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THE ROLE OF CONSTITUTIONAL COURTS IN PROTECTING MINORITY RIGHTS

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“The child is a soul with a being, a nature and capacities of its own, who must be helped to find them, to grow into their maturity, into fullness of physical and vital energy and the utmost breadth, depth, and height of its emotional, intellectual and spiritual being; otherwise, there cannot be a healthy growth of the nation.” - Justice P.N Bhagwati (Former CJI).

Abstract:

The rights provided in the Constitution of India under the ‘Fundamental Rights’ include all children and children of Indian citizens. The constitutional courts have played a central role in the realization of these rights by providing its own interpretations of the constitution to protect the best interest of children pursuant to both the constitutional provisions and the scant international human rights treaties. Protecting minor rights is indeed a multifaceted task that involves consideration of many factors, which are in detail explored in relation to India’s constitutional courts in this paper. Also, it analyzes the constitutional provisions forming the basis of child rights, the legal enactments that stand erected on these provisions, and the landmark judgments that define and reshape the current child protection situation in India. In order to examine the extent to which the rights of children have been protected by the courts, passage to landmark judgments and Public Interest Litigation (PIL) mechanism the key issues like child labor, exploitation and abuse has effectively been addressed though courts have confronted with several implementation issues and challenges and new emergent threats have posed on child protection. In the conclusion, the author focuses on the discussion of the further work and increases the demand for further active involvement of the judicial branch for the protection of children’s rights, which is essential for the development of a fair and egalitarian society.

Introduction:

Efficient and effective protection of the rights of the children is an important component of any legal system, especially in countries like India, where judiciary plays an important role in protection of the children's rights. It is imperative to note the constitutional provisions of the Indian Constitution, and other legislations as well as court judgments which is the framework of safeguarding the rights of the children in India. To analyze this let us explore attributes of constitutional law related to protection of rights of the minors by the constitutional courts in India, some major judicial decisions in the area, the legislations in force and the limitations in such measures.

Constitutional Safeguards

Thus it can be said there is ample legal protection to children's rights envisaged under Indian Constitution's section 17. The constitution of the people's republic of Uganda has section 14 which touches on the aspect of discrimination on grounds of sex, not only that but the same constitution gives every person including a child the right to equal protection before the law. Moreover, in order to protect children at work, Article 24 also places restrictions on employment of children below the age of fourteen years in any hazardous work. These constitutional provisions form the core in safeguarding children against any form of abuse.

Legislative Measures

However, over the years, several legislative frameworks exist to support the constitutional provisions for children rights in India. The Juvenile Justice (Care and Protection) Act 2000, is another important piece of legislation, which puts in place comprehensive regulation of the care, protection and rehabilitation of Juveniles. The Indian legislation, the Child Labour (Prohibition and Regulation) Act, 1986 has a sectional definition of child as any person who is below the age of fourteen years and their employment is banned in certain vocations. In addition, the protection of children from Sexual Offences in Act (POCSA) 2012 provide measures in regard to sexual abuse on children as well as exploitation.

Role of Judiciary in Child Protection

The judiciary in India has not lagged behind in handling matters that arise as a consequence of child abuse. In the recent past, judicial activism has reared its head in advocating for children and passing laws such as those concerning sexual exploitation, trafficking in children, and

abuse. The courts, therefore, have not only legislated by applying the existing laws but have also enumerated them to adapt to the new developments.

Landmark Judgments

Some of the landmark judgments that saw new pages added to this part of the law helped in protecting children's rights in India. It is also important to review the decision *Banka v. Union of India*: the Supreme Court ordered the compliance of recommendations that brought radical changes to the work of the government in the sphere of child protection. In the same manner, in *Gaurav Jain v. Union of India*, the apex court of the country held that children of prostitutes are equally entitled to claim maintaining the rights to liberty, protection and care, non-exploitation, and support for their proper upbringing free from any discrimination.

Public Interest Litigation (PIL):

The Public Interest Litigation (PIL) has been a key litigation around which the judiciary has been placed on several issues affecting large segments of the community, including children. PIL empowers the common person to go to the courts in order to vindicate the rights of those who cannot do so because they lack capacity or knowledge on the legal process. It has been used to address several child rights grievances by ensuring that it leads to judicial action on the matters.

Issue and Challenges

Speaking of the key issues in the protection of children's rights in India there are several of them even though this country has a strong legal basis and proactive judiciary. Social problems that include child traffic, child labor and sexual exploitation of children remain prevalent in society. Another dilemma that the judiciary encounters is not only responding to such problems but also in ensuring that laws and policies are properly enforced.

Conclusion

The constitutional courts in India have indeed had an important role to play in the rights of children including the right to be protected. Constitutional protection, legal enactments, and anticipatory judicial actions have been approved in a bid to protect children's rights. However, sustenance is needed to mitigate the progressive threats and guarantee the sound operation of legislation. Nonetheless, the judiciary's promise to uphold the sanctity of children rights is

paramount in engineering a just society for future generations.

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