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## An Overview on Protection of child rights in India

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**ABSTRACT:** In India no scholars gave exact definition for the rights of children. The exact definition only provided by UN-CRC which also defines the violation of child rights also. In Indian society, child counts on a top place. In Foreign, if there is a violation of child rights then child make complaint in higher authorities. In this research paper the author analysis the concept of rights of children's, how these rights can be protected from various process, and if there is a violation then how he can take remedy from this. As seen in present time it is very important for every child that he get good learning from family members, in India the first school of every child is his home from home he learn many new things and then second place is school, from school he learnt many innovative ideas how to develop himself. So it is very necessary a child get good learning for a better growth.

**KEYWORDS:** Child rights, Remedies, Legislations

### I. INTRODUCTION

In India the concept of protection of child rights is not new; when we talk about the community we talk for child first. He is a gift of GOD. From many scholars the concept of definition is clear. A child means who is a minor and who does not attain the age of eighteen years. A child is a national asset of country. In India, children's learn good behavior in his childhood from parents. The first step is child must know how to behave in a society. The second major step is to get a good education. Education of good moral behavior starts from parents and then schools. Every parents desire their child get a good education, learn good behavior so that they get support from every person of society. Childhood is the main stage of every child because in that period he face many new phases of life i.e. how to learn good behavior, how to get good education. Every child has rights to be protected by many laws such as protection from mental or physical violence, injury or abuse, neglect or negligent treatment, exploitation.

Education is very necessary for the development of children. In today's time, if children don't receive education then he does not get the utmost society in society. The second person only thinks how he can defame the reputation of other people when he does not have a good education. The responsibilities of government also play an important for the development of its personality, if our government don't support to children then no child get a good growth and get a good education, if a child don't get a good education the growth is immediately barred.

In India there are many policies framed by government for the development of children rights, but sometimes this process result failure. At the ground level the child deprived from awareness, how they protect their rights if certain violations occur.

National Human Rights Commission also protect certain rights of children, but there are many barriers which result the problem in their growth such as not to get good education, child labour- in many hazardous factories work can be done by children's to feed themselves and to fulfill the demand of family the pressure is made from the side of parents to work at such dangerous place, if a child done work at such hazardous place then he is a victim of mental health, he feel like physically ill and so many other reasons.

Reports:

According to 2011 census report, about 1/3<sup>rd</sup> of the population of the country is below eighteen years. In India, around 35 percent of babies take born underweight. Around 40 percent of children's are suffering from food crises, ill health problems and so on. Schools dropout by children from hundred out of twenty. Around 60 percent of girls don't



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complete her studies and get married in early age. India also reaches in the list of child labourers after engaging in different hazardous work.<sup>1</sup>

Child rights in India as holders of rights on par with other citizens. These rights are examined by various communities of scholars, policy makers. In Indian society the first and foremost unit is family, as generally see that for the growth of child there is always a family support, without having family support children's are facing many hurdles in their growth years. Another major place for the growth of child is school. The wish of every child is to go to school and learn good knowledge and make good friends. These institutions are required to focus on compulsory education, strengthen the school system and specially promote girl education for a better growth.

In the early age group children are not aware from various rights which are provided under Indian Laws but today, they all know what is right and what is wrong for their future. As seen in today's time a child must know all rights when he is in childhood age he learnt these rights from their family members. But few of them only want a freedom they are only in \_\_ how they can be protected from their parent's nature.

Various scholars also examined the issue of protection of child rights at various levels. These writings explored the concept of child rights, the rights of child reflects in different areas of constitutional provisions, government policies and welfare initiatives relating in India. Scholars have also examined the importance on united nation convention on child rights protection over a period of time. They have also analyzed a number of aspects of constitutional guarantee and safeguards which may reinforce child rights. There are various policies of government which are examined by various scholars in order to examine by the scholars in order to understand the ways and means of child rights protection and development of child. Child rights development programmes which have been formulated and implemented with a hope of safeguarding the interest of children who are the future citizen, rulers and builders. Child rights protection assumes great significance in the new way through the idea of parental responsibility.

## II. DISCUSSION

Government initiatives in India:

Under Constitution of India children have some special rights and legal rights, if there is a violation then he has a right to get the remedy under these rights which are discussing below:

- *Right to equality (Article 14)*: article 14 of the Constitution define right to equality as in India every child has right to equality, he has equality in all grounds there shall be no discrimination on the basis of color, caste, education, religion and so on. If such rights are violated then he can help from these rights and get relief.
- *Right to education (Article 21 A)*: article 21 A of the Constitution define right to get education. The first and foremost task in child life is to get a good education. In India the first learning school of any child is his home from where he learnt many good things as well as moral behavior and then second place is he gets education and completes his education from school. After joining school he gets a good education as well as make good friends also. Article 21 A defines that "state shall provide free and compulsory education to all children of age of six to fourteen years.
- *Rights against exploitation (Article 23)*: article 23 of Indian Constitution defines prohibition of traffic in human beings and forces labour. In India the ratio of child trafficking rises day by day, which means to deal in men and women like goods, such as or to sell or let or otherwise dispose them of.
- *Right to prohibition of employment in factories etc (Article 24)*: article 24 of Indian Constitution defines prohibition of employment in a factories etc. the government implement this law only for the protection of child protection on the health, physically and mentally if a child is minor and does not attain the age of majority no employer has right to give work to them forcefully. There are many slums areas in India like Bihar, Uttar Pradesh, Rajasthan, Northern regions where children work at hazardous industries like mines, factories and so on to feed themselves as well as their families.
- *Right to health*: right to health also defines in Indian Constitution for the development of a child. As we know that if a child get a good health then he think well and give his input in the development of nation. The government also tries a child get good health so it focuses on all activities and thinks big.

Why children needs such rights:

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<sup>1</sup>2011 census report of child population in India



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- Children are human beings and require safety and opportunities and development
- Personality formation takes place during early childhood, from the childhood children learnt many new things in playing. Therefore child friendly services have utmost importance
- Children's need a support from every one whether it is from parents schools government and so on where he can grow up and think only how to get success in every field.
- In early age of childhood a child is not aware from all rights such as to choose a good leader and good judicial system but when he attain the attain the age of majority he know all these rights what is good or what is unsafe for him.
- During early years they need extra support and proper guidance so that they can shape their career in a correct form. As seen in today's time in early teen age children face so many challenges he learn many good things and few of them learn bad things they join in criminal group and engage in small criminal activities and then after he made a big criminal this is not good for them and their growth because that is the age where he can develop his career and if he does not done so, then in front of society he face insult.

Rights of Children under UN-CRC: certain rights of children which are discussed through below Figure 1

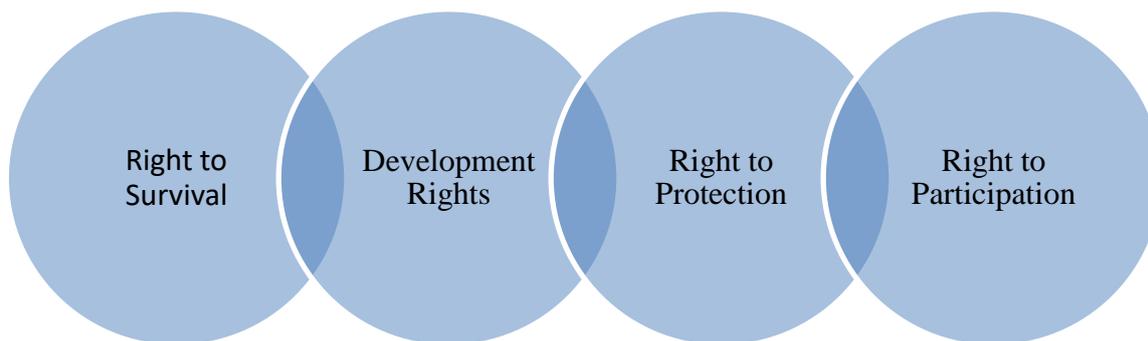


Figure 1: Rights of children under UN-CRC

*The right to survival:* every child has a right to life where he can access to basic necessities to existence such as adequate food, shelter, standard of living and medical requirements.

*Development rights:* this is the another right which is define under UN-CRC, there are certain development rights for growth of any child i.e. the right to education, to practice the religion of own choice and cultural activities, freedom of thoughts and expressions and so on which is very necessary for a good development.

*Right to protection:* right to protection also plays an important role for the growth of child. Because in the above paragraphs it has been stated as the basic age of child is 12 years to 15 years (i.e. the teen age) where he learn so many new things or sometime learn bad things to join the bad people group. This right protects children from abuse, criminal activities, children who have undergone abuse or exploitation.

*Right to participation:* right to participation of children in every activity is a basic right for the development of child growth. It is necessary every child must do his participation in the development of nation, society and other places which affect their life, to assemble peacefully and to join associations.

Problems in child rights:

*Child labour:* The first problem facing in rights of children is child labour. Child labour means engagement of children at hazardous place i.e. mines, factories, carpet making industries and so on which effect also physically and mentally. The ratio of this major issue rises day by day. This is showing mostly in big states like Uttar Pradesh, Bihar and northern regions where the population is too high which affects on their education also which is mandatory provided by government upto age group of 14 years. This concept was came in 86<sup>th</sup> Amendment of Constitution of India i.e. education become a fundamental right for the children between the age group of six to fourteen years.

*Children as domestic help:* The major of rights of children is they help in domestic work. As seen in today's time the children of age group of 6 to 14 years were engaged in domestic work at many places. This is totally wrong the government officials can take help by children's, this is the age of learning, to get some education but from all of this the children get deprived to get these benefits.



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*Child marriage:* this is also a major problem in the growth of children's. In ancient India there was a concept of early marriage when a child attains the age of fifteen years he got married and for this big reason the children do not complete their education.

*Child trafficking:* means any person under age of eighteen years who is recruited, transported and transferred for the purpose of exploitation either with or outside a country. Trafficking of child generally means that any act where a child is transferred from one state to another state by any person or a group of person for money. There are many issues involved in trafficking of child victim i.e. loss of family support and community, loss of proper education, obstacle in physical development, isolation from the society and so on. Trafficking of child mainly cause from poverty, migration, natural disaster in homeland, lack of education, lack of employment and so on.

*Legislations under protection of rights of child:*

Under article 39 to 51 of Indian Constitution (directive principle of State policies): Part IV of Constitution of India defines various duties which are describe as: article 39 (f) defines that state shall ensure children's are giving opportunities to develop in a healthy manner, this article also pertains that childhood are protected against exploitation. Article 41 defines the state is obliged to, within its economic capacity and development, secure provisions for educational opportunities and facilities. Article 44 defines the state shall make all possible efforts to secure a uniform civil code for all the citizens. Article 45 defines the state shall provide free and compulsory education to children until they attain the age of fourteen years. Article 46 defines it is a duty of state to promote the educational and economic interest of weaker sections of the society. Article 47 defines the state is duty-bound to raise the level of living standard of people to improve the health of public including children's. article 51 A (k) defines it is the duty of every citizen of India who is a parent to provide opportunities for education to his child or, as the case may be, ward between the age group of six to fourteen years.

Other legislations:

Under the Child Labour (Prohibition and Regulation) Act, 1986:

- Under this act child means a person who has not attains the age of fourteen years.
- It specifies industries where children are not allowed to be employed.
- It does not apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by or receiving assistance or recognition from government.
- No child shall be work for more than three hours before he has had an interval for rest for at least one hour.
- No child can be employed between 7 to 8 pm.
- Number of working hours including rest hours does not exceed 6 hours.

Under Juvenile Justice Act, 2000: it is one of the important acts in India for the protection of children. It also requires that the state shall provide free legal support to the juveniles, and proper care and protection is provided to those who needs extra care.

Under the Child Marriage Restraint Act, 1929: this act restrains the marriage of children's until they don't attain the age of 21 years and 18 years.

Immoral Traffic (Prevention) Act: this act prevents children's from prostitution, under this act a person shall be penalize if he procure or attempt to procure any child for prostitution.

Bonded labour system (Abolition) Act, 1976: this act uproot the bonded labour system in India which exploits the weaker sections of society, especially children's.

National Policy on Education, 1986: this act is for education policies of all universities. It also tries to remove inequality by making special provisions for women and weaker sections, backward class and other backward classes and so on.

Protection of Children from sexual offence act 2012: this act protects children from sexual offences and punishes the offenders who are culprits of sexual offence against children below the age of eighteen years. Under this various procedures are followed during trial such as name of child victim shall not be disclosed, proceedings of the case are to be conducted in court in a camera recording the trial, and the accused is not to be kept in front of the child victim during examination or cross examination.

Factories Act, 1948: under this act children's are protected from doing hazardous work. This act punishes the offenders who give work to children's, who are below eighteen years.

Right of Children to free and Compulsory Education Act, 2009: Under this act child has a right to free and compulsory education to all children of India in the age group of six to fourteen years



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- A child who complete the elementary education upto class 8<sup>th</sup> shall be awarded a certificate
- Mandates improvement in quality of education
- Financial burden will be shared by State and Central Government

The Rights of Persons with Disabilities Bill, 2016: this act defines the effect to the United Nations convention on the rights of persons with disabilities. As per provision there are five types of disabilities i.e. physical, intellectual, mental, disability caused due to different cause, multiple disabilities.

Physical disabilities includes visual impairment, hearing impairment i.e. deaf, speech and language problems

Intellectual disabilities includes specific learning disabilities

Mental behavior includes mental illness

Disability caused due to chronic neurological conditions, problems related to blood disorder

Verdicts:

*P. Unni Krishnan vs. State of Andhra Pradesh:* it was held by Supreme Court that right to education is a basic and fundamental right under constitution of India. The court was observed that education is a preparation for a living and for life. The court directed the State Government to establish educational institutions to enable the citizens to enjoy the said rights.

*C. Mehta vs. State of Tamilnadu:* it was held by Supreme Court that if employers of children in matchsticks and crackers factory were punished with a fine of Rs. 20,000 for every child employed in contravention of the provisions of the child labour prohibition and regulation act. The court was further held that such children were directed upon discontinuation of their employment to be assured education in a suitable institution by the State Government.

*BandhuaMuktiMorcha vs. Union of India:* in this land mark judgment passed by Supreme Court of India that it is an organisation that works for the release of bonded labourers in India. The letter had been sent by them to Supreme Court regarding bonded labour is going in Faridabad of Haryana District in inhuman and intolerable conditions. The court give direction to investigating team by the court the court give certain direction to the central government to constitute vigilance committees in each district and its sub-divisions, the District magistrate to take up as top priority the task of identification of bonded labour. The state government to concentrate on rehabilitation of bonded labour and evolve effective programmes for this purpose.

Drawbacks:

Lack of awareness: the first and foremost drawback for any citizen is lack of awareness.

Lack of proper education: the second important drawback in rights of child is lack of proper education. In India, especially in Northern areas and other States such as Uttar Pradesh, Bihar who have major population of children facing more problems. Every child has a right to get a good education. In India a child get his first education from home itself then after take a good education from schools.

Lack of infrastructure: another drawback in rights of protection of child is lack of infrastructure. India is a place where there are many slums areas where there are lots of infrastructure and proper utilization of resources.

Lack of personal development and behavior: In India there are many places where a child don't get a proper development of himself. As seen in today's time the children don't respect their parents they always tries to how they can remove them from house and after that they have only way to join the vraddha ashram. This is a major problem for get a good growth to develop themselves.

Solutions:

The first point is awareness must be rise by conducting various camps, through conference, and so on where a child must aware from all rights.

The second point is use of proper resources and infrastructure, it is very necessary for their growth. In today's time in slum areas a child has lack of proper resources, they don't have access to internet and for that lack of system they don't develop themselves.

The other solution is to improve the policies of education; a policy may be better after having proper resources. In today's time technology is too fast all comes on internet and children having teen age more aware from today's technology. But it is more necessary the technology to be better so that new nation can build up.

The Judiciary should be stricter in implementing the laws regarding protection of children. As we know if laws are good then all children get a safeguard. So it is necessary all laws should be better and stricter.



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## III. CONCLUSION

From the whole paper it has been concluded that there are various concept which deals with the children right. In India there are several new plans, schemes and programmes has been processed for the development of rights of children. Government of India also reforms many laws for the protection of child, but it is necessary these plans shall be followed in a correct way. In India children is calling as a gift of God. If there is no child take a birth in the family then there shall be some emptiness in their families. Government always tries to implement better policies for every child so that there can be proper care of child.

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