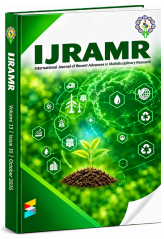
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REVIEW ARTICLE

UNITED NATIONS AND THE CONCEPT OF CHILD RIGHTS IN THE INDIAN CONTEXT

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ABSTRACT

Human Rights can be commonly defined as those rights which are inherent in our nature and without which we cannot live as human beings. Human Rights advocate for the cause of the fundamental freedom to allow us to fully develop and use our human qualities, our intelligence and natural talents to satisfy our developmental, spiritual and other needs. They are thus based on the increasing needs of humanity's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. The denial of these rights and the fundamental freedoms associated with these rights is not only an individual and personal tragedy but also creates situations of social and political unrest sowing seeds of violence and conflict within the societies and nations.1 Universal Declaration of Human Rights which was proclaimed in a resolution of General Assembly on 10th December 1948 is the foundation of freedom, dignity, justice and peace in the world. It lists numerous rights civil, political, economic, social and cultural to which the people are entitled simply for being born as human beings.

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INTRODUCTION

Human Rights can be commonly defined as those rights which are inherent in our nature and without which we cannot live as human beings. Human Rights advocate for the cause of the fundamental freedom to allow us to fully develop and use our human qualities, our intelligence and natural talents to satisfy our developmental, spiritual and other needs. They are thus based on the increasing needs of humanity's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. The denial of these rights and the fundamental freedoms associated with these rights is not only an individual and personal tragedy but also creates situations of social and political unrest sowing seeds of violence and conflict within the societies and nations.[1] Universal Declaration of Human Rights which was proclaimed in a resolution of General Assembly on 10th December 1948 is the foundation of freedom, dignity, justice and peace in the world. It lists numerous rights civil, political, economic, social and cultural to which the people are entitled simply for being born as human beings.

Convention on the Rights of the Child- A UN Initiative: Earlier the debate on Human Rights were restricted only to adult rights as the very concept of children having rights as separate individuals was restricted only to the belief that children should not labor.

But, the second half of the 20th Century saw an expansion in the concept of child rights as a whole with right to education, health, nutrition, dignified life, food, shelter, etc being incorporated in the sphere of the debate.[2] Dr. Amartya Sen argues that the framework of human rights can be usefully applied towards addressing a number of deprivations that the children face in the society. The importance of human rights relates to the significance of the freedoms that form the subject matter of rights i.e freedom from hunger and freedom from escapeable morbidity and premature mortality.[3] Children must form the first priority of the Social Development Agenda as they are the most vulnerable section of the society. The foundations for learning and human development are laid in the most crucial years of early childhood which acts as a platform for growth. This is the time when even a small positive change yields long term social benefits whereas, temporary deprivation inflicts lifelong damage. Child Rights debate was perhaps started by Englantyne Jebb of Britain who first triggered off an international movement for providing the child with an independent status. The debates she initiated culminated into a Declaration adopted by the League of Nations on September 26, 1925. But, unfortunately could not be given effect to as the League itself died.

[1] Wikipedia, The Free Encyclopedia; Human Rights. 2021.
[2] Mishra, Lakshidhar(2001).The Child Labor in India; Oxford University Press, New Delhi. Pg- 13-15.
[3] Sen, Amartya(2007). Children and Human Rights in Indian Journal on Human Development; IHD Publications, Vol 1, No-2; New Delhi. Pg- 89-93.

It was only in the 1950's that the United Nations decided to draft once again a charter on the rights of the child and after certain modifications it was adopted unanimously at a plenary session of the UN General Assembly on 20th November 1959. It granted 10 basic rights to children like right to proper environment, protection from abuse, neglect, exploitation; free and compulsory elementary education; proper nutrition. But, still a more elaborate set of rights were needed to protect the children from various forms of exploitation and abuse they had to face especially in developing countries where was rampant.

Taking the problems into consideration, the Convention on the Rights of the Child was drafted by the United Nations Commission on Human Rights and adopted by the General Assembly on 20th November 1989 which incorporated a set of international standards and measures meant for protecting and promoting the well- being of children in society. The Convention recognizes the exceptional vulnerability of children and proclaims that childhood is entitled to special care and assistance.[4] It is guided by the principle of "first call for children" which means that the essential needs of children should be given highest priority in the allocation of resources at all times. It obligates the state to respect and ensure that children get a fair and equitable deal in the society. It lays emphasis on the importance of family and the need to create an environment that is conducive to healthy growth and development of children. The Convention also advocates concerted public action by all individuals and agencies- governmental, non-governmental, local, regional, national and international to promote and protect the rights of the child.

Built on varied legal systems and cultural traditions, the Convention is a universally agreed set of non- negotiable standards and obligations. CRC is the first legally binding international instrument to incorporate the full range of human rights falling in the categories of civil, cultural, economic, political and social. In 1989, United Nations decided that children needed a special Convention because they are the most vulnerable section of the society facing major threats and deprivation all around the globe.[5] It draws attention to mainly 4 categories of rights- right to protection; right to survival; right to development and right to participation. The Convention contains 54 articles that cover a wide range of rights that are enlisted for the children of the world. Article 1 defines that who is a 'child'. Giving a conceptual basis to the definition the convention says that a person who is below the age of 18 years or as determined by the law of the state will be considered to be a child. Article 2 states that there will be no discrimination with any child on the basis of race, class, color, sex, status or place of birth and all children will be treated equally under all circumstances.

Further, according to Article 3 of the Convention, best interest of the child shall be the primary consideration while actions are being undertaken by public or private social welfare institutions, courts of law, administrative authorities or the legislative bodies. The convention attaches special attention to family as an institution that is responsible for providing a healthy and proper atmosphere to children for their development and growth.

[4] Progress of Nations(1997). United Nations Children Education Fund, UNICEF Publications. Pg-153-154.
[5] Ibid. Pg-168.

Likewise, Article 6 encompasses the right to life of every child and this right has to be guaranteed by the state parties. Keeping in mind the tender age of the children the Convention in its Article 9 provides that no child will be separated from his/her parents against his/her wish and in case of a divorce or separation between the parents it will be the duty of the court of the lands to secure the child's view regarding the custody. These incidents may have a severe psychological impact on the child so his interests have to be protected at all cost. These issues have been dealt very clearly by the Convention and United Nations has done an incredible work in this direction.
Article 19 says that the state parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical and mental violence, injury or abuse, neglect, maltreatment or exploitation including sexual abuse.[6] Article 22 refers to special types of abuse, exploitation and insecurity they face at the wake of political unrest, war, genocide or civil war in their respective countries. The hazards these children face are immense and recognizing the gravity of the situation, the Convention lays down a special set of rights for these children. Article 28 deals with right to education that is a basic right of all the children and it is the duty of the respective states to provide infrastructural facilities and funds for this cause. Article 29 deals with the matter of development of talents, skills, mental and physical abilities of the children to their fullest potential. Article 32 states that the rights of the child have to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with child's education or is harmful to the child's mental, physical, spiritual, moral or social development. The Convention guarantees a wide set of rights that entitles the signatory states to implement these and provide such an environment to children where they can prosper and develop their capacities and capabilities to the maximum level.[II] International agencies like UNICEF, UNCHR, UNDP and several NGO's play an important part to help the states to protect and promote these set of rights within their respective boundaries.

Status of Children in India: As India races towards superstardom, its children are still far behind in terms of healthcare, education, nutrition, development and other facilities. A recent UNICEF report on the state of the world's children published under the title "Childhood Under Threat", while speaking about India states that 63% of Indian children go to bed hungry and as high as 53% suffer from chronic malnutrition. The report says that 147 million children live in kuccha houses, 77 million do not use drinking water from a tap, 85 million are not being immunized, 27 million are severely underweight and 33 million have never gone to school.[7] It further estimates that 72 million children in India in the age group of 5-14 years do not have access to basic education. A girl child is the worst victim as she is often neglected and is discriminated against because of the preference for a boy child. She has to face abuse, neglect and discrimination at every stage in her life. One-third of Indian children go unregistered at birth which is a direct violation of Article 7 of the Convention on the Rights of the Child as this leads to the problem of statelessness.

[6] Schabas, William A(1996). Reservations to the Convention on the Rights of the Child. Human Rights Quaterly. Pg-472.
[7] UNICEF Report (2005). Childhood Under Threat; UNICEF Publications. Pg-128-34.

Along with Unicef report the National Family Health Survey-3 throws light on the condition of children in our country that was conducted in 2005-06. According to its latest data the all-India average for malnourished children is 47% and every second child under the age of 5 years is underweight. Even in the prosperous states like Gujrat and Kerela there has been rise in the number of malnourished children. Further, nearly 3/4ths of all infants between 6-35 months of age are anemic in the 19 states for which the NFHS data is available. Among all children upto 3 years of age over 1/3rd are stunted and 1/6th are wasted in our country. This state of the young Indians points towards pervasive malnutrition. For most of these infants malnutrition would have started in the womb itself. This is apparent from the data on married and pregnant women in India. An astounding 54% of pregnant women and nearly the same number of married women were found to be anemic by NFHS-3. Infact, the Body Mass Index of nearly 1/3rd of all women was found to be below normal. What is alarming is that the situation is worsening or at best not improving over the years.

Immunization level is one of the important indicators which further depicts precarious condition of the Indian children. The data shows that only in 6 states 60% of the children are fully immunized. In 8 states the proportion of fully immunized children is less than half. Another important indicator of the status of children is the infant mortality rate where India is bettered by Pakistan, China, Brazil and even Nigeria. The all-India average is 58 infant deaths for every thousand live births and states like Uttar Pradesh (73), Rajasthan (65), Arunachal Pradesh (61) and Gujrat (60) top the list. Not only children in India have fewer chances of surviving and are underfed but, they also lack educational facilities and opportunities. India has the largest number of illiterates in the world. Bihar, Jharkhand, Orissa and Madhya Pradesh have the highest proportion of out of school children. Despite the world's largest schooling program going on in India the condition of educational facilities has not improved in the country. The incidence of child labor is also very high which clearly reflects poor conditions of children in the country. For poor families who live in distress and acute poverty, rights and the issues of child welfare gets buried in day to day reality of life. The most basic way to cope with hunger and food deprivation is to increase the income of the family by adding more hands to the work force. A direct result of this is large families and the induction of the children into the labor force, thus depriving them of their basic rights of normal growth and development. The phenomenon of child labor is a social curse. If one accepts the fact that the 'society is a living organism' then practice of employing a child instead of providing it with basic necessities to develop his/her personality like education, recreational facilities, proper nutrition, health services, etc is definitely a blow to the normal functioning of the society.[8] Karl Marx has gone so far as to proclaim that the result of purchasing children at an immature age by the capitalist is not only a physical deterioration but, is a social degeneration as well. Statistically speaking, according to the International Labor Organization around 246 million children worldwide are engaged in child labor. India has the second largest child labor force in the world after South Africa.

Child workers are mainly engaged in agriculture and allied activities in the rural areas and in a variety of industries, mining, informal sector, child prostitution and domestic sector in the urban areas.

CONCLUSION

Child labor is not the only problem that leads to the violation of child rights. There are several other means that leads to infringement of rights. For instance, hunger deaths, lack of education, proper nutritional food, lack of a proper environment where children can grow and develop leads to further problems for the children who are the future citizens and human resource base for all countries. These maladies coupled with governmental and societal apathy towards the needs of the children worsens the situation. Child rights need to be recognized as an important aspect of a nation's development and inclusion of children's needs and aspirations into the policy making. Half hearted laws and policies have not lead to any significant results. The Convention on the Rights of the Child should be made as a guiding principle that gives a proper format to the rights and their implementation in every country of the world. United Nations should play a more pivotal role in this direction by stressing more on the issues that are related to children and their development.

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