

A Study on Child Rights and Child Protection: A Review

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Abstract:

The rights of children in India have evolved through a framework of constitutional provision, legislative enactments and international conventions. The Constitution of India guarantees several fundamental rights to children, such as the right to education, protection from hazardous employment and protection from exploitation and abuse. The various laws including the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Protection of Children from Sexual Offences (POCSO) Act, 2012 and the Right of Children to Free and Compulsory Education Act, 2009 collectively form the legal backbone for safeguarding children's rights in the country. Implementation of child rights in India facing significant challenges. Most of issues such as child labour, child trafficking, child marriage, malnutrition and access to quality education remain prevalent in various regions. The disparity between legal rights and ground realities reflects the need for more effective policy execution, awareness and community engagement. This paper aims to provide a comprehensive overview of the legal protections for children in India, evaluate the gaps in their implementation and suggest some measures to strengthen child rights in the context of social- legal aspect.

Keywords: Child Rights Juvenile Justice Act, POCSO Act, Right to Education, Child Labour, Legal Protection, Constitutional Provisions, Implementation Challenges and Child Welfare.

Introduction:

Children are 'supremely important national assets' and are 'the greatest gift of humanity'. Children are the great promise of tomorrow dawn of humanity and buds of social development. A nation's future upon young generation, which deserve compassion and bestowal of the best care to protect his/she tender age and they also need their faculties to blossom with physical, mental, moral and spiritual excellence. With more than a one-third of its population of the world is below the age of 18 years. India has the largest child population in the world. India has made some significant commitment towards ensuring the basic rights of children. There has been progress in overall indicators; infant mortality rates are down, child survival is up, literacy rate have improved and school dropout rates have fallen. But the issue of child rights, in India is still caught between legal and policy commitment to children. This is one side of the coin and the other shown the slack miserable picture of the situation of children in India. Childhood in India is not homogeneous. This is based social and economic status, physical and mental ability, geographical location and other differences determine the degree of vulnerability of inequality between various sections of the society. The child in India is discriminated against by virtue of these inequalities. Thus, all children in India suffer certain violation on account of their status as a child.

Furthermore, children, being the supremely important national assets, require special attention and protection against all sorts of neglect and exploitation and it is the social responsibility of the state of work in this direction in strong and positive manner. The Constitution of India, different legislations, national politics etc, in national level and different conventions and recommendations, declaration etc, in international level have tried their best to protect the children in every aspect. But with the progress and development of the society, even in Twenty first century, the rights of the children are being squeezed and the plight of the children remains the same. Day by day, rather offences against children are increasing. The Rape, Kidnapping and Abduction, Child Prostitution, Exposure and abandonment, Feticide and infanticide, child about, child trafficking, Child Abuse etc are now very common in the society. This shows how much we are concerned about the welfare and protection of our children.

Objectives of the study:

1. To understand the concept of children's rights in India.
2. To examine the protection of children through the implementation of child rights in India.
3. To suggest suitable recommendations for strengthening the protection of children's rights.

Objective No.1: To understand the concept and evolution of children's rights in India

Discussion: Concept of Child Rights

Child rights refer to the fundamental human rights specially guaranteed to children, recognizing them as independent individuals with inherent dignity and entitlements. A child is defined as any person below the age of 18 years, as per international standards and Indian laws. The concept of child rights is based on the principle that children require special protection and care due to their physical, mental, emotional and social immaturity.

The concept of child rights is grounded in the broader framework of human rights, emphasizing equality, non-discrimination, best interests of the child, survival, development and respect for the views of the child. These principles are globally recognized through the United Nations Convention on the Rights of the Child, 1989, which India ratified in 1992.

Child rights are commonly classified into four broad categories:

1. **Survival Rights:** These include the rights to life, health, nutrition, shelter and an adequate standard of living, ensuring a child's physical existence and well being.
2. **Development Rights:** These rights focus on education, early childhood care, leisure, cultural activities and access to information, which are essential for the holistic development of children.
3. **Protection Rights:** These safeguard children from abuse, neglect, exploitation, trafficking, child labour, early marriage and all of violence.
4. **Participation Rights:** These recognize children's rights to express their views, participate in decisions affecting their lives and be heard in judicial and administrative proceedings.

In the Indian context, the concept of child rights is reflected in the Constitution of India, various child specific legislations and national policies. The approach emphasizes not only protection but also empowerment, participation and dignity of children.

In essence the concept of child rights seeks to ensure that every child grows in a safe, supportive, enabling environment, allowing them to realize their full potential as responsible and active members of society.

According to Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice (Care and Protection) Act, 2015 (JJ Act, 2015) provides a clear rights based framework for the care, protection, treatment, development and rehabilitation of children in India. The Act recognizes every child as a rights holder and places responsibility on the State, institutions, families and society to ensure the best interest of the child. Under the JJ Act, 2015, a child is defined as any person below 18 years of age. The Act classifies children into two categories:

1. Child in Conflict with Law (CCL) - a child alleged or found to have committed an offence.
2. Child in Need of Care and Protection (CNCP) - a child who is abandoned, abused, neglected, orphaned, trafficked or otherwise vulnerable.

Rights of Children under JJ Act, 2015: This Act ensures the following rights:

1. **Right to Care and Protection:** The Right to Care and Protection is a fundamental child right that ensures every child grows up in a safe, secure, nurturing environment, free from abuse, neglect, exploitation and violence. This right recognizes that children, due to their physical, emotional, psychological vulnerability, require special care and protection from the family, society and the State.
2. **Right to Education, Health and Development:** The Right to Education, Health and Development is a core component of child rights that ensures the holistic growth and well being of every child-Intellectual, physical, emotional and social. This right recognizes that a child's full potential can be achieved only when education, healthcare and overall development are ensured together in an integrated manner.

3. **Right to Child-Friendly Justice Procedures:** The Right to Child-Friendly Justice Procedures ensures that children who come into contact with the justice system-whether as victims, witnesses or children in conflict with law are treated in a humane, sensitive and age-appropriate manner. This right recognizes that children are vulnerable and that exposure to formal legal processes can cause fear, trauma and long term psychological harm if not handled carefully.

In India, this right is primarily protected under the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012 and is guided by the principles of the UN Convention on the Rights of the Child.

4. **Right to Privacy and Confidentiality:** This Right to Privacy and Confidentiality is a vital child right that ensures a child's personal information, identity and dignity are protected, especially when the child comes into contact with the justice system, care institutions or welfare services. This right recognizes that public exposure or disclosure of sensitive information can cause stigma, trauma and long-term harm to a child's physical, emotional and social well being.

In India, this right is strongly protected under the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012 and supported by Article 21 of the Constitution of India, which guarantees the right to life and personal liberty including privacy.

5. **Right to Institutional and Non-Institutional Care (Foster Care, Adoption and Sponsorship):** The Right to Institutional and Non-Institutional Care ensures that children who are unable to live with their biological families receive appropriate care, protection and support in a safe and nurturing environment. This right is based on the principle that family based care is always the first and preferred option and institutional care should be used only when necessary and as a last resort.

Objective No.2 To examine the protection of children through the implementation of child rights in India.

Discussion: Protection of the children through the implementation of child rights in India

The protection of children through implementation of child rights in India refer to the legal, institutional and welfare mechanisms established to safeguard children from abuse, neglect, exploitation and violence. India has developed a structured child protection system in line with the United Nations Convention on the Rights of Child (UNCRC). Supported by constitutional provisions and child centric legislation such as the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012 and the Child Labour (Prohibition and Regulation) Amendment Act, 2016. Protection facilities include Child Welfare Committees, Juvenile Justice Boards, Child Care Institutions, Special Juvenile Police Units, Child Line services (1098), and rehabilitation and reintegration programs. This facilities aim to ensure a safe environment, access to justice, care and rehabilitation for vulnerable children. Effective implementation of child rights strengthens these facilities are protection and promotes the best interests and well being of the children in India.

The Constitution of India provides legal safeguards through Articles 15 (3), 21A, 23, 24, and 39 (e) and (f), which ensure quality, right to education, protection from trafficking and forced labour, prohibition of child labour and protection of children's health and dignity. India is also a signatory to the United National Convention on the Rights of the Child (UNCRC), 1989, which forms the foundation of child rights based legislation.

Key instruments of legal supporting child protection include the follows;

Juvenile Justice (Care and Protection of Children) Act, 2015, which provides care, protection, rehabilitation and social reintegration of children in need of care and protection and children in conflict with law.

The Protection Children from Sexual Offences (POCSO) Act, 2012, which ensures child friendly procedure for reporting, investigation and trial of sexual offences against children.

The right of Children to Free and Compulsory Education Act, 2009, which guarantees free education to children aged 6-14 years, promoting development and protection.

Additionally, laws such as the **Child Labour (Prohibition and Regulation) amendment Act, 2016** and **Prohibition of Child Marriage Act, 2006** strengthen legal protection against exploitation and harmful practices.

Judicial mechanisms, including **Child Welfare Committees (CWCs)** play a crucial role in the child protection system by acting as the first point of legal intervention for vulnerable children. They ensure a child-friendly, rights-based approach and serve as a bridge between legal mechanisms and welfare services.

Juvenile Justice Board (JJBs) ensures that children who come in conflict with law are treated with a reformatory, not punitive, approach, in line with child rights and principles of juvenile justice.

Special Juvenile Police Units (SJPU)s play a crucial role in strengthening the child protection system by bridging law enforcement with child welfare service. Their child-sensitive approach helps protect children's rights, dignity and best interests while ensuring access to justice.

Overall, legal support forms the backbone of child protection in India by ensuring accountability, justice and the best interests of the child through effective implementation of child rights.

In India, this right is mainly protected under the Juvenile Justice (Care and Protection of Children) Act, 2015, which emphasizes the best interests of the child, rehabilitation and social reintegration, in line with the UN Convention on the Rights of the Child.

Non Institutional Care:

Foster Care: Foster care refers to the placement of a child with a family other than the biological family for temporary care.

- It provides a family like environment for children who cannot stay with their parents.
- Foster care may be; Short-term (temporary care) Long-term (until the child becomes independent)
- Foster families are supported and monitored by the State to ensure child safety and well-being.
- The aim is emotional stability, continuity of care and normal social development.

Adoption: Adoption is a permanent non institutional care solution, where a child becomes the legal child of adoptive parents.

- It gives the child the right to; A permanent family, Love, care and security
Equal legal status as a biological child.
- Adoption is regulated through Specialized Adoption Agencies (SAAs) and the Central Adoption Resource Authority (CARA)
- The best interests of the child are the foremost consideration in adoption procedures.

Sponsorship: Sponsorship provides financial and material support to children and families to prevent separation and institutionalization.

- **Support many include:** Education expenses, Health care needs. Nutritional and basic living costs
- Sponsorship helps families stay together and ensures continuity of care.
- It is particularly beneficial for children from economically vulnerable backgrounds.

Institutional Care: When non-institutional care is not possible, children may be placed in Child Care Institutions (CCIs) such as:

Children's home plays a vital role in the child protection system by providing a nurturing and structured environment that supports the best interests, dignity and development of vulnerable children.

Observation homes ensures that children in conflict with law are not kept in police lock-ups or prisons and are treated in a child-friendly, reformatory environment in line with child rights and principles of juvenile justice.

Special homes play a crucial role in the reformatory juvenile justice system by focusing on rehabilitation rather than punishment, ensuring that children in conflict with law are given opportunities for positive development and reintegration into society.

Open Shelters serve as the first point of contact for vulnerable children, offering immediate protection and support in a institutional, child friendly environment and preventing further risks on the streets.

Institutional care must:

- Be temporary and rehabilitative, not permanent
- Ensure safety, education, health care, counseling and skill development
- Prepare children for reintegration into family or community life

Legal and Institutional Framework:

- Child Welfare Committees (CWCs) decide appropriate care and placement
- District Child Protection Units (DCPUs) monitor care arrangements
- Mission Vatsalya supports care and protection services.

Objective 3. To suggest suitable recommendations for strengthening the protection of children's rights.

Discussion: Suitable recommendations for strengthening the protection children's rights

- **Strengthen Implementation of Laws:** ensure strict and uniform implementation of child-related laws such as the JJ Act, POCSO Act, and RTE Act through regular monitoring and accountability mechanism.
- **Capacity Building of Child Protection Functionaries:** Provide continuous training to CWCs, JJB members, Police (SJPU), judiciary and childcare staff on child rights, child psychology and child – friendly procedures.
- **Improve Infrastructure of Child Care Institution (CCLs):** upgrade Children's Homes, Observation homes, Special Homes and Open Shelter with adequate facilities, qualified staff, safety measures and periodic inspections.
- **Strengthen Community Based Child Protection:** Promote family and community based care models such as foster care, sponsorship and adoption to reduce unnecessary institutionalization.
- **Enhance Child- Friendly Justice Systems:** Establish more child friendly courts, fast track POCSO cases, ensure legal aid and minimize repeated trauma during investigation
- **Increase Awareness on Child Rights:** Conduct large scale awareness programmes for parents, teachers, children and communities about child rights, protection laws and reporting mechanisms like Childline (1098)
- **Inter Departmental Coordination:** Improve coordination among departments of Women and Child Development, Education, Health, Police, Judiciary and NGOs for effective child protection.
- **Focus on Prevention and Early Intervention:** Address root causes such as poverty, child labor, abuse and school dropouts through social security schemes, education support and family strengthening programmes.
- **Child Participation in Decision- Making:** Encourage children's participation in matters affecting them, in line with age and maturity, as guaranteed under the UNCRC.
- **Use of Technology and Data Systems:** Strengthen child tracking and case management systems like TrackChild to monitor missing, rescued and rehabilitated children effectively.

Conclusion:

Child rights and child protection form the foundation for ensuring the holistic development, dignity and well being of every child. Children are not merely future citizens but present rights holders who are entitled to survival, development, protection and participation as recognized under the UN Convention on the Rights of the Child (UNCRC) and various national laws such as the Juvenile Justice (Care and Protection of Children) Act, 2015 in India.

Effective child protection requires a right based approach, strong legal frameworks and well functioning institution like Child Welfare Committees, Juvenile Justice Boards, Special Juvenile Police Units and Child Care Institutions. These mechanisms play a vital role in preventing abuse, neglect, exploitation and violence against children, while also providing care, rehabilitation and reintegration.

However, challenges such as lack of awareness, inadequate resources, social stigma, poverty and weak implementation continue to hinder the realization of child rights. Therefore, strengthening coordination among government agencies, civil society organizations, families and communities is essential. Capacity

building of professionals, child friendly justice systems and active child participation must be prioritized. The protection of child rights is a shared social responsibility. Ensuring a safe, nurturing and inclusive environment for children is not only a legal obligation but also a moral and developmental imperative. Investing in child rights and child protection today is an investment in a just, equitable and sustainable society tomorrow.

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