



THE RIGHTS OF THE CHILD IN THE WORLD

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Abstract

Child rights are discussed and debated intensely across the globe over a period of time. The states have adopted special codes or laws on the legal status of the child. Practically, the states have many common features reflecting the contents of the United Nations Convention on the Rights of the Child (1989). In the present times, the child rights are most commonly understood from the point of view of children's autonomy. It establishes that children should have the capacity and opportunity to determine their welfare and their right should be treated rather more like adults. Children have a right to have a say in processes affecting their lives, welfare and progress. Scholars have identified the various factors associated with child rights protection such as poverty, ill health etc. The child rights need to be examined by the scholars, jurists and other stakeholders in the right perspective in order to make life worth living for children and liberate them from all oppressive features and forces. The Convention on the Rights of the Child is to be understood, interpreted and implemented in the context of all existing international norms in the field of human rights, including customary contractual, universal or regional norms. All the rights of the child are of equal importance. All the rights of the child set forth in the Convention should be respected and ensured by states for each child within their jurisdiction (irrespective of citizenship) without discrimination of any kind on the grounds of race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. The list is merely indicative and no other grounds may justify any sort of discrimination.

PREAMBLE

Child rights are discussed and debated intensely across the globe over a period of time. A child is regarded as belong into or even being the property of the family in many societies. A child is also defined as an infant, a minor or an adolescent by some persons. The child is understood to have certain rights and duties in modern society. Usually, all persons who do not have full legal capacity until a certain age are regarded as children. The age of full legal capacity varies from state to state. Many national legal systems recognize the limited legal capacity of children relating to various activities. The states have adopted special codes or laws on the legal status of the child. The rights of the child in the world are amplified in this article on the basis of qualitative research methodology.

SALIENT FEATURES OF CHILD RIGHTS PROTECTION

Practically, the states have many common features reflecting the contents of the United Nations Convention on the Rights of the Child (1989:09). Childhood is the most sensitive stage of life of every human being. It is in this period of life that every individual is brought up, educated and adjusted to realities of life. The identity of individual is formed during the childhood. The children comprise about 50% of the world's population and they depend on adults for everything. The children normally encounter various difficult circumstances. The child has the right to be protected by law from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. Such protection also covers the relationship of a child with his or her parents, legal guardians or any other person who has the care of the child.

Article 2 of the Child rights Protection Law defines: "A child is a person who has not reached the age of 18 years, except these to whom, in accordance with the law, reach earlier maturity by being declared emancipated minors, or who become married before reaching the age of 18 years".

Franklin (1986:01) states: "Child rights' as a concept encompasses both protection and liberation aspects". A clear distinction may be made between child rights to have their welfare safeguarded by adults and other stakeholders of child rights protection.



Scholars have laid emphasis on the child's own definitions rather than the attribution by adults of what is best for the child or the child's welfare. The children are regarded as subjects or actors with a set of interest which they can and should define and defend for themselves.

Harding (1991:03) notes: "Children should be given more adult type freedoms in order to control their own lives. The children are entitled to positive protective intervention to provide good care for them, away from the original parents if necessary, and support of the original family as a unit in order to prevent its disruption. A child rights perspective in the liberation sense, by contrast, involves supporting children in what they want".

The child rights had become a more legitimate notion since 1980s. Freeman (1992:02) has offered a moderate version of child rights in his writings. It essentially consists of certain human values which govern child rights. The scholar argues that children should have independence in matters concerning their health and progress. Freeman also regards age as a relevant differentiating factor in deciding the legal status of children. There are various policy documents which have adequately dealt with the concept of child rights.

The Children Act, 1989 formulated in England and Wales deals with child rights with an emphasis on autonomy in a number of respects. The Section 22 of the Act says that the child's wishes and feelings should be ascertained and considered. The Act also strengthened the existing provisions for separate representation of children in public law proceedings; even though the child's position in private law proceedings was less favorable with respect to the autonomy of the children. The Act also paved the way for enabling the child to initiate legal action on his or her own behalf.

Lyon and Parton (1995:06) make the distinction between protectionist and liberationist approaches to child rights. They argue that certain rights are conferred upon the children and that the voice of the children should be heard by the family, community and court concerning the welfare and progress of children. Scholars have also argued that child rights in a moderate sense were extended by the Act and that children were making use of new powers subsequently.

Harding (1996:04) further argues that the Children Act does somewhat widen 'child rights' in the liberation sense, and reflects the influence of the child rights lobby in the 1980s. According to him, the Act in some ways strengthens the protective powers of the state, and emphasizes the importance of partnership with parents and family support through provisions for consulting parents, allowing them greater powers in relation to their children and offering them a wider range of supportive services.

In the present times, the child rights are most commonly understood from the point of view of children's autonomy. It establishes that children should have the capacity and opportunity to determine their welfare and their right should be treated rather more like adults. Harding(1991:04) has emphasized the moderate and liberationist approach to the concept of child rights. Scholars have also argued that children should have all of the rights of adults – to vote, to work, to live where they wish and not to be compulsorily directed by adults. The institution of childhood should not be regarded as essentially oppressive by others.

There are other areas of policy and child rights which are debated by the scholars. The United Nations Convention on Child Rights Protection (1989:09) contains about 54 articles covering a wide variety of rights of the protection/ welfare and the autonomy aspects. The UN principles also cover various aspects of child rights such as – right to do with life, nationality, freedom of religion and privacy, attainment of welfare including a reasonable standard of living, health and education, rights requiring protective measures and rights of children in special circumstances. In particular, Article 12 provides that the child be given the right to express his/her views freely in all matters affecting him/her (subject to age and maturity), and that in judicial and administrative proceedings affecting him/her, the child shall be provided with the opportunity to be heard.

Newell (1991:07) comments: "Article 12 is the cornerstone of the Convention's insistence that children must not be treated as silent objects of concern, but as people with their own views and feelings which must be taken seriously". Freeman (1996:02) contends that this article is the first international document which dealt with the rights of the children. It stated explicitly that children have a right to have a say in processes affecting their lives, welfare and progress.

Several national governments have upheld the principles and practices of UN Convention on Child Rights Protection (1989:09) and formulated national policies, plans and programmes concerning the child welfare and progress. Ideas such as



Ombudspersons or Commissioners, and Ministers for children, while not currently government policy, are also relevant as schemes which may enhance child rights. The Child Support Act, 1991 also contains certain healthy features concerning child rights protection. The newly created child support agency largely superseded the role of the courts and provided a rigid formula to assess the child rights in general and child support provisions in modern society. Harding (1996:04) argues that the Child Support Act did not make the child's welfare the first or paramount consideration but merely says that regard is to be had to welfare of the children.

Scholars have identified the various factors associated with child rights protection such as poverty, ill health etc. The child rights have been reinforced across the world in accordance with the provisions of the UN Convention. The social and economic policies of various national governments have emphasized the government support for children. In the age of globalization, neo-liberalism wishes the family to take more responsibility for itself about child rights protection. The notion of parental responsibility is also used to legitimate the state's withdrawal from corporate social responsibility. The child rights need to be examined by the scholars, jurists and other stakeholders in the right perspective in order to make life worth living for children and liberate them from all oppressive features and forces.

THE RIGHTS OF THE CHILD IN THE WORLD

In the past, children were not considered as an important constituency. They were for the most part regarded as inferior and subordinate to adults and childhood was a miserable period of life. The issue of child rights has been discussed across the globe since 1920s. The childhood was regarded as a relatively sacred part of life among many scholars and other stakeholders of child rights protection. The UNICEF was established in 1946 as the first major step in order to safeguard the interest of the children. The Universal Declaration of Human Rights was adopted by the General Assembly in 1948. The provisions of that Declaration and its two International Covenants on human rights, adopted in 1966, recognized that children need protection against all oppressive features and forces.

The Declaration on the Rights of the Child, 1959 was the first statement issued by the United Nations for the protection of child rights. It was a kind of moral direction rather than legally binding framework. The issue of girl child was addressed in part by the Convention on the Elimination of All Forms of Discrimination against Women, adopted in 1979. The Government of Poland submitted a draft convention to the Commission on Human Rights in 1978, prior to the celebration of the 20th anniversary of the Declaration on the rights of the child during the international year of the child in 1979. This event paved the way for series of collaborative efforts between various international organizations. The UN Convention formulated 54 articles which covered everything from a child's right to be free from sexual and economic exploitation, to the right to his or her own opinion, and to the right to education, health care and economic opportunity, says Rahul Rai (2000:08).

The World Summit for Children (1991) was convened in New York in order to take stock of the universal child rights protection and adopted the World Declaration on the Survival, Protection and Development of Children and Plan of Action. The document contains concrete goals to be achieved before the end of the 20th century in various fields of children's lives. The national action plans for 1991-2000 were also adopted all over the world since they aimed at reducing infant and maternal mortality rates, reducing malnutrition and illiteracy, providing access to safe drinking water and to basic education, combating devastating emergencies resulting from natural disasters and armed conflicts and solving the problem of children in extreme poverty. The Conference recommended that the situation of children and their human rights be regularly reviewed and monitored by all relevant organs and mechanisms of the United Nations system.

The issue of child rights protection received universal recognition after reports of grave injustices suffered by children such as poverty, hunger, malnutrition, high infant mortality, deficient health care, child labor, child abuse, child trafficking, child prostitution and so on. Prominent global organizations such as Office of the United Nations High Commissioner for Refugees (UNHCR), International Labor Organization (ILO), United Nations Children's Fund (UNICEF), World Health Organization (WHO), United Nations Development Project (UNDP) and a number of non-governmental organizations, took part seriously in the deliberations on child rights protection.

The Convention was adopted after a lengthy period of careful negotiations by a vote of the General Assembly. Its importance as a foundation of modern human rights law was later underscored at the 1993 World Conference of Human Rights in Vienna. About 178 countries had ratified the convention during 1995. Many states agreed that there was a need for a set of comprehensive principles and practices on child rights protection which would be binding under international law. It was a welcome development at the global level on child rights protection. Albeniz of UNICEF states: "Childhood is coming to be



widely seen not as some kind of probation period before becoming an adult. The child emerges as an individual with dignity who has all the rights of a full human being.

The Convention on the Rights of the Child created new consciousness among the various stakeholders all over the world. In particular, the four general principles enshrined in the Convention in articles 2, 3, 6 and 12 facilitated the identification of national programmes of implementation. Article 2 deals with non-discrimination, article 3 deals with best interests of the child, article 6 emphasizes the right to life, survival and development and article 12 covers the views of the child concerning various aspects of child rights protection.

The Convention prepared grounds for the protection of child rights and called upon the parents and states to provide them with appropriate upbringing facilities and develop suitable child – care institutions. The States were also persuaded to provide parentless children with suitable alternative care on humanitarian grounds. About five human rights bodies such as – human rights committee, committee on economic, social and cultural rights, committee on the elimination of racial discrimination, committee on the elimination of discrimination against women and committee against torture were also constituted to monitor the implementation of treaties by States which have ratified or acceded to the instruments.

A separate Committee on the Rights of the Child was also established under article 44 of the Convention which is serviced by the United Nations Centre for Human Rights in Geneva. The Committee adopted guidelines to help States parties in the preparation of reports and initiation of suitable intervention programmes. The United Nations bodies and specialized agencies are also enabled to take active part in the deliberations and provide useful norms and guidelines for the protection of children. The resolutions and recommendations of the committee serve as the basis for a national debate on how to improve the enforcement of the provisions of the Convention. The States Parties can introduce certain mechanism at the national and local level to coordinate policies and monitor the implementation of the resolutions of the Convention.

Yuri Kolosov (2002:05) notes: “In the present times, an increasing number of states adopt special codes or laws on the legal status of the child. It is noteworthy that they have many common features reflecting the contents of the UN Convention on the Rights of the Child. Hence it is important that the Convention is known and understood by adults as well as by children.

CONCLUSION

The Convention on the Rights of the Child is to be understood, interpreted and implemented in the context of all existing international norms in the field of human rights, including customary contractual, universal or regional norms. All the rights of the child are of equal importance. All the rights of the child set forth in the Convention should be respected and ensured by states for each child within their jurisdiction (irrespective of citizenship) without discrimination of any kind on the grounds of race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. The list is merely indicative and no other grounds may justify any sort of discrimination.

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