

Enhancing Social Justice: A Synergy of Right to Education with Special Reference to Child Rights in India

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Abstract

This study explores the concept of education as a social right, applied to rights which protect the basic necessities of life of a Child. The book adopts a thematic approach, utilizing case studies to delve into pivotal issues such as the right to education, protection from abuse, exploitation, including sexual and commercial exploitation and the state's role in assisting children in need of care & protection. The main findings of this study are as follows: (1) India has the highest prevalence of child sexual abuse, with millions of children worldwide subjected to violence, abuse, and exploitation; (2) India's children are at risk of poverty and malnutrition, and they are often disproportionately affected by human rights crises. (2) India has a high prevalence of sexual exploitation of children, and it remains one of the most egregious violations of children's rights. (3) Children are arguably the most vulnerable to abuse, including domestic violence, school & home violence, human trafficking, cyberbullying, child labour, & bullying, and are often in the midst of human rights crisis. (4) India is a country with a large number of laws aimed at safeguarding children, with particular prevalence in countries like India. The most important preventive measure is to identify and address potential abuse among various service providers like doctors, lawyers, judges, educators, police, volunteers, parents, unions and social workers - so that they can significantly reduce the risk.

Keywords: Social Justice, Social Rights, Right to Education, Child Rights

Introduction:

Social justice refers to the fair allocation of opportunities, resources, & advantages within Society. It emphasises the importance of equitably allocating social resources across society." Social justice" began its journey nestled within the heart of Christian theology, finding its voice through the pen of Luigi Taparelli in his ground breaking work, Theoretical Treatise on Natural Law, penned in the early 1840s. Taparelli, a devout Italian Jesuit priest, penned his thoughts during the tumultuous era of Italy's unification, known as the Risorgimento movement. Throughout history, the essence of social justice has often been intertwined with religious ideals. Taparelli's conception of social justice is akin to a beacon of light illuminating the path towards fairness and equity in society, rooted in the timeless teachings of natural theology and religious wisdom. It's a call for individuals to navigate the complexities of moral decision-making, guided by the compass of faith and the inherent goodness found within our shared humanity. John Rawls, An American philosopher, is credited with one of the studies of social justice. Rawls defined "justice as fairness" in "A Theory of Justice (1971)", which he described as a theory of social justice,

wherein all people should be treated equally, similar people should have equal access to fundamental freedoms and opportunities, and the most under privileged members of society should benefit the most. According to Rawls, this theory of justice contributes to the smooth operation of a just society. Famously, Rawls employed the idea of a "veil of ignorance," The parties are deprived of any knowledge about specific details about themselves, each other, and even their society and its past due to this veil of ignorance. But the parties are not totally devoid of knowledge about the facts.

The UN Charter of 1945 and the 1948 (UDHR) or Universal Declaration of Human Rights, which concentrated on political, civil, social, & economic rights. In the same way that the UN considers social fairness to be an essential aspect of both peaceful and productive intergovernmental cohabitation, Proponents of global justice are utilising social & economic rights as a means to achieve a drastic reallocation of power and resources, both within and between nations. In this setting, the goal of human rights has evolved into achieving global social justice, which is mirrored in moral cosmopolitanism. All human beings possess a global stature that makes them the ultimate unit of moral concern, according to Thomas Pogge. Thus, it follows that people ought to be viewed as the fundamental components of world politics. All people have some claims on society just by virtue of being human.

The Constitution of India affirms the country's commitment to securing fairness in social, economic & political domains for every citizen. It further vows to uphold individual freedoms, equal opportunities, and communal unity, thereby preserving the dignity of every person and the cohesion of the nation, as well as equality of status, opportunity, and promotion among them. It also promotes fraternity, which upholds the nation's unity and dignity. Fundamental Rights and DPSP, which aims to advance social welfare by safeguarding justice - social, economic, and political must inform all national institutions, further embodies the spirit indicated in the preamble. The Forty-two Amendment Act has reinforced the constitutional ethos of socio-economic justice by adding the word "Socialist" to the preamble (*Statutory Measures for Employee Protection and Welfare in India - MBA Knowledge Base, n.d.*)

Democracy, as it is widely understood, is not just a system of governance but also an emphasis on human rights & dignity, which in turn entails the rule of law, liberty & equality as well as freedom from tyranny, exploitation, and capricious intervention. The Indian constitution acknowledges and aims to implement the several aspects of social justice. Every person is guaranteed "equality before law or equal protection of the laws within the territory of India" by Article 14. Article 15(1) prohibits any form of discrimination against individuals on the basis of their religion, ethnicity, caste, birthplace, or a mix of these factors. On a similar standpoint, Article 16(1) ensures that all individuals receive impartial treatment concerning employment opportunities or appointments to governmental positions. Article 17 addresses the eradication of "untouchability," emphasizing the abolition of social discrimination based on caste or social status. The role of "education" in any society is more than just raising the economy and standard of living. This study also explores the concept of education as a 'social right', applied to rights which protect the basic necessities of life of a Children. A social right can also be defined as "a claim against the state for the satisfaction of some basic socio-economic needs which can also be called fundamental rights".

Objectives

- To understand and importance of Social Justice.
- To identify and evaluate how children are viewed as vulnerable members of society and how their rights are not easily accessible to them.
- To analyse all the pros and cons of implementing the child rights policies in the country.

Methodology:

The research article has secondary sources as its foundation. Secondary source materials include books, research papers that have been published in journals, articles, newspapers, and other sources such as Shodhganga

Literature Review:

Bhakhry S in her book “Children in India and their Rights”, has highlighted about Children are fragile, especially when they're really young. Because they're fragile, they need adults to take care of them and keep them safe from the tough stuff in the world. This means parents and other grown-ups have an important job to do in looking after kids, making sure they're okay, and helping them grow up healthy and happy. It's all about doing what's best for the child & making sure they have what they need to grow & learn every day.

According to Sharma S "Child Rights and Laws International & National Perspective," a thorough examination of legislation & Rights concerning child development is presented. The book adopts a thematic approach, utilizing case studies to delve into pivotal issues such as right to education, protection from abuse, exploitation, including sexual and commercial exploitation, and the state's role in assisting children in need of care & protection. Furthermore, it addresses concerning matters like forced child marriage, trafficking, and children's rights within the criminal justice system. Additionally, the book introduces readers to significant International Conventions, Declarations, and Protocols, including the Geneva Declaration on Child Rights.

What is Social Justice?

Social justice means ensuring equal social, political, economic opportunities and rights. No one should be discriminated against due to caste, creed, language, or other factors. Many areas of society are deemed fair or equal under social justice. Social justice involves a belief in equal treatment of resources.

Social justice advocates for fairness and equality across various facets of society, including financial, educational, and employment realms. It prioritizes equal access to opportunities in these areas and show a major role in ensuring the safety& security of individuals & communities. The concept of social justice gained prominence following the release of "A Theory of Justice" by American philosopher John Rawls in 1971. Rawls argued that every individual has an equal right to a comprehensive range of fundamental freedoms and liberties. His ideas on social justice remain influential in the fields of economics and politics(*Social Justice | Definition, Theories, Examples, & Facts | Britannica, 2024*)

As evidenced by their incorporation into publications such as the United Nations' "Social Justice in an Open World: The Role of the United Nations" from 2006.

Importance of Social Justice

Social justice advocates for fairness and equality across various domains of society. It strives to ensure equal access to financial, educational, & employment opportunities, highlighting its significance in fostering safety and security for both individuals and communities

As per the Diversity Toolkit by the National Education Association (NEA), societal inequities result in social oppression. These injustices encompass various forms such as racism, sexism, ageism, classism, ableism, and heterosexism, as stated by the NEA. To foster social justice, the NEA suggests employing the following strategies

- Importance to Diversity
- Recognize the outcomes of oppression.
- Educate oneself to confront those who perpetuate oppression, embrace diversity, and nurture an inclusive community.
- Treat everyone equally.
- It provides security for those with disabilities.
- It safeguards individuals from religious bias.
- It shields individuals from sexual discrimination.
- Social justice provides protection against racism.

Role of Social Justice in Educational Opportunities for Children

Giving everyone the chance to realise their aspirations and breaking the cycle of poverty requires a quality education. Still, a great number of people are denied access to quality education due to discrimination in their communities or places of residence. Everybody should be able to learn in a secure, supportive environment with equal possibilities, according to social justice. Education for children is beneficial to society as a whole.

Social justice can be achieved through education, which also prepares individuals for active citizenship. It empowers learners with the understanding, analytical skills, and compassion required to recognize and confront societal disparities. Integrating principles of social justice within educational programs and fostering environments of inclusivity transforms learning into a driving force for constructive societal transformation. The act of education not only provides knowledge but also has an impact on people's morals and values. By incorporating the principles of social justice into education, students can gain a comprehensive understanding of how to practice justice for everyone and show respect for every member of the society. It gives them the opportunity to question the existing status quo & work towards a fairer and more just world.

The achievement of equal opportunities is a key objective of education. Offering equitable education to learners from all societal strata aids in narrowing the divide between advantaged and underserved communities. It equips individuals with the resources they require to pursue their objectives, escape from financial hardship & attain superior opportunities in life. By providing education, we can create a level playing field for individuals who experience discrimination in all forms. Education can assist marginalized communities by providing resources, guidance, and support to help students overcome systemic barriers & reach their full potential. It empowers them to resist societal norms and uphold their rights.

Rights for Children in Indian Constitutions:

India acknowledges and affirms children's equality with adults, deeming them deserving of state protection & care. Children are granted fundamental citizenship rights alongside adults, as outlined in the basic rights and guiding principles of state policy. Following are the important rights,

- Right to Equality (Article 14).
- Right Against discrimination (Article 15).
- Right to personal liberty & due process of law (Article 21).
- Right to being protected from being trafficked and forced into bonded labour (Article 23).

- It guarantees protection against social injustice and exploitation of the weakest sections of society (Article 46).

The UN Conventions on the Rights of the Child outline certain rights for children, which are also recognized in the Indian Constitution. To uphold these rights, the Commission for Protection of Children's Rights Act was enacted by the Indian Parliament in December 2005, leading to the establishment of the National Commission for Protection of Children's Rights (NCPCR) in March 2007. The NCPCR is tasked with ensuring the protection and promotion of children's rights in India (*Children Rights According to the Indian Constitution - Makkala Hakku*, n.d.). These rights encompass various entitlements aimed at safeguarding the well-being and development of children across the country.

- All children aged 6 to 14 have a constitutional right to free and compulsory primary education (Article 21 A).
- Right to be protected from any hazardous employment till the age of 14 years (Article 24).
- Right to be free from abuse and to be forced, out of need for money, to work in industries that are not acceptable for their age or physical ability (Article 39(e)).
- Equal opportunity and resources for healthy development in an atmosphere of freedom and dignity, as well as a promise that childhood and adolescence will not be exploited or abandoned materially or morally (Article 39(f)).

Every individual deserves the protection of their people, but there are certain categories that are more vulnerable to abuse & violence than others. They are facing numbers of problem like gender discrimination, child marriage, child labour etc. There are various provisions to protect the child from possible and subsequent abuse or discrimination in the Indian constitutions. These include:

- Article 24 is an important provision where it mentioned that Prohibition of employment of children in factories. The child who is employed to work in any factory or mine or engaged any hazardous employment.
- Article 39 given some principles of policy to be followed by the State. The State shall, in particular, direct its policy towards securing
 - a) The livelihood of the citizen, Men and women should be equally.
 - b) All the resources in the society are owned and controlled in a way that best serves the interests of everyone.
 - c) that the way the economy functions prevents the concentration of wealth and productive resources to the detriment of everyone.
 - d) There should be equal pay for equal work of both male and female.
 - e) No one can force any men and women for economic necessity.
- Article 45 also highlights the free and compulsory education facilities for all children until they complete the age of 14 years.

(RTE Act) In INDIA:

The Indian Constitution shines as a paragon of legal brilliance, enshrining the principle that every child aged six to fourteen is entitled to receive both free and obligatory education, marking a significant stride towards universal access to learning. as mentioned in Fundamental Rights (Eighty-Six Constitutional Amendment Act of 2002), in accordance with any legal provisions made by the State. A child's right to a

decent and regular full-time primary education in a formal school setting is guaranteed by the Right of Children to Free and Compulsory Education (RTE) Act 2009, a single piece of law under Article 21-A. It satisfies a number of significant standards and regulations.

Article 21-A and the RTE Act came into force on 1 April 2010. The title of the RTE Act contains the words "free and compulsory". The concept of "free education" means that no child, except a child whose parents have been admitted to a school not supported by the Govt concerned, shall pay any fees or charges or expenses which may prevent completion and completion of primary education. "Compulsory education" mandates that pertinent authorities and local governments arrange and ensure that every child aged between 6 and 14 is enrolled, attends, and completes primary education. Through this, India has transitioned to a rights-oriented framework, wherein there exists a legal mandate on both central and state governments to execute this fundamental entitlement of children, as stipulated in Article 21A of the Constitution under the RTE Act (Varma 2014).

The RTE Act outlines the following provisions:

- The right of children to free and compulsory education until the end of basic education in a nearby school.
- This provision ensures that every child aged six to fourteen has the right to go to school without any hindrance. It's the government's responsibility to make sure that all children in this age group can attend primary school, and they must complete it. When we say education is "compulsory," it means every child must go to school, and the government must ensure they do. Additionally, by saying education is "free," it means children can study without having to pay any money for fees or other costs related to schooling.
- Age -Appropriate class facilities is also an important provision in Indian constitutions.
- It outlines the roles that local governments, parents, and other relevant parties have in delivering free and compulsory education, as well as the division of financial and other responsibilities between the federal and state governments.
- It also mentioned some norms & standards for the things like pupil-teacher ratios (PTRs), infrastructure & building, school working days and teacher working hours.
- It prohibits: (a) the abuse and physical punishment of children; (b) screening methods for admitting children; (c) the charging of capitation fees; (d) teachers providing private tuition; and (e) the operation of unrecognized schools.
- Each school must maintain its own student-teacher ratio rather than using an average for the entire area. This ensures teachers are placed appropriately & prevents an unequal distribution between urban & rural schools. Additionally, teachers cannot be used for non-educational purposes, except for specific events like the census, elections, and disaster relief efforts.
- This makes it possible to develop a curriculum in accordance with the values of the Constitution, which would ensure the multifaceted development of the child, based on the knowledge, potential and talent of the child, and would free the child from fear, trauma and anxiety. child-friendly and child-centred education system.

Rights of Children: Multiple Dimensions

The concept of children's rights was established recently. It is becoming more widely acknowledged that youths require greater attention. The new perspective views children as autonomous beings, when in the

past they were considered as a part of or connected to the elder. All the rights protected by the constitution and laws ought to be granted to them. A child must have economic, social, and cultural rights in order to maintain a minimal standard of living. Because there is a direct correlation between poverty and poor child health, rights are crucial. Children who live in poverty often go without enough food, which increases the risk of child mortality and contributes to ill health. The best interest principle serves as the foundation for a child's rights. This implies that all endeavours with children ought to be (*Statutory Measures for Employee Protection and Welfare in India - MBA Knowledge Base*, n.d.)

Every individual has rights and is equally valuable to society as adults. Children must be allowed to exercise their rights without hindrance. Girls, children from underprivileged backgrounds, and children with impairments ought to have the same rights as everyone else. It is imperative that children with disabilities receive special education, care, and therapy. It is the responsibility of society and the government to protect children's survival and development. All children must be registered as soon as they are born and have the right to a name and nationality ("Children and Right to Education," 2023)

Violence Of Children's Rights

Children's human rights are regularly infringed throughout the world. Due to their reliance on adults, who occasionally raise the risk, children & young people are especially susceptible to rights breaches. Children are arguably most at risk of poverty, malnutrition & exploitation, & are often disproportionately affected by human rights crises. For example, about 290 million births occur unregistered globally, meaning that the parents who are born into this situation lack legal personality or evidence of their existence. As a result, they are unable to assert their rights throughout their lives and may not be able to obtain health care, schooling, or employment as parents. Girls in underdeveloped nations have an equal likelihood of ever obtaining rights and services as well as a legal identity (Balakrishnan, K. 2020).

Violence can happen in different places including homes, Schools and workplaces. Even Violence is often committed by a person the child knows. The prevalence of violence against children in India is significant, and it still affects millions of children from all backgrounds. The issue of child marriage, domestic violence, school and home violence in India, as well as human trafficking, cyberbullying, child labour and bullying, affects both genders. Additionally, male children face more challenges than their peers. Any single forms of violence, abuse and exploitation have long-term impacts for children's lives and life.

A large number of children are employed in our nation. Child labor extends from four-year-olds working on a carpet boom to seventeen-year-olds tending the family farm. Many rural children work in agriculture; as domestic help; In trade and services in urban areas, while some work in industry and construction. In the context of India, child labor refers to working children below the age of 14 years. In comparison to other country there are highest numbers of child labourers are in India.

In India, due to economic challenges, numerous children engage in employment to support their families. While some may find value in working and earning at a young age, often, children are compelled to work out of necessity stemming from poverty.

Child slavery represents one of the most egregious violations of children's rights, with millions of children worldwide subjected to this exploitation. These children are deprived of their childhood, education, and prospects as they become ensnared in oppressive conditions. Typically, child slavery occurs when families receive payment upfront in exchange for relinquishing a child regardless of gender to an employer. Often, the child becomes trapped in a cycle of debt bondage, unable to repay the initial sum, while the family struggles to afford their release. Moreover, workplaces may exploit children by deducting excessive

"costs" or "interest" from their wages, making debt repayment virtually impossible. In some instances, this exploitation spans generations, with families promised to employers for successive labour without remuneration. The 1956 UN Supplementary Convention on Slavery, Slave Trade, and the Abolition of Institutions and Practices explicitly prohibits such egregious practices.

Child sexual abuse has emerged as a significant issue globally, with particular prevalence in countries like India. This form of abuse can occur both within familial environments and in external settings such as social circles or disadvantaged institutions like orphanages. Unfortunately, there's a lack of specific legislation addressing child sexual abuse, contributing to widespread unawareness and darkness surrounding the topic. The enduring impact of such abuse leaves deep emotional scars on victims, often resulting in lasting psychological trauma. It's imperative to raise awareness about child sexual abuse and advocate for prevention and intervention measures. Children, who are unable to safeguard themselves, necessitate our proactive support. Governments should implement social initiatives aimed at preventing abuse and providing support to victims, while certain non-governmental organizations (NGOs) are already actively engaged in this cause. Sexual exploitation of children encompasses various forms, including trafficking, prostitution, pornography, and sex tourism, with child trafficking involving the sale or purchase of children for exploitative purposes such as prostitution.

Remedies For Child Rights Violations in India

In India, there exists a plethora of laws aimed at safeguarding children, underscoring the growing recognition of child protection as integral to societal progress. However, the primary hurdle lies in the effective implementation of these laws at the grassroots level, hindered by inadequate staffing and a lack of high-quality preventative and rehabilitative services. Consequently, millions of children remain susceptible to various forms of violence, abuse, and exploitation. Ensuring the protection of Indian children from harm, mistreatment, and exploitation is paramount.

India has a fairly comprehensive child rights and protection policy and legal framework and offers opportunities to ensure equal access to quality protection services for all children. The main legislation on child welfare is set out in four constitutions: Youth Law (Care and Protection) (2000, amended 2015); Child Marriage Act (2006); Protection of Children from Sexual Offences Act (2012) and Child Labor (Prohibition and Regulation) Act (1986, amended 2016).

Enactment of Commissions for Protection of Child Rights Act

In March 2007, the National Commission for Protection of Child Rights (NCPCR) was founded. The Commission's mission is to guarantee that all laws, regulations, services, and regulatory frameworks align with the principles of child welfare as outlined in the Constitution of India and the UN Convention on the Rights of the Child. According to the Commission, a child is defined as an individual aged between 0 and 18 years. It envisions a rights-oriented approach that permeates national policies and services, as well as intricate federal, district, and regional responses, tailored to the unique needs and strengths of each area (*Children Rights According to the Indian Constitution - Makkala Hakku, n.d.*).

The Juvenile Justice system

The objective is to draft legislation focused on the Rights of Young People, enhancing and revising existing laws regarding the care and protection of children. This initiative aims to address their developmental requirements by ensuring suitable care, safety, and recovery measures. It advocates for the

implementation of a child-centric approach to case handling and the provision of treatment and rehabilitation services. Additionally, it seeks to establish mechanisms and frameworks in line with the proposed new legislation.

Child Marriage Act Prohibition

According to the Prohibition of Child Marriage Act (PCMA), a child marriage occurs when a girl or a boy is married before they reach legal marriage age, with the girl being under 18 or the boy being under 21. Meanwhile, all children living in India are guaranteed fundamental rights by the country's Constitution. The Children's Policy was developed with the aim of enabling the delivery of services and programs to children worldwide. The policy emphasizes the importance of holistic growth, education, safety, and active involvement while highlighting the rights to life, security, and nourishment.

Conclusion

For the overall development and growth of individual as well as country Education is a basic and essential instrument & right. Because education provides children with the means to acquire the values, knowledge, and skills necessary for their social and personal growth, its importance cannot be overstated. Despite being recognised as a basic human right, millions of children worldwide continue to be denied the opportunity to receive an education. In this blog post, we'll talk about the foundations of the right to education for children and how important it is to shaping the future of our society.

The right of children to an education is protected by a number of international and national laws, including the United Nations Convention on the Rights of the Child (UNCRC) and the Indian Constitution. Every youngster is entitled to, under Article 21A of the Indian Constitution, which was added by the 86th Amendment Act of 2002, the right to education is likewise acknowledged as a fundamental Right.

There is a clear relationship between access to Social justice and the right to an effective remedy. Social justice is characterized by access to resources, which means that a child must have a means to exercise his right to effective resources. Access to legal protection can take various forms, and the right to an effective remedy can be ensured through the right to judicial proceedings, as well as through administrative and other formal or informal procedures.

Solely implementing legal changes isn't sufficient to grant rights to a child. Arguably, the most crucial preventative action involves recognizing and tackling potential abuse within different service sectors, including doctors, educators, lawyers, judges, police, volunteers, parents, unions, and social workers. This approach aims to significantly mitigate the risk of abuse by promptly addressing it when it occurs.

In essence, it's imperative to promptly address such issues, prioritizing the universal legal principle of acting in the best interest of the child. Policies, systems, and procedures should be established and enforced accordingly. A child, akin to a budding flower, deserves to flourish under the nurturing care and attention of the state, protected by rights, freedom, and society. The endeavour to uphold children's rights will undoubtedly be a lengthy journey.

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