

Educational Rights of Children Issues, Challenges and Majors to Protect Their Rights

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Abstract: *Right to education is a great significance in a civilised society because children are also human being. And being a human they inherited a basic right that is right to education, and we also know that today children are future of India. Protection of children should be prime concern of a welfare state. They have also right to safety, security, clean environment and opportunity for over all development. Human resources are one of the important resource for development of any country. country like in India where 35% population are below the age of 25 years, so far a young country to strength the country more, effective education system is very much important, basic education is for all is very much needed in present context to strength the country more at intellectual level. Education is the way through which individual progress and developed their mind and body. After 70th year of republic of India in spite of having all the resources children are lacing with even basic education facilities. It is the duty of the state to develop scientific educational culture, access of basic education to and the directive principle of state policy also deals with basic education to all and even it is fundamental duties of sate to provide basic education to all. Till today India has made many committees for effective education system in India such as university grant commission of 1948, secondary education system of 1952. Kothari education commission 1964. National education policy 1986 and recently new education policy 2020. But till now educational right of children are not full filled. The state is unable to provide educational right of children in one or other way. starting from home to school, from school to village, [Url: <http://ndpublisher.in/admin/issues/EQv8splg.pdf>] they discriminated and denied by basic rights by one or other reasons. **Objective:** the purpose of the study is to find out the majors to protect educational rights in present context and try to find out the reason of denial and violation of basic rights. **Expected outcome:** how constitutional rights, statutory rights play big role in protecting children issues and their basic rights. **Methodology:** This paper will present find out the way and majors to equal access of education right of children which are to be violated in India. So I am depending on secondary data. I will do literature review related to Indian constitution including Act of parliament related to children right concern. Also I will fallow different committees related to educational rights.*

Keywords: Child rights, constitution, legal provisions, society

1. Introduction

Children are the custodians of the rule of law, justice, liberty, equity and fraternity.¹ They are the potent embodiment with our ideals aspirations, ambitions, future hopes. they are the future scholars, scientist, legislatures, executive, judges, advocates, idrutrilist, engineers, interpanure, farmers artiest, solders, workmen, on which sold the country would develop. Every human being has some inherent right which is given by nature itself; children are also human being they have inherited right from the very inception.

Fetus in the mother womb is the starting point where human being is granted certain basic rights. Even at the time of birth if half part of the body is outside the mother womb and half part of the body is inside the mother womb and if in certain circumstances the child died the death of the child would covered under panel provision. These rights are intrinsic in nature. These type of rights cannot be taken away or nullify these rights are inherited and it is the duty of the state to recognize these rights.

The declaration of the right of the child 1924, adopted by assembly of League of Nations.² And it was the first international instrument dealing with children rights. Millions of children around the globe are exploited abused deprived and discriminated. these children includes child

Labor, sexually exploited children,³ children living in the strict, children having disabilities having multi disabilities or suffering from any kind of disease, children of migrant worker children discriminated from religious and Ethnic minority group.⁴

The children by reason of his physical and mental appearance need special care and caution, adequate legal protection from the state as well as parents.⁵ It is aim to ensure that each child get the opportunity to develop overall potential without discrimination, have access to basic education, health care, sound environment to grow up and develop their physical and intellectual capacity by their own.

Who is child?⁶

Before discussing the children rights it is important to know who is child. The convention of the right of the child 1989 (CRC) defines the term child means every human being below the age of eighteen years unless under the law applicable to the child majority to be attained earlier.⁷

Indian Constitution and Child Rights

- The constitution of India has committed to protect children rights through various provisions of the constitution as we know that constitution is a grand norm through which all law exits. It is the basic law the land

³ Url: <https://www.ijsr.net/archive/v2i11/MDIwMTM0NzY=.pd>

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⁵ Url: <https://www.ijsr.net/archive/v2i11/MDIwMTM0NzY=.pd>

⁶ Url: <https://www.ijsr.net/archive/v2i11/MDIwMTM0NzY=.pd>

⁷ <http://www.crina.org/resources/news/>

¹ Url: <https://www.ijsr.net/archive/v2i11/MDIwMTM0NzY=.pd>

that includes fundamental rights and directive principle of state policy for every citizen. For the violation of fundamental right which is inserted in part third of the constitution, we directly approach to supreme court, on the other hand directive principle of state policy is fundamental for the governance of the country and if state does not follow the directives given by the constitution to the state we cannot go to the court for the enforcement of directive principle.

- Article 15 (3) requires the state to make special provisions for children.
- Article 21A provides for free and compulsory to all children of the age of 6 to 14 years in such a way as the state by law determine. The Article 21A of the constitution of India envisages that children of the age group of 6 to 14 years have a fundamental right to education.
- Article 23 prohibits trafficking of human beings including children.
- Article 24 mandates that no child below 14 years can work in any hazardous occupation or industry.

Directive principle of state policy that directly relates to children are.⁸

- Article 39 (a) and (f) directs that states policies are directed towards securing the tender age of children.
- Article 45 states that the state shall endeavor to provide early childhood care and education for all children until they complete the age of six years.
- Article 51A states that it shall be fundamental duty of the parent and guardian to provide opportunity for education to his child or as the case may be wards between the age of 6 to 14 years.
- 86th constitutional amendment which held right to education is a fundamental right the preamble of draft will states that right to education provides free and compulsory education to all children as the age of 6 to 14 years.⁹

Multiple needs and issues related to child

- **The right to education:** 50% of Indian children the age of 6 to 18 do not go to school, dropout
- Rates increase in class 3 to 5, it is 50% boys 58% for girl.¹⁰
- **The right to expression:** every child has right to speak or express himself freely in whatever way he or she likes. Most of the children however are exploited by their elder's brother and sisters even some times parents also do not allow to express him.¹¹

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<https://secure.arkund.com/view/externalSource/redirect/aHR0cHM6Ly93d3cuaWpzcj5uZXQvYXJjaGl2ZS92MmkxMS9NREI3TVRNME56WT0ucGRm>

⁹ The constitution of india Bare act 1950.

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<https://secure.arkund.com/view/externalSource/redirect/aHR0cHM6Ly93d3cuaWpzcj5uZXQvYXJjaGl2ZS92MmkxMS9NREI3TVRNME56WT0ucGRm>

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- **The right to information:** even child has to know his basic rights and his status in the society, illiteracy and ignorance among deprived and unprivileged children are bound not to have access to information about them and their society.
- **The right to nutrition:** more than 50% of the Indian children are not getting nutritious food. While one in every five adolescent boy is badly malnourished one in every two girls in India is starved.¹²
- **The right to Health and care:** 58% of Indian children below the age of two year not fully vaccinated and 24% of these children do not receive any form of vaccination, 60% of Indian children are anemic. 95 in every 1000 children born in India do not see their fifth birthday, 70 in 1000 children born in India do not see their first birthday¹³.
- **The right to protection from abuse:** There are approximately 2 million child commercial sex workers between the age of 5 and fifteen 15 years and about 3.3 million populations between 15 and 18 years they are total 40% of population of commercial sex workers in India. 5 lakh children are forced into this trade every year. This is one of the big issues for country like in India.
- **The right to recreation Every:** Every child has a right to spend some time on recreational things sports, entertainment, and hobbies to explore and develop. Majority of poor children do not get opportunity to spend and engage in such type of activities.¹⁴
- **The right to name and nationality:** Every child has a right to identify himself with nation. a vast majority of unprivileged children in India are treated like¹⁵ course of their development determines their contribution to society over the course of their life¹⁶.

Need of protection to children

Every Child has the right to protection we used to say that in child god leave the child does not have religion cast color creed. They have only one identity that is child irrespective of their age it does not matter from where he or she belongs from where he worn a child can be worn in any hose hold it is not in the hand of anybody where the child will worn. But at the same time it is the duty and responsibility of everybody whether a state or a individual to give priority to the child at any cost. At every time child is at on high risk whether there a situation of flood driot earth quick or any kind of pandemic likes covid - 19 children are always at risk so they need at most care and protection. child protection is linked with other rights of the child failure to ensure one right of children is adversely affect the all other rights of the

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¹³ Title: <external_archive> - ED11691948

¹⁴ <https://www.ijsr.net/archive/v2i11/MDIwMTM0NzY=.pd>

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<https://secure.arkund.com/view/externalSource/redirect/aHR0cHM6Ly93d3cuaWpzcj5uZXQvYXJjaGl2ZS92MmkxMS9NREI3TVRNME56WT0ucGRm>

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child it is also responsibility of the family society community and the state to protect them.

- Homeless children displaced children
- Street children
- Migrant and refugee children
- Children whose parent are not in world or not able to take care them
- Missing children
- Child beggars
- Victim of child marriage
- Child prostitutes and children of prostitutes
- Children of prisoners
- Disabled children
- The girl child
- Children affected by substance abuse HIV aid and other terminal diseases.

Commitment of government to protect child rights

The government has always committed to protect child right; many changes have been done in rules, regulation, notification and bylaws which regulate protection of child right. The law has been passed from government of India and by state government time to time for purpose to insure protection of child, to create healthy environment, to survive and make life better day by day. as we know that society is dynamic so in dynamic society it is important to make law dynamic and scientific even it is need of 21th century to make law in such way that it is acceptable to all if any law is mad by the government and any section of society is not accepting that particular law then that law would be meaningless it does not serve the purpose or intention of making of law. Some such initiative taken by the government of India.¹⁷

- The National policy for children 1974,
- The national plan of action 2005,
- Ratification of optional protocol,
- The help line emergency outreach phone services for children in difficult situation through a 24 hours toll free number 1098 (CHILDLINE 1098),

Suggestion for prevention of child rights violation

- Sex education to the children should be given from the very beginnings,
- Punishment should be there who commits the acts against child,
- Ensure children safety at every level,
- Educate children about sex violence,
- Awareness campaigns should be conducted in the society,
- Try to avoid harmful practice by law,
- Limits TV channels,
- Ensure children's security in schools,
- Adopt and implement laws on violence against children,
- Offer alternative disciplining methods,

2. Conclusions

From independence India had achieved many things till now and many things have to be achieved yet we are going to celebrate 71th year of republic with the commitment that what we had achieved in last 70 years should be the source of inspiration and motivation but what we have not achieved we need to think over it we need to look over possibility rather than problems Freedom does not mean that we are living in independent country, freedom means and freedom exists where child get free and quality education, get proper support system from government to develop overall, free from slavery, free from child abuse free from torched, free from child labor. If the child is free from all kind of disabilities then the concept of freedom exists in real sense.

It is important to note that India is facing with much kind of issues but in spite of having all the issues country should take the priority for children care and protection.

Thus to conclude these challenges have to be addressed before the country again and again. The value of universal legal principal policies to be made, structure and process to be established and action to be taken are always should be in the interest of child.

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¹⁷ 2007 tata institute of social science , center for socio legal studies and human rights' pro. Asha Bajpal , law related to child protection , pp1-2.