

RIGHTS OF CHILDREN WITH SPECIAL REFERENCE TO COVID-19 PANDEMIC - AN OVERVIEW

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ABSTRACT

Covid 19 has disrupted the lives of children in such a manner that it has not only lead them to confinement but has driven their rights too, to be confined. They are left with no signs of rising from the dust where they are forced to merge. The pandemic has multifaceted negative impacts upon them, be it in terms of education, health, food habits, awareness in all spheres and other mitigating demand for a fulfilling life. The protection of rights of the child has been the talk of the time since long. Despite the various national and international regimes enacted for the protection of the children in the country, there is a dearth of security and adequate safeguards when it comes to child care and protection. The paper examines some of the vital legislations and policies adopted nationally as well as internationally for the development of the children. The paper further analyses the circumstances of children after they are deprived of their rights conferred on them by various regimes. It focuses on the devastating long, short and medium effects on the lives of children, especially in the rural places and also depicts a detailed picture on the policies and programmes available to safeguard their rights and protect them from all sorts of violence and atrocities.

Introduction

Covid 19 pandemic has necessitated the need for monitoring system on the part of the political heads of the country by bringing out progressive legislations and development. The pandemic has taken toll on every mortal and more particularly, the children's voice has been absent during this time. Covid 19 pandemic has caused detrimental effects and the government definitely needs to realize that the rights of children are affected in light of situations and circumstances and more particularly it cannot be ignored that the specific groups of children need more protection. The best interest of the children shall be considered by the Central as well as State ministries. This has to be a priority for the various functionaries despite the fact that the administration has been trying its level best to mitigate the demands of the children. Pre-covid health and education situation were already under resourced and in the present scenario, it has been further stretched. Even the budget for children had been shrinking year after year. The unprecedented times is definitely creating compelling situations for the government to prioritize expenditure but as a collective demand in order to achieve the mandate of a welfare state, there should be no cut in the budget of children.

Statement Problem

Child Protection Centers were not declared under essential services by the ministry of home affairs. Closure of schools abruptly denied the one free meal that they were entitled to. The

juveniles in the times of pandemic were either released abruptly or kept confined without any proper preparations or planning. Children with disabilities have been particularly affected as well. With online education being promoted the digital divide is coming to sharp focus. The three vital issues- accessibility, adaptability and affordability have gathered attention from all corners. In this backdrop the paper is discussed as the issue needs attention and cannot be an isolated response to covid as the pandemic has impacted upon children differently based on their identities and geographical indications.

Objectives

1. To showcase the different legislations and policies for safeguarding the rights and protection of children.
2. To highlight the impact of Covid 19 on the vulnerable children.
3. To bring out the necessity of reforms and accountability in the country.
4. To highlight the necessity of the community support and involvement.
5. To develop a holistic approach on the part of the stake holders and develop a sense of belongingness.

What is Child rights violation?

Child rights violation does not arise from a single factor but it is the case of multiple catalysts. These factors are interlinked which means that a substantial defence of child rights demands unprecedented attempts at changing people's psyche towards the child. Simply comprehensive policy reforms cannot pave the ways for development of children.

The WHO consultation in 1999 on Child Abuse Prevention compared definitions of abuse from 58 countries and drafted the following definition-

Child Abuse or maltreatment constitutes all forms of physical or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power'.

Types of Child abuse

1. **Physical abuse-** Physical abuse triples during the early hours of pandemic. Physical abuse includes beatings, shaking, burns, human bites, strangulations, or immersion in scalding water or others, with resulting bruises and welts, fractures, scars, burns, internal injuries or any other injuries. Dr Allison Jackson, division chief of child and Adolescent Protection Centre at Children's National Hospital in Washington said that stressful situations can be a trigger for poor judgement and impulsive reactions. There was a great deal of economic stress, job insecurity, and loss of housing potential during this time frame along with the closing of schools which can be a relieve for parents and kids.¹

¹ Study: Child Abuse Rose During Covid Pandemic, <https://www.sciencedirect.com> >pii (visited on 15.6.22 at 11:46 a.m)

2. **Sexual abuse-** The Global threat Assessment report 2021, by ‘We Protect Global Alliance’, launched had contributed a significant spike in child sexual exploitation and abuse online. The reports calls for prioritizing prevention activists against abuse, creating safe online environment for children, besides calling on all with a role to protect children to work dramatically improve the response.²
3. **Emotional abuse-** Children who are vulnerable face more challenges and hence they need strong support systems, which often lacks in the most vulnerable children. They are even deprived of emotional references and the fear and stress caused increased their sense of insecurity and mental disturbance. This was more perceived during the pandemic especially, among the street children, children of migrant workers put into isolation facilities and children in NGOs and child care institutions. In additions some children have faced difficulties in sleeping and eating, nightmares, being withdrawn and aggressive, clinging and dependent behaviours, new fear manifest and decreased interest in playing and engaging in playful activities.³ It is the failure of the caretaker to provide an appropriate and supportive environment and children and includes an act that has adverse effect on the emotional health and development of a child.
4. **Neglect** – Children are having horrifying effect on the children. People are isolated and not having access as result of which children are left neglected. Kids at home are on their phones and parents are on the laptops thereby the adverse impact is on the children. Children were confined during the Covid 19 crisis but the fact remains is that in most of the families they were left neglected and uncared.
5. **Child labour-** The number of children working as child labourers came down by 100 million in last two decades but Covid 19 pandemic has undone a lot of gains. Child labour robs children of their childhood as children had to work like labourers and they are driven into the work for multiple reasons like insecurities, emergencies or are affected by unemployment, human trafficking, conflict and extreme weather events. It is a global phenomena that exist in different forms and intensities in almost every part of the globe. The pandemic has hit the mental, physical and nutritional health of children to a large extend.⁴

Shadow pandemic during pandemic- gross violations of child rights

The Delhi Commission for Protection of Child Rights received 20,000 complaints during the year 2020. Anurag Kundu, who took over as chairperson of the DCPCR launched a helpline number to address the issues of child distress at the peak of Covid 19 pandemic in April. Any person can register his or her grievance and share information related to rights of children on

² Covid 19 pandemic fuelled rise in child sexual abuse online:report, <https://www.thehindu.com> >national (visited on 15.06.2022 at 12:13 pm)

³ Psychological Support for Children during Covid 19, <https://www.unicef.org> >file (visited on 15.6.2022 at 12:00 pm)

⁴ Covid 19 and the changing face of child labour- Down to earth, <https://www.downtoearth.org.in.>co> (visited on 15.6.22 at 12:34 pm)

24 x 7 helpline. After the launch of the help lines, there were many calls relating to essential supplies such as ration, medical emergencies and cases of abandoned children. During the pandemic, the Delhi government took progressive steps to make the city children friendly said Satya Prakash, chief operating Officer at FXB India Suraksha, a social organization.

But, the shelter homes were not in a suitable condition. Woman and Child Development minister, Rajendra Pal Gautam went over a surprise visit and found out that the shelter homes were in a deplorable state as it was very congested and the rooms were so small and suffocating that it was closed from all sides. Rather than a shelter home, it appeared more like a jail. The coolers were not switched on during the day and the rooms were dirty with inadequate staff members. There was no recreation centre. Since the children were not allowed to go out, they were forced to remain in a suffocating environment. However, the Department of Women and Child Development recently initiated measures to strengthen its efforts towards protection and care of vulnerable children. The pandemic forced children to manual labour which would otherwise lead their lives to a poverty stricken scenario making it impossible for them to survive.⁵ The conditions of the children were ignored by the community at large paying no heed to the various promises made under the various Conventions and treatise ensuring their protection.

One of the unintended consequences of the lockdown was a very silent pandemic that triggered some of the vulnerable class. The pandemic has affected children massively. The various media reports have portrayed the ways how the Covid 19 crisis has been transformed into a child rights crisis. Children are affected in various ways and the long term consequences are expected to be tremendous. The very measures that are put in place to end the pandemic like lockdown are triggering the crisis even more. It has lead to increase in child labour, marriage, increase in violence against children and mental health issues. The deprivations are multiple and happening sometimes on the same child. In other words, the concoction of the shadow pandemic is at its peak.

The UNICEF India has been in forefront. It has trained various frontline workers and service providers on covid mitigations strategies and their roles in prevention of torture and exploitation among children. Tanisha Dutta, child protection specialist with UNICEF stated that they had been trying their best to rescue the children and free them from exploitation and how they had been pro-actively responding towards their safety and protection.

Over the last two decades the countries have made remarkable progress reducing child labour. In many countries, the government provided families with cash allowances so that they could meet their needs and let their children to become educated. But, the impact of the Covid 19 pandemic has been a barrier in the progress of these efforts. Families have lost lives, jobs and income, schools have closed. The children in the countries like Nepal. Uganda and Ghana have been forced to work by the circumstances so that food could be procured in the table. The children are under the compelling situation to work under the hazardous conditions. Their conditions became deplorable as they were injured and their wounds could not be healed due to financial crisis to procure medicines. So, child labour was again seen increasing at an

⁵ www.newindianexpress.com, visited on 22.06.22 at 12:54 am

abnormal rate.

Issues and Challenges in times of Covid 19

Sectoral Streams and Integration- parallel streams- one steam should integrate with the other for the continuing effort.

Education- More than one billion children are at risk of falling behind due to school closures aimed at containing the spread of the pandemic. With the closure of schools across 188 countries, many of them are exploring alternate ways to provide continuous education using technologies like internet, TV and radio.⁶ The unprecedented social and economic disruptions have been a threat to the childhood. The condition in villages are yet more deplorable as the children are not having the necessary devices to prepare themselves for the online classes and even the parents are untrained to guide them in that regard. Children are again forced to resort to domestic work to meet their minimum needs.

The picture depicted in the villages is deplorable as right to education is denied completely and the children are left haywire with no room for development. Online education has left no stone unturned in bringing down the level of children as in many cases it seemed that they tend to forget even what they learned at one point of time. The children studying in elite schools are able to join in many online developmental programmes and activities and are doing far better but there is a pitiable condition in the village as they have lost in touch with the minimum bare necessities educational facilities too, in this period of crisis.

Among those severely impacted children are the children of daily wage earners, migrant labourers, children in streets, children in conflict with law transgender children, children of sex workers and prisoners, refugee children and so forth.⁷ The lockdown period will forever be marked as forcing the children in a gloomy state of affairs leading them nowhere in the midst of pandemic leading to distress and depression. This definitely will continue to disrupt lives of young children, aggravate vulnerabilities and erode the plight of those already living in the margins.

Health- The pandemic have disrupted the environment where children grow and develop. Despite taking toll in the physical health, the pandemic has also forced the children to suffer from mental health which is increasing stigma and discrimination. Home based, facility based and zonal based quarantine and isolation measures have negatively impacted upon children. Working parents are forced to keep their children confined in their house or with their neighbours while they are working from homes. The childcare centers and crèches which keeps the children engaged were not functioning as a result of which the environment which paved the growth of the children were no longer made available as they were not being able to receive usual treatment. There have been cases of worsening mental health conditions.

Moreover, there has been increased engagement of children in hazardous or exploitative labourers. The children especially the vulnerable are becoming prey to the circumstances as the ones in the cities could at least get involved in some online extra-curricular activities leading

⁶Education and Covid 19- UNICEF DATA, data.unicef.org > topic >covid-19 (visited on 17.12.2020 at 1:06 pm)

⁷Rights of Children in the time of Covid 19, <https://www.hagrc.org>> (accessed on 17.11.2021 at 10.10 am)

to developments in their mental abilities.⁸

The health of children has taken its toll in such a manner that it has forced them to meet the unforeseen situations of life. The children are left uncared and unattended during this period of crisis. Despite various community services made available to the children, they are left underprivileged and deprived and many were left out of reach of elderly care and love. The children suffered at enormous level because they were not given proper medication and the parents who could not meet with the basic house-hold requirements, certainly could not provide the equipments for other health related facilities

Nutrition- Children in villages are deprived of nutritious food as they were not being able to get the mid- day meals in school due to the closure of the institutions. The midday meals represents the lifeline of millions of school children and being deprived of it, they were forced into famine and starvation. Mr Bishow Parajuli, the Director of the UN's World Food Programme said that "The MDM scheme represents predictable support and the lifeline for millions of schoolchildren in the country and has a significant impact on the children's daily diet. As schools reopen, this all-important scheme will also need to re-activated with the provision of hot, cooked meals."⁹

The children of this country are deprived of nutritious food despite adequate legislations mandating the state to take care of the needs of the downtrodden sections. The children of the labour class were totally deprived of quality food during the lockdown and in many cases they had to suffer from starvation. The media reports have highlighted the ghastly rural picture where the children were left stranded and they had no healthy signs to recover.

Legal Services- The pandemic has profoundly affected justice for children, shutting down the doors of the court and thereby restricting access to essential social and justice services. Evidence shows that many children have been detained for violating curfew orders and movement restrictions. There has been a worldwide estimated 261,000 children in conflict with the law according to the UNICEF analysis.¹⁰

Cases of many abandoned children were reported at that time and they were not provided any legal facilities or services. But, it cannot be denied that many community centers came way ahead to take care of the abandoned children. Reports indicated that some children were kept in shelter homes but no social distancing norms were followed.

Constitutional Provisions for the protection of child rights in India

The Constitution of India guarantees protection to welfare of the children as citizens of the country and keeping their interest in mind, state has enacted many legislation for their betterment and well-being.¹¹ But the pandemic has brought into limelight that the children were not having even the minimum survival means. The state and the government failed to realize

⁸ Protection of children during Coronavirus pandemic, (visited on <https://www.unicef.org> on 17.11.21 at 10:32 am)

⁹<https://www.thehindu.com>national> (accessed on 17.11.21 at 10:44 am)

¹⁰<https://www.unisef.org> (accessed on 17.11.21 at 10:57 am)

¹¹ Constitution of India/HAQ;Centre for Child Rights, <https://www.haqcrc.org> > child-rights (accessed on 09.05.2022 at 1:24 pm)

its obligations as a result the children were deprived of all sorts of welfare legislations which lead to embrace famine and starvation. The Preamble to the Constitution of India has made a promising declaration to keep its goals intact but that was confined only to paper. The Preamble states –

Justice, social, economic and political;

Liberty of thought, expression, belief, faith and worship;

Equality of status and of opportunity;

To promote among them all, fraternity assuring the dignity of individual and the unity and integrity of the nation.

In the Constitution of India, fundamental rights reflect the country's serious commitment towards the well-being and protection of children with the objective of ensuring them as self-reliant and responsible citizens of the country.

1. Right to free and compulsory elementary education for all children in the 6-14 year age group (Article 21 A)
2. Right to be protected from any hazardous employment till the age of 14 years (Article 24)
3. Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength (Article 39 (e))
4. Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment. (Article 39 (f))
5. The state shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education until they complete the age of fourteen years. (Article 45)
6. It shall be the fundamental duty of a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.(Article 51 A)

However, the children also have rights as equal citizens of India, just as any other adult person-

- Right to equality (Article 14)
- Right against Discrimination (Article 15)
- Right to personal liberty and due process of law (Article 21)
- Right to being protected from being trafficked and forced into bonded labour. (Article 23)
- Right of minorities for protection of their interests. (Article 29)
- The state shall secure that the operation of the legal system promotes justice, on the basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic and other disabilities. (Article 39 A)
- Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength. (Article 39 (e))

- Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment. (Article 39 (f))
- Right of weaker sections of the people to be protected from social injustice and all forms of exploitation. (Article 46)
- Right to nutrition and standard of living and improved public health. (Article 47)

Policies and Legislations

The Constitutional provisions are also backed by policies like Bonded Labour System Abolition Act, 1976, Child Labour (Prohibition and Regulation Act), 1986, Children (Pledging of Labour Act) 1933, The Persons with Disabilities Act, 1995, Laws for SC and ST AND scavenging etc. Aharon Barak, former Chief Justice of Israel emphasized the importance of human dignity for the enjoyment of human rights in following terms:

The Constitutional value of human dignity has a central normative role. Human dignity as a constitutional value is the factor that unites the human rights into one whole. It ensures the normative unity of human rights. This normative unity is expressed in three ways, first, the value of human dignity serves as a normative basis for constitutional rights set out in the constitution, second, it serves as an interpretative principle for determining the scope of constitutional rights including the right to human dignity, third, the value of human dignity has an important role in determining the proportionality of a statute limiting a constitutional right.¹² To combat hunger and provide education to the children the Government of India in 1975 initiated the ICDA Scheme which operates at the state level to address the health issues of small children all over the country and The Anganwadi Centres are a part of ICDS programme. In the pandemic times it became quite evident as to the fact that though the Acts were made long time back but there's a big gap in the implementation. Reports in the newspapers and other sources indicated that the spirit of Constitutionalism was totally violated during that time.

International Perspective on the protection of Child rights

According to Jone Martenson, Under Secretary General for Human rights, 'respect and protection of all children's rights are the starting point for the full development of the potential of the individual in an atmosphere of freedom, dignity and justice.'¹³ The growth of the rights of the children in national and international law has transformed the post-war legal landscape. Some noteworthy laws enacted keeping in mind the paramount consideration of the child are as follows-

The U.N Declaration of Human Rights¹⁴

The Universal Declaration of Rights on the Child 1959 builds upon rights that had been set forth in a League of Nations Declaration of 1924. The Preamble notes that children need

¹² Rajive Raturi V Union of India, Daily Order, December 15, 2017

¹³ Subhram Rajkhowa, Human Rights , Some Reflections, North Eastern Law House, Guwahati, Assam, 2006, at p.69,

¹⁴ Universal Declaration of Human Rights, <https://www.ohchr.org> >eng, visited on 22.5.2022at 2:30 pm.

‘special safeguards and care, including appropriate legal protection, before as well as after birth’, reiterates the 1924 Declaration’s pledge that ‘mankind owes to the child the best it has to give’, and specifically calls upon voluntary organizations and local authorities to strive for the observance of children’s rights.¹⁵

One of the key principles in the Declaration of Human Rights is that the child is to enjoy special protection as well as opportunities and facilities by law and by other means, for healthy and normal physical, mental, moral, spiritual and social development in conditions of freedom and dignity. Other principles are that a child is entitled to a name and nationality, adequate nutrition, housing, recreation, and medical services, to an education and for the handicapped, to a special treatment, education and care, protection against neglect, cruelty and exploitation, trafficking, underage labour and discrimination.¹⁶

Minimum Age Convention, 1973¹⁷

The aim of the Minimum Age Convention (MAC) is to establish a general instrument on the subject of the minimum age of employment with a view to achieving a child labour.¹⁸ Thus, each state party is to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment to a level consistent with the fullest physical and mental development of young persons.¹⁹ States parties must specify a minimum age for admission to employment or work, subject to certain exceptions set forth in the MNC. That minimum may not be less than the age of completion of compulsory schooling and in any case, less than fifteen years, but it may initially be set at fourteen years if a state’s economy and educational facilities are insufficiently developed.²⁰ Exception to the age limits may also be permitted for light work or such purposes as participation in artistic performances.²¹ If the employment is hazardous to a young person’s health, safety, or morals, the minimum age is generally not to be less than eighteen years.²²

UN Convention on Rights of the Child, 1989²³

This is the most comprehensive document on rights of the child. It is significant because it enshrines for the first time in binding international law, the principles upon which adoption is based, viewed from the child’s perspective. Primarily it is mainly concerned with the four rights of the child- participation by children against discrimination and all forms of neglect and exploitation, prevention of harm to them and provision of assistance to children for their basic

¹⁵ Geraldine Van Bueren, *The International Law on the Rights of the Child* 10-11, Dordrecht/Boston/London, Martinus Nijhoff Publishers, 1995. 35 *International Studies in Human Rights*.

¹⁶ Declaration of Human Rights, principle 2

¹⁷ A Critical Assessment of the Minimum Age Convention, 1973, <https://www.researchgate.net> > visited on 20.5.2022 at 3:30 pm.

¹⁸ Preamble on Minimum Age Convention, 1973

¹⁹ Article 1 of Minimum Age Convention, 1973

²⁰ Article 2 of the Minimum Age Convention, 1973

²¹ Article 7 and 8 of the Minimum Age Convention, 1973

²² Article 3(1) of the Minimum Age Convention, 1973

²³ Convention on the Rights of the Child, <https://www.ohchr.org> > visited on 21.05.2022 at 3:35 pm

needs. A child is defined as ‘every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.’²⁴

The Convention on the Rights of the Child was followed by the World Declaration on the Survival, Protection and Development of Children. The World Summit for children resolved to give every child a better future, particularly those who are innocent, vulnerable and dependent, for whom reality of childhood is altogether different. It adopted the World Declaration and Plan Action. The plan of action provides for follow up action as a guide for all, including non-governmental organizations.

African Charter on the Rights and Welfare of the Child²⁵

The Preamble states that ‘the child occupies a unique and privileged position in the African Society and requires legal protection as well as particular care with regard to health, physical, mental, moral and social development.’²⁶ The ACRWC sets forth the principles of non-discrimination and the best interests of the child and also provides the best interests of the child and also provides that children have an inherent right to life, protected by law. Special measures of protection are to be taken for handicapped children and children should enjoy physical, mental and spiritual health. Children should also be protected from all forms of economic exploitation and performing work likely to be hazardous and against all forms of torture, maltreatment, and abuse, harmful social and cultural practices and all forms of sexual exploitation or abuse and the use of narcotics and illicit drugs and addiction, sale, trafficking and use in begging.²⁷

European Convention on the exercise of Child Rights, 1996²⁸

The European Convention on the exercise of Children’s rights (ECECR) stresses in the Preamble the aim of promoting the rights and the best interest of children. The ECECR applies to children who have not reached the age of eighteen years. The ECECR procedural rights include the child’s rights to be informed and to express his or her views in proceedings, the right to apply for the appointment of a special representative, and other possible procedural rights.

Universal Declaration of Human Rights 1948

The Universal Declaration of Human Rights contains two articles that specifically refer to children. Article 25(2) states ‘motherhood and childhood are entitled to special care and assistance. All children whether born in or out of wedlock shall enjoy the same social protection. Article 26 calls for the right to education for all, and deals both with access to and

²⁴ Article 1 of UN Convention on Rights of the Child, 1989

²⁵ The African Charter on the Rights and Welfare of the Child, with a preamble and 48 articles was adopted on July 11, 1990 and came into force on Nov 29, 1999

²⁶ The Preamble of the African Charter on the Rights and Welfare of the child.

²⁷ The Articles 15,16,27,28 and 29 of the African Charter on the Rights and Welfare of the Child

²⁸ Handbook on European Law relating to the rights of the child, <https://fra.europa.eu/files> (visited on 26.04.2022 at 3:56 pm)

the aims of education.²⁹ Nevertheless, parents have a prior right to choose the kind of education that shall be given to their children.

International Covenant on Economic, Social and Cultural Rights 1966

The Preamble to the International Covenant on Economic, Social and Cultural Rights in so far as it recognizes the indivisibility of human rights, which is applicable to children's rights as well. It further stipulates that special measures of protection and assistance should be taken on behalf of the young without discrimination, that they should be protected from economic and social exploitation, that employing them in morally or medically harmful or dangerous work or in work likely to hamper their normal development should be punishable by law and that age limits should be set below which the paid employment of child labour is prohibited and punishable by law.³⁰

Initiative on the part of Legislative Organ of the Government

The Juvenile Justice Act, 1986

Under the Act of Juvenile Justice Act 1986, Government is to form four categories of well-equipped Homes as per provisions of the Act, a time for the proper implementation of the Act. The said Homes are:³¹

- a) **Juvenile Home-** The juveniles who face neglected attitudes of people are provided accommodation and they could get the benefits of education. They could also receive vocational training and rehabilitation programmes should be provided to them. The children could be free from all forms of exploitation and that would ensure their all round development of their personality.
- b) **Special Homes-** They are to be established with the aim of providing all round development, education, shaping their mental and physical personality which would make the children responsive towards the society as a whole.
- c) **Observation Home-** This provision has taken away the authority of the police department to arrest children. The police should not bring the children to police station after arrest. They should be sent to the Observation Home and to be produced before the juvenile Board accordingly.
- d) **After- Care Organizations-** They are to be set up to take care of Juveniles after they leave Juvenile Homes or Special Home. The main goal behind this is to let them lead an illustrious life.

The present Act however changed the perspective from neglected children to 'child in conflict with law and 'child in need of care and protection respectively'. The Act emphasized on the following aspects.

1. Juvenile Justice Board
2. Child Welfare Committee

²⁹ Article 26 of Universal Declaration of Human Rights, 1948

³⁰ Item 3 of Universal Declaration of Human Rights

³¹ Sanajoaba, Human Rights, Omson Publications, New Delhi, 1994

3. Child Welfare officer

But the real objectives of the Act are yet to be achieved.

The Juvenile Justice Act, 2000

The legislators made an attempt to adopt the principles of the 2000 Act to inculcate the principles set out in the UN Conventions, such as the CRC, the Beijing Rules and the 1990 Rules. The rehabilitation of the minor was the main concern of the Juvenile Justice Act.

It is a self contained Act, which covers up all the past lacuna towards the contested protection security of the children, who strayed due to some circumstances and got themselves involved with criminal activities. The Act has kept provision for looking after the neglected children and also those who are termed as neglected juvenile who:

- i) is found begging or,
- ii) is found without having any home or settled place of abode and without ostensible means of subsistence and in destitute,
- iii) has a parent or guardian who is unfit or incapacitated to exercise control over juvenile.
- iv) lives in a brothel or with a prostitute or frequently goes to a place used for the purpose of prostitution or is found to associate with any prostitute or any other person who leads a immoral, drunken or depraved life, who is being or is likely to be abused or exploited for immoral or illegal purposes or unconscionable gain. The increase in number of crimes has lead to introduce a new legislation in order to curb such criminal tendencies.

Juvenile Justice Care and Protection Act, 2015

This Act is the result of the post Nirbhaya incident and its aftermath development. The new Act however, is termed to be retributive as it contains provisions for teenagers who commit a heinous crime must be tried as adults but in juvenile courts. Despite the protesters against the new legislation, the new law came into existence. The Act places its reliance on the following principles- principle of presumption of innocence, principle of dignity and worth, principle of participation, principle of family responsibility, principle of safety, principle of non-waiver of rights, principle of equality and non-discrimination, principle of institutionalism as a measure of last resort principle of non-stigmatising semantics, principle of repatriation and restoration, principle of fresh start and principle of diversion and natural justice.³²

Salient features of the Act

1. **Definition of child in need of care and protection expanded-** The new law includes a child caught working in violation of labour law with imminent risk of marriage before

³² An Overview of Juvenile Justice Act, 2015 with regard to child in conflict with law, <https://ujala.uk.gov.in>> files (visited on 13.06.2022 at 11:35 a.m)

reaching the legal age threatened to hurt, exploit, abuse or neglect the child or to violate any other law whose parents or guardians are unable to take care of him.³³

2. Separate chapter on Adoption to streamline adoption, abandoned and surrendered-

Processes have been arranged with timelines for both in-country and inter-country adoption including a child legally free for adoption. As per the provision, a single or divorced person can also adopt but a single male cannot adopt a girl child.³⁴

3. Mandatory Registration of Child Care Institutions- The child care institutions, whether run by State Government or by voluntary or non-governmental organizations, which are meant either wholly or partially for housing children, regardless of whether they receive grants from the Government are to be mandatorily registered within 6 months from the date of commencement of the Act.³⁵

4. Inclusion of new offences committed against children- Several new offences like sale and procurement of children for any purpose including illegal adoption, corporal punishment in child care institutions use of child by militant groups, offences against disabled children and kidnapping and abduction of children are included within the purview of the Act.³⁶

5. Special provisions for heinous offences committed by children above the age of sixteen years- Section 15 of the Act, provides for special provisions which have been made to tackle child offenders committing heinous offences in the age group of 16-18 years. The Act specified that the children committing offences like rape or murder should be in a place of safety both during and after the trial till they attain 21 years of age, after which an evaluation of the child shall be conducted by the Children's Court. The child is accordingly released on probation but if he is not reformed then he has to be confined in the jail for the remaining period.

6. Remedial measures included for the child in conflict with law- Several rehabilitation and social reintegration measures have been provided and children are provided with various services including health, nutrition, de-addiction, treatment of diseases, vocational training, skill development, life skill education, counseling and so forth to help them build a constructive society.³⁷

Monitoring- The National Commission for Protection of Child Rights as well as State Commission for Protection of Child Rights are mandated to monitor implementation of the provisions of the Act.

³³ Introduction and Overview of the Juvenile Justice Care and Protection Act, 2015, <https://blog.ipleaders.in> > (visited on 13.06.2022 at 10:51 am)

³⁴ Juvenile Justice (Care and Protection of Children) Act, 2015, <https://vikaspedia.in> >child-rights, visited on 13.06.2022 at 10:58 a.m)

³⁵ id

³⁶ id

³⁷ Supra note 23

Few Initiatives of the government in times of Pandemic

The government announced support for children who lost parents to Covid. Prime Minister Modi said, “Children represent the future of the country and the country will do everything possible and protect the children so that they develop as strong citizens and have a bright”.³⁸ The government is trying to take steps for the development of the children affected during covid times and rising them from the shackles of worsened situation. Ministry of education has taken several initiatives to ensure studies of school going children during Covid 19 pandemic.

Diksha (Digital Infrastructure for knowledge sharing) is a national platform for school education of all states which can be accessed through several use cases. Swayam MOOCs for open schools and pre-service education, e-textbooks and NROER (National Repository of Open Education Resources), Pragyata guidelines. The government is trying its best to reach out the downtrodden sections of the society and to touch those going into oblivion.

Conclusions and recommendations

The laws are adequate to curb all injustices against children. What lacks is the implementation on the part of the not only the stakeholders but also from the end of the human community as a whole. As a result, millions of children suffer despite all the legislations guaranteeing their protection. Accurate data on the violence against children are somewhat available but it is pertinent to note that the developments are less progressive despite the various national and international commitments in this regard. Figures on sexual violence depend on reporting cases and hence the figures underestimate the magnitude of the problem, especially as many go unreported. UNICEF strongly affirms that all the children have the right to grow in a nurturing family environment.³⁹ UNICEF in India has been working towards strengthening child protection systems, ending all sorts of violence against children. It focuses on services to prevent separation of children from families and on rehabilitative services for deinstitutionalized children and care leaving youth.⁴⁰

The reports and policies acting as a directory regime for the state parties should be followed as a gap or failure to adhere to the principles leads to deprivation of the rights of the children forcing them to undergo all sorts of violence against them. All children irrespective of their economic status, race, colour, origin, sex, language, religion, national, ethnic or social origin, property, disability, birth or any other status have the same rights and are entitled to the same protection by the state. The fully functioning machinery as committed by the various national and international commitments could greatly improve protection for all children from multiple deprivation that push children into non-accessibility of their claims.

Training for law enforcement officers on child rights and child protection, awareness in the various villages by organizing camps and fests thereby making the participation of the parents and the institutional heads of the child care institutions mandatory could to an extent address lots of issues for the children’s care and protection. Accountability on the part of the community

³⁸www.business-standard.com (accessed on 17.11.21 at 11:20 a.m)

³⁹Child Protection, UNICEF, <https://www.unicef.org>> (visited on 16.06.2022 at 12:48 a.m)

⁴⁰id

as a whole would help to involve in the issues and thereby guarantee their elevation. In order to set up an effective and fruitful protection system, the States must ratify the main principal standards of protection of children's rights and then implement it in their legislation.

The community at large must combine and fight against some customary practices which lead to discrimination and deprivation of the rights and liberties of children. The sole standard on which the child rights are founded is 'the best interest principle'. Every action engaged concerning a child should be in his or her greatest interest. Welfare state mandate cannot be achieved without the implementation of welfare mechanism for the child. The order of the day is to develop and instill in every human being a feeling of empathy and sympathy so that a humane and humanitarian approach could be tilted towards the future generation of the nation.

As Jawaharlal Nehru said- 'It is a fundamental rule of human life, that if the approach is good, the response is good'.