

Child Rights in India : Evaluation of the Impact of Right to Education

Kaneez Fatima¹, Ravi Kant Gupta²

Abstract

Children, being the most important human resource of a nation, need focused attention in terms of their education, health and safety. A solid foundation of a civilized society cannot be built as long as ignorance and weak will hold sway. Although we can strengthen the foundation of our society by giving proper education to children, the growing disparities in social and economic factors within our society highlight the need to provide free and compulsory education to children, which India has justified by bringing the Right to Education Act 2009 formally recognized. However, despite these educational programs, reaching a large underprivileged child population and integrating them into the mainstream remains a formidable challenge. In this paper, the researchers highlight the challenges these underprivileged children face in creating effective educational pathways for education, considering factors such as poverty and crime. Thus, this paper not only explores the different perspectives on education and the important role of child education, but also focuses on the underprivileged children. The issue of child education, especially among disadvantaged groups such as street children, slum children and transgender children, demands greater attention. It highlights the challenges faced by children and analyzes both national and international initiatives dedicated to promoting child education supported by contemporary examples.

This paper also highlights the serious consequences arising from the denial of access to education to children. It offers plausible legislative and social solutions to address these consequences that policymakers should consider. This paper aims to encompass a range of solutions that can reduce the adverse consequences of educational deprivation among children.

Keywords- Slum Children, Poverty, UNESCO, Child Right ,RTE

¹Research Scholar, Faculty of Juridical Sciences, Rama University, Kanpur, U.P

²Associate Professor (Law) Faculty of Juridical Sciences, Rama University, Kanpur, U.P

Introduction -

The emerging landscape of development strategies and their outcomes in India underscores the issue of persistent inequality. The most obvious manifestations of this superficial progress can be seen in slum areas adjacent to huge skyscrapers in urban centres. This harsh reality is shocking in the context of the world's largest democracy, India, where this sharp contradiction has persisted for more than seven decades since gaining independence. It is worth noting that slums are not new to India; They have a ubiquitous presence in cities around the world. But it is a matter of regret that amidst the glitter of modern urban life, the plight of the underprivileged children living in these slums is not taken care of. However, the consequences of such apathy are evident in the form of juvenile delinquency, psychological and overall deterioration of the socio-economic environment in Indian cities.

Society must recognize the paramount importance of education, especially for young children. Access to quality pre-school and schooling that accommodates diverse family arrangements is the foundation of lifelong learning. Early childhood is a critical period of life for cognitive and emotional development as well as physical and mental well-being. In the first three years of life, the brain forms neuronal connections and reaches 90% of its adult size. During this time, children learn language and motor skills, learn to form social bonds, and develop emotional regulation. As a result, this early care has positive outcomes on children's lives, and has a profound impact on the later stage, which lasts from 3 to 5 years of age. Quality preschool education provided during this period contributes to better outcomes and progress during primary education. To address this serious social, political, economic and psychological issue, which is prevalent in rural areas but especially in urban poverty-stricken areas, the methods of education of educationally and culturally deprived children living in these slums have been revised. It is very important to focus on improvement. It is widely recognized by educators that these children face many challenges when they enter school, often rendering traditional learning programs ineffective. As a result, a large proportion of them drop out of school prematurely, leading to educational, social and economic backwardness in the future, making them easily trapped in criminal activities. Such children become juvenile delinquents or get trapped in sex rackets and sex slaves. In view of such problems, children and their education should be given

paramount importance in society. This should be the central goal of any civilized nation. They should provide children with a socially healthy environment, proper upbringing of children and provide them with quality education.

Every child is entitled to receive education at the appropriate age, as education is a fundamental right given to every person by birth. The progress and prosperity of a nation is inextricably linked to the quality of educational institutions for the young minds found in its schools and colleges. However, the educational landscape varies from region to region in different countries, resulting in different outcomes for the individual and the strength or weakness of the education system in each region has an impact on that society.

When a large number of children are deprived of elementary education due to their circumstances, the seriousness of the situation becomes more apparent. Juvenile crime and its root causes like poverty, unemployment, illiteracy etc. cannot be ignored and the main reason among these is lack of education. According to the National Crime Records Bureau (NCRB) data, the number of economically deprived juvenile delinquents is increasing, mainly due to lack of education. For example, in 2012, 52.9% of juvenile delinquents apprehended were from families with an annual income of less than Rs 25,000, which increased to 55.6% by 2014. Furthermore, in 2012, about 52% of adolescents were either illiterate or had only completed primary education, a figure that increased to about 53% by 2014. According to the 2011 census report, in India, about 1.37 crore families (17.4% of urban families) live in slums, with an estimated 29.6% of those in Kolkata have children involved in criminal activities. Education plays an important role in establishing a solid foundation for overall social and economic development in any sector of society. The Right to Education Act of 2009 gives children the right to free and compulsory education. Education, as an essential component of human progress, is linked to the economic, social, psychological and political dimensions of the 21st century.

The education of young children is not the sole responsibility of the education sector; it is an integral part of the human resource development of the society and nation. In today's global context, the vital importance of child education in the agenda of every nation is clear. The European Court of Human Rights has defined education in the narrow sense as "instruction or guidance" and in the broader sense as "the entire process aimed at providing children and young people, regardless of their beliefs,

culture, abilities and knowledge, values have to be reached." Be it a developed country or a developing country, the aim of all governments is to develop education as an important player in the journey of development. The right to education is a fundamental aspect of the Education for All (EFA) programme, a UNESCO initiative that aims to ensure "*full and equal opportunities for education for all*" as full and equitable access to high-quality basic education for every child". UNESCO broadly defines this as identifying and addressing various barriers to access to education, including traditional gender biases that prevent girls from attending school and keep limited access to primary school resources in rural and urban areas. Child labor as defined by the International Labor Organization (ILO) refers to work that is harmful to their physical and mental development i.e. deprives children of their childhood, potential and dignity, all work that causes mental, physical, social or is morally dangerous and harmful to the life of the child. There are many factors that are interconnected and contribute to the prevalence of child labour, such as poverty, which pushes children into the labor market either to increase family income or simply to survive, thereby depriving them of educational opportunities. Is deprived. Can get. This perpetuates domestic poverty from generation to generation and prevents economic, mental and social development. Child labor prevents children from acquiring the skills and education needed for good work opportunities in adulthood. Inequality, slow demographic change, limited educational access, cultural traditions and expectations play a role in perpetuating child labour. Factors such as age, gender, caste, ethnicity and deprivation influence the type and intensity of work performed by children. Agriculture and the informal sector are areas where children are often found working. The ILO report shows that the root causes of child labor include lack of sustainable economic development, non-compliance with labor standards, lack of quality education, social protection and lack of recognition of children's needs and rights.

According to the 2011 census, the total child population (5–14 years) in India was 259.6 million, of which 10.1 million (3.9% of the total child population) were children. All these children were engaged in some kind of work or the other. Additionally, more than 42.7 million children were out of school in India. However, there was a positive trend as child labor incidence decreased by 2.6 million between 2001 and 2011, although the decline was more pronounced in rural areas. In 2011,

working children were divided according to the type of work – farmers (26.0%), agricultural laborers (32.9%), household industry workers (5.2%), and other workers (35.8%). Specifically, in 2011, about 55% of all working children in India were employed as child labor in Uttar Pradesh, Bihar, Rajasthan, Maharashtra and Madhya Pradesh. To deal with child labour, India has enacted the Child Labor Amendment (Prohibition and Regulation) Act, 2016 and the Right to Education Act, 2009. This step taken by India is in line with the core conventions of the ILO, which aim to ensure that children do not work as child labour. They must be provided with compulsory schooling before they are ready to work and ensure that their age is safe from doing hazardous work. Globally, child labor remains a significant concern, with approximately 168 million child laborers worldwide (as of 2012). While the number of child laborers is high in Asia and the Pacific, sub-Saharan Africa has the highest number of child labourers. Poverty, hunger and unemployment are high in this area. Accordingly, the number of children engaged in child labor is also higher here compared to other countries.

ILO Convention and Indian Perspective

India has taken steps to eliminate child labor and ensure the right to education for children through the Child Labor Amendment (Prohibition and Regulation) Act, 2016 and the Right to Education Act 2009. These legislative measures are in fact in line with international standards, especially the main conventions of the International Labor Organization (ILO).

Convention No. 138 - This convention sets a standard for the minimum age at which children can start work. It says that the minimum working age of children should not be less than 15 years under any circumstances. However, it allows for possible exceptions for developing countries. But this does not mean that children below 15 years of age should work, Rather it means that in India, children below 15 years of age should not be engaged in any kind of labor which hinders their education or harm their development. There may be exceptions in specific cases where it is necessary for the development of the country, but there must be safeguards in place to ensure the well-being of children.

Convention No. 182 -This convention focuses on the elimination of the worst forms of child labor for children under 18 years of age. It specifically targets hazardous and harmful work that may endanger the physical, mental or moral health of children. By ratifying this Convention, India is committed to taking immediate action to eliminate such forms of child labour. This is an important step to ensure the safety and well-being of children who are exposed to hazardous working conditions. These conventions were of utmost importance as they reflect internationally recognized standards for the protection of children's rights in the context of labor and education. By aligning their laws with these conventions, various countries and India are working towards protecting the rights and welfare of their children. This convention ensures that underprivileged children have access to education and are protected from harmful forms of labour and be safe from.

Percentage of working children (5-14) in India-

In 2001, the percentage of working children (5–14) years in rural areas was 5.9%, while in urban areas it was 2.1%. The total number of working children in 2001 was 12.7 million. In 2011, the percentage of working children (5–14) declined to 4.3% in rural areas, compared to 2.9% in urban areas. The total number of working children in 2011 was 10.1 million.

Distribution of working children by type of work in 2011-

In 2011, the distribution of working children by type of work was as follows:

- Farmers: 26.0% (2.63 million)
- Agricultural labourers: 32.9% (3.33 million)
- Domestic industry workers: 5.2% (0.52 million)
- Other workers (workers other than farmers, agricultural laborers or household industry workers): 35.8% (3.62 million)

Major sectors for working children in India (%) -

In 2001 and 2011, the key areas for working children were divided as follows:

- Farmers: About 26.0%

- Agricultural labourers: about 32.9%
- Domestic industry workers: about 5.2%
- Other workers (except above categories): about 35.8%

States with highest percentage of working children-

- Uttar Pradesh had the highest percentage of working children in India in 2020, at 31.5%, with a total of 3.18 million working children.
- Bihar is in second place with 2.09 million working children, which is 11.7%.
- Rajasthan, Maharashtra and Madhya Pradesh also have a significant percentage of working children under 9.4%, 7.2% and 7.9% respectively.

Overall, these five states (Uttar Pradesh, Bihar, Rajasthan, Maharashtra and Madhya Pradesh) accounted for about 55% of the total working children in India in 2020.

Child labour laws in India -

Child Labor (Prohibition and Regulation) Amendment Act, 2016

This amendment to the Child Labour (Prohibition and Regulation) Act, 1986 has made significant changes in the child labor laws of India. It banned the employment of children below 14 years of age in all occupations and processes, except where a child helps his family in a family enterprise. It also prohibited the employment of adolescents (children between 14 and 18 years of age) in hazardous and health-injurious occupations and processes.

Right to Education Act, 2009 – Although not specifically a child labour law, this Act is an important law that aims to provide free and quality compulsory education to all children aged 6 to 14 years. It ensures children's access to quality education and it also indirectly promotes children's enrollment in schools thereby eliminating, the issue of child labour by reducing school dropout rates.

National Child Labor Project (NCLP) – The National Child Labor Project is a government initiative aimed at bringing child laborers into the mainstream by

rehabilitating them through formal education and vocational training programme. It also provides for the establishment of special schools and training centers to provide education and skill development to child workers rescued from child labour.

Juvenile Justice (Care and Protection of Children) Act, 2015 - Focusing specifically on juvenile justice issues, this Act has provisions relating to rehabilitation and social reintegration of children in conflict with the law or anti-social elements in need of care and protection. Are included. It emphasizes not treating juvenile offenders like adults and focuses on their welfare and rehabilitation.

Bonded Labour System (Abolition) Act, 1976- This law rehabilitates bonded labourers by abolishing this practice and helps them get out of child bonded labour by making provision for their employment. Children are often victims of bonded labour , which this law seeks to free them from such exploitative conditions.

Child and Adolescent Labour (Prohibition and Regulation) Rules, 1988 - These rules provide detailed guidelines for the implementation of the Child Labour (Prohibition and Regulation) Act, 1986. These include provisions relating to hours of work, working conditions, leave, lunch and employment by children and adolescents in unsponsored circumstances. It is very important that over the years, India has been actively working to strengthen its legal framework to combat child labour and improve the living conditions and education of children. In India, the endeavor for overall development of all sections of society is deeply embedded in the Preamble of the Constitution itself. The principles expressed therein, such as social, economic and political, serve as a multidimensional path to achieve justice, of which education for all is an integral and fundamental means. The Indian Constitution embodies a unique philosophy that reflects the ideals, values, hopes and aspirations of its people. Education in the Indian context holds an important place within the framework of the Constitution, The principle of equality of status and opportunity underlies various rights and privileges for the citizens of India. The education of children conforms to the principle that all children should receive free and compulsory education and ensures that the young members of the nation have equal access to educational opportunities. Failure to provide adequate educational opportunities to the youth of the nation will undermine the basic objective of the Constitution. Children, because of

their young age and developing brains, require special care and protection. Children have specific and legal rights recognized nationally and internationally. But in India, the Constitution for the first time explicitly recognizes the rights of children and provides them with freedom, livelihood and holistic development as well as non-discrimination in educational areas and compulsory and free education. Furthermore, the Directive Principles of State Policy, such as Article 45, clearly mention child education. It states that "The State shall, within a period of ten years from the coming into force of this Constitution, provide free and compulsory education to all children until they reach the age of fourteen years." However, even after fifty years of the implementation of the Constitution, this goal has not been achieved. It is important to note that this obligation does not require the state to bear the entire burden; government and aided schools can also play a role in fulfilling this serious responsibility.

In the case of **Mohini Jain v. State of Karnataka and others**, the Supreme Court in its interpretation of **Article 21 (Right to Life and Liberty)** confirmed that the right to education is a fundamental right under the Constitution. This decision was followed by the **Unnikrishnan case**, which limited the right to education to the primary level but did not extend it to higher and secondary education. However, in the **86th Constitutional Amendment in 2002**, **Article 45** was amended to provide for early childhood care and education for all children below the age of six years, thereby constitutionally ensuring preschool education, and also a new article 21A was added to explicitly recognize the right to education as a fundamental right. Furthermore, it is now the fundamental duty of parents and guardians to educate their children (Article 51A) which further emphasizes the importance of education in the Indian Constitution. The **Sarva Shiksha Abhiyan (SSA)**, **launched in 2000/01** with the aim of achieving universal primary education by 2010, specifically has urban disadvantaged children as one of its four special target groups. The National Literacy Mission, which focuses on the age group of 15 to 35 years, now also includes children aged 9 to 14 years outside formal and non-formal schooling. SSA marks an important step towards achieving the long-term goal of Universalization of Elementary Education (UEE) through a time-bound integrated approach in collaboration with states. The mission of SSA is to provide meaningful and quality elementary education to all children aged 6-14 by 2010.

It also emphasizes on eliminating gender and social inequalities, improving the performance of the school system, providing community-owned quality elementary education. In 2006, the Integrated Child Protection Scheme (ICPS) was proposed by the Ministry of Women and Child Development (MWCD), which was later approved by the Central Government in 2009. The objective of this scheme is to create a protective and safe environment for the development of children. It works to support children facing challenging and dangerous situations, reducing their vulnerability to abuse, neglect, exploitation, abandonment and separation. Under ICPS, Integrated Program for Street Children is launched to support street children by providing them with shelter, nutrition, health care, education and recreational facilities while keeping them safe from abuse and exploitation. I went. The program aims to strengthen the rights of children under the United Nations Convention on the Rights of the Child (CRC) and the Juvenile Justice (Care and Protection of Children) Act, 2000 through extensive capacity building through government organizations, NGOs and the communities where these children live. It is noteworthy that the fundamental right to education has been further strengthened and expanded through legislation, especially the Right of Children to Free and Compulsory Education Act, 2009. Due to various legislative efforts, the scope of children's right to education has become wider. Since education was enshrined as a fundamental right within the Constitution, the judiciary has played an important role in enforcing this right. This is exemplified by the landmark judgment of the Supreme Court in the case of **Unaided Private School Society of Rajasthan vs. Union of India and Others**, where the Court has upheld the constitutionality of Section 12 of the RTE Act (Right to Education Act, 2009), all schools, both public and private, are required to reserve 25% of their seats for children from disadvantaged groups. However, the Court ruled that private minority schools could be exempted from this quota to preserve their right to establish private schools under the Indian Constitution.

Additional provisions related to the right to education include Article 21A and the **Right to Education Act, 2009**, which came into force on April 1, 2010. The title of the RTE Act clearly contains the words 'free and compulsory'. 'Free education' means that except those children attending schools not supported by the Government, no child will be required to pay any fees or expenses which might hinder his early

education. 'Compulsory education' places the responsibility on the government and local authorities to ensure that all children aged 6–14 enroll in school, attend school regularly and complete their primary education. India has thus transformed into a rights-based framework that legally binds the Central and State Governments to uphold this fundamental child right enshrined in Article 21A of the Constitution, as per the provisions of the RTE Act, 2009. This law guarantees the right of children to receive free and compulsory education up to the age of 14 years. It clearly defines "compulsory education" as the responsibility of the government to provide free elementary education and to ensure that every child between the ages of six and fourteen years is obliged to enrol, participate in and complete primary education. No such burden will be imposed on children or their parents which may become a hindrance in their getting primary education. The word "free" means no fees, charges or expenses of any kind imposed on any child which may hinder him in pursuing and completing his elementary education. The Act outlines the procedures for admitting children who have not previously been enrolled in classes even if they are of appropriate age. This Act delineates the duties and responsibilities of the concerned government bodies, local authorities and parents in providing free and compulsory education. It specifies how financial and other obligations will be shared between the central and state governments. The law establishes norms and standards, including student teacher ratio (PTR), infrastructure requirements, minimum school days and teacher working hours. It emphasizes equitable distribution of teachers to ensure that the student-teacher ratio specified for each school is maintained, thereby avoiding urban-rural disparities in the appointment of teachers.

The Act prohibits teachers from engaging in non-academic work, except in specific circumstances, such as decennial census, local authority elections, state legislatures, Parliament and disaster relief efforts. This makes it essential to appoint adequately trained teachers. Under this Act, practices like discriminatory admission process, corporal punishment, mental harassment, capitation fees, private tuition by teachers and running of unrecognized schools are also declared illegal. There is a need to develop a curriculum in line with the values enshrined in the Constitution, which promotes the overall development of children and builds their knowledge, abilities and talents, This act ensures that children are provided with a learning environment

that is free from fear as trauma and anxiety do not create child-friendly and child-centred conditions for education.

Many states in India have actively included orphans, HIV affected children, transgender children and children of manual scavengers among the disadvantaged groups. “Children belonging to disadvantaged groups” The Right to Free and Compulsory Education (RTE) Act is very important for the education of such children. The RTE Act of 2009 defines 'child belonging to a disadvantaged group' as any person or group belonging to the Scheduled Castes, Scheduled Tribes, Socially and Educationally Backward Classes or any person or group facing social, cultural, economic, geographical, linguistic, gender or Defines as. An amendment in 2012 expanded this definition to include children with mental and physical disabilities entitled to free education in special schools. However, there is a need to broaden the concept to include other disadvantaged children. Further, to reaffirm the government's commitment to a rights-based approach to addressing ongoing and emerging challenges related to children, the Government of India In, 2013, a resolution was adopted on the National Policy for Children. This policy is designed to guide and inform all laws, policies, schemes and programs affecting children, insisting on adherence to its principles and provisions. The objective of the program is to support those projects in urban areas. Those who are not already covered under the existing schemes of the Ministry of Labor focus on the holistic development of child workers and potential child workers, especially those who lack effective family support. , like children living in slums/footpaths, children with drug addiction. , who live on railway platforms, work in shops, or are engaged as domestic servants. It also addresses children whose parents are incarcerated, children of migrant workers, sex workers, leprosy patients, etc. Recently, a notable incident occurred where the Maharashtra State Commission for Protection of Child Rights directed the state government to provide school education and accessible public transport services to children living in slums. Most of these children are between 6 and 8 years of age and cannot travel alone because of their parents' daily wages. The increase in fares has hindered access to school, violating the provisions of the **Right to Education (RTE) Act (2009)**. Affordable BEST bus services are considered essential to solving this problem. The National Action Plan outlines the goals, objectives to improve the nutritional status of children, reduce infant mortality, increase enrollment ratio, reduce school dropout rate, universalize primary education and expand immunization coverage . outlines

strategies and activities, in line with national efforts to ensure education for children. The government has also adopted various schemes for the welfare of children, including the Balika Samridhi Yojana (BSY) implemented for slum children.

Launched in 1997, Balika Samridhi Yojana (BSY) aims to uplift the status of girls, change negative attitudes towards them, increase their enrollment and retention in schools, delay the age of marriage and create income opportunities. Incentives include a gift and an annual scholarship for girl's education. The scheme was revised in 1999–2000 to provide grants and scholarships after birth according to the class of the girl child. A portion of this financial assistance can be used to pay the premium on the insurance policy in the name of the girl child under the **Bhagya shree Girl Child Welfare Insurance Scheme**. Despite various measures taken by the Central and State Governments, local authorities and NGO s to address the education, health and other problems of slum children, it remains difficult to secure the rights of these children and improve their lives. More concrete strategies are needed because very little work has been done. Public policies regarding street children have been enacted over the past two decades, but they have often proven ineffective due to inadequate understanding of the needs of street children. Diligent adherence to the contemporary legal framework is necessary to address the plight of disadvantaged children with regard to education because basic education and care to underprivileged children is tantamount to depriving them of the essence of life by violating their right to life in every sense.. The efforts of the National Commission and State Commissions for the protection of children rights are commendable, yet the challenges faced by slum-dwelling children are serious and require immediate attention. The mobility of the slum population, which is constantly on the move in search of daily employment, poses a significant challenge to the effective implementation of welfare schemes. The nomadic nature of slums poses a significant challenge in effectively implementing welfare schemes. A large portion of India's daily wage labor force migrates from one place to another in search of daily employment, making it difficult to consolidate data and provide essential services like education due to this migratory lifestyle. To address this problem, a well-equipped fleet of mobile school vans can be set up to look after the children of these migrant families. States can adapt the infrastructure within the guidelines laid down by the RTE Act, even amending it to set up "alternative schools" if necessary. These schools will meet the specific educational

needs of the most disadvantaged and migrating children, as well as children living in challenging circumstances, as a way of reducing the problems of children deprived of education.

Conclusion

In an innovative move to overcome the shortage of classrooms in tribal areas, Maharashtra State Road Transport Corporation (MSRTC) is planning to re-use scrap buses into classrooms for schools. NEP 2016 aims to tackle the issue of pre-schooling for disadvantaged groups by giving priority to pre-school education programs for children aged 4 to 5 years. Collaboration with the Ministry of Women and Child Development is envisaged for efficient implementation. To effectively reach out to slum and street children, input and advice may also be sought from NGOs and related institutions in the concerned areas. The Integrated Child Development Services (ICDS) program by the Ministry of Women and Child Development aims to provide early childhood education, an approach that can be implemented only with the active participation of social institutions and NGOs. Many research shows that tribal children often struggle to understand and learn the regional language, which is typically the medium of instruction. To overcome this barrier, efforts should be made to introduce multilingual education wherever necessary. This language-friendly approach can extend to tribal children as well as children living in slums and on the streets. The discussion on children and their fundamental right to education requires more social awareness than legislation. Initial observations suggest that street children in India often leave their homes due to family disputes, alcoholic parents, family financial needs or caring responsibilities for siblings. As a result, they find themselves living on the streets, shouldering the responsibility of earning their livelihood and sometimes supporting their families. Although these children may sometimes form groups for protection, they are often exploited by employers and sometimes law enforcement. Specific legislation is needed to address the vulnerabilities of children. Although such actions may take them away from the mainstream child education programme, it is more necessary to establish an independent child education program to meet these challenges. The government and concerned institutions should keep a vigilant vigil to ensure effective implementation of various child education programmes, schemes and policies, thereby advocating the right of these poor and deprived children to education.

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