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# RIGHT TO INFORMATION FOR PROTECTION OF CHILD RIGHTS IN INDIA

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## ABSTRACT

A child is a priceless asset to any society and is unquestionably important to the growth of the nation. The UNCRC is a human rights treaty that sets the political, civil, economic, social, health and cultural rights of children. It is an international agreement that is legally binding on the members. The convention identifies a child as a human being below the age of 18. The UNCRC acknowledges that every child is entitled to fundamental rights, and some of the most important rights are as (a) Right to life, survival and development. (b) Right to education that facilitates them to reach their full potential (c) Right to protection from abuse, violence or neglect (d) Right to express opinions and be heard and (e) Right to be raised by or have a relationship with their parents.

Indian Constitution is known to be a document committed to social and economic justice. The Indian Constitution has therefore recognized education as the essence of social transformation by providing special provisions under Part-III, 1V and IVA. The 'right to education' flows directly from right to life.' According to Article 21 A "The State shall provide free and compulsory education to all the children of the age of 6 to 14 years in such manner as the state may, by law determine".

The Right to Education Act, 2009 explains that schools have duty to give information to local bodies or Government. Section 12(3) says "every person shall provide such information as may be required by the appropriate government or local authority as the case may be. If school is established by the government or aided, it has to provide that information as public authority under Right to Information Act, 2005 to every citizen seeking that information. Hence RTI provides all the protection to the children.

**Keywords:** Rights to Education, Free and Compulsory Education, Right to Information, Accountability, Public Participation, Child Rights.

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## Introduction

*“Who am I, an infant in the night  
An infant crying for the light  
And with no  
language, but a cry”*

- Alfred Tennyson

Children are God’s reward and gift. They are significant assets to the country since they will be future citizens. As a result, they require a favourable atmosphere to thrive. They must be nourished with love and care in the family and society. Any event in childhood has a life-long influence and plays a vital part in the development of the child's personality. A child's entire and harmonious growth requires an atmosphere of understanding, pleasure and love. Children's special rights were so required due to the reality that they are physically and psychologically immature and hence require specific rights to protect them and satisfy their particular needs. On November 20, 1959, the UN General Assembly approved the ten-point Declaration on the Rights of the Child. The Indian government also implemented laws to ensure that children's rights are protected and that they are not subjected to injustice. The current situation of child labour, child trafficking, child abuse, child illiteracy, child prostitution, and child abduction demonstrates that child rights are not being respected. Children's rights violations are not restricted to the impoverished and oppressed. The Country has to be a fully humane country but if the future of the country is not nurtured properly then the achievement of this goal will be a big question.

## Constitutional Frame Work for Protection of Child Rights

Child should not be subjected to unfair discrimination While being educated, and simultaneously, the child should learn to deal with others similar and different from him or herself in ways that are not unfairly discriminatory. The preamble of the Indian constitution promises to secure to all citizens of India (including children) “justice, social, economic, political, liberty of thought, expression, belief, faith and worship. The Constitution of India is said to be fundamental law of land taking in to account to children’s wellbeing, right, overall growth and development of child speaks about all children in the country irrespective of their religion, race, caste, sex or place of birth.<sup>3</sup> Constitutional provisions dealing with welfare of

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<sup>3</sup> The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

children are explicit in Part-III, IV and IVA in Article 15(3)<sup>4</sup>, Article 21 (A),<sup>5</sup> Article 24<sup>6</sup> and Article 45.<sup>7</sup> There are plethora of national legislations for protection of children, (a) The Immoral Traffic (Prevention) Act, 1987, (b) Child Labour (Prohibition and Regulation) Act 1986 (c) Prohibition of Child Marriage Act, 2006 (d) Juvenile Justice (care and Protection of Children) Act, 2000 (e) The protection of Children from sexual offences (POCSO) Act, 2012 (f) Right to Education Act, 2009 etc.

### **Right to Information: The Protection of Child Rights**

Right to Information Act, 2005 is an Act to provide for setting out the practical regime of Right to Information for citizens to secure information under control of public authorities, in order to promote transparency and accountability in the working of every public authority. Under Section 2 (h)<sup>8</sup> the RTI Act, a public authority is mandated to provide information in response to an Right to Information application. This Act is an important Legislation that provides opportunity to civil Society organisations to be involved in governance and social transformation process by using the Act as a weapon to monitor, review and evaluate government policies, programs and schemes.

Education as a fundamental human right lies at the heart of UNESCO's mission and is enshrined in the Universal Declaration of Human Rights (1948) and many other international human rights instruments. The right to education is clearly acknowledged in the United Nations Universal Declaration of Human Rights (UDHR), adopted in 1948, which states:

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages.” UNESCO develops monitors and promotes education norms and standards to guarantee the right to education at country level and advance the aims of the

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<sup>4</sup> (3) Nothing in this article shall prevent the State from making any special provision for women and children.

<sup>5</sup> The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

<sup>6</sup> No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

<sup>7</sup> Provision for free and compulsory education for children The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years

<sup>8</sup> “public authority” means any authority or body or institution of self-government established or constituted,—

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any—

(i) body owned, controlled or substantially financed;

(ii) non- Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

Education 2030 Agenda. It works to ensure State's legal obligations are reflected in national legal frameworks and translated into concrete policies. The UNESCO Convention against Discrimination in Education occupies the foremost place among UNESCO standard-setting instruments in the field of education. It is the first international instrument which covers the right to education extensively and has a binding force in international law. The Right to Education Act, 2009 explains that schools have duty to give information to local bodies or Government. Section 12(3) says "every person shall provide such information as may be required by the appropriate government or local authority as the case may be. If school is established by the government or aided, it has to provide that information as public authority under Right to Information Act, 2005 to every citizen seeking that information. Hence Right to Information Act, 2005 provides all the protection to the children.

### **Judicial Approach towards Protection of Child Rights**

The judiciary has been playing significant role in protection in promoting the rights of children and their welfare. Justice koka Subbarao has remarked, "Social justice must begin with child. Unless tender plant is properly nourished, it little of growing in to strong and useful tree. So first priority in the scale of social justice should be given to the welfare of children. " In *Bachapan Bachaoo Andolan v Union of India*,<sup>9</sup> the Supreme Court of India stated that there are no labour or any welfare laws, which safeguard the rights of children. They are abused physically, emotionally and sexually in shelter homes and directed to conduct contemporaneous raids to liberate the children and check the violation of fundamental rights of the children. In *Gourav Jain Vs Union of India*<sup>10</sup> the Supreme Court of India, which is the sentinel in the qui vive, is enjoined to protect the children who are in inhumane and degrading conditions, and to grant them the constitutional right to freedoms, protection, rehabilitation and treatment by the social engineering, in law, constitution and appropriate administrative measures so as to enable them to work hand-in-hand to live with dignity and without any stigma due to their past conduct tagged to them by social conditions, unfounded customs and circumstances which have become blot on the victims and their children. They too are entitled to right to equality, fair and adequate facilities and opportunities to develop their personality with fully grown potentiality to improve their excellence in every walk of life.

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<sup>9</sup> AIR 2011SC 3361

<sup>10</sup> AIR 1990 SC 292

The Apex Court in *Sheela Brose v. Union of India*,<sup>11</sup> held that child is a state blessing and it is the responsibility of the state to focus behind the child with a perspective to guarantee proper development of its personality. The Apex court in *M.C. Mehta v State of Tamil Nadu*<sup>12</sup> explored certain ways through which the problem of Child labour can be solved. It stated that the problem of Child labour can be solved by insisting on compulsory education. Poor citizens don't send their children to schools due to lack of money. Therefore unless a family is provided with a stable source of income the problem of child labour will not be solved. Since, it is not possible for such parents to educate their children, the state owes a duty to come forward and discharge its obligation in this regard. In the case of *Mohini Jain v. State of Karnataka and others*<sup>13</sup>, this Court held that right to education is a fundamental right enshrined under Article 21 of the Constitution.

The right to education springs from right to life. The right to life under Article 21 and the dignity of the individual cannot fully be appreciated without the enjoyment of right to education. A writ petition was filed under Public Interest Litigation in order to protect school children against similar future tragedies and to improve the conditions of the schools in the country. The Supreme Court issued notices to the Union of India, State Governments and the Union Territories. As twenty-seven States and Union Territories filed affidavits admitting that many schools did not meet their self-determined safety standards (which were in any event below the standards of the National Building Code of India, 2005).

## Conclusion

Child should not be subjected to unfair discrimination while being educated, and simultaneously, the child should learn to deal with others similar and different from him or herself in ways that are not unfairly discriminatory. Marginalized children and adults can lift themselves out of poverty and participate fully in society. Millions of children remain deprived of educational opportunities, many as a result of social, cultural and economic factors. Education itself is an empowering right and one of the most powerful tools. The role of Judiciary is commendable for its Consistent rulings in favour of the rights of the Child. In Plethora of Cases Supreme Court declared that Right to Information as a fundamental right which is integral and part of freedom of speech and expression under the Act 19 (1) (a) and denial of information amounts to violation of right to life and Personal Liberty. Hence,

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<sup>11</sup> 1993 Supp. I SCR 561

<sup>12</sup> AIR 1997 SC 699

<sup>13</sup> (1992) 3 SCC 666

obviously, this right has created a legal duty in the Public Authorities concerned to acknowledge the information received and report action taken thereon.

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