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Children's Right to Health in View of Drug Addiction

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Abstract

Children are considered as the most valuable investment for any country for today's child will become tomorrow's adult; a representative of a country; a working asset; as well as nation's pride and honor. Therefore, child's growth and development in directly associated with national growth in coming future which makes it prominent to provide best of what ought to be provided to them. India bears National as well as International obligations towards child rights protection and enforcement. The Constitution of India as well as various other legislations lay down framework towards child rights in India. Internationally speaking, India is a signatory member to International Covenant on Civil as well as to Political Rights, International Covenant on Economic, Social and Cultural Rights as well as UN Child Rights Convention.

A severe health issues have emerged among kids in recent years where drug addiction is usually introduced amongst children through substance usage, which has extremely detrimental effects on both the physical and emotional health of children. Compared to adults, it has much more severe repercussions. Moreover, reports suggest its continuous rapid growth in India through consumption of cigarettes, marijuana, opium, and other more sever drugs. The ease at which these drugs are accessible to them requires serious brainstorming. This paper tries to study and highlight the same issue of drug addiction among children.

Keywords: Substance Abuse, Children's Health Rights, Drug Addiction, ICDS Scheme, Psychotropic Substances.

1. Introduction

Children are viewed as the most valuable resource and as the country's future. They differ from other groups of individuals in that they are unable to distinguish between good and bad. They are reliant on the government and their parents.

It is widely acknowledged that children have a right to fundamental and basic freedoms. They are unalienable natural rights that cannot be taken away. Most crucially, they include the right to a good education and the right to health care. Health care goes beyond only using medical facilities to treat illnesses. It also comprises primary healthcare institutions, which provide care and security against disease and harm. It involves the right to access facilities for mental health care as well as wholesome meals. In terms of international law, number of children's rights are enumerated in child rights convention.[1]

Although it is commonly established that children have rights, the question that emerges in this situation is who is responsible for the co-relative obligation. Which party has responsibility—the state or the child's parents? Answer is both. States and parents jointly bear a duty to safeguard children's interests the best interests of the kid are considered in determining the response to this query.

When parents are unable to take care of their children adequately, it is the responsibility of the state to set up all the necessary safeguards to keep children safe from all forms of abuse and sickness. Given the situation of children in India, despite the country's extensive medico-legal regime, children face a number of grave dangers. The most vulnerable children are those who are orphans or live in slums and places of extreme poverty. It is deeply unacceptable how disadvantaged children are treated on a daily basis.

[1] The Convention on the Rights of Child 1989

A severe health issues have emerged among kids in recent years where drug addiction is usually introduced amongst children through substance usage, which has extremely detrimental effects on both the physical and emotional health of children. Compared to adults, it has much more severe repercussions. Besides human rights violations of such children, this will also lead to grossly compromising India's future as these drug addicted children will become an unproductive working adults in near future. However, the significant problem cannot be resolved by the ineffective implementation machinery and absence of efficient role of the Indian legal system. The same has been evaluated in this academic paper.

2. India's Obligation Towards Child Health

Regarding international commitments, Article 24 of the ICCPR[2] guarantees that every child has the right to protection, free from prejudice on the part of the family, community, or government. Additionally, it mandates that children and their nationalities be registered. Article 10 Paragraph 3 of ICESCR[3] provides that young children and youngsters should be protected from social and economic exploitation. It discusses the absence of child labour. Given that India has ratified both of the aforementioned covenants it is its responsibility to offer the aforementioned protection.

India is a signatory to the 1989 Convention[4] related to child rights, which outlines a number of children's rights, including the right to life, an education, social security, and other things. However, Article 24 of the UNCRC[5] guarantees children the right to the best achievable quality of health, as well as access to facilities for treatment of disease and rehabilitation. The requirement to reduce newborn and child mortality rates is stated explicitly in this provision.

[2] The International Covenant on Civil and Political Rights 1966
[3] The International Covenant on Economic, Social and Cultural Rights 1966
[4] Supra 3
[5] Ibid.

Additionally, it states that state parties must provide children with all required medical and health care, with a focus on primary healthcare services. The state party must also fight diseases and malnutrition by supplying wholesome food, clean water, and other necessities. Mothers must also receive prenatal and postnatal medical treatment from the state party.

Nationally speaking, according to Article 45 of the Indian Constitution, the Directive Principles[6] requires the governments to ensure education as well as early childhood care for children below six years of age. According to Article 47[7] of the constitution, it is the responsibility of the state to improve public health, which includes children's health as well, by raising the level of nutrition and living conditions. In addition to the legal requirements under the constitution and international law, the parliament has passed a number of statutes that speak of protecting children from acts that could have grave health consequences for them.

The Child Labour (Prohibition and Regulation) Act[8] is one amongst them. The most significant piece of child-related legislation in India is the Juvenile Justice (care and protection) Act[9]. A slew of Indian Supreme Court and High Courts' decisions have upheld children's rights in accordance with Article 21 of the constitution[10] in addition to statutory and other requirements.

Children have traditionally been protected by the Supreme Court of India from harmful practices including child trafficking and child labour. However, it should be highlighted that although India has numerous requirements for the care and protection of children, there isn't a

[6] The Constitution of India 1950 Part IV
[7] Ibid.
[8] The Child Labour (Prohibition and Regulation) Act 1896
[9] The Juvenile Justice (care and protection) Act 2015
[10] The Constitution of India 1950

specific provision on children's rights under the constitution[11] that can be immediately enforced by the higher courts.

3. Child Health and India's Success Rate

India has ratified the UN Convention on the Rights of the Child (CRC), but there have been significant issues and funding gaps in the health sector, and effective interventions to address health issues, particularly those affecting children, have been severely underfunded in actual practice.

Children's specialized health needs such as those for survival as a newborn; immunizations and nutrition as an infant; and prevention of illnesses and development at pre-schooling period, call for special consideration.

4. Government-Sponsored Health Programmes for Children

The Integrated Child Development Services (ICDS) was first introduced by Government of India in 1975, or almost 48 years ago, and has since become most successful and appreciable child centered program towards health and development of children.

In accordance with this plan, the government agreed to offer to all children under the age of six years with nourishing, food, early childhood education, primary healthcare and health checkups, and immunization (vaccination), and referral services. Anganwadi centers were established in 1978 under this program which made it accessible to people at ground level especially underprivileged ones. The programme is designed to provide postpartum care and protection for new mothers.

[11] Ibid.

Every youngster under the age of six is given 500 kcals and 12-15g of protein each day as part of the programme. Adolescent girls should consume up to 500 kcal daily and at least 25g of protein on a regular bas is.

Impact: In 1992, the NIPCCD[12] published a research that showed improvements in infant mortality and birth weight among Indian children as a result of good diet and vaccination practices.[13] Given its advantages, the Indian government has allotted 16,335 crores for this programme during the 2018–2019 fiscal year. The program's inability to specifically target kids who have been living with wealthy households has been criticized as its main challenge.

It is also criticized for providing the least amount of funding to India's poorest and malnourished states. The program's implementation is subpar in that it involves a lot of paperwork at all levels. There are several documentations required for vaccine registration as well.

Because effective supervision is lacking in the programme, further corruption in the Anganwadie s is quite common. The Anganwadi in-charge does not provide the children with the recommended amount of the nutritious food that is made accessible to Anganwadies. Owing to their inability and lack of training to handle the children and being preoccupied with their own task s, the majority of Anganwadi in-charges do not provide the kids enough attention. Furthermore, People are hesitant to enroll their children in Anganwadi centres due to such persistent perceptions about Anganwadi in the public's mind. Even those who come from low- income backgrounds trust private sector in child's healthcare.

The goal of the Janani Suraksha Yojna was to offer pregnant women and ailing neo- mates free medical care. It mainly encourages promoting free institutional delivery to

[12] National Institute of Public Cooperation and Child Development

[13]Aarti Dhar, 'Infant mortality rate shows decline' (The Hindu, 27 Jan 2011) <https://www.thehindu.com/sci-tech/health/policy-and-issues/Infant-mortality-rate-shows-decline/article15535413.ece > accessed 1 May 2023

underprivileged pregnant women. Originally only intended for women, the program's name has been altered to Janani Shishu Suraksha Yojna with a view to cover neo-mates as well.

Mission for Rural Health Mission (NRHM): Given that 73% of India's population lives in rural areas and that cities have 75% of the country's doctors, the lack of nearby healthcare facilities has been a major issue for rural residents. According to the research, over 90% of people who live in rural areas must drive far— even more than 8 KM—to seek medical services and treatment.[14] The National Rural Health Mission, which was established in 2005 with a focus on rural areas' population, aims to close the urban- rural divide by creating a fully operational and decentralized health delivery mechanism with co-operation at various systemic levels.

This programme was concentrated more on the 18 states with the worst health infrastructure. It stipulated that it be decentralized through the use of an ASHA who would be recognized in villages with a population of 1000. However, the urban-rural split remains a challenge. This gap is still caused by rural areas' inadequate infrastructure, poor doctor quality, and in-effective technology, which is why the project has not been successful to that degree.

The Rashtriya Bal Swasthya Karyakram of 2013 aims to screen for childhood specific disorders, including as developmental delays, the acquisition of disabilities, deficits, and birth deformities. Following up with children who have been diagnosed with such disorders is required. Additionally, it provides free surgeries covered by NRHM.

Large families and poverty are two main barriers to the success of government programmes. In underdeveloped communities, incorrect solid waste disposal, disregard for hygienic precaution s, ignorance of the precise needs of children, and failure to take advantage of free government services, all contribute to the high prevalence of diseases and the stunted growth

[14] Shrivastava Rajendra, 'Right to Health for Children' (2015) 52 Indian Pediatrics 15, 17

and development of children. It is also highly challenging to change other prevailing societal practices such as practices like child labour, child marriage, etc as well as orthodox social beliefs. As a result, the general mentality and societal ideology must alter.

5. High Child Mortality Rate

As was previously indicated, the aforementioned issues not only contribute to children's bad health but also function as obstacles and resistance to the child-centered programmes' implementation. This constitutes a reason as to why India continues to be one of the nations with a high rate of child mortality. India's ranking in the under-five mortality rate dropped significantly in 2019 from 12.5 Million (that of 1990) to 5.2 Million.[15] Even though child mortality rates in India have dramatically decreased over the previous few years, according to a UNICEF report, under-five, baby, and neonatal mortality rates are still high.[16]

It exceeds the SDG goal by a wide margin. Malnutrition, infections, and disorders of nutrition inadequacy are all preventable ailments that are also quite common. According to the UNISEF annual study, India has a worse record than its neighbors when it comes to child health.[17]

Due to inadequate infrastructure and facilities, same has been extremely prevalent in various Indian States. For instance, the child mortality rate in Madhya Pradesh has not decreased over the previous 44 years while being steady. These problems are most severe in India's north-eastern states, particularly in areas where there are ethnic minorities. Therefore, areas that have more issues with child health and mortality due to their socio- economic circumstances need to receive special attention.

[15] UNIGME, Levels and trends in child mortality 2020 (UNICEF 2020)
[16] Ibid.
[17] Ibid.

Poverty is one of the main causes of the high child death rate. Even though government statistics show that only 21.9% of Indians live in poverty, the truth about nutrition is much different.[18] Giving them simply subsidized wheat and rice to lift them out of poverty does not supply the necessary nutrients.

Therefore, poverty ultimately results in malnutrition, which causes child mortality or bad health in children, even for those who are over the poverty line. The same cannot be claimed to be India's fulfillment of its duty to provide for children's rights to health care as outlined in the CRC and the DPSP of its own constitution.

It is thought that under-five mortality is caused by low birth weight. The condition can be treated by providing pregnant women with the right nourishment. Despite the government's numerous programmes, the real advantages do not trickle down to the general populace due to factors such as corruption, ignorance, a weak inspection and monitoring system, etc. These fundamental issues have never received the attention they required. Although attempts have been made, it cannot be stated that they have been as successful as they may have been. Children's disabilities are one of the topics that require more attention.

Another issue with children is obesity that is related to malnutrition. The only nutrient- dense diet the impoverished children receive is wheat and rice, which leads to obesity as well as malnutrition and a weakened immune system in the children.

Therefore, it's crucial to place an emphasis on preventative measures rather than just focusing on health care facilities and post deaths actions. It appears that India is taking a welfare- based strategy, based on what is currently being done with relation to child health in India. However, a Right-based approach is necessary.

[18] ET Bureau, 'Now, only 22 per cent Indians below poverty line: Planning Commission' (The Economic Times, 24 July 2013) <https://economictimes.indiatimes.com/news/economy/indicators/now-only-22-per-cent-indians-below-poverty-line-planning-commission/articleshow/21288723.cms?from=mdr> accessed 12 May 2023

6. Drug Addiction Among Children

According to a survey, 40–70% of India's 18 million homeless youngsters have experienced substance misuse. Additionally, it was discovered that several of them had even begun using drugs at the age of 5 years. According to the survey, nearly one in five 'alcohol and drug users' in India, was under the age of 21 in 2011.[19]

7. Drug misuse in youngsters is being Exposed

According to recent statistics, young kids are using drugs and other substances at significantly higher rates. It might have happened as a result of frustration or peer pressure in the group they spend the majority of their time in.

There have been numerous reports of situations where kids were given medications and made to beg so they would appear helpless and attract more donations. Similarly, Young children are often targeted by the drug mafia and local cartels because they are un-informed about the effects and consequences of drug consumption and its health risks. Once people develop an addiction, it is a simple and lucrative business for them.

In a study, 4024 kids aged between 5 and 18 were examined, and the following results were discovered. Boys (15–19 years old) were reported to have used cigarettes 28.6% of the time and alcohol 11% of the time. Similarly, 3.5% of girls in the same age group who reported using tobacco products and 1% of th ose who were reported using alcohol were females. The study also discovered that the majority of them consumed alcohol on a weekly or even daily basis.[20]

[19] National Commission for the Protection of Child Rights, Annual Report 2012-13 (NCPCR 2013); National Consultation on Drug/Substance Use Among Children (NCPCR 2019)
[20] Supra 20

In terms of other substances, 68% of people were found to have had alcohol, 83.2% had tobacco, 35.4% had cannabis, 34.7% had inhalants, 18.1% had pharmaceutical opiates, 7.9% had sedative s, and 7.9% had heroin/smack. Sadly, it was found that 12.6% of them had utilized injectable drug s. The results of this investigation also indicated that inhalant and cigarette use was virtually every day.

It is interesting to note that alcohol usage had a mean age of 13.6 years, which was higher than the average age for cannabis (13.4), and inhalants (12.4 years). The average age for consuming tobacco was 12.3. Inhalants (12. 4 years), and alcohol (12.4 years) followed it.

Prior to that, people used even stronger drugs like opium and heroin, with a mean age of consumption of 14.3 and 14.9 years, respectively. Finally, it was discovered that injectable drug users on average were 15.1 years old.

Alcohol consumption by children has negative effects on their cognitive abilities and memory. It shrinks the learning and memory centre of the brain by 10%. Additionally, it undermines visual-spatial abilities. It has a propensity to lead to physical and mental health issues like depression, suicide, aggression n against children, and other issues. Alcohol usage causes memory signals to rapidly diminish in children relative to adults, according t o a study. Children are particularly vulnerable to severe health issues such liver damage, high blood pressure, and brain damage.

When it comes to tobacco, youngsters today regularly ingest cigarettes since they are so readily available to them. According to a survey conducted in the United States, 90% of smokers began their habit as kids. The same trend is currently present in our nation as well.[21]

[21] Surheon General, Preventing Tobacco Use among Youth People (U.S. Dept of HHS 1994)

Teenagers who smoke frequently have poor physical fitness, increased coughing and phlegm, danger and severity of respiratory issues, early artery disease development, and slowed lung development.

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8. India's Duty to Reduce Drug Abuse

The Convention on Psychotropic Substances, 1971, the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, and the Convention on Narcotic Drugs, 1961, all have India as a signatory.

The 1961 Convention on Narcotic Drugs[23] recommends steps to combat drug misuse, including no t just prevention of drug abuse but also giving drug abuse victims education, good care, successful rehabilitation, and reintegration into society. Protection of children against the use of illegal narcotic drugs and psychoactive substances is a specific provision of the Convention on the Rights of the Child.[24]

In light of this, the Juvenile Justice Act of 2015 stipulates that a kid who is deemed to be vulnerable and is likely to become involved in drug misuse or trafficking is also considered to be in need of care and protection. The law also imposes penalties for supplying children alcoholic beverages, narcotic drugs, or psy chotropic substances.[25] The Juvenile Justice Act of 2015 further stipulates that employing a minor to sell any psycho-active substance in any way

[22] National Commission for the Protection of Child Rights, Annual Report 2012-13 (NCPCR 2013)
[23] The convention on Narcotic Drugs 1961, Art 38
[24]The Convention on the Rights of Child 1989, Art 33
[25] The Juvenile Justice (Care and Protection) Act 2015, S 2(14)

is punishable by rigorous imprisonment for up to 7 years and a fine of u p to one lakh rupees.[26]

Even though India was required to fulfill these responsibilities, it is still common for young people to take drugs. Despite having all the necessary legal protections, the matter needs to be handled independently with considerable care and serious implementation tools. These situations blatantly infringe on children's entitlement to healthcare. Since kids lack the mental capacity to distinguish between right and wrong on their own, it is the responsibility of both parents and the state to provide an environment that protects them against s substance misuse.

9. Bachpan Bachao Andolan v. Union of India[27]

All these concerns were brought up in a PIL filed in 2014, and the Supreme Court was asked to issue directions to the Indian government to take immediate action to protect the youngster from substance misuse. The Union Government responded by saying that a national policy on reducing drug demand is being considered and finalized.

Indian Apex Court i.e. Supreme Court directed the Central Government for conduction of national survey, for generation of data, and for addressing the issues of immediate concern (creating de-addiction centres, developing a national action plan, and developing operating procedures for properly implementing section 78 of the Juvenile Justice Act) within 4 months. The adoption of specific drug affects and precautions information into the curricula for schools were also instructed.

[26] Ibid. S. 25
[27] W.P.(C) No. 906/2014

10. Conclusion and Suggestion

We learned from the debate above that despite all the legal protections, substance misuse among youngsters is a serious problem that has a terrible propensity to ruin the child's future. Children are supposedly the most valuable resource and the future of a country, so issues relating to children should receive top priority and concentrated attention.

Children's basic needs— health and education—should not be altered in accordance with a country's other objectives. Although the administration has received instructions from the Supreme Court regarding drug us age among youngsters, nothing has yet been done in this regard by the government.

To enable targeted execution in this area, the government should adopt a child- centered national substance abuse policy separately. The drug addiction prevention plan should incorporate all three of the preventive levels listed below:

i. The primary strategy should involve prevention by encouraging abstinence through knowledge and education about the negative effects of drug misuse on one's health and other areas of life;
ii. Secondly, the method should make it easier for high-risk individuals to change their behavior. The early detection of drug usage, its treatment, and timely counseling should also be covered.
iii. The third technique is to involve effective rehabilitative and social reintegration of recovering individuals.

It is commonly known that children who live in slums or on the streets are frequently weak, vulnerable, and susceptible to drug addiction. The peer groups that school students are a part of have a big impact on their behavior as well. In order for the policy to have a greater positive impact, it should be created with these vulnerable groups in mind. In order to be adequately evaluated, all currently used frameworks that are available under various statutes

should be combined under a single objective. To help the victims of drug usage, Rehabi litation Centres of Addicts (RCAs) should be developed.

Government should take action to include appropriate content in particular to school curricula, as ordered by the Supreme Court. A coordinating body should be established, and school administrators should be required to report drug misuse if it is discovered on school grounds. De- addiction centres should be evaluated to see if they can be built in every tehsil.

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