nations" <sup>[2]</sup>, the organization that would later become the United Nations, and this act served as the foundation for the UN CRC.

- "Declaration of the Rights of the Child, 1924 (DRC-1924).
- Universal Declaration of Human Rights (UDHR - 1948).
- Declaration of Rights of Child, 1959.
- International Covenant on Economic, Social, Cultural Rights (ICESCR), 1966.
- International Convention Civil and Political Rights (ICCPR), 1966.
- Convention of the Elimination of all Forms of Discrimination against Women, 1979.
- United Nations Convention on the Rights of the Child (UNCRC), 1989.

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- Huge Convention on Inter-Country Adoption, 1993.
- Hague Convention on the Civil Aspects of International Child Abduction, 1980.
- Justice in Matters involving Child Victims and Witnesses of Crime.
- Convention on the Rights of Persons with Disabilities and its Optional Protocol 2006.
- Convention on the Rights of Persons with Disabilities and its Optional Protocol"

### 3. The situation of the Child in India: The Rights Perspective

Four core rights are highlighted in the United Nations Convention on the Rights of the Child (1989). They include the ability to live, grow, be safe, and have a say in one's own future. Considering the rights of India's 300 million children under the age of fourteen, this part analyses their daily lives and the problems they face <sup>[5]</sup>.

#### 3.1 Survival Rights

Survival rights encompass the right to live and the best possible health care (Storer, 1994). India's healthcare system is enormous. 100% of urban and 80% of rural residents have access to health care, according to official figures. India's newborn mortality rate is "79 per 1000 live births", and its under-5 death rate is 119. India's IMR fell from 129 per 1000 in 1971 to 79 in 1994. Two million of the 25 million newborns die before turning one. Infections and malnutrition cause most of these deaths. Child survival rates vary by state. In 1993, Kerala's IMR was 13, and Orissa's was 110. Urban and rural infant mortality differ significantly ("urban IMR 45 and rural IMR 82") <sup>[6]</sup>. Data show the child's poor nutrition. In 1990, 33% of newborns had low birth weights, and 69% of children under 5 were malnourished. 56% of preschool children have iron deficiency, and 60,000 become blind each year due to Vitamin A insufficiency and protein energy malnutrition. The above statistics show a slight rise in child survival. 29% of urban and 33% of rural Indian children who live in abject poverty lack access to primary health care, safe drinking water, and proper nutrition.

#### 3.2 Development Rights

Survival "rights encompass the right to live and the best health and medical care possible (Storer, 1994). India has an extensive healthcare system. Official figures show that 100% of urban and 80% of rural residents have access to healthcare. Despite this, India's IMR is 79, and its under-5 death rate is 119 per 1000 live births. India reduced its IMR from 129 per 1000 in 1971 to 79 in 1994. 2 million of the 25 million babies born each year die before turning 1. Most deaths are due to illnesses and malnutrition. State-by-state differences exist in a child's survival odds. 1993 IMR ranged from 13 per 1000 in Kerala to 110 in Orissa. There is a huge gap between urban and rural infant mortality (urban IMR 45 and rural IMR 82). Available data show that the child is malnourished. 33% of infants born in 1990 had a low birth weight, while 69% of children under 5 had moderate to severe malnutrition <sup>[7]</sup>. 56% of pre-schoolers have iron deficiency, and 60,000 go blind each year due to Vitamin A insufficiency and protein energy malnutrition. The above statistics show a slight rise in child survival odds. The right to survive and access primary health care, safe drinking water, and enough nourishment is not attainable for

29% of urban and 33% of rural Indian children whose families live in absolute" poverty.

#### 3.3 Protection Rights

Included in the child's protection rights are safeguards against discrimination in the event of an orphanage being closed, as well as protection in the event of an emergency or armed conflict. Children with special needs, youngsters with deformities, and children who are victims of the flesh trade and sexual abuse all have this right in India. In India, there is a pressing need to ensure the safety of all girl children <sup>[8]</sup>. Evidence of gender bias is shown in the declining female-to-male ratio. There were 929 women for every 1000 men in 1991. Although infant mortality rates have gone down, this is still the case. Despite physiologically greater survival probabilities for females, the IMR in India was higher for girls in 1992 than for males, according to statistics from the Sample Registration System.

Forty-four million child laborers are abused economically, physically, and emotionally. Five million Indian street children face abuse and exploitation. Both children lack access to school, health care, and enjoyment and are compelled to work in stressful and exploitative situations. The flesh trade victims are often sexually exploited. UNICEF (1995) estimates that India has 500,000 child prostitutes. 25% of the 2 million child prostitutes globally. These youngsters are abused, exploited, and stigmatized <sup>[9]</sup>. Society hides child sexual abuse, especially of girls. 30-50% of perpetrators are family members, close relatives, friends, or neighbors, and 80% of children know their offenders. In India, child rape is common. Official figures show rape has grown from 9,579 in 1989 to 9,794 in 1991. Unreported cases are many. Lesser-known forms of abuse and exploitation include child marriage, tourism, and camel races. In emergencies, children need safety. These situations include displacement, development, natural disasters, armed conflict victims, and refugee children. At least 40% of India's 22 million displaced persons are youngsters. India is a disaster-prone Asian country. In the 1970s, India had 80% of the world's drought casualties and 70% of flood victims. As with the 75,000 Sri Lankan refugee children or those affected by riots and armed conflict in Kashmir and Punjab, these youngsters have limited access to services <sup>[10]</sup>.

Disabled children need daily protection. Thirty-five million disabled Indian kids. 98% of rural and 95% of urban disabled children lack essential services. Children whose parents are stigmatized for illness or criminality do not have a right to protection from discrimination and stigma. These children are typically labeled and denied school or institutional assistance. Never-ending facts about needy children. India has no policy or law protecting children's rights <sup>[11]</sup>.

#### 4. Constitutional Provisions

Children have various rights under the Indian Constitution as citizens of the nation. The Constitution essentially guarantees all of the protections for children included in the United Nations Convention on the Rights of the Child and the Directive Principles of State Policy. It is unfortunate that no rights can be defended on the basis of the Directive Principles of State Policy at this time. The Indian government may take whatever legal and institutional steps are required to safeguard children's rights. Nevertheless, these guidelines have allowed the courts to issue some

important rulings supporting children's rights <sup>[12]</sup>.

- "Article 14 provides equality before the law to all people, including children.
- Article 15 ensures the right against discrimination and upholds the rule of law for everyone. These are the specific constitutional provisions for the protection of children in India.
- Articles 24 and 29 guarantee minorities' rights to protect their interests by stating that no kid under the age of 14 may be hired for any dangerous employment.
- Article 37 guarantees that the government would exercise flexibility to implement the necessary governmental and administrative measures to protect children's rights.
- The Directive Principles of State Policy's Article 39(e) states that young children should not be mistreated and should not be coerced into occupations that are not appropriate for their age or physical capabilities.
- Children must be provided with the opportunity and resources to develop healthily in conditions of freedom and dignity, and they must be shielded from exploitation and moral and material abandonment, according to Article 39(f) of the Directive Principles of State Policy.
- All children are entitled to free and compulsory education up to the age of 14 under Article 45 of the Directive Principles of State Policy.
- Article 46 affirms that marginalized groups of the population have a right to protection from social injustice and all forms of exploitation.
- Article 47 guarantees the right to a high living level, adequate nourishment, and enhanced public health.

### 5. Laws and government policy

In order to safeguard children's interests before and after independence, the Indian government passed some laws. The Reformatory Schools Act of 1897, the Child Marriage Restraint Act of 1929, and the Children (Pledging of Labor) Act of 1933 are prominent examples.

- "Reformatory Schools Act, 1897
- Child Marriage Restraint Act, 1929
- Children (Pledging of Labour) Act, 1933
- Young Persons (Harmful Publications) Act, 1956
- Children Act, 1960
- National Policy for Children in 1974
- Child Labour (Prohibition & Regulation) Act, 1986
- Infant Milk Substitutes Act, 1992
- Infant Milk Substitutes, Feeding Bottles & Infant Foods (Regulation of Production, Supply & Distribution) Act, 1992
- National Nutrition Policy 1993
- Juvenile Justice (Care & Protection of Children) Act, 2000
- National Policy for the Empowerment of Women 2001
- Infant Milk Substitutes Act, 2003
- Infant Milk Substitutes, Feeding Bottles & Infant Foods (Regulation of Production, Supply & Distribution) Amendment Act, 2003
- Commissions for the Protection of Child Rights Act, 2005
- Juvenile Justice (Care & Protection of Children) Amendment Act, 2006
- Prohibition of Child Marriage Act, 2006
- Protection of Children from Sexual Offences Act, 2012

- National Policy for Children 2013
- National Early Childhood Care and Education Policy 2013

In addition to increasing the child-to-parent ratio, providing child protection, avoiding and lowering maternal and child undernutrition, and managing anemia, these policies were developed to ensure women's safety, protection, and empowerment. Child development has taken center stage in place of child welfare. High-quality services in the areas of education, health, nutrition, and leisure were prioritized in this plan, with an emphasis on children from socioeconomically disadvantaged backgrounds. Numerous initiatives have been launched by the government of India to safeguard the rights of children and encourage their development. The Ministry for the Advancement of Women and Children is now fully functional.

### 6. Initiative at National Level

Several official documents show the state's concern for children and encourage child welfare programs. As an example, Article 24 of the Indian Constitution forbids the employment of children under the age of 14 in hazardous jobs, while Section 4 of the Constitution mandates free and compulsory education for all children up to the age of 14. According to the Constitution (Article 45). When it comes to children, the State Policy Directive Principles show that the government means business. Thus, India's children are protected by constitutional guarantees <sup>[14]</sup>.

India's 1974 National Policy on Children recognizes the state's role in children. India is one of the few countries with a distinct child welfare strategy. The policy aims to ensure children's complete physical, mental, and social development before and after birth. The policy paper guides planning plans, programs, services, and other child welfare activities. Rane (1986) <sup>[20]</sup> identified various gaps in children's policy, including a lack of care for girl children, child labour, and child maltreatment. Population, health, and education policies, which affect child development, are not linked. The children's policy must be examined in light of the U.N. Convention on the Rights of the Child.

#### a) Ministry for Women and Child Development

In 1985, the Ministry of Human Resource Development, which subsequently became the Ministry of Social Justice and Empowerment, created a division dedicated to advancing the welfare of women and children. The ministry is tasked with ensuring that all women and children reach their full potential. Plans, policies, and programmes are created; legislation is passed or revised, and the work of government and non-government organizations dedicated to child development is directed and organized. Several innovative programs for young women and children are also administered by the ministry.

#### b) National Human Rights Commission

The NHRC is a separate and distinct government agency that was established by the Human Rights Commission Act of 1997. The NHRC was founded as a result of the Paris Principles, a comprehensive set of rules on the position of national institutions, which were adopted during a conference of representatives of national institutions sponsored by the United Nations in

Paris in 1991. The National Human Rights Commission bases its work and policies on these principles, which have been ratified by the United Nations General Assembly and the United Nations Commission on Human Rights.

**c) National Commission for Protection of the Child Rights (NCPCR)**

The National Commission for the Protection of Child Rights Act of 2005 would create a National Commission at the federal level and State Commissions at the state level. In 2007, the government formed a special body to safeguard children's rights. Its goal is to ensure that children's rights are effectively enforced and that laws and programmes pertaining to them are carried out correctly<sup>[15]</sup>.

**d) Central Advisory Board on Child Labour**

On 4 March 1981, the Central Advisory Board on Child Labor was established. The Board's duties include:

- Examining how current laws are carried out and are handled by the National Government.
- To make legislative and social welfare recommendations for working children's welfare.
- To assess the effectiveness of welfare programmes for children who work.
- To identify the sectors and regions where child labour has to be gradually phased out.

**7. Role of Voluntary Organisations**

Voluntary agencies have long led in developing children's services and establishing creative projects. Government and non-profits have teamed up to address children's challenges. Non-profit organisations are supported and strengthened by the National Policy for Children and the National Plan of Action, and it is expected that efforts by both the government and non-profit sectors will complement one another. Members of national or state-level voluntary agencies are overrepresented on the advisory bodies, consultative committees, expert groups, and task forces that are periodically appointed by the government to develop specific projects/programmes, review specific government schemes, and investigate the problems of particular groups of children.

Voluntary organisations shaped national child policies. They have also helped build a family- and community-based child services. They advocate for children's needs and appropriate services. They also help create public opinion for a new type of children's rights programme. Several non-profits have pioneered child advocacy and empowerment.

The 50th Anniversary edition of UNICEF (1996b) analyses the organisation's changing thrusts, priorities, and commitments. In the 1950s, UNICEF focused on children's welfare; in the 1960s, it embraced a developmental strategy. In the 1990s, the children's rights approach was developed, and UNICEF began helping nations accomplish child-centred goals.

Organisations like Save the Children, CARE, the International Council on Child Welfare, and Catholic Relief Services also pitch in to support youth initiatives. Save the Children Fund (U.K.) argued in their paper *Towards a Children's Agenda: New Challenges for Social Development* that prioritizing children in policymaking is essential if development strategies are to really improve

people's lives. Groups like Human Rights Watch, Defense for Children International, the International Society for the Prevention of Child Abuse and Neglect, and End Child Prostitution in Asian Tourism (ECPAT) work to protect children from abuse and exploitation. The importance of child advocacy is shown by a review of the child's situation in India. This includes the child's challenges, laws, and programmes.

**8. Conclusion**

The nation's children are one of its most significant resources in terms of human capital. How a country's youngsters mature and become adults will significantly impact the country's overall health and prosperity. The famous poet Milton once stated that a child reveals a man like sunrise reveals the day. As a result, society has an obligation to provide for every child so that they may flourish as individuals. Children are the future keepers of the flame and stewards of society; they are the carriers of our collective wisdom, history, ideas, and ideologies. Young people will carry society's flame into the future. Children represent the future of our civilisation, and as such, they have the potential to become great leaders, physicians, scientists, educators, engineers, and politicians. All of civilisation falls on their shoulders (rests). Sadly, millions of children are used and mistreated because they are deprived of a normal upbringing and an appropriate education. Undoubtedly, changes have been made, and other changes are in the pipeline for certain places. Human trafficking law reform, child marriage law reform, child labour law reform, and bonded labour law reform are all examples. The government and civic society then try to pass new laws to address one or more of these issues that impact children. It is not out of place to point out that our nation has many laws, programmes, and initiatives geared toward the welfare of children. The provisions of these laws, schemes, and programmes need to be implemented properly, which is where the real issue resides. In India, the judicial system, together with the police and various government agencies, autonomous bodies, public businesses, public interest research organisations, and non-governmental organisations (NGOs), are involved in the execution of numerous laws, plans, and programmes for children. All of them must work together to ensure that laws, plans, and programmes for protecting and promoting children's rights are implemented at the field level in the "correct" viewpoint. This is the need of the hour for all of them. Because our children are our most valuable resource, we must ensure that no aspect of their maintenance, growth, protection, or participation is overlooked or given less importance. However, in a country with a big migrant population, significant socio-economic differences, and ongoing social strife and unrest, it is even more challenging to ensure that all of their rights are respected.

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