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A STUDY OF WELFARE PROVISIONS FOR CHILDREN UNDER THE CONSTITUTION AND NATIONAL POLICIES OF INDIA

AUTHORED BY - RADHA MOHAN PANDEY¹

ABSTRACT

William Wordsworth, the well-known English poet had long ago said that “*The child is father of the man.*” which means that the activities, emotions and behavior that a person develops in his or her childhood goes a long way in building his or her personality. Children are one of the important assets of a nation and hence, their welfare cannot be underestimated in any civilized society. The health and well-being of children is vital for the future well-being, growth and development of the entire society and therefore, no child deserves to be left behind.

According to Census of India 2011, 37% of the total population of the country consists of children who are below the age of 18 years. Children are one of the most vulnerable sections of society. The Founding Fathers of our Constitution very well knew that the India of their dream would not be a reality if the children of the country are not well educated and if their rights are not protected. Therefore, the Constitution mandates various provisions for welfare of children. There are also various national policies that concern themselves with child welfare and protection of children’s rights.

The main objective of this paper is to analytically study the various provisions provided for the welfare of children under the Constitution as well as the national schemes and policies of India. The paper aims to study how these provisions and policies have impacted the lives of children in our country. The paper also aims to address the issues faced by children and attempts to provide few solutions for the same.

Keywords: Children, child rights, child welfare, Constitution, National Policies.

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INTRODUCTION

Education, proper care, and welfare of children help in development of their overall personality and help them to grow as per their full potential.

When we think of the word “children”, the first thing that comes into our mind is an image of a small and tender human being. Children are not mature enough to properly differentiate between right and wrong or good and bad, and they also find it difficult to determine the nature of their actions. Therefore, they depend on their parents, guardians, elder siblings, teachers and other adult members of their family for most of their work. Hence, it is the duty of the elders to assist the children in their proper physical, mental and psychological growth so that they develop as good, disciplined and healthy citizens.

However, often there are instances of violations of child rights which adversely affect the overall health and well-being of a child. The issue of child rights violation and child abuse is a serious matter of concern even in the 21st century. Also, the alarming issue of poverty, malnutrition, and lack of access to proper education also persist. Therefore, discussing the concept of child welfare becomes essential because it facilitates in proper development of children and makes sure that every child has an equal opportunity to access the resources like education, healthcare as well a healthy environment to nurture.

The issue of Child welfare can hardly be ignored in a civilized society. Children are the future of a country. The healthy growth of a nation’s children ensures the healthy growth of that nation. It is rightly said that “children become what they learn” thus, for the proper and healthy growth of a child it is utmost important that a child should grow and be brought up in a healthy atmosphere of affection, care and positivity.

The UN has always kept children at the center of their programmes and policies. The Declaration of the Rights of the Child passed by the UN way back in the year 1959 emphasized that as children are physically and mental immature, hence they need special care and safeguard. Our Constitution makers were wise. They were aware of the fact that India of their vision would turn into reality only if the children of the country are nurtured and educated. And thus, the exploitation of children had to be made punishable.²

This research article analytically studies the Constitutional provisions, legislations and National policies that ensure welfare of children. The paper also examines the effect of these provisions on children. The paper concludes by suggesting as to what more needs to be done to improve the condition of children in the Country.

² Mamta Rao, Law Relating to Women and Children, 4th Edition, Eastern Book Company, 2018, p.566

This research paper is concerned with the following objectives:

1. To elucidate the importance of child rights and child welfare.
2. To ascertain the position of children in India.
3. To explain the concept of child welfare in India.
4. To study the child welfare provisions mandated by the Constitution of India.
5. To study the legislations and policies related to child welfare in India.
6. To provide solutions for further improvement in condition of children in India.

This paper aims at answering the following questions which would aid in achieving the abovementioned objectives.

1. What is the importance of child welfare?
2. What is the position of children in India?
3. How is child welfare being done in India?
4. What are the Constitutional provisions that provide for child welfare?
5. What are the various policies for welfare of Children in India?
6. Whether the existing programmes and policies are sufficient for welfare of children?

CHILD WELFARE PROVISIONS UNDER INDIAN CONSTITUTION

Child welfare is necessary as it ensures safety, health, well-being and holistic development of children. Protecting the future of nation i.e. the children from physical and psychological abuse, exploitation and neglect is crucial in creating a just society.

Our country is a welfare state and hence child rights are well recognized by our Constitution. The Constitution of India provides for a number provisions which specially talk about welfare of the children. **Part-III, IV and IV-A** dealing with fundamental rights, directive principles and fundamental duties specifically focus on children. As we know that children require special protection, **Article 15(3)** talks of protective or positive discrimination and says that the State can make special provisions for women and children.

Education is a basic human right. It is a fundamental right of every child necessary for the growth and development.³ In *Mohini Jain v. State of Karnataka*⁴ it was observed that right to education is an important part of right to life and theright to life and dignity can be ensured only if it guarantees right to education.⁵ Similarly, in *Unni Krishnan v. State of A.P.*⁶, right to education

³ <https://timesofindia.indiatimes.com/readersblog/lawpedia/children-and-right-to-education>, Last Visited on January 13, 2024.

⁴ *Mohini Jain v. State of Karnataka* (1992) 3 SCC 666

⁵ *Ibid.*

⁶ *Unni Krishnan vs. state of Andhra Pradesh* (1993) 1 SCC 645

was held as fundamental right under Article 21 of the Constitution. Likewise, **Article 21-A**, inserted by 86th Amendment to the Constitution provides for free as well as compulsory education to children aged between six to fourteen years. For a democratic system of government to be successful, education is necessary. Through education, an individual gets human dignity and development, thus he contributes in the development of his country.⁷

Furthermore, **Article 24** of the Constitution mandates that every child who has not attained fourteen years of age can be employed in mine or factory which carry out work which is hazardous in nature. **Article 39(e)** mandates for protecting health as well as strength of workers, men and women. It also provides that the policy of the State should be directed as such to protect the tender age of children from abuse. **Article 39(f)** provides or giving equal opportunities to children so that they can develop in healthy manner with dignity and freedom. It also states that children are protected from any kind of exploitation or abandonment.

In the landmark case of *M.C. Mehta v. State of Tamil Nadu*⁸, it was held that children who are below the age of fourteen years should not be employed in any industry, or mine that carries out hazardous work.

Our Constitution, thus, provides right to health, social-protection, education, and well being to every child without any kind of discrimination.⁹

Article 45 of the Constitution mandates that the state has to make provision for free and compulsory education for all children who have not attained 14 years of age. In Unni Krishnan Case¹⁰, the directive principle provided under Article 45 was given the status of a fundamental right.¹¹

Further, **Article 51A (k)** which was inserted by the **86th Constitutional Amendment** deals with giving education opportunities by a parent or guardian to their child who are in the age group of six to fourteen years.

NATIONAL POLICIES IN INDIA RELATED TO CHILDREN

Since Independence, a number of policies and schemes are framed in pursuance of the provisions of the Constitution which contribute in welfare of the children in our country. These schemes and policies are of vital importance as they have a significant impact on law-making and have the

⁷ J.N. Pandey, Constitutional Law of India, Central Law Agency, 56th edition 2019, p.374

⁸ MC Mehta v. State of Tamil Nadu AIR 1997 SC 699

⁹ Mamta Rao, Law Relating to Women and Children, 4th Edition, Eastern Book Company, 2018, p.567

¹⁰ Unni Krishnan v. State of Andhra Pradesh (1993) 1 SCC 645

¹¹ J.N. Pandey, Constitutional Law of India, Central Law Agency, 56th edition 2019, p.503

effect of supporting rights.¹² Some of the important policies for child welfare are as follows:

Integrated Child Development Services (ICDS) Scheme: The ICDS scheme is an important initiative that provides health and nutrition services to the young children. It was launched in 1975 with an aim of early childhood development programs. It not only deals with pre-school education but also with eradicating issues like hunger, malnutrition, morbidity, etc. It is concerned with providing pre-school education to children of three to six years of age, supplementary nutrition, immunization, health check-ups, and referral services to children below six years as well as pregnant and lactating mother. The ICDS scheme has played a significant role in improving the health and nutritional status of children of 0-6 years. It also lays a foundation for physical, social as well as psychological development of children by effective coordination of policy and its proper implementation for the promotion of child development.¹³

Integrated Child Protection (ICPS) Scheme: This scheme deals with creating a protective environment through the partnership of government and civil societies for children who are in difficult circumstances and also for the children who are vulnerable.¹⁴

National Child Labor Project Scheme: This scheme aims to eradicate child labour in all its forms by identifying children who are doing child labor as well as withdrawing them. Moreover, it prepares such children for introducing them to mainstream education. It also makes sure that such children receive the benefits of the services provided by the government as well as various agencies.¹⁵

Sarva Siksha Abhiyaan: It was launched in 2001 with the motto “*Sab Padhein, Sab Badhein*” or “Education for all”. It aimed to universalize the elementary education and to compulsorily educate all children who are between the age group six and fourteen.¹⁶

National Commission for Protection of Child Rights (NCPCR): The NCPCR aims at the protection of all children till the age of 18 years. It was formed under the Commission for Protection of Child Rights Act, 2005. It examines and reviews the rights and safeguards which are provided for protecting child rights and also recommends measures for the proper implementation of these safeguards.

Beti Bachao Beti Padhao Scheme: Launched in 2015, it aims to deal with the rapidly declining child sex-ratio alongside dealing with women and girl child empowerment, protection and

¹² Mamta Rao, Law Relating to Women and Children, 4th Edition, Eastern Book Company, 2018, p.568

¹³ <https://wcd.nic.in/Integrated-child-development-services-icds-scheme> , Last visited on 13 January 2024

¹⁴ <https://wcd.nic.in/Integrated-child-protection-scheme>, Last visited on 12 January 2024

¹⁵ <https://byjus.com/free-ias-prep/national-child-labour-project-scheme/> Last visited on 12 January 2024

¹⁶ https://wikipedia.org/wiki/Sarva_Shiksha_Abhiyan, Last visited on 13 January 2024

education.

Sukanya Samridhi Yojana: It is an important scheme that focuses on encouraging the parents of a girl-child to save for their future, education and marriage expenses. It was launched as a part of BBBP campaign.¹⁷

PM CARES for children scheme: It was launched in 2021 for supporting children who have lost their parents due to covid-19 pandemic. Under it, such children are given financial assistance in the form of monthly stipends when they attain 18 years of age as well as a fund of 10 lakh Rupees once they turn 23. It also provides free health insurance to such children under the Ayushman Bharat Yojana till 18 years.

Poshan Abhiyaan: It deals with eradicating malnutrition through the help of sensitizing people to adopt behavioural changes. It aims at improving the health of children by providing nutritional food to children, women as well as adolescent girls.¹⁸

National Health Policy 2017: It deals with achieving universal health coverage to deliver quality health care services to everyone at a reasonable price. Along with various important targets, it aims at reducing infant mortality as well as the under-five mortality.¹⁹

National Education Policy (NEP), 2020: It aims at introducing several reforms in education at both school and higher education level. It ensures universal access at each level of schooling as well as quality early childhood care and education to each child who is of three to six years of age. It provides for a holistic and multidisciplinary approach to education. Further, it also aims to increase the Gross Enrollment Ratio till secondary level to 100 percent by 2030 and to increase the GER at higher education level to 50 percent by 2035.²⁰

PM POSHAN SCHEME: The Mid-day meal scheme was renamed as 'Pradhan Mantri Poshan Shakti Nirman' or 'PM POSHAN' scheme. Along with providing healthy meal to school going children, it also focuses on monitoring their nutritional levels. As per the scheme, special arrangements for nutritional items would be made in the districts which have high cases of anemia.²¹

CONCLUSION

The Constitutional Provisions and the National Policies have played a vital role in the welfare of children in India. Article 15(3) of the Constitution allows for special provisions for

¹⁷ <https://byjus.com/free-ias-prep/sukanya-samridhi-scheme/> , Last visited on 13 January 2024.

¹⁸ <https://www.drishtias.com/blog/nutritional-policies-and-programs>, Last visited on 13 January 2024

¹⁹ <https://forumias.com/blog/national-health-policy-nhp-2017/>

²⁰ <https://pib.gov.in> , Last visited on 13 January 2024

²¹ <https://byjus.com/free-ias-prep/mdms-mid-day-meal-scheme/> , Last visited on January 13 2024

children in order to promote their rights and interests. Further, the Directive Principles emphasizes the state's duty for ensuring equal opportunities and facilities to children so that they can develop in a healthy manner. The National Policy for Children, 2013 aims at accomplishing holistic development of children and providing them proper health, education and protection. Furthermore, the Right to Education Act promotes inclusivity by ensuring free and compulsory education for children who are aged 6 to 14 years. Moreover, legislations such as the Juvenile Justice (Care and Protection of Children) Act provides for a framework for care protection and rehabilitation of such children who are in conflict with law.

Overall, these welfare provisions and policies have contributed a lot in creating an environment that safeguards and protects the rights, health, well-being and development of children in our Country.

