



Constitutional Rights: Protection towards girl child

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Abstract

Child is a wealth of every nation. It is the reflector of every nation's growth and development. It is a seed which is sowed by the society in present and bear the fruit in future. So it is necessary for every nation to protect and safeguard the wealth of future for betterment of its nation. When it comes to girl-child who plays the different role in the development of society. The emphasis on their protection and rights becomes a duty of every citizen.

Keywords: Protection, girl, child, nation

Introduction

As per the Declaration of *UNESCO*, the 21st century will be the loss of children, in this damage, the child will not be neglected. Till now the teacher was in the center, the child was not, in the family the mother was in the center, the child would not, but in future the child will be in center.

Every nation considers children special girl children, to be its invaluable asset. In the future, these children, by becoming disciplined, duty-bound and aware citizens, play their important role in the new creation and development of the country and take their nation to the highest peak of greatness. By giving them a life form, and with this intention, while developing their personal qualities, they have to, in time appropriate to give guidance in education, trace the path of all-round development of the children for any country. In spite of this, this unfortunate problem before us continues to exist that the children of the country are subjected to sexual harassment, rape of girl child, girl child labour, girl child prostitution, neglected, child damage etc. is a very shameful subject for our society and also it proves, the claim of our's progressiveness.

Our constitution framers had foreseen that as the society would be progressive we would not ignore our social obligations, so they recognized important subjects like children's education, nutrition, protection and development at the constitutional level. So that society and every individual in the society should understand his obligation towards the children and this message should go among the general public that the highest law of the country is very thoughtful with the child welfare and development.

1. Article 14 ^[1] of the Constitution of India grants every person the right to equality before the law irrespective of age.
2. Article 15 (3) of the constitution provides a beneficial arrangement for women and children, according to which if the state has made a special provision in the interest of children, then it will not be considered as a constitutional discrimination.
3. According to the provision of Article 21-A ^[2], it is a

fundamental right that the state will provide free and compulsory education to all children between the ages of 6 to 14 years.

4. Article 21 of the constitution provides every person the right to life and personal liberty. Arranging this provision from a human perspective, the Supreme Court has on many occasions given adequate protection to human rights relating to children.
5. Article 23 has distinguished the human trade and forced labour, so if any person or institution makes the children also get punished as it is a violation of their basic rights.
6. Child labour has been declared completely illegal in India. Article 24 of the constitution prohibits the placement of children in hazardous nature acts, according to this Article, a child under 14 years of age in a factory or mine or any other hazardous work will not be employed.

According to Homer Flex, any work done by children in which their full physical development is hindered by necessary minimum education and minimum entertainment required, child labour goes, thus child labour "means to engage children in such a profitable business related to production. Their health is threatened and their development opportunities are hampered only by employing them in industries. Child labour is not covered in the definition of child labour, but in the broad sense, the employment of children in all such occupations which hinder their intellectual mental, social and moral development is included in child labour" ^[3].

Child labour income is also one of the problems that the international community has been facing for a long time. According to the report of International Labour Organization, about 250 million children between the ages of 5 and 14 work in developing countries, of which about worked for half time, the International Labour Organization concludes that each one between 50 and 60 million between the age of 11 years in between the World are working in

¹ Article 14, equality before law and equal protection before law.

² Inserted under 86 Constitutional Amendment Act, 2002.

³ Pariksha manthan, bharat ki rajya vyavastha ayvam savindhan, p 26.

hazardous conditions^[4]. In India, the Child Planning Act 1988 was the first statutory Act relating to child labour. After the *Union for Democratic Rights v. Union of India*^[5], the Supreme Court decided that construction of building is a hazardous work under Article 24 in which 14 year olds cannot be employed.

The Labours' Working of *Salal Hydel Project v. Jammu and Kashmir*^[6] this was again laid down that construction work is of hazardous nature and children of young age cannot be employed in it. *M.C. Mehta v. State of Tamil Nadu*^[7], The Supreme Court has laid down certain principles that would enable state officials to protect the economic, social and human rights of millions of children.

The Government amended the Child Labour Prohibition and Exchange Act 1986 in 2006 and issued a communique prohibiting girl children under the age of 14 to be employed as domestic help^[8], restaurants in roadside, banquet drains in Dhabas. For Employing children and specially girl children in tea shops and entertainment centers, bars etc. in the state, imprisonment up to 1 year and a fine of up to ₹ 20000. This amendment was came into force from 11 October 2006.

Article 39 (5)^[9] of the Constitution of India directs the state to conduct its policy in such a way that the health and power of labour and the fragile condition of girl children are not misused and citizens are not forced to go to such jobs, which are constrained by economic necessity. Under Article 39 (e) it is a direction given to the state that the children should be given opportunities for healthy development in an independent and dignified environment. Facilities Safety are done in such a manner to protect them from moral and economical abandonment and exploitation of others.

The Supreme Court Chief Justice *PN Bhagwati and Justice Ranganathan Mishra* expressed their views in the *Sheila Barse v. Union of India*^[10] case that the child is a national heritage and it is the duty of the state to take effective steps to ensure their all-round development and intellectual development is our responsibility to make such plans for development so that they becomes a citizen who is physically, muscularly, mentally aware and healthy.

Article 45^[11] of the Constitution of India states that the state will make provisions for providing pre-childhood care and education opportunities to all children under the age of 6 years. Amendment of Article 45 was necessitated because the new Article 21- A made free and compulsory education a fundamental right for all children from the age of 6 to the age of 14. In its landmark judgment of *Unnikrishnan v. State of Andhra Pradesh*^[12], the Supreme Court ruled that it is a constitutional obligation of the state to provide free education to 14-year-old children.

Article 51-A (k)^[13] of the Constitution of India laid down that parents and guardians of children from the age of 6 to 14 years of age will have the duty to provide them an opportunity for education. Child rights of 1989 in India is currently supported by the time in which Article 28 (1)

provides for compulsory primary education, which will be available in free to all.

After observing the above provisions, it is proved that every possible effort has been made to secure and ensure the interests of children and especially girl children under the Constitution of India. The Supreme Court has also from time to time protected the rights of children through its important decisions. In the case of *Gaurav Jain v. Union of India*^[14], the PIL sought to direct that separate schools and hostels should be opened for the children of prostitutes. If they do not have to remain in the mainstream of the country and separating them from the main stream, will create inferiority complex in their mind and hinder their growth.

Several Acts have been enacted by the legislature for the development and protection of children out of those some major Acts are Juvenile Justice (Child Care Protection Act) 2002, Child Labour (Prohibition and Exchange Act) 1986, Indian Factories Act 1948, Indian Mines Act 1952, Motor Transport Employees Act 1961, Trainees Act 1961 and Protection of Children from Sexual Offenses Act 2012 etc.

It is clear from the above deliberations of all these provisions, that in accordance with the spirit of the Constitution, efforts are being made at many levels for the welfare of children especially for girl children, but the reality is that there is not much success achieved in this field because the basic reason behind this is that, the legal rights that exist for children are not sufficient to serve their purposes and it is the duty of the family to do every possible effort for the development of children because the children of today are the citizens of tomorrow, on their shoulders the burden of tomorrow's India, they are the leaders of future, they are the pride and dignity of the nation. It is worth saying here that the today's present is a mirror of the future.

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⁹ AIR 1986, SC 1773.

¹⁰ (1993) SCC 645.

¹¹ Amended under 86th Constitutional Amendment Act 2002.

¹² (1993) SCC 645.

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