

EVOLUTION OF CHILD RIGHTS IN INDIA

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ABSTRACT

Child rights in India have come a long way since Independence. The present study attempts to identify and describe events in evolution of child rights in India. The primary purpose of this study involves detailed description of Constitutional and legislative provisions in India pertaining to child rights. The emergence of the concept of child rights took place during the twentieth century. This shifted the focus from child welfare to child rights and this approach also implied obligation and goals. The emergence of child rights is mainly associated with issues of the social justice, non-discrimination, equality and empowerment. Child rights have ever since come a long way, and many laws have been formulated for uplifting the status of children in India. Government along with other institutions like UNICEF has been tirelessly working in formulation and implementation of policies for protection and overall growth of children in India.

Keywords: *Child Rights, UNICEF, UNCRC, Genesis of Child Rights.*

Introduction

History of Child Rights In India:

The Indian culture since ancient times has been based on traditional values of sacrifice, mercy, donation, non-violence and equality. The principles of human rights are rooted in the Indian philosophy since the Vedic era. The Vedas, the Upanishads and the Arthashastras bear in them the concepts of equal rights to men, women, sympathetic concern for women and children and unprejudiced treatment of all human beings in the society. It was only during the twentieth century that the concept of children's rights emerged. In ancient Indian law, particularly in the laws of Manu, the child though located very near to the bottom of a social pyramid was bestowed with the protection of the society. Children were only recipients of welfare measures and the father was considered as the sole guardian of a child. Persistent bias in the nurturing of children in India is clearly indicated in the historical records. Numerous factors including age of child, gender of child, their caste and kinship led to the biased behavior against children in India. Rulers like Ashoka (268-31 B.C.), Chandragupta Vikramaditya (c. A.D. 375-415) tried to promulgate moral mandates were inscribed to observe and follow obedience towards parents and respect for elders. This too strengthened the sentiments that obedience and loyalty for elders was moral and also socially accepted and appreciated behaviour.

The medieval age ranging from the eleventh to seventeenth centuries almost, due to arrival of the Arabs, Turks, Afghans and the Mughals, witnessed aggravated misery and deterioration in India. The wealth and socio cultural philosophy of India was completely plundered and destroyed by the foreign invasions. Children faced adverse circumstances because of the overall economic deterioration borne by the people. Lives of people were catastrophically impacted due to imposition of foreign culture. Families, particularly in predominant rural India, were not able to afford nutritious food and other basic facilities for their children. Focus on basic education slowly emaciated away that was very prevalent previously. Elementary education among the Hindus was given to those belonging to the higher castes like Brahmins and Rajputs. Among the Muslims, basic education was confined to those belonging to upper-class families provided by the Maulvis. Girls were rarely given education and their status remained inferior in comparison to boys. No steps were taken by either the rulers or people to curtail the situation.

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The troubles of children belonging to the lower income group or lower class of Indian society during the British rule were certainly dismal. This time period brought about economic, social and political chaos throughout nation, thus, posing great plight and uncertainty for the nation and children were worse impacted during those times. The atrocities towards children took the worst turn during the growth of British imperialism as they continued to be oppressed in all possible forms.

The subsequent freedom struggle, spread over a century, intended not only to achieve independence from the British dynasty, but also revitalize the incapacitated Indian culture which under decades of slavery had lost its culture, ideals and vivacity.

The great efforts and initiatives undertaken by leaders like Mahatma Gandhi, Lala Lajpat Rai, Lal Bahadur Shastri stimulated Indians and awakened them to conquer their orthodox opinions on various forms like illiteracy, socio-cultural practices like child marriage or neglected upbringing of children, etc. As a result, freedom struggle encompassed activities which are called as 'social action' to overcome the customary weaknesses in society and develop self-reliant attitude in Indians. Therefore, the proper upbringing of the child emerged as a significant came to be viewed upon as an essential factor in the restoration of the nation. Social concerns for children gained significance during formulation of Indian constitution by the leaders.

This was also the beginning of a spirit of independence at the group social action level (Luthra, 1979: 90-91). For proper structuring and shaping childrens' future in India, various laws (Apprentices Act, Reformatory Schools Act etc.) were formulated. Such laws were the initial effective steps that came into being for creating suitable environment for children to grow and develop.

Britain and other countries of Europe and North America faced variety of challenges due to First World War. The major concern for these nations at that time was to prevent the society from catastrophe posed by war inflicted violence and turmoil. To subside the effect of growing anguish relating to child protection, a Committee for child welfare was established by League of Nations. (Lundy, 1997: 21) In 1923, a five-point declaration was adopted by the Save the Children International Union as its charter. It described the basic conditions a society should adopt to provide sufficient protection and care for its children. The Union persuaded the League of Nations to adopt the same declaration in the next year.

The 1924 Declaration of the Rights of the Child was known as the 'Declaration of Geneva', as the meeting by League of Nations was held in Geneva. Identifying that 'mankind owes to the child the best that it has to give', the basis of child rights were established based on the five simple principles of the Declaration for protection of the feeble, exposed and vulnerable for promoting child's growth and development. The document, in five chapters, identified and discussed the welfare of children and acknowledged the responsibilities of adults for providing proper support to the right to development, support, growth and protection to children. The Geneva Declaration is a remarkable document that acknowledged and declared the existence of rights specific to children and the responsibility of adults towards children for the first time. Geneva Declaration also made it obvious that the world as a whole had a lawful responsibility in the care, protection and welfare of all children and it was not restricted only to families or communities or even individual countries.

Establishment of UNICEF

Second World War caused indescribable sufferings to children across the globe. United Nations on 11 December 1946 established a specialised agency — The United Nations International Children's Emergency Fund (UNICEF) with a directive to provide care and protection to the children of the entire world. UNICEF provided aid and support to children in European continent and other places who became homeless, lost family and any prospect during war. Its mandate was redefined later, in October 1953, to provide for long-term assistance to deprived children resulting from economic and political turmoil due to war. Presently UNICEF is known as United Nations Children's Fund.

UNICEF has been operating in India since 1949. Since then UNICEF has been an active partner of the Government in organizing various programmes and activities for growth and development of children in India.

Government of India in collaboration with UNICEF run various programmes to support child rights, rights of teenagers and women for their basic survival, all round growth, upliftment, constant participation and most importantly their protection by reducing inequities based on caste, customs, gender, financial status, region or religion prevailing in society. Building on over seventy years of collaboration, UNICEF has been continually striving to achieve children's rights in India.

United Nations Convention on the Rights of the Child (UNCRC)

The Declaration of the Rights of the Child (DRC) was endorsed and adopted by the United Nations General Assembly in 1959. The DRC describes 10 principles of child rights. However, all the countries did not sign this document. Therefore these ten principles only provided an indicative value. The DRC paved the way to the Universal Declaration of Children Rights, which is popularly known as the United Nations Convention on the Rights of the Child (UNCRC). The UN General Assembly unanimously adopted UNCRC on 20th November 1989. This became the first internationally recognized instrument that described all the fundamental child rights. The UNCRC gave legal expression to the conception of child rights. It declared that children have independent political, economic and social decision making rights similar to those of adults. The economic, social and cultural rights of the children are described in its 54 articles. It highlights the basic principles of non-discrimination, best interests of the child, right to life, survival and growth and concern for the views of child. It also describes the specific civil rights and freedom; family environment and alternative care; basic health and welfare; education, leisure and cultural activities; and special protection measures (Desai, 2012 p-93).

India confirmed and accepted the UNCRC in December 1992, hence the Government of India is obliged to execute the rights contained in the UNCRC. It has been depicted as the foundation stone of new moral philosophy for children" and an instrument describing that "respect for and protection of children's rights is the starting point for the full development of the individual's potential in an atmosphere of freedom, dignity and justice" (WCD, 2000). In February 1997, the first Country Report was submitted by the Government of India. (Bajpai, 2008 p-438).

Important Milestones in the Genesis of Child Rights

No.	Year	Milestones in the Evolution of Child Rights
1	1850	The Apprentice Act, 1850, first law in India to cater to the special needs of children within the criminal justice apparatus.
2	1897	The Reformatory Schools Act, 1897 which separated children from adults for the first time in India in the criminal justice system.
3	1920	The Madras Children Act, 1920 was introduced following the recommendations of the Indian Jails Committee 1919-1920.
4	1924	The International Save the Children Union ratified the Declaration of the Child Rights during its fifth general assembly on 28 February 1924.
5	1924	The League of Nations, which adopted „Geneva Declaration“ on 26 September 1924, proclaiming that "Humanity has to do its best for the child". (The League of Nations was later called the United Nations).
6	1929	The Child Marriage Restraint Act, 1929. (amen dement was made in this act in 1978).
7	1947	The United Nations created a special fund called the 'UN Fund for Urgency for the Children'. This later became the UNICEF.
8	1949	UNICEF began its work in India.
9	1953	The UNICEF was granted the status of a permanent international organization.
10	1959	The Declaration of the Rights of the Child (DRC) was adopted by the United Nations General Assembly
11	1960	The Government of India enacted the 'Children's Act 1960', which was applicable in Union Territories.
12	1974	India formulated its first „National Policy for Children (NPC)“.
13	1979	The year 1979 is declared as „International Year of the Child“ by the UN.
14	1986	The Juvenile Justice Act, enacted in 1986, was the first juvenile law in India which was uniformly applicable across the country.
15	1986	The Child Labour (Prohibition and Regulation) Act, 1986.
16	1989	The United Nations Convention on Child Rights (UNCRC) was unanimously adopted by the UN General Assembly on 20 th November 1989.
17	1990	At the World Summit for Children in 1990, India adopted the World Declaration for Survival, Protection and Development of children.
18	1992	India ratified the UNCRC on 11 th December, 1992.
19	1993	National Human Rights Commission, which is an autonomous statutory body, was established on 12th October, 1993, under the provisions of The Protection of Human Rights Act, 1993.

20	1994	The Government of India enacted the „Pre-Conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994“.
21	1995	The Child Rights Information Network (CRIN) is launched by UNICEF, linking UN agencies, academic institutions and NGOs to gather information on child rights activities globally.
22	1997	The Government of India submitted its first Country Report on the Convention of the Rights of the Child in February 1997.
23	2000	In order to comply with the provisions of UNCRC, the Juvenile Justice Act 1986 was amended and reenacted as the Juvenile Justice (Care and Protection of Children) Act in 2000
24	2000	The Government of India appointed an Expert Committee under the chairmanship on Justice V R Krishna Iyer for drafting the „National Commission for Children Bill 2000“.
25	2000	The Supreme Court of India banned corporal punishment for children on December 1, 2000
26	2000	In May 2000, the optional protocol to the International Charter of the Child Rights regarding the participation of children in armed conflicts is ratified. It entered into force in 2002. This text prohibits minors taking part in armed conflicts.
27	2004	The „National Charter for Children-2003“ was adopted and notified in the Gazette of India on 9 th February, 2004.
28	2006	In early 2006 the Department of Women and Child Development became a full-fledged Ministry and child protection matters were transferred to this new Ministry.
29	2006	The J J Act was further amended in 2006 as the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 and in 2011.
30	2006	Government enacted the „Commissions for Protection of Child Rights Act, 2005“, which was notified in the Gazette of India on 20 th January, 2006.
31	2006	National Commission for Protection of Child Rights (NCPCR) was constituted on 31 st July, 2006.
32	2007	To overcome the shortcomings of Child Marriage Restraint Act, the Government of India enacted the Prohibition of Child Marriages Act, 2006 (PCMA), which came into effect from 1 st November, 2007.
33	2009	Integrated Child Protection Scheme (ICPS) was launched by the Ministry of Women and Child Development, Government of India on 26 th February, 2009.
34	2010	The Right of Children to Free and Compulsory Education (RTE) Act, 2009, came into force with effect from 1 st April, 2010.
35	2011	Guidelines governing adoption of Children in India were formulated in 2011.
36	2012	The Protection of Children from Sexual Offences Act, 2012.
37	2013	The Union Cabinet of India on 18 th April, 2013 approved the National Policy for Children, 2012.
38	2014	The Union Government introduced proposals for the amendment of the Juvenile Justice Act.

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