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## Legal provisions on the child rights to education & human rights

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Education is a tool to empower the individual to contribute positively in the process of development of society and nation. Children play a key role in the development of the society. So they need to be educated. But present children plight is very bad. After more than 60 years of independence it has been found that there are still many gaps in children having their access to all their entitlements, more and more children are vulnerable and marginalized today.

### Constitution of India to ensure Education of Children with Special needs

The Constitution of India provides some articles for children, the following article Education to all, including children with special needs. Article 15 says the state not discriminate against any citizen on the ground of religion, race, sex, caste, place of birth or any of them. Article 21-A provides for free and compulsory education to children in the 6-14 years age groups as a fundamental rights in the constitution of India. Consequent to this insertion in the existing Article 45 (after the 86<sup>th</sup> amendment) the direct principles was replaced and made applicable to children in the 0-6 years age group. In case of Unni Krishnan Vs State of A.P. <sup>[1]</sup> the Supreme Court delivered very good judgment for protection of Article 21-A.

In case of Mohini Jain Vs State of Karnataka <sup>[2]</sup> the Court agreeing the Right to Education flows directly from right to life, made it clear that there exists the right to education and if falls under Article 21 of the constitution. In order to remind the State of its duty with regard to the Right to Education, the court further held that "Without education being provided to the citizens of this country, the objectives set forth in the preamble to the constitution cannot be achieved. The constitution of India would fail.

Article 29(2) provides that no citizen shall be denied admission in to any Educational Institution maintained by the State. Recently in Uttar Pradesh Bijnor District one school denied admission for joining of school to gang raped dalit girl. After knowing of media reports the National Human Rights Commission has issued notice to the Chief Secretary and the Director General of Police asking for a report in four weeks. In this incident Action against accused Under the SC, ST prevention Atrocities Act, 1989, including steps to protect the girl child family and provide monetary relief. So that this action is protection of Article 29(2) of the Constitution <sup>[3]</sup>.

Article 46 shall promote with special care the Educational and Economic interests of the weaker sections of the people and in particular, of the SCs, STs, our constitution commitments have been reflected through Varmi Commissioner of Education appointed at different points of time i.e., Indian Education Commission 1964-66, National Policy for children 1974, National Policy in Education (NPE) 1986 etc., <sup>[4]</sup>

### Human Rights and Children Education

The Universal declaration of Human Rights 1948 (UDHR) documents some details of human rights. The International covenant on Economic, Social and cultural rights, adopted in 1966 has specific provisions on Economic, social and cultural human Rights. In addition, the

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<sup>1</sup> AIR 1993, 1 SCC. 645

<sup>2</sup> AIR 1992, 3 SCC. 666

<sup>3</sup> J. Balaji 2012, Report in the Hindu News Paper – P.18, September.

<sup>4</sup> N.S. Soman 2003 Right to Education in India, Past present and future, Academy Law review, P.111.

convention on the Rights of the child, 1989 (CRC), carries some specific provisions on the child's Educational rights [5]. The CRC describes the right of children and adolescents up to the age of 18 years. It takes account of the fact that children not only have rights, like every other persons but also have special needs they are more vulnerable and dependent on their families and others. So they need special protection against being hurt and abused. They need Education, play and have the right to be listened to because they need to learn and develop. The convention is built on four principles, and these are excellent guiding rules for all of us working with children [6].

Every child has a right to survive and develop to the best of his or her ability. All Children have the same rights. There should be no discrimination among children, all decisions about a child should be guided by what is in the best interests of the child, the views of the child on matters that concerned him or her should be considered, taking into account how old and mature the child is. From these four principles, come five groups of rights and responsibilities. Some rights like the right to health care, depend on the other rights such as the right to be cared for in a suitable family setting or to be listened to or the responsibility of Government to make sure that families can afford to provide the essentials of life, Article 26 UDHR provides parents have a prior to choose the kind of education that should be given to their children. In this connection According to Article 51(A) (K) of the Indian Constitution provide who is a parents or Guardian opportunities for education to the children or as the case may be ward between the age of 6-14 years. It is for the first time constitution is imposing a fundamental duty on parents /guardians to provide opportunity of education of their wards<sup>7</sup>.

### Education need for girl child

If you Educate a boy child, you educate on individual but if you educate a girl child, then educate the whole family, Today's educated girl child is tomorrow's empowered women. The United Nations Organization has developed declared Oct, 11, 2012 is the International girl child day. Our country has made some significant strides in universalizing primary education. It may be better appreciated on observing the enrolment ratio at this level for the recent years. The enrolment ratio for girls in 2001 was 77 percent which went up to 93.6 percent in the year 2007. the Right to Education Act, 2010 provides for the free and compulsory education to children below 14 years of age. This Act also incentivises girls for completing elementary education. However, these efforts get a setback when the children drop out of the schools without completing education. A study by the Ministry of Human Resource Development found that 3.7 percent children in the age group of 6-10 years and 5.2 percent in the age-group of 11-13 years had either dropped out of the school or had never attended any school in 2008. According to the Annual Status of the Education Report 2009, 4 percent children were not in any school. In 2007 out of the 93.6 percent of girl child enrolled for the primary education, in 2007-08 24.4 percent

dropped out. The middle school level, the dropout rate amongst the girls was 41.3 percent, while it was 57.3 percent at the secondary level. So these are the situation going on present.

### Some Important schemes for child education

The Right of Children to Free and Compulsory Education (RTE) Act came into force in the year 2010 which provides the right of children to free and compulsory education in the neighbourhood school which are to be established within 3 years time period. The provisions relating to school infrastructure and Pupil Teacher Ratio (PTR), training to untrained teachers, quality interventions are prescribed under the Act. The Sarva Shiksha Abhiyan Scheme (SSA) aims to provide free and compulsory elementary education to all children in 6-14 age by 2010. the scheme provides school infrastructure and quality improvement in education of the children. The objectives to be in school and universal retention by 2010, bridging all gender and social gaps at primary stage by 2007 and at elementary education level by the year 2010. The Government of India is committed to realize the goal of universalization of elementary education by 2010. The Mid-day meal Scheme is being implemented under Sarva Shiksha Abhiyan Scheme which aims at universal enrollment and retention of children. Under the programme nutrition and snacks are provided to the children attending schools [8].

The National Programme for education of girls at elementary level is being implemented by the Department of Education which adopts community based approach for the development of children under difficult circumstances to check drop out girls, working girls, girls from marginalized social groups, girls with low levels of achievement to gain quality elementary education and develop self esteem of girls. The Kasturba Gandhi Balika Vijayawada Scheme enables opening of special residential schools for the girl child belonging to Scheduled Castes, Scheduled Tribes, other backward classes and minority in educationally backward areas having low female literacy. The Scheme for Providing Quality Education in Madrasas (SPQEM) is launched to bring qualitative improvement in the Madrasas to enable Muslim children to attain educational standard as per the national education system. The other programmes including Model School Scheme (2008), Rastriya Madhyamika Sikshya Abhiyan (2009), Inclusive Education for Disabled (2009), Construction of Girls Hostel for secondary and higher secondary schools (2009) are introduced to promote education at secondary level. These schemes very useful for protection of children education [9].

### Conclusion

Children are a supremely important asset. In India present some of the schools there are no play grounds and Toilets. Recently justice K. S. Radha Krishna and Dipak Mitra gave the direction on a petition from the Environmental and consumer protection foundation. It was informed that the courts direction issued toilets facility have not provide schools are violated of Article 21-A of the constitution. The court says if permanent toilets are not provided immediately atleast temporary toilets are provided on or before

<sup>5</sup> Ajay Pandey 2007 some legal provisions on the child's right to elementary education – January-March, P.53.

<sup>6</sup> Shweta Prasad 2012, Girl child in India, Yojana- November, P. 44

<sup>7</sup> P.D. Mathew, S.J.2001, Constitutional Rights of Children, Legal News and Views, April.

<sup>8</sup> Chinmayee Satpathy- 2012, child welfare policies and programmes in India. Yojana-November- P.26

<sup>9</sup> Ibid

November, 30, 2011. So the court made a direction of the State Government on the grounds private interest litigation (PIL) petition.

Any Education programme cannot be successful without the participation of the people the women and their families should be made aware of the facilities being provided and their advantages etc., and thus motivated to get the advantage of the same. Many times due to inaction, apathy and lack of adequate publicity etc., their participation may not be adequate. We have to take care of the same and ensure their full participation for success of the programme. Children are the real key to region's future. It is only when society ensures the freedom in which they can develop their potential that they have the chance to grow to a full and satisfying adulthood and assume a constructive role in society. A number of susivating to the last several years in great seminars, articles that without imparting basic education to our children, no improvement in any field and no economic development is possible.

Recently in Hyderabad old city a school boy died for torture at a school in Old City. The boy was fourteen years old named Ismail, the teacher noticed him speaking to others during a class, the teacher punished the boy for two hundred sit-ups throughout the day. The Boy's father informed and explained the incident. These are treatments that are going on with the children in these days. In some schools, the teacher abused the students sexually. The Government should enact many policies, laws for the protection of children but these laws are not properly protecting the children. Recently the Government of India new enactment the right to education act and protection of children from sexual offences Act, 2012 have been child centric clearly emphasizing the right of the children.

In present, globalization, industrialization, privatization are going on in India, the Government should take new steps for the rights schooling children parents also should protect children rights and the society also should protect and preserve the rights of the children.

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