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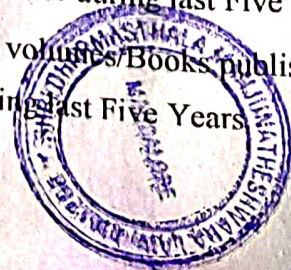
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Transition of Inclusive and Exclusive Practices of Child Protection and Promotion: A Multidisciplinary Approach

TRANSITION OF INCLUSIVE AND EXCLUSIVE PRACTICES OF CHILD PROTECTION AND PROMOTION: A MULTIDISCIPLINARY APPROACH

Edited by
Dr. Rangaswamy D. | Prof. C.V. Kumaran
Dr. N. Krishna Kumar | Dr. Niju Moni Das

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An Overview on Educating Children for Better Future- Legal and Social Needs

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Abstract

Children today are the citizens tomorrow is a well-known statement regularly made by all. To realise this, everyone should work hard and need to uphold legal and social requirements for the better future of children. Education at home and in schools builds a strong foundation for their bright future. Both moral and formal education shape children's personality in a better way. The Constitution of India visualizes the protection of their rights and right to education is a fundamental right of a child which cannot be denied or deprived by anyone. However, facilitating suitable learning environment is the duty of both parents and teachers. We can mould the personality and character of a child easily and can show them right path with appropriate education. Children must be educated in such a way that they have to be involved in one or other curricular or extra-curricular activities which can mostly keep them away from bad habits or negative energy. Nutritious food and moral education given at home will help them to maintain their physical and mental health. Different teaching strategies with thought provoking ideas at schools, may help to inculcate good values and analytical bent of mind in them. There is legal protection against child labour and law provides them the right to claim education as their basic right. Parents or guardians are made liable for not providing primary education to their children or wards.

Key words:

Children, Curricular and Extra-curricular, right to education, the Constitution, Fundamental Rights.

Introduction

Each and every child born on this earth has its own right as we have as adults. Human rights are enjoyed even by the children and they can not fight for their rights directly; yet it is the duty of all adults to provide them their share and rights which will contribute for their better future. There are Conventions and policies to preserve and protect their rights which helps them to develop their potential. A child can get property right and other rights even if the child has not attained majority. Every child is a part of particular family and a child when



born becomes dependent on family members. A child grows in every moment towards independence and it is the duty and responsibility of parents or guardians to shape the behaviour of child by using different instruments. That can be done by facilitating healthy environment, appropriate education, moral and ethical thoughts etc. Law demands compulsory education to children, prohibits child labour¹, prevents human trafficking and promotes cultural and social development of all children.

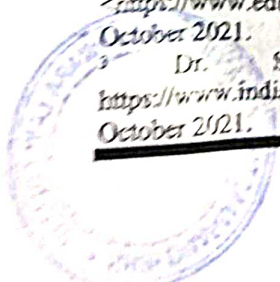
Education to Children-Needs and Necessities

Education is not only having a literal meaning and interpretation, but also sounds beyond its circle. Formal education stands on the one side and informal and moral education stands on the other side. Both are equally important to shape the character of a child. The seeds which we sow today come up as plants and grow as trees tomorrow. Children of tender age are sensitive towards their environment and surrounding situations.² A child is not only blessing for a family, rather blessing for whole society and mankind. So, there is need to educate children in better way to contribute a good citizen to society. Children are vulnerable and many factors influence them like parents' employment, family life crisis, surrounding environment, financial ability of parents, education of parents etc. From the time they start their schooling, burden of parents will be shared with the teachers and it is the teachers' responsibility to inculcate values and educate them. Education will help the children to develop mental skills and ability to understand the society which are needed for their success and well-being in the society. Education contributes children for their self-development and they can learn the lesson to survive in this world.³

During the adolescence of children, parents should devote more time and concentration on their children because at that age children are haunted by a number of doubts and questions in their mind for which they hardly find

¹ Sunder Rajan, 'Child labour' in Smarak Swain (eds.) *Social Issues of India* (New Vishal Publications 2019) (2021)
² Deepika Sharma, "The importance of school education in child development", (Education world, 2021)
<https://www.educationworld.in/the-importance-of-school-education-in-child-development/> accessed 20 October 2021.

³ Dr. Sanchita Ranjan, "Importance of education for children"
<https://www.indiastudychannel.com/resources/180051-importance-of-education-for-children/#>> accessed 20 October 2021.



answers. Nowadays, both parents are mostly working, still they can dedicate rest of their time at home to build their character and mingle with their children closely. Negative and positive factors in the society must be made known to children so that they can judge any situation accordingly. Female children have different issues during their puberty and education and to handle them and other societal issues is also the need of the hour. Sexual abuse or emotional abuse can also take place without the knowledge of child. So, both boy and girl child should be taught gender sensitivity at the school level itself. Keen observation of child's activity on regular basis also helps to monitor the movement and behaviour of children.

Most of the children of the modern generation are inquisitive and they are aware about the happenings in and around them. They are more focused and goal oriented, but some children are diverting their focus on negative side because of different reasons and situations they have undergone. Parents should teach them to be independent and to fight for their cause on right way. Psychological and physical development of the child are a must. Children should not suffer from neglect or abuse, because if they suffer so, it will be carried to future generations.⁴ Any negligence or wrong path taken today will lead them to become anti-social elements tomorrow. The incidents which are taken place in the life of children will definitely influence their future life. Hence, educating the children at the right time with necessary values of life is must.

Significance of Education in the life of Children

From home environment, child will start getting external exposure during her/his schooling. Some proportion of responsibility of upbringing of children will be taken by the teachers from their parents during kindergarten schooling level itself. Here, they will start their first step of learning along with child play. At the Elementary and Primary School levels, they imbibe some spirit of competitiveness and learning with extra-curricular activities. It is the stage where children become students and start learning more and physical and

⁴ Corinna Csaky, "Why Care Matters: The importance of adequate care for children and society" (Child rights resource centre-Family for every child publishers, <https://resourcecentre.savethechildren.net/document/why-care-matters-importance-adequate-care-children-and-society/> accessed 14 October 2021).



psychological changes among children are significant at this level. The role of teachers also matters much at this stage. During their high school level, advanced study can be made and students will start growing and focused on their goals. Mentors should guide them well at this level because they are standing at the cross roads during their high school.

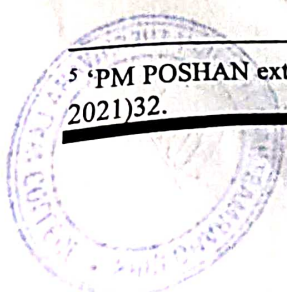
Children are influenced by their neighbours and friends during this age of adolescence and parents and teachers should show them the right path. Media and technology also influence them significantly as they are part of the invisible environment which inspires to do something right or wrong. Parents should also make their children responsible for their behaviour and deeds, teach them techniques to understand the society where we live, morals of sharing and caring, develop decision-making capacity, reward and punishment for good and bad deeds etc must be taught to them.

To encourage the schooling and education of children, Government has brought new schemes like National Scheme for Mid-Day Meal in Schools presently extended till 2026 and known as National Scheme for PM POSHAN in Schools⁵, programmes under Sarva Shiksha Abhiyan, National Program for Education of Girls at Elementary Education (NPEGEL), Beti Bachao Beti Padhao, residential school for girls of minority section called Kasturba Gandhi Balika Vidyalaya etc are planned and implemented. For the educational and social welfare of children, the Government of India also brought many policies like National Policy for Children in the year 1974, National Policy on Education, 1986, National Policy on Child Labour, 1987 and to promote the health of children in 2002, the National Health Policy also framed.

International Conventions and Policies for Children

There are certain policies and programmes conducted for the purpose of protecting the rights of children at the international level. The international conventions led to the formulation of legislations in the signatories to secure the rights of children and to protect them from abuse.

⁵ PM POSHAN extended for five more years' Employment News vol-XLVI, No.28, (New Delhi, 9-15 October 2021)32.



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Because of the efforts of the League of Nations, a special committee was formulated to protect the rights of children and Conventions Prohibiting the Traffic in Women and Children-1921 and Slavery-1926 were adopted. The Assembly of the League of Nations also made it mandatory to provide a child with required means for normal development of child by adopting the Geneva Declaration of the Rights of the Child in the year 1924. The Universal Declaration of Human Rights (UDHR) of 1948 also highlighted human rights, which are equally made available to children.⁶ Article 25(2), and Article 26(1), of UDHR deals with special care and assistance for children and motherhood and also mentions the right of education of children.⁷

The Declaration of the Rights of the Child adopted by the General Assembly of the United Nations in the year 1959, focuses on the rights of children and special protection to the children, social security and wellbeing of children, good environment, nutritious food, medical facilities and other health amenities, recreation and education, and protection from abuse and cruelty etc.⁸ The Convention on the Rights of the Child can be considered as the first international treaty which has entered into for the protection of the rights of children. These principles are further strengthened in 1966, under the International Covenant on Economic, Social and Cultural Rights. The International Labour Organization Minimum Age Convention, 1973, prevents child labour and permits to work only in a normal establishment after completion of 14 years age and under risky or dangerous work only after completion of 18 years of age.⁹ With the motive of protecting children and women during armed conflicts, the UN General Assembly adopted Declaration on the Protection of Women and Children in Emergency and Armed Conflict in 1974. The armed conflict may be national or international, children are not the part of it and they should not be the victims of hostilities in such conflict. Even

⁶ Savitri Goonasekere, *Children Law and Justice-A South Asian Perspective* (Sage Publications India Pvt. Ltd, 1998) 211

⁷ Dr. Sanjay Sindhu, 'Fundamental Right to Education in India: An Overview' (2014) 3 G.J.I.S.S. 92, 95

⁸ S S Jaswal and P L Mehta, *Child Labour and the Law* (1st edn, Deep and Deep Publications Pvt. Ltd, 2001) 140

⁹ Mamta Rao, *Law Relating to Women and Children*, (3rd edn, Eastern Book Company, 2012) 552



refugee children are also protected and treated as per the UN Convention for Refugees.¹⁰

There are some special categories of children who are differently abled and some others are illegitimate children or abducted children who need special attention and protection under law who are also protected through various Governmental and non-governmental organisations. The role of UNICEF (United Nations International Children's Emergency Fund) is commendable in the protection of the rights of children.¹¹ In 1989, United Nations Convention on the Rights of the Child came into force to preserve and protect the rights of childhood.¹² This Convention has become instrumental for discussion of child related issues at the national and international levels. Those children who commit offences are juvenile delinquents and punishing them severely will not reform them rather it will aggravate their mental and psychological condition, is the common understanding prevailing around the world. **The United Nations Guidelines for the Prevention of Juvenile Delinquency, 1990 suggests the prevention of juvenile delinquency.**¹³ The Vienna Declaration and Programme of Action relating to human rights held in 1993 mainly focused on rights of children and protection of the rights of girl child.¹⁴

Constitutional Provisions to Protect and Educate Children

The Constitution of India upholds and provides rights to children through Fundamental Rights and the Directive Principles of State Policy (DPSP) and the State has enacted various laws for protection of children from abuse and violence. Even the judiciary has shown its activism through landmark judgements by protecting minor children working in factories or other establishments in risky and dangerous tasks. Child labour in fire works factories

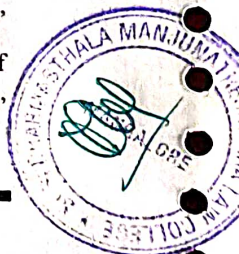
¹⁰ Report on -The Refugee Convention, 1951 < <https://www.unhcr.org/4ca34be29.pdf>> accessed 3 November 2021

¹¹ Savitri Goonasekere, *Children Law and Justice-A South Asian Perspective* (Sage Publications India Pvt. Ltd, 1998) 117

¹² Jenni Gain borough and Elisabeth Lean, "Convention on the Rights of the Child Convention on the Rights of the Child and Juvenile Justice and Juvenile Justice" (Summer, vol-7, no.1. The Child welfare league of America, 2008, p.3) < <https://files.eric.ed.gov/fulltext/ED504480.pdf>>, accessed 3 November 2021.

¹³ Mamta Rao, *Law Relating to Women and Children*, (3rd edn, Eastern Book Company, 2012) 551

¹⁴ Prof. Sarita Vasishta, *Crime against Children* (1st edn, K K Publications 2012) 212



by children was brought to light by the Judiciary from time to time.¹⁵ Children who have committed offences also have certain rights if they fall under the category of juveniles. Judiciary also looks into such matters as these offenders must be reformed at the right time for a progressive society.¹⁶

The judgement of the Supreme Court led to the 86th Amendment to the Constitution to declare Right to Education as a Fundamental Right.¹⁷ There are certain Articles of the Constitution which consists of provisions for protection of the rights of children in the wider sense. Article 21-A of the Constitution of India has emphasised the right to free and compulsory elementary education for all children from the age of 6 to 14 years. This right of children is further strengthened under Fundamental Duties under Article 51-A(k) of the Part-IV-A of the Constitution by imposing considerable responsibility on the guardians and parents to educate their children or wards. They have to provide compulsorily opportunity to their children or wards who are within the age group of 6 years to 14 years to learn or pursue studies in schools. Children are not allowed to go to hazardous employment as per Article 24 of the Constitution¹⁸ and bonded labour is not permitted and punishable as per Article 23 of the Constitution.¹⁹ Under DPSP, Article 39(e) and 39(f) provide for protection from forced labour or unsuited occupation and protection of childhood.²⁰ Up to the age of 6 years, there is childhood care and education right which are available to the children as per Article 45 of the Constitution. Children who are living with their mother who has committed an offence and is in the jail, must be taken care of.²¹

Legislations Protecting the Rights of Children

The problems and issues which are arising in the society will be answered through some legislations framed by the Parliament from time to time. In the same way, there are number of issues pertaining to children and legislations are

¹⁵ Prof.P Ishwara Bhat, 'Law Child welfare and social transformation' in prof. C A Gurudath (eds.) *Woman child law and society*, (Vidhyavardhaka Law College, 2006) 181

¹⁶ Dr. Rajesh S Vyas and Dr Ashok M Shroff *Juveniles and crime in India*, (1st edn, Sree Niwas Publications, 2013)7

¹⁷ Mahendra Pal Singh, *V N Shukla's Constitution of India* (13th edn, Eastern Book Company, 2019) 233

¹⁸ Dr. J N Pandey, *Constitutional Law of India* (55th edn, Central Law Agency, 2081) 378

¹⁹ Mahendra Pal Singh, *V N Shukla's Constitution of India* (13th edn, Eastern Book Company, 2019) 233

²⁰ S S Jaswal and P L Mehta, *Child Labour and the Law* (1st edn, Deep and Deep Publications Pvt. Ltd, 2001) 47

²¹ Dr. J N Pandey, *Constitutional Law of India* (55th edn, Central Law Agency, 2081) 349



formulated to find solution and prevent them in future. Free and Compulsory elementary education to all children who are in the age group between 6 years and 14 years was brought into existence through legislation in the year 2009, called Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) on August 2009. Students are attracted towards the school and teachers used to visit students directly and bring them back to school. The ratio of students and teachers is also managed by the Government.²² The Child Labour (Prohibition and Regulation) Act, 1986, prevents child labour in any establishment up to the age of 14 years.²³ During this age, children should go to school and get educated. They are not allowed to do hazardous works in any establishments or factories.²⁴ The Juvenile Delinquency Law and the Juvenile Justice (Care and Protection of Children Act) 2000 is repealed and replaced by the Juvenile Justice (Care and Protection of Children) Act, 2015 which provides for reforming juveniles who have committed certain offences those who are below the age of 18 years.²⁵ Children who commit certain heinous offences, and are between the ages of 16 to 18 years, they will be treated as adults and punished for the same.

To protect the child in the womb, legislation has been enacted in 1994 called Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994. Before the commencement of this legislation, Medical Termination of Pregnancy Act 1971, where termination of pregnancy was done in case of any serious medical issues but the legislation was mostly misused by detecting the sex of child in the womb.²⁶ Again in 2021, amendment to this legislation has taken place. To protect children from sexual abuse legislation was enacted by the parliament in 2012, the Protection of Children from Sexual Offences Act which punishes the offenders severely for such sexual offences against children. Under the Criminal Law (Amendment) Act, 2013, some sexual offences which come under the Indian Penal Code pertaining to children are made punishable rigorously.

²² Report-Right to Free and Compulsory Education Act 2009< https://legislative.gov.in/sites/default/files/A2009-35_0.pdf> accessed 8 November 2021.

²³ Suman Lata and Anjani Kant, *Child and the Law* (1st edn, APH Publishing Corporation, 2009)189

²⁴ Mahendra Pal Singh, *V N Shukla's Constitution of India* (13th edn, Eastern Book Company, 2019)2

²⁵ Esha Roy, "Explained: What changes in JJ Act for juvenile offenders and District Magistrates?", (The Indian Express, August 5th 2021), <https://indianexpress.com/article/explained/juvenile-justice-amendment-bill-2021-explained-7429971/> accessed 9 November 2021.

²⁶ Asha Bajpai, *Child Rights in India-Law policy and practice* (2nd edn, Oxford University Press, 2006) 8

Under the Maternity Benefit Act 1961, the term of maternity benefit for working women has been increased from three months to six months totally, before or after delivery. Provision for Childcare leave is also provided for women who are working mothers in any establishments.²⁷ The Child Marriage Restraint Act 1929, which is amended in the year 2006, also helps children to shape their life and career well in advance before marriage. There is Probation of Offenders Act 1958 which imposes restraints on imprisonment of offenders below the age of 21 years so that such offenders will be provided with an opportunity to mould their character by getting reformatory education outside the prison.²⁸

Conclusion

Providing education to children is not only good for the family but for the country. Ethical, moral and formal education must be imparted to the children, so that they can build a strong nation tomorrow. If the children are well educated, we can see them self-dependent and qualitative outcome can be expected from them. As we have already seen, there are many legislations, policies, programmes and schemes to educate children. If children are abused or misused, such persons will be punished under law. Those children are educated generally save themselves from fraudsters and guide others in a better way. Education and knowledge are two such things which cannot be taken away or snatched by anybody else and providing such jewels to all children is our fundamental duty being the citizens of India.

²⁷ 'Maternity and work' (paychek.in, April 2021) < <https://paychek.in/labour-law-india/maternity-and-work> accessed 9 November 2021.

²⁸ Asha Bajpai, *Child Rights in India-Law policy and practice* (2nd edn, Oxford University Press, 2006) 8

