

Abandoned children and their Human Rights in India

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Abstract

Child abandonment plays a crucial role for the development of a country especially in India. One of the serious problems is the number of abandonments occurred by which alternate care system is provided to the abandoned children. Leaving the child right away after birth seems no less, and in some cases even more catastrophic for the child, than his taking away from the family at a big period. However, various principles are adopted by the abandoned children. They are the ideals, aspirations, ambitions, future hopes in the shape of great philosophers, rulers, scientists, politicians, able legislators, administrators, teachers, judges, technologists, industrialists, engineers. Millions of children around the world are exploited, abused and discriminated. Children faces problems of infant mortality, child marriage, maternal mortality, and the phenomena of child widows, sex tourism and child trafficking are some of the national borders are responsible for child abandonment.

Keywords: *Human Rights, Abandoned Children, Child right, Principles for Children, Protection*

I. Introduction

Child abandonment, his isolation from the family and from family upbringing is a serious problem existing nowadays in India. Out of the paths contributing to social orphanhood in the India of last is newborn child abandonment. One of the serious problems came to the level where the number of abandonments exceeds the capabilities of an alternate care system, and most of the abandoned children in the parenthood hospitals foremost become the inmates of infant orphanages, or so called children's homes, and after orphanages, thus replenish the category of orphans.

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Leaving the child right away after birth seems no less, and in some cases even more catastrophic for the child, than his taking away from the family at a big period. It is in his childhood the child movements the uppermost rate of growth; during this period he obtains the furthestmost amount of knowledge and skills, and the received information is greater than ever and complicating the arrangement of the brain, creating a base for additional expansion of the child and for the most part defining it. The non-governmental organizations are conducted a sequence of interviews and surveys with managers and specialists in education, health care, and guardianship establishment in order to make out the causes of child abandonment, as well as to analyze the location in the midst of women at risk of abandonment.

The analysis of situations in which mothers abandoning children found themselves revealed the causes of child abandonment typically include a combination of the following factors in different variations:

- out-of-wedlock birth;
- lack of housing, employment, education, income generation, registration of documents;
- lack of support on behalf of the child's father, parents or other loved ones;
- fear of publicity and public condemnation;
- birth of a child with developmental disabilities (Down syndrome, other forms of diseases or malformations);
- HIV infection of the mother;
- Mother's vulnerability (vagrancy, drug addiction, alcoholism, etc.).

The following principles are some of the basis of providing social services as part of the developed program:

- The principle of ensuring the rights of the child;
- The principle of keeping the child within the family and preventing his separation from the family;
- The principle of social justice, i.e., the availability of social services, regardless of the user's origin, common status, gender, and spiritual affiliation;
- The principle of as long as particular social services in the instant surrounding area to the place of house of a family and a child;
- The principle of fast intervention in the state of affairs linked with a high amount of risk to life and physical condition of the child;

- The principle of an included approach to the user's uniqueness and his family.
 - Description of the acknowledged harms (medical, social, psychological);
 - Planned behavior aimed at eliminating / minimizing the harms identified;
 - Suggestions for professionals, interagency structures and institutions that require interacting in the process of help in resolving the evils of the family.
 - the principle of participation envisages the involvement and cooperation of responsible parties at all stages of interagency cooperation in order to protect the rights of the child;
- b) the principle of transparency, according to which the parties involved in the
- process, cooperate for preventing child abandonment based on clear and accessible algorithm;
- c) the principle of effectiveness, according to which the responsible parties
- involved in the identification, evaluation, coordination, solution and monitoring the problems of families and children at risk;
- g) the principle of professionalism and responsibility, according to which the parties shall take reasonable steps and are responsible for actions taken (not taken);
- d) the principle of an integrated approach to the needs of children and families, according to which all the specialists involved provide a comprehensive approach to the problems of health, development and protection of the child;
- e) the principle of consistency, which includes an assessment of inter-agency cooperation mechanism through the analysis of quarterly (annual) reports on the implementation of the mechanism of inter-sectoral collaboration;
- g) the principle of decentralization, providing a clear distinction between the functions and responsibilities of entities involved at various administrative levels.

Lack of well-functioning and effective interaction between the structures involved in solving the problems of prevention of child abandonment; management related not solving, delays, shifting responsibility for solving the problems of families, and mothers at risk; inconsistencies in regulatory framework, gaps in the legal acts relating to the system of children's rights protection at the national and local levels; lack of services for families and children in difficult situations. There is no a single and clear mechanism for interaction with public authorities in the prevention of child abandonment, a unified action protocol is not available: these reasons are described in detail in Part I of the manual. As for the inconsistencies in the legal framework, they often lead to inefficient action to prevent child abandonment, prolong the duration of the child's stay in the facility or limit the possibility of

mother and family members to visit the child and, as a consequence, destroy the unstable maternal affection.

II. Methodology

Methods of research are many and vary from approach to approach adopted for the study. It has been rigidly contended that, the research is the systematic activity to achieve the truth and it includes the procedure of collecting data, analyzing the data and finding the conclusions of truth.

There are two main types of research to deal with the problem on hand:

- 1) Doctrinal or Traditional or Non- empirical Research Method
- 2) Non-Doctrinal or Empirical Legal Research

Doctrinal Research involves analysis of case Law, arranging, ordering and systematizing legal propositions and study of legal institution through legal reasoning or rational deduction. The present work is a combination of socio-legal survey method and analytical method of research. The researcher analyses the concept of abandoned children at various stages. For the successful completion of Research study, the researcher has adopted a combination of both doctrinaire and non-doctrinaire methods. Data is collected from primary and secondary sources.

II. Protection of children's rights

Abandonment of a child - is a complex social phenomenon that has become extremely important nowadays. Findings and generalizations drawn from the lead to the conclusion that the old system of state social protection for orphans aimed at treatment of effects not only does not lead to a decline in their number, but also creates enormously unenthusiastic penalty. On account of the growth of people who suffer from alcoholism, drug addiction, mental illness and desocialization and criminal personalities, single-parent families, which are the main contingents supplying institutions for orphan children, there is a progressive worsening of the inherited individuality of these children. Over the years of reform as a result of the misery of huge number of people, unwinding of the usual moral standards, as well as growth of prostitution, alcoholism and drug abuse among women of childbearing age, the number of cases of child abandonment penetratingly increased, not only in the town but also in the early years of a child's life. These problems is chiefly sharp in large cities and industrialized areas. Features formed over a long period of social consciousness in terms of acute negative

approach towards a mother, forced to give up her child, often determine deep shocking state for her rejection situation.

The main reason for the low efficiency of social protection of children should be required deeper than among the evils and shortcomings lying on the face. It seems that the main cause for the uselessness of the system is strong-minded by the nonattendance of the normal performance state legal system, coordinated communication of bodies and agencies accountable for a variety of aspects of the state system of anticipation as well as specialists of different professions. In this connection it is necessary to mention the defensive feature in working with dysfunctional families, to fragment on the development and implementation of special techniques for such work, the involvement of civil sector to create conditions for a family to triumph over hard life situation.

Children are the future custodians of independence – justice, liberty, equality, fraternity and lastly international peace and security. They are the ideals, aspirations, ambitions, future hopes in the shape of great philosophers, rulers, scientists, politicians, able legislators, administrators, teachers, judges, technologists, industrialists, engineers, workers etc. by which the country take place.

Nature has provided some basic rights to every human being particularly to the children. The fundamental rights includes from the very inception. Human rights Instruments are specific to the rights of the child. The Declaration of the Rights of the Child 1924 adopted by the fifth assembly of the League of Nations can be seen as the first international instrument dealing with children's rights. Millions of children around the world are on various grounds are exploited, abused and discriminated against armed conflicts, sexually exploited, conflict with the law or in the case of the state as well as children living on the streets, coping with disabilities or suffering from discrimination because of their religious or ethnic-minority status. On the other hand, children were recipients of welfare measures. The rights approach is mainly concerned with issues of social justice, non-discrimination, equity, and empowerment. Thus the unique vulnerability of children their rights are of priority concern within in India played a key role in the negotiations that led to the adoption of the United Nations Convention on the rights of Child in 1989.

The need for child protection arises on account of the right to protection. Thus it not only includes violence, abuse and exploitation but also children are suffers various adverse situations. The requirement to protect in order to ensure that they remain within the social security and protection but also children perceived real danger / risk to their life, their

personhood and childhood. The need to protect some children arises on account of specific socio-economic and political behavior and geographical situation as mentioned below:

1. Homeless children (pavement dwellers, displaced)
2. Refugee and migrant children
3. Orphaned or abandoned destitute children
4. Children whose parents cannot to take care of them
5. Street and working children.
6. Child beggars
7. Trafficked children
8. Child prostitutes
9. Children of prisoners
10. Children affected by conflict
11. Children of prisoners
12. Children affected by disasters both nature and manmade
13. Children belonging to religious ethnic groups
14. Disabled children
15. The girl child
16. The unborn child
17. Children conflict with law
18. Children who are victims of crime

Importance of Human Rights Education to abandoned children

- Article 42 of the Convention on the Rights of the Child stipulates that children have the right to know their rights.
- To increase respect for human rights about rights is the first step in promoting greater respect for human rights
- Human rights are globally recognized. Adults who work are constantly faced by the children trying to determine with behaviours are acceptable. Human rights education provides a clear framework to intervene by referring to the users based on directly from the Universal Declaration of Human Rights.
- To encourage the development and progress of self-esteem and active participation they began to recognize their own importance and they also realize that they live, think and feel their value and that they can make a positive contribution to the life of the group, of

their family, their school and their community which would encourages children to become more actively involved.

- Human rights education is the most effective ways of encouraging positive behavior on account of both critical reflection and also strengthening the child's sense of responsibility. Human Rights education encourages children to reflect interact with others
- The United Nations Convention on the Rights of the Child represents in the international movement on behalf of child rights. It provides legal standards or norms for the protection and well-being of children. Child soldiers, juvenile life without Parole are the major child right issues.
- Children do terrible crime as they held responsible which affect social capability for reflection.
- Across the world, children miss-out on their education because of :
 - They are made to work
 - They are recruited into armed forces
 - Their families do not have the means to pay for schooling
 - Indirectly they are recruited into armed forces
 - Discrimination and racism undermine their chance to receive an education
 - They face violence as they pursue education.

The convention on the rights of the child defines basic rights of the children which include:

1. The right to education as 50% of children aged about 6-18 do not go to school. Dropout rates increase alarmingly in class III to IV.
2. The right to expression: Every child has a right to express himself freely which way he likes.
3. The right to information: Every child has a right to know his basic rights and his position in the society. High incidence of illiteracy among the deprived and under privileged children prevents them from having access to information about them and their society.
4. The right to nutrition: More than 50% of India's children are malnourished as the adolescent boys are malnourished one in every two girls in India is undernourished.
5. The right to Health care: 58% of India's children below the age of 2 years are not fully vaccinated and 24% of these children do not receive any form of vaccination. Over 60% of children in India are anaemic.

6. The right to protection from abuse: There are approximately 2 million child commercial sex workers between the age of 5 and 15 years and about 3.3 million between 15 and 18 years. They form 40% of the total population of commercial sex workers in India 500,000 children forced into this trade every year.
7. The right to development: Every child has right to development that child explores his/ her full potential living conditions of underprivileged children prevent them from growing in a free and uninhibited way.
8. The right to recreation: Every child has a right to spend some time on recreational pursuits like sports, entertainment and hobbies to explore and develop.
9. The right to name and nationality: Every child has a right to identify himself with a nation. A vast majority of underprivileged children in India are treated like commodities and exported to other countries as labour or prostitute.
10. The right to survival: Of the 12 million girls born in India, 3 million do not see their fifteenth birthday and a million of them are unable to survive even their first birthday. Every sixth girl child's death is on account of gender discrimination.
11. Creating of child rights: Awareness among the society is the first step towards protection and realizing children's rights.
12. The survival, development and protection of children fall either in the Concurrent or in the State list. The 73rd and 74th constitutional amendments have been put in the State government i.e., Panchayati Raj Institutions (PRIs) for financial and administrative powers and listed the subjects falling in their area of activities, a number of services have a direct bearing on children.
13. Right to health being a basic Human Right for the abandoned children under the Fourth Plan which is accorded high priority to Mother and Child Health Programme (MCH).
14. Uncontrolled families, extreme poverty, illiteracy result in provision of very little care to the child during the early formative years. Even services that are freely available are poorly utilized. The urban underprivileged, migrating population (a very sizable number) and rural communities are particularly affected. In large cities, there are serious problems of street children (abandoned and often homeless) and child labourers, employed in menial work. Children in difficult circumstances such as children affected by disasters, those in conflict zones, refugees, HIV AIDS need appropriate care and rehabilitation. A large majority these births are among the

underprivileged section of the population, mostly unplanned and where the parents cannot provide proper care to their children. The situation of the newborn and the periods of infancy and early childhood are particularly critical and the morbidity and mortality rates continue to remain very high. Maternal under nutrition, unsafe deliveries, low birth weight babies and poor newborn care, lack of adequate immunizations, poor nutrition, neglect of early development and education are major issues that need to be appropriately addressed. Child rearing practices reflect social norms and very often adverse traditions are passed from one generation to the next, especially in illiterate and poorly informed communities, and are extremely resistant to alter. As per Government of India (2007) survey, the prevalence of all forms of child abuse is extremely high (physical abuse (66%), sexual abuse (50%) & emotional abuse (50%).¹ In these contexts, India must also seek its own insights and way forward plans to protect their children.

15. In India, rapid urbanization is a challenging problem. The present urban population of India is close to 285 million. Preventive social services are abysmal, with high prevalence of abuse & neglect. It is estimated that every year about 2 million children are born amongst urban poor, all needing care and protection. The ICANCL
16. group members volunteer their services for health care & rehabilitation to these vulnerable children at drop in centers (DIC) managed by PCI, a NGO in various slums of the New Delhi. The group also looks after health of street children at one short stay home (Shelter home) in outskirts of the city.² The group has served more than 14,000 street children since year 2000. A shelter home was started in year 2005, where 347 children have been rehabilitated; provided with formal education, vocational skills & job placement. Home repatriation has been achieved in 350 children³.
17. Children should have knowledge regarding life skills, child rights and participation. Moreover, Governments should encourage public discussions on child maltreatment. The media has an important role to play in this regard. Legislation alone will not bring sufficient impact unless awareness and public attitudes are changed! Nevertheless, adequate Legislative framework and their consistent implementation & enforcement

¹ . Ministry of Child and Women Development, Government of India, Study on Child Abuse: India 2007.

² . Seth, R., Banerjee S.R., Srivastava, R.N., National Consultation on Urban Poor, CANCL News, 2006 : 6(2):

³ . Seth R, Kotwal A, Ganguly K.K., An ethnographic exploration of toluene abusers among street and working children of Delhi, India, Subst use and Misuse 2005:40: 1659-1679.

are very important. Beyond rationalization of existing laws, the main challenge in India remains their enforcement and the fact that there is a certain degree of impunity for those violating the law

III. Challenges Ahead

Advanced Countries like In India, Children faces problems of infant mortality, child marriage, maternal mortality, the phenomena of child widows, sex tourism and child trafficking are some of the national borders for prostitution. There are several challenges ahead as the girl child are facing different problems like socially disadvantaged. The Indian legal system has to evolve a great deal for securing the rights of the child and providing justice to the child.

The core value of the universal legal principle that policies be made, structure and processes be established and actions be taken which are always and invariably in the best interest of the child should be followed. Child is a sprout, let it bud as a flower with nutrition of rights, with fruits of freedom and with care and attention not only from parents but also from the state under the auspices of the society. The struggle for realization of the rights of the child is going to be a long journey

Children are individuals: They have equal status as members of the human family. Children start life as totally dependent beings: Children must rely on adults for the nurture and guidance they need to grow towards independence.

Children start life as totally dependent beings; Children should rely on adults for the nurture and guidance they need to grow towards independence. The actions, or inactions, of government impact children more strongly than any other group in society:

Children's views are rarely heard and rarely considered in the political process. Many changes have been taken place like transformation of family structure; globalization, shifting employment patterns, and a shrinking of social welfare net in many countries all have strong impact on children.

IV. Protection of rights of children by the government

The government needs to demonstrate this commitment through the acceptance and recognition of problems, formulation of appropriate policy, strong legal frameworks and programming, and allocation of adequate resources to programs. The following rules are adopted as per the law are the :

- a. Juvenile Justice (care and protection) Act, 2000

- b. Ratification of the Optional Protocols
- c. The National Plan of Act, 2005
- d. The National Policy for Children, 1974
- e. Study on child abuse 2007

V. Recommendations: Prevention of Child rights violation

1. Sexual education for children
2. Punishment awarded who commit the acts against child
3. Create support centres for victims
4. Set up free phone lines to break the silence
5. Ensure Children's safety
6. Educate children about sexual violence
7. Ratify and conform to laws protecting children
8. Create preventative laws
9. Create committees for eliminating violence against children
10. Find healthy ways for children to spend their free time
11. Limit TV Channels
12. Launch awareness campaigns for the group of people
13. Create local committees for child protection

(a) At work place

1. Respect children
2. Educate employers to listen to children
3. Ensure employers to listen to children
4. Ensure children safety at work
5. Value alternative education methods
6. Encourage and support the development of child led organisation

(b) At school

1. Increase the number of education advisers and sensitize teachers about corporal punishment
2. Create councils for discipline in schools that can work in partnership with children organizations establish and disseminate internal rules of conduct.
3. Ensure children security in schools
4. Parents have to accompany younger children at school
5. Offer alternative punitive measures

(c) At home

1. Teach parents how to communicate with their children
2. Prioritise dialogue with children
3. Train them on education without violence
4. Offer alternative disciplining methods
5. Inform parents about child rights and laws that ban corporal punishment
6. Alleviate poverty and increase family benefits for children
7. Adopt and implementation of laws on violence against children
8. Other recommendations to government of India to prevent child rights on violation
9. Child help line telephone numbers should be in place and popularize by means of advertisements campaigns.
10. Strict law to be amended on TV channels which telecast and encourages violence, sex and vulgar programs
11. Special police stations for protecting child
12. From local communities with volunteers for campaigning and creating awareness on child rights.
13. Schools to have awareness classes for Child Rights

(d) NHRI's and Children rights

- Investigate child related complaints
- Monitor compliance of International human rights instruments focusing on children
- Advocacy on child rights
- Educate masses /population on child rights
- Source of information on child rights and emerging issues on children
- Promote the rights of children at all levels
- To examine any judicial, legislative decisions in relation to child rights
- To comment publically as it sees fit on any or specific situation of child rights violations
- To promote ratification of any IHR Instruments on child rights
- To publicise child rights with the aim of increasing public awareness
- Freely and without any hindrance consider questions falling within its competence for the protection and promotion of child rights
- Hear any person and obtain information or any other evidence necessary for child rights protection

- Carry out investigations in matters in connection with matters of child rights
- Lobby for Nation policies for the promotion and protection of child rights

VI. Role of Judiciary and Human Rights

The Supreme Court and different High Courts of different states plays an active role for the child rights. The apex court in various judgments have played in various capacities for the rights of child. In *Laxmikant Pandey vs. Union of India*⁴ on adoption of children. On the other hand, the *Shiela Barse vs. Union of India*⁵ on trafficking of children. Unlike it is observed that *Vishal Jeet vs. Union of India*⁶ problems of child labour. *Vishal Jeet vs. Union of India*⁷ on Problem of Child Prostitution. *Unni Krishnan vs. State of Andhra Pradesh*⁸ on Education of Children. *Gaurav Jain vs. Union of India*⁹ on Problems of Prostitution and Children forced into Prostitution. *Gita Hariharan vs. Reserve Bank of India*¹⁰ on Guardianship. *Centre for Enquiry into Health and Allied Themes (CEHAT) & Others vs. Union of India & Others*¹¹. In accomplishing the milestones, both at the countrywide and worldwide level, the non-governmental and universal humanity organizations have played a uniformly significant role along with the Government in practically every characteristic regarding children. The media too has played a serious role in determining public opinion and creating mass responsiveness. The Government of India and UNICEF two-way initiatives over the years have focused on pleasing to the eye the capacities of the electronic and print media employees in the Ministry of Information and Broadcasting so as to join together and correspond to issues relating to children and their rights successfully. As a result, the media is regularly focusing on children's issues in a qualitative way. This is definitely a positive sign for the prospect and it is hoped that the media will add to its accountability to comprise monitoring of child rights violations in a noteworthy and unrelenting method. Children in India represent various cultures, religions, castes, communities and economic groups. It is the major responsibility of all concerned to make certain that proper groundwork is laid in the in the early hours stages of children's life, so that their possible is correctly harnessed for the enlargement and expansion of the country. As per Articles 14, 15, 17, 25-28, 29 and 30 of the Constitution of India intend to protected social and economic impartiality to all as well as take away all kinds of biases.

⁴ . AIR (1984) SC 469, AIR (1986) SC 276, AIR (1987) SC 232

⁵ . [AIR (1986) SC 1883, AIR (1988) SC 2211]

⁶ . [JT 1990 SC 263]

⁷ . [1990 (3) SCC 318]

⁸ . [1993 (1) SC 645]

⁹ . [1997 (8) SCC 114]

¹⁰ . [(1999) 2 SC 228]

¹¹ . [2000 SC 301].

VII. Role of National Human Rights Commission

The NHRC plays a crucial role for protecting the children's right. The Commission in various circumstances concentrated its attention on preventing and eradicating the evils of child labour, child marriage, child trafficking and prostitution, child sexual violence, female foeticide and infanticide, child rape, HIV/AIDS in children and the problem of juveniles. Further, there being major provisions in the Constitution of India for existence, development and protection of children as well as laws to preserve their interests. The Commission also emphasized for a vigorous and comprehensive national campaign against female foeticide and infanticide during the course of regional and national consultations on Public Health and Human rights on different issues. Mass of the complaints handled by the Commission on various issues relating to child labour, child marriage, child rape, juvenile justice, child trafficking, child rape, missing children, exploitation of children of varied kinds, deaths in juvenile/observation homes, etc.

VIII. Conclusion and suggestions

The Supreme Court and High Courts play an important role for the protection of human rights of abandoned children in India. The National Human Rights Commission take necessary steps for the protection abandoned children. It is observed that children run away from their homes. It cannot be ignored that many of the children are taken away against their violation. It is merely reduced to a General Diary (GD) entry which then passes through various information dissemination channels and finally rests in the National Crime Records Bureau's (NCRB).

Further it is also observed that there is strong opinion made legally where children are reported to be missing. This makes the police more accountable and under the direct control of the courts. The NHRC also feels that states need to implement different guidelines in right earnest so as to nip this evil in the bud. The NHRC also come under notice that the lack of an established protocol for verifying the age of the survivors leads to the exploitation of loopholes in the ITPA and Juvenile Justice Act. The survivors, if they are below the age of 18 are sent to Child Welfare Committee (CWC) as prescribed in the Juvenile Justice Act. This could lead to them being taken away from the clutches of the criminals. However since most of the trafficked persons do not have adequate records to prove their age, they are shown as adults using falsified documents presented mostly by pimps and middlemen. It is shown from studies that in most cases, the survivors are 'bailed out' by pimps and middlemen.

A standard Operating Procedure has been made in order to missing and found children appears to be have been issued by the Commissioner of Police, New Delhi.
